

## **TA2020-028 Recreational Marijuana**

Eloy City Code

Chapter 13: Offenses and Miscellaneous Law Enforcement Provisions

Chapter 21: Zoning Ordinance

**Add the following sections:**

### **13-28: MARIJUANA:**

#### **13-28.1: DEFINITIONS:**

**CONSUME MARIJUANA:** The act of ingesting, inhaling or otherwise introducing marijuana into the human body.

**MARIJUANA:** All parts of the plant of the genus cannabis, whether growing or not, as well as the seeds from the plant, the resin extracted from any part of the plant, and every compound, manufacture, salt, derivative, mixture or preparation of the plant or its seeds or resin. Includes cannabis as defined in A.R.S. § 13-3401.

Does not include industrial hemp, the fiber produced from the stalks of the plant of the genus cannabis, oil or cake made from the seeds of the plant, sterilized seeds of the plant that are incapable of germination, or the weight of any other ingredient combined with marijuana to prepare topical or oral administrations, food, drink or other products.

**OPEN SPACE:** A public park, public sidewalk, public walkway or public pedestrian thoroughfare.

**PUBLIC PLACE:** Any enclosed area to which the public is invited or in which the public is permitted, including airports, banks, bars, common areas of apartment buildings, condominiums or other multifamily housing facilities, educational facilities, entertainment facilities or venues, health care facilities, hotel and motel common areas, laundromats, public transportation facilities, reception areas, restaurants, retail food production and marketing establishments, retail service establishments, retail stores, shopping malls, sports facilities, theaters, and waiting rooms. A private residence is not a "public place" unless it is used as a childcare, adult day care, or health care facility.

#### **13-28.2: CONSUMPTION OF MARIJUANA:**

- A. The consumption of marijuana on City owned property, in a public place or open space is prohibited.
- B. Penalty Imposed: Any person found guilty of violating any provisions of this Code, except as otherwise provided in this Code, shall be guilty of a misdemeanor and, upon conviction thereof, shall be punished by a fine not to exceed two thousand five hundred dollars (\$2,500.00) or by imprisonment for a period not to exceed six (6) months, or by both such fine and imprisonment. Each day that a violation continues shall be a separate offense punishable as hereinabove described.

Amend the following sections:

21-2-3.3: COMMERCIAL AND MIXED-USE STANDARDS:

TABLE 2.3-1

TABLE OF ALLOWED USES FOR COMMERCIAL AND MIXED-USE DISTRICTS

P = Permitted use C = Conditional use NP = Not permitted

Use Category	Specific Use Type	Commercial And Mixed-Use Zoning Districts				
		C-1	C-2	MU	PF	Supplemental Use Regulations
Commercial	Medical marijuana dispensary	NP	C	NP	NP	21-3-1.25
	Medical marijuana infusion	NP	C	NP	NP	21-3-1.26
	Microbrewery, craft distillery or tasting room	NP	P	P	NP	21-3-1.27
	Movie theater	NP	P	P	NP	
	Nightclub	NP	C	C	NP	
	Non-chartered financial institution (payday loan/check cashing)	NP	C	NP	NP	
	Nursery, commercial	NP	C	C	NP	
	Office, business or professional	P	P	P	NP	
	Outdoor/mobile vending	C	C	C	NP	21-3-1.31
	Parking lots and parking structure	NP	P	P	P	
	Recreational marijuana establishments and dual licensee facilities	C	C	NP	NP	21-3-1.33
	Restaurant	P	P	P	NP	
	Restaurant, with drive through	C	C	C	NP	21-3-1.18
	Restaurant, with off track betting	NP	C	C	NP	

**21-2-5.3: INDUSTRIAL USE STANDARDS:**

**TABLE 2.5-1**

**TABLE OF ALLOWED USES FOR BUSINESS, INDUSTRIAL AND PUBLIC FACILITY DISTRICTS**

P = Permitted use C = Conditional use NP = Not permitted

<b>Use Category and Specific Use Type</b>	<b>BP</b>	<b>I-1</b>	<b>I-2</b>	<b>PF</b>	<b>Industrial Zoning Districts</b>
Medical marijuana dispensary, infusion, or cultivation	C	C	C	NP	21-3-1.24, 21-3-1.25, 21-3-1.26
Microbrewery, craft distillery	C	C	NP	NP	21-3-1.27
Non-chartered financial institution (payday loan/check cashing)	NP	C	NP	NP	<b>Supplemental Use Regulations</b>
Nursery, commercial	NP	P	P	NP	
Office, business or professional	P	P	P	NP	
Outdoor/mobile vending	NP	C	NP	NP	21-3-1.31
Parking lots and parking structure	P	P	P	P	
Recreational marijuana: establishments, testing facilities and dual licensee facilities	C	C	C	NP	21-3-1.33
Restaurant	P	P	C	NP	
Restaurant, with drive through	P	P	C	NP	21-3-1.18
Restaurant, with off track betting	C	C	C	NP	

Create a new Section 21-3-1.33: Recreational Marijuana: Establishments, Testing and Dual License Facilities

Change the numbering and references for: Religious Assembly, Resident Care Home, Schools, Self Service Storage, Service Stations, Solar Generation Facility and Tiny Houses

**21-3-1.33: RECREATIONAL MARIJUANA: ESTABLISHMENTS, TESTING AND DUAL LICENSEE FACILITIES**

A. Applicant shall provide:

1. A copy of the operating procedures adopted in compliance with Arizona Revised Statutes (ARS).

2. A survey sealed by a registrant of the State of Arizona showing the location of the nearest medical marijuana dispensary or cultivation location or recreational marijuana: establishment, testing facility and dual licensee if within five thousand two hundred eighty feet (5,280') of the subject parcel property boundary.

3. Site plan, floor plan, building permits for occupancy change, and a security plan.

4. Procedures for proper disposal of marijuana remnants or by-products.

5. A plan to prohibit the emission of odors from the facility into the environment.

B. Shall be located in a permanent building and may not locate in a trailer, cargo container or motor vehicle.

C. Shall comply with the Building Code as adopted and amended from time to time by the City.

D. Shall not be located within twenty-five feet (25') of a residence. This distance shall be measured in a straight line from the closest exterior wall of the building in which the business is conducted, or proposed to be conducted, to the closest exterior wall of the residence.

- E. Shall not be located within one hundred fifty feet (150') of a high school. This distance shall be measured in a straight line from the closest property line where the business is conducted, or proposed to be conducted to the closest property line of the high school building.
- F. Shall not be located within one hundred feet (100') of a preschool, kindergarten, elementary, secondary school, public park, or public community center. This distance shall be measured in a straight line from the exterior wall of the building or portion thereof in which the business is conducted, or proposed to be conducted, to the closest exterior wall of the protected use or the boundary line of the public park.
- G. Retail locations shall have operating hours not earlier than eight o'clock (8:00) A.M. and not later than six o'clock (6:00) P.M.
- H. Drive-through services are prohibited.
- I. Shall provide for proper disposal of marijuana remnants or byproducts, and not to be placed within the facility's exterior refuse containers.
- J. Marijuana shall not be consumed on the premises, including any accessory structures, parking lot or parking areas.

**Add the following definitions:**

**21-9-1: DEFINITIONS:**

CONSUME MARIJUANA: The act of ingesting, inhaling or otherwise introducing marijuana into the human body.

CULTIVATE MARIJUANA: To propagate, breed, grow, prepare and package marijuana.

DUAL LICENSEE: An entity that holds both a nonprofit medical marijuana dispensary registration and a marijuana establishment license.

MARIJUANA: All parts of the plant of the genus cannabis, whether growing or not, as well as the seeds from the plant, the resin extracted from any part of the plant, and every compound, manufacture, salt, derivative, mixture or preparation of the plant or its seeds or resin. Includes cannabis as defined in A.R.S. § 13-3401.

Does not include industrial hemp, the fiber produced from the stalks of the plant of the genus cannabis, oil or cake made from the seeds of the plant, sterilized seeds of the plant that are incapable of germination, or the weight of any other ingredient combined with marijuana to prepare topical or oral administrations, food, drink or other products.

MARIJUANA CONCENTRATE: Resin extracted from any part of a plant of the genus cannabis and every compound, manufacture, salt, derivative, mixture or preparation of that resin or tetrahydrocannabinol.

Does not include industrial hemp or the weight of any other ingredient combined with cannabis to prepare topical or oral administrations, food, drink or other products.

MARIJUANA ESTABLISHMENT: An entity licensed by the State of Arizona Department of Health Services to operate all of the following:

- A single retail location at which the licensee may sell marijuana and marijuana products to consumers, cultivate marijuana and manufacture marijuana products.

- A single off-site cultivation location at which the licensee may cultivate marijuana, process marijuana and manufacture marijuana products, but from which marijuana and marijuana products may not be transferred or sold to consumers.
- A single off-site location at which the licensee may manufacture marijuana products and package and store marijuana and marijuana products, but from which marijuana and marijuana products may not be transferred or sold to consumers.

**MARIJUANA PRODUCTS:** Marijuana concentrate and products that are composed of marijuana and other ingredients and that are intended for use or consumption, including edible products, ointments, and tinctures.

**MARIJUANA TESTING FACILITY:** The State of Arizona Department of Health Services or another entity that is licensed by the Department to analyze the potency of marijuana and test marijuana for harmful contaminants.

**PROCESSING MARIJUANA:** To harvest, dry, cure, trim or separate parts of the marijuana plant.

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