



1/5/15

Subject: "Updated" Medical Marijuana Growing Ordinance PZ-C-001-14.

To whom it may concern:

Attached is an updated version of the proposed Citizen Initiated Code Amendment to allow outdoor cultivation of Medical Marijuana. This updated was submitted after the original Planning and Zoning Commission notice. This is the version the BOS will be reviewing. Notices for that meeting will be forthcoming on the website. If you have any additional questions do not hesitate to call or write at the number or address below.

Sincerely,

A handwritten signature in black ink, appearing to read "SA", is positioned below the word "Sincerely,".

Steve Abraham,
Planning Manager

Sent via e mail only

EXHIBIT D
REDLINED ZONING ORDINANCE
PROPOSED TEXT

Chapter 2.191
**MEDICAL MARIJUANA DISPENSARY, MEDICAL MARIJUANA DISPENSARY OFF-SITE
CULTIVATION LOCATION AND MEDICAL MARIJUANA FOOD ESTABLISHMENT**

Sections:

2.191.010 Medical marijuana dispensary, medical marijuana dispensary off-site cultivation location and medical marijuana food establishment.

2.191.020 Process development.

2.191.010 Medical marijuana dispensary, medical marijuana dispensary off-site cultivation location and medical marijuana food establishment.

A. Medical Marijuana Dispensary. A medical marijuana dispensary is permitted as a conditional use subject to the following conditions:

1. Minimum Notification Area. The minimum notification area for a special use permit for a medical marijuana dispensary is 1,000 feet.
2. An applicant for a special use permit for a medical marijuana dispensary must 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.
 - 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 ARS 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 ARS 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 including an offense for which the sentence, any term of probation, incarceration or supervised release was completed within the 10 years prior to applying for the application for the dispensary or an offense involving conduct that would be immune from arrest, prosecution or penalty under ARS

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 ARS 36-2801(6) and will be conducted completely within an enclosed, locked building.

3. Permitted Location. A medical marijuana dispensary is only permitted in the CB-2 (general business) zone and the C-3 (general commercial) zoning district with a special use permit.

4. Community Impacts. The board may or 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 set back a minimum of 10 miles from all other medical marijuana dispensaries measured from the parcel boundaries; however, the planning commission may recommend and the board of supervisors may approve dispensaries with a setback less than 10 miles if they find that the smaller setback will lead to improved accessibility for qualified patients and caregivers.

c. A medical marijuana dispensary shall be set back a minimum of 1,500 feet from schools, community service agencies, activity facilities and/or activities where children may be enrolled, measured from the parcel boundaries.

d. A medical marijuana dispensary shall be set back a minimum of 1,500 feet from a childcare center, measured from the parcel boundaries.

e. A medical marijuana dispensary shall be set back a minimum of 1,500 feet from a library or public park.

f. A medical marijuana dispensary shall be set back a minimum of 1,500 feet from a church.

g. A medical marijuana dispensary shall be set back a minimum of 1,500 feet from a residential substance abuse diagnostic and treatment facility or other drug or alcohol rehabilitation facility.

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

i. A medical marijuana dispensary may not have outdoor seating areas.

j. The maximum floor area of a medical marijuana dispensary is 2,000 square feet.

k. The secure storage area for the medical marijuana stored at the medical marijuana dispensary shall not exceed 400 square feet.

l. The permitted hours of operation of a medical marijuana dispensary are between the hours of 9:00 a.m. and 7:00 p.m. daily.

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 special use permit for a medical marijuana dispensary:

a. An expiration date for the special use permit that requires reapplication or renewal of the permit after two years or less.

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 at the dispensary or off-site cultivation location 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 building and safety department.

e. A prohibition on the medical marijuana dispensary offering a service that provides off-site 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 that the medical marijuana dispensary comply with applicable sections of the Pinal County sanitary code.

7. Enforcement. The provisions of this subsection may be enforced through the use of the civil penalty procedure provided for by PCDSC 2.160.140 or by injunction or other civil proceeding as provided by ARS 11-808(H). Notwithstanding any other provision of this code, this subsection shall not be enforced under ARS 11-808(C) as a misdemeanor.

8. Fees. The fee for application and hearing is a combination of the existing fees for special use permit application filing fee, the site analysis submittal fee and the notice of public hearing fee included in the most current planning and development department fee schedule.

B. Special Conditions for Nondispensary Cultivation.

1. Medical Marijuana Cultivation Location for a Registered Qualifying Patient.

- a. Allowed as an accessory to a primary residence.
- b. Must be conducted in a completely enclosed, locked building.
- c. Must prevent the emission of dust, fumes, vapors or odors into the environment.
- d. Must have a legible copy of a valid medical marijuana registry qualifying patient identification card, the original of which is issued by the state of Arizona, plainly displayed inside of the doorway.
- e. The qualified patient cultivation must be at least 25 miles from a medical marijuana dispensary.

2. Medical Marijuana Cultivation Location for a Registered Designated Caregiver.

- a. Allowed as an accessory to a primary residence.
- b. Must be conducted in a completely enclosed, locked building.
- c. Must prevent the emission of dust, fumes, vapors or odors into the environment.
- d. Must have a legible copy of a valid medical marijuana registry designated caregiver identification card, the original of which is issued by the state of Arizona, plainly displayed inside of the doorway.
- e. Must be for qualified patients who live at least 25 miles from a medical marijuana dispensary.

C. Medical Marijuana Dispensary Off-Site Cultivation Location. As long as the Arizona Revised Statutes remain in full force and effect to allow medical marijuana dispensaries, a medical marijuana dispensary off-site cultivation location is permitted as a 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 1,000 feet.
2. Supplemental Application. In addition to the application required by Chapter 2.150 PCDSC, an applicant for a conditional use permit for a medical marijuana dispensary off-site 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 off-site 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 off-site 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 ARS 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 off-site cultivation location has been convicted of one of the following offenses:
 - i. A violent crime as defined in ARS 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 including an offense for which the sentence, any term of probation, incarceration or supervised release was completed within the 10 years prior to applying for the application for the off-site cultivation location, or an offense involving conduct that would be immune from arrest, prosecution or penalty under ARS 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 off-site 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 off-site cultivation location will ~~be conducted completely within an enclosed locked building and~~ meet the definition of "enclosed locked facility" contained in ARS 36-2801(6).

3. Permitted Location. A medical marijuana dispensary off-site cultivation location is only permitted in the CB-2 (general business) zone, **THE GR (GENERAL RURAL) ZONE**, and the C-3 (general commercial) zoning district.

4. Community Impacts. The board may or may not approve a medical marijuana dispensary off-site 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 off-site cultivation location must ~~be located in a permanent building~~ **MEET THE DEFINITION OF AN "ENCLOSED LOCKED FACILITY" UNDER ARS 36-2801(6) AND THE DEFINITION OF "ENCLOSED AREA" UNDER ARIZONA ADMINISTRATIVE CODE R9-17-101 (16)** and may not be located in a trailer, cargo container or motor vehicle.

b. A medical marijuana dispensary off-site cultivation location shall be set back a minimum of 2,000 feet from all other medical marijuana dispensary off-site cultivation locations measured from the parcel boundaries.

c. A medical marijuana dispensary shall be set back a minimum of 1,500 feet from schools, community service agencies, activity facilities and/or activities where children may be enrolled, measured from the parcel boundaries.

d. A medical marijuana dispensary off-site cultivation location shall be set back a minimum of 1,500 feet from a childcare center.

e. A medical marijuana dispensary off-site cultivation location shall be set back a minimum of 1,500 feet from a library or public park.

f. A medical marijuana dispensary off-site cultivation location shall be set back a minimum of 1,500 feet from a church.

g. A medical marijuana dispensary off-site cultivation location shall be set back a minimum of 1,500 feet from a residential substance abuse diagnostic and treatment facility or other drug or alcohol rehabilitation facility.

h. A medical marijuana dispensary off-site cultivation location may not have outdoor seating areas.

i. ALL DRYING, CURING AND STORAGE OF MEDICAL MARIJUANA AT A MEDICAL MARIJUANA DISPENSARY OFF-SITE CULTIVATION LOCATION MUST TAKE PLACE

INSIDE A PERMANENT BUILDING WITH CONTROLLED ACCESS AND CANNOT BE LOCATED IN A BARN, TRAILER, CARGO CONTAINER, OR MOTOR VEHICLE.

~~i. The maximum floor area of a medical marijuana dispensary off-site cultivation location is 2,000 square feet.~~

~~j. The secure storage area for the medical marijuana stored at the medical marijuana dispensary off-site cultivation location shall not exceed 1,000 square feet.~~

j. A medical marijuana dispensary off-site cultivation location must have a legible copy of a valid medical marijuana dispensary agent registry identification card, the original of which is issued by the state of Arizona, plainly displayed inside of the doorway at all times.

k. Must have the address of the medical marijuana dispensary that the off-site cultivation location supplies plainly displayed inside of the doorway at all times.

l. A MEDICAL MARIJUANA DISPENSARY OFF-SITE CULTIVATION LOCATION MUST BE ACCESSIBLE BY A PAVED ROADWAY.

m. A MEDICAL MARIJUANA DISPENSARY OFF-SITE CULTIVATION LOCATION SHALL NOT EXCEED 10 ACRES AND SHALL BE SET BACK A MINIMUM OF 500 FEET FROM ANY ALREADY EXISTING SINGLE FAMILY RESIDENTIALLY ZONED AREA, SPECIFICALLY CR-1A, CR-1, CR-2 AND CR-3 ZONING DISTRICTS. THIS PROVISION EXCLUDES FARM HOUSING LOCATED IN THE GR ZONING DISTRICT.

n. THE COUNTY SHALL NOT PERMIT MORE THAN 6 OFF-SITE CULTIVATION LOCATIONS IN THE GR ZONING DISTRICT.

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 special use permit for a medical marijuana dispensary off-site cultivation location:

a. An expiration date for the special use permit that requires reapplication or renewal of the permit after two years or less.

b. A requirement that the medical marijuana dispensary off-site 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 off-site 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 building and safety department.

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

f. A requirement that the medical marijuana dispensary off-site cultivation location comply with applicable sections of the Pinal County sanitary code.

7. Enforcement. The provisions of this subsection may be enforced through the use of the civil penalty procedure provided for by PCDSC 2.160.140 or by injunction or other civil proceeding as provided by ARS 11-808(H). Notwithstanding any other provision of this code, this subsection shall not be enforced under ARS 11-808(C) as a misdemeanor.

8. Fees. The fee for application and hearing is a combination of the existing fees for special 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.

D. Medical Marijuana Food Establishment. As long as the Arizona Revised Statutes remain in full force and effect to allow medical marijuana dispensaries, a medical marijuana food establishment is permitted as a conditional use subject to the following conditions:

1. Minimum Notification Area. The minimum notification area for a special use permit for a medical marijuana food establishment is 1,000 feet.

2. An applicant for a special use permit for a medical marijuana food establishment must 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.

b. The legal name of the medical marijuana food establishment.

c. The name, address and date of birth of each principal officer and board member of the medical marijuana food establishment and the name, address, and date of birth of each medical marijuana food establishment agent.

d. A copy of the operating procedures adopted in compliance with ARS 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 ARS 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 including an offense for which the sentence, any term of probation, incarceration or supervised release was completed within the 10 years prior to applying for the application for the medical marijuana food establishment, or an offense involving conduct that would be immune from arrest, prosecution or penalty under ARS 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 medical marijuana food establishment 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 food establishment will meet the definition of enclosed locked facility contained in ARS 36-2801(6) and will be conducted completely within an enclosed, locked building.

3. Permitted Location. A medical marijuana food establishment is only permitted in the CB-2 (general business) zone and the C-3 (general commercial) zoning district with a special use permit.

4. Community Impacts. The board may or may not approve a medical marijuana food establishment at a site if substantial evidence is presented that locating the establishment at the proposed site will negatively impact neighboring property values or if substantial evidence is presented that shows that locating the establishment 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 food establishment must be located in a permanent building and may not be located in a trailer, cargo container or motor vehicle.

b. A medical marijuana food establishment shall be set back a minimum of 1,500 feet from schools, community service agencies, activity facilities and/or activities where children may be enrolled, measured from the parcel boundaries.

c. A medical marijuana food establishment shall be set back a minimum of 1,500 feet from a childcare center, measured from the parcel boundaries.

d. A medical marijuana food establishment shall be set back a minimum of 1,500 feet from a library or public park.

e. A medical marijuana food establishment shall be set back a minimum of 1,500 feet from a church.

f. A medical marijuana food establishment shall be set back a minimum of 1,500 feet from a residential substance abuse diagnostic and treatment facility or other drug or alcohol rehabilitation facility.

g. A medical marijuana food establishment may not have a drive-through service.

h. A medical marijuana food establishment shall only be allowed immediately adjacent to a medical marijuana dispensary or a medical marijuana dispensary off-site cultivation location.

i. No distribution or sales of medical marijuana edible food products which are infused with medical marijuana may occur at a medical marijuana food establishment, other than to a medical marijuana dispensary.

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 special use permit for a medical marijuana food establishment:

a. An expiration date for the special use permit that requires reapplication or renewal of the permit after two years or less.

b. A requirement that the medical marijuana food establishment meets security requirements adopted by the Arizona Department of Health Services.

c. A requirement that the storage facilities for the medical marijuana stored 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 food establishment is to be located stating that the structure complies with all fire code requirements and supply that certification to the building and safety department.

e. A requirement that the medical marijuana food establishment is prohibited from permitting anyone to consume marijuana on the premises.

f. A requirement that the medical marijuana food establishment comply with applicable sections of the Pinal County sanitary code.

7. Enforcement. The provisions of this subsection may be enforced through the use of the civil penalty procedure provided for by PCDSC 2.160.140 or by injunction or other civil proceeding as provided by ARS 11-808(H). Notwithstanding any other provision of this code, this subsection shall not be enforced under ARS 11-808(C) as a misdemeanor.

8. Fees. The fee for application and hearing is a combination of the existing fees for special use permit application filing fee, the site analysis submittal fee and the notice of public hearing fee included in the most current planning and development department fee schedule. [Ord. 011812-ZO-PZ-C-007-10 § 21; Ord. 022311-PZ-C-008-10 § 3].

2.191.020 Process development.

The Pinal County board of supervisors recognizes that the Arizona Department of Health Services (ADHS) may be registering and certifying medical marijuana dispensaries after it has developed the processes related to applications and application fees for dispensaries and the issuance of patient registry cards. The development of the processes may be completed at any point in time within 120 days of certification of the 2010 election. [Ord. 022311-PZ-C-008-10 § 4].

