

## Article 4.5 Supplemental Use Regulations

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### Sections

4.501	Applicability
4.502	Home Occupations
4.503	Residential Day Care
4.504	Group Homes for the Handicapped
4.505	Place of Worship
4.506	Vacation or Short-Term Rentals
4.507	Farm Stands
4.508	Animal Services
4.509	Cemeteries
4.5010	Non-Traditional Business Uses
4.5011	Sexually-Oriented Businesses
4.5012	Temporary Uses
4.5013	Temporary Structures
4.5014	Medical Marijuana Dispensaries and Offsite Cultivation Sites
4.5015	Recovery Residence
4.5016	Miscellaneous Provisions

### 4.501 Applicability

In order to mitigate the potential adverse impacts of certain uses, supplemental regulations are provided in addition to the regulations set forth in Division 2: Land Use Designations.

### 4.502 Home Occupations

Home Occupations shall comply with the following regulations:

- A. ***Incidental to Principal Residential Use.*** A Home Occupation use is incidental to the principal use of the dwelling unit for residential purposes.
- B. ***Location.*** Other than Home Occupation Day Care, a Home Occupation use may only be conducted within the dwelling unit or an accessory structure.
- C. ***Employees.***
  1. Other than family members residing within the dwelling unit located on the lot or parcel, there shall be no more than one full time equivalent employee working at the home occupation.

2. The lot or parcel shall not be used as a headquarters for the assembly of employees for instruction or other purposes, including dispatch to other locations.

D. ***Exterior Appearance.***

1. The residential character of the property shall be maintained. There shall be no signs, display of merchandise or stock in trade, outdoor storage of materials, or other exterior indication of a home occupation.
2. When a Home Occupation use is conducted within any garage, the doors to the garage shall remain closed.
3. A Home Occupation use shall not result in any structural alterations or additions to a building that will change its primary use or building code occupancy classification.

E. ***Storage.*** On-site storage of hazardous materials including toxic, explosive, noxious, combustible, or flammable materials beyond those normally incidental to residential use is prohibited.

F. ***Neighborhood Impacts.*** A Home Occupation use shall not produce noise, odors, vibrations, glare, dust, fumes, or electrical interference above those levels normally expected in the residential neighborhood.

G. ***Traffic Generation.*** A Home Occupation use shall not generate vehicular or truck traffic in greater volume than that normally expected in the residential district in which the home occupation is located.

H. ***Parking.*** Any parking for the Home Occupation use shall be on site and comply with the requirements of Article 4.2: Off-Street Parking and Loading Regulations.

I. ***Licensing.*** Home Occupations shall comply with applicable licensing requirements.

### **4.503 Residential Day Care**

Residential Day Care uses shall comply with the following regulations:

A. ***Incidental to Principal Residential Use.*** A Residential Day Care use is incidental to the principal use of the dwelling unit for residential purposes.

B. ***Employees.*** Other than family members residing within the dwelling unit located on the lot or parcel, there shall be no more than one full time equivalent employee working at the Residential Day Care use.

C. ***Exterior Appearance and Structural Alterations.***

1. The residential character of the property shall be maintained. There shall be no signs, outdoor storage of materials, or other exterior indication of a Residential Day Care use.
2. A Residential Day Care use shall not result in any structural alterations or additions to a building that will change its primary use or building code occupancy classification.
3. Existing garages, carport structures, or driveways shall not be expanded, enclosed, displaced, or otherwise modified for the purpose of accommodating the Residential Day Care use.
4. Any permitted expansion, remodeling, or other modification of a dwelling unit shall comply with all applicable Town codes without requiring a variance or relief from standard requirements for the zoning district within which the dwelling unit is located.

D. ***Screening.*** All outdoor recreation areas shall be completely screened and enclosed by a 6 foot high solid masonry fence with solid self-closing and self-latching gates.

E. ***Separation.*** The minimum separation between Residential Day Care uses on the same street shall be 300 feet, as measured from the closest property lines.

F. ***Neighborhood Impacts.*** A Residential Day Care use shall not produce noise, odors, vibrations, glare, dust, fumes, or electrical interference above those levels normally expected in the residential neighborhood.

G. ***Traffic Generation.*** A Residential Day Care use shall not generate vehicular or truck traffic in greater volume than that normally expected in the residential district in which the Residential Day Care use is located.

H. ***Parking.*** Any parking for the Residential Day Care use shall be on site and comply with the requirements of Article 4.2: Off-Street Parking and Loading Regulations.

I. ***Licensing.*** The Residential Day Care use shall comply with applicable licensing requirements.

#### **4.504 Group Homes for the Handicapped**

A. ***Purpose.*** The purpose of these regulations is to permit handicapped persons to reside in single family residential neighborhoods in compliance with the Fair Housing Act, while preserving the residential character of the neighborhood and prevent a concentration of such facilities in any particular area so as to institutionalize that area.

- B. **Registration Required.** A completed registration form shall be submitted to the Development Services division on a form established by the Director of Planning. Registration shall become effective upon issuance of a Certificate of Occupancy for the group home and shall terminate when the group home use ceases. No registration shall be accepted for a group home that does not comply with the requirements of the Zoning Code.
- C. **Zoning Confirmation.** Prior to registration, a request for zoning confirmation may be submitted to the Development Services division to confirm that the proposed location of the group home is permitted under this section.
- D. **Standards.** Group Homes for the Handicapped shall be located, developed, and operated in compliance with the following standards:
1. **Separation.** The minimum separation between group homes and between any group home and any recovery residence shall be 1,200 feet, as measured from the closest property lines. No separation is required when group homes or a group home and recovery residence are separated by a utility right-of-way of at least 300 feet in width, or by a freeway, arterial street, canal, or railroad.
  2. **Occupancy.** The number of residents, excluding staff, shall not exceed 5 (unless permitted by State License for up to 10).
  3. **Exterior Appearance.** There shall be no sign or other exterior indication of a group home visible from a street.
  4. **Compliance with all Applicable Building and Fire Safety Regulations.** If a group home has one or more non-ambulatory residents, building code requirements in addition to those applicable to group homes with no non-ambulatory residents, shall apply.
  5. **Licensing.** Group homes shall comply with applicable licensing requirements. If a group home is required by Arizona law to obtain a State License, a copy of that license and all renewals there to shall be provided to the Town for record-keeping purposes within 10 days of receipt by the group home operator.
  6. **Parking.** Any parking for the group home shall be on site and comply with the requirements of Article 4.2: Off-Street Parking and Loading Regulations.
  7. **Tenancy.** No group home shall house any person whose tenancy would constitute a direct threat to the health or safety of other individuals or would result in substantial physical damage to the property of others.
  8. **Exclusive Use.** All administrative activities including staffing, counseling and other visitations, shall serve only the residents of the group home.

- E. **Additional Requirements of State Law.** Notwithstanding the foregoing, if the State has adopted laws or rules for the regulation of a specific type of home, such as a group home for the developmentally disabled pursuant to A.R.S. § 36-582 or an assisted living home pursuant to A.R.S. Title 36, Chapter 4, then any such State law or rule shall apply in addition to the conditions listed herein and shall preempt any conflicting condition listed herein.
- F. **Request for Accommodation.** If a group home owner believes any requirement of the Zoning Code prevents the establishment of a group home, the owner shall submit to the Zoning Administrator a written request for accommodation and the reasons why the accommodation is required. The written request shall contain sufficient facts to allow the Zoning Administrator to make an individualized determination of the group home's needs, to address the Town's safety and welfare concerns, and to assure compliance with this section. The Zoning Administrator shall review the written request and determine:
1. Whether an accommodation should be made pursuant to the requirements of the Fair Housing Act; and
  2. If so, the nature of the accommodation taking into consideration the requirements of the Fair Housing Act, public safety and welfare concerns, and the residential character of the neighborhood.

The accommodation shall be made only to the extent necessary to comply with the Fair Housing Act.

#### **4.505 Place of Worship**

Places of Worship are not exempt from the requirements of the Zoning Code.

- A. **Request for Determination.** If a place of worship use believes any requirement of the Zoning Code imposes a substantial burden on its exercise of its religion, the place of worship use shall submit to the Zoning Administrator a written statement as to why any requirement imposes a substantial burden on its exercise of religion and a description of any requested accommodation. The Zoning Administrator shall review the statement and determine:
1. Whether the proposed use is a place of worship use under the Religious Land Use and Institutionalized Persons Act;
  2. Whether the requirement imposes a substantial burden on the exercise of religion by the place of worship use;

3. If the requirement imposes a substantial burden, whether the requirement furthers a compelling governmental interest of the Town, and if so, whether it is the least restrictive requirement necessary to further that compelling governmental interest; and
  4. The nature and extent of any accommodation, waiver, or adjustment to a requirement of the Zoning Code, if any.
- B. **Senior Housing.** Senior housing incidental to Large-Scale Place of Worship uses may be permitted upon approval of a Conditional Use Permit.

#### **4.506 Vacation or Short-Term Rentals**

- A. **Purpose.** The purpose of these regulations is to permit vacation or short-term rentals and to provide reasonable regulations to maintain the residential character of neighborhoods.
- B. **Registration Required.** Prior to beginning operations, the owner or operator of a vacation or short-term rental shall submit a completed registration form to the Development Services Department on a form established by the Planning and Development Services Manager. The registration form shall include:
1. Name, address and telephone number of the property owner and person in control of the property;
  2. Emergency point of contact/responsible party information shall include name, address, email address, signature and telephone number;
  3. If the property owner and emergency point of contact are not the same person or entity, applicant shall provide a notarized Letter of Authorization from the property owner.

#### **4.507 Farm Stands**

Farm stands shall be located and operated in compliance with the following standards:

- A. **Items for Sale.** A farm stand shall only be used for the retail sale of produce and agricultural products on the property.
- B. **Location.** Farm stands shall only be located:
1. Adjacent to an arterial or collector street;
  2. 300 feet from any intersection; and

3. 40 feet from the front property line.
- C. **Size.** Maximum area of a farm stand is 300 square feet.
- D. **Signs.** Two temporary on-site signs are permitted. No sign permit is required. Balloons and flags are prohibited. Signs shall comply with the following:
  1. **Area:** A maximum of 16 sq. ft. each; and
  2. **Height:** A maximum of 6 feet.

#### **4.508 Animal Services**

Animal services shall comply with the following standards:

- A. **Setbacks.** Outdoor runs and exercise areas shall not be located within a required landscape setback or within 100 feet from any residential use or district, whichever is more restrictive. Interior boarding structures shall be located a minimum of 25 feet from any property line.
- B. **Fencing.** Outdoor runs and exercise areas shall be enclosed by a minimum 6 foot fence.
- C. **Prohibitions.** Outdoor boarding of animals other than livestock is prohibited.
- D. **Primary Building Entrances.** Outdoor runs and exercise areas shall not be located within 25 feet of any building's primary entrance on an adjacent lot or suite.

#### **4.509 Cemeteries**

Cemeteries shall be located, developed, and operated in compliance with the following standards:

- A. **Location.** Cemeteries shall be located on arterial streets and have a minimum frontage of 300 feet.
- B. **Minimum Lot Area.** The minimum contiguous lot area for a cemetery is 20 acres.
- C. **Accessory Uses.** Uses and structures accessory to the cemetery use may include a business office, chapel, columbarium, mausoleum, and equipment storage. A crematorium is not an accessory use. Accessory uses and structures shall be set back at least 50 feet from any property line.
- D. **Outdoor Storage.** Outdoor storage areas shall comply with the regulations set forth in Section 4.104: Outdoor Business Property Storage.

## 4.5010 Non-Traditional Business Uses

In the CC, SC, GC, RC and HVC zoning districts, Non-chartered Financial Institutions, Pawn Shops, Stand-alone Smoking Lounges, and Tattoo/Piercing Studios shall be located, developed, and operated in compliance with the following standards:

A. ***Location/Separation Requirements.***

1. *Separation Requirements – between all Non-Traditional Business Uses.* The minimum separation between any two non-traditional businesses shall be one-thousand (1,000) feet, as measured in a straight line in any direction from the closest perimeter business walls. No separation is required when non-traditional businesses are separated by a freeway.
2. *Additional separation requirements for Stand-alone Smoking Lounges, and Tattoo/Piercing Studios.* As measured in a straight line in any direction from the perimeter business walls:
  - a. Stand-alone Smoking Lounges and Tattoo/Piercing Studios shall be separated a minimum of one-thousand three hundred twenty (1,320) feet from any School, Public or Private.
  - b. Tattoo/Piercing Studios shall be separated a minimum of five hundred (500) feet from any Day Care Center or Place of Worship.

B. ***Hours of Operation.*** The hours that a Tattoo/Piercing Studio may be open to the public are limited to between 8:00 a.m. and 11:00 p.m. Increased hours of operation may be permitted with approval of a Conditional Use Permit to insure that there will be no significant adverse impact on the nearby uses.

## 4.5011 Sexually-Oriented Businesses

Sexually-Oriented Businesses shall be located, developed, and operated in compliance with the following standards:

A. ***Location.*** Sexually-Oriented Businesses shall be a minimum distance from the uses set forth in Table 4.5011: Sexually-Oriented Business Location Requirements. Measurements shall be made in a straight line in all directions, without regard to intervening structures or objects, from the nearest point on the property line of a parcel containing a sexually-oriented business to the nearest point on the property line of a parcel containing the relevant use or use classification shown in Table 4.5011.



**Table 4.5011: Sexually-Oriented Business Location Requirements**

<b>Use or Use Classification</b>	<b>Separation Requirement (feet)</b>
Another Sexually-Oriented Business	1,000
Establishment having an Arizona Spirituous Liquor License Series #06: Bar License or Series #07: Beer and Wine Bar License	500
Cultural Institutions	1,000
Day Care Center, public or private	1,320
Hotels and Commercial Lodging	500
Public Park	1,320
Place of Worship	1,320
Residential district boundary	1,320
Schools, Public or Private	1,320
Single or Multi-Family dwelling	1,320

B. **Municipal Code Compliance.** Sexually-oriented businesses shall comply with Gilbert Municipal Code Chapter 14, Article XII: Sexually-Oriented Businesses.

**4.5012 Temporary Uses**

Temporary uses shall be located and operated in compliance with the following standards:

A. **Table of Temporary Uses.** Temporary uses are limited to the times identified in Table 4.5012: Temporary Uses:

**Table 4.5012: Temporary Uses**

<b>Use Classification</b>	<b>Time Duration (days)</b>	<b>Frequency of Use</b>	<b>Interval between Uses (days)</b>	<b>Special Event Permit Required</b>
Bazaar	15 (Fifteen) Days of Use (Maximum) per Calendar Year			no
Carnival	See Municipal Code Chapter 15: Special Events			yes
Carnival, Small-Scale	4	4 / year	3	no
Farmer’s Market	Subject to the provisions of the approved Administrative Use Permit			no
Circus	See Municipal Code Chapter 15: Special Events			yes
Fireworks Display	See Municipal Code Chapter 15: Special Events			yes
Garage Sale	See Municipal Code Chapter 42 – Offenses and Abatement of Public Nuisances			no
Haunted House	45	1 / year	--	no
Parade	See Municipal Code Chapter 15-52			yes
Public Assembly	See Municipal Code Chapter 15-52			yes
Seasonal Sales	30	4 / year	14	no
Sidewalk Sale/ Parking Lot Event	4	8 days/month	3	no

**Table 4.5012: Temporary Uses**

<i>Use Classification</i>	<i>Time Duration (days)</i>	<i>Frequency of Use</i>	<i>Interval between Uses (days)</i>	<i>Special Event Permit Required</i>
Swap Meet and Auction, Single Event	See Municipal Code Chapter 15: Special Events			yes
Tent Sale-Vehicle	3	4 / year	60	no

- B. **Permits.** Temporary uses shall obtain applicable fire and building permits and transaction privilege tax licenses prior to commencement of activities. A Special Event Permit or Administrative Use Permit may also be required.
- C. **Standards.** Temporary uses shall be located and developed in compliance with the following standards:
1. **Setbacks.** The temporary use shall be set back a minimum of 20 feet from any adjacent, occupied residential lot or parcel.
  2. **Surfacing.** The area of the temporary use, including parking areas, access points, aisles, driveways, and travel ways, shall be surfaced with gravel, decomposed granite or other approved dust free material.
  3. **Parking.** Any parking for the use shall be on site and comply with the requirements of Article 4.2: Off-Street Parking and Loading Regulations.
  4. **Signage.** All signage shall comply with the regulations set forth in Article 4.4: Sign Regulations.
  5. **Inflatables.** Inflatables are allowed for the duration of any temporary use and shall be displayed only:
    - a. On private property where the temporary use is taking place;
    - b. During the hours the temporary use is open to conduct business;
    - c. Securely fixed at grade level;
    - d. So that no less than a minimum of 4 feet is clear for pedestrian passage on all sidewalks and walkways;
    - e. In a manner and location that does not create a hazard to pedestrian traffic;
    - f. In the following zoning districts: NC, CC, SC, GC, RC, HVC, BP, PF/I

6. **Balloons.** Balloons are allowed for the duration of any temporary use subject to the following requirements:
  - a. Balloons shall be securely attached by a strong and durable tether to a fixed place or securely mounted on the ground.
  - b. Balloons shall be displayed only:
    - (1) On private property where the temporary use is taking place;
    - (2) During the hours the temporary use is open to conduct business;
    - (3) Setback from the nearest public right-of-way a distance equal to or greater than the length of the tether;
    - (4) In a manner and location that does not create a hazard to pedestrian or vehicular traffic;
    - (5) In the following zoning districts: NC, CC, SC, GC, RC, HVC, BP, PF/I.

D. **Additional Requirements.** Adequate sanitation, water, traffic control, parking, and public health measures shall be provided for all temporary uses.

1. All entry points into any development must remain free of obstructions to allow unhindered access by emergency vehicles. A minimum area of no less than 4 feet wide must be maintained on all sidewalks and walkways within any development to allow for proper pedestrian passage.

#### 4.5013 Temporary Structures

A. **Construction Trailers.** Construction trailers are permitted only on a lot or parcel during construction undertaken pursuant to a valid building permit. Construction trailers may be occupied for office or security purposes, or may be used for storage of equipment and material used in construction on the site. Temporary construction trailers shall be located and developed in compliance with the following standards:

1. **Setbacks.** Setbacks for construction trailers shall comply with the development regulations for each base zoning district.
2. **Surfacing.** The area of the construction trailer, including parking areas, access points, aisles, driveways, and travel ways, shall be surfaced with gravel, decomposed granite or other approved dust free material.
3. **Signage.** In accordance with Section 4.402R.1, the parking of a vehicle, trailer or other device marked or unmarked which is parked or driven in such a manner that it is used principally as a portable sign is prohibited.

- B. **Sales Trailers.** Sales trailers, including modular offices, used for the sale and lease of residential and nonresidential real estate, memberships, and similar activities, are permitted only on a lot or parcel during construction undertaken pursuant to a valid building permit. Temporary sales trailers shall be located and developed in compliance with the following standards:
1. **Setbacks.** Setbacks for sales trailers are set forth in the development regulations each base zoning district.
  2. **Surfacing.** Unless otherwise required by the Fire Marshal, the area of the sales trailer including parking areas, access points, aisles, driveways, and travel ways shall be surfaced with a minimum of a 4-inch-thick road base on compacted soil with dust palliative to support emergency apparatus and to reduce particulate matter.
  3. **Parking.** Any parking for the use shall be on site and comply with the requirements of Article 4.2: Off-Street Parking and Loading Regulations.
  4. **Signage.** All signage shall comply with the regulations set forth in Article 4.4: Sign Regulations.
- C. **Storage Containers.** Temporary storage containers on residential property are permitted only for the purpose of storage of household goods or personal items. Temporary storage containers on commercial and employment properties are permitted only for the purpose of storage of equipment, supplies, merchandise, or similar materials:
1. **Standards.** Temporary storage containers shall comply with the following standards:
    - a. **Zoning Districts.** Limited to Single-Family Residential Districts, Community Commercial, Shopping Center, General and Regional Commercial Districts, Light and General Industrial Districts, and Public Facility/Institutional Districts.
    - b. **Location.** Placed on a driveway or additional parking space as permitted in Section 4.203X on a developed residential lot or parcel; or placed outside the area located between the building and any street in applicable Commercial and Employment districts.
    - c. **Size.** No greater than 160 sq. ft. total on a developed residential lot or parcel. No greater than 320 sq. ft. total in applicable Commercial, Employment or Public Facility/Institutional districts. Within the Light Industrial, General Industrial and Public Facility/Institutional districts, the total area may be increased with Design Review approval and a Storage Container Master Site Building Permit.
    - d. **Time Duration.** During construction on a lot or parcel pursuant to a valid building permit; or for no longer than 30 days within a 6 month period on a

developed residential lot or parcel; or for no longer than 90 days in a 12 month period in a Commercial, Employment or Public Facility/Institutional district.

2. In Light and General Industrial and in the Public Facility/Institutional districts, storage containers are permitted for an indefinite period of time subject to Design Review approval.
3. Temporary storage containers shall not be located in landscape areas, retention basins, travel ways and drive aisles, fire lanes, required parking spaces, sidewalks, loading zones, or any other location that may cause hazardous conditions, constitute a threat to public safety, or create a condition detrimental to surrounding land uses and developments.
4. Temporary storage containers served by utilities, larger than 160 square feet or providing any function other than storage require building permit review. A container requiring a Certificate of Occupancy, a container that is accessible to the public or that is habitable is regulated as a structure.

D. **Classroom Structures.** Temporary classroom structures are permitted as an expansion of an existing Place of Worship or School use by the issuance of an Administrative Use Permit (AUP), pursuant to Article 5.4: Use Permits. The AUP shall be issued only when the findings identified in Section 5.403: Required Findings and these additional findings are met:

1. The temporary structure is located on the same lot or parcel as the principal use;
2. The temporary structure will not have any more impact on surrounding properties than the permanent use;
3. There is an approved final design review plan for the property identifying a location for a permanent classroom;
4. The final design review plan has not expired;
5. The approval may be for the main structure, an expansion of the main structure or a related accessory structure;
6. The location for the temporary classroom structure does not conflict with the location for the permanent facility; and
7. Construction documents have been submitted to the Town for the permanent structure, whether it is the main structure, an expansion of the main structure or a related accessory structure.

- E. **Place of Worship Structures.** Temporary structures for Places of Worship uses are permitted as an expansion of an existing Place of Worship use by the issuance of an AUP, pursuant to Article 5.4: Use Permits. The AUP shall be issued only when the findings identified in Section 5.403: Required Findings and these additional findings are met:
1. The temporary structure is located on the same lot or parcel as the principal use;
  2. The temporary structure will not have any more impact on surrounding properties than the permanent use;
  3. There is an approved final design review plan for the property identifying a location for the permanent structure;
  4. The final design review plan has not expired;
  5. The approval may be for the main structure, an expansion of the main structure or a related accessory structure;
  6. The location for the temporary Place of Worship structure does not conflict with the location for the permanent facility; and
  7. Construction documents have been submitted for the permanent structure, whether it is the main structure, an expansion of the main structure or a related accessory structure.

#### **4.5014 Medical Marijuana Dispensaries, Offsite Cultivation Sites and Designated Caregiver Cultivation Locations**

Medical Marijuana Facilities shall be located, developed, and operated in compliance with the following standards:

- A. **Applicability.** The minimum requirements of this section shall apply to all Medical Marijuana Dispensary and Medical Marijuana Offsite Cultivation Site uses located in any zoning district.
- B. **General.** A Medical Marijuana Dispensary, Medical Marijuana Offsite Cultivation Site or Medical Marijuana Designated Caregiver Cultivation Location shall:
1. Be located in a permanent building and shall not be located in a temporary structure, trailer, cargo container, motor vehicle, or other similar non-permanent enclosure.

2. Medical Marijuana Dispensaries and Offsite Cultivation Sites shall be limited to 3,000 square feet gross floor area for all permitted uses with a single secure entrance. An emergency exit may be provided that shall be accessed only from the interior and alarmed to prevent its use for any purpose other than an actual emergency.
3. Be limited to a single secure on-site storage area of no greater than one thousand (1,000) square feet for medical marijuana stored at an offsite cultivation site.
4. Supply proof that the Dispensary is State-approved, certified and registered with the Arizona Department of Health Services pursuant to Arizona Revised Statutes, Title 36, Chapter 28.1.
5. Comply with all registration and recordkeeping required by the Town, Maricopa County and Arizona law.
6. Obtain, maintain and display a valid Town of Gilbert Business Registration or license as may be required by the Town code.
7. Supply the name of all the dispensaries with which it is affiliated, if offsite cultivation is proposed.
8. If medical marijuana is supplied to the dispensary by a qualified patient or caregiver, provide the name and contact information of the qualified patient or caregiver.
9. Not provide off-site deliveries of medical marijuana, except that a Designated Caregiver Cultivation Facility may deliver medical marijuana to the Qualifying Patient(s) for whom the caregiver is the Designated Caregiver, in compliance with the rules and regulations promulgated by the State of Arizona Department of Health Services.
10. Sell only medical marijuana and merchandise incidental to its use. The sale of items promoting the dispensary or its merchandise is prohibited.
11. Not have drive-through facilities or take-out windows.
12. Not emit dust, fumes, vapors or odors into the environment.
13. Prohibit consumption of medical marijuana on the premises.
14. Not permit or provide indoor or outdoor seating areas or facilities for the consumption of medical marijuana anywhere on the site.
15. Permit annual fire inspections pursuant to the Town of Gilbert Fire Code.

16. If designated caregiver cultivation is proposed, supply the residence locations and proof of registry identification cards of the qualifying patients for whom the medical marijuana will be cultivated and the location of the closest medical marijuana dispensary to the residence of each qualifying patient. Any changes in qualifying patients or residence locations shall be reported to the Planning Manager within 30 days of the change.
17. A single designated caregiver is permitted and the total cultivation area shall not exceed 120 square feet. The total cultivation area is the footprint required for growing the actual plant material.

C. **Location.** Medical Marijuana Facilities shall be a minimum distance from the uses set forth in Table 4.5014: Medical Marijuana Facilities Location Requirements, including medical marijuana facilities located in neighboring jurisdictions. Measurements shall be made in a straight line in any direction from the closest perimeter business walls. No separation is required when medical marijuana facilities are separated by a freeway.

**Table 4.5014: Medical Marijuana Facilities Location Requirements**

<b>Use or Use Classification</b>	<b>Separation Requirement (feet)</b>
Another Medical Marijuana Dispensary or Offsite Cultivation	5,280
Hospital	1,320
Day Care Center, public or private	1,000
Public or Private Park	1,000
Place of Worship	1,000
Schools, Public or Private	1,000
Residential District Boundary	1,000

- D. **Hours of Operation.** A Medical Marijuana Facility shall have operating hours not earlier than 8:00 a.m. and not later than 8:00 p.m.
- E. **Security Plan Requirements.** A Medical Marijuana Facility shall submit a Security Plan containing the following information:
  1. Proof that the “Nonprofit Medical Marijuana Dispensary Agent” is at least twenty-one (21) years of age and has not been convicted of an excluded felony offense.
  2. Proof that any cultivation and storage of Medical Marijuana will take place in an “enclosed, locked facility” equipped with locks or other security devices that permit access only by persons authorized to enter pursuant to State and local law.
  3. A floor plan that details the security measures required by Arizona law including an on-site alarm system and a single secure entrance. If an emergency exit is provided, it shall be detailed on the plan as being operable only in an emergency.
  4. Additional protections, if any, against medical marijuana diversion and theft.



5. A sworn affidavit detailing the criminal history, if any, of the Board of Directors of the nonprofit operating the dispensary and/or detailing history of management employees.
6. Provide and update as needed a current list of all persons who are authorized to access the dispensary or offsite cultivation site.

#### **4.5015 Recovery Residence**

- A. **Purpose.** The purpose of these regulations is to permit persons recovering from substance abuse to reside in a group setting in residential neighborhoods in order to facilitate integration and stabilization and to provide reasonable regulations to maintain the residential character of neighborhoods and prevent a concentration of such facilities in any particular area so as to institutionalize that area.
- B. **Registration Required.** Prior to beginning operations, the owner or operator of a recovery residence shall submit a completed registration form to the Development Services Department on a form established by the Planning and Development Services Manager. The registration shall become effective upon verification by the Zoning Administrator that the registration complies with the requirements of the zoning code and that the recovery residence operator has obtained a valid Town of Gilbert Business License for the recovery residence. A registration shall terminate when the recovery residence use ceases.
- C. **Zoning Confirmation.** Prior to registration, a request for zoning confirmation may be submitted to the Development Services Department to confirm that the proposed location of the recovery residence is permitted under this section.
- D. **Procedures.** In addition to the registration form, the applicant shall submit an operations and management plan (“O&MP”) to ensure compliance with state and local laws. O&MP shall include:
  1. Name and address of the business owner;
  2. Name, address and telephone number of the property owner and person in control of the property;
  3. If the business owner and property owner are not the same person or entity, applicant shall provide a notarized letter of authorization from the property owner;
  4. Emergency contact telephone number;
  5. The number of persons occupying each bedroom;
  6. Maximum number of occupants;

7. A floor plan;
  8. Resident screening process; and
  9. Guest and resident rules of conduct.
- E. **Standards.** Recovery residences shall be located, developed, and operated in compliance with the following standards:
1. **O&MP Compliance.** The recovery residence shall be operated and managed in compliance with the O&MP submitted with registration, a copy of which shall remain on file with the Development Services Department.
  2. **Separation.** The minimum separation between recovery residences and between a recovery residence and a group home shall be 1,200 feet as measured from the closest property lines. No separation is required when recovery residences or a recovery residence and a group home are separated by a utility right-of-way of at least 300 feet in width, or by a freeway, arterial street, canal, or railroad.
  3. **Occupancy.** The number of residents shall not exceed 5, excluding staff,
  4. **Exterior Appearance.** There shall be no sign or other exterior indication of a recovery residence visible from the street.
  5. **Parking.** Parking for the recovery residence shall be on-site and comply with LDC Article 4.2: Off-Street Parking and Loading Regulations.
  6. **Tenancy.** No recovery residence shall house any person who tenancy would constitute a direct threat to the health or safety of other persons or would result in substantial physical damage to the property of others.
  7. **Exclusive Use.** All administrative activities, including staff, counseling and other visitations, shall serve only the residents of the recovery residence.
- F. **Request for Accommodation.** If a recovery residence owner believes any requirement of the zoning code prevents the establishment of a recovery residence, the owner shall submit to the Zoning Administrator a written request for accommodation and the reasons why the accommodation is required. The written request shall contain sufficient facts to allow the Zoning Administrator to make an individualized determination of the recovery residence's needs, to address the Town's safety and welfare concerns, and to assure compliance with this section. The Zoning Administrator shall review the written request and determine:
1. Whether an accommodation should be made pursuant to the requirements of the Federal and State Fair Housing Laws; and

2. If so, the nature of the accommodation taking into consideration the requirements of the Federal and State Fair Housing Laws, public safety and welfare concerns, and the residential character of the neighborhood.

The accommodation shall be made only to the extent necessary to comply with the Federal and State Fair Housing Laws.

#### **4.5016 Miscellaneous Provisions**

- A. **Caretaker.** A recreational vehicle is permitted as a temporary dwelling for a caretaker or security guard on a lot or parcel only during construction undertaken pursuant to a valid building permit.
- B. **Recreational Vehicle Occupancy.** Except as permitted under Section 4.5014A: Caretaker, no person shall occupy a recreational vehicle parked in a required front or street side setback for more than 24 consecutive hours. No recreational vehicle shall be occupied as a permanent dwelling unit in any district. Parking of a recreational vehicle in a front or street side setback shall not impede street access for public safety vehicles.
- C. **Inoperable Vehicles.** Inoperable vehicles shall be stored in a fenced area, a fully enclosed building, or at a business engaged in Vehicle Services or Motor Vehicle Sales and Leasing.
- D. **Abandoned Vehicles.** The parking of an abandoned vehicle is prohibited in all zoning districts.
- E. **Facility Manager Dwelling Unit.** Facility Manager Dwelling Units are allowed as an incidental use to certain non-residential uses when the principal use has a demonstrated need for a continuous on-site presence and the Facility Manager Dwelling Unit is developed in compliance with the following standards:
  1. **Applicability.** A Facility Manager Dwelling Unit is a permitted use incidental to the following commercial, employment or public facility/institutional zoning district principal uses:
    - a. Animal Shelter
    - b. Cemetery
    - c. Contractor's Yard
    - d. Crop and Animal Raising, Commercial
    - e. Funeral and Undertaking Services

- f. Garden Supply Store and Plant Nurseries
  - g. Kennel
  - h. Mining and Quarrying
  - i. Place of Worship
  - j. Salvage Yards or Junkyards
  - k. Schools, Public or Private
  - l. Stables, Commercial
  - m. Storage, Personal Property
2. *Standards.* A Facility Manager Dwelling Unit shall comply with the following standards:
- a. A business shall be allowed one Facility Manager Dwelling Unit except Crop and Animal Raising, Commercial; Stables, Commercial; and Garden Supply Stores and Plant Nurseries may be allowed two Facility Manager Dwelling Units.
  - b. A Facility Manager Dwelling Unit livable area shall not exceed 2,000 square feet.
- F. ***Gatehouse.*** Gatehouses are permitted in all zoning districts as an incidental structure with an approved site plan. A Gatehouse may not be located within retention basins, travel ways and drive aisles, fire lanes, required parking spaces, sidewalks, loading zones, or any other location that may cause hazardous conditions, constitute a threat to public safety, or create a condition detrimental to surrounding land uses and developments. The gatehouse gross floor area shall not exceed 700 square feet. If the gatehouse provides site access control, it may be located within the required perimeter landscape area.
- G. ***In-patient Treatment of Certain Behavioral Disorders.*** A hospital that provides in-patient treatment as listed in Parts 1 or 2 of this subsection must first receive conditional use permit approval and shall maintain a minimum 1,500-foot separation between the hospital's property line and any school or daycare center property line.
- 1. A hospital that services a Court Ordered Evaluation for Civil Commitment, as defined by Arizona Revised Statutes.
  - 2. A hospital that provides in-patient behavioral health treatment of pedophilia, exhibitionism, voyeurism, kleptomania or pyromania, as defined under federal law.