

ORDINANCE NO. 2023-13

AN ORDINANCE OF THE MAYOR AND COUNCIL OF THE CITY OF PEORIA, MARICOPA COUNTY, ARIZONA, AMENDING THE PEORIA CITY CODE, CHAPTER 11, BY AMENDING SECTION 11-75 "MARIJUANA ESTABLISHMENTS PROHIBITED; DUAL LICENSEE EXCEPTION", AND CHAPTER 21 BY AMENDING SECTION 21-202 "DEFINITIONS" AND SECTION 21-505 "LIMITATIONS ON USES"; AND PROVIDING FOR SEVERABILITY AND AN EFFECTIVE DATE.

WHEREAS, in accordance with Arizona Revised Statute 9-462.01.E, the Mayor and Council of the City of Peoria finds that the subject ordinance would not have a direct impact on the cost to construct housing for sale or rent within the City of Peoria.

WHEREAS, the Planning and Zoning Commission of the City of Peoria, Maricopa County, Arizona, held a public hearing on May 18, 2023, to consider proposed amendments to the Peoria City Code (1992 edition), regarding Qualifying Marijuana Dispensary regulations, after notice in the manner provided by law; and

WHEREAS, due and proper notice of such Public Hearing was given in the time, form, substance, and manner provided by law including publication of such in the Peoria Times on April 13, 2023; and

WHEREAS, the Planning and Zoning Commission of the City of Peoria, Arizona at its regularly convened meeting of May 18, 2023 voted to recommend to the Mayor and Council of the City of Peoria, Arizona, that amendments be made to the Peoria City Code (1992 edition) regarding Qualifying Marijuana Dispensary regulations; and

WHEREAS, the Mayor and Council of the City of Peoria, Arizona, have considered the recommendation of the Planning and Zoning Commission of the City of Peoria, Arizona, and deem it to be in the best interest of the public health, safety and welfare of the residents of the City of Peoria, Arizona to amend Section 11-75 ("Marijuana Establishments Prohibited; Dual License Exception"), Section 21-202 ("Definitions") and Section 21-505 ("Limitations on Uses") of the Peoria City Code (1992 edition):

NOW, THEREFORE, BE IT ORDAINED by the Mayor and Council of the City of Peoria, Arizona as follows:

SECTION 1. The foregoing recitals are incorporated as if fully set forth herein.

SECTION 2. Chapters 11 and 21 of the Peoria City Code shall be amended to read as indicated on Exhibit A of this Ordinance.

SECTION 2. Effective Date. This Ordinance shall become effective on the date provided by law.

SECTION 3. Severability. If any section, subsection, sentence, clause, phrase or portion of this Ordinance is for any reason held invalid or unconstitutional by any court of competent jurisdiction, such decision shall not affect the validity of the remaining portions of this Ordinance.

SECTION 4. Clerical Corrections. The City Clerk is hereby authorized to correct clerical and grammatical errors, if any, related to this ordinance, and to make formatting changes appropriate for purposes of clarity, form, or consistency with the Peoria City Code.

PASSED AND ADOPTED by the Mayor and Council of the City of Peoria, Maricopa County, Arizona this 6th day of June, 2023.

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Jason Beck, Mayor

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Date Signed

ATTEST:

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Lori Dyckman, City Clerk

APPROVED AS TO FORM:

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Emily Jurmu, City Attorney

Published in: Peoria Times

Publication Date:

Effective Date:

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# Exhibit A

## City Code Amendment

Amendment for Adoption to the Peoria City Code, Chapter 11 and Chapter 21

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### HOW TO READ THIS DOCUMENT

Unless otherwise stated, provisions that are being deleted are shown in bold red strikethrough text, like this: ~~Provisions that are being deleted are shown with a bold red strikethroughs text.~~

Provisions that are being added are shown in double-underlined bold blue text, like this: Provisions that are being added are shown in double-underlined bold blue text.

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Unless otherwise specifically addressing changes to a particular section or subsection of the code through the above referenced methods changes are only intended for those specific sections and subsections of the code that are addressed herein.

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Section 1.      Amend Chapter 11 - Licenses, Taxation and Miscellaneous Business Regulations, Section 11-75. – Marijuana establishments prohibited; dual licensee exception., as follows:

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Section 11-75. – ~~Marijuana establishments prohibited; dual licensee exception.~~ Reserved

~~(a) The following words, terms, and phrases when used in this Chapter shall have the meanings ascribed to them in A.R.S. § 38-2850: Marijuana Establishment, Dual licensee.~~

~~(b) To the fullest extent allowable by law, the operation of a Marijuana Establishment is prohibited in the City, except where authorized for a dual licensee who:~~

~~(1) Operates both a licensed nonprofit medical marijuana dispensary and a licensed marijuana establishment cooperatively in a shared location; and~~

~~(2) Has not forfeited or terminated the nonprofit medical marijuana dispensary registration from the Arizona Department of Health Services.~~

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Section 2.      Amend Chapter 21 – Zoning, Definitions, Section 21-202 – Definitions, pertaining to the term “Qualifying Marijuana Dispensary”, as follows:

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Section 21-202 – Definitions.

Qualifying Marijuana Dispensary means:

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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

40 individual sale where Marijuana is incorporated into the product for consumption by an  
41 individual who is a valid Medical Marijuana Cardholder and the sale of not more than twelve  
42 living Marijuana plants to an individual Medical Marijuana Cardholder authorized pursuant to  
43 A.R.S. §36-2801, et. seq; ~~or~~

44 2. A dispensary operated pursuant to A.R.S. §36-2858 by a Dual Licensee as defined by A.R.S. §36-  
45 2850 ~~and Section 11-75 of the City Code~~ which sells, distributes, transmits, gives, dispenses, or  
46 otherwise provides Marijuana and Marijuana Products and related supplies for (1) medical use  
47 to Qualifying Patients; and (2) for general non-medicinal use to individuals who are at least  
48 twenty-one years of age as permitted by A.R.S. §36-2852-; or

49 3. A marijuana establishment as defined as a single retail location in A.R.S. §36-2850 and  
50 operated pursuant to A.R.S. §36-2858 at which an entity holding a marijuana establishment  
51 license from the Arizona Department of Health Services, and sells marijuana and marijuana  
52 products for general non-medicinal use to individuals who are at least twenty-one years of  
53 age as permitted by A.R.S. §36-2852.

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56 Section 3. Amend Chapter 21 – Zoning, Non-Residential Districts, Section 21-505. – Limitations on  
57 Uses, subsection M. Qualifying Marijuana Dispensaries and Marijuana Manufacturing or  
58 Cultivation, and Testing Facilities, as follows:

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60 M. *Qualifying Marijuana Dispensaries and Marijuana Manufacturing or Cultivation, and Testing*  
61 *Facilities.*
- 62 1. *General Requirements.*
- 63 a. For the purposes of measuring separation distances, the measurements will be taken in  
64 a straight line from the exterior wall of the building, suite, or premises housing the use  
65 without regard to intervening buildings or political boundaries.
- 66 b. ~~Medical~~ Marijuana remnants or by-products shall be disposed of according to an  
67 approved plan and not placed within the facility's exterior refuse containers.
- 68 c. There shall be no inordinate emission of dust, fumes, vapors or odors into the  
69 environment from the premises.
- 70 d. Signage for Qualifying Marijuana Dispensaries and/or Marijuana Manufacturing,  
71 Cultivation, and Testing facilities shall be limited to the name of the business only, and  
72 no advertising of the goods and/or services shall be permitted.
- 73 e. Qualifying Marijuana Dispensaries and/or Manufacturing, Cultivation, and Testing  
74 Facilities shall be located in a permanent building on an established foundation adhering  
75 to Peoria building codes and shall not include any temporary, portable, or self-powered  
76 mobile facilities.
- 77 f. An active Security Management Plan shall be approved by the Police Department. The  
78 Plan shall include, but is not limited to, the following:

- 79 1) Security cameras shall be installed and maintained in good condition, and used in an  
80 on-going manner. Recordings shall be retained for a minimum of 60 days and  
81 comply with any additional standards defined by the Security Management Plan.  
82 2) The business space shall be alarmed with an alarm system that is operated and  
83 maintained by a recognized security company.  
84 3) A security guard shall be provided at the main entrance during all hours of  
85 operation. For the purposes of this Section, "security guard" shall mean licensed and  
86 duly bonded security personnel registered pursuant to A.R.S. § 32-601.

87 4) Before commencing marijuana delivery operations, a qualifying marijuana  
88 dispensary shall obtain approval of a new or updated security management plan  
89 from the Police Department addressing its marijuana delivery procedures.

- 90 g. For the purposes of this section, qualifying zoning districts for Qualifying Marijuana  
91 Dispensaries, Manufacturing, Cultivation, and Testing Facilities does not include Planned  
92 Area Development (PAD) or Planned Community District (PCD) that points to or  
93 references such standard zoning districts identified herein.

94 ~~h. The operation of a licensed Marijuana Establishment for retail sales is prohibited in~~  
95 ~~the City except as a Dual Licensee, pursuant to Section 11-75 of the City Code (1992).~~

96 2. *Qualifying Marijuana Dispensaries.*

97 ~~a. Operations for the dispensing of Medical Marijuana, and related supplies, to qualified~~  
98 ~~patients and the sale of non-medicinal Marijuana and Marijuana Products shall be~~  
99 ~~conducted cooperatively in a shared location.~~

100 ~~b.~~ a. Vehicular access into the center or site containing the dispensary shall be from an  
101 arterial roadway as identified on the Peoria General Plan.

102 ~~c.~~ b. The use shall not be located within 2,640-feet of another Qualifying Marijuana  
103 Dispensary or Marijuana Manufacturing, Cultivation, and Testing Facility.

104 ~~d.~~ c. The use shall not be located within 1,000-feet of the property line of Day-Care Facilities,  
105 Pre-Schools, Public/Charter or Private Schools.

106 ~~e.~~ d. The use shall not be located within 1,000-feet of a Retail Liquor Store; Tavern, Bar or  
107 Lounge; Adult Use; Substance Abuse Treatment Centers; or State Local Alcohol  
108 Reception Center.

109 ~~f.~~ e. The use shall not be located within 500-feet of the property line of a residentially-zoned  
110 property.

111 ~~g.~~ f. The product offered for retail sales shall be inaccessible to the public entering the  
112 Qualifying Marijuana Dispensary. All product provided for retail sales shall be located  
113 behind a counter staffed by a Marijuana Dispensary or Facility Agent registered by the  
114 State of Arizona.

115 ~~h.~~ g. The Dispensary shall have operating hours not earlier than 7:00 a.m. and not later than  
116 10:00 p.m.

117 ~~i.~~ h. The manufacturing, cultivation, and testing of Marijuana is prohibited.

118 ~~j. Delivery services are prohibited.~~

- 119 ~~h~~ i. Drive-through services and sales are prohibited.
- 120 ~~h~~ j. Alcoholic beverages shall not be sold, stored, distributed or consumed on the premises.
- 121 ~~m~~ k. The Dispensary shall not have outdoor seating areas, but shall have adequate indoor  
122 seating to prevent outside loitering.
- 123 ~~n~~ m. The business entrance and all window areas shall be illuminated during evening hours  
124 and shall comply with the City's lighting standards regarding fixture type, wattage,  
125 illumination levels, shielding etc.
- 126 ~~o~~ n. The windows and/or entrances shall not be obstructed and must maintain a clear view  
127 into the premises during business hours.
- 128 ~~p~~ o. No consumption of Marijuana or any product containing Marijuana shall occur on the  
129 premises of a Qualifying Marijuana Dispensary.
- 130 ~~q~~ p. The Tenant improvement Plan shall ensure that ventilation, air filtration, building and  
131 design standards are compatible with adjacent uses and the requirements of adopted  
132 building codes.
- 133 3. *Marijuana Manufacturing, Cultivation, or Testing Facility.*
- 134 a. Other than for delivery to an authorized Qualifying Marijuana Dispensary, distributing,  
135 transmitting, dispensing, giving, selling, or providing Marijuana is prohibited.
- 136 b. All cultivation, manufacturing, testing and storage of Marijuana and Marijuana plants  
137 shall occur within secured, enclosed buildings and structures.
- 138 c. The use shall not be located within 2,640-feet of another Marijuana Manufacturing,  
139 Cultivation, or Testing Facility.
- 140 d. The use shall not be located within 1,000-feet of the property line of Day-Care Facilities,  
141 Pre-Schools, Public/Charter or Private Schools.
- 142 e. The use shall not be located within 500-feet of the property line of a residentially-zoned  
143 property.
- 144 f. There shall be no signage advertising the location of Qualifying Marijuana Dispensaries  
145 or retail sales of Marijuana on the premises.
- 146 g. The Zoning Administrator may require additional ventilation and air filtration necessary  
147 to ensure compatibility with adjacent uses.