

ZONING ORDINANCE 11-01

AMENDING THE COCHISE COUNTY ZONING REGULATIONS TO PERMIT MEDICAL MARIJUANA CULTIVATION FACILITIES, MEDICAL MARIJUANA DISPENSARIES, MEDICAL MARIJUANA CULTIVATION FACILITIES AND MEDICAL MARIJUANA INFUSION FACILITIES AS SPECIAL USES AND ESTABLISHING SITE DEVELOPMENT STANDARDS FOR THOSE USES

WHEREAS, the Cochise County Board of Supervisors recognizes that:

1. Proposition 203, the Arizona Medical Marijuana Act, A.R.S. § 36-2806.01, allows counties to enact reasonable zoning regulations of medical marijuana uses.
2. The possession, delivery, manufacture, cultivation and sale of marijuana is illegal under the both the Federal Controlled Substances Act and the Arizona Controlled Substances Act.
3. Marijuana is a Schedule I drug under both Federal law and Arizona law.
4. 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.
5. Medical marijuana dispensaries are not currently a permitted use of land in Cochise County.
6. Medical marijuana cultivation is not currently a permitted use of land in Cochise County.
7. The amendments in this ordinance will allow for the use of property as a Medical Marijuana Cultivation Facility, Medical Marijuana Dispensary, Medical Marijuana Dispensary Cultivation Facility or a Medical Marijuana Infusion Facility if the provisions of Proposition 203, the Arizona Medical Marijuana Act, are approved and remain in full force and effect.
8. 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

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Re: Docket R-11-01 (Medical Marijuana)
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WHEREAS, on March 9, 2011 the Planning and Zoning Commission held a duly-noticed public hearing on the proposed amendments to the Zoning Regulations, hereby known as Docket R-11-01, and attached hereto as Exhibit A, which will permit the development of medical marijuana uses; and

WHEREAS, existing local zoning regulations do not address medical marijuana uses,

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

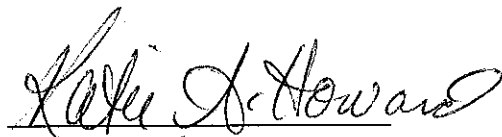
IT IS FURTHER RESOLVED that said regulations be amended to establish regulations as to where medical marijuana uses shall be permitted as special uses, and to establish site development standards for those uses as described in Exhibit A.

PASSED AND ADOPTED by the Board of Supervisors of Cochise County, Arizona, this 15th day of March, 2011.



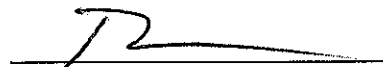
Patrick Call, Chairman
Board of Supervisors

ATTEST:



Katie Howard
Clerk of the Board

APPROVED AS TO FORM:



Britt W. Hanson, Chief Civil
Deputy County Attorney

ZONING ORDINANCE 11- EXHIBIT A:

RECOMMENDED AMENDMENTS TO THE ZONING REGULATIONS

ARTICLE 2 (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 Section 1825.

Medical Marijuana Dispensary - A nonprofit medical marijuana dispensary duly registered and certified pursuant to A.R.S. § 36-2801 that sells, distributes, transmits, gives, dispenses, or otherwise provides medical marijuana to qualifying patients. Medical Marijuana Dispensaries are allowed in RU-4 and larger, General Business and Light Industry Zoning Districts by Special Use Permit only. Site Development Standards for Medical Marijuana Dispensaries are found in Section 1825.

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 A.R.S. § 36-2804. Site Development Standards for Medical Marijuana Dispensaries are found in Section 1825.

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 Section 1825.

Medical Marijuana Uses - Shall include collectively medical marijuana cultivation facilities, medical marijuana dispensaries, medical marijuana dispensary cultivation facilities, medical marijuana infusion facilities, medical marijuana use per Arizona Revised Statutes Title 36, Chapter 28.1.

ARTICLE 6 (RU DISTRICT):

Special Uses:

607.51 Medical Marijuana Cultivation Facility (RU-4 and greater only), see Section 1825 for applicable site development standards)

607.52 Medical Marijuana Dispensary (RU-4 and greater only), see Section 1825 for applicable site development standards)

607.53 Medical Marijuana Dispensary Cultivation Facility (RU-4 and greater only), see Section 1825 for applicable site development standards)

607.54 Medical Marijuana Infusion Facility (RU-4 and greater only), see Section 1825 for applicable site development standards)

ARTICLE 12 (GB DISTRICT):

Special Uses:

1205.16 Medical Marijuana Cultivation Facility, see Section 1825 for applicable site development standards)

1205.17 Medical Marijuana Dispensary, see Section 1825 for applicable site development standards)

1205.18 Medical Marijuana Dispensary Cultivation Facility, see Section 1825 for applicable site development standards)

1205.19 Medical Marijuana Infusion Facility, see Section 1825 for applicable site development standards)

ARTICLE 13 (LI DISTRICT):

Special Uses:

1305.12 Medical Marijuana Cultivation Facility, see Section 1825 for applicable site development standards)

1305.13 Medical Marijuana Dispensary, see Section 1825 for applicable site development standards)

1305.14 Medical Marijuana Dispensary Cultivation Facility, see Section 1825 for applicable site development standards)

1305.15 Medical Marijuana Infusion Facility, see Section 1825 for applicable site development standards)

ARTICLE 14 (HI DISTRICT):

Special Uses:

1405.09 Medical Marijuana Cultivation Facility, see Article 18 for applicable site development standards)

ARTICLE 18 (SITE DEVELOPMENT STANDARDS):

Purpose:

The purpose of this Section is:

To establish site development standards for the permitting and operation of Medical Marijuana Cultivation Facilities, Medical Marijuana Dispensaries, Medical Marijuana Dispensary Cultivation Facilities and Medical Marijuana Infusion Facilities.

1825 Zoning Districts:

Medical Marijuana Dispensaries, Medical Marijuana Dispensary Cultivation Facilities and Medical Marijuana Infusion Facilities are allowed by Special Use Permit in the Rural (RU-4, RU-10, RU-18, RU-36) General Business and Light Industry Zoning Districts. Medical Marijuana Cultivation Facilities are allowed by Special Use Permit in the Rural (RU-4, RU-10, RU-18, RU-36), General Business, Light Industry and Heavy Industry Zoning Districts.

1825.01 Setbacks:

Minimum setbacks for Medical Marijuana Cultivation Facilities, Medical Marijuana Dispensaries, Medical Marijuana Dispensary Cultivation Facilities and Medical Marijuana Infusion Facilities shall be no closer than 500 feet, as measured from the property boundary from:

- A. Any other medical marijuana dispensary or infusion facility.**
- B. Any library.**
- C. Schools (private or public).**
- D. Day care centers (private or public).**

Minimum setbacks for Medical Marijuana Cultivation Facilities, Medical Marijuana Dispensaries, Medical Marijuana Dispensary Cultivation Facilities and Medical Marijuana Infusion Facilities shall be no closer than 300 feet, as measured from the property boundary from:

- A. Any existing residential use located in a residential zoning district or an approved subdivision. The distance would be measured in a straight and direct horizontal line between the closest exterior wall of the medical marijuana dispensary to the closest exterior wall of the nearest principal residential structure(s).**

1825.02 Restrictions:

The following restrictions shall be applied to Medical Marijuana Dispensaries, Medical Marijuana Dispensary Cultivation Facilities and Medical Marijuana Infusion Facilities:

- A. **All Medical Marijuana Dispensaries, Medical Marijuana Dispensary Cultivation Facilities and Medical Marijuana Infusion Facilities shall be located in a permanent building and may not be located in a trailer, cargo container, or motor vehicle.**
- B. **No Medical Marijuana Dispensaries, Medical Marijuana Dispensary Cultivation Facilities and Medical Marijuana Infusion Facilities shall provide drive-through services.**
- C. **No Medical Marijuana Dispensaries, Medical Marijuana Dispensary Cultivation Facilities and Medical Marijuana Infusion Facilities shall provide outdoor seating areas.**