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May 17, 2023

City of Peoria
Mayor Jason Beck
8401 W Monroe St
Peoria, AZ 85345

Re: Amendment to Zoning Code – Marijuana Establishments

Dear Mayor Beck:

At the April 24th City Council study session, the proposed amendment to the Zoning Code for Marijuana Establishments was presented and while there were several thoughtful questions from yourself and fellow Council members, some of the questions were beyond the normal “land use” line of questioning, therefore we didn’t have answers readily available. However, we are very appreciative of the questions and have spent some time preparing comprehensive responses for your use.

Prop 203 (the Arizona Medical Marijuana Act) established a clear distinction between the licensing function, which was retained by the State, and the zoning/land use function, which was delegated to each municipality. It barred municipalities from prohibiting marijuana business and required reasonable zoning regulations to be established. After much success with Prop 203, Prop 207 (Smart and Safe Act) was approved several years later, allowing for adult-use/recreational only licenses. The State allowed each municipality to determine if these licenses would be permitted in their jurisdiction but required municipalities to allow for adult-use/recreation sales in conjunction with the existing medical licenses, thereby establishing a “dual-license”. Not only were cities required to allow this "dual license" use, but dual license holders (i.e., all licenses in existence at the time) were required to begin selling to adult use customers pursuant to State statute and rules. Thus, adult-use/recreational sales are occurring through all the original 130 licenses, including those located in Peoria. Now, after two years of adult-use/recreational sales, 80% of total marijuana sales statewide are to adult-use/recreational customers.

Allowing adult-use/recreational only licenses in Peoria will result in no functional or operational difference to the existing marijuana businesses, other than the type of license hanging in the lobby. All existing and current zoning regulations and protected use setbacks would remain, thereby not resulting in a proliferation of new dispensaries or additional qualifying sites. Allowing adult-use/recreational only licenses in the City of Peoria simply allows existing Peoria dispensary owners to be competitive with neighboring jurisdictions while generating additional tax (MET) revenue for the City. As discussed by Peoria's Chief of Police during the City Council study session, Peoria dispensaries have been compliant, low-crime and non-problematic businesses, with no track record of having issues. We anticipate that this would remain true even with a change in license.

1. What is the tax on medical marijuana versus recreational marijuana?

Medical Marijuana is taxed at the Peoria sales tax rate of 8.3% whereas Recreational Marijuana is taxed with the 8.3% Peoria sales tax PLUS the 16% Marijuana Excise Tax (“MET”) tax for a total of 24.3% tax.

The Marijuana Excise Tax ("MET") was the additional excise tax that was added by Smart and Safe Act (2020) which applies to all adult-use/recreational marijuana sales. The MET fund is distributed between community colleges, law enforcement, fire departments, transportation departments, public health & criminal justice programs, and the state Attorney General. We have included the specific breakdown on Exhibit A to this letter. However, we feel it is important to highlight what benefits Peoria most directly.

Almost one third (31.4%) of total MET collected in the State is allocated to municipal police and fire departments, fire districts, and county sheriff’s departments. This amount is allocated and distributed to each jurisdiction based on the number of sworn public safety members in the Public Safety Personnel Retirement System ("PSPRS") in that jurisdiction. PSPRS applies to sworn police, fire, and other members of the public safety community. This is a relative calculation, meaning that cities will receive a percentage of the MET allocated to public safety equal to their portion of sworn PSPRS members relative to the total PSPRS members in the State. By way of example, if there were 100 PSPRS members in the State, and Peoria had 5 of those members, then Peoria would receive 5/100 (or 5%) of the MET allocated to public safety. This is the portion of MET that most directly impacts individual cities.

To further this example, per the Arizona Department of Revenue and attached as Exhibit B, the Arizona MET tax has collected over \$287M from February 2021 through March 2023, which means just over \$90M has been distributed to municipalities for public safety funding over the last 2 years. If, in using the example above, Peoria was allotted 5%, that would total over \$450k in received for public safety. City Staff may be able to provide an accurate percentage that the City receives.

2. What is the total sales tax revenue from marijuana sales in Peoria (by year)? Can you divide this number between medical and recreational?

Although we cannot provide a total sales tax revenue in Peoria, as your staff should have this information, we can provide you with estimates based on average sales performance. There are four (4) dispensaries that currently operate in Peoria. There is a range in sales from about \$600K/month to \$1.4M/month depending on the store. An average of \$800K/month would be a fair assessment given the information we have. \$800K/month times 4 stores would equate to \$3.2M in monthly sales. At the Peoria tax rate of 8.3% this would equate to approximately \$265K in tax revenue per month, or \$3.1M per year. This estimate does not include the MET tax allocation. Statewide, recreational sales make up approximately 80% of all sales, which, in this example, would generate another \$409K per month, or \$4.9M per year towards the MET fund.

3. How does that revenue compare to Glendale, County, El Mirage?

We do not have access to this information however, the 80/20 split between adult use and medical use holds consistent across all jurisdictions.

4. How many dispensaries in immediate area in other jurisdictions?

Within a 10 miles radius of Peoria, there are approximately 16 dispensaries which are listed below by municipality:

- Glendale – 6
- Surprise – 0
- El Mirage – 2
- Maricopa County (in vicinity of Peoria) – 3
- Youngtown – 1
- Phoenix (in vicinity of Peoria) – 4

5. What municipalities already allow establishment only licenses?

Many municipalities within the State currently allow establishment only licenses and are listed below, while several are in the process of amending their code to allow establishment only. These license types function similarly to a liquor license. They are simply a piece of paper on the wall. It does not change the business or security operations. When visiting a restaurant or bar consumers typically are not aware of the liquor license type that the establishment holds.

The municipalities that currently allow establishment only licenses are as follows:

- Avondale
- Litchfield Park
- Tempe
- Tucson
- Kingman
- Bullhead City
- Payson
- Coolidge
- El Mirage
- Florence
- Superior
- Globe
- Safford
- Sierra Vista
- Maricopa County (notable areas include Sun City/West, Sun Lakes, Anthem, Tonopah, Wittman, Rio Verde, Morristown, Aguila, Youngtown, Laveen, Fort McDowell, Waddell, Tortilla Flat, Sunflower, Liberty, Belmont, Rainbow Valley, Chandler Heights, Circle City, Desert Hills)
- Pima County
- Pinal County
- Mohave County
- Coconino County

- Santa Cruz County
- Apache County

The municipalities that are process text amendments to allow establishment only are as follows:

- Phoenix
- Glendale
- Flagstaff

6. How many deliveries have gone to Peoria residents per year?

This information is not available publicly due to HIPAA. AZDHS has confirmed that this information cannot be disclosed and/or released. Although deliveries are not allowed *from* Peoria dispensaries, deliveries are allowed *to* Peoria residents. This is putting Peoria dispensary owners at a competitive disadvantage while also reducing the potential sales tax revenue for the City. Peoria customers are placing orders with neighboring jurisdiction's dispensaries and since the sales tax is generated from the point of sale (not the delivery location), those jurisdictions are capturing the sales tax from Peoria residents.

Currently, per State regulations, delivery is only permitted to medical patients. With medical patients making up approximately 20% of sales, a dramatic increase in sales with deliveries is not anticipated but any increase will result in additional tax generated for the City of Peoria.

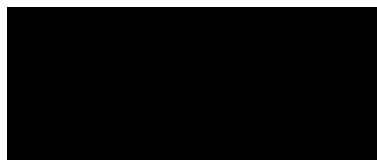
Additionally, by 2025, and possibly sooner, adult-use/recreational delivery rules will be established by the State. If Peoria were to allow dispensaries to deliver now, it would provide Peoria dispensary owners the time to invest in and build out delivery systems in anticipation for the allowance of delivery for the larger, adult-use/recreational market.

7. How many liquor licenses are there in Peoria? How many liquor stores?

This information can be provided by your staff, as we do not have access to permitting and records to determine.

Again, we appreciate the thoughtful questions posed and the opportunity to respond to each. Please let us know if you have any questions or if you require additional information. We appreciate your careful consideration of this amendment.

Sincerely,
GAMMAGE & BURNHAM, PLC



By Lindsay C. Schube