

BOARD OF SUPERVISORS AGENDA ITEM REPORT

Requested Board Meeting Date: 8/2/2022

*= Mandatory, information must be provided

Click or tap the boxes to enter text. If not applicable, indicate "N/A".

*Title:

P22TA00001 New and Revised Marijuana Code Text Amendment

*Introduction/Background:

The proposed zoning code amendments will revise and replace existing code sections related to marijuana land uses.

*Discussion:

The text amendments will provide more flexible and updated zoning rules for marijuana dispensaries, cultivation and marijuana manufacturing locations.

*Conclusion:

The text amendments reflect Proposition 207, the Smart and Safe Arizona Act, passed on November 3, 2020 by voter initiative, which allows legalization, taxation and recreational use of marijuana for adults 21 and over in the State of Arizona.

*Recommendation:

Staff recommends APPROVAL of the proposed text amendment. The Planning and Zoning Commission recommend's a MODIFIED APPROVAL of the proposed text amendment, to accept the Staff version but to require a Type III Conditional Use Permit in the commercial and industrial zones.

*Fiscal Impact:

*Board of Supervisor District:

Neutral

j 1 j 2 j 3 j 4 j 5 j v All	
Department: Development Services Planning Division	Telephone: 724-8800
Contact: Chris Poirier, Deputy Director	Telephone: 724-6596
Department Director Signature:	Date: 7/13/22
Deputy County Administrator Signature:	Date: 7/13/2022
County Administrator Signature:	Date: 713 2022_



TO:

Honorable Pima County Board of Supervisors

FROM:

Chris Poirier, Deputy Director

Public Works-Development Services Department-Planning Division

DATE:

July 12, 2022

SUBJECT:

P22TA00001 P22TA00001 NEW AND REVISED MARIJUANA CODE TEXT

AMENDMENTS

The above referenced Code Text Amendments amendment are scheduled for the Board of Supervisors' TUESDAY, AUGUST 2, 2022 hearing.

REQUEST:

Proposal to amend by Ordinance, the Pima County Zoning Code.

OWNER

N/A

APPLICANT: Pima County Development Services Department staff

DISTRICTS: All

STAFF CONTACT: Chris Poirier, AICP, Deputy Director

PUBLIC COMMENT TO DATE: As of July 12, 2022, one public comment has been received.

PLANNING & ZONING COMMISSION RECOMMENDATION: MODIFIED APPROVAL of the proposed text amendment, to accept the Staff version but to require a Type III Conditional Use Permit in the commercial and industrial zones by a 4-3 vote (Commissioners Becker, Membrila and Hook voted NAY; Maese, Tronsdal and Truitt were absent)

STAFF RECOMMENDATION: APPROVAL of the proposed text amendment as presented.

TD/AM/ds Attachments



BOARD OF SUPERVISORS MEMORANDUM

SUBJECT: P22TA00001

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FOR AUGUST 2, 2022 MEETING OF THE BOARD OF SUPERVISORS

TO:

HONORABLE BOARD OF SUPERVISORS

FROM:

Chris Poirier, Deputy Director

Public Works-Development Services Department-Planning Division

DATE:

July 12, 2022

ADVERTISED ITEM FOR PUBLIC HEARING

ZONING CODE TEXT AMENDMENT

P22TA00001 NEW AND REVISED MARIJUANA CODE TEXT AMENDMENTS

AN ORDINANCE OF THE BOARD OF SUPERVISORS OF PIMA COUNTY. ARIZONA, RELATING TO ZONING (TITLE 18); AMENDING THE PIMA COUNTY CODE CHAPTER 18.03 (GENERAL DEFINITIONS), SECTION 18.03.020 REPEAL DEFINITIONS OF MEDICAL MARIJUANA (DEFINITIONS), TO DISPENSARY AND MEDICAL MARIJUANA DISPENSARY OFFSITE LOCATION. ADOPT DEFINITIONS OF MARIJUANA CULTIVATION DISPENSARY. MARIJUANA **DISPENSARY OFFSITE** CULITIVATION LOCATION, AND MARIJUANA PRODUCT MANUFACTURING LOCATION, AND AMEND THE DEFINITION OF MEDICAL MARIJUANA QUALIFYING PATIENT CULTIVATION LOCATION; AMENDING CHAPTER 18.13 (RH RURAL HOMESTEAD ZONE), SECTION 18.13.030 (CONDITONAL USES), TO ALLOW MARIJUANA DISPENSARY OFFSITE CULTIVATION LOCATION AS A CONDITIONAL USE; AMENDING CHAPTER 18.43 (CB-1 LOCAL BUSINESS ZONE), SECTION 18.43.030 (PERMITTED USES), TO ALLOW MARIJUANA DISPENSARY. MARIJUANA DISPENSARY OFFSITE CULTIVATION LOCATION, AND MARIJUANA PRODUCT MANUFACTURING LOCATION AS PERMITTED USES; AMENDING CHAPTER 18.45 (CB-2 GENERAL BUSINESS ZONE), SECTION 18.45.040 (CONDITIONAL USES), TO REPEAL THE REQUIREMENT THAT MARIJUANA DISPENSARIES AND THEIR ASSOCIATED USES REQUIRE A TYPE III CONDITIONAL USE PERMIT; AND AMENDING CHAPTER 18.51 (CI-1 LIGHT INDUSTRIAL/WAREHOUSING ZONE), SECTION 18.51.030 (PERMITTED USES), TO ALLOW MARIJUANA DISPENSARY **OFFSITE** CULTIVATION LOCATION AND MARIJUANA **PRODUCT** MANUFACTURING LOCATION AS PERMITTED USES. ON MOTION THE PANNING AND ZONING COMMISSION VOTED MODIFIED APPROVAL OF THE STAFF VERSION BUT TO REQUIRE A TYPE III CONDITIONAL USE PERMIT IN THE COMMERCIAL AND INDUSTRIAL ZONES BY A 4-3 vote (Ali Districts)

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Planning and Zoning Commission Public Hearing Summary (May 25, 2022)

Due to the ongoing COVID-17 pandemic, the public hearing was held entirely remotely via Microsoft Teams and telephonically.

Staff presented a history of zoning for marijuana uses in Pima County. The first introduction into the zoning code was in 2010 in response to the voter approved "Arizona Medical Marijuana Act." The zoning rules were modeled off regulating adult uses and were written before the AZDHS rules were created, that resulted with highly restrictive standards. Medical marijuana uses are only allowed in the CB-2 zone, require extensive development standards, and require an enhanced Type III conditional use process. Only one dispensary successfully navigated these rules in Pima County, opened in Ajo, and then shortly thereafter relocated closer to Phoenix. The City of Tucson adopted much less restrictive zoning rules, including allowing these without any hearing, which resulted in a robust medical marijuana industry, whereas the County has no such uses.

Since 2010 two minor marijuana related zoning code amendments have been approved by the Board, the first was to remove the prohibition from locating within zoning overlay zones; the second was to make the process easier for medical marijuana caregivers to grow for their patients.

The current code change proposal is in response to the voter approved 2020 "Smart and Safe Arizona Act," legalizing the adult use of recreational marijuana in addition to the medical use of marijuana. The code changes propose to allow dispensaries not just in CB-2, but also CB-1, Cl-1 and Cl-2 zones. The proposal will align with the City of Tucson's development standards (setbacks, size limits, etc). The proposal will allow this uses in the commercial and industrial zones, "by-right," and stop requiring a Type III Conditional Use Hearing. Staff stated that the extensive vetting rules by the Arizona Department of Health Services (AZDHS), and what staff witnessed with the industry in the City supports allowing these uses by right. The act also required that the AZDHS also issued 26 Social Equity Licenses to be issued statewide to populations disproportionally impacted by the war on drugs. Staff then emphasized that the current proposal is to focus on zoning impacts and provide a path for these potentially new dispensaries. Staff also described that the proposal would allow a Type II Conditional Use Permit for Cultivation locations in the RH zone. Staff described the Social Equity licensing background. These are highly sought out licenses and are inherently valuable.

Staff described that they received input (meeting) from marijuana industry representatives that suggested parking and impact fees should be considered prior to adoption of any rules. Staff will be prepared if the code changes are adopted.

Staff also noted that they received comment from a union likely concerned with the rules making regarding Social Equity Licenses.

A commissioner inquired about setbacks, staff responded that they aligned setbacks and other standards with the City of Tucson.

A commissioner commented that there would be benefit to locate dispensaries in the

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County by dispersing traffic for these uses that are currently centralized in the City.

Staff commented that they would expect only a few new marijuana uses in Pima County if the amendment is approved.

A commissioner asked why staff is recommending a conditional use permit (CUP) for cultivation the RH zone but not requiring a CUP within the commercial and industrial uses.

Staff responded that the RH zone relies on CUP process for anything commercial in nature whereas the commercial and industrial zones simply allow for commercial uses by right.

A commissioner inquired about a liquor licensing comparisons to a dispensary. Staff described the liquor license process being under the authority of the State.

A commissioner asked why staff thinks the current CUP process is not working.

Staff responded that only one dispensary only opened in Pima County whereas in the City that allowed the uses by right has a robust marijuana industry and that from a zoning perspective, these uses are not problematic.

A member of the public representing a marijuana industry group stated support for the amendments based on the land use considerations.

Another member of the public expressed support of the amendments because available land within the City is limited.

A member of the public on behalf UFCWU advocated for requiring a public hearing and not to allow dispensaries by right.

A commissioner stated a CUP process should be required in an effort to "keep it local."

A commissioner asked staff to respond to the previous speaker.

Staff responded that the amendment proposed focuses on the zoning impacts of new dispensaries, and that the commission should not try to use a CUP to vet the applicants as the AZDHS already extensively had.

A commissioner stated concern about these uses because of the amount of cash involved suggested a cautious approach to maintain a Type III CUP.

Commissioner Gungle made a motion to APPROVE per staff, but to add a Type III CUP process in the commercial and industrial zones, Commissioner Cook seconded the motion.

Commissioner Becker stated that these uses are no more cash intense then a liquor store so she would not support the motion. She added that we have experience in observing P22TA00001 Page 4 of 4

the medical dispensaries and see no reasons to add extra regulations.

Commissioner Cook stated that maintaining a CUP process is the only way insure that there is public accountability.

Commissioner Becker stated that a process onto itself does not guarantee a positive outcome and we should focus on zoning more than a process.

Commissioner Hanna stated that the voters of AZ have spoken, but that the CUP process protects residents of Pima County. Uses that require an armed guard may not be compatible with a neighborhood.

Commissioner Membrila asked about the Type III CUP Process.

Staff responded that staff is proposing to allow these uses in property already zoned as commercial and industrial zones. Staff pointed out that banks have more cash and have armed guards and are uses compatible in the correct zones. Staff is proposing a CUP for cultivation locations in the RH zone, similar to other commercial uses.

Commissioner Membrila stated that we were too restrictive with our current medical marijuana rules adopted in 2010 and he would not support the motion to include a Type III CUP.

Commissioner Cook suggested that dispensaries are not within the County because there are more customers in the City, and if we allow more in the County, they will eventually relocate to the City. Adding back a public hearing is important.

Commissioner Gungle clarified that the motion was to add a Type III CUP process to the dispensaries.

Commissioner Hook stated that adding a process leads to less certainty and less dispensaries.

Commissioner Matter stated he preferred the language of staff regarding the definition of dispensaries instead of the Union's.

Commissioner Gungle clarified his motion to adopt all of staff's language, however requiring a Type III CUP for the dispensaries, and no other changes.

The motion to APPROVE per staff, but to add a Type III CUP process in the commercial and industrial zones, PASSED (4-3; Commissioners Gungle, Cook, Matter and Hanna voted YES, Commissioners Becker, Hook and Membrila voted NO).

TD/AM/ds Attachments

c: Tom Drzazgowski, Chief Zoning Inspector

ORDINANCE 2022-

AN ORDINANCE OF THE BOARD OF SUPERVISORS OF PIMA COUNTY. ARIZONA, RELATING TO ZONING (TITLE 18); AMENDING THE PIMA COUNTY CODE CHAPTER 18.03 (GENERAL DEFINITIONS). SECTION 18.03.020 (DEFINITIONS), TO REPEAL DEFINITIONS OF MEDICAL MARIJUANA DISPENSARY AND MEDICAL MARIJUANA DISPENSARY OFFSITE CULTIVATION LOCATION. ADOPT DEFINITIONS OF MARIJUANA DISPENSARY. MARIJUANA DISPENSARY OFFSITE CULTIVATION LOCATION, AND MARIJUANA PRODUCT MANUFACTURING LOCATION, AND AMEND THE DEFINITION OF MEDICAL MARIJUANA QUALIFYING PATIENT CULTIVATION LOCATION: AMENDING CHAPTER 18.13 (RH RURAL HOMESTEAD ZONE), SECTION 18,13,030 (CONDITONAL USES), TO ALLOW MARIJUANA DISPENSARY OFFSITE CULTIVATION LOCATION AS A CONDITIONAL USE: AMENDING CHAPTER 18.43 (CB-1 LOCAL BUSINESS ZONE), SECTION 18.43.030 (PERMITTED USES), TO ALLOW MARIJUANA DISPENSARY. MARIJUANA DISPENSARY OFFSITE CULTIVATION LOCATION, AND MARIJUANA PRODUCT MANUFACTURING LOCATION AS PERMITTED USES; AMENDING CHAPTER 18.45 (CB-2 GENERAL BUSINESS ZONE), SECTION 18.45.040 (CONDITIONAL USES), TO REPEAL THE REQUIREMENT THAT **MARIJUANA DISPENSARIES** AND THEIR ASSOCIATED USES REQUIRE A TYPE III CONDITIONAL USE PERMIT: AND AMENDING CHAPTER 18.51 (CI-1 LIGHT INDUSTRIAL/WAREHOUSING ZONE), SECTION 18.51.030 (PERMITTED USES), TO ALLOW MARIJUANA DISPENSARY OFFSITE CULTIVATION LOCATION AND MARIJUANA PRODUCT MANUFACTURING LOCATION AS PERMITTED USES.

THE BOARD OF SUPERVISORS OF PIMA COUNTY, ARIZONA FINDS THAT:

- 1. Proposition 207, the Smart and Safe Arizona Act, was passed on November 3, 2020 by voter initiative and codified as A.R.S Title 36, Chapter 28.2, Responsible Adult Use of Marijuana.
- 2. Proposition 207 allowed the legalization, taxation and recreational use of marijuana for adults 21 and over in the State of Arizona.
- 3. The amendments in this ordinance revise the existing uses to include recreational marijuana dispensaries and recreational marijuana dispensary offsite cultivation locations. Marijuana product manufacturing location is added as a new use. The associated uses are revised to be permitted in new zones.
- 4. This ordinance does not create new restrictions on the use of property, and this ordinance is not intended to, nor should it be construed to, reduce any existing rights to use, divide, sell or possess private real property.

IT IS ORDAINED BY THE BOARD OF SUPERVISORS OF PIMA COUNTY, ARIZONA:

Section 1. Pima County Code Chapter 18.03 (GENERAL DEFINTIONS), Section 18.03.020 (Definitions), is amended to repeal definitions of medical marijuana dispensary and medical marijuana dispensary offsite cultivation location; to adopt definitions for marijuana dispensary, marijuana dispensary offsite cultivation location, and marijuana product manufacturing location; to amend the definition of medical marijuana qualifying patient cultivation location; and to renumber subsequent subsections accordingly as follows:

Chapter 18.03 GENERAL DEFINITIONS

18.03.020 Definitions.

M. Definitions "M."

- 6. Medical Marijuana dispensary: A not-for-profit entity, nonprofit medical marijuana dispensary defined in A.R.S. Section § 36-2801 (1112) or a marijuana establishment defined in A.R.S. § 36-2850(21)(a) that acquires, possesses, cultivates, manufactures, delivers, transfers, transports, supplies, sells or dispenses marijuana or related supplies and educational materials to cardholders customers.
- 7. Medical-Marijuana dispensary offsite cultivation location: The additional location where marijuana is cultivated by a medical marijuana dispensary as referenced in A.R.S. § 36-2804(B) (1)(b)(ii) or the additional location where marijuana is cultivated by a marijuana establishment as referenced in A.R.S.§ 36-2850(21)(a), except that marijuana product manufacturing shall not take place at the cultivation location.

8. Marijuana Product Manufacturing Location: The location, separate from a marijuana dispensary, where marijuana products are manufactured; marijuana products include

edible products, ointments, and tinctures.

8. 9. Medical marijuana qualifying patient cultivation location: An enclosed facility, that does

not exceed fifty square feet of cultivation space for each location, where a qualifying

patient, as defined by A.R.S. Section § 36-2801(13 15), cultivates marijuana if the

qualifying patient's registry identification card states that the qualifying patient is

authorized to cultivate marijuana. The qualifying patient cultivation location must be

located in the CB-2 zone as a Type III conditional use or as an accessory use to the

qualifying patient's primary residence. Medical marijuana cultivation as an accessory

use to the qualifying patient's primary residence must not be detectable from the exterior

of the building in which the cultivation takes place. The qualifying patient cultivation

location must comply with the security requirements of A.R.S. Title 36, Chapter 28.1.

Section 2. Pima County Code Chapter 18.13 (RH RURAL HOMESTEAD ZONE), Section

18.13.030 (Conditional Uses), is amended to add marijuana dispensary offsite cultivation

location as a conditionally permitted use and to renumber subsequent subsections accordingly

as follows:

Chapter 18.13

RH RURAL HOMESTEAD ZONE

18.13.030 Conditional uses.

A. Procedure: In accordance with Chapter 18.97 (Conditional Use Permits).

- B. Uses conditionally permitted:
- 39. Marijuana Dispensary Offsite Cultivation Location:
 - a. Type II procedure.
 - b. There is no size limit for the maximum floor area of a marijuana dispensary off-site cultivation location.
 - c. A marijuana dispensary off-site cultivation location shall be located in a permanent, enclosed, locked facility in accordance with state statutes and Arizona Department of Health Services rules and shall not be located in a trailer, cargo container, mobile or modular unit, mobile home, recreational vehicle, or other motor vehicle.
 - d. A marijuana dispensary offsite cultivation location shall be setback a minimum of 2,000 feet from any other marijuana dispensaries or marijuana dispensary offsite cultivation locations measured in a straight and direct horizontal line between the two closest exterior or applicable interior suite walls of marijuana dispensaries' cultivation locations.
 - e. A marijuana dispensary offsite cultivation location, shall be setback a minimum of 500 feet from a K-12 public, private, or charter school, measured in a straight and direct horizontal line from the closest exterior or applicable interior suite wall of the marijuana offsite cultivation location to the closest property line of a school.
 - f. A marijuana dispensary offsite cultivation location shall comply with all lawful, applicable health regulations, including those promulgated by the Arizona Department of Health Services and any other authorized regulatory agency.
 - g. A marijuana dispensary offsite cultivation location shall provide only wholesale products to other marijuana dispensaries, marijuana dispensary offsite manufacturing locations, or marijuana dispensary offsite cultivation locations.

h. Odor Mitigation

- (1) Odor mitigation devices and techniques shall be incorporated in all marijuana facilities to ensure that odors are mitigated. Odor mitigation may be accomplished through an exhaust air filtration system with odor control that prevents internal odors from being emitted externally or through any other best practices adequate for odor mitigation as determined acceptable by the Chief Zoning Inspector, in the Chief Zoning Inspector's sole discretion.
- (2) An odor mitigation plan shall be submitted with the initial permit application. When a modification is made to a marijuana facility, or the facility operation, that has the potential to impact the nature or degree of odor, or affects the control of odor, the marijuana facility owner must update its odor mitigation plan within 30 days of facility modification.
- (3) An odor mitigation plan shall include all of the following information:
 - (a) Facility floor plan (showing areas of potential odor emissions);
 - (b) List of odor emitting activities to take place on site;
 - (c) Phases (timing, length, etc.) of odor-emitting activities;
 - (d) Odor mitigation practices based on industry-specific best control technologies and best management practices; and
 - (e) Administrative controls and engineering controls (system design plan, operational processes, maintenance plan).
- (4) The marijuana facility shall not begin operations until the order mitigation plan, or any required update to the odor mitigation plan, is approved by the Chief Zoning Inspector.

Section 3. Pima County Code Chapter 18.43 (CB-1 LOCAL BUSINESS ZONE), Section 18.43.030 (Permitted uses), is amended to add marijuana dispensary, marijuana dispensary offsite cultivation location, and marijuana product manufacturing location as permitted uses and to renumber subsequent subsections accordingly as follows:

Chapter 18.43

CB-1 LOCAL BUSINESS ZONE

18.43.030 Permitted uses.

- A. Any use as permitted in Section 18.31.010 (TR Transitional Zone).
- B. The following uses, as restricted in Section 18.43.020(A):

59. Marijuana Dispensary;

- a. The total maximum floor area of a marijuana dispensary shall not exceed 10,000 square feet.
- b. A marijuana dispensary shall be located in a permanent building and shall not be located in a trailer, cargo container, mobile or modular unit, mobile home, recreational vehicle, or other motor vehicle.
- c. The permitted hours of operation of a marijuana dispensary are from 7:00 a.m. to 10:00 p.m.
- d. A marijuana dispensary shall have an interior customer waiting area equal to a minimum of 25% of the sales floor area. For purposes of this section, sales floor area is defined as any area open to customers for the sale of products. This does not include waiting areas, areas for production and storing of products, or offices.
 - e. A marijuana dispensary shall not have outdoor seating areas.

- f. A marijuana dispensary may deliver medical marijuana to the extent permitted by

 Arizona law. A marijuana dispensary may deliver recreational marijuana once rules

 permitting and regulating delivery are approved by the Arizona Department of Health

 Services and become effective, and shall comply with Arizona law and all lawful, applicable health regulations, including those promulgated by the Arizona Department of Health

 Services and any other authorized regulatory agency.
- g. A marijuana dispensary shall be setback a minimum of 2,000 feet from any other marijuana dispensaries, measured in a straight and direct horizontal line between the two closest exterior or applicable interior suite walls of marijuana dispensaries.
- h. A marijuana dispensary shall be setback a minimum of 500 feet from a K-12 public, private, or charter school or a licensed childcare center, measured in a straight and direct horizontal line from the closest exterior or applicable interior suite wall of the marijuana dispensary to the closest property line of a school or childcare center. Exception: For the purposes of this section, the following uses are not considered schools and are exempt from the setback requirement: 1) school administrative offices not located on or contiguous with a school site; or, 2) athletic fields or playgrounds used for school functions that are not contiguous with a school site.
- i. A marijuana dispensary shall be setback a minimum of 500 feet from a public park or library and a minimum of 500 feet from a licensed residential substance abuse diagnostic and treatment facility or other licensed residential drug or alcohol rehabilitation facility, measured in a straight and direct horizontal line from the closest exterior or applicable interior suite wall of the marijuana dispensary to the closest property line of a library, public park, licensed residential substance abuse diagnostic and treatment facility, or other licensed drug or alcohol rehabilitation facility.

- i. The expansion of an existing marijuana dispensary shall be setback a minimum of 500 feet from a K-12 public, private, or charter school, measured in a straight and direct horizontal line from the closest exterior or applicable interior suite wall of the marijuana dispensary to the closest property line of a school.
- k. A marijuana dispensary shall comply with all lawful, applicable health regulations, including those promulgated by the Arizona Department of Health Services and any other authorized regulatory agency.

Odor Mitigation

- (1) Odor mitigation devices and techniques shall be incorporated in all marijuana facilities to ensure that odors are mitigated. Odor mitigation may be accomplished through an exhaust air filtration system with odor control that prevents internal odors from being emitted externally or through any other best practices adequate for odor mitigation as determined acceptable by the Chief Zoning Inspector, in the Chief Zoning Inspector's sole discretion.
- (2) An odor mitigation plan shall be submitted with the initial permit application. When a modification is made to a marijuana facility, or the facility operation, that has the potential to impact the nature or degree of odor, or affects the control of odor.
 - (3) An odor mitigation plan shall include all of the following information:
 - (a) Facility floor plan (showing areas of potential odor emissions);
 - (b) List of odor emitting activities to take place on site;
 - (c) Phases (timing, length, etc.) of odor-emitting activities;
 - (d) Odor mitigation practices based on industry-specific best control

 technologies and best management practices; and
 - (e) Administrative controls, engineering controls (system design plan, operational processes, maintenance plan).

- (4) The marijuana facility shall not begin operations until the order mitigation plan, or any required update to the odor mitigation plan is approved by Chief Zoning Inspector.
- 60. Marijuana Dispensary Offsite Cultivation Location:
 - a. The total maximum floor area of a marijuana dispensary offsite cultivation location shall not exceed 10,000 square feet.
 - b. A marijuana dispensary offsite cultivation location shall be located in a permanent building and shall not be located in a trailer, cargo container, mobile or modular unit, mobile home, recreational vehicle, or other motor vehicle.
 - c. a marijuana dispensary offsite cultivation location shall be setback a minimum of 2,000 feet from any other marijuana dispensaries or marijuana dispensary offsite cultivation locations measured in a straight and direct horizontal line between the two closest exterior or applicable interior suite walls of marijuana dispensaries' cultivation locations.
 - d. A marijuana dispensary offsite cultivation location shall be setback a minimum of 1,000 feet from a K-12 public, private or charter school, or a licensed childcare center measured in a straight and direct horizontal line from the closest exterior or applicable interior suite wall of the marijuana offsite cultivation location to the nearest property line of a school or childcare center. Exception: For the purposes of this section, the following uses are not considered schools and are exempt from the setback requirement: school administrative offices not located on or contiguous with a school site, or athletic fields or playgrounds used for school functions that are not contiguous with a school site.
 - e. A marijuana dispensary offsite cultivation location shall be setback a minimum of 1,000 feet from a public park or library and a minimum of 1,000 feet from a licensed residential substance abuse diagnostic and treatment facility or other licensed residential drug or alcohol rehabilitation facility measured in a straight and direct horizontal line from the closest

exterior or applicable interior suite wall of the marijuana dispensary offsite cultivation

location to the closest property line of a library, public park, licensed residential substance

abuse diagnostic and treatment facility, or other licensed drug or alcohol rehabilitation

facility.

- f. A marijuana dispensary offsite cultivation location shall comply with all lawful, applicable health regulations, including those promulgated by the Arizona Department of Health Services and any other authorized regulatory agency.
- g. A marijuana dispensary offsite cultivation location shall provide only wholesale products to other marijuana dispensaries, marijuana dispensary offsite manufacturing locations, or marijuana dispensary offsite cultivation locations.

h. Odor Mitigation

- (1) Odor mitigation devices and techniques shall be incorporated in all marijuana facilities to ensure that odors are mitigated. Odor mitigation may be accomplished through an exhaust air filtration system with odor control that prevents internal odors from being emitted externally or through any other best practices adequate for odor mitigation as determined acceptable by the Chief Zoning Inspector, in the Chief Zoning Inspector's sole discretion.
- (2) An odor mitigation plan shall be submitted demonstrating compliance with odor control requirements. When a modification is made to a marijuana facility, or the facility operation, that has the potential to impact the nature or degree of odor, or affects the control of odor, the marijuana facility owner must update its odor mitigation plan within 30 days of facility modification.
- (3) An odor mitigation plan shall include all of the following information:
 - (a) Facility floor plan (showing areas of potential odor emissions);

- (b) List of odor emitting activities to take place on site;
- (c) Phases (timing, length, etc.) of odor-emitting activities;
- (d) Odor mitigation practices based on industry-specific best control

 technologies and best management practices; and
- (e) Administrative controls, engineering controls (system design plan, operational processes, maintenance plan).
- (4) The marijuana facility shall not begin operations until the order mitigation plan, or any required update to the odor mitigation plan, is approved by Chief Zoning Inspector.

61. Marijuana Product Manufacturing Location;

- a. A marijuana product manufacturing location shall comply with all lawful, applicable health regulations, including those promulgated by the Arizona Department of Health Services and any other authorized regulatory agency.
- b. A marijuana product manufacturing location shall provide only wholesale products to other marijuana dispensaries, marijuana product manufacturing locations, or marijuana dispensary offsite cultivation locations.

c. Odor Mitigation

- (1) Odor mitigation devices and techniques shall be incorporated in all marijuana facilities to ensure that odors are mitigated. Odor mitigation may be accomplished through an exhaust air filtration system with odor control that prevents internal odors from being emitted externally or through any other best practices adequate for odor mitigation as determined acceptable by the Chief Zoning Inspector, , in the Chief Zoning Inspector's sole discretion.
- (2) An odor mitigation plan shall be submitted with the initial permit application. When a modification is made to a marijuana facility, or the facility operation, that has the potential to impact the nature or degree of odor, or affects the control of odor, the

marijuana facility owner must update its odor mitigation plan within 30 days of facility modification.

- (3) An odor mitigation plan shall include all of the following information:
 - (a) Facility floor plan (showing areas of potential odor emissions);
 - (b) List of odor emitting activities to take place on site;
 - (c) Phases (timing, length, etc.) of odor-emitting activities;
 - (d) Odor mitigation practices based on industry-specific best control

 technologies and best management practices; and
 - (e) Administrative controls, engineering controls (system design plan, operational processes, maintenance plan).
- (4) The marijuana facility shall not begin operations until the order mitigation plan, or any required update to the odor mitigation plan, is approved by Chief Zoning Inspector.

Section 4. Pima County Code Chapter 18.45 (CB-2 GENERAL BUSINESS ZONE), Section 18.45.040 (Conditional uses), is amended to repeal subsections 18.45.040(D) (Medical Marijuana Dispensary) and 18.45.040(E) (Medical Marijuana Offsite Cultivation Location) to remove the requirement for a conditional use permit for a medical marijuana dispensary and a medical marijuana offsite cultivation location in the CB-2 zone. And subsequent subsections shall be renumbered accordingly.

Section 5. Pima County Code Chapter 18.51 (CI-1 LIGHT INDUSTRIAL/WAREHOUSING ZONE), Section 18.51.030 (Permitted uses), is amended to add marijuana dispensary offsite cultivation location and marijuana product manufacturing location as permitted uses as follows:

Chapter 18.51

CI-1 LIGHT INDUSTRIAL/WAREHOUSING ZONE

18.51.030 Permitted uses.

- A. Any use as permitted in Section 18.43.030(B) (CB-1 Local Business Zone) and in 18.45.030(B) and (C) (CB-2 General Business Zone), (except non-chartered financial institutions).
- B. Any of the following if conducted wholly within a completely enclosed building:

18. Marijuana Dispensary Offsite Cultivation Location;

- a. There is no size limit for the maximum floor area of a marijuana dispensary offsite cultivation location.
- b. A marijuana dispensary offsite cultivation location shall be located in a permanent, enclosed, locked facility in accordance with state statutes and Arizona Department of Health Services rules and shall not be located in a trailer, cargo container, mobile or modular unit, mobile home, recreational vehicle, or other motor vehicle.
- c. A marijuana dispensary offsite cultivation location, shall be setback a minimum of 500 feet from a K-12 public, private, or charter school, measured in a straight and direct horizontal line from the closest exterior or applicable interior suite wall of the marijuana offsite cultivation location to the closest property line of a school.
- d. A marijuana dispensary offsite cultivation location shall comply with all lawful, applicable health regulations, including those promulgated by the Arizona Department of Health Services and any other authorized regulatory agency.
- e. A marijuana dispensary offsite cultivation location shall provide only wholesale products to other marijuana dispensaries, marijuana dispensary offsite manufacturing locations, or marijuana dispensary offsite cultivation locations.

f. Odor Mitigation

- (1) Odor mitigation devices and techniques shall be incorporated in all marijuana facilities to ensure that odors are mitigated. Odor mitigation may be accomplished through an exhaust air filtration system with odor control that prevents internal odors from being emitted externally or through any other best practices adequate for odor mitigation as determined acceptable by the Chief Zoning Inspector, in the Chief Zoning Inspector's sole discretion.
- (2) An odor mitigation plan shall be submitted with the initial permit application. When a modification is made to a marijuana facility, or the facility operation, that has the potential to impact the nature or degree of odor, or affects the control of odor, the marijuana facility owner must update its odor mitigation plan within 30 days of facility modification.
 - (3) An odor mitigation plan shall include all of the following information:
 - (a) Facility floor plan (showing areas of potential odor emissions);
 - (b) List of odor emitting activities to take place on site:
 - (c) Phases (timing, length, etc.) of odor-emitting activities;
 - (d) Odor mitigation practices based on industry-specific best control

 technologies and best management practices; and
 - (e) Administrative controls, engineering controls (system design plan, operational processes, maintenance plan).
- (4) The marijuana facility shall not begin operations until the order mitigation plan, or any required update to the odor mitigation plan, is approved by Chief Zoning Inspector.
- 19. Marijuana Product Manufacturing Location;
 - a. There is no size limit for the maximum floor area of a marijuana product manufacturing location.

- b. A marijuana product manufacturing location shall be located in a permanent, enclosed, locked facility in accordance with state statutes and Arizona Department of Health Services rules and shall not be located in a trailer, cargo container, mobile or modular unit, mobile home, recreational vehicle, or other motor vehicle.
- c. A marijuana product manufacturing location shall be setback a minimum of 500 feet from a K-12 public, private, or charter school, measured in a straight and direct horizontal line from the closest exterior or applicable interior suite wall of the marijuana offsite cultivation location to the closest property line of a school.
- d. A marijuana product manufacturing location shall comply with all lawful, applicable health regulations, including those promulgated by the Arizona Department of Health Services and any other authorized regulatory agency.
- e. A marijuana product manufacturing location shall provide only wholesale products to other marijuana dispensaries, marijuana product manufacturing locations, or marijuana dispensary offsite cultivation locations.

f. Odor Mitigation

- (1) Odor mitigation devices and techniques shall be incorporated in all marijuana facilities to ensure that odors are mitigated. Odor mitigation may be accomplished through an exhaust air filtration system with odor control that prevents internal odors from being emitted externally or through any other best practices adequate for odor mitigation as determined acceptable by the Chief Zoning Inspector, , in the Chief Zoning Inspector's sole discretion.
- (2) An odor mitigation plan shall be submitted with the initial permit application. When a modification is made to a marijuana facility, or the facility operation, that has the potential to impact the nature or degree of odor, or affects the control of odor, the

marijuana facility owner must update its odor mitigation plan within 30 days of facility modification.

- (3) An odor mitigation plan shall include all of the following information:
 - (a) Facility floor plan (showing areas of potential odor emissions);
 - (b) List of odor emitting activities to take place on site;
 - (c) Phases (timing, length, etc.) of odor-emitting activities;
 - (d) Odor mitigation practices based on industry-specific best control

 technologies; and best management practices; and
 - (e) Administrative controls, engineering controls (system design plan, operational processes, maintenance plan).

Section 6. This ordinance is effective 31 days after its adoption.

PASSED AND ADOPTED by the day of	Board of Supervisors of Pima County, Arizona, this, 2022.
ATTEST:	BOARD OF SUPERVISORS
Clerk, Board of Supervisors	Chair, Board of Supervisors
APPROVED AS TO FORM:	APPROVED:
Deputy County Attorney	Executive Secretary Planning and Zoning Commission

ORDINANCE 2022-

AN ORDINANCE OF THE BOARD OF SUPERVISORS OF PIMA COUNTY, ARIZONA, RELATING TO ZONING (TITLE 18); AMENDING THE PIMA COUNTY CODE CHAPTER 18.03 (GENERAL DEFINITIONS), SECTION REPEAL DEFINITIONS OF 18.03.020 (DEFINITIONS). TO MEDICAL MARIJUANA DISPENSARY AND MEDICAL MARIJUANA DISPENSARY OFFSITE CULTIVATION LOCATION, ADOPT DEFINTIONS OF MARIJUANA DISPENSARY. **MARIJUANA** DISPENSARY **OFFSITE** CULTIVATION LOCATION. AND MARIJUANA PRODUCT MANUFACTURING LOCATION. AND AMEND THE DEFINITION OF MEDICAL MARIJUANA QUALIFYING PATIENT CULTIVATION LOCATION; AMENDING CHAPTER 18.13 (RH RURAL HOMESTEAD ZONE), SECTION 18.13.030 (CONDITIONAL USES), TO ALLOW MARIJUANA DISPENSARY OFFSITE CULTIVATION LOCATION AS A CONDITIONAL USE; AMENDING CHAPTER 18.43 (CB-1 LOCAL BUSINESS ZONE), SECTION 18.43.030 (PERMITTED USES), TO ALLOW MARIJUANA DISPENSARY. MARIJUANA DISPENSARY OFFSITE CULTIVATION LOCATION, AND MARIJUANA PRODUCT MANUFACTURING LOCATION AS PERMITTED USES; AMENDING CHAPTER 18.45 (CB-2 GENERAL BUSINESS ZONE), SECTION 18,45,040 (CONDITIONAL USES), TO REPEAL THE REQUIREMENT THAT MARIJUANA DISPENSARIES AND THEIR ASSOCIATED USES REQUIRE A TYPE III CONDITIONAL USE PERMIT; AND AMENDING CHAPTER 18.51 (CI-1 LIGHT INDUSTRIAL/WAREHOUSING ZONE), SECTION 18.51.030 (PERMITTED USES), TO ALLOW MARIJUANA OFFSITE CULTIVATION LOCATION AND MARIJUANA DISPENSARY PRODUCT MANUFACTURING LOCATION AS PERMITTED USES.

THE BOARD OF SUPERVISORS OF PIMA COUNTY, ARIZONA FINDS THAT:

- Proposition 207, the Smart and Safe Arizona Act, was passed on November 3, 2020 by voter initiative and codified as A.R.S Title 36, Chapter 28.2, Responsible Adult Use of Marijuana.
- 2. Proposition 207 allowed the legalization, taxation and recreational use of marijuana for adults 21 and over in the State of Arizona.
- The amendments in this ordinance revise the existing uses to include recreational marijuana dispensaries and recreational marijuana dispensary offsite cultivation locations. Marijuana product manufacturing location is added as a new use. The associated uses are revised to be permitted in new zones.
- 4. This ordinance does not create new restrictions on the use of property, and this ordinance is not intended to, nor should it be construed to, reduce any existing rights to use, divide, sell or possess private real property.

IT IS ORDAINED BY THE BOARD OF SUPERVISORS OF PIMA COUNTY, ARIZONA:

Section 1. Pima County Code Chapter 18.03 (GENERAL DEFINTIONS), Section 18.03.020 (Definitions), is amended to repeal definitions of medical marijuana dispensary and medical marijuana dispensary offsite cultivation location; to adopt definitions for marijuana dispensary, marijuana dispensary offsite cultivation location, and marijuana product manufacturing location; to amend the definition of medical marijuana qualifying patient cultivation location; and to renumber subsequent subsections accordingly as follows:

Chapter 18.03 GENERAL DEFINITIONS

18.03.020 Definitions.

M. Definitions "M."

. . .

- 6. Medical Marijuana dispensary: A nonprofit medical marijuana dispensary defined in A.R.S. § 36-2801 (12) or a marijuana establishment defined in A.R.S. § 36-2850(21)(a) that acquires, possesses, cultivates, manufactures, delivers, transfers, transports, supplies, sells or dispenses marijuana or related supplies and educational materials to customers.
- 7. Marijuana dispensary offsite cultivation location: The additional location where marijuana is cultivated by a medical marijuana dispensary as referenced in A.R.S. § 36-2804(B) (1)(b)(ii) or the additional location where marijuana is cultivated by a marijuana establishment as referenced in A.R.S.§ 36- 2850(21)(a), except that marijuana product manufacturing shall not take place at the cultivation location.

8. Marijuana Product Manufacturing Location: The location, separate from a marijuana

dispensary, where marijuana products are manufactured; marijuana products include

edible products, ointments, and tinctures.

9. Medical marijuana qualifying patient cultivation location: An enclosed facility, that does

not exceed fifty square feet of cultivation space for each location, where a qualifying

patient, as defined by A.R.S. § 36-2801(15), cultivates marijuana if the qualifying

patient's registry identification card states that the qualifying patient is authorized to

cultivate marijuana. Medical marijuana cultivation as an accessory use to the qualifying

patient's primary residence must not be detectable from the exterior of the building in

which the cultivation takes place. The qualifying patient cultivation location must comply

with the security requirements of A.R.S. Title 36, Chapter 28.1.

. . .

Section 2. Pima County Code Chapter 18.13 (RH RURAL HOMESTEAD ZONE), Section

18.13.030 (Conditional Uses), is amended to add marijuana dispensary offsite cultivation

location as a conditionally permitted use and to renumber subsequent subsections accordingly

as follows:

Chapter 18.13

RH RURAL HOMESTEAD ZONE

...

18.13.030 Conditional uses.

A. Procedure: In accordance with Chapter 18.97 (Conditional Use Permits).

B. Uses conditionally permitted:

. . .

- 39. Marijuana Dispensary Offsite Cultivation Location:
 - a. Type II procedure.
 - b. There is no size limit for the maximum floor area of a marijuana dispensary off-site cultivation location.
 - c. A marijuana dispensary off-site cultivation location shall be located in a permanent, enclosed, locked facility in accordance with state statutes and Arizona Department of Health Services rules and shall not be located in a trailer, cargo container, mobile or modular unit, mobile home, recreational vehicle, or other motor vehicle.
 - d. A marijuana dispensary offsite cultivation location shall be setback a minimum of 2,000 feet from any other marijuana dispensaries or marijuana dispensary offsite cultivation locations measured in a straight and direct horizontal line between the two closest exterior or applicable interior suite walls of marijuana dispensaries' cultivation locations.
 - e. A marijuana dispensary offsite cultivation location, shall be setback a minimum of 500 feet from a K-12 public, private, or charter school, measured in a straight and direct horizontal line from the closest exterior or applicable interior suite wall of the marijuana offsite cultivation location to the closest property line of a school.
 - f. A marijuana dispensary offsite cultivation location shall comply with all lawful, applicable health regulations, including those promulgated by the Arizona Department of Health Services and any other authorized regulatory agency.
 - g. A marijuana dispensary offsite cultivation location shall provide only wholesale products to other marijuana dispensaries, marijuana dispensary offsite manufacturing locations, or marijuana dispensary offsite cultivation locations.
 - h. Odor Mitigation

- (1) Odor mitigation devices and techniques shall be incorporated in all marijuana facilities to ensure that odors are mitigated. Odor mitigation may be accomplished through an exhaust air filtration system with odor control that prevents internal odors from being emitted externally or through any other best practices adequate for odor mitigation as determined acceptable by the Chief Zoning Inspector, in the Chief Zoning Inspector's sole discretion.
- (2) An odor mitigation plan shall be submitted with the initial permit application. When a modification is made to a marijuana facility, or the facility operation, that has the potential to impact the nature or degree of odor, or affects the control of odor, the marijuana facility owner must update its odor mitigation plan within 30 days of facility modification.
- (3) An odor mitigation plan shall include all of the following information:
 - (a) Facility floor plan (showing areas of potential odor emissions);
 - (b) List of odor emitting activities to take place on site;
 - (c) Phases (timing, length, etc.) of odor-emitting activities;
 - (d) Odor mitigation practices based on industry-specific best control technologies and best management practices; and
 - (e) Administrative controls and engineering controls (system design plan, operational processes, maintenance plan).
- (4) The marijuana facility shall not begin operations until the order mitigation plan, or any required update to the odor mitigation plan, is approved by the Chief Zoning Inspector.

Section 3. Pima County Code Chapter 18.43 (CB-1 LOCAL BUSINESS ZONE), Section 18.43.030 (Permitted uses), is amended to add marijuana dispensary, marijuana dispensary

offsite cultivation location, and marijuana product manufacturing location as permitted uses and to renumber subsequent subsections accordingly as follows:

Chapter 18.43

CB-1 LOCAL BUSINESS ZONE

18,43,030 Permitted uses.

- A. Any use as permitted in Section 18.31.010 (TR Transitional Zone).
- B. The following uses, as restricted in Section 18.43.020(A):

59. Marijuana Dispensary;

- a. The total maximum floor area of a marijuana dispensary shall not exceed 10,000 square feet.
- b. A marijuana dispensary shall be located in a permanent building and shall not be located in a trailer, cargo container, mobile or modular unit, mobile home, recreational vehicle, or other motor vehicle.
- c. The permitted hours of operation of a marijuana dispensary are from 7:00 a.m. to 10:00 p.m.
- d. A marijuana dispensary shall have an interior customer waiting area equal to a minimum of 25% of the sales floor area. For purposes of this section, sales floor area is defined as any area open to customers for the sale of products. This does not include waiting areas, areas for production and storing of products, or offices.
 - e. A marijuana dispensary shall not have outdoor seating areas.
- f. A marijuana dispensary may deliver medical marijuana to the extent permitted by Arizona law. A marijuana dispensary may deliver recreational marijuana once rules permitting and regulating delivery are approved by the Arizona Department of Health

Services and become effective, and shall comply with Arizona law and all lawful, applicable health regulations, including those promulgated by the Arizona Department of Health Services and any other authorized regulatory agency.

- g. A marijuana dispensary shall be setback a minimum of 2,000 feet from any other marijuana dispensaries, measured in a straight and direct horizontal line between the two closest exterior or applicable interior suite walls of marijuana dispensaries.
- h. A marijuana dispensary shall be setback a minimum of 500 feet from a K-12 public, private, or charter school or a licensed childcare center, measured in a straight and direct horizontal line from the closest exterior or applicable interior suite wall of the marijuana dispensary to the closest property line of a school or childcare center. Exception: For the purposes of this section, the following uses are not considered schools and are exempt from the setback requirement: 1) school administrative offices not located on or contiguous with a school site; or, 2) athletic fields or playgrounds used for school functions that are not contiguous with a school site.
- i. A marijuana dispensary shall be setback a minimum of 500 feet from a public park or library and a minimum of 500 feet from a licensed residential substance abuse diagnostic and treatment facility or other licensed residential drug or alcohol rehabilitation facility, measured in a straight and direct horizontal line from the closest exterior or applicable interior suite wall of the marijuana dispensary to the closest property line of a library, public park, licensed residential substance abuse diagnostic and treatment facility, or other licensed drug or alcohol rehabilitation facility.
- j. The expansion of an existing marijuana dispensary shall be setback a minimum of 500 feet from a K-12 public, private, or charter school, measured in a straight and direct horizontal line from the closest exterior or applicable interior suite wall of the marijuana dispensary to the closest property line of a school.

k. A marijuana dispensary shall comply with all lawful, applicable health regulations, including those promulgated by the Arizona Department of Health Services and any other authorized regulatory agency.

I. Odor Mitigation

- (1) Odor mitigation devices and techniques shall be incorporated in all marijuana facilities to ensure that odors are mitigated. Odor mitigation may be accomplished through an exhaust air filtration system with odor control that prevents internal odors from being emitted externally or through any other best practices adequate for odor mitigation as determined acceptable by the Chief Zoning Inspector, in the Chief Zoning Inspector's sole discretion.
- (2) An odor mitigation plan shall be submitted with the initial permit application. When a modification is made to a marijuana facility, or the facility operation, that has the potential to impact the nature or degree of odor, or affects the control of odor.
 - (3) An odor mitigation plan shall include all of the following information:
 - (a) Facility floor plan (showing areas of potential odor emissions);
 - (b) List of odor emitting activities to take place on site;
 - (c) Phases (timing, length, etc.) of odor-emitting activities;
 - (d) Odor mitigation practices based on industry-specific best control technologies and best management practices; and
 - (e) Administrative controls, engineering controls (system design plan, operational processes, maintenance plan).
 - (4) The marijuana facility shall not begin operations until the order mitigation plan, or any required update to the odor mitigation plan is approved by Chief Zoning Inspector.
- 60. Marijuana Dispensary Offsite Cultivation Location;

- a. The total maximum floor area of a marijuana dispensary offsite cultivation location shall not exceed 10,000 square feet.
- b. A marijuana dispensary offsite cultivation location shall be located in a permanent building and shall not be located in a trailer, cargo container, mobile or modular unit, mobile home, recreational vehicle, or other motor vehicle.
- c. a marijuana dispensary offsite cultivation location shall be setback a minimum of 2,000 feet from any other marijuana dispensaries or marijuana dispensary offsite cultivation locations measured in a straight and direct horizontal line between the two closest exterior or applicable interior suite walls of marijuana dispensaries' cultivation locations.
- d. A marijuana dispensary offsite cultivation location shall be setback a minimum of 1,000 feet from a K-12 public, private or charter school, or a licensed childcare center measured in a straight and direct horizontal line from the closest exterior or applicable interior suite wall of the marijuana offsite cultivation location to the nearest property line of a school or childcare center. Exception: For the purposes of this section, the following uses are not considered schools and are exempt from the setback requirement: school administrative offices not located on or contiguous with a school site, or athletic fields or playgrounds used for school functions that are not contiguous with a school site.
- e. A marijuana dispensary offsite cultivation location shall be setback a minimum of 1,000 feet from a public park or library and a minimum of 1,000 feet from a licensed residential substance abuse diagnostic and treatment facility or other licensed residential drug or alcohol rehabilitation facility measured in a straight and direct horizontal line from the closest exterior or applicable interior suite wall of the marijuana dispensary offsite cultivation location to the closest property line of a library, public park, licensed residential substance abuse diagnostic and treatment facility, or other licensed drug or alcohol rehabilitation facility.

- f. A marijuana dispensary offsite cultivation location shall comply with all lawful, applicable health regulations, including those promulgated by the Arizona Department of Health Services and any other authorized regulatory agency.
- g. A marijuana dispensary offsite cultivation location shall provide only wholesale products to other marijuana dispensaries, marijuana dispensary offsite manufacturing locations, or marijuana dispensary offsite cultivation locations.

h. Odor Mitigation

- (1) Odor mitigation devices and techniques shall be incorporated in all marijuana facilities to ensure that odors are mitigated. Odor mitigation may be accomplished through an exhaust air filtration system with odor control that prevents internal odors from being emitted externally or through any other best practices adequate for odor mitigation as determined acceptable by the Chief Zoning Inspector, in the Chief Zoning Inspector's sole discretion.
- (2) An odor mitigation plan shall be submitted demonstrating compliance with odor control requirements. When a modification is made to a marijuana facility, or the facility operation, that has the potential to impact the nature or degree of odor, or affects the control of odor, the marijuana facility owner must update its odor mitigation plan within 30 days of facility modification.
- (3) An odor mitigation plan shall include all of the following information:
 - (a) Facility floor plan (showing areas of potential odor emissions);
 - (b) List of odor emitting activities to take place on site;
 - (c) Phases (timing, length, etc.) of odor-emitting activities;
 - (d) Odor mitigation practices based on industry-specific best control technologies and best management practices; and

- (e) Administrative controls, engineering controls (system design plan, operational processes, maintenance plan).
- (4) The marijuana facility shall not begin operations until the order mitigation plan, or any required update to the odor mitigation plan, is approved by Chief Zoning Inspector.
- 61. Marijuana Product Manufacturing Location;
 - a. A marijuana product manufacturing location shall comply with all lawful, applicable health regulations, including those promulgated by the Arizona Department of Health Services and any other authorized regulatory agency.
 - b. A marijuana product manufacturing location shall provide only wholesale products to other marijuana dispensaries, marijuana product manufacturing locations, or marijuana dispensary offsite cultivation locations.

c. Odor Mitigation

- (1) Odor mitigation devices and techniques shall be incorporated in all marijuana facilities to ensure that odors are mitigated. Odor mitigation may be accomplished through an exhaust air filtration system with odor control that prevents internal odors from being emitted externally or through any other best practices adequate for odor mitigation as determined acceptable by the Chief Zoning Inspector, , in the Chief Zoning Inspector's sole discretion.
- (2) An odor mitigation plan shall be submitted with the initial permit application. When a modification is made to a marijuana facility, or the facility operation, that has the potential to impact the nature or degree of odor, or affects the control of odor, the marijuana facility owner must update its odor mitigation plan within 30 days of facility modification.
- (3) An odor mitigation plan shall include all of the following information:
 - (a) Facility floor plan (showing areas of potential odor emissions);

- (b) List of odor emitting activities to take place on site;
- (c) Phases (timing, length, etc.) of odor-emitting activities;
- (d) Odor mitigation practices based on industry-specific best control technologies and best management practices; and
- (e) Administrative controls, engineering controls (system design plan, operational processes, maintenance plan).
- (4) The marijuana facility shall not begin operations until the order mitigation plan, or any required update to the odor mitigation plan, is approved by Chief Zoning Inspector.

Section 4. Pima County Code Chapter 18.45 (CB-2 GENERAL BUSINESS ZONE), Section 18.45.040 (Conditional uses), is amended to repeal subsections 18.45.040(D) (Medical Marijuana Dispensary) and 18.45.040(E) (Medical Marijuana Offsite Cultivation Location) to remove the requirement for a conditional use permit for a medical marijuana dispensary and a medical marijuana offsite cultivation location in the CB-2 zone. And subsequent subsections shall be renumbered accordingly.

Section 5. Pima County Code Chapter 18.51 (CI-1 LIGHT INDUSTRIAL/WAREHOUSING ZONE), Section 18.51.030 (Permitted uses), is amended to add marijuana dispensary offsite cultivation location and marijuana product manufacturing location as permitted uses as follows:

Chapter 18.51

CI-1 LIGHT INDUSTRIAL/WAREHOUSING ZONE

18.51.030 Permitted uses.

- A. Any use as permitted in Section 18.43.030(B) (CB-1 Local Business Zone) and in 18.45.030(B) and (C) (CB-2 General Business Zone), (except non-chartered financial institutions).
- B. Any of the following if conducted wholly within a completely enclosed building:
 - 18. Marijuana Dispensary Offsite Cultivation Location;
 - a. There is no size limit for the maximum floor area of a marijuana dispensary offsite cultivation location.
 - b. A marijuana dispensary offsite cultivation location shall be located in a permanent, enclosed, locked facility in accordance with state statutes and Arizona Department of Health Services rules and shall not be located in a trailer, cargo container, mobile or modular unit, mobile home, recreational vehicle, or other motor vehicle.
 - c. A marijuana dispensary offsite cultivation location, shall be setback a minimum of 500 feet from a K-12 public, private, or charter school, measured in a straight and direct horizontal line from the closest exterior or applicable interior suite wall of the marijuana offsite cultivation location to the closest property line of a school.
 - d. A marijuana dispensary offsite cultivation location shall comply with all lawful, applicable health regulations, including those promulgated by the Arizona Department of Health Services and any other authorized regulatory agency.
 - e. A marijuana dispensary offsite cultivation location shall provide only wholesale products to other marijuana dispensaries, marijuana dispensary offsite manufacturing locations, or marijuana dispensary offsite cultivation locations.

f. Odor Mitigation

(1) Odor mitigation devices and techniques shall be incorporated in all marijuana facilities to ensure that odors are mitigated. Odor mitigation may be accomplished

through an exhaust air filtration system with odor control that prevents internal odors from being emitted externally or through any other best practices adequate for odor mitigation as determined acceptable by the Chief Zoning Inspector, in the Chief Zoning Inspector's sole discretion.

- (2) An odor mitigation plan shall be submitted with the initial permit application. When a modification is made to a marijuana facility, or the facility operation, that has the potential to impact the nature or degree of odor, or affects the control of odor, the marijuana facility owner must update its odor mitigation plan within 30 days of facility modification.
 - (3) An odor mitigation plan shall include all of the following information:
 - (a) Facility floor plan (showing areas of potential odor emissions);
 - (b) List of odor emitting activities to take place on site;
 - (c) Phases (timing, length, etc.) of odor-emitting activities;
 - (d) Odor mitigation practices based on industry-specific best control technologies and best management practices; and
 - (e) Administrative controls, engineering controls (system design plan, operational processes, maintenance plan).
 - (4) The marijuana facility shall not begin operations until the order mitigation plan, or any required update to the odor mitigation plan, is approved by Chief Zoning Inspector.
- 19. Marijuana Product Manufacturing Location;
 - a. There is no size limit for the maximum floor area of a marijuana product manufacturing location.
 - b. A marijuana product manufacturing location shall be located in a permanent, enclosed, locked facility in accordance with state statutes and Arizona Department of

Health Services rules and shall not be located in a trailer, cargo container, mobile or modular unit, mobile home, recreational vehicle, or other motor vehicle.

- c. A marijuana product manufacturing location shall be setback a minimum of 500 feet from a K-12 public, private, or charter school, measured in a straight and direct horizontal line from the closest exterior or applicable interior suite wall of the marijuana offsite cultivation location to the closest property line of a school.
- d. A marijuana product manufacturing location shall comply with all lawful, applicable health regulations, including those promulgated by the Arizona Department of Health Services and any other authorized regulatory agency.
- e. A marijuana product manufacturing location shall provide only wholesale products to other marijuana dispensaries, marijuana product manufacturing locations, or marijuana dispensary offsite cultivation locations.

f. Odor Mitigation

- (1) Odor mitigation devices and techniques shall be incorporated in all marijuana facilities to ensure that odors are mitigated. Odor mitigation may be accomplished through an exhaust air filtration system with odor control that prevents internal odors from being emitted externally or through any other best practices adequate for odor mitigation as determined acceptable by the Chief Zoning Inspector, in the Chief Zoning Inspector's sole discretion.
- (2) An odor mitigation plan shall be submitted with the initial permit application. When a modification is made to a marijuana facility, or the facility operation, that has the potential to impact the nature or degree of odor, or affects the control of odor, the marijuana facility owner must update its odor mitigation plan within 30 days of facility modification.
 - (3) An odor mitigation plan shall include all of the following information:

- (a) Facility floor plan (showing areas of potential odor emissions);
- (b) List of odor emitting activities to take place on site;
- (c) Phases (timing, length, etc.) of odor-emitting activities;
- (d) Odor mitigation practices based on industry-specific best control technologies; and best management practices; and
- (e) Administrative controls, engineering controls (system design plan, operational processes, maintenance plan).

Section 6. This ordinance is effective 31 days after its adoption.

PASSED AND ADOPTED by the Boar	rd of Supervisors of Pima County, Arizona, this, 2022.
ATTEST:	BOARD OF SUPERVISORS
Clerk, Board of Supervisors	Chair, Board of Supervisors
APPROVED AS TO FORM:	APPROVED
Deputy County Attorney	Executive Secretary Planning and Zoning Commission

PIMA COUNTY DEVELOPMENT SERVICES DEPARTMENT PLANNING DIVISION STAFF REPORT TO THE PLANNING AND ZONING COMMISSION

PUBLIC HEARING May 25, 2022

P22TA00001 NEW AND REVISED MARIJUANA REGULATIONS

STATUS / AGENDA ITEMS

Planning and Zoning Commission Public Hearing Zoning Text Code Amendment

DESCRIPTION

AN ORDINANCE OF THE BOARD OF SUPERVISORS OF PIMA COUNTY, ARIZONA. RELATING TO ZONING (TITLE 18); AMENDING THE PIMA COUNTY CODE CHAPTER 18.03 (GENERAL DEFINITIONS), SECTION 18.03.020 (DEFINITIONS), TO REPEAL DEFINITIONS OF MEDICAL MARIJUANA DISPENSARY AND MEDICAL MARIJUANA DISPENSARY OFFSITE CULITIVATION LOCATION. ADOPT DEFINTIONS OF MARIJUANA DISPENSARY, MARIJUANA DISPENSARY **OFFSITE** CULITIVATION LOCATION, AND MARIJUANA PRODUCT MANUFACTURING LOCATION, AND AMEND THE DEFINITION OF MEDICAL MARIJUANA QUALIFYING PATIENT CULIVATION LOCATION: AMENDING CHAPTER 18.13 (RH RURAL HOMESTEAD ZONE), SECTION 18.13.030 (CONDITONAL USES), TO ALLOW MARIJUANA DISPENSARY OFFSITE CULTIVATION LOCATION AS A CONDITIONAL USE; AMENDING CHAPTER (CB-1 LOCAL BUSINESS ZONE), SECTION 18.43.030 (PERMITTED USES), TO ALLOW MARIJUANA DISPENSARY, MARIJUANA DISPENSARY OFFSITE CULITIVATION LOCATION, AND MARIJUANA PRODUCT MANUFACTURING LOCATION AS PERMITTED USES: AMENDING CHAPTER 18.45 (CB-2 GENERAL BUSINESS ZONE). SECTION 18.45.040 (CONDITIONAL USES), TO REPEAL THE . REQUIREMENT THAT MARIJUANA DISPENSARIES AND ASSOCIATED USES REQUIRE A TYPE III CONDITIONAL USE PERMIT; AND AMENDING CHAPTER (CI-1 18.51 LIGHT **INDUSTRIAL/WAREHOUSING** ZONE), SECTION 18.51.030 (PERMITTED USES), TO

ALLOW MARIJUANA DISPENSARY OFFSITE CULTIVATION LOCATION AND MARIJUANA PRODUCT MANUFACTURING LOCATION AS PERMITTED USES.

INITIATION

Planning and Zoning Commission, April 27, 2022

PUBLIC COMMENT

No written comment received as of May 11, 2022

STAFF RECOMMENDATION

Staff recommends APPROVAL of the proposed Pima County Zoning Code text amendments.

STAFF REPORT

Arizona voters approved Proposition 203, the "Arizona Medical Marijuana Act", in 2010. As a result, the Pima County Zoning Code was amended to provide regulations regarding Medical Marijuana related land uses. In 2010, the concern regarding negative secondary impacts of these uses led to an arguably restrictive set of zoning rules. Since 2010, there have been two minor changes to these rules, but the core of the regulations remain in-place. The commercial marijuana related land uses (dispensaries, manufacturing and off-site cultivation locations) can only be located with one county zone, the CB-2 General Business zone. This also requires meeting a rigorous amount of setbacks and an extensive Type III Conditional Use Permit process prior to operation. Under the current zoning rules, only one dispensary has been approved in unincorporated Pima County (which subsequently relocated to the Phoenix area), as many more have been approved in the City of Tucson and other surrounding municipalities.

Since 2010, there have been two relatively minor zoning code changes related to medical marijuana land uses. The first amendment in 2015 removed the prohibition that medical marijuana dispensaries and medical marijuana dispensary off-site cultivation locations could not be located within overlay zones. The second text code amendment in 2018 provided an easier zoning path for medical marijuana caregivers to grow for patients.

In 2020, the voters of Arizona voted for the "Smart and Safe Arizona Act," legalizing recreational marijuana use for adults over the age of 21. This led to the Arizona Department of Health Services to issue recreational licenses (marijuana establishment) as dual licenses to existing medical marijuana dispensaries operating in good standing in early 2021. It also led to another 26 licenses issued Statewide under the Social Equity Program in April 2022. The final locations are of these dispensaries are currently undetermined, but could potentially locate with Pima County. The Social Equity Program "was designed to promote the ownership and operation of licensed Marijuana Establishments by individuals from communities disproportionately impacted by the enforcement of previous marijuana laws."

Currently, only the <u>medical</u> marijuana dispensaries and offsite cultivation locations are allowed in Pima County. The uses are exclusively allowed within only one zone, the CB-2 General Business Zone. The uses also require approval of a Type III Conditional Use Permit (CUP). Staff proposes to revise the code to expand the dispensary types to include the recreational component (marijuana establishments), reduce the setbacks to a more appropriate distance, and allow the uses in all commercial and industrial zones by right (no longer requiring a Type III CUP). Additionally, staff proposes to allow a cultivation location within the RH zone with a type I conditional use permit

Staff supports the proposed text amendments. Our current rules were written prior to the voters' approval of medical marijuana in 2010. Since then staff has witnessed (from a land-use/zoning perspective) medical marijuana dispensaries can operate in a compatible manner within their communities and surrounding properties. The Arizona Department of Health Services (AZDHS) has a robust screening process and operational requirements that help reduce any negative secondary impacts a dispensary, cultivation or manufacturing location may produce. The City of Tucson staff (having experience of administering the permits and zoning restrictions of several dispensaries and cultivations locations) have reported to us that these uses are very manageable from a zoning perspective. Furthermore, the voters of Arizona voted again in 2020 to extend the legalization of marijuana beyond medical use.

As a result, staff is proposing to align our marijuana zoning rules with the City of Tucson (COT), by allowing these by right in the appropriate zones commercial and industrial zones with appropriate setbacks. Staff are also proposing to have uniform rules for the medical and the recreational establishments and not regulate these as distinct uses. Furthermore, staff proposes to allow cultivation locations within our most rural and agriculturally permissive zone, RH -Rural Homestead, with a Type I CUP.

If approved, staff expects to see more marijuana land uses operating within unincorporated Pima County (currently zero). However, staff anticipates a small amount of these uses (estimating 4-5) as these require licenses from the AZDHS, which are finite in number, with most already operating elsewhere.

Respectfully submitted⊱

Chris Foirier, AICP

Pima County Planning Official

PIMA COUNTY CODE OF ORDINANCES, TITLE 18, ZONING

AMENDMENT REGARDING MARIJUANA ESTABLISHMENTS

This amendment of the Pima County Code of Ordinances, Title 18, Zoning proposes add a new definition for Marijuana Establishment to address non-medical marijuana dispensaries and to classify the use as Type III conditional use with the same conditions as a Medical Marijuana Dispensary subject to public hearings before the Planning & Zoning Commission and the Board of Supervisors.

In particular, this amendment proposes the following:

1. Revise §18-03-020 - Definitions

Add the following in correct alphabetical order and renumber the remaining definitions accordingly:

Marijuana establishment. An entity, defined in A.R.S. Section 36-2850(21) that is licensed by the Arizona Department of Health Services to operate all of the following:

- a. A single retail location at which the licensee may sell marijuana and marijuana products to consumers, cultivate marijuana, and manufacture marijuana products.
- b. A single off-site cultivation location at which the licensee may cultivate marijuana, process marijuana, and manufacture marijuana products, but from which marijuana and marijuana products may not be transferred or sold to consumers.
- c. A single off-site location at which the licensee may manufacture marijuana products and package and store marijuana and marijuana products, but from which marijuana and marijuana products may not be transferred or sold to consumers.

2. Revise §18-45-040 – CB-2 General Business Zone Conditional Uses

Add the following in correct alphabetical order and renumber the remaining conditional uses accordingly:

Marijuana establishment: a marijuana establishment is permitted as a Type III conditional use subject to the following conditions:

- 1. Minimum notification area: The minimum notification area for a conditional use permit for a marijuana establishment is two thousand six hundred forty feet.
- 2. Supplemental application: In addition to the application required by Chapter 18.97, an applicant for a conditional use permit for a marijuana establishment must complete a supplemental application that includes all of the following information:

- a. If the application is by an agent for the owner the authorization must include an explicit acknowledgment from the owner that the owner knows that the proposed use of the property is as a marijuana establishment.
- b. The legal name of the marijuana establishment.
- c. The name address and date of birth of each principal officer and board member of the marijuana establishment and the name, address, and date of birth of each marijuana establishment agent.
- A copy of the operating procedures adopted in compliance with A.R.S. Section 36-2854.
- e. A notarized certification that none of the principal officers or board members has been convicted of one of the following offenses:
 - i. A violent crime as defined in A.R.S. Section 13-901.03(B) that was classified as a felony in the jurisdiction where the person was convicted;
 - ii. A violation of state or federal controlled substance law that was classified as a felony in the jurisdiction where the person was convicted except an offense for which the sentence, including any term of probation, incarceration or supervised release, was completed ten or more years earlier or an offense involving conduct that would be immune from arrest, prosecution or penalty under A.R.S. Section 36-2811 except that the conduct occurred before the effective date of that statute or was prosecuted by an authority other than the state of Arizona.
- f. A notarized certification that none of the principal officers or board members has served as a principal officer or board member for a registered marijuana establishment that has had its registration certificate revoked.
- g. A floor plan showing the location, dimensions and type of security measures demonstrating that the marijuana establishment will meet the definition of enclosed locked facility contained in A.R.S. Section 36-2801(6).
- 3. Prohibited locations: A marijuana establishment is not permitted in a historic zone.
- 4. Community impacts: The board may not approve a marijuana establishment at a site if substantial evidence is presented that locating the establishment at the proposed site will negatively impact neighboring property values or if substantial evidence is presented that shows that locating the establishment at the proposed site will create an unreasonable risk to the health, safety or general welfare in the area.
- 5. Development standards:

- a. A marijuana establishment must be located in a permanent building and may not be located in a trailer, cargo container or motor vehicle.
- A marijuana establishment shall be setback a minimum of two thousand feet from all marijuana establishments and medical marijuana dispensaries measured from the parcel boundaries;
- c. A marijuana establishment shall be setback a minimum of one thousand feet from a public, private, parochial, charter, dramatic, dancing, music, or other similar school or educational or activity facility where children may be enrolled, measured from the parcel boundaries.
- d. A marijuana establishment shall be setback a minimum of one thousand feet from a public, private, parochial, or charter school bus stop.
- e. A marijuana establishment shall be setback a minimum of one thousand feet from a childcare center, measured from the parcel boundaries.
- f. A marijuana establishment shall be setback a minimum of one thousand feet from a library or public park.
- g. A marijuana establishment shall be setback a minimum of one thousand feet from a church.
- h. A marijuana establishment shall be setback a minimum of one thousand feet from a residential substance abuse diagnostic and treatment facility or other drug or alcohol rehabilitation facility.
- i. A marijuana establishment may not have a drive-through service.
- j. A marijuana establishment may not have outdoor seating areas.
- k. The maximum floor area of a marijuana establishment is two thousand square feet.
- I. The secure storage area for the marijuana stored at the marijuana establishment shall not exceed four hundred square feet.
- m. The permitted hours of operation of a marijuana establishment are between the hours of nine a.m. and five p.m.
- 6. Permit conditions: The board may include any conditions it finds necessary to conserve and promote the public health, safety, convenience and general welfare. The board must include the following permit conditions for issuance of the conditional use permit for a marijuana establishment:
 - a. An expiration date for the conditional use permit that requires re-application or renewal of the permit after a specified period of time.

- b. A requirement that the marijuana establishment meets security requirements adopted by the Arizona Department of Health Services.
- c. A requirement that the storage facilities for the marijuana stored or grown on site prevent the emission of dust, fumes, vapors or odors into the environment.
- d. A requirement that the owner secure a certification from the State Fire Marshall or from another acceptable entity responsible for fire safety in the area in which the marijuana establishment is to be located stating that the structure complies with all fire code requirements and supply that certification to the development services department.
- e. A prohibition on the marijuana establishment offering a service that provides offsite delivery of the marijuana.
- f. A requirement that the marijuana establishment is prohibited from permitting anyone to consume marijuana on the premises.
- g. A requirement for a reasonable setback from a zoning district other than CB-2, CI-1, CI-2, and CI-3 or any existing, established, residential use in those zones.
- h. A requirement for a reasonable setback feet from a zoning district in a city or town other than classifications that permit densities and uses greater than or equal to those permitted CB-2, Cl-1, Cl-2, and Cl-3.
- i. A requirement that the marijuana establishment comply with applicable sections of Title 8 of the Pima County Code.
- 7. Enforcement: The provisions of this subsection may be enforced through the use of the civil penalty procedure provided for by Section 18.95.030 or by injunction or other civil proceeding as provided by A.R.S Section 11-808(H). Notwithstanding any other provision of this code, this subsection shall not be enforced under A.R.S Section 11-808(C) as a misdemeanor.
- 8. Fees: The fee for application and hearing is a combination of the existing fees for conditional use permit application filing fee, the site analysis submittal fee and the notice of public hearing fee included in the most current development services department fee schedule.
- 3. Revise §18-45-040(D)5.b CB-2 General Business Zone Conditional Uses Medical Marijuana Dispensary Development Standards

Revise §18-45-040(D)5.b to read as follows:

b. A medical marijuana dispensary shall be setback a minimum of two thousand feet from all other medical marijuana dispensaries AND MARIJUANA ESTABLISHMENTS measured from the parcel boundaries;