

ZONING ORDINANCE 21-07

AN ORDINANCE OF THE BOARD OF SUPERVISORS OF COCHISE COUNTY, ARIZONA AMENDING THE COCHISE COUNTY ZONING REGULATIONS TO PERMIT MARIJUANA CULTIVATION FACILITIES, MARIJUANA ESTABLISHMENT, MARIJUANA ESTABLISHMENT CULTIVATION FACILITIES, MARIJUANA INFUSION FACILITIES, MARIJUANA TESTING FACILITIES AS SPECIAL USES AND ESTABLISHING SITE DEVELOPMENT STANDARDS FOR THOSE USES

WHEREAS, the Cochise County Board of Supervisors recognizes that Proposition 207, the Smart and Safe Arizona Act, A.R.S. § 36-2857, allows counties to enact reasonable zoning regulations of recreational marijuana uses; and

WHEREAS, nothing in this ordinance is intended to permit or assist in the violation of either the Federal Controlled Substances Act or the Arizona Controlled Substances Act; and

WHEREAS, medical marijuana dispensaries are currently permitted use of land in Cochise County; and

WHEREAS, medical marijuana cultivation is currently permitted use of land in Cochise County; and

WHEREAS, the amendments in this ordinance will allow for the use of a property as a Marijuana Cultivation Facility, Marijuana Establishment, Marijuana Establishment Cultivation Facility, Marijuana Infusion Facility, or Marijuana Testing Facility per the provisions of Proposition 207, the Smart and Safe Arizona Act remain in full force and effect; 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; and

WHEREAS, on April 14, 2021, the Planning and Zoning Commission held a duly noticed public hearing on the proposed amendments to the Zoning Regulations, hereby

known as Docket R-21-01, and attached hereto as **Exhibit A**, which will permit the development of marijuana uses; and

WHEREAS, existing local zoning regulations do not address recreational marijuana uses.

NOW, THEREFORE, IT IS HEREBY RESOLVED that the Cochise County Zoning Regulations be amended to define marijuana cultivation facilities, marijuana establishment, marijuana establishment cultivation facilities, marijuana infusion facilities, marijuana testing facilities as distinct land use categories.

IT IS FURTHER RESOLVED that said regulations be amended to establish regulations as to where marijuana uses shall be permitted as special uses and to establish site development standards for those uses as described in **Exhibit A**.

PASSED AND ADOPTED by the Board of Supervisors of Cochise County, Arizona, this 18th day of May 2021.

 Ann English 5-18-21

Ann English
Chair of the Board of Supervisors

ATTEST:



Kim Lemons, CPCC
Clerk of the Board

APPROVED AS TO FORM:



Paul Correa
Civil Deputy Cochise County Attorney

ORDINANCE 21-07

EXHIBIT A:

AMENDMENTS TO THE ZONING REGULATIONS

ARTICLE 2 (DEFINITIONS):

REMOVE CURRENT DEFINITIONS:

~~**Medical Marijuana Cultivation Facility**—A building, structure, or premises used for the cultivation and storage of medical marijuana that is physically separate and off-site from a Medical Marijuana Dispensary. Site Development Standards for Medical Marijuana Dispensaries are found in Article 18.~~

~~**Medical Marijuana Dispensary**—A nonprofit Medical Marijuana Dispensary duly registered and certified pursuant to Arizona Revised Statutes that sells, distributes, transmits, gives, dispenses, or otherwise provides medical marijuana to qualifying patients. Site Development Standards for Medical Marijuana Dispensaries are found in Article 18.~~

~~**Medical Marijuana Dispensary Cultivation Facility**—A building, structure, or premises where marijuana will be cultivated for sale at a non-profit Medical Marijuana Dispensary duly registered and certified pursuant to Arizona Revised Statutes. Site Development Standards for Medical Marijuana Dispensaries are found in Article 18.~~

~~**Medical Marijuana Infusion Facility**—A facility that incorporates medical marijuana into consumable/edible goods by means of cooking, blending, or any other type of incorporation. Site Development Standards for Medical Marijuana Dispensaries are found in Article 18.~~

~~**Medical Marijuana Uses**— Shall include collectively Medical Marijuana Cultivation Facilities, Medical Marijuana Dispensaries, Medical Marijuana Dispensary Cultivation Facilities, or Medical Marijuana Infusion Facilities; per Arizona Revised Statutes.~~

Agriculture General - ...medical marijuana.

REPLACE WITH:

Marijuana Cultivation Facility – A facility licensed for operation by the Arizona Department of Health Services, located in a building, structure, or premises used to cultivate and store marijuana physically separate and off-site from a marijuana establishment.

Marijuana Establishment - A facility licensed for operation by the Arizona Department of Health Services that sells or distributes marijuana to consumers.

Marijuana Establishment Cultivation Facility - A building, structure, or premises licensed for operation by the Arizona Department of Health Services where marijuana is grown or cultivated as well as sold or distributed to consumers.

Marijuana Infusion Facility - A facility licensed for operation by the Arizona Department of Health Services that incorporates marijuana into consumable/edible goods through cooking, blending, or any other type of incorporation.

Marijuana Testing Facility – A facility licensed for operation by the Arizona Department of Health Services to analyze the potency of marijuana and test marijuana for harmful contaminants.

Youth-Oriented Facility – Any facility that caters to or provides services primarily intended for minors or individuals who regularly patronize, congregate or assemble at the establishment are predominately minors.

CURRENT ARTICLE 6 (RU)

SPECIAL USES:

~~(Section) Medical Marijuana Cultivation Facility in RU 4 and greater only, subject to site development standards in Article 18.~~

~~(Section) Medical Marijuana Dispensary in RU 4 and greater only, subject to site development standards in Article 18.~~

~~(Section) Medical Marijuana Dispensary Cultivation Facility in RU 4 and greater only, subject to site development standards in Article 18.~~

~~(Section) Medical Marijuana Infusion Facility in RU 4 and greater only, subject to site development standards in Article 18.~~

CURRENT ARTICLE 12 (GB), 13 (LI), 14 (HI)

SPECIAL USES:

~~(Section) Medical Marijuana Cultivation Facility, subject to site development standards in Article 18.~~

~~(Section) Medical Marijuana Dispensary Facility, subject to site development standards in Article 18.~~

~~(Section) Medical Marijuana Dispensary/Cultivation Facility, subject to site development standards in Article 18.~~

~~(Section) Medical Marijuana Infusion Facility, subject to site development standards in Article 18.~~

Replace Articles 6 (RU), 12 (GB), 13 (LI), and 14 (HI) with:

Special Uses:

~~(Section) Marijuana Cultivation Facility~~

~~(Section) Marijuana Establishment~~

~~(Section) Marijuana Establishment Cultivation Facility~~

~~(Section) Marijuana Infusion Facility~~

~~(Section) Marijuana Testing Facility~~

ARTICLE 18 (SITE DEVELOPMENT STANDARDS) PROPOSED CHANGES:

1825 Marijuana Uses

The purpose of this Section is to establish site development standards for the permitting and operation of Marijuana Cultivation Facilities, Marijuana Establishments, Marijuana Establishment Cultivation Facilities, Marijuana Infusion Facilities, and Marijuana Testing Facilities.

1825.01 Setbacks:

Minimum setbacks for Marijuana Cultivation Facilities, Marijuana Establishments, Marijuana Establishment Cultivation Facilities, and Marijuana Infusion Facilities shall be no closer than 1000 feet, as measured from the property boundary of the proposed use to the property boundary of any of the following:

- A. Any other Marijuana Establishment or Marijuana Infusion Facility
- B. Any library
- C. Schools (private or public)
- D. Child care centers (private or public)
- E. Churches
- F. Youth-oriented facility

Minimum setbacks for Marijuana Cultivation Facilities, Marijuana Establishments, Marijuana Establishment Cultivation Facilities, Marijuana Infusion Facilities, and Marijuana Testing Facilities shall be no closer than 300 feet from the property boundary from any existing residential use located in a residential zoning district or an approved subdivision. The distance shall be measured from the property boundary of the proposed use to the property boundary of the existing residential use located in a residential zoning district or an approved subdivision.

1825.02 Restrictions:

The following restrictions shall be applied to Marijuana Establishments, Marijuana Establishment Cultivation Facilities, Marijuana Infusion Facilities, and Marijuana Testing Facilities:

- A. Marijuana Establishments, Marijuana Establishment Cultivation Facilities, Marijuana Infusion Facilities, Marijuana Testing Facilities shall be located in a permanent building and may not be located in a trailer, cargo container, or motor vehicle.
- B. No Marijuana Establishments, Marijuana Establishment Cultivation Facilities, and Marijuana Infusion Facilities shall provide outdoor seating areas.