

ORDINANCE 2013- 42

AN ORDINANCE OF THE BOARD OF SUPERVISORS OF PIMA COUNTY, ARIZONA; RELATING TO ZONING; AMENDING THE PIMA COUNTY ZONING CODE TITLE 18 BY AMENDING CHAPTER 18.01 (GENERAL PROVISIONS), SECTION 18.01.030 (APPLICATION OF ZONING CODE) TO ALLOW EXCEPTIONS FOR GREEN BUILDING STRUCTURAL ALTERATIONS FOR NONCONFORMING BUILDINGS AND BUILDINGS HOUSING NONCONFORMING USES; AMENDING CHAPTER 18.03 (GENERAL DEFINITIONS), SECTION 18.03.020 (DEFINITIONS) TO ADD DEFINITIONS FOR "CISTERN", "GREEN BUILDING", "RAIN BARREL", "RAINWATER HARVESTING SYSTEM", AND "VEGETATED ROOF" AND TO ADD UNDERGROUND CISTERNS AND CERTAIN CLOTHES LINES TO EXCLUSIONS TO THE DEFINITION OF "STRUCTURE" TO EXCLUDE THEM FROM ZONING REGULATION; AMENDING CHAPTER 18.07 (GENERAL REGULATIONS AND EXCEPTIONS), SECTION 18.07.030 (LAND USE REGULATIONS) TO ADD RAINWATER HARVESTING SYSTEM AS A PERMITTED USE IN ALL ZONES SUBJECT TO REQUIREMENTS AND EXCEPTIONS, AND SECTION 18.07.050 (DEVELOPMENT STANDARDS EXCEPTIONS) TO MODIFY AND ADD TO DEVELOPMENT STANDARDS EXCEPTIONS FOR PROJECTIONS INTO YARDS AND FOR HEIGHT LIMITS; AND AMENDING CHAPTER 18.73 (LANDSCAPING, BUFFERING AND SCREENING STANDARDS), SECTION 18.73.050 (AMENITY LANDSCAPING REQUIREMENTS) TO ADD VEGETATED ROOFS AS AN AMENITY LANDSCAPE REQUIREMENT OPTION.

WHEREAS, the Planning and Zoning Commission, at its March 27, 2013 meeting, initiated amendments to the Pima County Zoning Code; and

WHEREAS, Pima County Comprehensive Plan Regional Plan Policies under the Water Resources Element advocate water conservation through implementation of rainwater/storm water harvesting and reuse strategies, including the potential for a Zoning Code text amendment for enacting water conservation measures;

WHEREAS, Pima County Board of Supervisors' Resolution 2010-16 supports implementation of the City/County Water and Wastewater Study Phase 2 Report; and

WHEREAS the City/County Water and Wastewater Study Phase 2 Report contains a goal to maximize and make efficient use of effluent and other locally renewable water supplies with a recommendation for continued encouragement of rainwater harvesting on residential, commercial, and government properties to defray the high costs associated with stormwater management and to develop a new source of local, renewable water supply; and

WHEREAS the City/County Water and Wastewater Study Phase 2 Report contains a goal to address regulatory barriers to maximizing local water supplies; and

WHEREAS the City/County Water and Wastewater Study Phase 2 Report contains a goal to be prepared for climate change and drought via a multi-pronged preparedness strategy such as diversification of water supplies, improved demand management, and increased reliance on water harvesting as described in the 2011-2015 Action Plan for Water Sustainability created to implement the Phase 2 goals; and

WHEREAS the City/County Water and Wastewater Study Phase 2 Report contains a goal to increase use of rainwater and stormwater to reduce demands on potable supplies with a recommendation to review existing policies and regulations and evaluate how development standards may need to be modified to accommodate this strategy; and

WHEREAS, on April 12, 2012, Pima County Public Works held a Sustainable Land Use Code Audit Workshop funded by a grant from the Environmental Protection Agency's Office of Sustainable Communities under their Building Blocks for Sustainable Communities Program and administered by Smart Growth America; and

WHEREAS, on June 2, 2012, a memorandum from Smart Growth America summarized the Sustainable Land Use Code Audit Workshop and provided "next steps" recommendations as an outcome of the workshop; and

WHEREAS, this ordinance addresses some of the "next steps" recommendations pertaining to reduction of fossil-fuel based energy use and increased use of renewable energy resources that were an outcome of the Sustainable Land Use Code Audit Workshop; and

WHEREAS, this ordinance updates the zoning code to encourage green building construction and to remove barriers to green buildings and to use options that increase resource efficiency; and

WHEREAS, 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; therefore,

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

SECTION 1: That Chapter 18.01 of the Pima County Zoning Code, Section 18.01.030 (Application of Zoning Code), is amended to update an Arizona Revised Statutes section citation and add an exception to provisions for nonconforming uses and buildings as follows:

**Chapter 18.01
GENERAL PROVISIONS**

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18.01.030 Application of zoning code.

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D. Provisions for Nonconforming Uses and Buildings.

1. Nonconforming Uses Exempted.

- a. As specified in A.R.S. Section 11-830~~12~~12, the provisions of this code shall not affect existing uses of property or the right to its continued use or the reasonable repair or alteration thereof for the purpose for which used on February 16, 1953, or for any other use of the same or a more restrictive classification.

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5. **Alteration of Nonconforming Buildings.** No existing building designed, arranged or intended for or devoted to a use not permitted under the regulations of this code for the zone in which located shall be enlarged, extended, reconstructed or structurally altered unless such building and such enlargement, extension, reconstruction and structural alterations, and the further use thereof, conform in every respect with the regulations specified by this code for such zone in which said building is located, except a nonconforming business use as provided in Section 18.01.030(D)(1) and except as provided in Section 18.01.030(D)(7), but nothing in this subsection shall authorize the violation of any setback, health or sanitary law, ordinance or regulation not a part of this code.

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7. Exception for Green Building Upgrades and Renovations that Reduce Energy or Water Consumption. Notwithstanding Sections 18.01.030(D)(3)(a) or 18.01.030(D)(5), structural alterations, excluding enlargement and extension except as provided below, necessary for green building upgrades and renovations that reduce energy or water consumption are permitted without the requirement for the lawful nonconforming aspects of the building or use to be brought into conformance with the regulations specified in this code and shall not require submittal of a

development plan for review and approval in accordance with Section 18.71.010(B). For the purposes of this section, permitted enlargement and extension includes the installation of rainwater harvesting systems, ground or roof-mounted solar energy systems, roof eaves or overhangs, attached shade structures or detached shade structures extending three feet or less from the main building, roofed porches, and green roofs. Green building upgrades and renovations must reduce energy or water consumption. Examples include, but are not limited to, lighting, air barrier, duct insulation, duct sealing, attic insulation, wall insulation, plumbing fixtures, windows, HVAC, domestic solar hot water system, solar photovoltaic system, water harvesting cistern, roof eaves or overhangs, attached shade structures or detached shade structures extending three feet or less from the main building, roofed porches, vegetated roofs, and Energy Star qualified roof product, or as determined by the Chief Zoning Inspector or designee.

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SECTION 2: That Chapter 18.03 of the Pima County Zoning Code, Section 18.03.020 (Definitions), is amended to add a definition for cistern, green building, rain barrel, rainwater harvesting system, and vegetated roof and to renumber subsequent subsections accordingly and to add exclusions from the definition of a structure as follows:

**Chapter 18.03
GENERAL DEFINITIONS**

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18.03.020 Definitions.

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C. Definitions "C".

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6. Church:

7. Cistern: The storage component of a rainwater harvesting system. Cisterns are also known as water tanks or rain barrels.

7.8. Civil engineer:

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G. Definitions "G".

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5. Grazing:

6. Green building: A structure or elements of a structure that incorporate the principles of sustainable design – design in which the impact of a building on the natural environment or human health will be less than a building that solely meets the minimum requirements of the building code. Green buildings incorporate:

a. Principles of energy and resource efficiency;

b. Practical applications of waste reduction and pollution prevention;

c. Good indoor air quality and natural light to promote occupant health and productivity; or

d. Transportation efficiency in siting and construction, during use and reuse.

6 7. Group home:

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R. Definitions "R."

1. Railroad:

2. Rain barrel: A barrel used as a cistern to store rainwater.

3. Rainwater harvesting system: A system used to capture, convey, store, and release rainwater for future use. A rainwater harvesting system consists of the following primary subsystems: catchment area, first flush diverters (an optional system that diverts the initial pulse of rainfall to remove large debris), roof washer (an optional system that filters small debris), conveyance system (guttering, downspouts, piping, screen filtration, and transfer pump for use of remote cisterns), an above- or below-ground storage tank(s) (typically a cistern or a simple barrel), cistern overflow device for down-gradient discharge, and distribution system (which may include a pump or pressure system if not gravity fed).

2 4. Renewable energy system—Ancillary scale:

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S. Definitions "S."

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23. Structure:

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b. For the purposes of this ordinance, "structure" does not include:

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5) Underground cisterns.

6) Clothes lines seventy-two inches or less in height.

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V. Definitions "V."

1. Vehicular entry architectural feature: ...

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2. Vegetated roof: A roof partially or fully covered by vegetation, used to manage water runoff and provide additional insulation in the winter and cooling in the summer. The vegetation is typically grown in a growing medium above a waterproof membrane that is part of a multi-component engineered system, but can also be grown in containers. Also known as a green roof, eco-roof, or living roof, it can range from a tended roof garden to a low-maintenance ecology.

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SECTION 3: That Chapter 18.07 of the Pima County Zoning Code, Section 18.07.030 (Land Use Regulations), is amended to add rainwater harvesting system as a permitted use in all zones subject to requirements and exceptions, and Section 18.07.050 (Development Standards Exceptions), is amended to modify and add to development standards exceptions for projections into yards and for height limits, as follows:

**Chapter 18.07
GENERAL REGULATIONS AND EXCEPTIONS**

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18.07.030 Land use regulations.

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R. Rainwater harvesting system.

1. Rainwater harvesting systems are permitted in all zones, subject to the requirements and exceptions of this subsection:
 - a. Exposed openings to cisterns shall be screened with a corrosion resistant metallic fine mesh to prevent mosquitoes from entering.
 - b. Large openings in cisterns shall be securely fastened to prevent accidental drowning.
 - c. Overflow or discharge from rainwater harvesting systems must not have an adverse impact on adjacent property or rights-of-way.
 - d. Cistern setbacks:
 - 1) Front: In accordance with the minimum front yard requirements for a main structure or building of the underlying zone.
 - 2) Side: In accordance with the minimum side yard requirements for an accessory structure or building of the underlying zone, except that zero lot line siting is permissible for cisterns eight feet or less in height, excluding piping, on lots of 8,000 square feet or less.
 - 3) Rear: In accordance with the minimum rear yard requirements for an accessory structure or building of the underlying zone.
 - e. Exceptions for cisterns:
 - 1) Cisterns forty-eight inches or less in height and width excluding piping are exempt from minimum yard distance setback requirements of the underlying zone.
 - 2) Cisterns are exempt from maximum lot coverage requirements of the underlying zone.
 - 3) For single detached or one-family dwellings on lots of less than 72,000 square feet, if more than two cisterns are visible within a front or side yard from a single point on an abutting street, the cisterns must be screened with a minimum five-foot-high wall, fence, or hedge.

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18.07.050 Development standards exceptions.

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C. Projections Into Yards.

1. ~~Unenclosed porches and stairways, unroofed and unenclosed above or below floor or steps, may project not more than~~ must not project more than three feet into any minimum side or rear yard. Roof eaves or overhangs, shade structures, and roofed porches must not project more than three feet into any minimum front, side, or rear yard for main structures, main buildings, and guest houses provided

drainage from roofs and shade structures does not fall onto adjacent property. The projection is measured from the face of the supporting structure or wall.

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H. Height Limit Exceptions. The height limits of this code shall not apply to:

1. Barns, chimneys, conveyors, cupolas, derricks, flagpoles, parapet walls extending not more than four feet above the height limit of the building, silos, smokestacks, power transmission towers, windmills, and power transmission poles, and vegetated roof systems beginning at the height above the waterproof membrane including safety railings, enclosed access stairway or elevator with a minimum twenty-foot setback from roof edges, vegetative containers, and vegetation;

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SECTION 5: That Chapter 18.73 of the Pima County Zoning Code, Section 18.73.050 (Amenity Landscaping Requirements), is amended to add vegetated roofs as an option for amenity landscaping requirements as follows:

**Chapter 18.73
LANDSCAPING, BUFFERING AND SCREENING STANDARDS**

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18.73.050 Amenity landscaping requirements.

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B. Parking Area Amenity Landscape Requirements.

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2. Amenity options. The ten percent requirement may be satisfied with the use of combinations of the following elements:

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- f. Courts, ramadas and covered walkways.
- g. Vegetated roofs, limited to plants selected from the approved plant lists within the Landscape Design Manual available at the Development Services Department, pursuant to Section 18.73.030(A).

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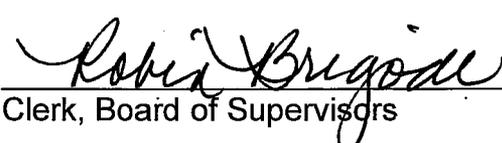
SECTION 6: That this ordinance is effective 31 days from and after its adoption.

PASSED AND ADOPTED by the Board of Supervisors of Pima County, Arizona, this 3rd
day of September, 2013.

PIMA COUNTY BOARD OF SUPERVISORS


Chairman of the Board of Supervisors **SEP 03 2013**

ATTEST:


Clerk, Board of Supervisors

APPROVED AS TO FORM:


Civil Deputy County Attorney
MICHAEL LEBLANC


Executive Secretary, Pima County
Planning and Zoning Commission