

**ARTICLE 1. GENERAL**

Section

R9-18-102. Fees

**ARTICLE 3. MARIJUANA ESTABLISHMENTS**

Section

R9-18-302. Marijuana Establishment License Allocation Process for ~~Early~~ Applicants Who Submit an Application under ~~R9-18-303(A)~~ A.R.S. § 36-2854(A)(1)(f)

R9-18-303. Applying for an Initial Marijuana Establishment License

R9-18-304. Applying for Approval to Operate a Marijuana Establishment

R9-18-305. Changes to a Marijuana Establishment License

**R9-18-308. Administration**

ARTICLE 1. GENERAL

R9-18-102. Fees

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

1. ~~For~~ Except as specified in subsection (B), for a marijuana facility agent license:
  - a. For an initial license for an applicant submitting the applicant's fingerprints on a fingerprint card, \$300;
  - b. For renewal of a license for an applicant submitting the applicant's fingerprints on a fingerprint card, \$300;
  - c. For an initial license for an applicant submitting a copy of the applicant's current level 1 fingerprint clearance card issued pursuant to A.R.S. § 41-1758.07, \$150; and
  - d. For renewal of a license for an applicant submitting a copy of the applicant's current level 1 fingerprint clearance card issued pursuant to A.R.S. § 41-1758.07, \$150;
2. For changing information on a marijuana facility agent's license, \$10;
3. For requesting a replacement marijuana facility agent license, \$10;
4. ~~For~~ Except as specified in subsection (C), for a marijuana establishment license:
  - a. An application fee for an initial license, \$25,000; and
  - b. A license fee for license renewal, \$5,000;
5. For applying for an approval to operate, \$2,500;
6. To change the location of a marijuana establishment's retail site, cultivation site, or manufacturing site, \$2,500;
7. To add a cultivation site or manufacturing site, \$2,500;
8. To change the approved activities for a marijuana establishment's retail site, cultivation site, or manufacturing site, \$2,500; and
9. For a marijuana testing facility license:
  - a. For an initial license, \$25,000; and
  - b. For license renewal, \$5,000.

**B.** An applicant for an initial marijuana facility agent license is not required to submit the applicable fee in subsection (A)(1) if the applicant, as part of the application packet in R9-18-201, submits an attestation that the applicant meets the criteria for waiver of licensing fees in A.R.S. §

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Changes are highlighted, new changes in yellow

Strikeouts = text being removed

Underlines = text being added

Comments/clarifications/requests for stakeholder input are Bolded and highlighted in blue

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**C.** An applicant submitting an application to the Department for an initial marijuana establishment license under A.R.S. § 36-2854(A)(1)(f) shall submit a nonrefundable application fee of \$5,000.

ARTICLE 3. MARIJUANA ESTABLISHMENTS

**R9-18-302. Marijuana Establishment License Allocation Process for Early Applicants Who Submit an Application under ~~R9-18-303(A)~~ A.R.S. § 36-2854(A)(1)(f)**

**A.** ~~If the Department receives more marijuana establishment license applications that are complete and compliant with A.R.S. Title 36, Chapter 28.2, and this Chapter to participate in the allocation process than the number of licenses the Department is allowed to issue, the Department shall allocate the marijuana establishment licenses according to the following criteria:~~

~~1. For a county that:~~

~~a. Does not contain a dispensary, if two or fewer marijuana establishment license applications are received, the Department shall allocate a marijuana establishment license to each applicant; and~~

~~b. Contains one dispensary, if only one marijuana establishment license application is received, the Department shall allocate a marijuana establishment license to the applicant; and~~

~~2. If more marijuana establishment license applications are received for a county than the number of licenses the Department is allowed to issue according to subsection (A)(1)(a) or (b), the Department shall allocate a marijuana establishment license based on random drawing to:~~

~~a. Two applicants if the county does not contain a dispensary, and~~

~~b. One applicant if the county contains one dispensary.~~

**A.** If the Department receives more marijuana establishment license applications according to R9-18-303 that are complete and compliant with A.R.S. Title 36, Chapter 28.2, and this Chapter to participate in the allocation process than the number of licenses the Department is allowed to issue, the Department shall allocate the marijuana establishment licenses based on random drawing.

**B.** If an entity is allocated a marijuana establishment license under subsection (A), the entity shall ensure that each principal officer and each board member, specified according to R9-18-301, obtains a marijuana facility agent license according to R9-18-201 before the entity submits an application for an approval to operate according to R9-18-304.

**B.C.** If the Department does not allocate a marijuana establishment license to an applicant that had submitted a marijuana establishment license application according to R9-18-303 that the

Department determined was complete and compliant with A.R.S. Title 36, Chapter 28.2, and this Chapter to participate in the allocation process, the Department shall provide a written notice to the applicant that states that, although the applicant's marijuana establishment license application was complete and compliant with A.R.S. Title 36, Chapter 28.2, and this Chapter, the Department did not allocate the applicant a marijuana establishment license under the processes in this Section.

~~C.D.~~ If the Department receives a marijuana establishment license application at a time other than the time stated in R9-18-303(A), the Department shall return the application, including the application fee, to the entity that submitted the application.

**R9-18-303. Applying for an Initial Marijuana Establishment License**

A. ~~Except as specified in subsection (E), to apply for an initial marijuana establishment license, an applicant shall electronically submit to the Department, between January 19, 2021 and March 9, 2021~~ To apply for an initial marijuana establishment license under A.R.S. § 36-2854(A)(1)(f), an applicant shall electronically submit to the Department, between December 1, 2021, and December 14, 2021:

1. The following information in a Department-provided format:
  - a. The legal name of the proposed marijuana establishment;
  - ~~b. The physical address of the proposed marijuana establishment's retail site;~~
  - ~~c. The county in which the proposed marijuana establishment's retail site is located;~~
  - ~~d.~~ b. The following information for the applicant:
    - i. Name of the entity applying,
    - ii. Type of business organization,
    - iii. Arizona mailing address,
    - iv. Telephone number, and
    - v. E-mail address;
  - ~~e.~~ c. For a business organization that is not a publicly traded corporation, the name, residence address, and date of birth of each principal officer ~~or~~ and each board member;
  - ~~f.~~ d. For a business organization that is a publicly traded corporation, the name, residence address, and date of birth of each principal officer ~~or~~ and each board member who is entitled to 10% or more of the profits of the proposed marijuana establishment;

- ~~g.e.~~ Whether the applicant agrees to allow the Department to submit supplemental requests for information;
  - ~~h.f.~~ A statement An attestation that, if the ~~early~~ applicant is issued a marijuana establishment license, the proposed marijuana establishment will not operate until the proposed marijuana establishment is inspected and obtains an approval to operate from the Department;
  - ~~i.g.~~ An attestation that the applicant understands and will comply with the requirements in A.R.S. Title 36, Chapter 28.2, and this Chapter;
  - ~~j.h.~~ An attestation that information provided to the Department to apply for a marijuana establishment license is true and correct; and
  - ~~k.i.~~ The signatures of each principal officer and each board member of the proposed marijuana establishment according to R9-18-301 and the date signed;
2. Documentation that the applicant is in good standing with the Arizona Corporation Commission;
  - ~~3. For each principal officer and each board member listed according to subsection (A)(1)(e) or (f), documentation of the principal officer's or board member's marijuana facility agent license;~~
  - ~~4. A statement, in a Department-provided format, signed and dated within 60 calendar days before the date of the application by a representative of the local jurisdiction:~~
    - ~~a. Certifying that the proposed marijuana establishment is in compliance with any local zoning restrictions; and~~
    - ~~b. Including:~~
      - ~~i. Information identifying the local jurisdiction and the local jurisdiction's representative;~~
      - ~~ii. The legal name of the proposed marijuana establishment, and~~
      - ~~iii. The physical address of the proposed marijuana establishment's retail site as specified according to subsection (A)(1)(b);~~
  - ~~5. Documentation, in a Department-provided format, of:~~
    - ~~a. Ownership of the physical address of the proposed marijuana establishment, signed and dated within 60 calendar days before the days of application; or~~
    - ~~b. Permission from the owner of the physical address of the proposed marijuana establishment for the applicant for a marijuana establishment license to operate a marijuana establishment at the physical address, signed, notarized, and dated~~

~~within 60 calendar days before the days of application;~~

6. ~~The following documentation from an in-state financial institution or an out-of-state financial institution, as defined in A.R.S. § 6-101:~~

a. ~~A written statement, in a Department-provided format, signed within 30 calendar days before the date of the application by a representative of the in-state financial institution or out-of-state financial institution, as applicable, confirming that the applicant or a principal officer or board member of the applicant has at least \$500,000 in liquid capital, as defined in A.R.S. § 6-851, in the name of the applicant or a principal officer or board member of the applicant; and~~

b. ~~Documentation, including the name of the applicant or a principal officer or board member of the applicant, supporting that the \$500,000 has been under the control of the applicant or principal officer or board member of the applicant for at least 30 calendar days before the date of the application; and~~

3. ~~An attestation from each principal officer and each board member listed according to subsection (A)(1)(c) or (d) that, subject to the completion of expungement proceedings according to A.R.S. § 36-2862 if applicable, the principal officer or board member **does not have an excluded felony offense, as defined in A.R.S. § 36-2801;**~~

4. ~~Documentation that the applicant is eligible to apply under A.R.S. § 36-2854(A)(9), as specified in subsection (B);~~ **[The documentation that would need to be submitted will be further delineated in the rule after the criteria in subsection (B) are determined.]**

5. ~~Documentation confirming that a principal officer or board member who meets the criteria in subsection (B)(1) cannot be removed from the principal officer's or board member's position without:~~

a. ~~The written consent of the principal officer or board member, or~~

b. ~~A court order for removal of the principal officer or board member; and~~

~~7.6. The application fee in ~~R9-18-102~~ R9-18-102(C) for a marijuana establishment license.~~

**B.** ~~If an applicant submits more than one application in subsection (A) for a marijuana establishment license, the applicant shall submit with each application documentation required in subsection (A)(6) that does not include funds for which documentation was submitted as part of another application.~~

**B.** ~~An applicant is eligible to apply for a marijuana establishment license under subsection (A) if:~~

1. ~~One or more of the principal officers or board members of the applying entity holds at least 51% ownership in the entity; **and**~~

2. Each individual specified according to subsection (B)(1):
  - a. Is currently an Arizona resident and has been an Arizona resident for at least three of the past five years; and
  - b. Meets three of the following five criteria:
    - i. Had a household income in at least three of the previous five years that is less than 400% of the federal poverty level, which is the annual household income for a household of a particular size that is specified in the poverty guidelines updated annually in the Federal Register by the U.S. Department of Health and Human Services:
      - (1) Is eligible for and has petitioned for expungement pursuant to A.R.S. 36-2862; or
      - (2) Was convicted of a violation of federal or state law related to marijuana or marijuana paraphernalia, and does not have an excluded felony offense;
    - ii. Has been adversely affected by the enforcement of previous marijuana laws because the individual:
      - (1) Spouse;
      - (2) Surviving spouse, as defined in A.A.C. R9-1-301;
      - (3) Parent, as defined in A.A.C. R9-1-301;
      - (4) Child;
      - (5) Sibling; or
      - (6) Legal guardian, as defined in A.A.C. R9-1-301;
    - iii. Has been adversely affected by the enforcement of previous marijuana laws because the individual is related, as one of the following, to another individual who was convicted of a violation of federal or state laws related to marijuana or marijuana paraphernalia:
      - (1) Spouse;
      - (2) Surviving spouse, as defined in A.A.C. R9-1-301;
      - (3) Parent, as defined in A.A.C. R9-1-301;
      - (4) Child;
      - (5) Sibling; or
      - (6) Legal guardian, as defined in A.A.C. R9-1-301;
    - iv. Has a physical address, and has lived for at least three of the previous five years at the physical address, in a community that has been disproportionately affected by the enforcement of Arizona's previous marijuana laws; or [The criteria for which communities would be included are still being developed and will be added in a subsequent iteration of the rules prior to September 1, 2021.]



- v. Has a certificate of completion of the Department-provided educational training course in subsection (C).

**C.** A principal officer or board member specified according to subsection (B)(1) may participate in a Department-provided educational training course that includes the following topics:

- 1. Overview of federal and state laws and regulations related to the operation of a marijuana establishment;
- 2. Setting up a business in Arizona, including:
  - a. Choosing a business model;
  - b. General business financial management;
  - c. Requirements of the Arizona Department of Revenue;
  - d. Choosing a business name;
  - e. Choosing a business location;
  - f. Establishing a business plan;
  - g. Obtaining licenses, permits, and insurance;
  - h. Registering with the Arizona Corporation Commission;
  - i. General information about employee hiring and management; and
  - j. **Obtaining financial backing;** and
- 3. Specific requirements in the rules of this Chapter, including:
  - a. Application requirements, and
  - b. The types of documentation that may make an applicant eligible under A.R.S. § 36-2854(A)(9) for a marijuana establishment license.

~~**C.D.**~~ An applicant shall ensure that **an individual is not an applicant, principal officer, or board member on more than five marijuana establishment license applications no principal officer or board member of the applying entity is a principal officer or board member on any other marijuana establishment license application** submitted according to subsection (A).

~~**D.E.**~~ Except as specified in R9-18-304(B), ~~before~~ **Before** an entity with a marijuana establishment license begins operating a marijuana establishment, the entity shall apply for and obtain an approval to operate a marijuana establishment from the Department.

~~**E.**~~ An entity holding a valid dispensary registration certificate issued by the Department under 9 A.A.C. 17 may apply for an initial marijuana establishment license by electronically submitting to the Department between January 19, 2021, and March 9, 2021, in a Department-provided format:

- 1. An attestation from each principal officer and each board member approving the application for a marijuana establishment license;

- ~~2. The license number on the applicant's dispensary registration certificate;~~
- ~~3. If applicable, whether the applicant wants to transfer the cultivation site under the applicant's dispensary registration certificate to the marijuana establishment license; and~~
- ~~4. The applicable fee in R9-18-102 for applying for a marijuana establishment license.~~

~~F. If the Department receives a marijuana establishment license application according to subsection (E) at a time other than the time stated in subsection (E), the Department shall return the application, including the application fee, to the entity that submitted the application.~~

**F. For purposes of subsection (B), "ownership" means that an individual has an interest in an applying entity that:**

- 1. Entitles the individual to at least that portion of distributed profits of the applying entity that is proportional to the percentage of the individual's interest in the applying entity;**
- 2. Ensures that the individual has a percentage of the voting rights in the applying entity that is proportional to the percentage of the individual's interest in the applying entity; and**
- 3. Is not subject to restrictions or assignments of voting rights or other arrangements that causes or may cause benefits derived from the individual's interest in the applying entity to go to another individual due to any circumstance other than voluntary sale of the interest or the individual's death or incapacity.**

#### **R9-18-304. Applying for Approval to Operate a Marijuana Establishment**

A. ~~Except as provided in subsection (B), to~~ **To** apply for approval to operate a marijuana establishment, a principal officer or board member of the entity holding a marijuana establishment license shall electronically submit to the Department, within 18 months after the marijuana establishment license was issued:

1. The following information in a Department-provided format:
  - a. The name and license number of the marijuana establishment;
  - b. The physical address of the marijuana establishment's retail site;
  - ~~c.~~ **The county in which the marijuana establishment's retail site is located;**
  - ~~e.d.~~ The marijuana establishment's Transaction Privilege Tax Number issued by the Arizona Department of Revenue;
  - ~~d.e.~~ The marijuana establishment's proposed hours of operation;
  - ~~e.f.~~ Whether the marijuana establishment agrees to allow the Department to submit supplemental requests for information;
  - ~~f.g.~~ Whether the marijuana establishment's retail site is ready for an inspection by the

- Department;
- ~~g-h.~~ If the marijuana establishment's retail site is not ready for an inspection by the Department, the date the marijuana establishment's retail site will be ready for an inspection by the Department;
- ~~h-i.~~ An attestation that the information provided to the Department to apply for approval to operate a marijuana establishment is true and correct; and
- ~~i-j.~~ The signature of each principal officer and each board member of the marijuana establishment according to R9-18-301 and the date signed;
2. A copy of documentation issued by the local jurisdiction to the marijuana establishment authorizing occupancy of the building as a marijuana establishment's retail site, such as a certificate of occupancy, a special use permit, or a conditional use permit;
- ~~3.~~ Documentation, in a Department-provided format, of:
- ~~a.~~ Ownership of the physical address of the marijuana establishment's retail location, signed and dated within 60 calendar days before the date of application;
- or
- ~~b.~~ Permission from the owner of the physical address of the marijuana establishment's retail location for the applicant to operate a marijuana establishment at the physical address, signed, notarized, and dated within 60 calendar days before the date of application;
- ~~3-4.~~ A list of which of the following activities the marijuana establishment is requesting approval to provide at the retail site:
- a. Cultivation,
- b. Manufacturing of marijuana products, or
- c. Manufacturing of edible marijuana products;
- ~~4-5.~~ If requesting approval to manufacture edible marijuana products, a copy of the marijuana establishment's license or permit of the location as a food establishment, issued under 9 A.A.C. 8, Article 1;
- ~~5-6.~~ A site plan drawn to scale of the marijuana establishment's retail site showing streets, property lines of the contiguous premises, buildings, parking areas, outdoor areas if applicable, fences, security features, fire hydrants if applicable, and access to water mains;
- ~~6-7.~~ A floor plan drawn to scale of the building where the marijuana establishment's retail site 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;

8. If the applicant received a marijuana establishment license under A.R.S. § 36-2854(A)(1)(f), the marijuana facility agent license number for each principal officer and each board member listed according to R9-18-303(A)(1)(c) or (d); and

7-9. The applicable fee in R9-18-102 for applying for an approval to operate.

~~**B.** If a marijuana establishment receives a marijuana establishment license pursuant to R9-18-303(E), the marijuana establishment may begin operating without submitting an application in subsection (A) if the entity holding the marijuana establishment license:~~

~~1. Received an approval to operate under A.A.C. R9-17-305, and~~

~~2. Is operating and available to dispense medical marijuana in accordance with A.A.C. R9-17-310(A)(1).~~

~~**C.B.**~~ The Department shall process, as provided in R9-18-103, a request submitted according to subsection (A) for approval to operate a marijuana establishment.

### **R9-18-305. Changes to a Marijuana Establishment License**

**A.** A marijuana establishment ~~receiving a marijuana establishment license pursuant to R9-18-303(E)~~ that is a dual licensee may not separately transfer or assign the dispensary registration certificate or the marijuana establishment license.

**B.** Except as provided in subsection (C), a marijuana establishment may change the location of the marijuana establishment's retail site, manufacturing site, or cultivation site to another location in the state.

**C.** For a marijuana establishment that received a marijuana establishment license under A.R.S. § 36-2854(A)(1)(c), the marijuana establishment may only change the location of the marijuana establishment's retail site to another location in the same county for which the original marijuana establishment license was issued.

**D.** A marijuana establishment shall not cultivate, manufacture, distribute, dispense, or sell marijuana

or a marijuana product at a new location of the marijuana establishment's retail site, manufacturing site, or cultivation site or make a change in the activities conducted at a current location until the marijuana establishment:

1. Submits an application for a change in R9-18-306; and
2. Receives from the Department an amended marijuana establishment license or an approval for:
  - a. The new location of the marijuana establishment's retail site, manufacturing site, or cultivation site; or
  - b. The requested change in the activities conducted at a current location.

**R9-18-308. Administration**

**A.** A marijuana establishment shall:

1. Ensure that the marijuana establishment's retail site is operating and available to provide marijuana and marijuana products to consumers:
  - a. At least 30 hours weekly between the hours of 7:00 a.m. and 10:00 p.m.; and
  - b. Within 18 months after receiving the marijuana establishment license;
2. Develop, document, and implement policies and procedures regarding:
  - a. Job descriptions and employment contracts, including:
    - i. Personnel duties, authority, responsibilities, and qualifications; and
    - ii. Supervision;
  - b. Training of marijuana facility agents, including the requirements of A.R.S. Title 36, Chapter 28.2, and this Chapter;
  - c. Inventory control, including:
    - i. Tracking;
    - ii. Packaging;
    - iii. Acquiring marijuana or marijuana products from a dispensary or another marijuana establishment;
    - iv. Providing marijuana or marijuana products to another marijuana establishment or a dispensary; and
    - v. Either:
      - (1) Providing samples of marijuana or marijuana products to a marijuana testing facility for testing, or
      - (2) Allowing a marijuana facility agent associated with a marijuana

testing facility access to marijuana or marijuana product to collect samples; **and**

**d. For a marijuana establishment that received the marijuana establishment license under A.R.S. § 36-2854(A)(1)(f), how the marijuana establishment will benefit one or more communities disproportionately affected by the enforcement of Arizona's previous marijuana laws; and**

**d.e.** Advertising that comply with the requirements in A.R.S. § 36-2859;

3. Maintain copies of the policies and procedures at the marijuana establishment's retail site and provide copies to the Department for review upon request;
4. Review marijuana establishment policies and procedures at least once every 12 months from the issue date of the marijuana establishment license and update as needed;
5. Ensure that all principal officers, board members, employees and volunteers providing services for the marijuana establishment maintain valid marijuana facility agent licenses with the Department and that the marijuana facility agent licenses are linked to the marijuana establishment through the Department's electronic system;
6. Ensure that each marijuana facility agent has the marijuana facility agent's license in the marijuana facility agent's immediate possession when the marijuana facility agent is:
  - a. Working or providing volunteer services at the marijuana establishment's retail site or the marijuana establishment's cultivation site or manufacturing site, or
  - b. Transporting marijuana for the marijuana establishment;
7. Not allow an individual who does not possess a marijuana facility agent license or who does not meet the requirements in A.R.S. § 36-2855(E) to:
  - a. Serve as a principal officer or board member for the marijuana establishment,
  - b. Be employed by the marijuana establishment, or
  - c. Provide volunteer services at or on behalf of the marijuana establishment;
8. Provide written notice to the Department, including the date of the event, within 10 working days after the date, when a marijuana facility agent no longer:
  - a. Serves as a principal officer or board member for the marijuana establishment,
  - b. Is employed by the marijuana establishment, or
  - c. Provides volunteer services at or on behalf of the marijuana establishment;
9. Document and report any loss or theft of marijuana or a marijuana product from the marijuana establishment's retail site, cultivation site, or manufacturing site to the appropriate law enforcement agency;

10. Maintain copies of any documentation required in this Chapter for at least 12 months after the date on the documentation and provide copies of the documentation to the Department for review upon request; and
  11. Post the following information in a place that can be viewed by individuals entering the marijuana establishment's retail site:
    - a. If applicable, the marijuana establishment's approval to operate;
    - b. The marijuana establishment license;
    - c. A sign in a Department-provided format that contains the following language:
      - i. "WARNING: There may be potential dangers to fetuses caused by smoking or ingesting marijuana while pregnant or to infants while breastfeeding," and
      - ii. "WARNING: Use of marijuana during pregnancy may result in a risk of being reported to the Department of Child Safety during pregnancy or at the birth of the child by persons who are required to report;" and
    - d. The hours of operation during which the marijuana establishment will sell or otherwise transfer marijuana or a marijuana product to a consumer.
- B.** If a marijuana establishment cultivates marijuana, the marijuana establishment shall cultivate the marijuana in a secure location according to R9-18-312.