

TEXT AMENDMENT
Narrative Statement of Justification

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This application requests an amendment (“Text Amendment”) to the text of the Peoria City Code and Peoria Zoning Ordinance. The purpose of the Text Amendment is two-fold: 1) to allow for a marijuana dispensary to operate in Peoria (the “City”) under an establishment license, and 2) to allow marijuana dispensaries to perform delivery services. The precise language of the proposed Text Amendment is provided in **Exhibit A**.

Background

To provide context and understanding of this Text Amendment, it will be helpful to understand the regulatory landscape under which Peoria dispensaries currently operate. This section provides an overview of the types of licenses that are granted by the Arizona Department of Health Services (“AZDHS”) under the medical and recreational marijuana programs, and the licenses currently allowed in the City of Peoria.

AZDHS Licensing for Dispensaries

1. Medical Marijuana Licenses

The Arizona Department of Health Services (“AZDHS”) administers the medical and recreational marijuana programs in the State of Arizona. Since the adoption of the Arizona Medical Marijuana Act in 2010, AZDHS has issued 130 medical marijuana licenses. The entity holding a medical marijuana license is permitted to operate one (1) medical marijuana dispensary. AZDHS is no longer issuing medical marijuana licenses, and the number of medical marijuana licenses issued by AZDHS has been capped at 130 licenses.

2. Dual Licenses

On November 3, 2020, Arizona voters approved the “Smart and Safe Arizona Act” which legalized recreational marijuana for adults. Following the adoption of the Smart and Safe Arizona Act, AZDHS converted all 130 medical marijuana licenses to dual licenses. The holder of a dual license is permitted to operate one (1) dispensary, which may sell medical marijuana to cardholders and recreational marijuana to persons 21 and older.

3. Establishment Licenses

Shortly after the adoption of the Smart and Safe Arizona Act, AZDHS first issued 13 establishment licenses in counties that had less than two existing dispensaries within their jurisdictional boundaries. These 13 establishment licenses are required to remain in the county in which they were awarded. As such, they are commonly referred to as “county licenses.” No county licenses were awarded in Maricopa County.

In April of 2022, AZDHS awarded 26 additional establishment licenses through its Social Equity Ownership Program. The license holder of any establishment license—whether a county license or an establishment license awarded through the Social Equity Ownership Program—is permitted

to operate one (1) dispensary that may sell recreational marijuana to persons 21 and older. Establishment licensees are not permitted to sell medical marijuana to eligible cardholders.

Existing Peoria City Code

1. Prohibition on Dispensaries Operating under an Establishment License

Section 21-202.D of Peoria's Zoning Ordinance defines a "Qualifying Marijuana Dispensary" as follows:

"Qualifying Marijuana Dispensary means:

- 1) A non-profit Marijuana Dispensary defined in A.R.S §36-2801(12) that sells, distributes, transmits, gives, dispenses, or otherwise provides Marijuana for medical use and related supplies to Qualifying Patients. Included is the manufacture and creation of products for individual sale where Marijuana is incorporated into the product for consumption by an individual who is a valid Medical Marijuana Cardholder and the sale of not more than twelve living Marijuana plants to an individual Medical Marijuana Cardholder authorized pursuant to A.R.S. §36-2801, et. seq; or*
- 2) A dispensary operated pursuant to A.R.S. §36-2858 by a Dual Licensee as defined by A.R.S. §36-2850 and Section 11-75 of the City Code which sells, distributes, transmits, gives, dispenses, or otherwise provides Marijuana and Marijuana Products and related supplies for (1) medical use to Qualifying Patients; and (2) for general non-medicinal use to individuals who are at least twenty-one years of age as permitted by A.R.S. §36-2852*

Under the existing definition, a Qualifying Marijuana Dispensary may only be operated under a medical marijuana license or a dual license. The definition does not include an establishment license. Moreover, Section 11-75 of Peoria's Zoning Ordinance expressly prohibits the operation of a dispensary that sells marijuana to adults for recreational purposes, except under a dual license. As a result, holders of an establishment license are prohibited from operating a dispensary in the City of Peoria.

2. Prohibition on Delivery Services

In addition to prohibiting dispensaries that operate under an establishment license, Section 21-505.M.2.j of the Peoria Zoning Ordinance prohibits delivery services for all Qualifying Marijuana Dispensaries.

Proposed Text Amendment

As shown in **Exhibit A**, this proposed Text Amendment will modify the language of the Peoria Zoning Ordinance to:

- A. Remove the prohibition on a Marijuana Establishment in Section 11-75 of the Peoria City Code,
- B. Add a dispensary that operates under an establishment license to the definition of a Qualifying Marijuana Dispensary in Section 21-202 of the Peoria Zoning Ordinance, and
- C. Remove the prohibition of delivery services for Qualifying Marijuana Dispensaries in Section 21-505.M.2.j of the Peoria Zoning Ordinance.

The proposed Text Amendment does not change the zoning requirements or limitations on uses that currently apply to Qualifying Marijuana Dispensaries. If the Text Amendment is approved, *with the exception of allowing delivery services*, all other limitations on Qualifying Marijuana Dispensaries outlined in Section 21-505.M.2 of the Peoria Zoning Ordinance will continue to apply.

Justification

As described in more detail below, this proposed Text Amendment will: 1) increase local sales tax revenue, and 2) allow for dispensaries in Peoria to better compete with dispensaries in nearby jurisdictions.

1. Increase in Sales Tax

Allowing for dispensaries to operate in the City under an establishment license will generate additional sales tax revenue for the City. The City of Peoria has a local sales tax of approximately 2.8%. The revenue from this local tax is not shared with the State of Arizona. This Text Amendment will allow for additional dispensaries to operate in the City, which will result in additional sales of marijuana products and, consequently, additional sales tax revenue for the City.

Additionally, residents of Peoria are currently allowed to accept the delivery of marijuana products from dispensaries outside the jurisdiction. The city where the delivering dispensary is located receives the sales tax revenue for each delivery. If the proposed Text Amendment pertaining to delivery is approved, the sale tax revenue generated by delivering marijuana products to customers, both within and outside of Peoria, will remain in Peoria.

2. Increase in Competitive Advantage

There are several jurisdictions in the Valley that allow for dispensaries to perform delivery services, including Maricopa County, Phoenix, Glendale, Surprise, El Mirage, Scottsdale and

Chandler. Some of these jurisdictions (Phoenix, Glendale and El Mirage) are adjacent to the City of Peoria. Consequently, the dispensaries in these jurisdictions have a competitive advantage over nearby dispensaries in the City. Approving the Text Amendment to allow for delivery both within and outside of Peoria is therefore necessary for dispensaries in Peoria to remain competitive with dispensaries in nearby jurisdictions.

Rules that Remain Unaffected by the Proposed Text Amendment

As previously noted, this Text Amendment will not change the zoning requirements or limitations on uses that currently apply to Qualifying Marijuana Dispensaries in Peoria, *with the exception of delivery services*. If the Text Amendment is approved, all other regulations, requirements and limitations of uses that currently apply to dispensaries will continue to apply, including:

- Qualifying Marijuana Dispensaries are only permitted in C-2, C-4 and C-5 zoning districts, subject to approval of a Conditional Use Permit;
- Qualifying Marijuana Dispensaries must be separated from other sensitive uses as shown below:

Separation Requirements for Qualifying Marijuana Dispensaries	
From another marijuana dispensary, manufacturing, cultivation or testing facility	Not less than 2,640 feet
From a Day-Care Facility, Pre-School, Public/Charter or Private School	Not less than 1,000 feet
From a Retail Liquor Store, Tavern, Bar or Lounge, Adult Use, Substance Abuse Treatment Center or State Local Alcohol Reception Center	Not less than 1,000 feet
From Residentially zoned property	Not less than 500 feet

- Qualifying Marijuana Dispensaries shall have operating hours not earlier than 7:00 a.m. and not later than 10:00 p.m.;
- The manufacture, cultivation and testing of marijuana is prohibited;
- Drive-through services and sales are prohibited;
- Alcoholic beverages shall not be sold, stored, distributed or consumed on the premises;
- Qualifying Marijuana Dispensaries shall not have outdoor seating areas and shall have adequate indoor seating to prevent outside loitering;
- Lighting requirements that specify illumination during evening hours, fixture type, wattage, shielding... must be met;
- Windows and/or entrances must not be obstructed and must maintain a clear view into the premises during business hours;

- No consumption of marijuana or any product containing marijuana may occur on the dispensary premises; and
- The Tenant Improvement Plan shall ensure that ventilation, air filtration, building and design standards are compatible with adjacent uses and the requirements of adopted building codes.

These requirements will ensure that dispensaries will continue to be compatible with, and will operate without adverse impact on, surrounding properties.

Conclusion

According to AZDHS, when the Arizona Medical Marijuana Program in began in 2011, slightly over 16,000 medical marijuana registration cards were issued to qualifying patients throughout the State. Since that time, there has been a significant increase in the issuance of medical marijuana registration cards, patients, and demand for medical marijuana. In fact, today there are over 312,000 medical marijuana cardholders — **an increase of over 1,900%**. Additionally, on November 3, 2020, Arizona voters approved the “Smart and Safe Arizona Act” legalizing recreational marijuana use for adults, which further increased demand for marijuana products. The proposed Text Amendment is needed to help dispensaries within the City of Peoria meet the sustained increase in demand for marijuana products.

The proposed Text Amendment will make reasonable changes to Peoria’s City Code and Zoning Ordinance that will help to meet the increase in demand for marijuana products, will increase sales tax revenue for the City, and will allow for dispensaries in the City to remain competitive with nearby dispensaries in abutting jurisdictions. Thank you for your time and consideration of this application.