

**NOTICE OF SPECIAL MEETING  
COMMON COUNCIL OF THE CITY OF COOLIDGE  
MONDAY, MARCH 28, 2011  
OFFICE HOURS – 6:00 P.M.  
COUNCIL CHAMBERS, 911 S. ARIZONA BOULEVARD  
PINAL COUNTY, COOLIDGE, ARIZONA**

*Members of the Coolidge City Council will attend either in person or by telephone conference call or video communication.*

**CALL TO ORDER:**

1. Roll Call

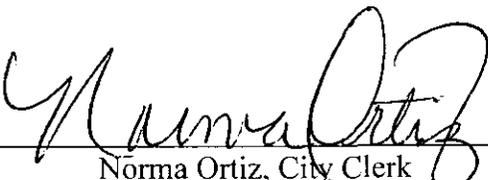
**DISCUSSION ISSUES:**

2. Discuss proposed amendments to the Coolidge Zoning Code to regulate medical marijuana uses in the City of Coolidge. **Discussion.**
3. Discuss proposed addition of Article 12-3 to the Coolidge City Code regarding regulations on Wastewater Pretreatment. **Discussion.**

**ADJOURNMENT**

**THIS NOTICE IS POSTED IN ACCORDANCE WITH THE CITY CODE 2-4-1 OF THE CITY OF COOLIDGE AND A.R.S. § 38-431, ET SEQ. ALL MEMBERS OF THE PUBLIC ARE INVITED TO ATTEND THIS MEETING.**

**DATED** this 23<sup>rd</sup> day of March, 2011

  
\_\_\_\_\_  
Norma Ortiz, City Clerk

**PERSONS WITH SPECIAL ACCESSIBILITY NEEDS, INCLUDING LARGE PRINT MATERIALS OR INTERPRETERS, SHOULD CONTACT THE ADA COORDINATOR AT (520) 723-5361 OR TDD LINE (520) 723-4653 NO LATER THAN 10:00 A.M. MARCH 28, 2011.**

*The Agenda and all supporting documents and materials pertaining to this Agenda together with Staff and Department Reports are available for viewing in the Library and City Hall during normal business hours.*

**POSTED:** 3-23-11

**TIME:** 5:00 P.M.

## MEMORANDUM

**TO: MAYOR AND COUNCIL**

**FROM: C. ALTON BRUCE – GROWTH MANAGEMENT DIRECTOR**

**DATE: 18 March 2011**

**RE: PROPOSED AMENDMENT TO ZONING CODE TO REGULATE MEDICAL MARIJUANA USES IN THE CITY OF COOLIDGE:**

**COOLPZ 10-11-6 ZA:** An Amendment to the City of Coolidge Zoning Ordinance to add new uses, namely Medical Marijuana Dispensary, Medical Marijuana Infusion Facility, Medical Marijuana Cultivation Facility and Qualifying Patient/Caregiver Cultivation Location to be allowed by right or by Conditional Use in specific Zones and setting standards regarding the design, location and operation of such uses. Staff has identified a need for two amendments to be made to the Zoning Code in order to:

**Site:** Citywide.

**History:** With the passage of Proposition 203 in the November 2010 election and the action by the State Department of Health Services to adopt regulations concerning these facilities by March 28, it appears certain that there will be proposals to locate a Medical Marijuana facility in Coolidge. While the State regulations will provide a number of requirements for these facilities, it is up to local communities to adopt zoning requirements regarding such uses.

The Arizona Dept. of Health Services (ADHS) issued their 1<sup>st</sup> draft of the rules on December 17, 2010 and the second and current draft on January 31, 2011. The current draft is attached. Other attachments to this report include:

- The full text of Prop 203 along with the judicial analysis
- Prop 203 Basics Information provided by ADHS
- The Resolution to be adopted by Council
- The text of the proposed Zoning Code Amendment
- The Ordinance adopting the Amendment
- A draft map showing potential Medical Marijuana Use Locations outside of buffer zones as provided for in the ordinance.

**Planning and Zoning Commission Action:** The Coolidge Planning and Zoning Commission reviewed the proposed amendment at their meeting on March 9, 2011. Council Member Jon Thompson also attended the meeting and spoke to some of the issues raised.

In summary, the provisions that are proposed in this ordinance would:

- Allow Medical Marijuana Dispensaries in the C-2 zone by Conditional Use Permit
- Allow any Medical Marijuana Use (including Dispensary, Cultivation Facility or Infusion Facility) in the C-3, Commerce Park, I-1, and I-2 zones by Conditional Use Permit.
- Allow Medical Marijuana Cultivation Facilities in the Agricultural Zone by Conditional Use Permit.
- Allow Medical Marijuana Uses in a PAD only if such use was proposed in the original PAD document.
- Allow Qualifying Patient/Caregivers to grow Medical Marijuana as an accessory use in any Residential Zone if and only if there is no dispensary located within 25 miles.
- Provides the following buffer requirements from the indicated uses:
  1. 500 feet from any other medical marijuana use
  2. 500 feet from a substance abuse diagnostic and treatment facility or other drug or alcohol rehabilitation facility.
  3. 500 feet from a public or private school
  4. 500 feet from a daycare center providing care to minor children
  5. 1 mile from any boundary of the Gila River Indian Community
- Sets a number of Development Standards including security provisions, prohibition of drive-thru, delivery service or outdoor seating areas and a prohibition against on-site use.

The Commission discussed the provisions in detail including the advisability of a 500 versus 100 foot buffer and the possibility of providing a buffer around other potentially sensitive uses such as parks, churches or residential zones. The consensus was that it was important to provide adequate opportunities to locate such a use in Coolidge or face the possibility of Patients and Caregivers cultivating throughout the residential areas. Adding these other uses or using the 1000 foot buffer severely reduced the potential opportunities for a dispensary to locate. It was deemed preferable to have such a use in a highly visible location, such as along Arizona Blvd or Coolidge Ave or in the Safeway Plaza, for security purposes.

The other provision that raised concern among the Commissioners was Section E which states:

***E. Prohibitions.***

*A medical marijuana cultivation facility not associated with a medical marijuana dispensary is prohibited, and only one medical marijuana cultivation facility shall*

*be permitted for the single medical marijuana dispensary with which it is associated.*

The consensus among the Commissioners was that such a provision was unreasonable given that a single crop failure at a cultivation facility would then put the dispensary out of business.

The Planning and Zoning Commission reviewed the proposed amendments in their meeting on September 8, 2010 and unanimously approved a recommendation to City Council to adopt this Zoning Ordinance amendment with the condition that Section E be deleted and that the buffering and other provisions be reviewed to insure that they were consistent with the final provisions adopted by the Arizona Dept. of Health Services.

TITLE 9. HEALTH SERVICES  
CHAPTER 17. DEPARTMENT OF HEALTH SERVICES –  
MEDICAL MARIJUANA PROGRAM

ARTICLE 1. GENERAL

- R9-17-101. Definitions
- R9-17-102. Fees
- R9-17-103. Application Submission
- R9-17-104. Changing Information on a Registry Identification Card
- R9-17-105. Requesting a Replacement Registry Identification Card
- R9-17-106. Adding a Debilitating Medical Condition
- R9-17-107. Time-frames
- R9-17-108. Notifications and Void Registry Identification Cards

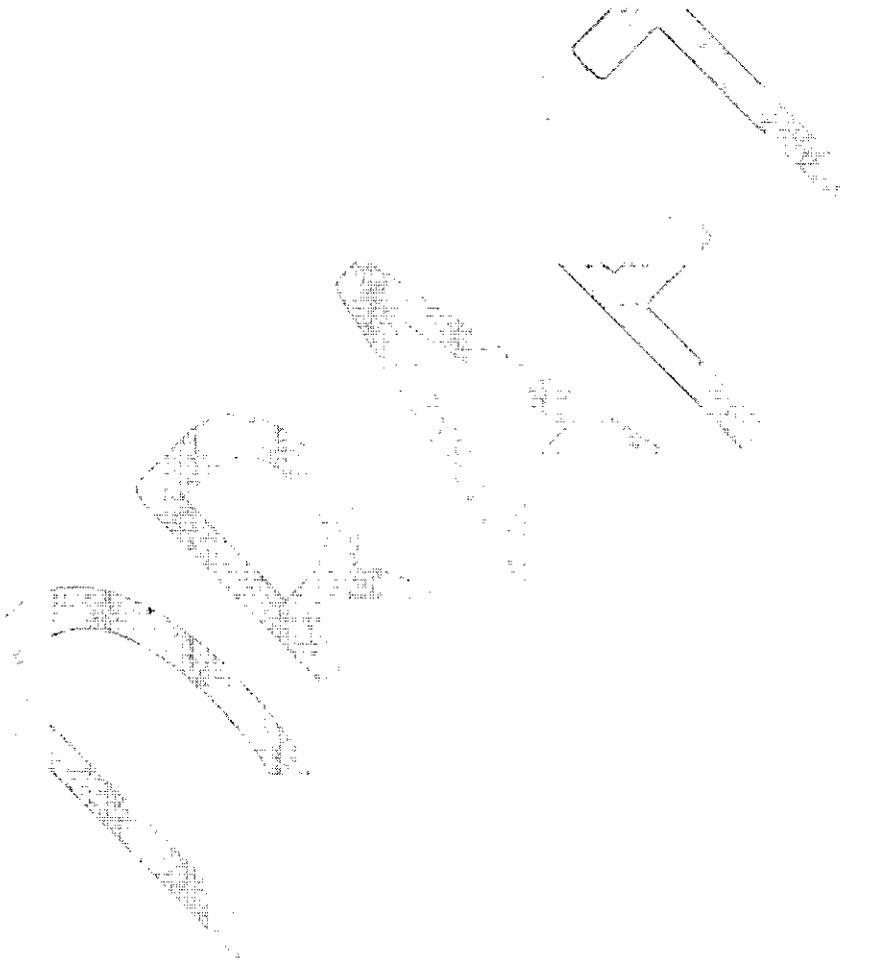
ARTICLE 2. QUALIFYING PATIENTS AND DESIGNATED CAREGIVERS

- R9-17-201. Debilitating Medical Conditions
- R9-17-202. Applying for a Registry Identification Card for a Qualifying Patient or a Designated Caregiver
- R9-17-203. Amending a Qualifying Patient's or Designated Caregiver's Registry Identification Card
- R9-17-204. Renewing a Qualifying Patient's or Designated Caregiver's Registry Identification Card
- R9-17-205. Denial or Revocation of a Qualifying Patient's or Designated Caregiver's Registry Identification Card

ARTICLE 3. DISPENSARIES AND DISPENSARY AGENTS

- R9-17-301. Individuals to Act for a Dispensary Regarding Requirements
- R9-17-302. Dispensary Registration Certificate Allocation Process
- R9-17-303. Applying for a Dispensary Registration Certificate
- R9-17-304. Applying for Approval to Operate a Dispensary
- R9-17-305. Changes to a Dispensary Registration Certificate
- R9-17-306. Applying for a Change in Location for a Dispensary or a Dispensary's Cultivation Site
- R9-17-307. Renewing a Dispensary Registration Certificate
- R9-17-308. Inspections
- R9-17-309. Administration
- R9-17-310. Submitting an Application for a Dispensary Agent Registry Identification Card
- R9-17-311. Submitting an Application to Renew a Dispensary Agent's Registry Identification Card
- R9-17-312. Medical Director
- R9-17-313. Dispensing Medical Marijuana

- R9-17-314. **Qualifying Patient Records**
- R9-17-315. **Inventory Control System**
- R9-17-316. **Product Labeling and Analysis**
- R9-17-317. **Security**
- R9-17-318. **Edible Food Products**
- R9-17-319. **Cleaning and Sanitation**
- R9-17-320. **Physical Plant**
- R9-17-321. **Denial or Revocation of a Dispensary Registration Certificate**
- R9-17-322. **Denial or Revocation of a Dispensary Agent's Registry Identification Card**



ARTICLE 1. GENERAL

**R9-17-101. Definitions**

In addition to the definitions in A.R.S. § 36-2801, the following definitions apply in this Chapter unless otherwise stated:

1. "Acquire" means to obtain through any type of transaction and from any source.
2. "Activities of daily living" means ambulating, bathing, dressing, grooming, eating, toileting, and getting in and out of bed.
3. "Amend" means adding or deleting information on an individual's registry identification card that affects the individual's ability to perform or delegate a specific act or function.
4. "Batch" means a specific lot of medical marijuana grown from one or more seeds or cuttings that are planted and harvested at the same time.
5. "Batch number" means a unique numeric or alphanumeric identifier assigned to a batch by a dispensary when the batch is planted.
6. "Calendar day" means each day, not including the day of the act, event, or default from which a designated period of time begins to run, but including the last day of the period unless it is a Saturday, Sunday, statewide furlough day, or legal holiday, in which case the period runs until the end of the next day that is not a Saturday, Sunday, statewide furlough day, or legal holiday.
7. "CHAA" means a Community Health Analysis Area, a geographic area based on population, established by the Department for use by public health programs.
8. "Change" means adding or deleting information on an individual's registry identification card that does not substantively affect the individual's ability to perform or delegate a specific act or function.
9. "Commercial device" means the same as in A.R.S. § 41-2051.
10. "Cultivation site" means the one additional location where marijuana will be cultivated by and for a dispensary.
11. "Current photograph" means an image of an individual, taken no more than 60 calendar days before the submission of the individual's application, in a Department-approved electronic format that is capable of producing a image:
  - a. With a resolution of at least 600 x 600 pixels but not more than 1200 x 1200 pixels;
  - b. Two inches by two inches in size;
  - c. In natural color;
  - d. That is a front view of the individual's full face, without a hat or headgear that obscures the hair or hairline, with a plain white or off-white background; and
  - e. That has between 1 and 1 3/8 inches from the bottom of the chin to the top of the head.
12. "Denial" means the Department's final decision to not issue a registry identification card, a dispensary registration certificate, or an approval of a change of dispensary location to an applicant because the applicant or the application does not comply with the applicable requirements in A.R.S. Title 36, Chapter 28.1 or this Chapter.
13. "Dispensary" means the same as "nonprofit medical marijuana dispensary" as defined in A.R.S. § 36-2801.

14. "Dispensary agent" means the same as "nonprofit medical marijuana dispensary agent" as defined in A.R.S. § 36-2801.
15. "Enclosed" means:
  - a. A building with four walls and a roof or an indoor room or closet; or
  - b. An area surrounded by four solid ~~12-~~10 foot walls constructed of metal, concrete, or stone that prevent any viewing of the marijuana plants, with a one-inch thick metal gate and a barrier covering the top of the area that is:
    - i. Welded or woven metal wire mesh, with minimum wire thickness of 0.25 inches and maximum gap between wires of 1 inch;
    - ii. Welded metal wire grid, with minimum wire thickness of 0.25 inches and maximum gap between wires of 3 inches;
    - iii. Metal chain-link weave, with gauge no less than 9 and no more than 11.5;
    - iv. A panel of metal vertical bars, with minimum bar thickness of 0.5 inches and maximum gap between bars of 4 inches; or
    - v. Constructed of iron or other metallic material and similar to the examples in subsections (15)(b)(i) through (15)(b)(iv), if approved by the Department.
16. "Edible food product" means a substance, beverage, or ingredient used or intended for use or for sale in whole or in part for human consumption.
17. "Entity" means a "person" as defined in A.R.S. § 1-215.
18. "Generally accepted accounting principles" means the set of financial reporting standards established by the Financial Accounting Standards Board, the Governmental Accounting Standards Board, or another specialized body dealing with accounting and auditing matters.
19. "Legal guardian" means an adult who is responsible for a minor:
  - a. Through acceptance of guardianship of the minor through a testamentary appointment or an appointment by a court pursuant to A.R.S. Title 14, Chapter 5, Article 2, or
  - b. As a "custodian" as defined in A.R.S. § 8-201.
- ~~15. "Medical director" means a doctor of medicine who holds a valid and existing license to practice medicine pursuant to A.R.S. Title 32, Chapter 13 or its successor or a doctor of osteopathic medicine who holds a valid and existing license to practice osteopathic medicine pursuant to A.R.S. Title 32, Chapter 17 or its successor and who has been designated by a dispensary to provide medical oversight at the dispensary.~~
- ~~16. "Ongoing" when used in connection with a physician-patient relationship means:
  - a. The physician-patient relationship has existed for at least one year and the physician has seen or assessed the patient on at least four visits for the patient's debilitating medical condition during the course of the physician-patient relationship; or
  - b. The physician assumes primary responsibility for providing management and routine care of the patient's debilitating medical condition after conducting a comprehensive medical history and physical examination, including a personal review of the patient's medical record maintained by other treating physicians~~

that may include the patient's reaction and response to conventional medical therapies.

20. "Medical record" means the same as:
- a. "Adequate records" as defined in A.R.S. § 32-1401;
  - b. "Adequate medical records" as defined in A.R.S. § 32-1501;
  - c. "Adequate records" as defined in A.R.S. § 32-1800; or
  - d. "Adequate records" as defined in A.R.S. § 32-2901.
21. "Physician-patient relationship" means interaction between a physician and an individual in which the physician has ongoing responsibility for the assessment, care, and treatment of the patient's debilitating medical condition.
21. "Public place":
- a. Means any location, facility, or venue that is not intended for the regular exclusive use of an individual or a specific group of individuals;
  - b. Includes airports; banks; bars; child care facilities; child care group homes during hours of operation; common areas of apartment buildings, condominiums, or other multifamily housing facilities; educational facilities; entertainment facilities or venues; health care institutions, except as provided in subsection (21)(c); hotel and motel common areas; laundromats; libraries; office buildings; parks; parking lots; public transportation facilities; reception areas; restaurants; retail food production or marketing establishments; retail service establishments; retail stores; shopping malls; sidewalks; sports facilities; theaters; warehouses; and waiting rooms; and
  - c. Does not include:
    - i. Nursing care institutions, as defined in A.R.S. § 36-401;
    - ii. Hospices, as defined in A.R.S. § 36-401;
    - iii. Assisted living centers, as defined in A.R.S. § 36-401;
    - iv. Assisted living homes, as defined in A.R.S. § 36-401;
    - v. Adult day health care facilities, as defined in A.R.S. § 36-401;
    - vi. Adult foster care homes, as defined in A.R.S. § 36-401; or
    - vii. Private residences.
22. "Registry identification number" means the random 20-digit alphanumeric identifier generated by the Department, containing at least four numbers and four letters, issued by the Department to a qualifying patient, designated caregiver, dispensary, or dispensary agent.
23. "Revocation" means the Department's final decision that an individual's registry identification card or a dispensary registration certificate is rescinded because the individual or the dispensary does not comply with the applicable requirements in A.R.S. Title 36, Chapter 28.1 or this Chapter.
24. "Working day" means the period from 8:00 a.m. to 5:00 p.m. on a Monday, Tuesday, Wednesday, Thursday, or Friday that is not a state holiday or a statewide furlough day.

**R9-17-102. Fees**

- A. An applicant submitting an application to the Department shall submit the following nonrefundable fees:

1. Except as provided in R9-17-302 (F), for registration of a dispensary, \$5,000;
  2. To renew the registration of a dispensary, \$1,000;
  3. To change the location of a dispensary, \$2,500;
  4. To change the location of a dispensary's cultivation site, \$2,500;
  5. For a registry identification card for a:
    - a. Qualifying patient, except as provided in subsection (B), \$160;
    - b. Designated caregiver, \$200; and
    - c. Dispensary agent, \$200;
  6. For renewing a registry identification card for a
    - a. Qualifying patient, except as provided in subsection (B), \$160;
    - b. Designated caregiver, \$200; and
    - c. Dispensary agent, \$200;
  7. For amending or changing a registry identification card, \$10; and
  8. For requesting a replacement registry identification card, \$10.
- B.** A qualifying patient may pay a reduced fee of \$80 if the qualifying patient submits with the qualifying patient's application for a registry identification card or the qualifying patient's application to renew the qualifying patient's registry identification card, a copy of an eligibility notice or electronic benefits transfer card demonstrating current participation in the United States Department of Agriculture, Food and Nutrition Services, Supplemental Nutrition Assistance Program.

**R9-17-103. Application Submission**

An applicant submitting an application for a registry identification card or to amend, change, or replace a registry identification card for a qualifying patient, designated caregiver, or dispensary agent shall submit the application electronically using a Department-provided format.

**R9-17-104. Changing Information on a Registry Identification Card**

Except as provided in R9-17-203(B) and (C), to make a change to a cardholder's name or address on the cardholder's registry identification card, the cardholder shall submit to the Department a request for the change within 10 working days after the change that includes:

1. The cardholder's name and the registry identification number on the cardholder's current registry identification card;
2. The cardholder's new name or address, as applicable;
3. For a change in address, the county where the new address is located;
4. The effective date of the cardholder's new name or address; and
5. The applicable fee in R9-17-102 for changing a registry identification card.

**R9-17-105. Requesting a Replacement Registry Identification Card**

To request a replacement card for a cardholder's registry identification card that has been lost, stolen, or destroyed, the cardholder shall submit to the Department, within 10 working days after the cardholder's registry identification card was lost, stolen, or destroyed, a request for a replacement card that includes:

1. The cardholder's name and date of birth;
2. If known, the registry identification number on the cardholder's lost, stolen, or destroyed registry identification card;

3. If the cardholder cannot provide the registry identification number on the cardholder's lost, stolen, or destroyed registry identification card, a copy of one of the following documents that the cardholder submitted when the cardholder obtained the registry identification card:
  - a. Arizona driver's license issued on or after October 1, 1996;
  - b. Arizona identification card issued on or after October 1, 1996;
  - c. Arizona registry identification card; or
  - d. Photograph page in the cardholder's U.S. passport; and
4. The applicable fee in R9-17-102 for replacing a registry identification card.

**R9-17-106. Adding a Debilitating Medical Condition**

**A.** ~~An individual~~ A person may request the addition of a medical condition or treatment of a medical condition to the list of debilitating medical conditions listed in R9-17-201 by submitting to the Department, at the time specified in subsection (C), the following in writing:

1. The person's name;
2. The ~~individual's~~ person's mailing address, name of contact individual, telephone number, and, if applicable, e-mail address;
3. The name of the medical condition or the treatment of the medical condition the ~~individual person~~ individual person is requesting be added;
4. A description of the symptoms and other physiological effects experienced by an individual suffering from the medical condition or the treatment of the medical condition that may impair the ability of the individual to accomplish activities of daily living;
5. The availability of conventional medical treatments to provide therapeutic or palliative benefit for the medical condition or the treatment of the medical condition;
6. A summary of the evidence that the use of marijuana will provide therapeutic or palliative benefit for the medical condition or the treatment of the medical condition; and
7. Articles, published in peer-reviewed scientific journals, reporting the results of research on the effects of marijuana on the medical condition or the treatment of the medical condition supporting why the medical condition or the treatment of the medical condition should be added.

**B.** The Department shall:

1. Acknowledge in writing the Department's receipt of a request for the addition of a medical condition to the list of debilitating medical conditions listed in R9-17-201 within 30 calendar days after receiving the request;
2. Review the request to determine if the requester has provided evidence that:
  - a. The specified medical condition or the treatment of the medical condition impairs the ability of the individual to accomplish activities of daily living, and
  - b. Marijuana usage provides a therapeutic or palliative benefit to an individual suffering from the medical condition or the treatment of the medical condition;
3. Within 90 calendar days after receiving the request, notify the requester that the Department has determined that the information provided by the requester:
  - a. Meets the requirements in subsection (B)(2) and the date the Department will conduct a public hearing to discuss the request; or

- b. Does not meet the requirements in subsection (B)(2), the specific reason for the determination, and the process for requesting judicial review of the Department's determination pursuant to A.R.S. Title 12, Chapter 7, Article 6;
- 4. If applicable:
  - a. Schedule a public hearing to discuss the request;
  - b. Provide public notice of the public hearing by submitting a Notice of Public Information to the Office of the Secretary of State, for publication in the *Arizona Administrative Register*, at least 30 calendar days before the date of the public hearing;
  - c. Post a copy of the request on the Department's website for public comment at least 30 calendar days before the date of the public hearing; and
  - d. Hold a public hearing no more than 150 calendar days after receiving the request; and
- 5. Within 180 calendar days after receiving the request:
  - a. Add the medical condition or treatment of a medical condition to the list of debilitating medical conditions; or
  - b. Provide written notice to the request of the Department's decision to deny the request that includes:
    - i. The specific reasons for the Department's decision, and
    - ii. The process for requesting judicial review of the Department's decision pursuant to A.R.S. Title 12, Chapter 7, Article 6.
- C. An individual A person submitting a request for the addition of a medical condition or treatment of a medical condition to the list of debilitating medical conditions shall submit the request in January or in July of each calendar year.

**R9-17-107. Time-frames**

- A. Within the administrative completeness review time-frame for each type of approval in Table 1.1, the Department shall:
  - 1. Issue a registry identification card or dispensary registration certificate,
  - 2. Provide a notice of administrative completeness to an applicant, or
  - 3. Provide a notice of deficiencies to an applicant, including a list of the information or documents needed to complete the application.
- B. ~~A registration packet for~~ An application for approval to operate a dispensary is not complete until the applicant provides the Department with written notice that the dispensary is ready for an inspection by the Department.
- C. If the Department provides a notice of deficiencies to an applicant:
  - 1. The administrative completeness review time-frame and the over-all time-frame are suspended from the date of the notice of deficiencies until the date the Department receives the missing information or documents from the applicant;
  - 2. If the applicant does not submit the missing information or documents to the Department within 60 working days after the date of the notice of deficiencies the time-frame in Table 1.1, the Department shall consider the application withdrawn; and
  - 3. If the applicant submits the missing information or documents to the Department within ~~60 calendar days of the date after the notice of deficiencies~~ the time-frame in Table 1.1,

the substantive review time-frame begins on the date the Department receives the missing information or documents.

- D. Within the substantive review time-frame for each type of approval in Table 1.1, the Department:
1. Shall issue a registry identification card, dispensary registration certificate, or approval to operate a dispensary;
  2. May complete an inspection that may require more than one visit to a dispensary or, if applicable, the dispensary's cultivation site; and
  3. May make one written comprehensive request for more information, unless the Department and the applicant agree in writing to allow the Department to submit supplemental requests for information.

- E. If the Department issues a written comprehensive request or a supplement request for information:
1. The substantive review time-frame and the overall time-frame are suspended from the date of the written comprehensive request or the supplemental request for information until the date the Department receives all of the information requested, and
  2. The applicant shall submit to the Department all of the information and documents listed in the written comprehensive request or supplemental request for information within 10 working days after the date of the comprehensive written request or supplemental request for information.

- F. If an applicant for a dispensary registration certificate in compliance with A.R.S. Title 36, Chapter 28.1 and this Chapter is allocated a dispensary registration certificate as provided in R9-17-302, the Department shall provide a written notice of the allocation of the dispensary registration certificate that contains the dispensary's registry identification number.

1. After the applicant receives the written notice of the allocation, the applicant shall submit to the Department:
  - a. An application for a dispensary agent registry identification card for each principal officer and board member for whom fingerprints were submitted that includes:
    - i. The principal officer's or board member's first name; middle initial, if applicable; last name; and suffix, if applicable;
    - ii. The principal officer's or board member's residence address and mailing address;
    - iii. The county where the principal officer or board member resides;
    - iv. The designated principal officer's or board member's date of birth;
    - v. The dispensary's registry identification number; and
    - vi. The identifying number on the applicable card or document in subsection (F)(1)(d);
  - b. One of the following:
    - i. A statement by the principal officer or board member that the principal officer or board member does not currently hold a valid registry identification card; or
    - ii. The assigned registry identification number for each valid registry identification card currently held by the principal officer or board member;

- c. A statement in a Department-provided format signed by the principal officer or board member pledging not to divert marijuana to any individual or person who is not allowed to possess marijuana pursuant to A.R.S. Title 36, Chapter 28.1;
  - d. A copy the principal officer's or board member's:
    - i. Arizona driver's license issued on or after October 1, 1996;
    - ii. Arizona identification card issued on or after October 1, 1996;
    - iii. Arizona registry identification card;
    - iv. Photograph page in the principal officer's or board member's U.S. passport; or
    - v. An Arizona driver's license or identification card issued before October 1, 1996 and one of the following:
      - (1) Birth certificate verifying U.S. citizenship,
      - (2) U. S. Certificate of Naturalization, or
      - (3) U. S. Certificate of Citizenship.
  - e. A current photograph of the principal officer or board member; and
  - f. The applicable fee in R9-17-102 for applying for a dispensary agent registry identification card.
2. After receipt of the information and documents in subsection (F)(1), the Department shall review the information and documents, and if the information and documents for at least one of the principal officers or board members complies with the A.R.S. Title 36, Chapter 28.1:
- a. Issue:
    - i. A dispensary agent registry identification card to the principal officer or board member, and
    - ii. The dispensary registration certificate;
  - b. If the information and documents for any dispensary agent registry identification card application for any other principal officer or board member complies with A.R.S. Title 36, Chapter 28.1 and this Chapter, issue a dispensary agent registry identification card for the other principal officer or board member; and
  - c. If the information and documents for a dispensary agent registry identification card application for any other principal officer or board member does not comply with A.R.S. Title 36, Chapter 28.1 and this Chapter, deny the dispensary agent registry identification card application and provide notice to the dispensary and the other principal officer or board member that includes:
    - i. The specific reasons for the denial; and
    - ii. The process for requesting a judicial review of the Department's decision pursuant to A.R.S. Title 12, Chapter 7, Article 6.
- G. The Department shall issue:
- 1. Written notification to an applicant for a dispensary registration certificate that:
    - a. The Department has determined that the dispensary registration application does not comply with A.R.S. Title 36, Chapter 28.1 and this Chapter, but the Department is not issuing a dispensary registration certificate to the applicant because all available dispensary registration certificates pursuant to A.R.S. § 26-2804(C) have been issued according to the criteria in R9-17-302; and

- b. The written notification is not a denial and is not considered a final decision of the Department subject to judicial review;
- 2. A registry identification card, a dispensary registration certificate, or an approval to operate a dispensary, as applicable, if the Department determines that applicant complies with A.R.S. Title 36, Chapter 28.1 and this Chapter; or
- 3. For a registry identification card or a dispensary registration certificate, a denial that includes the reason for the denial and the process for requesting judicial review if:
  - a. The Department determines that the applicant does not comply with A.R.S. Title 36, Chapter 28.1 and this Chapter; or
  - b. The applicant does not submit all of the information and documents listed in the written comprehensive request or supplemental request for information within 10 working days after the date of the comprehensive written request or supplemental request for information.

TABLE 1.1

Type of approval	Statutory Authority (A.R.S. §)	Overall Time-frame (in working days)	Time-frame for applicant to complete application (in working days)	Administrative Completeness Time-frame (in working days)	Substantive Review Time-Frame (in working days)
Changing a registry identification card	36-2808	10	10	5	5
Requesting a replacement registry identification card	36-2804.06	5	5	2	3
Applying for a registry identification card for a qualifying patient or a designated caregiver	36-2804.02(A)	15	30	5	10
Amending a registry identification card for a qualifying patient or a designated caregiver	36-2808	10	10	5	5
Renewing a qualifying patient's or designated caregiver's registry identification card	36-2804.02(A) and 36-2804.06	15	15	5	10
Applying for a dispensary	36-2804	45	10	15	30

registration certificate					
Applying for approval to operate a dispensary	R9-17-304	45	10	15	30
Changing a dispensary location or a dispensary's cultivation site location	36-2804 and R9-17-306	90	90	30	60
Renewing a dispensary registration certificate	36-2804.06	15	15	5	10
Applying for a dispensary agent registry identification card	36-2804.01 and 36-2804.03	15	30	5	10
Renewing a dispensary agent's registry identification card	36-2804.06	15	15	5	10

**R9-17-108. Notifications and Void Registry Identification Cards**

A. The Department shall provide written notification that a cardholder's registry identification card is void and no longer valid under A.R.S. Title 36, Chapter 28.1 and this Chapter to a:

1. Qualifying patient when the Department receives notification from:
  - a. The qualifying patient that the qualifying patient no longer has a debilitating medical condition; or
  - b. The physician who provided the qualifying patient's written certification that the:
    - i. Qualifying patient no longer has a debilitating medical condition,
    - ii. Physician no longer believes that the qualifying patient would receive therapeutic or palliative benefit from the medical use of marijuana, or
    - iii. Physician believes that the qualifying patient is using the medical marijuana inappropriately;
2. Designated caregiver when:
  - a. The Department receives notification from the designated caregiver's qualifying patient that the designated caregiver no longer assists the qualifying patient in the medical use of marijuana; or
  - b. The registry identification card for the qualifying patient that is listed on the designated caregiver's registry identification card is no longer valid; or
3. Dispensary agent when:
  - a. The Department receives the written notification, required in R9-17-309(A)(5), that the dispensary agent no longer serves as a principal officer, board member,

- or medical director for the dispensary is no longer employed by or contracted with the dispensary; or no longer provides volunteer service at the dispensary; or
- b. The registration certificate for the dispensary that is listed on the dispensary agent's registry identification card is no longer valid.
- B. The Department shall void a qualifying patient's registry identification card when the Department receives notification that the qualifying patient is deceased.
- C. The written notification required in subsection (A) that a registry identification card is void is not a revocation and is not considered a final decision of the Department subject to judicial review.

**ARTICLE 2. QUALIFYING PATIENTS AND DESIGNATED CAREGIVERS**

**R9-17-201. Debilitating Medical Conditions**

An individual applying for a qualifying patient registry identification card shall have a diagnosis from a physician of at least one of the following conditions:

1. Cancer;
2. Glaucoma;
3. Human immunodeficiency virus;
4. Acquired immune deficiency syndrome;
5. Hepatitis C;
6. Amyotrophic lateral sclerosis;
7. Crohn's disease;
8. Agitation of Alzheimer's disease;
9. A chronic or debilitating disease or medical condition or the treatment for a chronic or debilitating disease or medical condition that causes cachexia or wasting syndrome;
10. A chronic or debilitating disease or medical condition or the treatment for a chronic or debilitating disease or medical condition that causes severe and chronic pain;
11. A chronic or debilitating disease or medical condition or the treatment for a chronic or debilitating disease or medical condition that causes severe nausea;
12. A chronic or debilitating disease or medical condition or the treatment for a chronic or debilitating disease or medical condition that causes seizures, including those characteristic of epilepsy;
13. A chronic or debilitating disease or medical condition or the treatment for a chronic or debilitating disease or medical condition that causes severe or persistent muscle spasms, including those characteristic of multiple sclerosis; or
14. A debilitating medical condition or treatment approved by the Department under A.R.S. § 36-2801.01 and R9-17-106.

**R9-17-202. Applying for a Registry Identification Card for a Qualifying Patient or a Designated Caregiver**

- A. Except for a qualifying patient who is under 18 years of age, a qualifying patient is not required to have a designated caregiver.
- B. A qualifying patient may have only one designated caregiver at any given time.
- C. Except for a qualifying patient who is under 18 years of age, if the information submitted for a qualifying patient complies with A.R.S. Title 36, Chapter 28.1 and this Chapter, the Department

may issue a registry identification card for the qualifying patient separate from issuing a registry identification card for the qualifying patient's designated caregiver.

- D. If the Department issues a registry identification card to a qualifying patient under subsection (C), the Department shall continue the application process for the qualifying patient's designated caregiver's registry identification card.
- E. The Department shall not issue a designated caregiver's registry identification card until the Department issues the designated caregiver's qualifying patient's registry identification card.
- F. Except as provided in subsection (G), to apply for a registry identification card, a qualifying patient shall submit to the Department the following:
  - 1. An application in a Department-provided format that includes:
    - a. The qualifying patient's:
      - i. First name; middle initial, if applicable; last name; and suffix, if applicable;
      - ii. Date of birth; and
      - iii. Gender;
    - b. Except as provided in subsection (F)(1)(i), the qualifying patient's residence address and mailing address;
    - c. The county where the qualifying patient resides;
    - d. The identifying number on the applicable card or document in subsection (F)(2);
    - e. The name, address, and telephone number of the physician recommending providing the written certification for medical marijuana for the qualifying patient;
    - f. Whether the qualifying patient is requesting authorization for cultivating marijuana plants for the qualifying patient's medical use because the qualifying patient believes that the qualifying patient resides at least 25 miles from the nearest operating dispensary;
    - g. If the qualifying patient is requesting authorization for cultivating marijuana plants, whether the qualifying patient is designating the qualifying patient's designated caregiver to cultivate marijuana plants for the qualifying patient's medical use;
    - h. The qualifying patient's e-mail address;
    - i. If the qualifying patient is homeless, an address where the qualifying patient can receive mail;
    - j. Whether the qualifying patient would like notification of any clinical studies needing human subjects for research on the medical use of marijuana;
    - k. An attestation that the information provided in the application is true and correct; and
    - l. The signature of the qualifying patient and date the qualifying patient signed;
  - 2. A copy of the qualifying patient's:
    - a. Arizona driver's license issued on or after October 1, 1996;
    - b. Arizona identification card issued on or after October 1, 1996;
    - c. Arizona registry identification card;
    - d. Photograph page in the qualifying patient's U.S. passport; or

- e. An Arizona driver's license or identification card issued before October 1, 1996 and one of the following:
  - i. Birth certificate verifying U.S. citizenship,
  - ii. U.S. Certificate of Naturalization, or
  - iii. U.S. Certificate of Citizenship;
3. A current photograph of the qualifying patient;
4. A statement in a Department-provided format signed by the qualifying patient pledging not to divert marijuana to any individual or person who is not allowed to possess marijuana pursuant to A.R.S. Title 36, Chapter 28.1;
5. A physician's written certification in a Department-provided format dated within 90 calendar days before the submission of the qualifying patient's application that includes:
  - a. The physician's:
    - i. Name,
    - ii. License number including an identification of the physician license type,
    - iii. Office address on file with the physician's licensing board,
    - iv. Telephone number on file with the physician's licensing board, and
    - v. E-mail address;
  - b. The qualifying patient's name and date of birth;
  - c. A statement that the physician has made or confirmed a diagnosis of qualifying patient has a debilitating medical condition as defined in A.R.S. § 36-2801 for the qualifying patient;
  - d. An identification of one or more of the debilitating medical conditions in R9-17-201 as the qualifying patient's specific debilitating medical condition;
  - e. A statement, initialed by the physician, that the physician agrees to assume responsibility for providing management and routine care of the qualifying patient's debilitating medical condition after conducting a full assessment of the qualifying patient's medical history;
    - i. ~~Has a professional relationship with the qualifying patient that has existed for at least one year and the physician has seen or assessed the qualifying patient on at least four visits for the patient's debilitating medical condition during the course of the professional relationship; or~~
    - ii. ~~Has assumed primary responsibility for providing management and routine care of the patient's debilitating medical condition after conducting a comprehensive medical history and physical examination, including a personal review of the patient's medical record maintained by other treating physicians, that may include the patient's reaction and response to conventional medical therapies;~~
  - f. A statement, initialed by the physician, that the physician:
    - i. Has established a medical record for the qualifying patient, and
    - ii. Is maintaining the qualifying patient's medical record as required in A.R.S. § 12-2297;
  - g. A statement, initialed by the physician, that the physician ~~reviewed all prescription and non-prescription medications and supplements that the qualifying patient is currently using for consideration of any potential drug~~

interaction with medical marijuana has conducted an in-person physical examination of the qualifying patient appropriate to the qualifying patient's presenting symptoms and the qualifying patient's debilitating medical condition diagnosed by the physician;

- h. A statement, initialed by the physician, that the physician reviewed the qualifying patient's:
    - i. Medical records including medical records from other treating physicians from the previous 12 months;
    - ii. Response to conventional medications and medical therapies; and
    - iii. Profile on the Arizona Board of Pharmacy Controlled Substances Prescription Monitoring Program database;
  - i. A statement, initialed by the physician, that the physician has explained the potential risks and benefits of the medical use of marijuana to the qualifying patient;
  - j. A statement, initialed by the physician, that the physician plans to continue to assess the qualifying patient and the qualifying patient's use of medical marijuana during the course of the physician-patient relationship;
  - k. A statement, initialed by the physician, that, in the physician's professional opinion, the qualifying patient is likely to receive therapeutic or palliative benefit from the qualifying patient's medical use of marijuana to treat or alleviate the qualifying patient's debilitating medical condition;
  - l. A statement, initialed by the physician, that, if the physician has referred a qualifying patient to a dispensary, the physician has disclosed to the qualifying patient any personal or professional relationship the physician has with the dispensary;
  - m. An attestation that the information provided in the written certification is true and correct; and
  - n. The physician's signature and the date the physician signed;
6. If the qualifying patient is designating a caregiver, the following in a Department-provided format:
- a. The designated caregiver's first name; middle initial, if applicable; last name; and suffix, if applicable;
  - b. The designated caregiver's residence address and mailing address;
  - c. The county where the designated caregiver resides;
  - d. The designated caregiver's date of birth;
  - e. The identifying number on the applicable card or document in subsection (F)(6)(i);
  - f. An attestation signed and dated by the designated caregiver that the designated caregiver has not been convicted of an excluded felony offense as defined in A.R.S. § 36-2801;
  - g. One of the following:
    - i. A statement signed by the designated caregiver that the designated caregiver does not currently hold a valid registry identification card; or

- ii. The assigned registry identification number for the designated caregiver for each valid registry identification card currently held by the designated caregiver;
      - h. A statement in a Department-provided format signed by the designated caregiver:
        - i. Agreeing to assist the qualifying patient with the medical use of marijuana; and
        - ii. Pledging not to divert marijuana to any individual or person who is not allowed to possess marijuana pursuant to A.R.S. Title 36, Chapter 28.1;
      - i. A copy the designated caregiver's:
        - i. Arizona driver's license issued on or after October 1, 1996;
        - ii. Arizona identification card issued on or after October 1, 1996;
        - iii. Arizona registry identification card;
        - iv. Photograph page in the qualifying patient's U.S. passport; or
        - v. An Arizona driver's license or identification card issued before October 1, 1996 and one of the following:
          - (1) Birth certificate verifying U.S. citizenship,
          - (2) U.S. Certificate of Naturalization, or
          - (3) U.S. Certificate of Citizenship;
      - j. A current photograph of the designated caregiver; and
      - k. For the Department's criminal records check authorized in A.R.S. § 36-2804.05:
        - i. The designated caregiver's fingerprints in a Department-provided format that includes the designated caregiver's name, date of birth, social security number, and fingerprints; or
        - ii. If the designated caregiver's fingerprints and information required in subsection (F)(6)(k)(i) were submitted to the Department as part of an application for a designated caregiver or dispensary agent registry identification card within the previous six months, the registry identification number on the registry identification card issued to the designated caregiver as a result of the application; and
  - 7. The applicable fees in R9-17-102 for applying for:
    - a. A qualifying patient registry identification card; and
    - b. If applicable, a designated caregiver registry identification card.
- G.** To apply for a registry identification card for a qualifying patient who is under 18 years of age, the qualifying patient's custodial parent or legal guardian responsible for health care decisions for the qualifying patient shall submit to the Department the following:
- 1. An application in a Department-provided format that includes:
    - a. The qualifying patient's:
      - i. First name; middle initial, if applicable; last name; and suffix, if applicable;
      - ii. Date of birth; and
      - iii. Gender;
    - b. The qualifying patient's residence address and mailing address;
    - c. The county where the qualifying patient resides;

- d. The qualifying patient's custodial parent's or legal guardian's first name; middle initial, if applicable; last name; and suffix, if applicable;
  - e. The identifying number on the applicable card or document in subsection (G)(6);
  - f. The qualifying patient's custodial parent's or legal guardian's residence address and mailing address;
  - g. The county where the qualifying patient's custodial parent or legal guardian resides;
  - h. The name, address, and telephone number of a physician who has a physician-patient relationship with the qualifying patient and is ~~recommending~~ providing the written certification for medical marijuana for the qualifying patient;
  - i. The name, address, and telephone number of a second physician who has conducted a comprehensive review of the patient's medical record maintained by other treating physicians, and is providing written certification for medical marijuana for the qualifying patient;
  - j. The qualifying patient's custodial parent's or legal guardian's date of birth;
  - k. The qualifying patient's custodial parent's or legal guardian's e-mail address;
  - l. Whether the qualifying patient's custodial parent or legal guardian is requesting authorization for medical marijuana cultivation because the qualifying patient's custodial parent or legal guardian believes that the qualifying patient resides at least 25 miles from the nearest operating dispensary;
  - m. Whether the qualifying patient's custodial parent or legal guardian would like notification of any clinical studies needing human subjects for research on the medical use of marijuana;
  - n. An attestation that the information provided in the application is true and correct; and
  - o. The signature of the qualifying patient's custodial parent or legal guardian and the date the qualifying patient's custodial parent or legal guardian signed;
2. A current photograph of the:
- a. Qualifying patient, and
  - b. Qualifying patient's custodial parent or legal guardian serving as the qualifying patient's designated caregiver;
3. An attestation signed and dated by the qualifying patient's custodial parent or legal guardian that the qualifying patient's custodial parent or legal guardian has not been convicted of an excluded felony offense as defined in A.R.S. § 36-2801;
4. One of the following:
- a. A statement signed by the qualifying patient's custodial parent or legal guardian that the qualifying patient's custodial parent or legal guardian does not currently hold a valid registry identification card; or
  - b. The assigned registry identification number for the qualifying patient's custodial parent or legal guardian for each valid registry identification card currently held by the qualifying patient's custodial parent or legal guardian;
5. A statement in a Department-provided format signed by the qualifying patient's custodial parent or legal guardian who is serving as the qualifying patient's designated caregiver:
- a. Allowing the qualifying patient's medical use of marijuana;

- b. Agreeing to assist the qualifying patient with the medical use of marijuana; and
  - c. Pledging not to divert marijuana to any individual or person who is not allowed to possess marijuana pursuant to A.R.S. Title 36, Chapter 28.1;
6. A copy of one of the following for the qualifying patient's custodial parent or legal guardian:
  - a. Arizona driver's license issued on or after October 1, 1996;
  - b. Arizona identification card issued on or after October 1, 1996;
  - c. Arizona registry identification card;
  - d. Photograph page in the qualifying patient's U.S. passport; or
  - e. An Arizona driver's license or identification card issued before October 1, 1996 and one of the following:
    - i. Birth certificate verifying U.S. citizenship,
    - ii. U. S. Certificate of Naturalization, or
    - iii. U. S. Certificate of Citizenship;
7. Whether the individual submitting the application on behalf of the qualifying patient under 18 years of age is the qualifying patient's custodial parent or legal guardian;
8. If the individual submitting the application on behalf of a qualifying patient is the qualifying patient's legal guardian, a copy of documentation establishing the individual as the qualifying patient's legal guardian;
9. For the Department's criminal records check authorized in A.R.S. § 36-2804.05:
  - a. The qualifying patient's custodial parent's or legal guardian's fingerprints in a Department-provided format that includes the qualifying patient's custodial parent's or legal guardian's name, date of birth, social security number, and fingerprints; or
  - b. If the qualifying patient's custodial parent's or legal guardian's fingerprints and information required in subsection (G)(9)(a) were submitted to the Department as part of an application for a designated caregiver or a dispensary agent registry identification card within the previous six months, the registry identification number on the registry identification card issued to the designated caregiver as a result of the application;
10. A statement in a Department-provided format signed by the qualifying patient pledging not to divert marijuana to any individual or person who is not allowed to possess marijuana pursuant to A.R.S. Title 36, Chapter 28.1;
11. A written certification from the physician in subsection (G)(1)(h) and a separate written certification from the physician in (G)(1)(i) in a Department-provided format dated within 90 calendar days before the submission of the qualifying patient's application that includes:
  - a. The physician's:
    - i. Name,
    - ii. License number including an identification of the physician license type,
    - iii. Office address on file with the physician's licensing board,
    - iv. Telephone number on file with the physician's licensing board, and
    - v. E-mail address;
  - b. The qualifying patient's name and date of birth;

- c. A statement that the qualifying patient has a debilitating medical condition as defined in A.R.S. § 36-2801;
- d. An identification of one or more of the debilitating medical conditions in R9-17-201 as the qualifying patient's specific debilitating medical condition;
- e. For the physician listed in subsection (G)(1)(h):
  - i. ~~A statement that the physician has made or confirmed a diagnosis of qualifying patient~~ has a debilitating medical condition as defined in A.R.S. § 36-2801 ~~for the qualifying patient~~;
  - ii. An identification of one or more of the debilitating medical conditions in R9-17-201 as the qualifying patient's specific debilitating medical condition;
  - iii. A statement, initialed by the physician, that the physician agrees to assume responsibility for providing management and routine care of the qualifying patient's debilitating medical condition after conducting a full assessment of the qualifying patient's medical history;
    - i. ~~Has a professional relationship with the qualifying patient that has existed for at least one year and the physician has seen or assessed the qualifying patient on at least four visits for the patient's debilitating medical condition during the course of the professional relationship; or~~
    - ii. ~~Has assumed primary responsibility for providing management and routine care of the patient's debilitating medical condition after conducting a comprehensive medical history and physical examination, including a personal review of the patient's medical record maintained by other treating physicians, that may include the patient's reaction and response to conventional medical therapies;~~
  - iv. A statement, initialed by the physician, that the physician:
    - (1) Has established a medical record for the qualifying patient, and
    - (2) Is maintaining the qualifying patient's medical record as required in A.R.S. § 12-2297;
  - v. ~~A statement, initialed by the physician, that the physician reviewed all prescription and non-prescription medications and supplements that the qualifying patient is currently using for consideration of any potential drug interaction with medical marijuana~~ has conducted an in-person physical examination of the qualifying patient appropriate to the qualifying patient's presenting symptoms and the qualifying patient's debilitating medical condition diagnosed by the physician;
  - vi. A statement, initialed by the physician, that the physician reviewed the qualifying patient's:
    - i. Medical records including medical records from other treating physicians from the previous 12 months;
    - ii. Response to conventional medications and medical therapies;  
and

- iii. Profile on the Arizona Board of Pharmacy Controlled Substances Prescription Monitoring Program database;
  - vii. A statement, initialed by the physician, that the physician has explained the potential risks and benefits of the use of the medical marijuana to the qualifying patient's custodial parent or legal guardian responsible for the health care decisions for the qualifying patient; and
  - viii. A statement, initialed by the physician, that the physician plans to continue to assess the qualifying patient and the qualifying patient's use of medical marijuana during the course of the physician-patient relationship;
  - f. For the physician listed in subsection (G)(1)(i), a statement, initialed by the physician, that the physician conducted a comprehensive review of the qualifying patient's medical records from other treating physicians;
  - g. A statement, initialed by the physician, that, in the physician's professional opinion, the qualifying patient is likely to receive therapeutic or palliative benefit from the qualifying patient's medical use of marijuana to treat or alleviate the qualifying patient's debilitating medical condition;
  - h. A statement, initialed by the physician, that, if the physician has referred a qualifying patient to a dispensary, the physician has disclosed to the qualifying patient any personal or professional relationship the physician has with the dispensary;
  - i. An attestation that the information provided in the written certification is true and correct; and
  - j. The physician's signature and the date the physician signed; and
14. The applicable fees in R9-17-102 for applying for a:
- a. Qualifying patient registry identification card, and
  - b. Designated caregiver registry identification card.

**H.** For purposes of this Article, "25 miles" includes the area contained within a circle that extends for 25 miles in all directions from a specific location.

**R9-17-203. Amending a Qualifying Patient's or Designated Caregiver's Registry Identification Card**

- A.** To add a designated caregiver, or to request a change of a qualifying patient's designated caregiver, the qualifying patient shall submit to the Department the following:
- 1. An application in a Department-provided format that includes:
    - a. The qualifying patient's name and registry identification number on the qualifying patient's current registry identification card;
    - b. If applicable, the name of the qualifying patient's current designated caregiver and the date the designated caregiver last provided or will last provide assistance to the qualifying patient;
    - c. The name of the individual the qualifying patient is designating as caregiver; and
    - d. The signature of the qualifying patient and date the qualifying patient signed;
  - 2. For the caregiver the qualifying patient is designating:

- a. The designated caregiver's first name; middle initial, if applicable; last name; and suffix, if applicable;
  - b. The designated caregiver's residence address and mailing address;
  - c. The county where the designated caregiver resides;
  - d. The designated caregiver's date of birth;
  - e. The identifying number on the applicable card or document in subsection (A)(2)(i);
  - f. An attestation signed and dated by the designated caregiver that the designated caregiver has not been convicted of an excluded felony offense as defined in A.R.S. § 36-2801;
  - g. One of the following:
    - i. A statement signed by the designated caregiver that the designated caregiver does not currently hold a valid registry identification card; or
    - ii. The assigned registry identification number for the designated caregiver for each valid registry identification card currently held by the designated caregiver;
  - h. A statement in a Department-provided format signed by the designated caregiver:
    - i. Agreeing to assist the qualifying patient with the medical use of marijuana, and
    - ii. Pledging not to divert marijuana to any individual or person who is not allowed to possess marijuana pursuant to A.R.S. Title 36, Chapter 28.1;
  - i. A copy the designated caregiver's:
    - a. Arizona driver's license issued on or after October 1, 1996;
    - b. Arizona identification card issued on or after October 1, 1996;
    - c. Arizona registry identification card;
    - d. Photograph page in the designated caregiver's U.S. passport; or
    - e. An Arizona driver's license or identification card issued before October 1, 1996 and one of the following:
      - i. Birth certificate verifying U.S. citizenship,
      - ii. U. S. Certificate of Naturalization, or
      - iii. U. S. Certificate of Citizenship;
  - j. A current photograph of the designated caregiver; and
  - k. For the Department's criminal records check authorized in A.R.S. § 36-2804.05:
    - i. The designated caregiver's fingerprints in a Department-provided format that includes the designated caregiver's name, date of birth, social security number, and fingerprints; or
    - ii. If the designated caregiver's fingerprints and information required in subsection (A)(2)(k)(i) were submitted to the Department as part of an application for a designated caregiver or a dispensary agent within the last six months, the registry identification number on the registry identification card issued to the designated caregiver as a result of the application; and
3. The applicable fee in R9-17-102 for applying for a designated caregiver registry identification card.

- B. To amend a qualifying patient's address on the qualifying patient's registry identification card when the qualifying patient or the qualifying patient's designated caregiver is authorized to cultivate marijuana, the qualifying patient shall submit to the Department the following:
1. The qualifying patient's name and registry identification number on the qualifying patient's current registry identification card;
  2. The qualifying patient's new address;
  3. The county where the new address is located;
  4. The name of the qualifying patient's designated caregiver, if applicable;
  5. Whether the qualifying patient is requesting authorization for cultivating marijuana plants for the qualifying patient's medical use because the qualifying patient believes that the qualifying patient resides at least 25 miles from the nearest operating dispensary;
  6. If the qualifying patient is requesting authorization for cultivating marijuana plants, whether the qualifying patient is designating the qualifying patient's designated caregiver to cultivate marijuana plants for the qualifying patient's medical use;
  7. The effective date of the qualifying patient's new address, and
  8. The applicable fee in R9-17-102 for applying to amend a qualifying patient's registry identification card.
- C. To request authorization to cultivate marijuana based on a qualifying patient's current address or a new address, the qualifying patient shall submit to the Department the following:
1. The qualifying patient's name and the registry identification number on the qualifying patient's current registry identification card;
  2. If the qualifying patient's address is a new address, the qualifying patient's:
    - a. Current address,
    - b. New address,
    - c. The county where the new address is located, and
    - d. The effective date of the qualifying patient's new address;
  3. The name of the qualifying patient's designated caregiver, if applicable;
  4. Whether the qualifying patient is requesting authorization for cultivating marijuana plants for the qualifying patient's medical use because the qualifying patient believes that the qualifying patient resides at least 25 miles from the nearest operating dispensary;
  5. If the qualifying patient is requesting authorization for cultivating marijuana plants, whether the qualifying patient is designating the qualifying patient's designated caregiver to cultivate marijuana plants for the qualifying patient's medical use; and
  6. The applicable fee in R9-17-102 for applying to:
    - a. Amend a qualifying patient's registry identification card; and
    - b. If designating a designated caregiver for cultivation authorization, amend a designated caregiver's registry identification card.

**R9-17-204. Renewing a Qualifying Patient's or Designated Caregiver's Registry Identification Card**

- A. Except for a qualifying patient who is under 18 years of age, to renew a qualifying patient's registry identification card, the qualifying patient shall submit the following to the Department at least 30 calendar days before the expiration date of the qualifying patient's registry identification card:

1. An application in a Department-provided format that includes:
  - a. The qualifying patient's first name; middle initial, if applicable; last name; and suffix, if applicable;
  - b. The qualifying patient's date of birth;
  - c. Except as provided in subsection (A)(1)(j), the qualifying patient's residence address and mailing address;
  - d. The county where the qualifying patient resides;
  - e. The registry identification number on the qualifying patient's current registry identification card;
  - f. The name, address, and telephone number of the physician ~~recommending~~ providing the written certification for medical marijuana for the qualifying patient;
  - g. Whether the qualifying patient is requesting approval for cultivating marijuana plants for the qualifying patient's medical use because the qualifying patient believes that the qualifying patient resides at least 25 miles from the nearest operating dispensary;
  - h. If the qualifying patient is requesting approval for cultivating marijuana plants, whether the qualifying patient is ~~designating~~ the qualifying patient's designated caregiver to cultivate marijuana plants for the qualifying patient's medical use;
  - i. The qualifying patient's e-mail address;
  - j. If the qualifying patient is homeless, an address where the qualifying patient can receive mail;
  - k. An attestation that the information provided in the application is true and correct; and
  - l. The signature of the qualifying patient and date signed;
2. A current photograph of the qualifying patient;
3. A statement in a Department-provided format signed by the qualifying patient pledging not to divert marijuana to any individual or person who is not allowed to possess marijuana pursuant to A.R.S. Title 36, Chapter 28.1;
4. A physician's written certification in a Department-provided format dated within 90 calendar days before the submission of the qualifying patient's renewal application that includes:
  - a. The physician's:
    - i. Name,
    - ii. License number including an identification of the physician license type,
    - iii. Office address on file with the physician's licensing board,
    - iv. Telephone number on file with the physician's licensing board, and
    - v. E-mail address;
  - b. The qualifying patient's name and date of birth;
  - c. A statement that the physician has made or confirmed a diagnosis of qualifying patient has a debilitating medical condition as defined in A.R.S. § 36-2801 for the qualifying patient;
  - d. An identification of one or more of the debilitating medical conditions in R9-17-201 as the qualifying patient's specific debilitating medical condition;

- e. A statement, initialed by the physician, that the physician agrees to assume responsibility for providing management and routine care of the qualifying patient's debilitating medical condition after conducting a full assessment of the qualifying patient's medical history:
  - ~~i. Has a professional relationship with the qualifying patient that has existed for at least one year and the physician has seen or assessed the qualifying patient on at least four visits for the patient's debilitating medical condition during the course of the professional relationship; or~~
  - ~~ii. Has assumed primary responsibility for providing management and routine care of the patient's debilitating medical condition after conducting a comprehensive medical history and physical examination, including a personal review of the patient's medical record maintained by other treating physicians, that may include the patient's reaction and response to conventional medical therapies;~~
- f. A statement, initialed by the physician, that the physician:
  - i. Has established a medical record for the qualifying patient, and
  - ii. Is maintaining the qualifying patient's medical record as required in A.R.S. § 12-2297;
- g. A statement, initialed by the physician, that the physician reviewed all prescription and non-prescription medications and supplements that the qualifying patient is currently using for consideration of any potential drug interaction with medical marijuana has conducted an in-person physical examination of the qualifying patient appropriate to the qualifying patient's presenting symptoms and the qualifying patient's debilitating medical condition diagnosed by the physician;
- h. A statement, initialed by the physician, that the physician reviewed the qualifying patient's:
  - i. Medical records including medical records from other treating physicians from the previous 12 months;
  - ii. Response to conventional medications and medical therapies; and
  - iii. Profile on the Arizona Board of Pharmacy Controlled Substances Prescription Monitoring Program database;
- i. A statement, initialed by the physician, that the physician has explained the potential risks and benefits of the medical use of marijuana to the qualifying patient;
- j. A statement, initialed by the physician, that the physician plans to continue to assess the qualifying patient and the qualifying patient's use of medical marijuana during the course of the physician-patient relationship;
- k. A statement, initialed by the physician, that, in the physician's professional opinion, the qualifying patient is likely to receive therapeutic or palliative benefit from the qualifying patient's medical use of marijuana to treat or alleviate the qualifying patient's debilitating medical condition;
- l. A statement, initialed by the physician, that, if the physician has referred a qualifying patient to a dispensary, the physician has disclosed to the qualifying

patient any personal or professional relationship the physician has with the dispensary;

- m. An attestation that the information provided in the written certification is true and correct; and
  - n. The physician's signature and the date signed;
5. If the qualifying patient is designating a caregiver or if the qualifying patient's designated caregiver's registry identification card has the same expiration date as the qualifying patient's registry identification card:
- a. The designated caregiver's first name; middle initial, if applicable; last name; and suffix, if applicable;
  - b. The designated caregiver's date of birth;
  - c. The designated caregiver's residence address and mailing address;
  - d. The county where the designated caregiver resides;
  - e. If the qualifying patient is renewing the designated caregiver's registry identification card, the registry identification number on the designated caregiver's registry identification card associated with the qualifying patient;
  - f. If the qualifying patient is designating an individual not previously designated as the qualifying patient's caregiver, the identification number on and a copy of the designated caregiver's:
    - i. Arizona driver's license issued on or after October 1, 1996;
    - ii. Arizona identification card issued on or after October 1, 1996;
    - iii. Arizona registry identification card;
    - iv. Photograph page in the designated caregiver's U. S. passport; or
    - v. An Arizona driver's license or identification card issued before October 1, 1996 and one of the following:
      - i. Birth certificate verifying U.S. citizenship,
      - ii. U. S. Certificate of Naturalization, or
      - iii. U. S. Certificate of Citizenship;
  - g. An attestation signed and dated by the designated caregiver that the designated caregiver has not been convicted of an excluded felony offense as defined in A.R.S. § 36-2801;
  - h. One of the following:
    - i. A statement signed by the designated caregiver that the designated caregiver does not currently hold a valid registry identification card; or
    - ii. The assigned registry identification number for the designated caregiver for each valid registry identification card currently held by the designated caregiver;
  - i. A statement in a Department-provided format signed by the designated caregiver:
    - i. Agreeing to assist the qualifying patient with the medical use of marijuana, and
    - ii. Pledging not to divert marijuana to any individual or person who is not allowed to possess marijuana pursuant to A.R.S. Title 36, Chapter 28.1;
  - j. A current photograph of the designated caregiver;
  - k. For the Department's criminal records check authorized in A.R.S. § 36-2804.05:

- i. The designated caregiver's fingerprints in a Department-provided format that includes the designated caregiver name, date of birth, social security number, and fingerprints; or
    - ii. If the designated caregiver's fingerprints and information required in subsection (A)(5)(k)(i) were submitted to the Department as part of an application for a designated caregiver or a dispensary agent registry identification card within the previous six months, the registry identification number on the registry identification card issued to the designated caregiver as a result of the application; and
  6. The applicable fees in R9-17-102 for applying to:
    - a. Renew a qualifying patient's registry identification card, and
    - b. If applicable, issue or renew a designated caregiver's registry identification card.
- B.** To renew a registry identification card for a qualifying patient who is under 18 years of age, the qualifying patient's custodial parent or legal guardian responsible for health care decisions for the qualifying patient shall submit to the Department the following:
  1. An application in a Department-provided format that includes:
    - a. The qualifying patient's:
      - i. First name; middle initial, if applicable; last name; and suffix, if applicable; and
      - ii. Date of birth;
    - b. The qualifying patient's residence address and mailing address;
    - c. The county where the qualifying patient resides;
    - d. The registry identification number on the qualifying patient's current registry identification card;
    - e. The qualifying patient's custodial parent's or legal guardian's first name; middle initial, if applicable; last name; and suffix, if applicable;
    - f. The qualifying patient's custodial parent's or legal guardian's residence address and mailing address;
    - g. The county where the qualifying patient's custodial parent or legal guardian resides;
    - h. The registry identification number on the qualifying patient's custodial parent's or legal guardian's current registry identification card;
    - i. A statement in a Department-provided format signed by the qualifying patient's custodial parent or legal guardian serving as the qualifying patient's designated caregiver:
      - i. Allowing the qualifying patient's medical use of marijuana;
      - ii. Agreeing to assist the qualifying patient with the medical use of marijuana; and
      - iii. Pledging not to divert marijuana to any individual or person who is not allowed to possess marijuana pursuant to A.R.S. Title 36, Chapter 28.1;
    - j. The name, address, and telephone number of a physician who has a physician-patient relationship with the qualifying patient and is recommending providing the written certification for medical marijuana for the qualifying patient;

- k. The name, address, and telephone number of a second physician who has conducted a comprehensive review of the qualifying patient's medical record maintained by other treating physicians, and is recommending providing the written certification for medical marijuana for the qualifying patient;
  - l. Whether the qualifying patient's custodial parent or legal guardian is requesting approval for cultivating marijuana plants for the qualifying patient's medical use because the qualifying patient's custodial parent or legal guardian believes that the qualifying patient resides at least 25 miles from the nearest operating dispensary;
  - m. The qualifying patient's custodial parent's or legal guardian's e-mail address;
  - n. Whether the qualifying patient's custodial parent or legal guardian would like notification of any clinical studies needing human subjects for research on the medical use of marijuana;
  - o. An attestation that the information provided in the application is true and correct; and
  - p. The signature of the qualifying patient's custodial parent or legal guardian and the date signed;
- 2. A current photograph of the qualifying patient;
  - 3. A statement in a Department-provided format signed by the qualifying patient pledging not to divert marijuana to any individual or person who is not allowed to possess marijuana pursuant to A.R.S. Title 36, Chapter 28.1;
  - 4. A written certification from the physician in subsection (B)(1)(j) and a separate written certification from the physician in subsection (B)(1)(k) on a Department-provided format dated within 90 calendar days before the submission of the qualifying patient's application that includes:
    - a. The physician's:
      - i. Name;
      - ii. License number including an identification of the physician license type,
      - iii. Office address on file with the physician's licensing board,
      - iv. Telephone number on file with the physician's licensing board, and
      - v. E-mail address;
    - b. Identification of the physician license type;
    - c. The qualifying patient's name and date of birth;
    - d. A statement that the qualifying patient has a debilitating medical condition as defined in A.R.S. § 36-2801;
    - e. An identification of one or more of the debilitating medical conditions in R9-17-201 as the qualifying patient's specific debilitating medical condition;
    - f. For the physician listed in subsection (B)(1)(j):
      - i. A statement that the physician has made or confirmed a diagnosis of qualifying patient has a debilitating medical condition as defined in A.R.S. § 36-2801 for the qualifying patient;
      - ii. An identification of one or more of the debilitating medical conditions in R9-17-201 as the qualifying patient's specific debilitating medical condition;

- iii. A statement, initialed by the physician, that the physician agrees to assume responsibility for providing management and routine care of the qualifying patient's debilitating medical condition after conducting a full assessment of the qualifying patient's medical history:
  - i. Has a professional relationship with the qualifying patient that has existed for at least one year and the physician has seen or assessed the qualifying patient on at least four visits for the patient's debilitating medical condition during the course of the professional relationship; or
  - ii. Has assumed primary responsibility for providing management and routine care of the patient's debilitating medical condition after conducting a comprehensive medical history and physical examination, including a personal review of the patient's medical record maintained by other treating physicians, that may include the patient's reaction and response to conventional medical therapies;
- iv. A statement, initialed by the physician, that the physician:
  - (1) Has established a medical record for the qualifying patient, and
  - (2) Is maintaining the qualifying patient's medical record as required in A.R.S. § 12-2297;
- v. A statement, initialed by the physician, that the physician reviewed all prescription and non-prescription medications and supplements that the qualifying patient is currently using for consideration of any potential drug interaction with medical marijuana has conducted an in-person physical examination of the qualifying patient appropriate to the qualifying patient's presenting symptoms and the qualifying patient's debilitating medical condition diagnosed by the physician;
- vi. A statement, initialed by the physician, that the physician reviewed the qualifying patient's:
  - i. Medical records including medical records from other treating physicians from the previous 12 months;
  - ii. Response to conventional medications and medical therapies;  
and
  - iii. Profile on the Arizona Board of Pharmacy Controlled Substances Prescription Monitoring Program database;
- vii. A statement, initialed by the physician, that the physician has explained the potential risks and benefits of the use of the medical marijuana to the qualifying patient's custodial parent or legal guardian responsible for the health care decisions for the qualifying patient; and
- viii. A statement, initialed by the physician, that the physician plans to continue to assess the qualifying patient and the qualifying patient's use of medical marijuana during the course of the physician-patient relationship;

- f. For the physician listed in subsection (B)(1)(k), a statement, initialed by the physician, that the physician conducted a comprehensive review of the qualifying patient's medical records from other treating physicians;
  - g. A statement, initialed by the physician that, in the physician's professional opinion, the qualifying patient is likely to receive therapeutic or palliative benefit from the qualifying patient's medical use of marijuana to treat or alleviate the qualifying patient's debilitating medical condition;
  - h. A statement, initialed by the physician, that, if the physician has referred a qualifying patient to a dispensary, the physician has disclosed to the qualifying patient any personal or professional relationship the physician has with the dispensary;
  - i. An attestation that the information provided in the written certification is true and correct; and
  - j. The physician's signature and the date the physician signed; and
5. A current photograph of the qualifying patient's custodial parent or legal guardian;
6. For the Department's criminal records check authorized in A.R.S. § 36-2804.05:
- a. The qualifying patient's custodial parent's or legal guardian's fingerprints in a Department-provided format that includes the qualifying patient's custodial parent or legal guardian's name, date of birth, social security number, and fingerprints; or
  - b. If the qualifying patient's custodial parent's or legal guardian's fingerprints and information required in subsection (B)(6)(a) were submitted as part of an application for a designated caregiver or dispensary agent to the Department within the previous six months, the registry identification number on the registry identification card issued to the patient's custodial parent or legal guardian serving as the qualifying patient's designated caregiver as a result of the application; and
7. The applicable fees in R9-10-102 for applying to:
- a. Renew a qualifying patient's registry identification card, and
  - b. Renew a designated caregiver's registry identification card.
- C. Except as provided in subsection (A)(5), to renew a qualifying patient's designated caregiver's registry identification card, the qualifying patient shall submit to the Department, at least 30 calendar days before the expiration date of the designated caregiver's registry identification card, the following:
- 1. An application in a Department-provided format that includes:
    - a. The qualifying patient's first name; middle initial, if applicable; last name; and suffix, if applicable;
    - b. The registry identification number on the qualifying patient's current registry identification card;
    - c. The designated caregiver's first name; middle initial, if applicable; last name; and suffix, if applicable;
    - d. The designated caregiver's date of birth;
    - e. The designated caregiver's residence address and mailing address;
    - f. The county where the designated caregiver resides;

- g. The registry identification number on the designated caregiver's current registry identification card;
  - h. A current photograph of the designated caregiver;
  - i. A statement in a Department-provided format signed by the designated caregiver:
    - i. Agreeing to assist the qualifying patient with the medical use of marijuana, and
    - ii. Pledging not to divert marijuana to any individual or person who is not allowed to possess marijuana pursuant to A.R.S. Title 36, Chapter 28.1; and
  - j. For the Department's criminal records check authorized in A.R.S. § 36-2804.05:
    - i. The designated caregiver's fingerprints in a Department-provided format that includes the designated caregiver's name, date of birth, social security number, and fingerprints; or
    - ii. If the designated caregiver's fingerprints and information required in subsection (C)(1)(j)(i) were submitted as part of an application for a designated caregiver or dispensary agent registry identification card to the Department within the previous six months, the registry identification number on the registry identification card issued to the designated caregiver as a result of the application; and
2. The applicable fee in R9-17-102 for renewing a designated caregiver's registry identification card.

**R9-17-205. Denial or Revocation of a Qualifying Patient's or Designated Caregiver's Registry Identification Card**

- A. The Department shall deny a qualifying patient's application or renewal of the qualifying patient's registry identification card if the qualifying patient does not have a debilitating medical condition.
- B. The Department shall deny a designated caregiver's application or renewal of the designated caregiver's registry identification card if the designated caregiver does not comply with A.R.S. § 36-2801(5).
- C. The Department may deny a qualifying patient's or designated caregiver's application or renewal of the qualifying patient's or designated caregiver's registry identification card if the qualifying patient or designated caregiver:
  - 1. Previously had a registry identification card revoked for not complying with A.R.S. Title 36, Chapter 28.1 or this Chapter; or
  - 2. Provides false or misleading information to the Department.
- D. The Department shall revoke a qualifying patient's or designated caregiver's registry identification card if the qualifying patient or designated caregiver provides medical marijuana to an individual who is not authorized to possess medical marijuana under A.R.S. Title 36, Chapter 28.1.
- E. The Department shall revoke a designated caregiver's registry identification card if the designated caregiver:
  - 1. No longer agrees to assist the qualifying patient in the use of medical marijuana; or
  - 2. Has been convicted of an excluded felony offense.

- F. The Department may revoke a qualifying patient's or designated caregiver's registry identification card if the qualifying patient or designated caregiver knowingly violates A.R.S. Title 36, Chapter 28.1 or this Chapter.
- G. If the Department denies or revokes a qualifying patient's registry identification card, the Department shall provide notice to the qualifying patient that includes:
  - 1. The specific reason or reasons for the denial or revocation; and
  - 2. The process for requesting a judicial review of the Department's decision pursuant to A.R.S. Title 12, Chapter 7, Article 6.
- H. If the Department denies or revokes a qualifying patient's designated caregiver's registry identification card, the Department shall provide notice to the qualifying patient and the designated caregiver that includes:
  - 1. The specific reason or reasons for the denial or revocation; and
  - 2. The process for requesting a judicial review of the Department's decision pursuant to A.R.S. Title 12, Chapter 7, Article 6.

**ARTICLE 3. DISPENSARIES AND DISPENSARY AGENTS**

**R9-17-301. Individuals to Act for a Dispensary Regarding Requirements**

**A.** When a dispensary is required by this Article to provide information on or sign documents or ensure actions are taken, the following shall comply with the requirement on behalf of the dispensary:

- 1. If the dispensary is an individual, the individual;
- 2. If the dispensary is a corporation, two officers of the corporation;
- 3. If the dispensary is a partnership, two of the partners;
- 4. If the dispensary is a limited liability company, a manager or, if the limited liability company does not have a manager, a member of the limited liability company;
- 5. If the dispensary is an association or cooperative, two members of the governing board of the association or cooperative;
- 6. If the dispensary is a joint venture, two of the individuals who signed the joint venture agreement; and
- 7. If the dispensary is a business organization type other than those described in subsections (2) through (6), two individuals who are members of the business organization.

**B.** For purposes of this Chapter, the individual or individuals in subsection (A) are considered principal officers.

**R9-17-302. Dispensary Registration Certificate Allocation Process**

**A.** The Department shall review dispensary registration certificate applications and issue dispensary registration certificates according to the requirements in R9-17-107.

**B.** The Department shall accept dispensary registration certificate applications for 30 calendar days beginning May 1, 2011.

- 1. A city or town that contains more than one CHAA may request the reassignment of a dispensary registration certificate allocation from one CHAA to another CHAA under the jurisdiction of the city or town.
- 2. If the Department receives:

- a. Only one dispensary registration certificate application for a dispensary located in a CHAA that the Department determines is complete and is in compliance with A.R.S. Title 36, Chapter 28.1 and this Chapter by 60 days after May 1, 2011, the Department shall allocate the dispensary registration certificate for the CHAA to that applicant; or
  - b. More than one dispensary registration certificate application for a dispensary located in a CHAA that the Department determines are complete and are in compliance with A.R.S. Title 36, Chapter 28.1 and this Chapter by 60 days after May 1, 2011, the Department shall randomly select:
    - i. One dispensary registration certificate applicant and allocate the dispensary registration certificate for the CHAA to that applicant; or
    - ii. As many dispensary certificate applicants as there as dispensary registration certificate assigned to the CHAA, if the CHAA has more than one dispensary registration certificate assigned as a result of a city or town's request in subsection (B)(1),
3. Except as provided in subsection (B)(2)(b)(ii), from the dispensary registration applications received within the time-frame in subsection (B), the Department shall allocate only one dispensary registration certificate for each CHAA.
- C. In April of each calendar year beginning in April, 2012, the Department shall review current valid dispensary registration certificates to determine if the Department may issue additional dispensary registration certificates pursuant to A.R.S. § 36-2804(C).
1. If the Department determines that the Department may issue additional dispensary registration certificates, the Department shall post the information that the Department is accepting dispensary registration certificate applications on the Department's website, including the deadline for accepting dispensary registration certificate applications.
    - a. The Department shall post the information in subsection (C)(1) by last day of the month.
    - b. The deadline for submission of dispensary registration certificate applications is 30 calendar days after the date of posting in subsection (C)(1)(a).
    - c. Sixty calendar days after the date of posting in subsection (C)(1)(a), the Department shall determine if the Department received more dispensary registration certificate applications that are complete and in compliance with A.R.S. Title 36, Chapter 28.1 and this Chapter than the Department is allowed to issue.
      - i. If the Department received more dispensary registration certificates applications than the Department is allowed to issue, the Department shall allocate any available dispensary registration certificates according to the priorities established in subsection (D).
      - ii. If the Department is allowed to issue a dispensary registration certificate for each dispensary registration certificate application the Department received, the Department shall allocate the dispensary registration certificates to those applicants.
  2. If the Department determines that the Department is not allowed to issue additional dispensary registration certificates, the Department shall post and maintain the

information that the Department is not accepting dispensary registration certificate applications on the Department's website until the next review.

D. If the Department receives more dispensary registration certificate applications that are complete and in compliance with A.R.S. Title 36, Chapter 28.1 and this Chapter than the Department is allowed to issue, the Department shall allocate the dispensary registration certificates according to the following criteria:

1. For a county that does not contain a dispensary:
  - a. If only one dispensary registration certificate application for a dispensary located in the county is received by 60 days after the Department posted the notice in subsection (B)(1)(a), the Department shall allocate the dispensary registration certificate to that applicant; or
  - b. If the Department receives more than one dispensary registration certificate application for a dispensary located in the county by 60 days after the Department posted the notice in subsection (B)(1)(a), the Department shall randomly select one dispensary registration application for the county and allocate the dispensary registration certificate to that applicant.
2. If there are additional dispensary registration certificates available after dispensary registration certificates are allocated according to subsection (D)(1), for a CHAA that does not contain a dispensary:
  - a. If only one dispensary registration certificate application for a dispensary located in the CHAA is received by 60 days after the Department posted the notice in subsection (C)(1)(a), the Department shall allocate the dispensary registration certificate to that applicant; or
  - b. If the Department received more than one dispensary registration certificate application for a dispensary located in the CHAA by 60 days after the Department posted the notice in subsection (C)(1)(a), the Department shall randomly select one dispensary registration application for the CHAA and allocate the dispensary registration certificate to that applicant.
3. If there are additional dispensary registration certificates available after dispensary registration certificates are allocated according to subsections (D)(1) and (D)(2), for all dispensary registration certificate applications not allocated a dispensary registration certificate pursuant to subsections (D)(1) and (D)(2) and any other dispensary registration certificates received by 60 days after the Department posted the notice in subsection (B)(1)(a), the Department shall prioritize and allocate dispensary registration certificates to applicants based on:
  - a. The number of registry identification cards issued to qualifying patients who reside within 10 miles of the applicant's proposed dispensary location; and
  - b. The number of dispensaries operating within 10 miles of the applicant's proposed dispensary location.
4. If there is a tie or a margin of .1% or less in the scores generated by applying the criteria in subsection (D)(3), the Department shall randomly select one dispensary registration application and allocate a dispensary registration certificate to that applicant.

E. For purposes of subsection (D), "10 miles" includes the area contained within a circle that extends for 10 miles in all directions from a specific location.

- F.** If the Department does not allocate a dispensary registration certificate to an applicant that had submitted a dispensary registration certificate application that the Department determined was complete and in compliance with A.R.S. Title 36, Chapter 28.1 and this Chapter, the Department shall return \$1,000 of the application fee to the applicant.
- G.** If the Department receives a dispensary registration certificate application at a time other than the time stated in subsections (B) or (C)(1), the Department shall return the dispensary registration certificate application, including the application fee, to the person who submitted the dispensary registration certificate application.

**R9-17-303. Applying for a Dispensary Registration Certificate**

- A.** Each principal officer or board member of a dispensary is an Arizona resident and has been an Arizona resident for the ~~two~~ three years immediately preceding the date the dispensary submits a dispensary certificate application.
- B.** To apply for a dispensary registration certificate, a person shall submit to the Department the following:
1. An application in a Department-provided format that includes:
    - a. The legal name of the dispensary;
    - b. The physical address of the proposed dispensary;
    - c. The name of the entity applying;
    - d. The name of the individual designated to submit dispensary agent applications on behalf of the dispensary;
    - e. The name and license number of the dispensary's medical director;
    - f. The name, address, and date of birth of each:
      - i. Principal officer, and
      - ii. Board member,
    - g. Whether a principal officer or board member:
      - i. Has served as a principal officer or board member for a dispensary that had the dispensary registration certificate revoked;
      - ii. Is a physician currently ~~making qualifying patient recommendations~~ providing written certifications for qualifying patients;
      - iii. Has unpaid taxes, interest, or penalties due to a governmental agency;
      - iv. Has an unpaid judgment due to a governmental agency;
      - v. Is in default on a government-issued student loan;
      - vi. Failed to pay court-ordered child support;
      - vii. Is a law enforcement officer; or
      - viii. Is employed by or a contractor of the Department;
    - h. Whether the dispensary agrees to allow the Department to submit supplemental requests for information;
    - i. An attestation that the information provided to the Department to apply for a dispensary registration certificate is true and correct; and
    - j. The signature of the individual or individuals in R9-17-301 and the date signed;
  2. If the person applying is one of the business organizations in R9-17-301(2) through (7), the following:
    - a. The name of the business organization;

- b. The name and title of each principal officer and board member; and
  - c. A copy of the business organization's articles of incorporation, articles of organization, or partnership or joint venture documents, as applicable;
3. For each principal officer and board member:
- a. An attestation signed and dated by the principal officer or board member that the principal officer or board member has not been convicted of an excluded felony offense as defined in A.R.S. § 36-2801;
  - b. An attestation signed and dated by the principal officer or board member that the principal officer or board member is an Arizona resident and has been an Arizona resident for at least ~~two~~ three consecutive years immediately preceding the date the dispensary submitted the dispensary certificate application;
  - c. For the Department's criminal records check authorized in A.R.S. § 36-2804.05:
    - i. The principal officer's or board member's fingerprints in a Department-provided format that includes the principal officer's or board member's name, date of birth, social security number, and fingerprints; or
    - ii. If the fingerprints and information required in subsection (B)(3)(c)(i) were submitted to the Department as part of an application for a designated caregiver or dispensary agent registry identification card within the previous six months, the registry identification number on the registry identification card issued to the principal officer or board member as a result of the application; and
  - d. A copy of one of the following containing the principal officer's or board member's name and current residence address:
    - i. A non-expired Arizona driver's license;
    - ii. A non-expired Arizona identification card;
    - iii. A current lease agreement;
    - iv. A mortgage statement for the most recent tax year;
    - v. A tax statement issued by a governmental agency for the most recent tax year;
    - vi. A utility bill dated within 60 calendar days before the date of the dispensary application;
    - vii. A paycheck or statement of direct deposit issued by an employer dated within 60 calendar days before the date of the dispensary application;
    - viii. Current motor vehicle, life, or health insurance policy; or
    - ix. Any other document that demonstrates that the principal officer or board member is an Arizona resident;
4. Policies and procedures that comply with the requirements in this Chapter for:
- a. Inventory control,
  - b. Qualifying patient recordkeeping,
  - c. Security, and
  - d. Patient education and support;
5. ~~A copy of the certificate of occupancy or other documentation issued by the local jurisdiction to the applicant authorizing occupancy of the building as a dispensary and, if applicable, as the dispensary's cultivation site;~~

5. A sworn statement signed and dated by the individual or individuals in R9-17-301 certifying that the dispensary is in compliance with local zoning restrictions;
  7. The distance to the closest public or private school from:
    - a. The dispensary; and
    - b. If applicable, the dispensary's cultivation site;
  8. A site plan drawn to scale of the dispensary location showing streets, property lines, buildings, parking areas, outdoor areas if applicable, fences, security features, fire hydrants if applicable, and access to water mains;
  9. A floor plan drawn to scale of the building where the dispensary is located showing the:
    - a. Layout and dimensions of each room;
    - b. Name and function of each room;
    - c. Location of each hand washing sink;
    - d. Location of each toilet room;
    - e. Means of egress;
    - f. Location of each video camera;
    - g. Location of each panic button; and
    - h. Location of natural and artificial lighting sources;
  10. If applicable, a site plan drawn to scale of the dispensary's cultivation site showing streets, property lines, buildings, parking areas, outdoor areas if applicable, fences, security features, fire hydrants if applicable, and access to water mains;
  11. If applicable, a floor plan drawn to scale of each building at the dispensary's cultivation site showing the:
    - a. Layout and dimensions of each room;
    - b. Name and function of each room;
    - c. Location of each hand washing sink;
    - d. Location of each toilet room;
    - e. Means of egress;
    - f. Location of each video camera;
    - g. Location of each panic button; and
    - h. Location of natural and artificial lighting sources;
  6. The dispensary's by-laws containing provisions for the disposition of revenues and receipts;
  7. A business plan demonstrating the on-going viability of the dispensary as on a non-profit organization not-for-profit basis; and
  15. The dispensary's proposed hours of operation;
  16. Whether:
    - a. A registered pharmacist will be onsite or on-call during regular business hours;
    - b. The dispensary will provide information about the importance of physical activity and nutrition onsite;
    - c. Whether the dispensary has or has not incorporated; and
    - d. Whether the dispensary has a surety bond and, if so, how much; and
  8. The applicable fee in R9-17-102 for applying for an initial registration of a dispensary.
- C. Before a person with a dispensary registration certificate begins operating a dispensary, the person shall apply for and obtain an approval to operate a dispensary from the Department.

**R9-17-304. Applying for Approval to Operate a Dispensary**

To apply for approval to operate a dispensary, a person holding a dispensary registration certificate shall submit to the Department at least 60 days before the expiration of the dispensary registration certificate the following:

1. An application in a Department-provided format that includes:
  - a. The name and registry identification number of the dispensary;
  - b. The physical address of the dispensary;
  - c. The name, address, and date of birth of each dispensary agent;
  - d. The name and license number of the dispensary's medical director;
  - e. If applicable, the physical address of the dispensary's cultivation site;
  - f. The dispensary's Transaction Privilege Tax Number issued by the Arizona Department of Revenue;
  - g. The dispensary's proposed hours of operation;
  - h. Whether the dispensary agrees to allow the Department to submit supplemental requests for information;
  - i. Whether the dispensary and, if applicable, the dispensary's cultivation site are ready for an inspection by the Department;
  - j. If the dispensary and, if applicable, the dispensary's cultivation site are not ready for an inspection by the Department, the date the dispensary and, if applicable, the dispensary's cultivation site will be ready for an inspection by the Department;
  - k. An attestation that the information provided to the Department to apply for approval to operate a dispensary is true and correct; and
  - l. The signature of the individual or individuals in R9-17-301 and the date signed;
2. A copy of the certificate of occupancy or other documentation issued by the local jurisdiction to the applicant authorizing occupancy of the building as a dispensary and, if applicable, as the dispensary's cultivation site;
3. A sworn statement signed and dated by the individual or individuals in R9-17-301 certifying that the dispensary is in compliance with local zoning restrictions;
4. The distance to the closest public or private school from:
  - a. The dispensary; and
  - b. If applicable, the dispensary's cultivation site;
5. A site plan drawn to scale of the dispensary location showing streets, property lines, buildings, parking areas, outdoor areas if applicable, fences, security features, fire hydrants if applicable, and access to water mains;
6. A floor plan drawn to scale of the building where the dispensary is located showing the:
  - a. Layout and dimensions of each room,
  - b. Name and function of each room,
  - c. Location of each hand washing sink,
  - d. Location of each toilet room,
  - e. Means of egress,
  - f. Location of each video camera,
  - g. Location of each panic button, and

- h. Location of natural and artificial lighting sources;
- 7. If applicable, a site plan drawn to scale of the dispensary's cultivation site showing streets, property lines, buildings, parking areas, outdoor areas if applicable, fences, security features, fire hydrants if applicable, and access to water mains; and
- 8. If applicable, a floor plan drawn to scale of each building at the dispensary's cultivation site showing the:
  - a. Layout and dimensions of each room,
  - b. Name and function of each room,
  - c. Location of each hand washing sink,
  - d. Location of each toilet room,
  - e. Means of egress,
  - f. Location of each video camera,
  - g. Location of each panic button, and
  - h. Location of natural and artificial lighting sources.

**R9-17-305. Changes to a Dispensary Registration Certificate**

- A. A dispensary may not transfer or assign the dispensary registration and certificate.
- B. Except as provided in R9-17-306(A), a dispensary may move the dispensary or the dispensary's cultivation site to a new location but shall not cultivate, manufacture, distribute, dispense, or sell medical marijuana at the new location until the dispensary submits an application for a change in a dispensary location in R9-17-306 and the Department issues a registration certificate for the new location.

**R9-17-306. Applying for a Change in Location for a Dispensary or a Dispensary's Cultivation Site**

- A. A dispensary shall not change the dispensary's location during the first three years after the dispensary is issued a dispensary registration certificate.
- B. To change the location of a dispensary or the dispensary's cultivation site, the dispensary shall submit an application to the Department that includes:
  - 1. The following information in a Department-provided format:
    - a. The legal name of the dispensary;
    - b. The registry identification number for the dispensary;
    - c. Whether the request is for a change of location for the:
      - i. Dispensary, or
      - ii. Dispensary's cultivation site;
    - c. The current physical address of the dispensary or the dispensary's cultivation site; and
    - d. The name of the person applying;
  - 2. A copy of the certificate of occupancy or other documentation issued by the local jurisdiction authorizing occupancy of the proposed building by a dispensary or the dispensary's cultivation site;
  - 3. A sworn statement signed by the individual or individuals in R9-17-302 certifying that the building where the proposed dispensary or the dispensary's proposed cultivation site will be located is in compliance with local zoning restrictions;

4. The distance to the closest public or private school from the proposed dispensary or the dispensary's proposed cultivation site;
  5. If the change in location is for the dispensary:
    - a. A site plan drawn to scale of the proposed dispensary location showing streets, property lines, buildings, parking areas, outdoor areas if applicable, fences, security features, fire hydrants if applicable, and access to water mains; and
    - b. A floor plan drawn to scale of the building where the proposed dispensary is located showing the:
      - i. Layout and dimensions of each room,
      - ii. Name and function of each room,
      - iii. Location of each hand washing sink,
      - iv. Location of each toilet room,
      - v. Means of egress,
      - vi. Location of each video camera,
      - vii. Location of each panic button, and
      - viii. Location of natural and artificial lighting sources;
  6. If the change in location is for the dispensary's cultivation site:
    - a. A site plan drawn to scale of the dispensary's proposed cultivation site showing streets, property lines, buildings, parking areas, outdoor areas if applicable, fences, security features, fire hydrants if applicable, and access to water mains; and
    - b. If applicable, a floor plan drawn to scale of the each building used by the dispensary's proposed cultivation site showing the:
      - i. Layout and dimensions of each room,
      - ii. Name and function of each room,
      - iii. Location of each hand washing sink,
      - iv. Location of each toilet room,
      - v. Means of egress,
      - vi. Location of each video camera,
      - vii. Location of each panic button, and
      - viii. Location of natural and artificial lighting sources;
  7. The anticipated date of the change of location;
  8. Whether the proposed dispensary or the dispensary's proposed cultivation site is ready for an inspection by the Department;
  9. If the proposed dispensary or the dispensary's proposed cultivation site is not ready for an inspection by the Department, the date the dispensary or the dispensary's cultivation site will be ready for an inspection by the Department;
  10. An attestation that the information provided to the Department to apply for a change in location is true and correct;
  11. The applicable fee in R9-17-102 for applying for a change in location; and
  12. The signature of the individual or individuals in R9-17-301 and the date signed.
- C. If the information and documents submitted by the dispensary comply with A.R.S. Title 36, Chapter 28.1 and this Chapter, the Department shall issue an amended dispensary registration

certificate that includes the new address of the new location and retains the expiration date of the initial dispensary registration certificate.

- D. An application for a change in location of a dispensary or a dispensary's cultivation site may not be combined with an application for renewing a dispensary registration certificate. The Department shall process each application separately according to the applicable time-frame established in R9-17-106.
- E. A dispensary or a dispensary's cultivation site shall not be used until the Department issues an approval for the change in the location of the dispensary or the dispensary's cultivation site.

**R9-17-307. Renewing a Dispensary Registration Certificate**

A. A person with a dispensary registration certificate that has not submitted an application for approval to operate a dispensary to the Department at least 60 days before the expiration date of the dispensary registration certificate or has not obtained approval to operate a dispensary issued by the Department is prohibited from renewing the dispensary registration certificate.

B. To renew a dispensary registration certificate, a dispensary that has approval to operate as a dispensary issued by the Department, shall submit to the Department, at least 30 calendar days before the expiration of the dispensary's current registration certificate, the following:

- 1. An application in a Department-provided format that includes:
  - a. The legal name of the dispensary;
  - b. The registry identification number for the dispensary;
  - c. The physical address of the dispensary;
  - d. The name of the entity applying;
  - e. The name of the individual designated to submit dispensary agent registry identification card applications on behalf of the dispensary;
  - f. The name, address, date of birth, and registry identification number of each:
    - i. Principal officer,
    - ii. Board member, and
    - iii. Dispensary agent;
  - g. Whether a principal officer or board member:
    - i. Has served as a principal officer or board member for a dispensary that had the dispensary registration certificate revoked;
    - ii. Is a physician currently making qualifying patient recommendations providing written certifications for medical marijuana for qualifying patients;
    - iii. Has not provided a surety bond or filed any tax return with a taxing agency;
    - iv. Has unpaid taxes, interest, or penalties due to a governmental agency;
    - v. Has an unpaid judgment due to a governmental agency;
    - vi. Is in default on a government-issued student loan;
    - vii. Failed to pay court-ordered child support;
    - viii. Is a law enforcement officer; or
    - ix. Is employed by or a contractor of the Department;
  - h. An attestation from each principal officer and board member, signed and dated by the principal officer or board member, that the principal officer or board

- member is an Arizona resident and has been an Arizona resident for at least ~~two~~ three consecutive years immediately preceding the date the dispensary submitted the application to renew the dispensary registration certificate;
- i. The name and license number of the dispensary's medical director;
  - j. The dispensary's Transaction Privilege Tax Number issued by the Arizona Department of Revenue;
  - k. Whether the dispensary agrees to allow the Department to submit supplemental requests for information;
  - l. An attestation that the information provided to the Department to renew the dispensary registration certificate is true and correct; and
  - m. The signature of the individual or individuals in R9-17-301 and date signed;
2. If the application is for renewing a dispensary registration certificate that was initially issued within the previous 12 months, a copy of the dispensary's approval to operate a dispensary issued by the Department;
  3. A copy of an annual financial statement for the previous year, or for the portion of the previous year the dispensary was operational, prepared according to generally accepted accounting principles;
  4. A report of an audit by an independent certified public accountant of the annual financial statement required in subsection (2); and
  5. The applicable fee in R9-17-102 for applying to renew dispensary registration certificate.

**R9-17-308. Inspections**

- A. Submission of an application for a dispensary registration certificate constitutes permission for entry to and inspection of the dispensary and, if applicable, the dispensary's cultivation site.
- ~~B. A dispensary shall provide the Department with authorized remote access to the dispensary's electronic monitoring system:~~
- B. Except as provided in subsection (D), an on-site inspection of a dispensary or cultivation site shall occur at a date and time agreed to by the licensee and the Department that is no later than five working days after the date the Department submits a written request to the dispensary to schedule the certification or compliance inspection, unless the Department agrees to a later date and time.
- C. The Department shall not accept allegations of a dispensary's noncompliance with A.R.S. Title 36, Chapter 28.1 or this Chapter from an anonymous source.
- D. If the Department receives an allegation of a dispensary's or a dispensary's cultivation site's noncompliance with A.R.S. Title 36, Chapter 28.1 or this Chapter, the Department may conduct an unannounced inspection of the dispensary or the dispensary's cultivation site.
- E. If the Department identifies a violation of statute or rule during an inspection of a dispensary or the dispensary's cultivation site:
  1. The Department shall provide the dispensary with a written notice that includes the specific rule or statute that was violated; and
  2. The dispensary shall notify the Department in writing, with a postmark date within 20 working days after the date of the notice of violations, identifying the corrective actions taken and the date of the correction.

- F. If the Department provides a dispensary with a written request for a copy of any record or document required by A.R.S. Title 36, Chapter 28.1 or this Chapter, the dispensary shall submit a copy of the requested record or document to the Department within five working days after the date on the Department's written request.

**R9-17-309. Administration**

**A. A dispensary shall:**

1. Develop, document, and implement policies and procedures regarding:
  - a. Job descriptions and employment contracts, including:
    - i. Personnel duties, authority, responsibilities, and qualifications;
    - ii. Personnel supervision;
    - iii. Training in and adherence to confidentiality requirements;
    - iv. Periodic performance evaluations; and
    - v. Disciplinary actions;
  - b. Business records, including manual or computerized records of assets and liabilities, monetary transactions, journals, ledgers, and supporting documents, including agreements, checks, invoices, and vouchers;
  - c. Inventory control, including:
    - i. Tracking;
    - ii. Packaging;
    - iii. Accepting marijuana from qualifying patients and designated caregivers;
    - iv. Acquiring marijuana from other dispensaries; and
    - v. Disposing of unusable marijuana, which may include submitting any unusable marijuana to a local law enforcement agency;
  - d. Qualifying patient records, including purchases, denial of sale, any delivery options, confidentiality, and retention;
  - e. Patient education and support, including:
    - i. Availability of different strains of marijuana and the effects of the different strains;
    - ii. Information about and effectiveness of various methods, forms, and routes of medical marijuana administration;
    - iii. Methods of tracking the effects on a qualifying patient of different strains and forms of marijuana; and
    - iv. Prohibition on the smoking of medical marijuana in public places;
2. Maintain copies of the policies and procedures at the dispensary and provide copies to the Department for review upon request;
3. Employ or contract with a medical director;
4. Not allow an individual who does not possess a dispensary agent registry identification card issued under the dispensary registration certificate to:
  - a. Serve as a principal officer or board member for the dispensary,
  - b. Serve as the medical director for the dispensary;
  - c. Be employed by the dispensary,
  - d. Have access to medical marijuana at a food establishment contracted to infuse medical marijuana into edible food products for the dispensary, or

- e. Provide volunteer services at or on behalf of the dispensary;
  5. Provide written notice to the Department, including the date of the event within ten working days after the date, when a dispensary agent no longer:
    - a. Serves as a principal officer or board member for the dispensary,
    - b. Serves as the medical director for the dispensary,
    - c. Is employed by the dispensary,
    - d. Has access to medical marijuana at a food establishment contracted to infuse medical marijuana into edible food products for the dispensary, or
    - e. Provides volunteer services at or on behalf of the dispensary;
  6. Document and report any loss or theft of marijuana from the dispensary to the appropriate law enforcement agency; and
  7. Maintain copies of the documentation in subsection (A)(6) and provide copies to the Department for review upon request.
- B.** ~~Except as provided in subsection (C), If a dispensary cultivates marijuana, the dispensary shall cultivate the medical marijuana dispensed by the dispensary in an enclosed, locked facility.~~
- C.** ~~A dispensary:~~
1. ~~Shall cultivate at least 70% of the medical marijuana the dispensary provides to qualifying patients or designated caregivers;~~
  2. ~~Shall only provide medical marijuana cultivated or acquired by the dispensary to another dispensary in Arizona, a qualifying patient, or a designated caregiver authorized by A.R.S. Title 36, Chapter 28.1 and this Chapter to acquire medical marijuana;~~
  3. ~~May only acquire medical marijuana from another dispensary in Arizona, a qualifying patient, or a designated caregiver;~~
  4. ~~May acquire up to 30% of the medical marijuana the dispensary provides to qualifying patients and designated caregivers from another dispensary in Arizona, a qualifying patient, or a designated caregiver; and~~
  5. ~~Shall not provide more than 30% of the medical marijuana cultivated by the dispensary to other dispensaries.~~

**R9-17-310. Submitting an Application for a Dispensary Agent Registry Identification Card**

Except as provided in R9-17-107(E), to obtain a dispensary agent registry identification card for an individual serving as a principal officer or board member for the dispensary, employed by or contracted with the dispensary, or providing volunteer services at or on behalf of the dispensary, the dispensary shall submit to the Department the following for each dispensary agent:

1. An application in a Department-provided format that includes:
  - a. The dispensary agent's first name; middle initial, if applicable; last name; and suffix, if applicable;
  - b. The dispensary agent's residence address and mailing address;
  - c. The county where the dispensary agent resides;
  - d. The dispensary agent's date of birth;
  - e. The identifying number on the applicable card or document in subsection (5);
  - f. The name and registry identification number of the dispensary;
  - g. An attestation that the information provided in and with the application is true and correct; and



- a. The dispensary agent's first name; middle initial, if applicable; last name; and suffix, if applicable;
  - b. The dispensary agent's residence address and mailing address;
  - c. The county where the dispensary agent resides;
  - d. The dispensary agent's date of birth;
  - e. The registry identification number on the dispensary agent's current registry identification card;
  - f. The name and registry identification number of the dispensary;
  - g. An attestation that the information provided in and with the application is true and correct;
  - h. The signature of the individual in R9-17-303(B)(1)(d) designated to submit dispensary agent's applications on the dispensary's behalf and the date signed;
2. An attestation signed and dated by the dispensary agent that the dispensary agent has not been convicted of an excluded felony offense as defined in A.R.S. § 36-2801;
  3. A statement in a Department-provided format signed by the dispensary agent pledging not to divert marijuana to any individual or person who is not allowed to possess marijuana pursuant to A.R.S. Title 36, Chapter 28.1;
  4. A current photograph of the dispensary agent;
  5. For the Department's criminal records check authorized in A.R.S. § 36-2804.05:
    - a. The dispensary agent's fingerprints in a Department-provided format that includes the dispensary agent's name, date of birth, social security number, and fingerprints; or
    - b. If the dispensary agent's fingerprints and information required in subsection (5)(a) were submitted to the Department within the previous six months as part of an application for a designated caregiver registry identification card or dispensary agent registry identification card for another dispensary, the registry identification number on the registry identification card issued to the dispensary agent as a result of the application; and
  6. The applicable fee in R9-17-102 for applying to renew a dispensary agent's registry identification card.

**R9-17-312. Medical Director**

- A. A dispensary shall appoint an individual who is a physician to function as a medical director.  
~~A medical director may only serve as a medical director for three dispensaries at any time.~~
- B. During hours of operation, a medical director or an individual who is a physician and is designated by the medical director to serve as medical director in the medical director's absence is:
  1. On-site, or
  2. Able to be contacted by any means possible, such as by telephone or pager.
- C. A medical director shall:
  1. Develop and provide training to the dispensary's dispensary agents at least once every 12 months from the initial date of the dispensary's registration certificate on the following subjects:

- a. Guidelines for providing information to qualifying patients related to risks, benefits, and sides effects associated with medical marijuana;
  - b. Guidelines for providing support to qualifying patients related to the qualifying patient's self-assessment of the qualifying patient's symptoms including a rating scale for pain, cachexia or wasting syndrome, nausea, seizures, muscle spasms, and agitation;
  - c. Recognizing signs and symptoms for substance abuse; and
  - d. Guidelines for refusing to provide medical marijuana to an individual who appears to be impaired or abusing medical marijuana; and
2. Assist in the development and implementation of review and improvement processes for patient education and support provided by the dispensary.
- D.** A medical director shall provide oversight for the development and dissemination of:
1. Educational materials for qualifying patients and designated caregivers that include:
    - a. Alternative medical options for the qualifying patient's debilitating medical condition;
    - b. Information about possible side effects of and contraindications for medical marijuana including possible impairment with use and operation of a motor vehicle or heavy machinery, when caring for children, or of job performance;
    - c. Guidelines for notifying the physician who provided the written certification for medical marijuana if side effects or contraindications occur;
    - d. A description of the potential for differing strengths of medical marijuana strains and products;
    - e. Information about potential drug-drug interactions, including interactions with alcohol, prescription drugs, non-prescription drugs, and supplements;
    - f. Techniques for the use of medical marijuana and marijuana paraphernalia;
    - g. Information about different methods, forms, and routes of medical marijuana administration;
    - h. Signs and symptoms of substance abuse, including tolerance, dependency, and withdrawal; and
    - i. A listing of substance abuse programs and referral information;
  2. A system for a qualifying patient or the qualifying patient's designated caregiver to document the qualifying patient's pain, cachexia or wasting syndrome, nausea, seizures, muscle spasms, or agitation that includes:
    - a. A log book, maintained by the qualifying patient and or the qualifying patient's designated caregiver, to track the use and effects of specific medical marijuana strains and products;
    - b. A rating scale for pain, cachexia or wasting syndrome, nausea, seizures, muscles spasms, and agitation;
    - c. Guidelines for the qualifying patient's self-assessment or, if applicable, assessment of the qualifying patient by the qualifying patient's designated caregiver; and
    - d. Guidelines for reporting usage and symptoms to the recommending physician providing the written certification for medical marijuana and any other treating physicians; and

3. Policies and procedures for refusing to provide medical marijuana to an individual who appears to be impaired or abusing medical marijuana.
- E. A medical director shall not establish a physician-patient relationship with or ~~write medical marijuana recommendations~~ provide a written certification for medical marijuana for a qualifying patient.

**R9-17-313. Dispensing Medical Marijuana**

Before a dispensary agent dispenses medical marijuana to a qualifying patient or a designated caregiver, the dispensary agent shall:

1. Verify the qualifying patient's or the designated caregiver's identity;
2. Offer any appropriate patient education or support materials;
3. Enter the qualifying patient's or designated caregiver's registry identification number on the qualifying patient's or designated caregiver's registry identification card into the medical marijuana electronic verification system;
4. Verify the validity of the qualifying patient's or designated caregiver's registry identification card;
5. Verify that the amount of medical marijuana the qualifying patient or designated caregiver is requesting would not cause the qualifying patient to exceed the limit on obtaining no more than two and one-half ounces of medical marijuana during any 14-calendar-day period; and
6. Enter the following information into the medical marijuana electronic verification system for the qualifying patient or designated caregiver:
  - a. The amount of medical marijuana dispensed,
  - b. Whether the medical marijuana was dispensed to the qualifying patient or to the qualifying patient's designated caregiver,
  - c. The date and time the medical marijuana was dispensed,
  - d. The dispensary agent's registry identification number, and
  - e. The dispensary's registry identification number.

**R9-17-314. Qualifying Patient Records**

- A. A dispensary shall ensure that:
1. A qualifying patient record is established and maintained for each qualifying patient who obtains medical marijuana from the dispensary;
  2. An entry in a qualifying patient record:
    - a. Is recorded only by a dispensary agent authorized by dispensary policies and procedures to make an entry,
    - b. Is dated and signed by the dispensary agent,
    - c. Includes the dispensary agent's registry identification number, and
    - c. Is not changed to make the initial entry illegible;
  3. If an electronic signature is used to sign an entry, the dispensary agent whose signature the electronic code represents is accountable for the use of the electronic signature;
  4. A qualifying patient record is only accessed by a dispensary agent authorized by dispensary policies and procedures to access the qualifying patient record;
  5. A qualifying patient record is provided to the Department for review upon request;

6. A qualifying patient record is protected from loss, damage, or unauthorized use; and
  7. A qualifying patient record is maintained for five years from the date of the qualifying patient's or, if applicable, the qualifying patient's designated caregiver's last request for medical marijuana from the dispensary.
- B.** If a dispensary maintains qualifying patient records electronically, the dispensary shall ensure that:
1. There are safeguards to prevent unauthorized access, and
  2. The date and time of an entry in a qualifying patient record is recorded electronically by an internal clock.
- C.** A dispensary shall ensure that a qualifying patient's record for the qualifying patient who requests or whose designated caregiver on behalf of the qualifying patient requests medical marijuana from the dispensary contains:
1. Qualifying patient information that includes:
    - a. The patient's name;
    - b. The patient's date of birth; and
    - c. The name of the qualifying patient's designated caregiver, if applicable;
  2. Documentation of any patient education and support materials provided to the qualifying patient or the qualifying patient's designated caregiver, including a description of the materials and the date the materials were provided;
  3. For each time the qualifying patient requests and does not obtain medical marijuana or, if applicable, the designated caregiver requests and does not obtain medical marijuana on behalf of the qualifying patient from the dispensary the following:
    - a. The date;
    - b. The name and registry identification number of the individual who requested the medical marijuana, and
    - c. The dispensary's reason for refusing to provide the medical marijuana.
- D.** A dispensary shall provide a qualifying patient record to the Department for review upon request.

**R9-17-315. Inventory Control System**

- A.** A dispensary shall designate in writing a dispensary agent who has oversight of the dispensary's medical marijuana inventory control system.
- B.** A dispensary shall establish and implement an inventory control system for the dispensary's medical marijuana that documents:
1. Each day's beginning inventory, acquisitions, harvests, sales, disbursements, disposal of unusable marijuana, and ending inventory;
  2. For acquiring medical marijuana from a qualifying patient or designated caregiver:
    - a. A description of the medical marijuana acquired including the amount and strain;
    - b. The name and registry identification number of the qualifying patient, designated caregiver, or dispensary and dispensary agent who provided the medical marijuana;
    - c. The name and registry identification number of the dispensary agent receiving the medical marijuana on behalf of the dispensary; and
    - d. The date of acquisition;
  3. For acquiring medical marijuana from another dispensary:

- a. A description of the medical marijuana acquired including the amount, strain, and batch number;
  - b. The name and registry identification number of the dispensary and the dispensary agent who provided the medical marijuana;
  - c. The name and registry identification number of the dispensary agent receiving the medical marijuana on behalf of the dispensary; and
  - d. The date of acquisition;
4. For each batch of marijuana cultivation cultivated:
- a. The batch number;
  - b. Whether the batch originated from marijuana seeds or marijuana cuttings;
  - c. The origin and strain of marijuana seed or marijuana cutting planted, type of soil used, date seeds were planted, and the watering schedule;
  - d. The number of marijuana seeds or marijuana cuttings planted;
  - e. The date the marijuana seeds or cuttings were planted;
  - f. A list of all chemical additives, including non-organic pesticides, herbicides, and fertilizers used in the cultivation;
  - g. The number of female plants grown to maturity;
  - h. Harvest information including:
    - i. Date of harvest;
    - ii. Amount of medical marijuana harvested, including the amount of marijuana and the amount of usable marijuana Final processed usable marijuana yield weight;
    - iii. Name and registry identification number of the dispensary agent responsible for the harvest; and
  - i. The disposal of medical marijuana that is not usable marijuana including the:
    - i. A description of and reason for the marijuana being disposed of including, if applicable the number of any male, failed, or other unusable plants;
    - ii. Date of disposal;
    - iii. Method of disposal; and
    - iv. Name and registry identification number of the dispensary agent responsible for the disposal;
5. For providing medical marijuana to another dispensary:
- a. The amount, strain, and batch number of medical marijuana provided,
  - b. The name and registry identification number of the other dispensary,
  - c. The name and registry identification number of the dispensary agent who received the medical marijuana on behalf of the other dispensary, and
  - d. The date the medical marijuana was provided;
6. For providing medical marijuana to a food establishment for infusion into an edible food product:
- a. A description of the medical marijuana provided including the amount, strain, and batch number;
  - b. The name and registry identification number of the designated agent who:



- A. A dispensary shall ensure that medical marijuana provided by the dispensary to a qualifying patient or a designated caregiver is labeled with:
1. The dispensary's registry identification number;
  2. The amount, strain, and batch number of medical marijuana;
  3. The following statement "ARIZONA DEPARTMENT OF HEALTH SERVICES' WARNING: Smoking marijuana can cause addiction, cancer, heart attack, or lung infection and can impair one's ability to drive a motor vehicle or operate heavy machinery";
  4. If not cultivated by the dispensary, whether the medical marijuana was obtained from a qualifying patient, a designated caregiver, or another dispensary;
  5. The date of manufacture, harvest, or sale;
  6. A list of all chemical additives, including nonorganic pesticides, herbicides, and fertilizers, used in the cultivation and production of the medical marijuana; and
  7. The registry identification number of the qualifying patient.
- B. If a dispensary provides medical marijuana cultivated by the dispensary to another dispensary, the dispensary shall ensure that the medical marijuana is labeled with:
1. The dispensary's registry identification number;
  2. The amount, strain, and batch number of the medical marijuana;
  3. The date of harvest or sale; and
  4. A list of all chemical additives, including non-organic pesticides, herbicides, and fertilizers, used in the cultivation of the medical marijuana.
- C. If medical marijuana is provided as part of an edible food product, a dispensary shall, in addition to the information in subsection (A), include on the label:
1. The total weight of the edible food product; ~~and~~
  2. ~~The following statement "This product is infused with medical marijuana and was produced without regulatory oversight for health, safety, or efficacy. There may be health risks associated with the consumption of the product."~~
- D. A dispensary shall provide to the Department upon request a sample of the dispensary's medical marijuana inventory of sufficient quantity to enable the Department to conduct an analysis of the medical marijuana.

**R9-17-317. Security**

- A. A dispensary shall ensure that access to the enclosed, locked facility where marijuana is cultivated is limited to principal officers, board members, and designated agents of the dispensary.
- B. A dispensary agent may transport marijuana ~~in any form~~, marijuana plants, and marijuana paraphernalia between the dispensary and:
1. The dispensary's cultivation site,
  2. A qualifying patient,
  3. Another dispensary, and
  4. A food establishment contracted with the dispensary to prepare edible food products infused with medical marijuana.
- C. Before transportation, a dispensary agent shall:

1. Complete a trip plan that includes:
  - a. The name of the dispensary agent in charge of transporting the marijuana;
  - b. The date and start time of the trip;
  - c. A description of the marijuana, marijuana plants, or marijuana paraphernalia being transported; and
  - d. Anticipated route of transportation; and
2. Provide a copy of the trip plan in subsection (C)(1) to the dispensary.

**D.** During transportation, a dispensary agent shall:

1. Carry a copy of the trip plan in subsection (C)(1) with the dispensary agent for the duration of the trip;
2. Use a vehicle without any medical marijuana identification;
3. Have a means of communication with the dispensary; and
4. Ensure that the marijuana, marijuana plants, or marijuana paraphernalia is not visible;

**E.** After transportation, a dispensary agent shall enter the end time of the trip and any changes to the trip plan on the trip plan required in subsection (C)(1).

**F.** A dispensary shall:

1. Maintain the documents required in subsection (C)(2) and (E), and
2. Provide a copy of the documents required in subsection (C)(2) and (E) to the Department for review upon request.

**G.** To prevent unauthorized access to medical marijuana at the dispensary and, if applicable, the dispensary's cultivation site, the dispensary shall have the following:

1. Security equipment to deter and prevent unauthorized entrance into limited access areas that include:
  - a. Devices or a series of devices to detect unauthorized intrusion, which may include a signal system interconnected with a radio frequency method, such as cellular, private radio signals, or other mechanical or electronic device;
  - b. Exterior lighting to facilitate surveillance;
  - c. Electronic monitoring including:
    - i. At least one 19 inch or greater call-up monitor;
    - ii. A video printer capable of immediately producing a clear still photo from any video camera image;
    - iii. Video cameras:
      - (1) Providing coverage of all entrances to and exits from limited access areas and all entrances to and exits from the building, capable of identifying any activity occurring in or adjacent to the building; and
      - (2) Have a recording resolution of least at 704 x 480 or the equivalent;
    - iv. A video camera at each point of sale location allowing for the identification of any qualifying patient or designated caregiver purchasing medical marijuana;
    - v. A video camera in each grow room capable of identifying any activity occurring within the grow room in low light conditions;

- vi. Storage of video recordings from the video cameras for at least 30 calendar days;
- vii. A failure notification system that provides an audible and visual notification of any failure in the electronic monitoring system; and
- viii. Video cameras and recording equipment with sufficient battery backup to support at least five minutes of recording in the event of a power outage;
- ~~ix. The capability of providing authorized remote viewing of live and recorded video with:
  - (1) Internet connectivity of at least 384 kbps upstream; and
  - (2) A static IP address to allow for remote connection;~~
- d. Panic buttons in the interior of each building; and
- 2. Policies and procedures:
  - a. That restrict access to the areas of the dispensary that contain marijuana and if applicable, the dispensary's cultivation site, to authorized individuals only;
  - b. That provide for the identification of authorized individuals;
  - c. That prevent loitering;
  - d. For conducting electronic monitoring; and
  - e. For the use of a panic button.

**R9-17-318. Edible Food Products**

- A. A dispensary that sells or provides edible food products shall:
  - 1. Ensure that the edible food products are prepared:
    - a. At the dispensary, if the dispensary has a food establishment permit issued pursuant to 9 A.A.C. 8, Article 1 and the local ordinances and requirements of the local health department where the dispensary is located; or
    - b. Under contract with the dispensary, at a facility that has a food establishment permit issued pursuant to 9 A.A.C. 8, Article 1 and the local ordinances and requirements of the local health department where the facility is located;
  - 2. If the edible food products are not prepared at the dispensary, obtain a retail food establishment permit issued pursuant to 9 A.A.C. 8, Article 1 and the local ordinances and requirements of the local health department where the dispensary is located; and
  - 3. As applicable, obtain and provide to the Department a copy of the dispensary's or the facility's food establishment permit and the dispensary's retail food establishment permit issued pursuant to 9 A.A.C. 8, Article 1 at the following times:
    - a. Before the dispensary prepares or offers edible food products at the dispensary,
    - b. Upon contracting with the food establishment, and
    - c. Every 12 months after the initial date:
      - i. The dispensary prepares or offers edible food products; and
      - ii. The contract is entered into while the contract is in effect.
- B. A dispensary is responsible for the content and quality of any edible food product sold or provided by the dispensary.
- C. Adding medical marijuana to an edible food product does not adulterate the edible food product.

**R9-17-319. Cleaning and Sanitation**

- A.** A dispensary shall ensure that any building or equipment used by a dispensary for the cultivation, harvest, preparation, packaging, storage, infusion, or sale of medical marijuana is maintained in a clean and sanitary condition.
1. Medical marijuana in the process of production, preparation, manufacture, packing, storage, sale, distribution, or transportation is ~~securely~~ protected from flies, dust, dirt, and all other contamination.
  2. Refuse or waste products incident to the manufacture, preparation, packing, selling, distributing, or transportation of medical marijuana are removed from the dispensary and, if applicable, cultivation site daily.
  3. All trucks, trays, buckets, other receptacles, platforms, racks, tables, shelves, knives, saws, cleavers, other utensils, or the machinery used in moving, handling, cutting, chopping, mixing, canning, or other processes are cleaned daily.
  4. All edible food products are securely covered.
- B.** A dispensary shall ensure that a dispensary agent in the dispensary or the dispensary's cultivation site:
1. Cleans the dispensary agent's hands and exposed portions of the dispensary agent's arms in a handwashing sink:
    - a. Before preparing medical marijuana including working with food, equipment, and utensils;
    - b. During preparation, as often as necessary to remove soil and contamination and to prevent cross-contamination when changing tasks;
    - c. After handling soiled equipment or utensils;
    - d. After touching bare human body parts other than the dispensary agent's clean hands and exposed portions of arms; and
    - e. After using the toilet room;
  2. If working directly with the preparation of medical marijuana:
    - a. Keeps the dispensary agent's fingernails trimmed, filed, and maintained so that the edges and surfaces are cleanable;
    - b. Unless wearing intact gloves in good repair, does not have fingernail polish or artificial fingernails on the dispensary agent's fingernails; and
    - c. Wears protective apparel such as coats, aprons, gowns, or gloves to prevent contamination;
  3. Wears clean clothing appropriate to assigned tasks;
  4. Reports to the medical director any health condition experienced by the dispensary agent that may adversely affect the safety or quality of any medical marijuana with which the dispensary agent may come into contact; and
  5. If the medical director determines that a dispensary agent has a health condition that may adversely affect the safety or quality of the medical marijuana, is prohibited from direct contact with any equipment or materials used in direct contact with medical marijuana until the medical director determines that the dispensary agent's health condition will not adversely affect the medical marijuana.

**R9-17-320. Physical Plant**

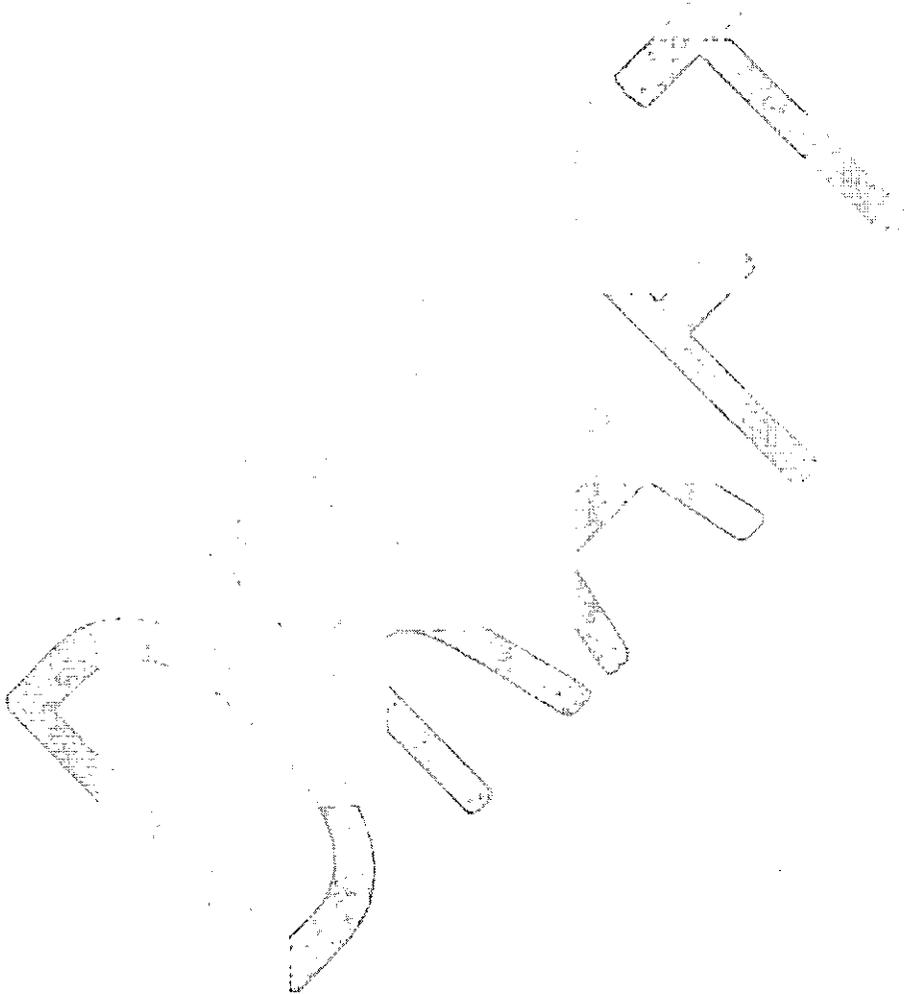
- A. A dispensary requesting ~~an initial registration and certificate~~ approval to operate shall be located at least 500 feet from a public or private school.
- B. A dispensary shall provide on-site parking or parking adjacent to the building used as the dispensary.
- C. The building used by a dispensary or the dispensary's cultivation site shall have:
  - 1. At least one toilet room, and each toilet room shall contain:
    - a. A flushable toilet;
    - b. Mounted toilet tissue;
    - c. A sink with running water;
    - d. Soap contained in a dispenser; and
    - e. Disposable, single-use paper towels in a mounted dispenser or a mechanical air hand dryer;
  - 2. At least one handwashing sink not located in a toilet room;
  - 3. Designated storage areas for medical marijuana or materials used in direct contact with medical marijuana separate from storage areas for toxic or flammable materials; and
  - 4. If preparation or packaging of medical marijuana is done in the building, a designated area for the preparation or packaging that:
    - a. Includes work space that can be sanitized; and
    - b. Is only used for the preparation or packaging of medical marijuana.
- D. For each commercial device used at a dispensary or the dispensary's cultivation site, the dispensary shall:
  - 1. Ensure that the commercial device is licensed or certified pursuant to A.R.S. § 41-2091;
  - 2. Maintain documentation of the commercial device's license or certification; and
  - 3. Provide a copy of the commercial device's license or certification to the Department for review upon request.

**R9-17-321. Denial or Revocation of a Dispensary Registration Certificate**

- A. The Department shall deny an application for a dispensary registration certificate or a renewal if:
  - 1. The physical address of the building or, if applicable, the physical address of the dispensary's cultivation site is within 500 feet of a public or private school that existed before the date the dispensary submitted the application;
  - 2. A principal officer or board member:
    - a. Is not a resident of Arizona or has not been a resident of Arizona for at least ~~two~~ three consecutive years immediately preceding the date the application for the dispensary registration certificate was submitted;
    - b. Has been convicted of an excluded felony offense;
    - c. Has served as a principal officer or board member for a dispensary that:
      - i. Had the dispensary registration certificate revoked; or
      - ii. Did not obtain an approval to operate the dispensary within the first year after the dispensary registration certificate was issued;
    - d. Is under 21 years of age;
    - e. Is a physician currently ~~making qualifying patient recommendations~~ providing written certifications for medical marijuana for qualifying patients;
    - f. Is a law enforcement officer; or



- C. The Department may revoke a dispensary agent's registry identification card if the dispensary agent knowingly violates A.R.S. Title 36, Chapter 28.1 or this Chapter.
- D. If the Department denies or revokes a dispensary agent's registry identification card, the Department shall provide notice to the dispensary agent and the dispensary agent's dispensary that includes:
  - 1. The specific reason or reasons for the denial or revocation; and
  - 2. The process for requesting a judicial review of the Department's decision pursuant to A.R.S. Title 12, Chapter 7, Article 6.

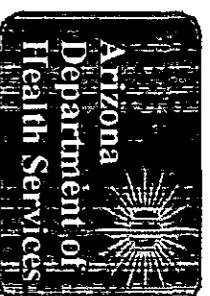


# Arizona Medical Marijuana: The Basics

Arizona Department of Health Services (ADHS)

February 28, 2011

*Leadership for a Healthy Arizona*



# Outline

- Important Dates 
- Voting Results by County 
- Qualifying Patients 
- Designated Caregivers 
- Nonprofit Medical Marijuana Dispensaries 
  - Medical Directors 
- Nonprofit Medical Marijuana Dispensary Agents 



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# Important Dates

- Nov 2, 2010: Proposition 203 passes in the general election
- Dec 17, 2010: ADHS posts informal draft Rules for public comment
- Dec 17, 2010 – Jan 7, 2011: ADHS receives public comment on the informal draft Rules
- Jan 31, 2011: ADHS posts official draft Rules for public comment
- Jan 31 – Feb 18, 2011: ADHS accepts public comments on a revised draft of the Rules
  - Feb 14 – 17, 2011: ADHS holds 4 public meetings to receive comments about the draft Rules
- March 28, 2011: ADHS publishes Final Rules
- April 14, 2011: Medical Marijuana Act effective
- April 2011: ADHS begins to accept applications for qualifying patients and designated caregivers
- May 1, 2011: ADHS begins to accept applications for dispensary registration certificates



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# Voting Results by County

County	YES	NO	Total
Apache	6816	11726	18,542
Cochise	18466	20979	39,445
Cocconino	20625	17761	38,386
Gila	7800	9554	17,354
Graham	2926	5906	8,832
Greenlee	1101	1248	2,349
La Paz	2023	2319	4,342
Maricopa	480564	484591	965,155
Mohave	25779	26526	52,305
Navajo	9918	18328	28,246
Pima	174591	131017	305,608
Pinal	36942	38928	75,870
Santa Cruz	4840	4560	9,400
Yavapai	35839	44066	79,905
Yuma	13118	19499	32,617
Total:	841,348	837,008	1,678,356

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**Department of Health Services**

## Important Note

☆ The following information is based upon the draft Rules published on January 31, 2011, and the State Law signed by the Governor in December 2010.



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# ADHS' Licensing Responsibilities

- ADHS (“the Department”) will be responsible for issuing registry identification cards or registration certificates to the following:
  - Qualifying patients
  - Designated caregivers
  - Dispensaries
  - Dispensary agents



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# Qualifying Patients: What you should know....

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# Qualifying Patient (QP) Eligibility Requirements for Medical Marijuana

- Must have one of the following qualifying conditions
  - Cancer, glaucoma, HIV, AIDS, Hepatitis C, Amyotrophic Lateral Sclerosis, Crohn's disease, Agitation of Alzheimer's disease, or
  - A chronic or debilitating disease or medical condition (or the treatment for) that causes cachexia or wasting syndrome, severe and chronic pain, severe nausea, seizures (including those characteristic of epilepsy, severe or persistent muscle spasms (including those characteristic of multiple sclerosis), or
  - A debilitating medical condition or treatment approved by ADHS under A.R.S. § 36-2801.01 and \*R9-17-106



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# QP Applications for Registry Identification Cards

- Must submit to ADHS an application in a Department-provided format, including, but not limited to the following:
  - QP's name, address, date of birth, gender, e-mail address, photo, application fee, etc...
  - Physician's contact information and written certification including initialed statements:
    - That physician made or confirmed diagnosis of QP's debilitating medical condition



# QP Applications for Registry Identification Cards

- An identification of one or more debilitating medical conditions
- That physician agrees to assume responsibility for providing management and routine care of the QP's debilitating medical condition, after conducting a full assessment of the QP's medical history
- That physician has established and is maintaining a medical record for the QP
- That physician has conducted an in-person physical exam of the QP



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# QP Applications for Registry Identification Cards

- That the physician reviewed:
  - QP's medical records including those from other treating physicians for the previous 12 months
  - QP's response to conventional medications and medical therapies
  - QP's profile on the Arizona Board of Pharmacy Controlled Substances Prescription Monitoring Program database
- That the physician explained the potential risks and benefits of medical use of marijuana to QP



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# QP Applications for Registry Identification Cards

- That the physician plans to continue to assess the QP and the QP's use of medical marijuana during the course of the physician-patient relationship
- That in the physician's professional opinion, the QP is likely to receive therapeutic or palliative benefit from the QP's medical use of marijuana to treat or alleviate the QP's debilitating medical condition



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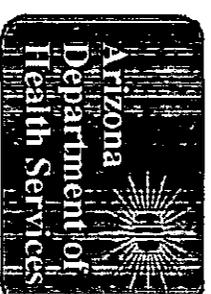
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# QP Applications for Registry Identification Cards

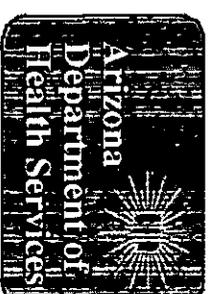
- That, if the physician has referred a QP to a dispensary, the physician has disclosed to the QP any personal or professional relationship the physician has with the dispensary
- Physician attestation, including signature and date, that the information provided in the written certification is true and correct



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# QP Applications for Registry Identification Cards

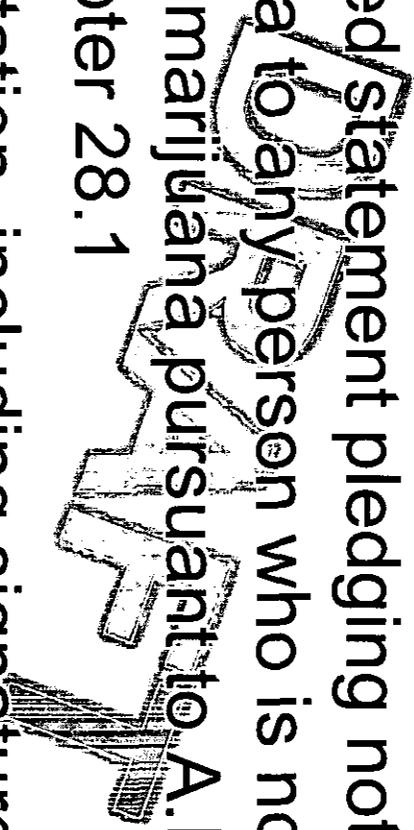
- Whether the QP is requesting authorization for cultivating marijuana plants for the QP's medical use because the QP lives at least 25 miles from the nearest operating dispensary
- Whether QP is designating a caregiver and if so, the designated caregiver's information
  - If QP is requesting authorization to cultivate marijuana plants, whether they are designating their caregiver to cultivate marijuana plants for the QP's medical use



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# QP Applications for Registry Identification Cards

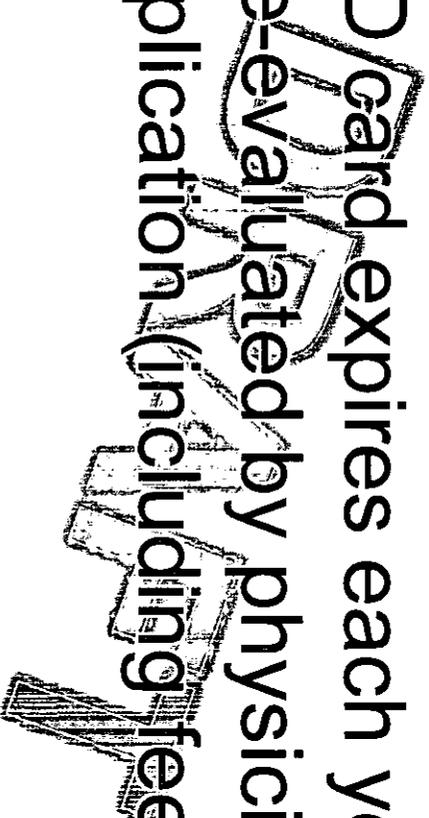
- QP signed statement pledging not to divert marijuana to any person who is not allowed to possess marijuana pursuant to A.R.S. Title 36, Chapter 28.1
- QP attestation, including signature and date, that the information provided in the application is true and correct



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# QP Applications for Registry Identification Cards

- Registry ID card expires each year; QP must be re-evaluated by physician and submit application (including fee) yearly



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# Qualifying Patient Regulations

- May obtain 2 ½ ounces of marijuana every two weeks
- May grow their own marijuana (up to 12 plants) in an enclosed, locked facility if they live more than 25 miles from a licensed dispensary
- May “give” (receive no compensation) usable marijuana and marijuana plants to dispensaries



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# Designated Caregivers: What you should know...

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# Designated Caregiver (DC) Eligibility Requirements

- If a Qualifying Patient (QP) designates a caregiver to assist them with the medical use of marijuana, the QP must submit (annually) to ADHS an application in a Department-provided format, including, but not limited to the following:
  - DC's name, address, date of birth, photo, fingerprints, application fee, etc...



# Designated Caregiver (DC) Eligibility Requirements

– DC attestation, including signature and date, that the DC has not been convicted of an excluded felony offense as defined in A.R.S. § 36-2801

– One of the following:

- A statement signed by the DC that the DC does not currently hold a valid registry ID card; or
- The assigned registry ID card number for the DC for each valid registry ID card currently held by the DC



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# Designated Caregiver (DC) Eligibility Requirements

- A signed statement by the DC agreeing to assist the ~~QP~~ with the medical use of marijuana and ~~pledging not to divert~~ marijuana to any person ~~who is~~ not allowed to possess marijuana pursuant to A.R.S. Title 36, Chapter 28.1

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# Designated Caregiver Regulations

- Must be at least 21 years of age
- Must not have been convicted of an excluded felony offense
- Can have up to 5 qualifying patients that they care for
- Can grow up to 12 plants for each qualifying patient if the qualifying patients live more than 25 miles from a licensed dispensary
- Must have a separate registry identification card for each qualifying patient



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# Nonprofit Medical Marijuana Dispensaries: What you should know....



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# Nonprofit Medical Marijuana Dispensaries

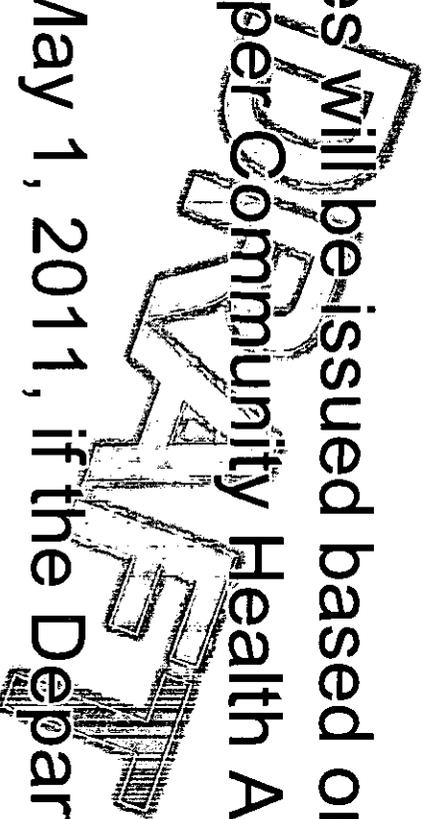
- Means a not-for-profit entity that acquires, possesses, cultivates, manufactures, delivers, transfers, transports, supplies, sells or dispenses marijuana or related supplies and educational materials to cardholders. A nonprofit medical marijuana dispensary may receive payment for all expenses incurred in its operation
- The Department may not issue more than one dispensary registration certificate for every ten pharmacies, except if necessary to ensure that the department issues at least one dispensary registration certificate in each county



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# Dispensary Registration Certificate Allocation Process (1<sup>st</sup> Year)

- Dispensaries will be issued based on one dispensary per Community Health Analysis Area (CHAA)
- Beginning May 1, 2011, if the Department (ADHS) receives only one complete and compliant dispensary registration certificate application for a CHAA, the ADHS will issue a registration certificate to that applicant



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# Dispensary Registration Certificate Allocation Process (1<sup>st</sup> Year)

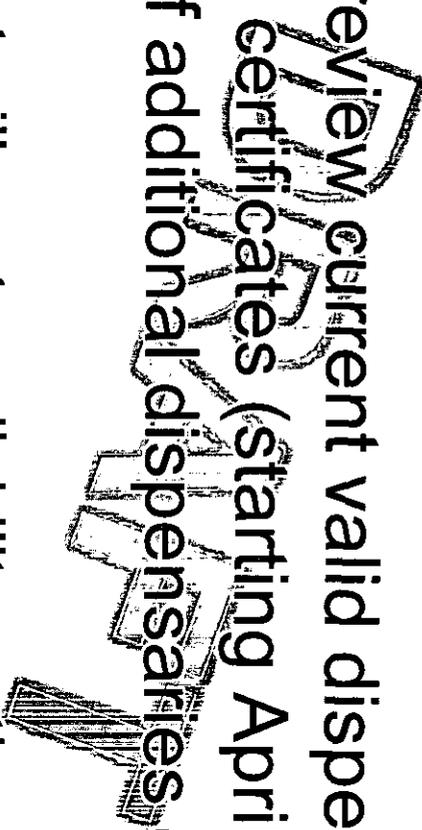
- If the ADHS receives more than one complete and compliant dispensary registration certificate application for a CHAA, the ADHS will randomly select one applicant to issue a registration certificate to



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# Dispensary Registration Certificate Allocation Process (2<sup>nd</sup> Year +)

- ADHS will review current valid dispensary registration certificates (starting April 2012) to determine if additional dispensaries can be approved
  - Department will post availability on the ADHS website, including deadlines, by the last day of April



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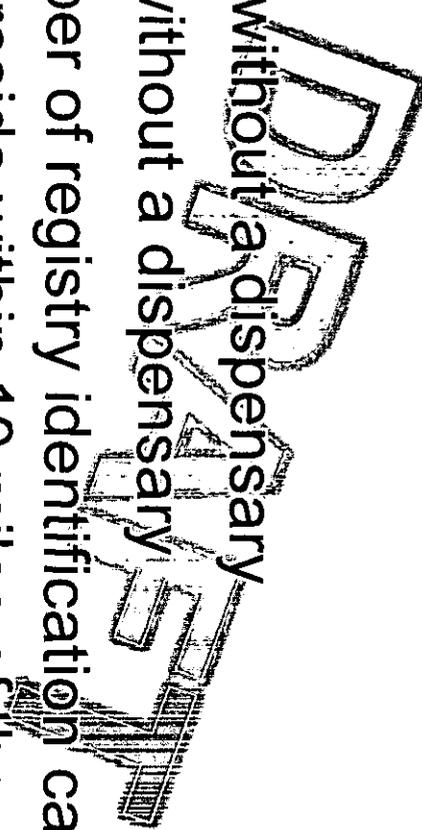
# Dispensary Registration Certificate Allocation Process (2<sup>nd</sup> Year +)

- If only one application that meets all of the requirements is received, that applicant will be issued a dispensary registration certificate
- If more than one application that meets the requirements is received, the ADHS will determine which applicant will receive a dispensary registration certificate based on a priority system



# Priorities for Issuing Registration Certificates After April 2012

- Priority to:
  - 1) Counties ~~without a dispensary~~
  - 2) CHAA's without a dispensary
  - 3) The number of registry identification cards issued to QP's who reside within 10 miles of the proposed dispensary location and the number of dispensaries operating within 10 miles of the applicant's proposed dispensary location
    - If there is a tie or a margin of <1% on the scores, it will be randomly selected

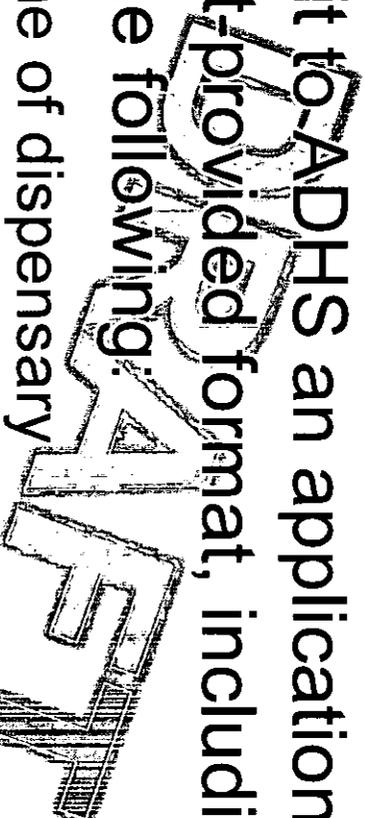


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# Applying for a Dispensary Registration Certificate

- Must submit to ADHS an application in a Department-provided format, including, but not limited to the following:
  - Legal name of dispensary
  - Physical address of the proposed dispensary
  - Name of the entity applying
  - Name of individual designated to submit dispensary agent applications on behalf of the dispensary
  - Name / license # of the dispensary's medical director



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# Applying for a Dispensary Registration Certificate

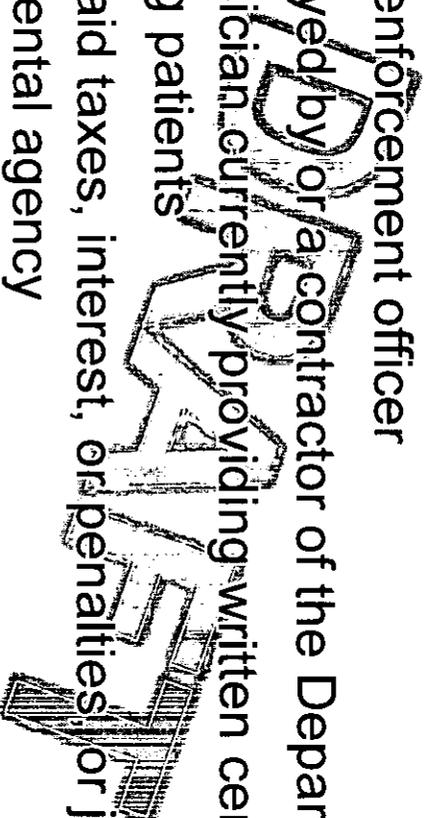
- Name, address, and date of birth of each principal officer and board member
- Whether a principal officer or board member:
  - Has served as a principal officer or board member for a dispensary that had the dispensary registration certificate revoked
  - Is a physician currently providing written certifications for qualifying patients
  - Has unpaid taxes, interest, or penalties, or judgment due to a governmental agency
  - Is in default on a government-issued student loan
  - Failed to pay child support



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# Applying for a Dispensary Registration Certificate

- Is a law enforcement officer
  - Is employed by or a contractor of the Department
  - Is a physician currently providing written certifications for qualifying patients
  - Has unpaid taxes, interest, or penalties, or judgment due to a governmental agency
  - Is in default on a government-issued student loan
  - Failed to pay child support
- Whether dispensary agrees to allow the Department to submit supplemental requests for information



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# Applying for a Dispensary Registration Certificate

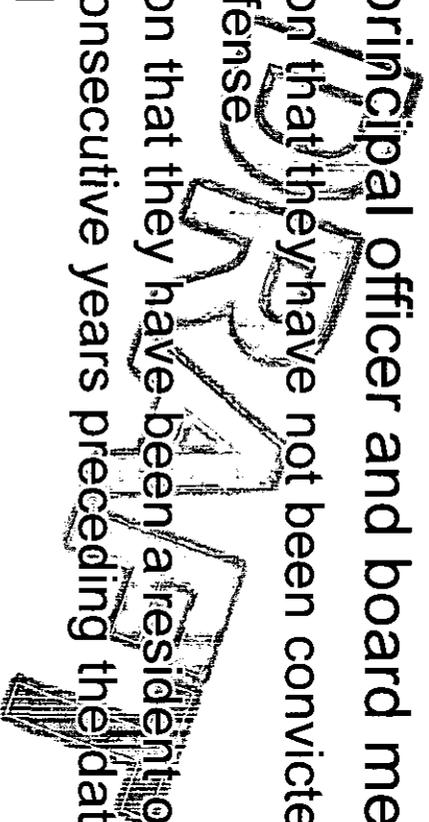
- An attestation that the information provided to the Department to apply for a dispensary registration certificate is true and correct
- Signature of individual(s) and date signed
- If the person applying is a corporation, partnership, LLC, association or cooperative, joint venture, or another business organization type:
  - Name of the business organization
  - Name / title of each principal officer and board member
  - Copy of the business organization's articles of incorporation or organization, or partnership or joint venture documents



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# Applying for a Dispensary Registration Certificate

- For each principal officer and board member:
  - Attestation that they have not been convicted of an excluded felony offense
  - Attestation that they have been a resident of Arizona for at least 3 consecutive years preceding the date of application submittal
  - Fingerprints in a Department provided format
  - Copy of residency documentation (i.e. Arizona driver's license, current lease agreement, tax statement, etc...)
- Policies and procedures for inventory control, qualifying patient recordkeeping, security, and patient education and support



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# Applying for a Dispensary Registration Certificate

- A sworn statement certifying that the dispensary is in compliance with local zoning restrictions
- Dispensary's by-laws containing provisions for the disposition of revenues and receipts
- A business plan demonstrating the on-going viability of the dispensary on a not-for-profit basis
- Application fee



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# Applying for Approval to Operate a Dispensary

- A person holding a dispensary registration certificate shall submit to ADHS at least 60 days before the expiration of the certificate, an application in a Department-provided format, including, but not limited to the following:
  - Legal name and registry ID number of dispensary
  - Physical address of the proposed dispensary
  - Name, address, and date of birth of each dispensary agent

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# Applying for a Dispensary Registration Certificate

- Name / license # of the dispensary's medical director
- If applicable, the physical address of the dispensary's cultivation site
- Dispensary's Transaction Privilege Tax Number
- Proposed hours of operation
- Whether the dispensary agrees to allow the Department to submit supplemental requests for information

**DRAMA**



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# Applying for a Dispensary Registration Certificate

- Whether the dispensary, and if applicable, the dispensary's cultivation site are ready for an inspection by the Department (or if not, when the dispensary will be ready)
- Attestation that the information provided in the application is true and correct
- Signature(s) and date signed
- Copy of the certificate of occupancy or other documentation issued by the local jurisdiction to the applicant authorizing occupancy of the building (dispensary and if applicable, cultivation site)



# Applying for a Dispensary Registration Certificate

- A sworn statement certifying that the dispensary is in compliance with local zoning restrictions
- Distance to the closest public or private school from the dispensary and if applicable, the dispensary's cultivation site
- Site plan of dispensary and if applicable, the dispensary's cultivation site
- Floor plan and if applicable, the dispensary's cultivation site



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# Nonprofit Medical Marijuana Dispensary Medical Directors: What you should know...



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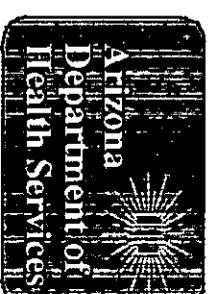
# Nonprofit Medical Marijuana Dispensary Medical Directors

- The dispensary shall appoint a physician to function as medical director
- During operational hours, the medical director or another physician designated by the medical director must be on-site or able to be contacted
- Medical directors shall not establish a physician-patient relationship with or write medical marijuana certifications for QP's



# Medical Director Functions

- A medical director shall:
  - Develop and provide training to the dispensary agents at least once every 12 months, from the point of obtaining a certificate:
    - Guidelines for providing information to QP's related to risks, benefits and side effects associated with MM
  - Recognizing signs and symptoms for substance abuse



# Medical Director Functions

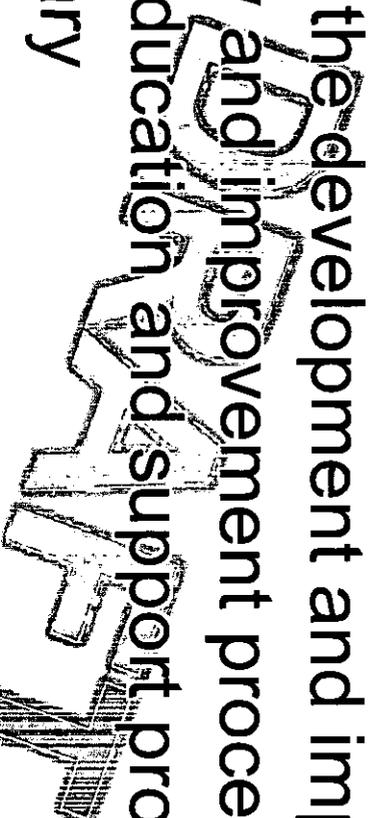
- Guidelines for providing support to QP's related to the QP's self-assessment of the QP's symptoms including a rating scale for pain, cachexia or wasting syndrome, nausea, seizures, muscle spasms, and agitation
- Guidelines for refusing to provide medical marijuana to a person who appears to be impaired or abusing MM, and



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# Medical Director Functions

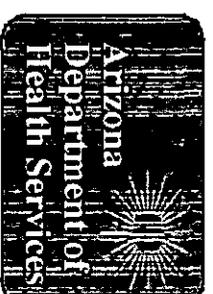
- Assist in the development and implementation of review and improvement processes for patient education and support provided by dispensary
- Provide oversight for the development and dissemination of:
  - Educational materials for qualifying patients (QP) and designated caregivers (DC)
  - System for a QP or DC to document the QP's symptoms



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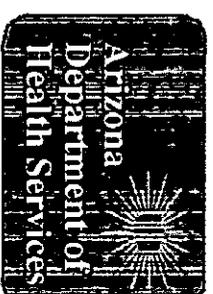
# Medical Director Functions

- System for a QP or DC to document the QP's pain, cachexia or wasting syndrome, nausea, seizures, muscle spasms, or agitation
- Policies and procedures for refusing to provide medical marijuana to an individual who appears to be impaired or abusing medical marijuana



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# Nonprofit Medical Marijuana Dispensary Agents: What you should know...



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# Nonprofit Medical Marijuana Dispensary Agents

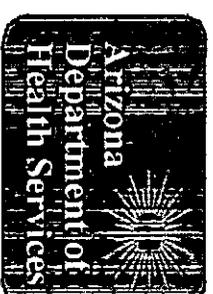
- Means a principal officer, board member, employee or volunteer of a nonprofit medical marijuana dispensary who is at least twenty-one years of age and has not been convicted of an excluded felony offense
- The Department may conduct criminal records checks in order to carry out this section



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# Nonprofit Medical Marijuana Dispensary Agents

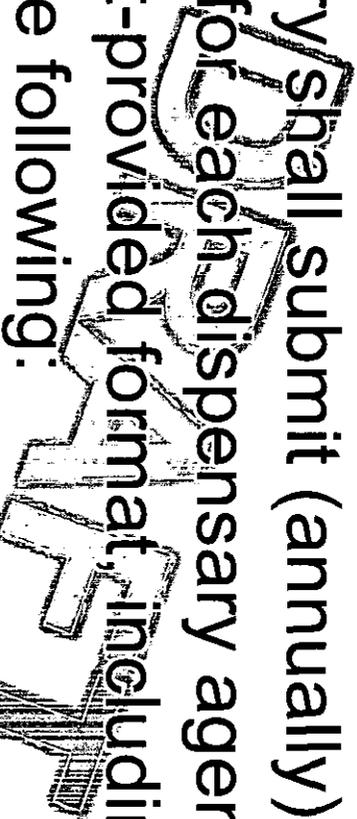
- A dispensary agent shall be registered with the Department before volunteering or working at a dispensary
- A dispensary shall notify the Department within ten days after a dispensary agent ceases to be employed by or volunteer at the registered nonprofit medical marijuana dispensary



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# Dispensary Agent Applications for Registry Identification Cards

- A dispensary shall submit (annually) to ADHS an application for each dispensary agent in a Department-provided format, including, but not limited to the following:
  - DA's name, address, date of birth, photo, fingerprints, application fee, name and registry ID # of the dispensary, etc...
  - Attestation that the information provided in the application is true and correct



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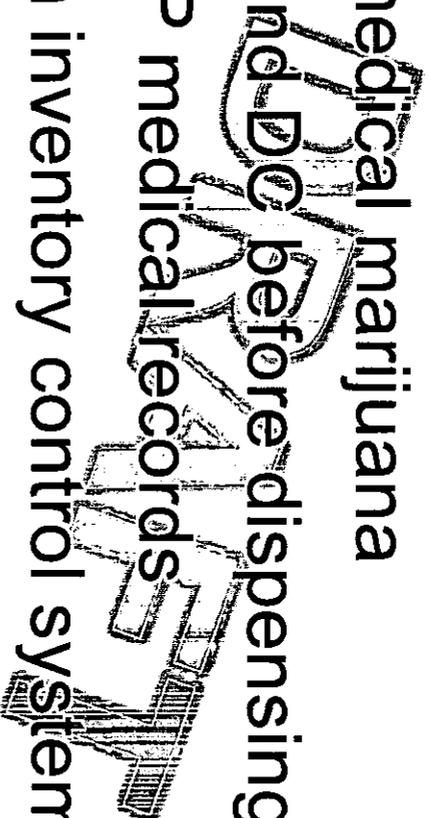
# Dispensary Agent Applications for Registry Identification Cards

- Attestation signed and dated by the dispensary agent that they have not been convicted of an excluded felony offense as defined in A.R.S. § 36-2801
- One of the following:
  - A statement signed by the dispensary agent that they do not currently hold a valid registry ID card
  - The assigned registry ID number for the dispensary agent for each valid registry ID cards currently held by the agent
- Statement signed by the dispensary agent pledging not to divert marijuana pursuant to A.R.S. Title 36, Chapter 28.1



# Dispensary Agent Functions

- Dispense medical marijuana
- Verify QP and ~~DC~~ before dispensing
- Maintain QP medical records
- Maintain an inventory control system
- Ensure that medical marijuana has required product labeling and analysis
- Provide required security

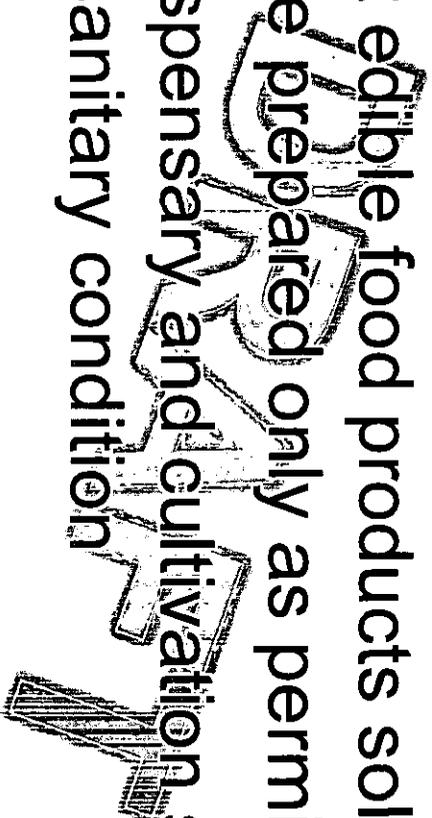


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# Dispensary Agent Functions

- Ensure that edible food products sold or provided are prepared only as permitted
- Maintain dispensary and cultivation site in a clean and sanitary condition



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# Questions?

Please visit our website at:

[www.azdhs.gov/Prop203](http://www.azdhs.gov/Prop203)



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**ARTICLE 12-3 WASTEWATER PRETREATMENT****12-3-1 General Provisions****12-3-2 Regulations, Standards and Limitations****12-3-3 Fees****12-3-4 Discharge Permit Application and Requirements****12-3-5 Monitoring, Reporting, Notification and Inspection Requirements****12-3-6 Enforcement****Section 12-3-1 GENERAL PROVISIONS****A. Purpose and Policy**

This Article sets forth uniform requirements for direct and indirect industrial dischargers into the wastewater collection and treatment system for the City and enables the City to comply with a POTW Pretreatment Program mandated by Arizona Revised Statutes § 49-255.02, the Aquifer Protection Permit issued by ADEQ (Arizona Department of Environmental Quality) for the City POTW and all applicable State and federal laws required by the Clean Water Act of 1977 as amended by the Water Quality Act of 1987 and the General Pretreatment Regulations (40 CFR Part 403).

The objectives of this Article are:

- 1) To prevent the introduction of Pollutants into the City Wastewater system which will interfere with the operation of the system or contaminate the resulting sludge;
- 2) To protect the City's sewerage system, groundwater resources, effluent receiving waterways, and to prevent the introduction of Pollutants into the City Wastewater system which will pass through the system, inadequately treated, into receiving waters, groundwater resources, or the atmosphere;
- 3) To improve the opportunity to recycle and reclaim Wastewater and sludge from the system;
- 4) To provide for equitable distribution of the cost of the City Wastewater system; and
- 5) To protect both the publicly owned treatment works personnel who may be affected by Wastewater and sludge in the course of their employment and the general public.

This Article incorporates by this reference the Technical Based Local Limits Reports: "Defining and Justifying Local Discharge Limits Under EPA's Pretreatment Program, Volume One and Two."

This Article provides for the regulation of discharges to the City Wastewater system through the issuance of permits to certain non-domestic Users and through enforcement of general requirements for the other Users, authorizes monitoring and

enforcement activities, requires User reporting, assumes that existing customer's capacity will not be preempted, and provides for the setting of fees for the equitable distribution of costs resulting from the program as established herein.

This Article shall apply to the City and to Persons outside the City who are, by contract or agreement with the City, Users of the City POTW. Except as otherwise provided herein, the Public Works Director, as the Control Authority shall administer, implement, and enforce the provisions of this Article.

## B. Definitions

Unless the context specifically indicates otherwise, the following terms and phrases, as used in this Article shall have the meanings hereinafter designated:

1. Act or "the Act". The Federal Water Pollution Control Act, also known as the Clean Water Act (CWA), as amended, 33 U.S.C. 1251, et seq.
2. Approval Authority. The Administrator of the EPA, Region IX or the Director of the Arizona Department of Environmental Quality as appropriate.
3. Authorized Representative of the User. An authorized representative of a User, may be: (1) A principal executive officer of at least the level of vice-president, if the User is a corporation; (2) A general partner or proprietor if the User is a partnership or proprietorship, respectively; or (3) A duly authorized representative of the individual designated above if such representative is responsible for the overall operation of the facilities from which the indirect Discharge originates.
4. Baseline Monitoring Report (BMR). Facility and Wastewater Discharge information provided by the Categorical Industrial User.
5. Biochemical Oxygen Demand (BOD). The quantity of oxygen utilized in the biochemical oxidation of organic matter under standard laboratory procedure, (five days at 20 Degree Celsius (°C) expressed in terms of weight and concentration (milligrams per liter (mg/L)).
6. Blowdown. The minimum Discharge of re-circulating water for the purpose of discharging materials contained in the water, the further buildup of which would cause concentration amounts exceeding established limits.
7. Building Sewer. A sewer conveying Wastewater from the premises of a User to the POTW.
8. Bypass. The intentional diversion of Waste streams from any portion of a treatment facility.
9. Categorical Pretreatment Standard or Categorical Standard. Any regulation containing pollutant discharge limits promulgated by EPA in accordance with

Sections 307(b) and (c) of the Act (33 U.S.C. §1317) which apply to a specific category of Users and which appear in 40 CFR, Chapter I, Subchapter N.

10. Categorical Industrial User. All Users subject to Categorical Pretreatment Standards.
11. Chemical Oxygen Demand (COD). The measure of chemically decomposable material in domestic or industrial Wastewaters as represented by the oxygen utilized as determined by the appropriate procedure described in Standard Methods.
12. Compliance Schedule. Increments of progress in the form of dates for the commencement and completion of major events leading to the construction and operation of Pretreatment facilities.
13. Composite Sample. A combination of no fewer than 12 individual samples obtained at equal time intervals over a 24 hour period, and where appropriate, composited according to Wastewater flow rates during the 24 hours. Dischargers required to have Wastewater flow monitoring systems shall use such systems to obtain accurate flow-proportioned composite samples.
14. City. The City of Coolidge.
15. Code of Federal Regulations (CFR). The Code of Federal Regulations is a codification of the general and permanent rules published in the Federal Register by the Executive departments and agencies of the Federal Government. The CFR is divided into 50 titles which represent broad areas subject to Federal regulation. The CFR is kept up to date by the individual issues of the Federal Register. These two publications must be used together to determine the latest version of any given rule.
16. Cooling Water. The water discharged from any use such as air conditioning, cooling or refrigeration, or to which the only Pollutant added is heat.
17. Control Authority. The Public Works Director of the City of Coolidge, who is the person designated by the City to supervise the operation of the Publicly Owned Treatment Works and who is charged with certain duties and responsibilities under this Article.
18. Direct Discharge. The Discharge of treated or untreated Wastewater directly to the waters of the State.
19. Discharge or Discharges. The intentional or unintentional release of a substance into the POTW.
20. Discharge Limit. A limit on the amount and/or concentration of a Pollutant which is discharged to the POTW. This limit is specific for a controlled Pollutant. The limit may be expressed as milligrams per liter (mg/L) or similar

appropriate units, or as a mass or specific amount per unit of time, or as mass per unit volume or mass of material processed.

21. Environmental Protection Agency or EPA. The U.S. Environmental Protection Agency, or where appropriate the term may also be used as a designation for the Regional Water Management Director or other duly authorized official of said agency.
22. Existing Source. Any source which is not a New Source or a new Indirect Discharge.
23. Federal Prohibitive Discharge Standard or Prohibitive Discharge Standard. Any regulation developed under the authority of 307(b) of the Act and 40 CFR Part 403.5.
24. Food Service Facility. Any facility involved with the preparation and/or sale of food. This includes but is not limited to: restaurants, bakeries, grocery stores and cafeterias.
25. Grab Sample. Any individual sample collected in less than 15 minutes on a one-time basis.
26. Hazardous Substance. As listed in 40 CFR Part 300.6 (1988): Hazardous Substance, as defined by section 101(14) of CERCLA, means; Any substance designated pursuant to section 311(b)(2)(A) of the CWA; any element, compound, mixture, solution, or substance designated pursuant to section 102 of CERCLA; any hazardous waste having the characteristics identified under or listed pursuant to section 3001 of the Solid Waste Disposal Act (but not including any waste the regulation of which under the Solid Waste Disposal Act has been suspended by an Act of Congress); any toxic pollutant listed under section 307(a) of the Clean Water Act (CWA); any hazardous air pollutant listed under section 112 of the Clean Air Act; and any imminently hazardous chemical substance or mixture with respect to which the Administrator has taken action pursuant to section 7 of the Toxic Substances Control Act, The term does not include petroleum, including crude oil or any fraction thereof, which is not otherwise specifically listed or designated as a hazardous substance in the first sentence of this paragraph, and the term does not include natural gas, natural gas liquids, liquefied natural gas or synthetic gas usable for fuel (or mixtures of natural gas and such synthetic gas).
27. Hazardous Waste. A hazardous waste as defined in 40 CFR Part 261.3.
28. Holding Tank Waste. Any Waste from holding tanks such as vessels, chemical toilets, campers, trailers, septic tanks, and vacuum-pump tank trucks.
29. Indirect Discharge. Any introduction into the POTW of a non-domestic pollutant which (i) is produced by a source which would be subject to any Categorical Standards or Pretreatment Requirements if such source were to be

discharged to the POTW; and (ii) contains any substance or pollutant for which a discharge limitation or prohibition has been established by an Categorical Standard or Pretreatment Requirement.

30. Industrial User/Industrial Discharger. A source of Indirect Discharge of regulated Wastes which does not necessarily constitute a "Discharge of Pollutants" under regulations issued pursuant to Article 402 of the Act (33 U.S.C. 1342).
31. Industrial Waste. Any liquid, free-flowing waste, including cooling water, resulting from any industrial or manufacturing process or from the development, recovery or processing of natural resources, with or without suspended solids excluding uncontaminated water.
32. Industrial Wastewater Discharge Permit (Permit). A permit issued by the Control Authority to an Industrial User granting the right to discharge to the POTW Industrial Wastewater containing regulated Wastes controlled by this Article and subject to the terms and conditions set forth in the Permit.
33. Interference. Discharge which, alone or in conjunction with a Discharge or Discharges from other sources, both: a) Inhibits or disrupts the POTW, its treatment processes or operations, or its sludge processes, use or disposal; and b) Therefore is a cause of a violation of any requirement of the POTW's NPDES, Aquifer Protection Permit or other permit (including an increase in the magnitude or duration of a violation) or of the prevention of sewage sludge use or disposal in compliance with the following statutory provisions and regulations or permits issued thereunder (or more stringent State or local regulations): Section 405 of the Clean Water Act, the Solid Waste Disposal Act (SWDA) (including Title H, more commonly referred to as the Resource Conservation and Recovery Act (RCRA), and including State regulations contained in any State sludge management plan prepared pursuant to subtitle D of the SWDA), the Clean Air Act, the Toxic Substances Control Act, and the *Marine Protection Research and Sanctuaries Act*.
34. Medical Waste. Isolation wastes, infectious agents, human blood and blood products, pathological wastes, sharps, body parts, contaminated bedding, surgical wastes, potentially contaminated laboratory wastes, and dialysis wastes.
35. National Pretreatment Standard. Any regulation containing Pollutant Discharge limits promulgated by the EPA in accordance with section 307(b) and (c) of the Act, which applies to Industrial Users. This term includes prohibitive Discharge limits established pursuant to Part 403.5.
36. National Pollution Discharge Elimination System (NPDES) Permit. A permit issued pursuant to Article 402 of the Act.

37. New Source. 1) Any building, structure, facility or installation from which there is or may be a Discharge of Pollutants, the construction of which commenced after the publication of proposed Pretreatment Standards under section 307(c) of the Act which will be applicable to such source if such Standards are thereafter promulgated in accordance with that section, provided that:
- i) The building, structure, facility or installation is constructed at a site at which no other source is located; or
  - ii) The building, structure, facility or installation totally replaces the process or production equipment that causes the Discharge of Pollutants at an Existing Source; or
  - iii) The production or Wastewater generating processes of the building, structure, facility or installation are substantially independent of an Existing Source at the same site. In determining whether these are substantially independent, factors such as the extent to which the new facility is integrated with the existing plant, and the extent to which the new facility is engaged in the same general type of activity as the Existing Source should be considered.
- 2) Construction on a site at which an Existing Source is located results in a modification rather than a new source if the construction does not create a new building, structure, facility or installation meeting the criteria of subsection (1)(i), or (1)(ii) of this section but otherwise alters, replaces, or adds to existing process or production equipment.
- 3) Construction of a new source as defined under this paragraph has commenced if the owner or operator has either: (A) Begun, or caused to begin as part of a continuous onsite construction program: (i) any placement, assembly, or installation of facilities or equipment; or (ii) significant site preparation work including clearing, excavation, or removal of existing buildings, structures, or facilities which is necessary for the placement, assembly, or installation of new source facilities or equipment; or (B) entered into a binding contractual obligation for the purchase of facilities or equipment which are intended to be used in its operation within a reasonable time. Options to purchase or contracts which can be terminated or modified without substantial loss, and contracts for feasibility, engineering, and design studies do not constitute a contractual obligation under this paragraph.
38. Non-Categorical Industrial Users. Users that have Industrial Discharges from processes or industries that are not listed in 40 CFR Chapter I, Subchapter N, Parts 405-471.

39. Odor. A smell, vapor or air pollution that affects the air quality of a residential, commercial or industrial sector of the City. The Pollutant quality of the odor will be determined by 51% of the affected population of the sector involved.
40. Operator. A Person who operates a business.
41. Owner. The property owner.
42. Pass-Through. A Discharge which exits the POTW into waters of the United States in quantities or concentrations which, alone or in conjunction with a Discharge or Discharges from other sources, is a cause of a violation of any requirement of the POTW's NPDES permit including an increase in the magnitude or duration of a violation.
43. Permit. A Wastewater Discharge Permit.
44. Permittee. A User who has been issued a Wastewater Discharge Permit.
45. Person. Any individual, partnership, co-partnership, firm, company, corporation, association, joint stock company, trust, estate, governmental entity or any other legal entity, or their legal representatives, agents or assigns.
46. pH. The negative logarithm (base 10) of the hydrogen ion concentration expressed in moles per liter of solution. The measure of the acidity or alkalinity of a solution, expressed in standard units.
47. Pollutant. Something that causes pollution, including but not limited to any dredged point, solid waste, incinerator residue, sewage, garbage, sewage sludge, munitions, medical wastes, chemical wastes, biological materials, radioactive materials, heat, wrecked or discharged equipment, rock, sand, cellar dirt and industrial, municipal, agricultural waste and certain characteristics of wastewater (e.g., pH, temperature, TSS, turbidity, color, BOD, toxicity or odor).
48. Pollution. The man-made or man-induced alteration of the chemical, physical, biological, and radiological integrity of water.
49. Pretreatment. The reduction of the amount of Pollutants, the elimination of Pollutants, or the alteration of the nature of Pollutant properties in Wastewater to a less harmful state prior to, or in lieu of, discharging or otherwise introducing such Pollutants into a POTW. The reduction or alteration can be obtained by physical, chemical or biological processes, or process changes other means, except as prohibited by 40 CFR Part 403.6(d) by dilution as a substitute for Pretreatment.
50. Pretreatment Requirements. Any substantive or procedural requirement related to Pretreatment, other than a National Pretreatment Standard, imposed on an Industrial User.

51. Pretreatment Standards. The standards for the allowable Discharge of Industrial Wastewaters to the POTW as specified in Section 12-3-2(G) of this Article. The effective Pretreatment Standards for Significant Industrial Users will be the more restrictive, limiting standard(s) of either the Categorical Pretreatment Standards and those specified in Section 12-3-2(B) of this Article.
52. Publicly Owned Treatment Works (POTW). A treatment works as defined by Section 212 of the Act, (33 U.S.C. 1292) which is owned in this instance by the City. This definition includes any sewers that convey Wastewater to the POTW Treatment Plant, but does not include pipes, sewers or other conveyances not connected to a facility providing treatment. For the purposes of this Article, "POTW" shall also include any sewers that convey Wastewaters to the POTW from Persons outside the City who are, by contract or agreement with the City, Users of the City's POTW.
53. POTW Treatment Plant. That portion of the POTW designed to provide treatment to Wastewater.
54. Public Works Director. The then acting Public Works Director for the City or his duly authorized representative.
55. Representative Sample. A sample portion of material or Waste stream that is as nearly identical in content and consistency as possible to that in the material or Waste stream being sampled.
56. Self Monitoring. Measurements of the User's Wastewater constituents by the User as may be specified by the Control Authority or required under applicable State law and Pretreatment Standards.
57. Shall, Will and May. Shall and will are mandatory; may is permissive.
58. Septic Tank Waste. Any sewage from holding tanks such as vessels, chemical toilets, campers, trailers and septic tanks.
59. Significant Industrial User. Any Categorical Industrial User (CIU). Any other Industrial User that meets one or more of the following criteria: (i) Discharges 25,000 gallons or more of process Wastewater per day; (ii) Contributes a process wastestream which makes up five percent (5%) or more of the dry-weather average hydraulic or organic capacity of the POTW; (iii) Is designated as such by the Control Authority on the basis that it has a reasonable potential for adversely affecting the POTW's operation or for violating a Pretreatment Standard or Pretreatment Requirement.
60. Significant Noncompliance. An Industrial User is in significant noncompliance if its violations meet one or more of the following criteria:
  - i. Chronic violations of Wastewater Discharge limits, defined as those in which sixty-six percent (66%) or more of all of the measurements

taken during a six-month period exceed (by any magnitude) the daily maximum limit or the average limit for the same Pollutant parameter;

ii. Technical review criteria (TRC) violations, defined as those in which thirty-three percent (33%) or more of all of the measurements for each Pollutant parameter taken during a six-month period equal or exceed the product of the daily average limit times the applicable TRC (TRC = 1.4 for BOD, TSS, fats, oil, and grease, and 1.2 for all other pollutants except pH);

iii. Any other violation of a Pretreatment effluent limit (daily maximum or longer-term average) that the Control Authority determines has caused, alone or in combination with other Discharges, Interference or Pass-Through (including endangering the health of POTW personnel or the general public);

iv. Any Discharge of a Pollutant that has caused imminent endangerment to human health, welfare or to the environment or has resulted in the POTW's exercise of its emergency authority to halt or prevent such a Discharge;

v. Failure to meet, within ninety (90) days after the scheduled date, a compliance schedule milestone contained in a local control mechanism or enforcement order for starting construction, completing construction, or attaining final compliance;

vi. Failure to provide, within thirty (30) days after the due date, required reports such as baseline monitoring reports, ninety (90) day compliance reports, periodic self-monitoring reports, and reports on compliance with compliance schedules;

vii. Failure to accurately report noncompliance; or

viii. Any other violation or group of violations which the Control Authority determines will adversely affect the operation or implementation of the local pretreatment program.

61. Slug Load. Any Pollutant released in a Discharge at a flow rate and/or Pollutant concentration which will cause interference or upset of the POTW; or, any discrete sample, the concentration of which exceeds five times the Discharge limit.
62. Solid Waste. Any garbage, refuse, sludge from a Waste treatment plant, water supply treatment plant, or air pollution control facility and other discarded material, including solid, liquid, semisolid, or containing gaseous materials resulting from industrial, commercial, mining, and agricultural operations, and from community activities.

63. Spill Containment or Spill Protection Facilities. Physical barrier system of dikes, walls, barriers, berms, or other devices which provides protection from accidental Discharge or spill from the liquid contents of containers into the sewer system of prohibited, hazardous, or other waste materials which are regulated through this Article.
64. State. State of Arizona.
65. Standard Industrial Classification (SIC). A classification pursuant to the Standard Industrial Classification Manual issued by the Executive Office of the President, Office of Management and Budget.
66. Standard Methods. The most current edition of "Standard Methods for the Examination of Water and Wastewater" as published by the American Public Health Association.
67. Stormwater. Any flow occurring during or following any form of natural precipitation and resulting therefrom.
68. Suspended Solids (TSS). The total suspended matter that floats on the surface of, or is suspended in, water, Wastewater or other liquids, which is removeable by laboratory filtering.
69. Toxic Pollutant. Any Pollutant or combination of Pollutants listed as toxic in regulations promulgated by the Administrator of the Environmental Protection Agency under the provision of 40 CFR Part 403 Appendix 8.
70. Upset. An exceptional incident in which there is unintentional and temporary noncompliance with Discharge limits because of factors beyond the reasonable control of the User. An Upset does not include noncompliance to the extent caused by operational error, improperly designed treatment facilities, inadequate treatment facilities, lack of preventative maintenance or careless or improper operation.
71. USC. United States Code.
72. User. Any Person, Categorical User, Significant User, Industrial Discharger, or Industrial User who contributes, causes or permits the Discharge of Wastewater into the City's POTW.
73. Waste. Sewage and other waste substances, liquid, solid, gaseous or radioactive, associated with human habitation or of human or animal nature, including such wastes placed within containers of whatever nature prior to and for the purpose of disposal.
74. Wastewater. The liquid and water-carried industrial or domestic wastes from dwellings, commercial buildings, industrial facilities, and institutions, together with any groundwater, surface water, and stormwater that may be present,

whether treated or untreated, which is contributed into or permitted to enter the POTW.

75. Wastewater Treatment Facility. That portion of the POTW which is designed to provide treatment of municipal sewage and Industrial Waste.
76. Waters of the State. All streams, lakes, ponds, marshes, watercourses, waterways, wells, springs, reservoirs, aquifers, irrigation systems, drainage systems and all other bodies or accumulations of water, surface or underground, natural or artificial, public or private, which are contained within, flow through, or border upon the State or any portion thereof.

### **Section 12-3-2 REGULATIONS, STANDARDS AND LIMITATIONS**

#### **A. Regulated Wastes**

##### **1. General Discharge Prohibitions**

No User shall Discharge or cause to be Discharged to the City's sewerage systems, or to any public sewer that directly or indirectly connects to the City's sewerage system, any Wastes which will interfere with the operation or performance of the POTW and may, have an adverse or harmful effect on sewers, maintenance personnel, personnel or equipment, treatment plant processes or the quality of treatment plant effluent or residue, public or private property, or Wastes which may otherwise endanger the public, the environment, or create a public nuisance. No User shall Discharge or cause to be Discharged to the City's sewerage systems, or to any public sewer that directly or indirectly connects to the City's sewerage systems, any Wastes which adversely affect water reclamation processes or the quality of reclaimed water, cause a violation of any POTW Permit requirements, or place the City in noncompliance with any of the statutory authorities listed in Title 40, Code of Federal Regulations (CFR), Part 403.3(i). These general prohibitions apply to all such Users of a POTW whether or not the User is subject to federal Categorical Pretreatment Standards or any other Federal, State, City or local Pretreatment Standards or Pretreatment Requirements.

The following Wastes are prohibited:

- a) Any liquids, solids or gases which by reason of their nature or quantity are, or may be, sufficient either alone or by interaction with other substances to cause fire or explosion or be injurious in any other way to the sewerage system, the POTW, or to the operation of the POTW. This includes but is not limited to Wastestreams with a closed cup flashpoint of less than 140°F or 60°C using the test methods specified in 40 CFR Part 261.21. At no time, shall two successive readings on an explosion hazard meter, at the point of Discharge into the system or at any point in the system be more than five percent (5%) nor any single reading over ten percent (10%) of the Lower Explosive Limit (LED) of the meter.

Prohibited materials include, but are not limited to, gasoline, kerosene, naphtha, benzene, toluene, xylene, ethers, alcohols, ketones, aldehydes, solvent, fuel oil, peroxides, chlorates, perchlorates, bromates, carbides, hydrides and sulfides.

- b) Solid or viscous substances which may cause obstruction to the flow in a sewer or other interference with the operation of the Wastewater Treatment Facilities such as, but not limited to: grease, any garbage, or Waste, other than domestic Wastewater, that is not ground sufficiently to pass through a 3/8-inch screen, dead animals, animal guts or tissues, paunch manure, bones, hair, hides or fleshing, entrails, whole blood, feathers, offal, ashes, cinders, sand, spent lime, stone or marble dust, metal, glass, straw, Industrial process shavings, diatomaceous earth, grass clippings, rags, spent grains, spent hops, wood, plastics, tar, asphalt residues, mud, or glass grinding wastes or polishing wastes, paper dishes, paper cups, milk containers or other similar paper products whole or ground or materials which tend to solidify in the sewer and obstruct Wastewater flow.
- c) Any Wastewater having a pH less than 5.0 and greater than 9.0, or having any other corrosive or detrimental characteristics capable of causing damage or hazard to the sewerage system or to structures, equipment, and/or personnel of the POTW. Where a User is required by its Permit to continuously monitor the pH of its Wastewater Discharge, the User shall maintain the pH within the range set forth in its Permit.
- d) Any Wastewater containing toxic or poisonous solids, liquids or gas pollutants in sufficient quantity, either singly or by interaction with other Pollutants, to Injure or interfere detrimentally with any Wastewater treatment process, constitute a hazard to humans, animals, or the environment, create a toxic effect in the receiving waters of the POTW, cause a public nuisance, cause any hazardous condition to occur in the sewerage system, or to exceed the limitation set forth in a Categorical Pretreatment Standard.
- e) Any Wastewater containing Toxic Pollutants which result in the presence of toxic gases, vapors, or fumes within the POTW and/or the sewerage system in a quantity that may cause acute worker health and safety problems.
- f) Any noxious or malodorous liquids, gases, or solids which either singly or by interaction with other Wastes are sufficient to create a public nuisance or hazard to life or are sufficient to prevent entry into the sewers for maintenance and repair.
- g) Any substance which may cause the POTW's effluent or any other product of the POTW such as residues, sludges, or scums, to be unsuitable for reclamation and reuse or to interfere with the reclamation process. In no case, shall a substance discharged to the POTW cause the POTW to be in non-compliance with sludge use or disposal criteria, guidelines or regulations developed under Section 405 of the Act; any criteria, guidelines, or regulations affecting sludge use of disposal developed

pursuant to the Solid Waste Disposal Act, the Clean Air Act, the Toxic Substances Control Act, or State criteria applicable to the sludge management method being used.

- h) *Any substance which will cause the POTW to violate its Permit, State or Federal regulations or the receiving water quality standards.*
- i) *Any Wastewater having a temperature of 60°C (140°F) or higher, or which may cause the temperature of the treatment plant influent to exceed 40°C (104°F). Limits established by the Control Authority in compliance with applicable State or Federal regulations.*
- j) *Any Waste containing substances that may precipitate, solidify, gel, polymerize or become viscous under conditions normally found in the sewerage system.*
- k) *Recognizable portions of the human anatomy.*
- l) *Any Hazardous Waste discharged to any portion of the POTW treatment plant by truck, rail or dedicated pipe line.*
- m) *Any Discharge of Pollutants, including oxygen demanding Pollutants (BOD, etc.), released at a flow rate and/or Pollutant concentration which a User knows or has reason to know will cause Interference to the POTW. An affirmative defense for a User requires the User to satisfy two conditions as follows: (1) it did not know, or have reason to know, that its Discharge would cause Pass-Through or Interference; and (2) it was in compliance with existing limits for each Pollutant in its Discharge; or, if a limit was not enacted for such Pollutant(s), its Discharge directly before and during, the Pass-Through or Interference did not change substantially from its prior Discharge(s) which occurred when the POTW remained in compliance with its National Pollutant Discharge Elimination System (NPDES) or other operating permit.*
- n) *Any Wastewater containing any radioactive Waste or isotopes of such half life or concentration as may exceed limits established by the Control Authority in compliance with applicable State or Federal regulations.*
- o) *Any Wastewater which causes a hazard to human life or creates a public nuisance.*
- p) *Wastewater which imparts color which cannot be removed by the treatment process such as, but not limited to, dye wastes and vegetable tanning solutions.*
- q) *Petroleum oil, nonbiodegradable cutting oil, or products of mineral oil origin.*
- r) *Any Waste containing dispersed biodegradable oils, fats, and greases such as lard, tallow or vegetable oil.*
- s) *Any Waste containing detergents, surface active agents, or other substances, which may cause foaming in the sewerage system.*
- t) *Storm water, surface water, ground water, artesian well water, roof runoff, subsurface drainage, condensate, deionized water, noncontact cooling water, and unpolluted wastewater.*
- u) *Sludges, screenings, or other residues from the Pretreatment of Industrial Wastes.*

- v) Medical wastes.
- w) Wastewater causing, alone or in conjunction with other sources, the treatment plant's effluent to fail a toxicity test.

When the Control Authority determines that a User(s) is contributing to the POTW any of the above enumerated substances in such amounts as to Interfere with or Pass-Through of the operation of the POTW, the Control Authority shall: (1) Advise the User(s) of the impact of the Discharge on the POTW; and (2) Require the User to correct the Interference with the POTW pursuant to the provisions of Section 12-3-6. Wastewater Discharges in excess of the limits established by the City or applicable Categorical Pretreatment Standards shall constitute excessive concentrations or quantities prohibited by this Article.

2. Medical and Infectious Wastes

No Person shall Discharge solid Wastes from hospitals, clinics, offices of medical doctors, dentists, mortuaries, morgues, long term health care, medical laboratories or other medical facilities to the POTW including, but not limited to "red bag" Wastes, hypodermic needles, syringes, instruments, utensils or other paper and plastic items of a disposal nature, or Wastes excluded by other provisions of this Article.

3. Prohibition of Dilution and Excessive POTW Hydraulic Loading

No User shall dilute and/or cause excessive POTW hydraulic loading problems; including but not limited to:

- a) Any water added for the purpose of diluting Wastes which would otherwise exceed maximum concentration limits.
- b) Any rain water, storm water runoff, groundwater, street drainage, roof drainage, yard drainage, lawn sprays or uncontaminated water except where prior approval for such Discharge is given by the Control Authority.
- c) Any deionized water, steam condensate or distilled water in amounts which cause problems with hydraulic loading.
- d) Any blow-down or bleed water from heating, ventilating, air conditioning or other evaporative systems exceeding one-third of the makeup water in a 2-hour period.
- e) Any single pass cooling or heating water.

B. Prohibition of Bypass

Bypass of untreated Industrial Wastewater to the sewer is prohibited. The City may take enforcement action against the User for Bypass, unless:

- 1) Bypass was unavoidable to prevent loss of life, personal injury, or severe property damage;

- 2) There were no feasible alternatives to the Bypass, such as the use of auxiliary treatment facilities, retention of untreated Wastes, or maintenance during normal periods of equipment downtime. This condition is not satisfied if adequate backup equipment should have been installed in the exercise of reasonable engineering judgment to prevent a Bypass which occurred during normal periods of equipment downtime or preventative maintenance; and
- 3) The Permittee submitted notices as required under Section 12-3-5(F).

The Control Authority may approve an anticipated Bypass, after considering its adverse affects, if the Control Authority determines that it will meet the conditions listed in items (1) through (3) above.

C. Slug Loading

All Users shall prevent Discharge of Slug Loads into the POTW of prohibited, hazardous or other Waste material which are regulated through this Article. Such protection shall be provided and maintained at the User's expense. Detailed plans shall be submitted to the Control Authority for review. No User shall commence Discharge to the POTW without accidental Discharge protection facilities or procedures.

The City shall at a minimum, evaluate whether each Categorical User and Significant User needs a plan to control Discharges at least once every two (2) years. If the Control Authority determines that a slug control plan is needed for a Categorical User or Significant User of the POTW, the plan shall contain, at a minimum, the following elements:

- 1) Description of Discharge practices, including non-routine batch Discharges;
- 2) Description of stored chemicals;
- 3) Procedures for immediately notifying the POTW of slug Discharges, including any Discharge that would violate a prohibition under Section 12-3-2(A)(1) of this Article, with procedures for follow-up written notification within five (5) days; and
- 4) If necessary, procedures to prevent adverse impact from accidental spills, including inspection and maintenance of storage areas, handling and transfer of materials, loading and unloading operations, control of plant site run-off, worker training, building of containment structures or equipment, measures for containing toxic organic Pollutants (including solvents), and/or measures and equipment for emergency response.

D. Accidental Discharges

Each User shall provide protection from accidental Discharge of prohibited materials or other substances regulated by this Article. Facilities to prevent

accidental Discharge of prohibited materials shall be provided and maintained at the Owner's or User's own cost and expense. Detailed plans showing facilities and operating procedures to provide this protection shall be approved by the City before construction of the facility. No User who commences Discharge to the POTW after the effective date of this Article shall be permitted to introduce Pollutants into the system until accidental Discharge procedures have been approved by the City. Review and approval of such plans and operating procedures shall not relieve the User from the responsibility to modify the User's facility as necessary to meet the requirements of this Article.

In the case of an accidental Discharge Bypass, Upset, spill, or Slug Load, which may endanger people, the environment and/or the POTW, it is the responsibility of the User to immediately telephone and notify the Control Authority as soon as the User becomes aware of the incident but no later than two (2) hours. The notification shall include location of Discharge, type of waste, concentration and volume, and corrective actions.

1) Written Notice

Within five (5) days following an accidental Discharge, the User shall submit to the Control Authority a detailed written report describing the cause of the Discharge and the measures to be taken by the User to prevent similar future occurrences. Such notification shall not relieve the User of any expense, loss, damage, or other liability which may be incurred as a result of damage to the POTW, fish kills, or any other damage to person or property; nor shall such notification relieve the User of any fines, civil penalties, or other liability which may be imposed by this Article or other applicable law.

2) Notice to Employees

A notice shall be permanently posted on the User's bulletin board or other prominent place advising employees whom to call in the event of a accidental Discharge. Employers shall insure that all employees who may cause or suffer such an accidental Discharge to occur are advised of the emergency notification procedure.

E. Categorical Pretreatment Standards

Upon the promulgation of the Categorical Pretreatment Standards for a particular industrial subcategorical, if the Federal standard is more stringent than limitations imposed under this Article for sources in that subcategory, then the Categorical Pretreatment Standards for that subcategory shall immediately supersede the limitations imposed under this Article. The Control Authority shall notify all affected Users of the applicable reporting requirements under 40 CFR, Section 403.12. The Categorical Standards, found in 40 CFR Chapter I, Subchapter N, Parts 405-471, are hereby incorporated into this Article. Any new or revised

Categorical Pretreatment Standards applicable to local Industrial Users are automatically incorporated into this Article.

F. Modification of Categorical Pretreatment Standards

Where the City's Wastewater treatment system achieves consistent removal of Pollutants limited by Categorical Pretreatment Standards, the City may apply to the Approval Authority for modification of specific limits in the Categorical Pretreatment Standards. "Consistent Removal" shall mean reduction in the amount of a Pollutant or alteration of the nature of the Pollutant by the Wastewater treatment system to a less toxic or harmless state in the effluent which is achieved by ninety-five percent (95%) of the samples when measured according to the procedures set forth in Article 403.7(c)(2) of 40 CFR Part 403 - "General Pretreatment Regulations for Existing and New Sources of Pollution" promulgated pursuant to the Act. The City may then modify Pollutant Discharge limits in the Categorical Pretreatment Standards if the requirements contained in 40 CFR Part 403, Section 403.7, are fulfilled and prior approval from the Approval Authority is obtained.

G. Specific Pollutant Limitations

The standards for the allowable Discharge of Industrial Wastewaters to the POTW are listed here. The amount and nature of allowable Discharges will be specified on the Permit and the characteristics of any Discharge shall not exceed those specified in this Article. Users currently discharging wastewater in excess of these standards shall limit the Discharge to conform to the standards, within ninety (90) days of the effective date of this Article. The Control Authority may impose mass limitations where they are appropriate or to promote water conservation as allowed by 40 CFR 403.6(c)(6) in addition to the concentration-based limitations set forth below.

Unless the Control Authority has imposed mass limitations, no Person shall Discharge Industrial Wastewater containing in excess of the following local limits

**Local Limits 2010**

<b>POLLUTANT</b>	<b>LIMIT (mg/L)</b>
Ammonia	35
Arsenic	0.06
Benzene	0.03
Bis (2-ethylhexyl) phthalate	No Limit
5-day Biochemical Oxygen Demand	300
Cadmium	0.1
Chromium, Total	0.3
Copper	0.15
Cyanide	0.2

POLLUTANT	LIMIT (mg/L)
Lead	0.15
Manganese	No Limit
Molybdenum	0.1
Mercury	0.1
Nickel	1.0
Nitrate	8
Oil and Grease	100
Phenol	100
Selenium	0.1
Silver	0.02
Sulfide, Total	6
Toluene	1.0
TSS (Total Suspended Solids)	325
Zinc	0.4

The City accepts at its discretion Discharges of treated, contaminated groundwater to the POTW. In addition to allowing groundwater Discharges to meet all the City technically based local limits, this Article imposes several additional limits, not technically based, on groundwater Discharges.

The additional groundwater limits are:

- 1) Total Petroleum Hydrocarbons - 10.0 mg/L
- 2) Total BTEX (Benzene, toluene, ethylbenzene and xylenes) - 1.0 mg/L
- 3) Any EPA Priority Pollutant other than the technically based local limits indicated for metals -0.75 mg/L
- 4) Any organic solvent - 1 mg/L

These limits are readily achievable by activated carbon technology. The EPA has established that the Best Available Technology (BAT) economically achievable limit for volatile organic solvents and hydrocarbons associated with gasoline is five micrograms per liter (5 mg/L).

#### H. State Requirements and Limitations

State requirements and limitations on Discharges shall apply in any case where they are more stringent than Federal requirements and limitations or those in this Article.

No User shall ever increase the use of process, water or, in any way, attempt to dilute a Discharge as a partial or complete substitute for adequate treatment to achieve compliance with the limitations contained in the Categorical Pretreatment Standards, or in any other pollutant-specific limitation developed by the City or State.

Users who Discharge to the POTW a substance, which, if otherwise disposed of, would be Hazardous Waste are subject to the notification requirements as specified in Section 12-3-5(H).

### **Section 12-3-3 FEES**

The City may adopt charges and fees which may include:

- a) Fees for reimbursement for costs of setting up and operating the City's Pretreatment Program.
- b) Fees for monitoring, inspections and surveillance procedures.
- c) Fees for reviewing accidental discharge procedures and construction of facilities.
- d) Fees for permit applications.
- e) Fees for filing appeals.
- f) Fees for consistent removal (by the City) of pollutants otherwise subject to Pretreatment Standards.
- g) Other fees as the City may deem necessary to carry out the requirements contained herein.

The applicable charges and fees to be paid pursuant to this Article shall be set forth in the City's schedule of charges and fees. These fees relate solely to the matters covered by this Article and are separate from all other fees chargeable by the City.

### **Section 12-3-4 DISCHARGE PERMIT APPLICATION AND REQUIREMENTS**

#### **A. Wastewater Discharger**

It shall be unlawful to Discharge without a Permit to any natural outlet within the City, or in any area under the jurisdiction of the City, and/or to the POTW any Wastewater except as authorized by the City in accordance with the provisions of this Article.

#### **B. Wastewater Discharge Permits**

##### **1) Permit for Industrial Wastewater Discharge**

Except as hereafter provided, no Person shall Discharge or cause to be Discharged any Industrial Wastewaters directly or indirectly to sewerage facilities owned by the City without first obtaining a Permit. A Permit shall be obtained prior to commencement of any construction of new or modified facilities which will Discharge Industrial Wastewater to the sewer. A separate Permit shall be required for each Industrial Wastewater connection to a public sewer Discharging directly or indirectly to the City's sewerage system. The use of a sewer connection which is the subject of a Permit by anyone other than the Person named in the Permit is

prohibited. A Permit or Permit revision shall also be obtained by Industrial Dischargers who use Industrial Wastewater. Any person who operates a portable treatment system must receive written authorization from the Control Authority prior to commencement of operations at any industrial facility. Any Person operating a portable treatment system shall comply with all requirements established by the City for such systems. A Permit shall also be obtained by all Persons generating Industrial Wastewater.

The City may exempt certain classes of Dischargers of Industrial Wastewaters from the requirement to obtain a Permit if the quantity and quality of the Wastewater is determined to be unlikely to create significant effects on the City's sewerage system or produce violations of State law or Federal regulations. A Discharger will be exempt if they permanently plug all floor drains and other discharge lines other than domestic wastes.

The Permit may require pretreatment of Industrial Wastewaters before Discharge, restriction of peak flow Discharges, relocation of point of Discharge, consolidation of Wastewater Discharge connections, prohibition of Discharge of certain Wastewater components or characteristics, batch treatment and Discharge, restriction of Discharge to certain hours of the day, and such other conditions as may be required to effectuate the purposes of this Article.

Permits for facilities that receive for treatment, recycling or reclamation one or more Wastes generated off-site, may additionally require monitoring of influent wastestreams and may restrict the types and quantities of Wastes accepted.

A Permit shall be required but not limited to existing and new industries, car washes, vehicle service stations or repair garages, radiator shops, equipment shops, laundries, dry cleaners, hospitals, animal groomers, barber shops, beauty salons, restaurants, nursing homes, veterinary clinics, printers, grocery stores, mortuaries, cafeterias, x-ray labs, medical and dental facilities, printers, photo processors, and chemical manufacturers. These businesses, however, shall be responsible for insuring that the Industrial Wastewater Discharges originating from their operations are in compliance with the provisions set forth in this Article.

No Person shall Discharge Industrial Wastewaters in excess of the quantity or quality limits stated in the Permit. The violation of any Permit condition or requirement shall constitute a violation of this Article and shall be punishable as provided in this Article and by law. Any Person who, as defined by the Control Authority, significantly increases or decreases flow rate or significantly alters the quality of Wastewater Discharge shall immediately apply for and obtain a Permit revision. Any Discharger who modifies an industrial plant operating mode, process, or Wastewater treatment facility in a manner which, as defined by the Control Authority, would significantly increase or decrease the flow rate or significantly alter the quality of the Wastewater Discharge described in a Permit

shall first apply for and obtain a Permit revision. This Permit revision shall be obtained prior to the commencement of any construction of new plant facilities or operation of modified facilities by the Wastewater Discharger.

All Users proposing to connect to or to contribute to the POTW shall obtain a Wastewater Discharge Permit before connecting to or contributing to the POTW. All existing Users connected to or contributing to the POTW shall obtain a Wastewater Discharge Permit within thirty (30) days after the effective date of this Article.

2) Application & Baseline Monitoring Report

Users required to obtain a Industrial Wastewater Discharge Permit shall complete and file with the City, an application in the form prescribed by the City, and accompanied by a fee as prescribed in Section 12-3-3 of this Article. Existing Users shall renew their Industrial Wastewater Discharge Permit within thirty (30) days after the effective date of this Article, and proposed new Users shall apply at least ninety (90) days prior to connecting to or contributing to the POTW. In support of the application, the Categorical User shall submit, in units and terms appropriate for evaluation, the following Baseline Monitoring Report (BMR) information.

- a) Name, address, and location (if different from the address).
- b) The Standard Industrial Classification Code (SIC) number according to the Standard Industrial Classification Manual, Office of Management and Budget, 1972, as amended which best characterizes the activities undertaken on the User's property.
- c) (Whichever is applicable) name and address of any and all principals/owner/major shareholders of company; Articles of Incorporation; most recent Report of the Secretary of State; Business Licenses.
- d) Name and address of property owner, landlord and/or manager of the property.
- e) Wastewater constituents and characteristics including but not limited to those mandated in this Article as determined by a reliable analytical laboratory; sampling and analysis shall be performed in accordance with procedures established in Article 12-3-5(C)(6) and (7) and by the EPA pursuant to Article 304(g) of the Act and contained in the 40 CFR Part 136, as amended.
- f) Time and duration of Discharge.
- g) Average daily and thirty (30) minute peak Wastewater flow rates, including daily, monthly and seasonal variations if any from:
  - i) Regulated process streams, and
  - ii) Other streams requiring use of the Combined Waste Stream formula (Section 12-3-4(D)).
- h) A list of any environmental control permits held by or for the facility.

- i) Site plans, floor plans, mechanical and plumbing plans and details to show all sewers, sewer connections to the POTW, floor drains and appurtenances by the size, location and elevation.
- j) Description of activities; facilities and plant manufacturing processes on the premises including all materials which are or could be discharged.
- k) If applicable, a Wastewater treatment process flow diagram of associated unit processes and points of Discharge to the POTW from regulated processes.
- l) The nature and concentration of any Pollutants in the Discharge which are limited by any City, State, or Pretreatment Standards, and a statement regarding whether or not the Pretreatment Standards are being met on a consistent basis and if not, whether additional Operation and Maintenance (O&M) and/or additional Pretreatment is required for the User to meet applicable Pretreatment Standards.
- m) Results of sampling and analysis identifying the nature and concentration (or mass where required by Categorical Standards or the Control Authority) or regulated Pollutants in the Discharge from each regulated process. Both daily maximum and average concentration (or mass, where required) shall be reported. Samples shall be representative of daily operations.
- n) If additional pretreatment and/or O&M will be required to meet the Pretreatment Standards, the shortest schedule by which the User will provide such additional Pretreatment. The completion date in this schedule shall not be later than the compliance date established for the applicable Pretreatment Standard.

The following conditions shall apply to this schedule:

- 1) The schedule shall contain increments of progress in the form of dates for the commencement and completion of major events leading to the construction and operation of additional pretreatment required for the User to meet the applicable Pretreatment Standards (e.g., hiring an engineer, completing preliminary plans, completing final plans, executing contract for major components, commencing construction completing construction, etc.)
- 2) No increment referred to in paragraph (1) shall exceed nine (9) months.
- 3) Not later than fourteen (14) days following each date in the schedule and the final date for compliance, the User shall submit a progress report to the Control Authority including, as a minimum, whether or not it complied with the increment of progress to be met on such date and, if not, the date on which it expects to comply with this increment of progress, the reason for delay, and the steps being taken by the User to return the construction to the schedule established. In no event shall more

than nine (9) months elapse between such progress reports to the Control Authority.

- o) Each product produced by type, amount, process or processes and rate of production.
- p) Type and amount of raw materials processed (average and maximum per day).
- q) Number and type of employees, and hours of operation of plant and proposed or actual hours of operation of pretreatment system.
- r) Any other information as may be deemed by the City to be necessary to evaluate the permit application.
- s) The BMR will be reviewed by an Authorized Representative of the Industrial User and certified by a qualified professional.
- t) An Authorized Representative of the Industrial User will be required to sign the permit Application as prescribed in Section 12-3-5(E).

The City will evaluate the data furnished by the User and may require additional information. After evaluation and acceptance of the data furnished, the City may issue a Wastewater Discharge Permit subject to terms and conditions provided herein.

### 3) Modifications

Within ninety (90) days of the promulgation of a Categorical Pretreatment Standard, the Wastewater Discharge Permit of Users subject to such standards shall be revised to require compliance with such standard within the time frame prescribed by such standard. Where a User, subject to a Federal Categorical Pretreatment Standard, has not previously submitted an application for a Wastewater Discharge Permit as required by Section 12-3-4(B)(2), the User shall apply for a Wastewater Discharge Permit within ninety (90) days after the promulgation of the applicable Federal Categorical Pretreatment Standard. In addition, the User with an existing Wastewater Discharge Permit shall submit to the Control Authority within ninety (90) days after the promulgation of an applicable Categorical Pretreatment Standard the information required by paragraph (e), (f), and (g) of Section 12-3-4(B)(2).

The Control Authority may modify a Permit for Categorical Industrial Users or Noncategorical Industrial Users to make the corrections or allowances for changes in the permitted activity listed in this Article. All Permit modifications are subject to a thirty (30) day public notice followed by a public hearing. Any Permit modification not processed as a minor modification under this Article must be made for cause. Minor modifications may only:

- a) Correct typographical errors;
- b) Change in interim compliance date in a schedule of compliance, provided the new date is not more than ninety (90) days after the date specified in

the existing Permit and does not interfere with attainment of the final compliance date requirement; or

- c) Allow for change in ownership or operational control of a facility where the Control Authority determines that no other change in the Permit is necessary, provided that a written agreement containing a specific date for transfer of Permit responsibility, coverage and liability between the current and new Permittee has been submitted to the Control Authority;
- d) Except as provided for above, a Permit may be transferred by the Permittee to new owner or operator only if the Permit has been modified and reissued, or a minor modification made to identify the new Permittee and incorporate such other requirements as may be necessary under this Ordinance.

4) Conditions

Wastewater Discharge Permits shall be expressly subject to all provisions of this Article and all other applicable regulations, User charges and fees established by the City. Permits may contain the following:

- a) The unit charge or schedule of User charges and fees for the Wastewater to be discharged to a community sewer;
- b) Limits on the average and/or maximum Wastewater constituents and characteristics;
- c) Limits on average and maximum rate and time of Discharge or requirements for flow regulations and equalization;
- d) Requirements for installation and maintenance of inspection and sampling facilities;
- e) Specifications for monitoring programs which may include sampling locations, frequency of sampling, number, types and standards for tests and reporting schedule;
- f) Compliance schedules;
- g) Requirements for submission of technical reports or Discharge reports (see Section 12-3-5);
- h) Requirements for maintaining and retaining plant records relating to Wastewater Discharge as specified by the City, and affording City access thereto;
- i) Requirements for notification of the City or any new introduction of Wastewater constituents or any substantial change in the volume or character of the Wastewater constituents being introduced into the POTW;
- j) Requirements for notification of Slug Loads as per Sections 12-3-2(C) and (D).

5) Duration

Permits shall be issued for a specified time period of one (1) year minimum and in no case more than five (5) years. The User shall submit a letter of renewal with appropriate fees thirty (30) days before the existing Permit

expires. The terms and conditions of the Permit may be subject to modification by the City during the term of the permit as limitations or requirements as identified in Section 12-3-2 are modified or other just cause exists. The User shall be informed of any proposed changes in his Permit at least thirty (30) days prior to the effective date of change. Any changes or new conditions in the Permit shall include a reasonable time schedule for compliance.

6) Transfer

Wastewater Discharge Permits are issued to a specific User for a specific operation. A Wastewater Discharge Permit shall not be reassigned or transferred or sold to a new Owner, new User, different premises, or a new or changed operation without the approval of the City. The Control Authority may require modification or reissuance of the Permit to change the name of the User and incorporate such other requirements as may be necessary under this Article.

7) Appeal Procedures

Any Person aggrieved by any decision of the Control Authority with respect to the issuance of the Wastewater Discharge Permit may appeal to the City Council by filing with the Control Authority. The Council shall thereupon fix a time and place for hearing such appeal. The Control Authority shall thereupon give notice to such Person of the time and place of hearing by serving it personally or by depositing it in the United States Post Office at Coolidge, Arizona, postage prepaid, addressed to such person at his last known address.

8) Comment Period

The Permit holder may comment in writing to the Control Authority within thirty (30) days from the date of the mailing of the Permit to the holder.

9) Reopener Clause

The Permit shall be modified to incorporate an applicable standard or limitation which is promulgated or approved after the Permit is issued if that standard or limitation is more stringent than the limitation in the Permit, or controls a pollutant not limited in the Permit.

10) Termination of Permits

The following are causes for terminating a Permit during its term, or for denying a Permit renewal application:

- a) Noncompliance by the Permittee with any condition of the Permit;

- b) The Permittee's failure in the application or during the Permit issuance process to disclose fully all relevant facts, or the Permittee's misrepresentation of any relevant facts at any time;
- c) A determination that the permitted activity endangers human health or the environment and can only be regulated to acceptable levels by Permit modification or termination; or
- d) A change in any condition that requires either a temporary or a permanent reduction or elimination of any Discharge controlled by the Permit.

C. Deadline For Compliance With Categorical Standards

Compliance by existing sources with Categorical Pretreatment Standards shall be within three (3) years of the date the pretreatment Standard is effective unless a shorter compliance time is specified in the appropriate subpart of 40 CFR Chapter I, Subchapter N. Existing sources which become Users subsequent to promulgation of an applicable Categorical Pretreatment Standard shall be considered existing Users except where such sources meet the definition of a New Source. New Sources shall install and have in operating condition, and shall "start-up" all pollution control equipment required to meet applicable Pretreatment Standards before beginning to Discharge. New Sources must meet all applicable Pretreatment Standards within the shortest feasible time, not to exceed ninety (90) days.

D. Combined Waste Streams

Where a Categorical User's regulated Wastewaters mix with other regulated or unregulated Wastewaters of the Categorical User prior to the designated sampling manhole (i.e., sample point), alternative Pollutant limits may be derived by the Control Authority using the following Combined Wastewater Formula:

Where:

$$C_T = \frac{\left[ \sum_{i=1}^N C_i * F_i \right] \times (F_T - F_D)}{\left[ \sum_{i=1}^N F_i \right] \times F_T}$$

$C_T$  = the alternative concentration limit for the combined wastestream

$C_i$  = the Categorical Pretreatment Standard limit for a Pollutant in the regulated stream i.

$F_i$  = the average daily flow (at least a 30-day average) of stream i to the extent that it is regulated for such Pollutant.

$F_D$  = the average daily flow (at least a 30-day average) from boiler blowdown streams, non-contact cooling streams, sanitary wastestreams, and demineralizer back wash streams where such streams are not regulated by a Categorical Pretreatment Standard.

$F_T$  = the average daily flow (at least a 30-day average) through the combined treatment facility (includes  $F_i$  and  $F_D$ ).

$N$  = the total number of regulated streams

The Categorical User shall comply with the alternative Pollutant limit fixed by the Control Authority until the Control Authority modifies the limits or approves a User modification request. Modification is authorized whenever there is a material or significant change in the values used in the calculation to fix alternative limits for the regulated Pollutant.

An alternative Discharge limit may not be used if the alternative limit is below the analytical detection limit for any of the regulated Pollutants. As a result, the Combined Wastewater Formula cannot be used, and wastestreams must be segregated.

E. Monitoring Facilities

The City shall require to be provided and operated, at the Categorical Industrial User and Significant Industrial User's own expense, monitoring facilities to allow inspection, sampling, and flow measurement of the Building Sewer and/or internal drainage systems. The monitoring facility should normally be situated on the Categorical User and Significant Industrial User's premises, but the City may, when such a location would be impractical or cause undue hardship on the User, allow the facility to be constructed in the public street or sidewalk area and located so that it will not be obstructed by landscaping or parked vehicles.

As a condition of the Permit, all discharged Industrial Wastewater shall pass through a designated sampling location. There shall be ample room in or near such sampling manhole or facility to allow accurate flow proportional sampling and preparation of samples for analysis. The facility flow metering equipment shall be maintained at all times, in a safe and proper operating condition at the expense of the User.

Whether constructed on public or private property, the sampling and monitoring facilities shall be provided in accordance with the City's requirements and all applicable local construction standards and specifications. Construction shall be completed within ninety (90) days following written notification by the City.

F. Pretreatment

The Control Authority may require an existing or new User to provide Wastewater Pretreatment systems or facilities when the Control Authority determines that it is necessary to treat industrial flows prior to Discharge to the sewer, to restrict or prevent the Discharge to the sewer of certain waste constituents, to distribute any peak Discharges of Industrial Wastewaters more equally over a longer time period, to comply with any State Discharge or Pretreatment requirements, to comply with Pretreatment Standards, or to accomplish any Pretreatment result required by the Control Authority in order to effectuate the purposes of this Article. Any Pretreatment facilities required by the Control Authority shall be provided and maintained at the expense of the User. Pretreatment systems or facilities shall not be installed or operated without the prior written approval of the Control Authority. The requirement for such approval, however, shall not absolve the User of the responsibility for meeting any industrial Wastewater Discharge limitation imposed by the City or by the State or Federal government if inspections or other information reveal that Pretreatment systems and facilities are not installed or operated in conformance with the plans and procedures submitted to and approved by the City, or are not operated in compliance with the Discharge requirements and limitations imposed by the City, the User shall make such modifications as are necessary to meet such requirements. Users who have the potential to Discharge significant levels of flammable substances, as defined by the Control Authority, shall install and maintain approved combustible gas detection meter systems. All Pretreatment systems determined by the Control Authority to require engineering design shall have plans prepared and signed by a civil, chemical, or mechanical engineer registered in the State of Arizona or a registered engineer of other suitable discipline as determined by the Control Authority.

The Control Authority may require any User discharging into the POTW to install and maintain, on their property and at their expense, a suitable storage and flow control facility to ensure equalization of flow. A Wastewater Discharge Permit may be issued solely for flow equalization.

Gravity separation interceptors, equalizing tanks, neutralization chambers, control manholes or other monitoring facilities, and spill containment systems, may be required by the Control Authority as he deems necessary to remove prohibited settleable and floatable solids, to equalize Wastewater streams varying greatly in quantity and/or quality, to neutralize low or high pH Wastewater, to facilitate inspection, flow measurement and sampling, and to prevent Discharge to the sewer of quantities of prohibited or restricted materials resulting from a rupture of a tank or pipeline or other such accidental occurrences. Spill containment systems shall conform to guidelines established by the Control Authority. Floor drains from existing or new service garages, repair shops, equipment shops and vehicular maintenance facilities are not allowed.

The City shall annually publish in the largest daily Coolidge newspaper a list of Users which were in significant noncompliance. The names of the Industrial Users and their violations will be published. The status of the noncompliance and the enforcement action will be noted.

G. Confidential Information

Except for data determined to be confidential under 40 CFR Part 2, information and data on a User obtained from reports, questionnaires, Permit applications, Permits, effluent data and monitoring programs and from inspections shall be available to the public or other governmental agency without restriction unless the User specifically requests and is able to demonstrate to the satisfaction of the City that the release of such information would divulge information, processes or methods of production entitled to protection as trade secrets of the User.

When requested by the Person furnishing a report, the portions of a report which might disclose trade secrets or secret processes shall not be made available upon written request to governmental agencies for uses related to this Article, the POTW Permits, and/or the Pretreatment programs; provided, however, that such portions of a report shall be available for use by the State or any State agency in judicial review or enforcement proceedings involving the Person furnishing the report. Wastewater constituents and characteristics will not be recognized as confidential information.

Information accepted by the City as confidential shall not be transmitted to the general public by the City until and unless a ten (10) day notification is given to the User and approved by the User.

This Article shall not be construed to prohibit the City from disclosing data obtained pursuant to the pretreatment program to the EPA or ADEQ. The EPA or ADEQ shall have the right to obtain all such data regardless of whether general public access could be restricted pursuant to this Article.

H. Response to Permit Application and Questionnaire Forms

Any User shall reply to the Control Authority and submit any Permit Application, Questionnaire form, Baseline Monitoring Report (BMR), and any other related lists, plans, analyses, flow information or other materials, as requested by the Control Authority, within thirty (30) days of receipt of any such forms or requests.

I. Separation of Wastes

All domestic Wastewaters from rest rooms, showers, drinking fountains, and similar sources shall be kept separate from all Industrial Wastewaters until the Industrial Wastewaters have passed through any required Pretreatment facility or

device and the Industrial Wastewater monitoring facility. The Control Authority may waive this condition and may use the Combined Wastewater Formula to determine Discharge Permit limits.

J. Grease Interceptors and Gravity Separating Devices

1) Restaurants (Existing and New)

All restaurants or food service facilities, shall install an approved grease interceptor which is of sufficient size so as to prevent excessive Discharges of grease into the City's sewerage system. The grease interceptor shall be easily accessible for inspection by the Control Authority. Exceptions to the installation of a grease interceptor shall be determined on a case-by-case basis by the Control Authority. The Control Authority shall take into account the following items when determining exceptions:

- a) Size of restaurant;
- b) Meals served per day;
- c) Daily water usage based upon water bills;
- d) Seating capacity;
- e) Dishwasher and garbage disposal facilities on-hand.

2) Car Washes, Radiator Shops, Vehicle Service Stations, and Garages (Existing and New)

Car washes will be required to install mud pits and a gravity separating device designed to prevent the Discharge of sand, silt, oil and grease to the City's sewerage system. Radiator shops, vehicle service stations, and garages will be required to plug floor drains and remove sinks in the service bays and repair shops.

3) Laundries and Dry Cleaners (Existing and New)

After the effective date of this Article, all laundries and dry cleaners or similar establishments shall install lint filters and a gravity separating device of a size and design approved by the Control Authority. They shall also install any other Pretreatment facility required by the Control Authority to ensure their compliance with all requirements and specifications of this Article. Establishments in existence prior to the effective date of this Article shall install an appropriate Pretreatment system if in the opinion of the Control Authority, the system is warranted.

4) Existing Gravity Separating Device and Grease Interceptors

If the Control Authority finds that a grease interceptor or gravity separating device installed prior to the effective date of this Article is incapable of retaining

adequately the grease or sand and oil in the Wastewater flow from a service station, car wash or restaurant or similar establishment, the Control Authority shall give the proprietor a written notice requiring that an adequate interceptor or gravity separating device be installed within ninety (90) days.

5) Approved Designs

The design of Grease Interceptors and Gravity Separating Devices shall follow the currently adopted Plumbing Code. The User shall submit a proposed design to the Control Authority for review and approval.

6) Maintenance of Grease Interceptors and Gravity Separating Devices

Any grease interceptor or gravity separating device required by this Article shall be readily accessible for inspection and properly maintained to assure that the accumulations of grease or sand and oil do not impair its efficiency or pass out with the effluent. All Users required to use and maintain a grease interceptor or gravity separating device shall maintain a maintenance record. This record shall include the date, the name of the person who cleaned it and the disposal site of the waste. The report shall be reviewed by the Control Authority at each routine inspection. Persons hauling Wastes and Wastewater removed from these interceptors or gravity separating devices shall be registered to do so by the proper permitting agency. An interceptor or gravity separating device shall not be considered properly maintained if material accumulations total more than twenty-five percent (25%) of the operating fluid capacity.

K. Wastewater Flow Measurement Equipment

Categorical Users and Significant Industrial Users discharging process Wastewater to the POTW (excluding sanitary, noncontact cooling, and boiler blowdown Wastewater) shall furnish, install and properly maintain an open channel Wastewater flow measurement system. Users that have unmetered sources of water supply, excessive non-sewered losses, or highly fluctuating Wastewater Discharge may also be required to install flow measurement (FM) systems. The FM system shall be capable of supplying a flow proportioned signal as required by the City and may include automatic flow proportional sampling equipment and automatic Wastewater analysis and data recording equipment. The FM shall be used to evaluate the quantity and quality of Industrial Wastewater Discharge to the public sewer.

Categorical Users and Significant Industrial Users required to install a FM system shall propose a suitable location and design for the FM system. Upon approval of the FM system by the City, the User shall perform Wastewater monitoring at this facility and shall agree to allow the use of this system for Industrial Wastewater monitoring by the City. The FM system shall be located so as to be safe and accessible to City employees, and shall be constructed in accordance with the

City's requirements, and all applicable City building codes. Plans for all FM systems determined by the Control Authority to require engineering design, shall be prepared and signed by a registered civil, chemical or mechanical engineer.

The User's FM system shall be subject to inspection by the City at any time. FM systems shall be properly operated, kept clean, and maintained in good working order at all times by the User.

If the Control Authority requires or the Owner chooses to install a flow meter (FM), the FM system must be hydraulically calibrated once every two (2) years and a photocopy of the calibration must be sent to the Control Authority. Flow charts are to be held by the User for a minimum of three (3) years and made available to the City upon request. Totalizer readings shall be recorded daily and twice a year a report shall be submitted to the Control Authority showing total daily flows and total monthly flow.

L. Combustible Gas Detection Meter Systems

Users who have the potential to Discharge significant levels of flammable substances exceeding five percent (5%) of the Lower Explosive Limit (LEL) shall install and maintain approved combustible gas detection meter systems. In the event LEL levels exceed ten percent (10%), installed combustible gas meters shall be equipped to activate an alarm and discontinuation of the Discharge. All combustible meters determined by the Control Authority to require engineering design shall have plans prepared and signed by a registered civil, chemical, or mechanical engineer.

Calibration of combustible gas detection meter systems must be certified before startup. Certified annual meter calibrations for existing and new meters are also required from the date of system startup for new installations or the initial calibration for existing systems.

M. Waste Minimization Program

The RCRA (Resource Conservation and Recovery Act) regulations require that generators of Hazardous Waste "have a program in place to reduce the volume and toxicity of waste generated to the extent that is economically practical." A Waste minimization program is an organized, comprehensive, and continual effort to systematically reduce Waste generation. Generally, a program is established for the organization as a whole. Its components shall include specific Waste minimization projects and shall use Waste minimization assessments as a tool for determining where and how Waste can be reduced. A Waste minimization program shall reflect the goals and policies for Waste minimization set by the organization's management. Also, the program shall be an ongoing effort and strive to make Waste minimization part of the company's operating philosophy.

Users who Discharge to the POTW with a substance, which, if otherwise disposed of, would be a Hazardous Waste are subject to the notification requirements as specified in Section 12-3-5(H).

N. Duty to Comply

The User must comply with all conditions of the Permit. Any Permit noncompliance constitutes a violation of the Article and is grounds for enforcement action as provided in Section 12-3-6.

The User shall comply with effluent standards or prohibitions established under Article 307(a) of the Clean Water Act for toxic Pollutants within the time provided in the regulations that establish these standards or prohibitions, even if the Permit has not yet been modified to incorporate the requirement.

O. Duty to Mitigate

The User shall take all reasonable steps to minimize or prevent any Discharge in violation of the Permit which has a reasonable likelihood of adversely affecting human health or the environment.

P. Proper Operation and Maintenance

The User shall at all times properly operate and maintain all facilities and systems of treatment and control (and related appurtenances) which are installed or used by the User to achieve compliance with the conditions of the Permit. Proper operation and maintenance also includes adequate laboratory controls and appropriate quality assurance procedures. This provision requires the operation of back-up or auxiliary facilities or similar systems which are installed by a User only when the operation is necessary to achieve compliance with conditions of the Permit.

Q. Permit Actions

The Permit may be modified, suspended or revoked for cause. The filing of a request by the User for a Permit modification, reissuance, or a notification of planned changes or anticipated noncompliance does not change the current Permit condition.

R. Duty to Provide Information

The User shall furnish to the City, within a reasonable time, any information which the City may request to determine whether cause exists for modifying, revoking and reissuing, or to determine compliance with the Permit. The User shall also furnish to the City upon request, copies of records required to be kept by the Permit.

S. Civil and Criminal Liability

Except as otherwise provided in Sections 12-3-2(B) and 12-3-2(D) nothing in the Permit shall be construed to relieve the Permittee from administrative, civil or criminal penalties for noncompliance.

**SECTION 12-3-5 MONITORING, REPORTING, NOTIFICATION AND INSPECTION REQUIREMENTS**

A. Reporting Requirements For Permittee

1) Compliance Date Report for Categorical Users (Existing and New)

Within ninety (90) days following the date for final compliance with applicable Categorical Pretreatment Standards or, in the case of a New Source, following commencement of the introduction of Wastewater into the POTW, any Industrial User subject to Pretreatment Standards and Pretreatment Requirements shall submit to the Control Authority a report. The report shall be certified by a qualified professional. The report shall state whether the applicable Pretreatment Standards or Pretreatment Requirements are being met on a consistent basis and, if not, what additional Operation & Maintenance and/or Pretreatment is necessary to bring the User into compliance with the applicable Pretreatment Standards or Pretreatment Requirements. This statement shall be signed by an Authorized Representative of the Categorical User using the certification presented in Section 12-3-5(E).

New Sources shall install and have in operating condition, and shall "startup" all pollution control equipment required to meet applicable Pretreatment Standards before beginning to Discharge. Within the shortest feasible time, not to exceed ninety (90) days, New Sources, must meet all applicable Pretreatment Standards.

For Categorical Users subject to equivalent mass or concentration limits established by the Control Authority, this report shall contain a reasonable measure of the User's long term production rate. For all other Industrial Users subject to Categorical Pretreatment Standards expressed in terms of allowable Pollutant Discharge per unit of production (or other measure of operation), this report shall include the User's actual production during the appropriate sampling period.

2) Periodic Compliance Reports For Significant Users (Existing and New)

a) All Categorical Users and Significant Industrial Users subject to a Pretreatment Standard, after the compliance date of such Pretreatment Standard or, in the case of a New Source, after commencement of the

Discharge into the POTW, shall submit to the Control Authority during the months of June and December, unless required more frequently in the Pretreatment Standard or by the Control Authority, a report indicating the nature and concentration, of Pollutants in the effluent which are limited by such Pretreatment Standards. In addition, this report shall include a record of measured or estimated average and maximum daily flows for the reporting period for the Discharge reported in the User's Permit. This report shall be signed by an Authorized Representative of the Significant User using the declaration indicated in Section 12-3-5(E).

- b) The Control Authority may impose mass limitations on Users which are using intentional or unintentional forms of dilution (i.e., combination of waste streams, boiler blowdown, etc.) to meet applicable Pretreatment Standards or Pretreatment Requirements, or in other cases where the imposition of mass limitations are appropriate. In such cases, the report required by subparagraph (a) above shall indicate the mass of Pollutants regulated by Pretreatment Standards in the effluent of the User. These reports shall contain the results of sampling and analysis of the Discharge, including the flow and the nature and concentration, or production and mass where requested by the Control Authority, of Pollutants contained therein which are limited by the applicable Pretreatment Standards. The frequency of monitoring shall be prescribed in the applicable Pretreatment Standard. All analysis shall be performed in accordance with procedures established by 40 CFR Part 136.
- c) For Categorical Users and Significant Industrial Users subject to equivalent mass or concentration limits established by the Categorical Pretreatment Standards or the Control Authority, the report required by part (1) of this subsection shall contain a reasonable measure of the User's long term production rate. For all other Industrial Users subject to Categorical Pretreatment Standards expressed only in terms of allowable Pollutant Discharge per unit of production (or other measure of operation), the report required by paragraph part (1) of this subsection shall include the User's actual average production rate for the reporting period.

B. Inspection

The Control Authority shall inspect the facilities of any User to ascertain whether the purpose of this Article is being met and all requirements are being complied with. Persons or occupants of premises where Wastewater is created or discharged shall allow the City or its representative ready access at all reasonable times to all parts of the premises for the purposes of inspection, sampling, examining or copying any records that must be kept under conditions of the Permit, and/or in the performance of any of their duties. Inspection may include any facilities, equipment (including monitoring and control equipment), practices, or operations regulated or required under the Permit. The City will randomly inspect and sample all Categorical Users and Significant Industrial Users at least once a year. All associated sampling costs will be incurred by the User.

The Control Authority will randomly inspect Industrial Users and conduct surveillance activities in order to identify, independent of information supplied by Industrial Users, occasional and continuing noncompliance with Pretreatment Standards. The City will evaluate, at least once every two (2) years, whether each such Categorical Users and Significant Industrial User need a plan to control slug Discharges as set forth in Section 12-3-2(C).

The Control Authority shall have the right to set up on the User's property such devices as are necessary to conduct sampling inspection, compliance monitoring and/or metering operations for any substances or parameters at any location for the purposes of assuring Permit compliance or as otherwise authorized by the Article.

Where a User has security measures in force which would require proper identification and clearance before entry into their premises, the User shall make necessary arrangements with their security guards so that upon presentation of suitable identification, personnel from the City will be permitted to enter, without delay, for the purposes of performing their specific responsibilities.

C. Monitoring, Sampling, and Records

- 1) All Categorical Users and Significant Industrial Users shall monitor for Wastewater constituents on a monthly basis as may be specified by the Control Authority or required under applicable State law, federal Pretreatment Standards, or Federal regulations. Categorical Users shall monitor for all Federal limited parameters at least twice a year and for all Clean Water Act Priority Pollutants at least once per year. Wastewater flow measurements and samples shall be collected and analyzed in a State certified laboratory. The laboratory results shall be submitted with the monthly report in the month they are received. Laboratory analysis and associated sampling costs will be paid for by the User.
- 2) Samples and measurements taken for the purpose of monitoring shall be representative of the monitored activity. Samples should be taken immediately downstream from Pretreatment facilities if such exist or immediately downstream from the process if no Pretreatment exists. If other Wastewaters are mixed with the regulated Wastewater prior to Pretreatment, the User should measure the flows and concentrations necessary to allow use of the combined wastestream formula of Section 12-3-4(D) in order to evaluate compliance with the Pretreatment Standards. Where an alternate concentration or mass limit has been calculated in accordance with Section 12-3-4(D), this adjusted limit along with the supporting data shall be submitted to the Control Authority.

- 3) The User shall retain records of all monitoring information including all calibration and maintenance records and all original strip chart recordings for continuous monitoring instrumentation, copies of all reports required by the Permit, and records of all data used to complete the application for the Permit, for a period of at least three (3) years from the date of the sample, measurement, report or application. This period may be extended by request of the Control Authority (i.e., during unresolved litigation).
- 4) Records of monitoring information shall include:
  - a) The date, exact place, and time of sampling or measurements;
  - b) The individual(s) who performed the sampling or measurements;
  - c) The date(s) analyses were performed;
  - d) The individual(s) who performed the analyses;
  - e) The analytical techniques or methods used; and
  - f) The results of such analyses.
- 5) Monitoring must be conducted according to test procedures approved under 40 CFR Part 136, unless other test procedures have been specified in the Permit.
- 6) A grab sample must be used for pH, cyanide, total phenols, oil and grease, sulfide, and volatile organics unless otherwise specified in the Permit. For all other Pollutants, 24-hour composite samples must be obtained through flow proportional composite sampling techniques where feasible. As specified in the User's Permit, the Control Authority may permit twenty-four (24) hour time composite sampling where flow proportioned composite sampling for any User that demonstrates flow proportional sampling is infeasible.
- 7) All samples shall be analyzed in conformance with A.R.S. §36-495 Environmental Laboratories requirements.
- 8) A Categorical User or Significant Industrial User who independently monitors any Pollutant more frequently than as conducted by the Control Authority and required and specified by the Control Authority, shall include the results of this monitoring in the required reports due in June and December.
- 9) If sampling performed by Categorical User and Significant Industrial Users indicates a violation, the User shall notify the Control Authority within twenty-four (24) hours of becoming aware of the violation. The User shall also repeat the sampling and analysis and submit the results of the repeat analysis to the Control Authority within thirty (30) days after becoming aware of the violation unless the Control Authority performs sampling between the time when the User performs its initial sampling and the time when the User receives the results of this sampling.

#### D. Reporting Requirements

An Authorized Representative of the User will be required to sign all reports submitted by the User as prescribed in Section 12-3-5(E).

##### 1) Planned Changes

The Permittee shall give notice to the Control Authority as soon as possible of any planned physical alterations or additions to the permitted facility. Notice is required only when:

- a) The alteration or addition to a permitted facility may meet one of the criteria for determining whether a facility is a New Source; or,
- b) Any anticipated facility expansions, production increases, or process modifications which will result in new, different or increased Discharges of Pollutants must be reported by submission of a new Permit application or, if such changes will not violate the Discharge limitations specified in the Permit, by notice to the Control Authority.
- c) Following such notice, the Permit may be modified to specify and limit any Pollutants not previously limited or change existing limits or other requirements. Approval must be obtained prior to any new Discharges. The User shall allow ninety (90) days for review.

##### 2) Anticipated Noncompliance

The User shall give advance notice to the Control Authority of any planned changes in the permitted facility or activity which may result in noncompliance with Permit requirements.

##### 3) Self-Monitoring Reports

Monitoring results shall be reported at the intervals specified in the Permit.

- a) Monitoring results must be reported each month;
- b) If the User monitors any Pollutant more frequently than required by the Permit, using test procedures approved under 40 CFR Part 136 or as specified in the Permit, the results of this monitoring shall be included in the calculation and reporting of the data;
- c) Calculations for all limitations which require averaging of measurements shall utilize an arithmetic mean.
- d) The User shall submit the results of sampling and analysis identifying the nature and concentration (or mass where required by the Categorical Standard or the Control Authority) of regulated Pollutants in the Discharge from each regulated process. Both daily

maximum and average concentration (or mass, where required) shall be reported. The sample shall be representative of daily operations.

4) Compliance Schedules

Reports of compliance or noncompliance with, or any progress reports on, interim final requirements contained in any compliance schedule of the Permit shall be submitted no later than fourteen (14) days following each schedule date.

5) Intermittent Discharge Monitoring

If the Discharge is intermittent rather than continuous, then on the first day of each such intermittent Discharge, the User shall monitor and record data for all the characteristics listed in the monitoring requirements, after which the frequencies of analysis listed in the monitoring requirements shall apply for the duration of each such intermittent Discharge. In no event shall the User be required to monitor and record data more often than twice the frequencies listed in the monitoring requirements.

E. Signatory Requirement

All applications, reports, or information submitted to the City or its Control Authority shall be signed and certified by an Authorized Representative of the User. These submittals shall be subject to the provision of 18 U.S.C. Article 1001, relating to false statements and fraud and the provisions of Article 309(c)(2) of the Clean Water Act governing false statements. Each submittal shall contain the following completed certification:

"I certify under penalty of law that this document and all attachments were prepared under my direction or supervision in accordance with a system designed to assure that qualified personnel properly gather and evaluate the information submitted. Based on my inquiry of the person or persons who manage the system, or those persons directly responsible for gathering the information, the information submitted is, to the best of my knowledge and belief, true, accurate, and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fine and imprisonment for knowing violations."

Executed on the \_\_\_\_ day of \_\_\_\_\_ at \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_ [Signature]  
\_\_\_\_\_  
\_\_\_\_\_ [Printed or Typed Name]  
\_\_\_\_\_ [Title]

F. Notification of Bypass

1) Anticipated Bypass

If the Permittee knows in advance of the need for a Bypass, it shall submit prior oral and written notice to the Control Authority, if possible at least ten (10) days before the date of the Bypass.

2) Unanticipated Bypass

The Permittee shall submit notification of an unanticipated Bypass as required in Section 12-3-2(D).

G. Notification of Spill or Slug Loading

The Permittee shall submit notification of a spill or Slug Loading to the sewerage system as required in Section 12-3-2(D).

H. Notification of Hazardous Waste Discharge

1) All Users shall notify the Control Authority, the EPA Regional Waste Management Division Director, and State Hazardous Waste authorities in writing of any Discharge into the POTW of a substance, which, if otherwise disposed of, would be a Hazardous Waste under 40 CFR Part 261. Such notification must include:

- a) The name of the Hazardous Waste as set forth in 40 CFR Part 261;
- b) The EPA Hazardous Waste number;
- c) The type of Discharge (continuous, batch or defined other); and
- d) Certification that the User has a program in place to reduce the volume and toxicity of Hazardous Wastes generated to the degree it has determined to be economically practical.

2) If the User discharges more than 100 kilograms (220 pounds) of such Waste per calendar month to the POTW, the notification shall also contain the following information to the, extent such information is known and readily available to the User:

- a) An identification of the hazardous constituents contained in the Wastes;
- b) An estimation of the mass and concentration of such constituents in the wastestream discharged during that calendar month; and
- c) An estimation of the mass of constituents in the wastestream expected to be discharged during the following twelve (12) months.

- 3) All notifications must take place within one hundred eighty (180) days of the effective date of this Article. Users who commence discharging after the effective date of the Article shall provide the notification no later than one hundred eighty (180) days after the Discharge of the listed or characteristic Hazardous Waste. Any notification under this paragraph need be submitted only once for each Hazardous Waste discharged.
- 4) Those Users who Discharge more than 15 kilograms (33 pounds) of non-acute Hazardous Wastes as specified in 40 CFR 261.30(d) and 261.33(e) or any quantity of acute Hazardous Wastes as specified in 40 CFR 261.30(d) and 261.33(e) are required to submit a one-time notification as described in this Article.
- 5) Subsequent months during which the User discharges more than such quantities, as indicated in this Article, of any Hazardous Waste do not require additional notification.

I. Notification of Changed Discharge

All Users shall promptly notify the Control Authority in advance of any substantial change in volume or character of Pollutants in their Discharge, including the listed or characteristic Hazardous Waste for which the User has submitted initial notification under Section 12-3-5(H).

J. Other Noncompliance Notification

The User shall report all instances of noncompliance at the time monitoring reports are submitted. The reports shall contain the information listed in Section 12-3-2(D).

**SECTION-12-3-6 ENFORCEMENT**

To ensure that the City's POTW, facilities and treatment processes are protected and are able to operate with the highest degree of efficiency, and to protect the public health and environment, specific enforcement provisions must be adopted to govern the Discharges to the City's system by Users. Requirements of this Article are federally enforceable.

A) Notification of Violation

Whenever the City finds that any User has violated or is violating Wastewater Discharge Permit terms, conditions, limitations, requirements, and instructions, including any Categorical Pretreatment Standards or any effluent limits adopted by the City or required by State law, or any prohibition, limitation of requirements contained within this Article, the City may serve upon such person a written Notification of Violation (NOV) stating the nature of the violation. The NOV shall be served either personally or by certified mail to the individual (by title)

responsible for each type of response, return receipt requested. The NOV may include but not be limited to:

- 1) An Order for Corrective Action;
- 2) A schedule to attain compliance;
- 3) An Order to Show Cause either in writing or in person;
- 4) An Order to Cease Discharge;
- 5) A suspension or Revocation of the User's Permit; and/or
- 6) An Order to Respond in writing to the allegations.

Additional orders and changes to a suspension or revocation may follow the initial order at the discretion of the City or as additional information becomes available. Within thirty (30) days of the date of the notice, a plan for the satisfactory correction thereof or appropriate response shall be submitted to the City by the User.

Upon review of a response to NOV, the City may accept the response as complete and satisfactory, or incomplete and unsatisfactory.

If the NOV is complete and satisfactory, the City shall consider the issue regarding the NOV closed. The City will notify the User in writing regarding the closure of the NOV. The closure of the NOV does not preclude further enforcement action.

If the NOV is incomplete and unsatisfactory, the City may, but not be limited to: require any nonsubmitted or additional information, suspend or revoke the User's Permit, order the User to cease Discharge, and/or seek civil penalties as they apply to the violations.

B. Notification of Permit Suspension

The City may suspend the Wastewater treatment service and/or a Wastewater Discharge Permit when such suspension is necessary, in the opinion of the City, in order to stop an actual or threatened Discharge which presents or may present: an imminent or substantial endangerment to the health or welfare of persons, to the environment; causes harm to or passthrough of the POTW; or causes the City to violate any condition of its Permits.

Any Person notified of a suspension of the Wastewater treatment service and/or the Wastewater Discharge Permit shall immediately stop or eliminate the Discharge. In the event of a failure of the Person to comply voluntarily with the suspension order, the City shall take such steps as deemed necessary including immediate severance of the sewer connection, to prevent or minimize damage to the POTW system or endangerment to any individuals. A detailed written statement submitted by the User describing the causes of the harmful Discharge

and the measures taken to prevent any future occurrence shall be submitted to the City within five (5) days of the date of occurrence.

The City shall, by written statement, reinstate the Wastewater Discharge Permit and/or the Wastewater treatment service upon proof of the elimination of the non-complying Discharge. Costs incurred by the City in suspending the Permit and disconnecting the industrial sewer shall be paid by the User before reinstatement of the Permit.

C. Revocation of Permit

The City may revoke a Permit, in accordance with the procedures of Section 12-3-6 upon finding that the Permit holder has violated any provisions of this Article which includes but is not limited to:

- 1) Failure to factually report the Wastewater constituents and characteristics of the User's Discharge;
- 2) Failure to report significant changes in operations, or Wastewater constituents and characteristics that might impact the User's Discharge;
- 3) Refusal of reasonable access to the User's premises for the purpose of inspection or monitoring; or,
- 4) Violation of conditions of the Permit.

Any Permit holder whose Permit has been revoked shall immediately cease all Discharge of any Industrial Wastewater to the POTW.

In the event of a failure of the User to comply voluntarily with the notification of Permit revocation, the City shall take such steps as necessary to insure compliance.

Before any further Discharge of Industrial Wastewater may be made by the User, he must apply for and obtain a new Permit for Industrial Wastewater Discharge, pay all charges that would be required upon initial application, and pay all delinquent fees, charges and such other sums as the Permit holder may owe to the City. Costs incurred by the City in revoking the Permit and disconnecting the industrial sewer shall be paid by the User before issuance of a new Permit.

D. Show Cause Hearing

1) Notification of Hearing

The City may order any User who causes or allows an unauthorized Discharge to enter the POTW to show cause before the City Council why the proposed enforcement action should not be taken. A notice shall be served on the User specifying the time and place of a hearing to be held by the City Council regarding the violation, the reasons why the action is to

be taken, the proposed enforcement action, and directing the User to show cause before the City Council why the proposed enforcement action should not be taken. The notice of the hearing shall be served personally or by registered or certified mail return receipt requested at least ten (10) days before the hearing. Service may be made on any Authorized Representative of the User.

2) Acquisition of Evidence

The City Council may itself conduct the hearing and take the evidence, or may designate any of its members or any Officer or employee of the Public Works Department to:

- a) Issue in the name of the City Council notices of hearings requesting the attendance and testimony of witnesses and the production of evidence relevant to any matter involved in such hearings;
- b) Take the evidence;
- c) Transmit a report of the evidence and hearing, including transcripts and other evidence, together with recommendations to the City Council for action thereon.

3) Testimony

At any hearing held pursuant to this Article, testimony taken must be under oath and recorded stenographically. The transcript, so recorded, will be made available to any member of the public or any party to the hearing upon payment of the usual charges thereof.

4) Orders

After the City Council has reviewed the evidence, it may issue an order to the User responsible for the Discharge directing that, the User come into compliance within a specified time. If the User does not come into compliance within the time provided, the sewer service shall be discontinued unless adequate treatment facilities, devices or other related appurtenances shall have been installed on existing treatment facilities, devices or other related appurtenances are properly operated. Further orders and directives as are necessary and appropriate may be issued. A compliance order may not extend the deadline for compliance established for a Pretreatment Standard or Requirement, nor does a compliance order relieve the User of liability for any violation, including any continuing violation. Issuance of a compliance order shall not be a bar against, or a prerequisite for, taking any other action against the User.

E. Emergency Suspensions.

The City may suspend immediately a User's Discharge, after informal notice to the User, whenever such suspension is necessary to stop an actual or threatened Discharge which reasonably appears to present or cause an imminent or substantial endangerment to the health or welfare of persons.

F. Legal Action

If any User violates a Pretreatment Standard or Pretreatment Regulation (including but not limited to failure to submit a required report or failure to allow City's inspectors access to an industrial facility); or Discharges sewage, industrial Wastes or other Wastes into the City's Wastewater disposal system contrary to the provisions of this Article, Federal or State Pretreatment Requirements, or any order of the City, the City may commence an action for appropriate legal and/or injunctive relief in the Superior Court of Pinal County.

G. Administrative Penalties

- 1) Any User who is found to have violated any provision of this Article and/or any requirement of a notification of violation written and issued in compliance with this Article, and the order, rules, regulations and permits issued hereunder shall be assessed administrative penalties by the Control Authority in the following amounts:
  - a) Industrial Users in an amount of at least one hundred dollars but not more than three hundred dollars per day for each offense and/or violation;
  - b) Categorical Users and Significant Industrial Users in an amount of at least one hundred dollars but not more than three hundred dollars per day for each offense and/or violation.
- 2) Any administrative penalty assessed may be appealed to the City Council by filing a notice of appeal with the City Clerk. The City Clerk shall set the hearing on the next available City Council meeting agenda. The notice of appeal must be filed within ten (10) days of the date of the notice of assessment of penalty is mailed by the Control Authority and failure to timely file a notice of appeal shall make the penalty final.
- 3) After completion of the hearing the City Council shall affirm, modify, or reverse the penalty. The decision of the City Council is final.

H. Civil Penalties

- 1) As referenced in Section 403.8 part (f) of 40 CFR, any User who is found to have violated an order of the City Council or who failed to comply with any

provision of this Article and/or any requirement of a notification of violation written and issued in compliance with this Article, and the order, rules, regulations and permits issued hereunder, shall be assessed civil penalties in at least the amount of one thousand dollars but no more than twenty-five thousand dollars per day for each offense and/or violation. Each day on which a violation shall occur or continue shall be deemed a separate and distinct offense. In addition to the penalties provided in this Article, the City may recover reasonable attorney's fees, court costs, court reporters' fees and other expenses of litigation by appropriate suit at law against the person found to have violated this Article or the orders, rules, regulations and permits issued hereunder.

- 2) The civil penalties for nonsubmittal of reports, noncompliance with the reporting and/or application requirements required by this Article or permit, or failure to complete an increment of progress of a compliance schedule, shall be at least one thousand dollars for each day which the requirements are not fulfilled.

#### I. Criminal Penalties

Any person who knowingly makes any false statement, representation or certification in any application, record, report, plan or other document filed or required to be maintained pursuant to this Article or Permit, or who falsifies, tampers with, or knowingly renders inaccurate any monitoring device or method required under this Article, shall, upon conviction, be subject to a Class 2 criminal felony and be punished by a fine of not more than one hundred fifty thousand dollars or by imprisonment for not more than one and one-half years, or by both.

#### J. Collection of Fees

The amount of any fee or charge imposed by the provisions of this Article including interest and penalty assessments shall constitute a lien against the property upon which the violation is located in the same manner as other unpaid utility fees under this Code. Any action in the name of the City may be commenced in any court of competent jurisdiction for the amount of any delinquent fees or charges and if legal action is brought by the City or its assignee to enforce collection of any amount charged and due under this Article, any judgment rendered in favor of the City shall include costs of suit incurred by the City or its assignee including reasonable attorneys' fees.