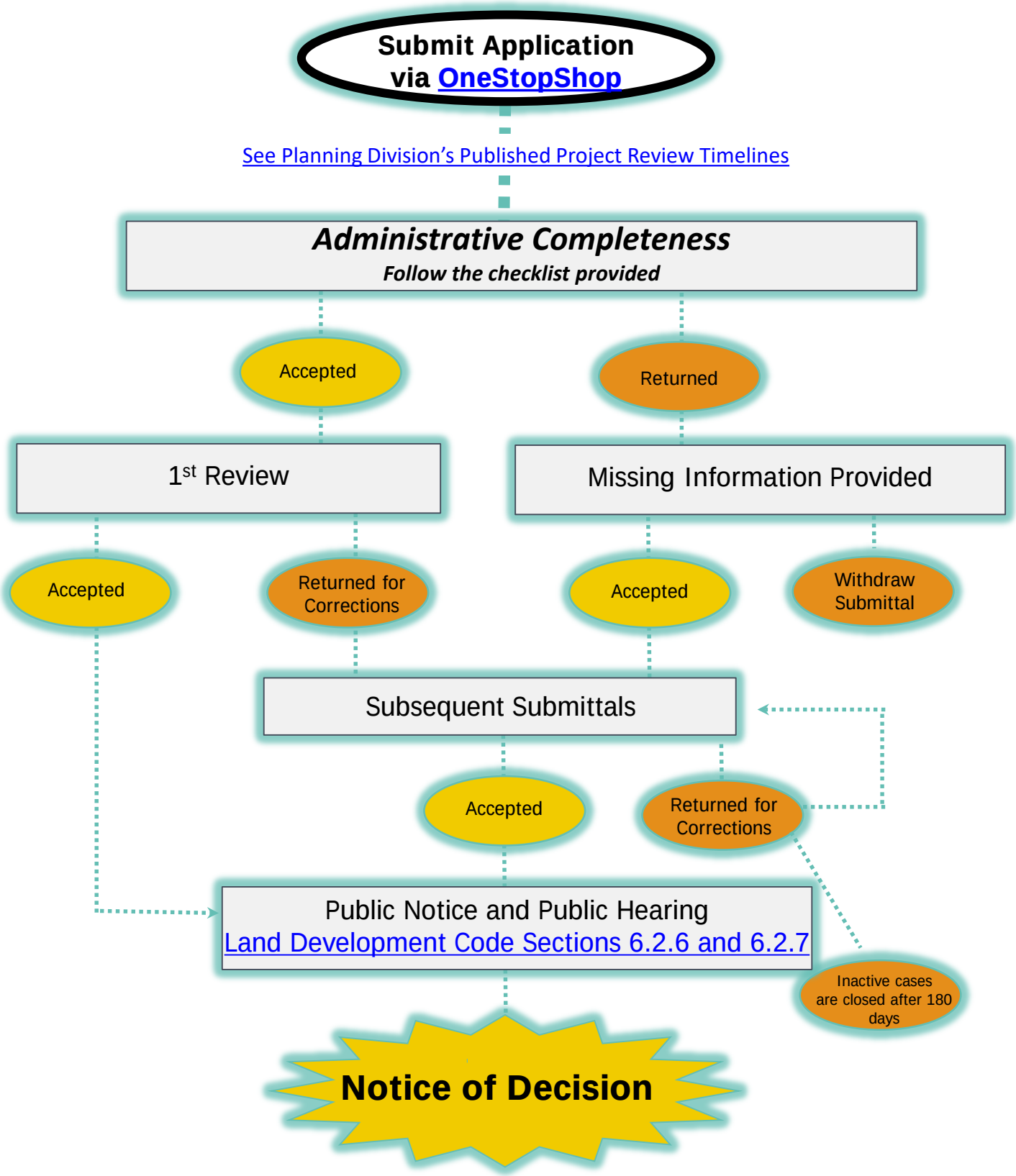
Use Permit – Conditional and/or Special & Modification



Use Permit – Conditional and/or Special & Modification

- A Conditional Use permit is approved by the Planning Commission for a use in specified districts based on a determination of compliance with standards set forth in the Base District Regulations and individual review of their location, design, configuration, intensity, and density of use or structures.
- Pre-Application review is required for new vertical structures for Wireless Communication Facilities and optional for all other use permits. If an optional Pre-Application meeting is not held, please contact Traffic Engineering prior to project submittal to determine if a traffic study is required.
- Approval for a Conditional Use Permit must meet the following findings:
  1. The proposed use will not be detrimental to health, safety, or general welfare of persons living or working in the vicinity, to adjacent property, to the neighborhood, or to the public in genera.
  2. The proposed use conforms with the purposes, intent, and policies of the General Plan and its policies and any applicable area, neighborhood, or other plan adopted by the Town Council.
  3. The proposed use conforms with the conditions, requirements, or standards required by the Zoning Code and any other applicable local, State, or Federal requirements; and
  4. The proposed use, as conditioned, would not unreasonably interfere with the use and enjoyment of nearby properties.
- Prop 207 Waiver (Diminution in Value)
  - Title Report – If the title report is more than a month old, it will not be considered current.
  - Proof of signatures rights will be needed for LLC's or Corporation's
- Useful Links on Gilbert's Planning & Development webpage:
  - Development Fee Schedule
  - Planning Division Project Review Timelines
  - General Plan Character Area Map
  - Zoning and Land Development Code
  - Zoning Map Noting Overlay Zoning Districts

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Submittal Formatting, Required Materials and Checklist:

- ☐ **Submit electronic copy** of **ALL** required items on checklist. **(No 24" x 36")**
- ☐ Purge images of unnecessary blocks and layers (single layer).
- ☐ Save each exhibit as a separate PDF per document naming below.

Document Naming:

- ☐ Exhibit 1: Property Owner Authorization
- ☐ Exhibit 2: Project Narrative
- ☐ Exhibit 3: Proposition 207 (Diminution in Value) Waiver Form with Exhibits
- ☐ Exhibit 4: Parcel/Aerial Map
- ☐ Exhibit 5: Legal Description
- ☐ Exhibit 6: Site Plan
- ☐ Exhibit 7: Neighborhood Notice
- ☐ Exhibit 8: Traffic Impact Analysis/Study (if required by Town)
- ☐ Exhibit 9: Response to Pre-Application Comments (if applicable)
- ☐ Exhibit 10: Inventory and Map (WCF only)
- ☐ Exhibit 11: Report on Alternatives (WCF only)
- ☐ Exhibit 12: Photo—Simulations (WCF only)
- ☐ Exhibit 13: Facility Diagrams (WCF only)
- ☐ Exhibit 14: Landscape Plan (WCF only)
- ☐ Exhibit 15: Arizona Department of Health Registration (Medical Marijuana only)
- ☐ Exhibit 16: Town of Gilbert Business Registration or License (Medical Marijuana only)
- ☐ Exhibit 17: Dispensary Affiliation (For Off-Site Cultivation-Medical Marijuana only)
- ☐ Exhibit 18: Qualified Patient or Caregiver (Medical Marijuana only)
- ☐ Exhibit 19: Separation Requirement Site Plan(Medical Marijuana only)
- ☐ Exhibit 20: Security Plan (Medical Marijuana only)

Checklist

☐ **Exhibit 1: Property Owner Authorization**

- ☐ Signed Letter of Authorization from property owner.

☐ **Exhibit 2: Project Narrative**

- ☐ Project Narrative should be typed in a 12pt font and no more than 5 pages in length.;
- ☐ Description of the proposed use and efforts to mitigate any potential impacts to adjacent properties;
- ☐ Provide how the project complies with the General Plan, zoning requirements or any other adopted plans;
- ☐ Information on how the proposed use conforms with the requirements, or standards prescribed by the Land Development Code and any other applicable local, State or Federal requirements.
- ☐ Address how the proposal meets the four (4) Findings of Fact.

☐ **Exhibit 3: Proposition 207 Waiver with Exhibits**

- ☐ Notarized Proposition 207 Waiver (Diminution in Value) with required exhibits
  - ☐ Exhibit A – Title Report (current)

- ☐ Exhibit B – Legal Description & Map of Site
- ☐ Exhibit C – Requested action setting forth any modifications, changes, deletions, or additions.

☐ <u>Exhibit 4: Parcel/Aerial Map</u>

- ☐ Maricopa County Assessor Parcel Map (Highlight project area and provide parcel number(s).

☐ <u>Exhibit 5: Legal Description</u>

- ☐ Metes and bounds description of the property including total gross acreage, sealed and signed by a Registered Engineer or Surveyor;

☐ <u>Exhibit 6: Site Plan</u>

- ☐ Vicinity Map with the site and major streets noted;
- ☐ Graphic scale, north arrow, exhibit date;
- ☐ Dimension property lines, easements, alleys, private streets, adjacent rights-of-way, existing and future improvements, access points, signals, etc.;
- ☐ Project data table: existing zoning on site and adjacent property within 300 feet, gross and net acreage;
- ☐ Location and size of any existing/proposed building(s) or structure(s);
- ☐ Dimension location of required and proposed building setbacks and spaces between buildings;
- ☐ Vehicular and pedestrian circulation, including ADA accessibility requirements;
- ☐ Location and size of parking spaces, and the number of spaces required and provided;
- ☐ Location of other existing and proposed improvements such as walls, hardscape, trash enclosures, outside storage, loading areas, mailboxes, etc.;
- ☐ Emergency apparatus access and required turning radii;
- ☐ Adjacent lot lines and/or structures within 300 feet;
- ☐ Method of screening and details for parking, storage and loading areas;
- ☐ Location and screening of refuse enclosures
- ☐ Locations and architecturally integrated method of screening of existing and proposed utility equipment (ground mounted and/or roof mounted);
- ☐ Location, type and height of existing and proposed site lighting fixtures including parking lot lights;
- ☐ Freestanding sign locations with corresponding visibility triangles.
- ☐ WCF only - Specific placement of the WCF (including equipment cabinet/building) on the site;
- ☐ WCF only - Setbacks from adjacent property lines; and
- ☐ WCF only - Location of existing structures, trees, and other significant site features.

☐ Exhibit 7: Neighborhood Notice

- ☐ Please refer to Section 6.2.6.D of the Land Development Code for requirements
- ☐ A parcel map highlighting properties within 300 feet, Homeowners Associations and neighborhoods within 1000 feet of the property and the typed names and address of all property owners identified on parcel map (http://mcassessor.maricopa.gov/)

☐ Exhibit 8: Traffic Impact Analysis/Study (if required by Town)

- ☐ The Town Traffic Engineer may require a Traffic Impact Analysis/Study to determine the impacts of the request.

Exhibit 9: Response to Pre-Application Comments (if applicable)

- ☐ If a pre-application meeting was held for the project, include the responses as to how the meeting comments have been addressed.

Wireless Community Facilities (WCF only)

☐ Exhibit 10: Inventory and Map (WCF only)

- ☐ An inventory list and map of existing WCFs 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 facility.

☐ Exhibit 11: Report on Alternatives (WCF only)

- ☐ Submit report explaining why the Wireless Communication Facility is needed at requested location.
  - ☐ If Town has requested the applicant co-locate its WCF on an alternate site, please explain why the co-location is not feasible, including efforts made to develop on the alternate site.
  - ☐ If a public safety communication tower is to be constructed, the governmental entity shall explain why a public safety communication tower is needed; why the proposed height is necessary for a public use and why alternatives to such a tower are not feasible. Each of the alternatives must include an analysis of financial impacts to taxpayers or the governmental budget(s).

☐ Exhibit 12: Photo-Simulations (WCF only)

- ☐ Color photo-simulations of the view of the proposed facility from adjacent residential properties and public rights-of-way at varying distances (specify the distance).

☐ Exhibit 13: Facility Diagrams (WCF only)

- ☐ 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 of mechanical and electrical equipment; and
- ☐ Proposed colors and materials for the WCF.

☐ Exhibit 14: Landscape Plan (WCF only)

- ☐ Graphic scale, north arrow, and exhibit date;
- ☐ Dimension property lines, easements, alleys, private streets and adjacent rights-of-way;
- ☐ Dimension location of required landscape areas;

- ☐ Existing and proposed landscaping materials (distinctive symbols must be used for each plant variety), including non-vegetative groundcovers & decorative hardscape;
- ☐ Botanical name, common name, and size of landscaping materials to be used (should be included on the same sheets as the plan if possible);
- ☐ Contour lines and sections for retention basins and earthen berms (in the vicinity of the proposed WCF facility);
- ☐ Location of existing and proposed electrical transformers, utility poles, and other utility equipment (in the vicinity of the proposed WCF facility);

Medical Marijuana Facilities (MMF only)

☐ Exhibit 15: Arizona Department of Health Services Registration (MMF only)

- ☐ Proof dispensary is state-approved and certified pursuant to A.R.S. §36-28.1.

☐ Exhibit 16: Town of Gilbert Business Registration or License (MMF only)

- ☐ Copy of current and valid Town issued business registration or license that will be displayed in dispensary

☐ Exhibit 17: Dispensary Affiliation (For Off-Site Cultivation only)

- ☐ Typed list of name(s) and contact information of all the dispensaries applicant is affiliated with.

☐ Exhibit 18: Qualified Patient or Caregiver (MMF only)

- ☐ Typed list of name(s) and contact information of qualified patient or caregiver who supply medical marijuana to dispensary.

☐ Exhibit 19: Separation Requirement Site Plan (MMF only)

- ☐ Dimensioned site plan showing site meets location/separation requirements set forth in Table 4.5014 of the Land Development Code. Measurements shall be made in a straight line in any direction from the closest perimeter business walls.

☐ Exhibit 20: Security Plan (MMF only)

- ☐ Make sure to include proof of all six (6) items for Police Review from Section 4.5014.E. of the Land Development Code.

Medical Marijuana Facilities and Dispensaries

Medical Marijuana Dispensaries and Medical Marijuana Offsite Cultivation Site must meet the following requirements and applicant **must submit proof of ALL fifteen (15) items**:

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.

Medical Marijuana Facilities shall be a minimum distance as noted in Table 4.5014 Medical Marijuana Facilities Location Requirements of the Land Development Code including 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.

- Another Medical Marijuana Dispensary or Offsite Cultivation Site – 5.280 ft
- Hospital – 1,320 ft
- Day Care Center, public or private – 1,000 ft
- Public or Private Park – 1,000 ft
- Place of Worship – 1,000 ft
- Schools, Public or Private – 1, 000 ft
- Residential District Boundary – 1,000 ft

A dimensional site plan will be required showing that the applicant has met the Location Requirement.

A Medical Marijuana Facility shall submit a **Security Plan** and proof of ALL six (6) items for Police Review:

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.

A Use Permit for a Medical Marijuana Facility will expire two (2) years from its effective date unless the use has commenced or construction has begun pursuant to a valid building permit. If expired or the use ceases operation, the location will be removed from the Town map.