

ORDINANCE 2022- 16

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 (CONDITIONAL USES), TO ALLOW MARIJUANA DISPENSARY OFFSITE CULTIVATION LOCATION AS A CONDITIONAL USE AND TO RENUMBER SUBSEQUENT SECTIONS ACCORDINGLY; 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 CONDITIONALLY 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 general definitions and several chapters relating to the RH Rural Homestead Zone, CB-1 Local Business Zone, CB-2 General Business Zone, and CI-I Light Industrial/Warehouse Zone to allow for new conditional uses and permitted uses for marijuana dispensaries, marijuana dispensary offsite cultivation locations, and marijuana product manufacturing locations.

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 DEFINITIONS), 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

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18.03.020 Definitions.

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M. Definitions "M."

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6. ~~Medical Marijuana dispensary: A not-for-profit entity,~~ nonprofit medical marijuana dispensary defined in A.R.S. Section § 36-2801 (4412) 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(43 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.

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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

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18.13.030 Conditional uses.

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

B. Uses conditionally permitted:

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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.

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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

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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):

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59. Marijuana Dispensary – Subject to Type III Conditional Use;

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.

l. 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 – Subject to Type III Conditional Use:

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 odor mitigation plan, or any required update to the odor mitigation plan, is approved by Chief Zoning Inspector.

61. Marijuana Product Manufacturing Location – Subject to Type III Conditional Use;

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.

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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

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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:

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18. Marijuana Dispensary Offsite Cultivation Location – Subject to Type III Conditional Use;

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 – Subject to Type III Conditional Use:

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).

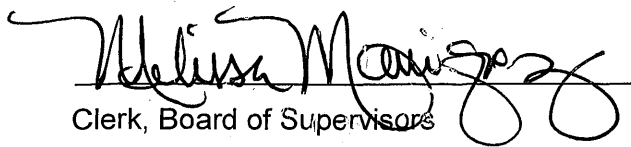
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Section 6. This ordinance is effective 31 days after its adoption.

PASSED AND ADOPTED by the Board of Supervisors of Pima County, Arizona, this 2nd day of August, 2022.

ATTEST:

BOARD OF SUPERVISORS


Clerk, Board of Supervisors

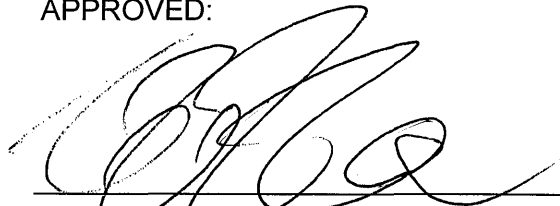

Chair, Board of Supervisors AUG 02 2022

APPROVED AS TO FORM:



Deputy County Attorney

APPROVED:



Executive Secretary
Planning and Zoning Commission