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When recorded return to:
Clerk of the Board
P.O. Box 827
Florence AZ 85132

ORDINANCE NO. 2021-PZ-C-001-21

AN ORDINANCE OF THE PINAL COUNTY, ARIZONA, BOARD OF SUPERVISORS AMENDING TITLE 2, ZONING, OF THE PINAL COUNTY DEVELOPMENT SERVICES CODE BY AMENDING CHAPTER 2.191: MEDICAL MARIJUANA DISPENSARY, MEDICAL MARIJUANA DISPENSARY OFF-SITE CULTIVATION LOCATION AND MEDICAL MARIJUANA FOOD ESTABLISHMENT, ESTABLISHING AN EFFECTIVE DATE; AND DIRECTING ITS PUBLICATION

WHEREAS, the Pinal County Board of Supervisors ("Board") is authorized pursuant to Arizona Revised Statutes §§ 11-251 and 11-811, *et. seq.* to adopt, among other things, zoning ordinances including zoning districts in order to conserve and promote the public health, safety, convenience and general welfare; and

WHEREAS, on February 10, 2010, the Board adopted Ordinance No. 2010-021010-DSC, recorded in the Official Records of the Pinal County Recorder on February 16, 2010 as Fee No. 2010-013901 approving the codification of the Pinal County Development Services Code (the "Code"); and

WHEREAS, the Pinal County Zoning Ordinance is codified in Title 2, Zoning, of the Code ("Title 2"); and

WHEREAS, the Board has determined it is in the best interest of the County to amend Title 2, Chapter 2.191, to address recreational use of marijuana, dispensaries and grow facilities; and

WHEREAS, the Pinal County Planning and Zoning Commission held a public hearing on this Ordinance on June 17, 2021, giving no less than 15 days notice thereof and forwarded a recommendation of approval to the Board; and

WHEREAS, the Board held a work session on this Ordinance on April 21, 2021; held a public hearing on this Ordinance after the aforesaid work session on August 4, 2021, giving no less than 15 days notice thereof; and made copies of this Ordinance available to all Justice Courts, Supervisors' District Offices, the Office of the Clerk of the Board and the County web site at least 15 days prior to the aforesaid public hearing.

NOW, THEREFORE, BE IT ORDAINED by the Pinal County Board of Supervisors as follows:

Section 1: Title 2, Zoning, of the Pinal County Development Services Code is hereby amended by amending Chapter 2.191: Medical marijuana dispensary, medical marijuana dispensary off-site cultivation location and medical marijuana food establishment to read as follows:

Chapter 2.191

MEDICAL MARIJUANA DISPENSARIES, RECREATIONAL MARIJUANA

ESTABLISHMENTS,

OFF-SITE MARIJUANA CULTIVATION LOCATIONS AND TESTING FACILITIES

Sections:

2.191.010 Medical marijuana dispensaries, recreational marijuana establishments, off-site marijuana cultivation locations and Testing Facilities.

2.191.020 Prohibition of marijuana on public property.

2.191.010 Medical marijuana dispensaries, recreational marijuana establishments, off-site marijuana cultivation locations and testing facilities.

A. Medical Marijuana Dispensaries and Recreational Marijuana Establishments. Medical marijuana dispensaries and recreational marijuana establishments shall be subject to the following conditions:

1. Minimum Notification Area. The minimum notification area for a medical marijuana dispensary or recreational marijuana establishment is 1,500 feet.
2. Application Requirements. An applicant for a medical marijuana dispensary or recreational marijuana establishment must complete an 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 medical marijuana dispensary and/or recreational marijuana establishment, as applicable.
 - b. The legal name of the medical marijuana dispensary or recreational marijuana establishment.
 - c. The name, address and date of birth of each principal officer and board member and the name, address and date of birth of each agent.
 - d. A copy of any operating procedures adopted in compliance with the rules of the Arizona Department of Health Services or its successor agency.

- 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. § 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 including an offense for which the sentence, any term of probation, incarceration or supervised release was completed within the 10 years prior to applying for the application for the dispensary or an offense involving conduct that would be immune from arrest, prosecution or penalty under A.R.S. § 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 medical marijuana dispensary or recreational 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 medical marijuana dispensary or recreational marijuana establishment will meet the definition of enclosed, locked facility contained in A.R.S. § 36-2801(6) and will be conducted completely within an enclosed, locked building.
3. Permitted Location. A medical marijuana dispensary or recreational marijuana establishment is only permitted in the C-3 (general commercial), I-1 (industrial buffer), I-2 (light industrial and warehouse), and I-3 (industrial) zoning districts and only with a special use permit that requires reapplication of the permit after five years or less.
4. Community Impacts. The County may or may not approve a medical marijuana dispensary or recreational marijuana establishment at a site if substantial evidence is presented that locating the dispensary or establishment at the proposed site will negatively impact neighboring property values or if substantial evidence is presented that shows that locating the dispensary or 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 medical marijuana dispensary or recreational marijuana establishment must be located in a permanent building and may not be located in a trailer, cargo container or motor vehicle.
 - b. A medical marijuana dispensary or recreational marijuana establishment shall be separated a minimum of ten miles from all other medical marijuana dispensaries or establishments within unincorporated areas of the County and no less than ten miles from County jurisdictional boundaries measured from the parcel boundaries; however, this does not preclude a dual licensee from operating both a medical marijuana dispensary and a marijuana establishment collectively at a shared location.

- c. A medical marijuana dispensary or recreational marijuana establishment shall be separated a minimum of 1,500 feet from schools, community service agencies, activity facilities and/or activities where children may be enrolled, measured from the parcel boundaries.
- d. A medical marijuana dispensary or recreational marijuana establishment shall be separated a minimum of 1,500 feet from a childcare center, measured from the parcel boundaries.
- e. A medical marijuana dispensary or recreational marijuana establishment shall be separated a minimum of 1,500 feet from a library or public park.
- f. A medical marijuana dispensary or recreational marijuana establishment shall be separated a minimum of 1,500 feet from a church.
- g. A medical marijuana dispensary or recreational marijuana establishment shall be separated a minimum of 1,500 feet from a residential substance abuse diagnostic and treatment facility or other drug or alcohol rehabilitation facility.
- h. A medical marijuana dispensary or recreational marijuana establishment may have a drive-through service.
- i. A medical marijuana dispensary or recreational marijuana establishment may not have outdoor seating areas.
- j. The permitted hours of operation of a medical marijuana dispensary or recreational marijuana establishment are between the hours of 7:00 a.m. and 10:00 p.m. daily.
- k. The medical marijuana dispensary or recreational marijuana establishment shall meet security requirements adopted by the Arizona Department of Health Services or its successor agency.
- l. The storage facilities for the marijuana stored or grown at the dispensary or establishment shall prevent the emission of dust, fumes, vapors or odors into the environment.
- m. The owner shall secure a certification from the State Fire Marshall or from another acceptable entity responsible for fire safety in the area in which the medical marijuana dispensary or recreational marijuana establishment is to be located stating that the structure complies with all fire code requirements and supply that certification to the Building and Safety Department.
- n. The medical marijuana dispensary or recreational marijuana establishment is prohibited from permitting anyone to consume marijuana on its premises.
- o. The medical marijuana dispensary or recreational marijuana establishment shall comply with applicable sections of the Pinal County sanitary code.
- p. The medical marijuana dispensary or recreational marijuana establishment may provide off-site delivery of marijuana.

6. Enforcement. The provisions of this subsection may be enforced through the use of the civil penalty procedure provided for by PCDSC 2.160.140 or by injunction or other civil proceeding as provided by A.R.S. § 11-815(H). Notwithstanding any other provision of this code, this subsection shall not be enforced under A.R.S. § 11-815(C) as a misdemeanor.

7. Fees. The fee for application and hearing is a combination of the existing fees for the special use permit application filing fee, the site analysis submittal fee, and the notice of public hearing fee included in the most current Planning and Development Department fee schedule.

B. Special Conditions for Non-Dispensary / Non-Establishment Cultivation.

1. An individual is permitted to possess, consume, process, manufacture, transport, and cultivate marijuana in a residential zoning district within the unincorporated areas of the County, subject to the limitations imposed by A.R.S. § 36-2801 *et seq.* (the Arizona Medical Marijuana Act) and A.R.S. § 36-2850 *et seq.* (the Smart and Safe Arizona Act) and this Chapter.

2. Marijuana Cultivation Location.

- a. Allowed as an accessory to a primary residence.
- b. Must be conducted in a completely enclosed, locked building.
- c. Must prevent the emission of dust, fumes, vapors or odors into the environment.

C. Off-Site Marijuana Cultivation Locations and Testing Facilities. As long as the Arizona Revised Statutes remain in full force and effect to allow marijuana dispensaries and establishments, testing facilities and off-site cultivation and manufacturing locations where marijuana and marijuana products may not be transferred or sold to consumers are permitted as a special use subject to the following conditions:

1. Minimum Notification Area. The minimum notification area for off-site marijuana cultivation locations and testing facilities is 1,500 feet.

2. Supplemental Application. In addition to the application required by Chapter 2.150 PCDSC, an applicant for a special use permit for an off-site cultivation location or testing facility shall complete an 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 an off-site marijuana cultivation location or testing facility.
- b. The legal name and address of the affiliated medical marijuana dispensary and/or recreational marijuana establishment.
- c. The name, address and date of birth of each principal officer and board member affiliated with the off-site cultivation location or testing facility and the name, address and date of birth of each agent.

- d. A copy of any operating procedures adopted in compliance with the rules of the Arizona Department of Health Services or its successor agency.
- e. A notarized certification that none of the principal officers or board members affiliated with the off-site cultivation location or testing facility has been convicted of one of the following offenses:
 - i. A violent crime as defined in A.R.S. § 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 including an offense for which the sentence, any term of probation, incarceration or supervised release was completed within the 10 years prior to applying for the application for the off-site cultivation location, or an offense involving conduct that would be immune from arrest, prosecution or penalty under A.R.S. § 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 affiliated with the off-site cultivation location or testing facility has served as a principal officer or board member for a registered nonprofit medical marijuana dispensary that has had its registration certificate revoked.
- g. A floor plan showing the location, dimensions of and type of security measures demonstrating that the off-site cultivation location or testing facility will meet the definition of “enclosed, locked facility” contained in A.R.S. § 36-2801(6).
- h. A security plan that meets or exceeds Arizona Department of Health Services requirements, which shall be submitted to the Pinal County Sheriff’s Office for review and comment prior to the applicant’s special use permit hearing.

3. Permitted Location. An off-site cultivation location or testing facility is only permitted in the C-3 (general commercial), I-1 (industrial buffer), I-2 (light industrial and warehouse), and I-3 (industrial) zoning districts and only with a special use permit that requires reapplication of the permit after ten years or less. Any valid previously approved special use permit for a marijuana off-site cultivation location on the date of this ordinance is extended to ten years starting from June 30, 2021.

4. Community Impacts. The board may or may not approve an off-site cultivation location or testing facility at a location if substantial evidence is presented that locating the cultivation location or testing facility at the proposed site will negatively impact neighboring property values or if substantial evidence is presented that shows that locating the cultivation location or testing facility at the proposed site will create an unreasonable risk to the health, safety or general welfare in the area.

5. Development Standards.

- a. An off-site cultivation location or testing facility must meet the definition of an “enclosed, locked facility” under A.R.S. § 36-2801(6) and the definition of “enclosed area” under Arizona Administrative Code R9-17-101(20) and may not be located in a trailer, cargo container or motor vehicle.
- b. An off-site cultivation location or testing facility shall be separated a minimum of 2,000 feet from all other off-site cultivation locations or testing facilities measured from the parcel boundaries.
- c. An off-site cultivation location or testing facility shall be separated a minimum of 1,500 feet from schools, community service agencies, activity facilities and/or activities where children may be enrolled, measured from the parcel boundaries.
- d. An off-site cultivation location or testing facility shall be separated a minimum of 1,500 feet from a childcare center.
- e. An off-site cultivation location or testing facility shall be separated a minimum of 1,500 feet from a library or public park.
- f. An off-site cultivation location or testing facility shall be separated a minimum of 1,500 feet from a church.
- g. An off-site cultivation location or testing facility shall be separated a minimum of 1,500 feet from a residential substance abuse diagnostic and treatment facility or other drug or alcohol rehabilitation facility.
- h. An off-site cultivation location or testing facility shall be separated a minimum of 1,500 feet from any single-family residential zone, multifamily residential zone, mixed dwelling zone and RU-C zone, as measured from the parcel boundaries.
- i. An off-site cultivation location may not have outdoor seating areas.
- j. All drying, curing and storage of marijuana at an off-site cultivation location or testing facility must take place inside a completely enclosed permanent building with controlled access and cannot be located in a trailer, cargo container, or motor vehicle.
- k. An off-site cultivation location must have a legible copy of a valid agent registry identification card, the original of which is issued by the State of Arizona, plainly displayed inside of the doorway at all times.
- l. An off-site cultivation location must have the address of the medical marijuana dispensary or recreational marijuana establishment that the off-site cultivation location supplies plainly displayed inside of the doorway at all times.
- m. An off-site cultivation location or testing facility must be accessible by a pavement to pavement roadway.

n. The County shall not permit more than one off-site cultivation location and one off-site manufacturing location for each dispensary and establishment located in the County, absent a showing of unnecessary hardship.

o. The off-site cultivation location or testing facility shall meet security requirements adopted by the Arizona Department of Health Services or its successor agency.

p. The storage facilities for the marijuana stored or grown on site shall prevent the emission of dust, fumes, vapors or odors into the environment.

q. The owner shall secure a certification from the State Fire Marshall or from another acceptable entity responsible for fire safety in the area in which the off-site cultivation location or testing facility is to be located stating that the structure complies with all fire code requirements and supply a copy of that certification to the Building and Safety Department.

r. The off-site cultivation location or testing facility is prohibited from permitting anyone to consume marijuana on the premises.

s. The off-site cultivation location or testing facility shall comply with applicable section of the Pinal County sanitary code.

t. The applicant shall provide not less than three days' advance notice to the Pinal County Sheriff's Office when marijuana is to be harvested at the cultivation location and when marijuana is to be transported from the site to a marijuana dispensary and/or establishment.

u. The applicant shall submit for review and approval of a specific site plan as required by Chapter 2.200 PCDSC prior to operation of an off-site cultivation location or testing facility.

6. Enforcement. The provisions of this subsection may be enforced through the use of the civil penalty procedure provided for by PCDSC 2.160.140 or by injunction or other civil proceeding as provided by A.R.S. § 11-815(H). Notwithstanding any other provision of this code, this subsection shall not be enforced under A.R.S. § 11-815(C) as a misdemeanor.

7. Fees. The fee for application and hearing is a combination of the existing fees for the special use permit application filing fee, the site analysis submittal fee and the notice of public hearing fee included in the most current Planning and Development Department fee schedule.

D. Marijuana Food Establishments. A marijuana food establishment shall only be allowed immediately adjacent to or within a medical marijuana dispensary and/or recreational marijuana establishment and shall be subject to the same requirements applicable to marijuana dispensaries and establishments in PCDSC 2.191.010(A).

2.191.020 Prohibition of marijuana on public property.

Except as otherwise provided by State law, the possession, use, sale, cultivation, manufacture, production or distribution of marijuana products is prohibited on property that is occupied, owned, controlled or operated by the County and it is unlawful for an individual to smoke marijuana in a public place or open space in unincorporated areas of Pinal County.

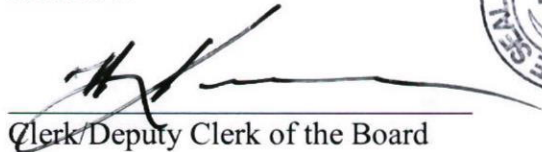
Section 2: This Ordinance shall take effect 30 days after the date of its adoption.

Section 3: This Ordinance shall be published at least once in a newspaper of general circulation in the County seat after its adoption.

PASSED AND ADOPTED this 4th day of August, 2021, by the PINAL COUNTY BOARD OF SUPERVISORS.



Chairman of the Board

ATTEST:


Clerk/Deputy Clerk of the Board



APPROVED AS TO FORM:


Deputy County Attorney