

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 (DEFINITIONS) BY ADDING AND REVISING DEFINITIONS FOR MARIJUANA DISPENSARIES AND RELATED USES, AMENDING CHAPTER 18.13 (RH RURAL HOMESTEAD ZONE) TO ALLOW FOR MARIJUANA DISPENSARY OFFSITE CULTIVATION LOCATION AS A CONDITIONAL USE, AMENDING CHAPTER 18.43 (CB-1 LOCAL BUSINESS ZONE) TO ALLOW MARIJUANA DISPENSARIES AND THEIR ASSOCIATED USES AS PERMITTED USES, AMENDING CHAPTER 18.45 (CB-2 GENERAL BUSINESS ZONE) TO REPEAL THE REQUIREMENT THAT MARIJUANA DISPENSARIES AND THEIR ASSOCIATED USES REQUIRE TYPE III CONDITIONAL USES AND AMENDING CHAPTER 18.51 (CI-1 LIGHT INDUSTRIAL/WAREHOUSING ZONE) TO ALLOW FOR MARIJUANA DISPENSARY OFFSITE CULTIVATION LOCATIONS AND MARIJUANA PRODUCT MANUFACTURING LOCATIONS 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 to this ordinance will provide revisions to existing uses to include recreational marijuana dispensaries and recreational marijuana dispensary offsite cultivation locations. Marijuana product manufacturing location will be added as a new use. The associated uses will be 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 DEFINITIONS), Section 18.03.020 (Definitions), is amended to provide definitions for marijuana dispensary, marijuana dispensary offsite cultivation location, marijuana product manufacturing location and renumbered 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. § 36-2801(12) or a marijuana establishment defined in A.R.S. § 36-2850 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.
8. Marijuana Product Manufacturing Location: The location, separate from a marijuana dispensary, where marijuana products are manufactured that 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), 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 renumbered 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 off-site cultivation location shall be setback a minimum of 2,000 feet from any other marijuana dispensaries or marijuana dispensary off-site 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 off-site 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 off-site cultivation location to the closest property line of a school.

f. A marijuana dispensary off-site 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 off-site cultivation location shall provide only wholesale products to other marijuana dispensaries, marijuana dispensary off-site manufacturing locations, or marijuana dispensary off-site 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 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 renumbered 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;

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 state 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, therefore, are exempt from the setback requirement: 1) school administrative offices not located on or contiguous with a school site; and, 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 odor 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 off-site cultivation location shall not exceed 10,000 square feet.

b. A marijuana dispensary off-site 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 off-site cultivation location shall be setback a minimum of 2,000 feet from any other marijuana dispensaries or marijuana dispensary off-site 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 off-site 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 off-site 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 therefore, exempt from the setback requirement: school administrative offices not located on or contiguous with a school site and athletic fields or playgrounds used for school functions that are not contiguous with a school site.

e. A marijuana dispensary off-site 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 off-site 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 off-site 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 off-site cultivation location shall provide only wholesale products to other marijuana dispensaries, marijuana dispensary off-site manufacturing locations, or marijuana dispensary off-site 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 off-site 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 odor 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 remove medical marijuana dispensary and medical marijuana offsite cultivation location from conditional uses and renumbered accordingly as follows:

Chapter 18.45

CB-2 GENERAL BUSINESS ZONE

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18.45.040 - Conditional uses.

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C. Adult activities facility: Type III conditional use in accordance with Section 18.07.030I.

~~D. Medical marijuana dispensary: If the Arizona Revised Statutes are amended to allow medical marijuana dispensaries, as long as the law remains in full force and effect, a medical marijuana dispensary 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 medical marijuana dispensary 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 medical marijuana dispensary 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 medical marijuana dispensary.~~

~~b. The legal name of the medical marijuana dispensary.~~

~~c. The name address and date of birth of each principal officer and board member of the nonprofit medical marijuana dispensary and the name, address, and date of birth of each medical marijuana dispensary agent.~~

~~d. A copy of the operating procedures adopted in compliance with A.R.S. Section 36-2804(B)(1)(c).~~

~~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 nonprofit medical marijuana dispensary 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 will meet the definition of enclosed locked facility contained in A.R.S. Section 36-2801(6).~~

~~3. Prohibited locations: A medical marijuana dispensary is not permitted in a historic zone.~~

~~4. Community impacts: The board may not approve a medical marijuana dispensary at a site if substantial evidence is presented that locating the dispensary at the proposed site will negatively impact neighboring property values or if substantial evidence is presented that shows~~

~~that locating the dispensary 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 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 shall be setback a minimum of two thousand feet from all other medical marijuana dispensaries measured from the parcel boundaries;~~

~~c. A medical marijuana dispensary 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 medical marijuana dispensary shall be setback a minimum of one thousand feet from a public, private, parochial, or charter school bus stop.~~

~~e. A medical marijuana dispensary shall be setback a minimum of one thousand feet from a childcare center, measured from the parcel boundaries.~~

~~f. A medical marijuana dispensary shall be setback a minimum of one thousand feet from a library or public park.~~

~~g. A medical marijuana dispensary shall be setback a minimum of one thousand feet from a church.~~

~~h. A medical marijuana dispensary 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 medical marijuana dispensary may not have a drive-through service.~~

~~j. A medical marijuana dispensary may not have outdoor seating areas.~~

~~k. The maximum floor area of a medical marijuana dispensary is two thousand square feet.~~

~~l.—The secure storage area for the medical marijuana stored at the medical marijuana dispensary shall not exceed four hundred square feet.~~

~~m.—The permitted hours of operation of a medical marijuana dispensary 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 medical marijuana dispensary:~~

~~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 medical marijuana dispensary meets security requirements adopted by the Arizona Department of Health Services.~~

~~c.—A requirement that the storage facilities for the medical 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 medical marijuana dispensary 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 medical marijuana dispensary offering a service that provides offsite delivery of the medical marijuana.~~

~~f.—A requirement that the medical marijuana dispensary 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, CI-1, CI-2, and CI-3.~~

~~i. A requirement that the medical marijuana dispensary 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.~~

~~E. Medical marijuana dispensary offsite cultivation location: If the Arizona Revised Statutes are amended to allow medical marijuana dispensary offsite cultivation locations, as long as the law remains in full force and effect, a medical marijuana dispensary offsite cultivation location 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 medical marijuana dispensary 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 medical marijuana dispensary offsite cultivation location 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 a medical marijuana dispensary offsite cultivation location.~~

~~b. The legal name and address of the affiliated medical marijuana dispensary.~~

~~c. The name address and date of birth of each principal officer and board member of the medical marijuana dispensary affiliated with the offsite cultivation location and the name, address, and date of birth of each medical marijuana dispensary agent.~~

~~d. A copy of the operating procedures adopted in compliance with A.R.S. Section 36-2804(B)(1)(c).~~

~~e. A notarized certification that none of the principal officers or board members for the medical marijuana dispensary affiliated with the offsite cultivation location 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 for the medical marijuana dispensary affiliated with the offsite cultivation location 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 medical marijuana dispensary offsite cultivation location will meet the definition of enclosed locked facility contained in A.R.S. Section 36-2801(6).~~

~~3. Prohibited locations: A medical marijuana dispensary offsite cultivation location is not permitted in a historic zone.~~

~~4.— Community impacts: The board may not approve a medical marijuana dispensary offsite cultivation location at a location if substantial evidence is presented that locating the cultivation location at the proposed site will negatively impact neighboring property values or if substantial evidence is presented that shows that locating the cultivation location 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 offsite cultivation location 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 offsite cultivation location shall be setback a minimum of two thousand feet from all medical marijuana dispensaries measured from the parcel boundary to the parcel boundary;~~

~~c.— A medical marijuana dispensary offsite cultivation location shall be setback a minimum of two thousand feet from all other medical marijuana dispensary offsite cultivation locations measured from the parcel boundaries;~~

~~d.— A medical marijuana dispensary offsite cultivation location 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;~~

~~e.— A medical marijuana dispensary offsite cultivation location shall be setback a minimum of one thousand feet from a public, private, parochial, charter school bus stops.~~

~~f.— A medical marijuana dispensary offsite cultivation location shall be setback a minimum of one thousand feet from a childcare center.~~

~~g.— A medical marijuana dispensary offsite cultivation location shall be setback a minimum of one thousand feet from a library or public park.~~

~~h.— A medical marijuana dispensary offsite cultivation location shall be setback a minimum of one thousand feet from a church.~~

~~i.—A medical marijuana dispensary offsite cultivation location 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.~~

~~j.—A medical marijuana dispensary offsite cultivation location may not have outdoor seating areas.~~

~~k.—The maximum floor area of a medical marijuana dispensary offsite cultivation location is two thousand square feet.~~

~~l.—The secure storage area for the medical marijuana stored at the medical marijuana dispensary offsite cultivation location shall not exceed one thousand square feet.~~

~~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 medical marijuana dispensary offsite cultivation location:~~

~~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 medical marijuana dispensary offsite cultivation location meets security requirements adopted by the Arizona Department of Health Services.~~

~~c.—A requirement that the storage facilities for the medical 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 medical marijuana dispensary offsite cultivation location is to be located stating that the structure complies with all fire code requirements and supply a copy of that certification to the development services department.~~

~~e. A requirement that the medical marijuana dispensary offsite cultivation location is prohibited from permitting anyone to consume marijuana on the premises.~~

~~f. 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.~~

~~g. A requirement for a reasonable setback 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, CI-1, CI-2, and CI-3.~~

~~h. A requirement that the medical marijuana dispensary offsite cultivation location 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.~~

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Section 5. Pima County Code Chapter 18.51 (CI-1 LIGHT INDUSTRIAL/WAREHOUSING ZONE), Section 18.43.030 (Permitted uses), is amended to add marijuana dispensary offsite cultivation location and a 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;

a. There is no size limit for the maximum floor area of a marijuana dispensary off-site cultivation location.

b. 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.

c. A marijuana dispensary off-site 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 off-site cultivation location to the closest property line of a school.

d. A marijuana dispensary off-site 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 off-site cultivation location shall provide only wholesale products to other marijuana dispensaries, marijuana dispensary off-site manufacturing locations, or marijuana dispensary off-site 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 off-site 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 off-site 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 _____ day of _____, 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