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# **Use Permit & Use Permit Modification Application & Process Guide**

Town of Gilbert  
Planning Services Division  
<http://www.gilbertaz.gov/departments/development-services/planning-development>



## Use Permit Application Procedures

The following information is provided to assist in the preparation and submittal of an application for a Use Permit for a property within the Town of Gilbert.

### 1. *Pre-Application Review Process*

Pre-Application review is required for new vertical structures for Wireless Communication Facilities and optional for all other use permits. Forms to apply for the Pre-Application review are available through the Development Services Department or on the Town's website ([www.gilbertaz.gov](http://www.gilbertaz.gov)). The Pre-Application process takes approximately two weeks. If an optional Pre-Application meeting is not held, please call Traffic Engineering (480-503-6919) to determine if a traffic study is required.

### 2. *Application Completeness*

For an application to be accepted, the Applicant must provide all of the required information described on the submittal checklist, as incomplete applications **will be** rejected.

### 3. *Forms/Review*

a. Administrative Completeness Review (see Planning Division Project Review Timelines): Staff will review the application to make sure all required documents and information have been included. If required information is missing, Applicant will be notified that the application has been rejected until all required information is submitted. If the application is rejected, upon resubmittal, a new Administrative Completeness Review will be required.

b. Substantive Review (see Planning Division Project Review Timelines): When complete, the application will be routed to Town staff and affected agencies for review and comment. After this review is completed, the comments are consolidated and returned to the Applicant. The Applicant is responsible for addressing staff comments, revising and amending the application as required, and submitting a complete set of revised plans for a second review to ensure all comments have been addressed to the satisfaction of the Town. If all comments have been adequately addressed, the legislative process will begin by scheduling for a public hearing before the Planning Commission.

c. If all comments and issues identified in the Substantive Review have not been addressed to the satisfaction of Staff in the resubmission, the application will be denied. In lieu of denial, the Applicant may, either in writing or electronically, agree to allow Gilbert to submit supplemental requests for additional information. If Gilbert issues a comprehensive written or electronic request or a supplemental request, the Substantive Review timeframes are suspended until the additional information is submitted by the Applicant.

4. If all comments and issues identified in the Substantive Review have not been addressed to the satisfaction of Staff in the resubmission, the application will be denied. In lieu of denial, the Applicant may, either in writing or electronically, agree to allow Gilbert to submit supplemental requests for additional information. If Gilbert issues a comprehensive written or electronic request or a supplemental request, the Substantive Review timeframes are suspended until the additional information is submitted by the Applicant



## 5. **Staff Review**

Upon receiving a complete application, the information will be routed to Town staff and affected agencies for review and comment. After this review is completed, the comments are consolidated and returned to the applicant. The applicant is responsible for addressing staff comments and submitting revised plans for a second review if needed.

## 6. **Neighborhood Notice**

The Town will prepare the Notice of Public Hearing for the Use Permit and provide a copy to the applicant. For the required public hearing, the applicant must mail the Notice of Public Hearing by first class-mail at least thirty (30) days for a Wireless Communication Facility or fifteen (15) calendar days for any other Use Permit application prior to the date of the hearing to the following:

- a. All property owners of record within three hundred (300) feet of the site;
- b. All Homeowners Associations within one thousand (1,000) feet of the site registered with the Town of Gilbert Neighborhood Services Office, the Arizona Corporation Commission or identified on the Maricopa County Assessor's website ([www.maricopa.gov/assessor](http://www.maricopa.gov/assessor));
- c. All neighborhoods within one thousand (1,000) feet of the site registered with the Town of Gilbert Neighborhood Services Office; and
- d. Any person or group who has requested notice in writing.

The Planning Manager may expand the notification area set forth in this section if it is determined that the potential impact of the project extends beyond the required notification boundary. The applicant must submit a signed affidavit of mailing prior to public hearing. Failure of the applicant to provide evidence of mailing will result in a postponement of the public hearing item. The applicant will be charged a fee for the postponement.

## 7. **Property Posting (Sign)**

The Town will prepare the Notice of Public Hearing Sign Template for the Use Permit and provide a copy to the applicant. Signs must be posted at least thirty (30) calendar days for a Wireless Communication Facility or fifteen (15) calendar days for any other Use Permit application prior to the date of the public hearing. The applicant is responsible for posting the sign on the property, subject to the following specifications and requirements:

- a. Posting, maintenance, and removal of signs are the responsibility of the applicant. The applicant must remove all sign(s) within ten (10) days of the public hearing. If the sign(s) is not removed on time, the Town will remove the sign(s) and charge the applicant a removal fee;
- b. The applicant must submit a signed and dated affidavit of posting, and color photos of the posted sign(s) prior to the public hearing; and
- c. Failure of the applicant to provide evidence of posting will result in a postponement of the public hearing. The applicant may be charged a fee for the postponement.



**6. Staff Reports**

After the staff comments have been addressed and the project has been scheduled for the public hearings, the Planning & Development Services Division will prepare reports describing and evaluating the proposed project and making recommendations to the Planning Commission. Copies of the staff reports will be made available to the public and sent to the applicant prior to each public hearing.

**7. Planning Commission Hearing**

The project may be scheduled for a Study Session with the Planning Commission the month before it is scheduled for a public hearing. Regular Planning Commission hearings occur on the first Wednesday of each month at 6:00 p.m. Regular meetings are held at the Municipal Center in the Council Chambers, 50 E. Civic Center Drive, although special meetings may be held at a different location. The applicant or a project representative must be present at the hearing. The Commission will approve, approve with modifications and/or conditions or deny the request. The decision of the Planning Commission is final unless appealed to the Town Council.

**8. Inactive Cases**

All applications are required by the Land Development Code to be actively pursued to a decision. If no activity has occurred on an application for 180 days, the application will be determined to be inactive, deemed to be withdrawn and the file will be closed. The applicant may submit a written request that the application remain active, with an explanation for the inactivity. The Planning Manager may grant an extension for up to 180 days for good cause if there is a reasonable belief that the application will be actively pursued during the extension period.



# Use Permit Content Requirements

## 1. Project Narrative

- Description of proposed use;
- Hours of operation;
- Information on how the project complies with the General Plan and any other adopted plans, PAD or overlay district zoning requirements; and
- Information on how the proposed use conforms with the conditions, requirements, or standards prescribed by the Land Development Code and any other applicable local, State or Federal requirements.

## 2. Site Plan (Required for all Use Permit (UP) applications)

- Vicinity Map;
- Scale, north arrow, and dimensions;
- Net acres;
- Property lines, easements, alleys, private streets, and adjacent rights-of-way and easements showing existing and future improvements, access points, signals, etc.;
- Conceptual water retention areas and drainage plan;
- Location of required building setbacks and spaces between buildings with dimensions;
- Location and size of any existing/proposed building(s), structure(s), or land uses;
- Location and size of parking spaces and the number of spaces required and provided;
- Location of other existing and proposed improvements such as walls, yards, outside storage, loading areas, etc.;
- Method of screening for parking, storage and loading areas, and wireless communication facilities (if applicable);
- Location and screening of refuse enclosures;
- Vehicular and pedestrian circulation, including ADA accessibility requirements;
- Queuing area for drive through uses;
- Service access areas;
- Emergency apparatus access and required turning radii;
- Adjacent lot lines and/or structures within 300 feet;
- Existing zoning on site and adjacent properties within 300 feet;
- Freestanding sign locations;
- Location and type of existing and proposed site lighting fixtures;
- Date of preparation including dates of any subsequent revisions; and
- If prepared by a Design Professional, a signature and seal is required.

### **Additional information required for Wireless Communication Facilities (WCFs)**

- Specific placement of the WCF (including equipment cabinet/building) on the site;
- Setbacks from adjacent property lines; and
- Location of existing structures, trees, and other significant site features.
- Copy of Neighborhood Meeting minutes if a meeting is held prior to the Planning Commission meeting.



**Additional information required for Medical Marijuana Facilities: See attached supplement**

## **Additional Requirements Wireless Communication Facilities Applications Only**

### **1. Enhanced Neighborhood Notice**

- For any Wireless Communication Facility requiring a Conditional Use Permit, the applicant shall provide the notice required at least 30 days prior to the date of the public hearing and if, in response to this notification, two or more individuals or a community association requests an opportunity for additional input, the applicant shall hold a neighborhood meeting prior to the Planning Commission public hearing on the project (Land Development Code Section 5.205.D.2).

### **2. Inventory**

- An inventory list and map of existing WCF's operated by the applicant and other providers within two miles of the proposed site ("Service Area"). Include specific information as to location, height, and type of each facility. The Town may share such information with other applicants seeking to locate WCF's within the Service Area, in order to encourage co-location.

### **3. Report on Alternatives**

- A report explaining why the WCF is needed at the requested location. If the Town has requested that the applicant co-locate its WCF on another site, the applicant must explain why that co-location is not feasible, including efforts made to develop on the alternate site.

### **4. Photo-simulations**

- Color photo-simulations of views of the proposed facility from adjacent residential properties and public rights-of-way at varying distances (need to specify distances).

### **5. Facility Diagrams**

- Diagram of the proposed facility and antennae, including height, shape, size and nature of construction;
- Diagram illustrating the separation between the proposed WCF and any existing WCF'(s) on the same support structure or site, if co-location is planned;
- Method of screening for mechanical and electrical equipment;
- Location and type of lighting fixtures proposed; and
- Proposed colors and materials for the WCF.

### **6. Landscape Plan**

- Scale, north arrow, and dimensions;
- Property lines, easements, alleys, private streets and adjacent rights-of-way;
- Location of required landscape areas;
- Existing and proposed landscaping materials, including non-vegetative groundcovers. Distinctive symbols must be used for each plant variety;



- Table listing sizes, varieties and numbers of landscaping material to be used;
- Contour lines and sections for retention basins and earthen berms (in the vicinity of the proposed WCF facilities);
- Location, type and height of proposed new site lighting fixtures (in the vicinity of the proposed WCF facilities);
- Location of existing and proposed electrical transformers, utility poles, and other utility equipment (in the vicinity of the proposed WCF facilities);
- Date of preparation including dates of any subsequent revisions; and
- Registered Landscape Architect signature and seal.







**A.R.S. § 9-843. Prohibited acts by municipalities and employees; enforcement; notice**

- A. A municipality shall not base a licensing decision in whole or in part on a licensing requirement or condition that is not specifically authorized by statute, rule, ordinance or code. A general grant of authority does not constitute a basis for imposing a licensing requirement or condition unless the authority specifically authorizes the requirement or condition.
- B. Unless specifically authorized, a municipality shall avoid duplication of other laws that do not enhance regulatory clarity and shall avoid dual permitting to the maximum extent practicable.
- C. This section does not prohibit municipal flexibility to issue licenses or adopt ordinances or codes.
- D. A municipality shall not request or initiate discussions with a person about waiving that person's rights.
- E. This section may be enforced in a private civil action and relief may be awarded against a municipality. The court may award reasonable attorney fees, damages and all fees associated with the license application to a party that prevails in an action against a municipality for a violation of this section.
- F. A municipal employee may not intentionally or knowingly violate this section. A violation of this section is cause for disciplinary action or dismissal pursuant to the municipality's adopted personnel policy.
- G. This section does not abrogate the immunity provided by section 12-820.01 or 12-820.02.



## Use Permit Checklist

<u>Required Materials</u>	Applicant Checklist	Staff Verification
PDF copy on disk of ALL required items on checklist with images formatted no larger than <b>11" x 17"</b> , saved in a <b>single layer with no write protection</b> .....	<input type="checkbox"/>	<input type="checkbox"/>
<b>Submit hard copy of ALL required items below:</b>		
<b>Application</b> .....	<input type="checkbox"/>	<input type="checkbox"/>
<b>Fee</b> (See Planning Fee Schedule).....	<input type="checkbox"/>	<input type="checkbox"/>
<b>Project Narrative</b> .....	<input type="checkbox"/>	<input type="checkbox"/>
<b>Proposition 207 Waiver Form with required Exhibits:</b>		
• Exhibit A – Title Report..... <input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
• Exhibit B – Legal Description & Map of Site..... <input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
• Exhibit C – Requested action setting forth any modifications, changes, deletions, or additions..... <input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
<b>Pre-Application Meeting Comments</b> (if applicable).....	<input type="checkbox"/>	<input type="checkbox"/>
<b>Response to Pre-Application Meeting Comments</b> (if applicable).....	<input type="checkbox"/>	<input type="checkbox"/>
<b>Traffic Impact Study</b> (If an optional Pre-Application meeting was not held, please call Traffic Engineering (480-503-6919) to determine if a traffic study is required).....	<input type="checkbox"/>	<input type="checkbox"/>
<b>Legal Description</b> (Metes and bounds description required for unplatted property) including total gross acreage, sealed and signed by a registered engineer or surveyor (8.5" x 11") and on disk.....	<input type="checkbox"/>	<input type="checkbox"/>
<b>Maricopa County Assessor Parcel Map</b> (8.5" x 11") (Highlight project area and provide parcel numbers).....	<input type="checkbox"/>	<input type="checkbox"/>
<b>Site Plan:</b>		
• 1 copy – (11" x 17") laser print copy to scale.....	<input type="checkbox"/>	<input type="checkbox"/>
<b>Neighborhood Notice:</b>		
• A parcel map highlighting properties within 300 feet, Homeowners Associations and neighborhoods within 1000 feet of the property.....	<input type="checkbox"/>	<input type="checkbox"/>
• Typed names and addresses of all <u>property owners</u> identified on highlighted parcel map.....	<input type="checkbox"/>	<input type="checkbox"/>



## Additional Requirements Wireless Communication Facilities Only

<u>Required Materials</u>	Applicant Checklist	Staff Verification
Inventory and Map (8.5" x 11").....	<input type="checkbox"/>	<input type="checkbox"/>
Report on Alternatives.....	<input type="checkbox"/>	<input type="checkbox"/>
Photo-simulations.....	<input type="checkbox"/>	<input type="checkbox"/>
<b>Facility Diagrams:</b>		
• 1 copy - (11" x 17") laser print copy to scale.....	<input type="checkbox"/>	<input type="checkbox"/>
<b>Landscaping Plan:</b>		
• 1 copy - (11" x 17") laser print copy to scale .....	<input type="checkbox"/>	<input type="checkbox"/>



# “Medical Marijuana Dispensary” and “Medical Marijuana Offsite Cultivation Site” Use Permit Application Supplement

**Please Read The Following Carefully-**

This supplement is intended to assist applicants in submitting high-quality Conditional Use Permit applications for Medical Marijuana Dispensaries and Medical Marijuana Offsite Cultivation Sites in the Town of Gilbert. This form does not grant the use or approve a location for Medical Marijuana Facilities without meeting the requirements of the Zoning Code and Arizona Revised Statutes Title 36, Chapter 28.1.

The following criteria are required by the Town of Gilbert Land Development Code (LDC) and documentation must be submitted with the Use Permit application:

**Section 4.5014B.** A Medical Marijuana Dispensary or Medical Marijuana Offsite Cultivation Site shall:

<b><u>Required Materials</u> – Applicant must submit proof of ALL 15 items:</b>	<b>Applicant Verification</b>	<b>Staff Verification</b>
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.....	<input type="checkbox"/>	<input type="checkbox"/>
2. Be limited to the maximum allowable floor area served by the allowable secured exterior doorway based on the Town’s adopted building codes.....	<input type="checkbox"/>	<input type="checkbox"/>
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.....	<input type="checkbox"/>	<input type="checkbox"/>
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. (The Town realizes that the AZ Dept of Health Services requires a zoning clearance prior to receiving a registration with the State, therefore, the Conditional Use Permit will be conditioned for the applicant to provide proof of this registration prior to Certificate of Occupancy of the facility.).....	<input type="checkbox"/>	<input type="checkbox"/>
5. Comply with all registration and recordkeeping required by the Town, Maricopa County and Arizona law.....	<input type="checkbox"/>	<input type="checkbox"/>



**Required Materials – Applicant must submit proof of ALL 15 items:**

**Applicant Verification      Staff Verification**

- |  |                          |                          |
|--|--------------------------|--------------------------|
| 6. Obtain, maintain and display a valid Town of Gilbert business registration or license as may be required by the town code.....  | <input type="checkbox"/> | <input type="checkbox"/> |
| 7. Supply the name of all the dispensaries with which it is affiliated, if offsite cultivation is proposed.....  | <input type="checkbox"/> | <input type="checkbox"/> |
| 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..... | <input type="checkbox"/> | <input type="checkbox"/> |
| 9. Not provide off-site deliveries of medical marijuana.....   | <input type="checkbox"/> | <input type="checkbox"/> |
| 10. Not sell merchandise other than medical marijuana.....   | <input type="checkbox"/> | <input type="checkbox"/> |
| 11. Not have drive-through facilities or take-out windows.....   | <input type="checkbox"/> | <input type="checkbox"/> |
| 12. Not emit dust, fumes, vapors or odors into the environment.  | <input type="checkbox"/> | <input type="checkbox"/> |
| 13. Prohibit consumption of medical marijuana on the premises  | <input type="checkbox"/> | <input type="checkbox"/> |
| 14. Not permit or provide indoor or outdoor seating areas or facilities for the consumption of medical marijuana anywhere on the site.....                                     | <input type="checkbox"/> | <input type="checkbox"/> |
| 15. Permit annual fire inspections pursuant to the Town of Gilbert Fire Code.....  | <input type="checkbox"/> | <input type="checkbox"/> |

**Section 4.5014C.** Medical Marijuana Facilities shall be a minimum distance from the uses set forth in Table 4.5014: Medical Marijuana Facilities Location Requirements. 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.

**Required Materials – A dimensioned site plan showing that applicant has used Gilbert Medical Marijuana Distance Separation Maps & Meets Location Requirements Listed**

**Applicant Verification      Staff Verification**

- |  |                          |                          |
|--|--------------------------|--------------------------|
| 1. Another Medical Marijuana Dispensary Or Offsite Cultivation Site: 1,320 feet..... | <input type="checkbox"/> | <input type="checkbox"/> |
| 2. Hospital: 1,320 feet.....   | <input type="checkbox"/> | <input type="checkbox"/> |
| 3. Day Care Center, Public or Private: 1,000 feet.....                               | <input type="checkbox"/> | <input type="checkbox"/> |



**Required Materials – A dimensioned site plan showing that applicant has used Gilbert Medical Marijuana Distance Separation Maps & Meets Location Requirements Listed**

	Applicant Verification	Staff Verification
4. Public or Private Park: 1,000 feet.....	<input type="checkbox"/>	<input type="checkbox"/>
5. Place of Worship: 1,000 feet.....	<input type="checkbox"/>	<input type="checkbox"/>
6. Schools, Public or Private: 1,000 feet.....	<input type="checkbox"/>	<input type="checkbox"/>
7. Residential District Boundary: 500 feet.....	<input type="checkbox"/>	<input type="checkbox"/>

**Section 4.5014E.** A Medical Marijuana Facility shall submit a security plan containing the following information:

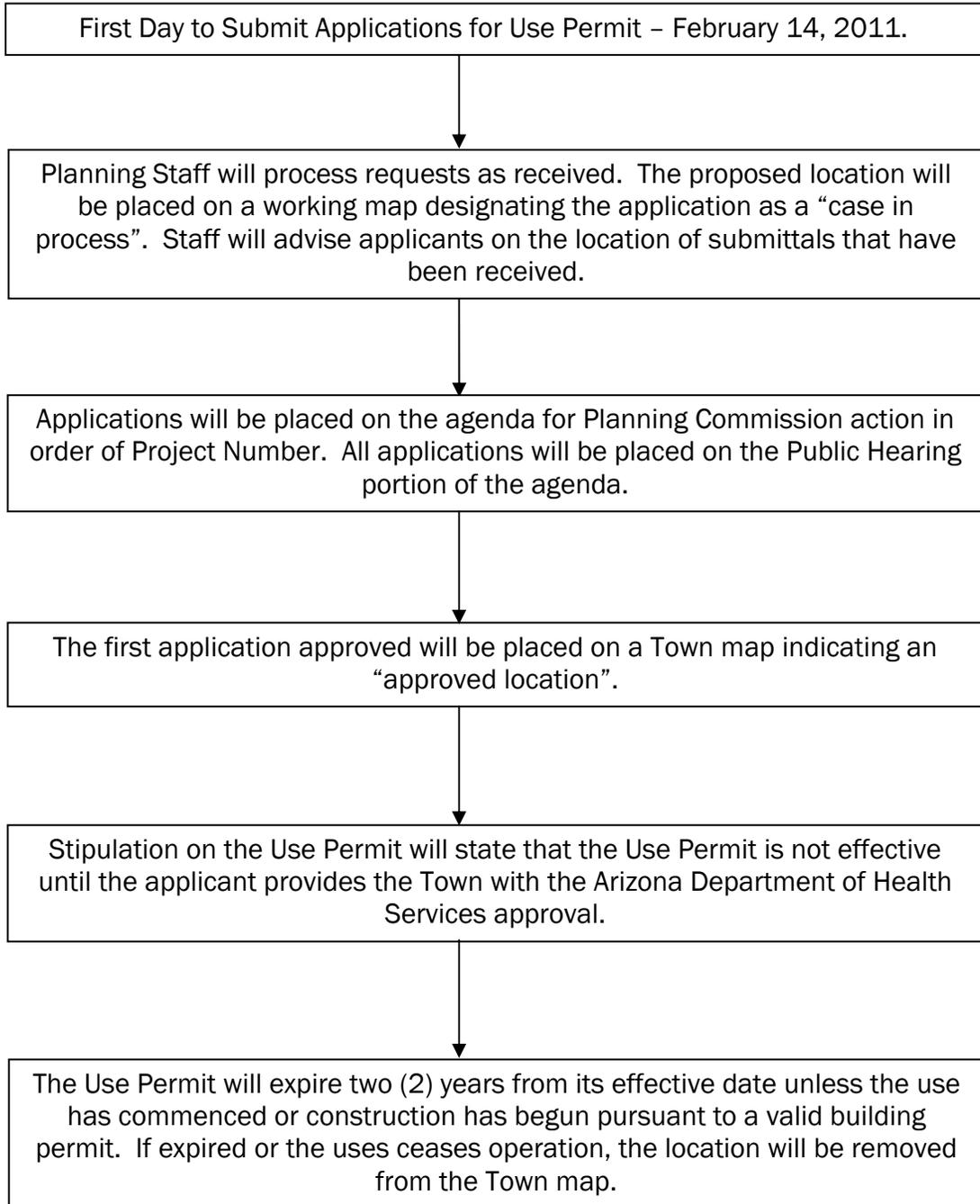
**Required Materials – Applicant has submitted proof of ALL 6 items for Police Review**

	Applicant Verification	Staff Verification
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.....	<input type="checkbox"/>	<input type="checkbox"/>
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.....	<input type="checkbox"/>	<input type="checkbox"/>
3. A floor plan that details the security measures required by Arizona law including an on-site alarm system and a single secure entrance.....	<input type="checkbox"/>	<input type="checkbox"/>
4. Additional protections, if any, against medical marijuana diversion and theft.....	<input type="checkbox"/>	<input type="checkbox"/>
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/non-management employees.....	<input type="checkbox"/>	<input type="checkbox"/>
6. Provide and update as needed a current list of all persons who are authorized to access the dispensary or offsite cultivation site.....	<input type="checkbox"/>	<input type="checkbox"/>



# Medical Marijuana Use Permit Process

Ordinance Effective – February 12, 2011



Project No. \_\_\_\_\_

**TOWN OF GILBERT**

**AGREEMENT TO WAIVE CLAIMS FOR DIMINUTION IN VALUE**

**PURSUANT TO A.R.S. § 12-1134**

I/We, \_\_\_\_\_, (“Owner”) am/are all of the owner(s) of real property (“Property”) generally located at \_\_\_\_\_, consisting of approximately \_\_\_\_ acres, as shown in the evidence of ownership ( *Exhibit A*) and is legally described and shown on the map in *Exhibit B*, both of which are attached to this Agreement.

The Property is subject to the land use laws of the Town of Gilbert, Arizona. For purposes of this Waiver, “land use law” shall be defined as set forth in A.R.S. § 12-1136.

I/We have requested that the Town take/approve the land use action (“Requested Action”) as set forth in *Exhibit C*, which is attached to this Agreement.

I/We acknowledge that as the request is processed for approval, changes may be made to the details and requirements for approval of the request. Some of these changes may materially alter the request, so that the final approval may be substantially different than originally requested. I/We understand and agree that execution of an additional waiver will be required for approval if the request is altered.

I/We acknowledge that the Requested Action may alter my/our rights to use, divide, sell or possess our Property, and that, pursuant to A.R.S. § 12-1134, as the owner of property directly regulated by a land use law, I/we may be entitled to compensation from the Town for diminution of value in the property if the action I/we have requested from the Town reduces the fair market value of the above described property.

By signing this Agreement, I/we hereby agree to waive any and all claims for diminution in value for the Property which may arise pursuant to A.R.S. § 12-1134 as a result of the Town’s actions, including but not limited to approvals, denials or conditions of approvals with respect to the above-described Requested Action.

I/we hereby further understand that the Town is acting in reliance upon my/our representations in this waiver.



Project No. \_\_\_\_\_  
Waiver of Claims for Diminution in Value  
Signature Page

\_\_\_\_\_  
Property Owner

Date: \_\_\_\_\_

By Its \_\_\_\_\_

STATE OF ARIZONA )

) ss.

County of Maricopa )

SUBSCRIBED AND SWORN before me this \_\_\_ day of \_\_\_\_\_, 20\_\_, by

\_\_\_\_\_

\_\_\_\_\_  
Notary Public

My Commission Expires:

\_\_\_\_\_

