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 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 fair 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 <u>and</u> recreational marijuana to persons 21 and older. As of the time of this memo, statewide average sales of marijuana products by dual license holders are approximately eighty percent (80%) recreational and twenty percent (20%) medical. All dispensary licenses currently operating in Peoria are dual licenses, meaning they all currently sell both recreational and medical marijuana as required by State law.

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, and they may not be moved to 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 Delivery Services***

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 of delivery services for Qualifying Marijuana Dispensaries in Section 21-505.M.2.j of the Peoria Zoning Ordinance and require Qualifying Marijuana Dispensaries to submit a copy of delivery procedures to the Peoria Police Department for approval.

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 to allow delivery service will help meet the tremendous and sustained increase in demand for marijuana products, increase local sales tax revenue, and will allow for dispensaries in Peoria to better compete with dispensaries in nearby jurisdictions.

1. ***Increase in Sales Tax***

Allowing dispensaries to offer delivery options in the City 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 sales of marijuana products in the City 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 tax revenue for each delivery. If the proposed Text Amendment is approved, the tax revenue generated by delivering marijuana products to customers, both within and outside of Peoria, can be generated in Peoria and remain in Peoria.

2. ***Increase in Demand***

According to Arizona Department of Health Services ("DHS") records, in 2011—the first year of the Arizona Medical Marijuana Program—just over 16,000 medical marijuana registration cards were issued to qualifying patients throughout the State. Since 2011, 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%.** Furthermore, on November 3, 2020, Arizona voters approved the "Smart and Safe Arizona Act" legalizing recreational marijuana use for adults, which has further increased demand for marijuana products.

The proposed Text Amendment is needed to help meet this tremendous, sustained increase in demand. Peoria's prohibition on delivery services has ceded sales to neighboring jurisdictions that allow delivery services by qualified dispensaries.

3. ***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 it will add an operational requirement for Qualifying Marijuana Dispensaries in Peoria, requiring them to work with the Peoria Police Department to implement a Security Plan prior to initiating any delivery service. 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. 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 Qualifying Marijuana Dispensaries in Peoria meet the tremendous and sustained increase in demand for marijuana products; will increase local sales tax revenue in the City of Peoria; and will allow for existing and future dispensaries to better compete with dispensaries in nearby jurisdictions. It will also add a layer of protection to ensure that the delivery services are implemented in a secure and safe manner and with cooperation between each dispensary and the Peoria Police Department.

Proposed Text Amendment

Changes are proposed to Peoria's City Code as follows (additions in **ALL CAPS, UNDERLINED AND BOLDED**; deletions in ~~strikeout~~):

CHAPTER 21 — ZONING ORDINANCE

Section 21-505 – Limitations on Uses

(M) *Qualifying Marijuana Dispensaries and Marijuana Manufacturing, Cultivation and Testing Facilities.*

1. *General Requirements.*
    a. For the purposes of measuring separation distances, the measurements will be taken in a straight line from the exterior wall of the building, suite or premises housing the use without regard to intervening buildings or political boundaries.
    b. Medical Marijuana remnants or by-products shall be disposed of according to an approved plan and not placed within the facility's exterior refuse containers.
    c. There shall be no inordinate emission of dust, fumes, vapors or odors from the premises.
    d. Signage for Qualifying Marijuana Dispensaries and/or Marijuana Manufacturing, Cultivation and Testing facilities shall be limited to the name of the business only, and no advertising of the goods and/or services shall be permitted.
    e. Qualifying Marijuana Dispensaries and/or Manufacturing, Cultivation and Testing Facilities shall be located in a permanent building on an established foundation adhering to Peoria building codes and shall not include any temporary, portable, or self-powered mobile facilities.
    f. An active Security Management Plan shall be approved by the Police Department. The Plan shall include, but is not limited to, the following:
        1) Security cameras shall be installed and maintained in good condition, and used in an on-going manner. Recordings shall be retained for a minimum of 60 days and comply with any additional standards defined by the Security Management Plan.
        2) The business space shall be alarmed with an alarm system that is operated and maintained by a recognized security company.
        3) A security guard shall be provided at the main entrance during all hours of operation. For the purposes of this Section, "security guard" shall mean licensed and duly bonded security personnel registered pursuant to A.R.S. § 32-601.
        4) **BEFORE COMMENCING MARIJUANA DELIVERY OPERATIONS, A QUALIFYING MARIJUANA DISPENSARY SHALL OBTAIN APPROVAL OF A NEW OR UPDATED SECURITY MANAGEMENT PLAN FROM THE POLICE DEPARTMENT ADDRESSING ITS MARIJUANA DELIVERY PROCEDURES.**

g. For the purpose of this section, qualifying zoning districts for Qualifying Marijuana Dispensaries, Manufacturing, Cultivation and Testing Facilities does not include a Planned Area Development (PAD) or Planned Community District (PCD) that points to or references such standard zoning districts identified herein.
h. The operation of a licensed Marijuana Establishment for retail sales is prohibited in the City except as a Dual Licensee, pursuant to Section 11-75 of the City Code (1992).

2. *Qualifying Marijuana Dispensaries.*
   a. Operations for the dispensing of Medical Marijuana, and related supplies to qualified patients and the sale of non-medicinal Marijuana and Marijuana products shall be conducted cooperatively in a shared location.
   a~~b~~. Vehicular access into the center or site containing the dispensary shall be from an arterial roadway, as identified on the Peoria General Plan.
   b~~c~~. The use shall not be located within 2,640-feet of another Qualifying Marijuana Dispensary or Marijuana Manufacturing, Cultivation and Testing Facility.
   c~~d~~. The use shall not be located within 1,000-feet of the property line of Day-Care Facilities, Pre-Schools, Public/Charter or Private Schools.
   d~~e~~. The use shall not be located within 1,000-feet of a Retail Liquor Store; Tavern, Bar or Lounge; Adult Use; Substance Abuse Treatment Centers; or State Local Alcohol Reception Center.
   e~~f~~. The use shall not be located within 500-feet of the property line of a residentially-zoned property.
   f~~g~~. The product offered for sales shall be inaccessible to the public entering the Qualifying Marijuana Dispensary. All product provided for retail sales shall be located behind a counter staffed by a Marijuana Dispensary or Facility Agent registered by the State of Arizona.
   g~~h~~. The Dispensary shall have operating hours not earlier than 7:00 a.m. and not later than 10:00 p.m.
   h~~i~~. The manufacturing, cultivation and testing of Marijuana is prohibited.
   i~~j~~. ~~Delivery services are prohibited.~~
   j~~k~~. Drive-through services and sales are prohibited.
   k~~l~~. Alcoholic beverages shall not be sold, stored, distributed or consumed on the premises.
   l~~m~~. The Dispensary shall not have outdoor seating areas, but shall have adequate indoor seating to prevent outside loitering.
   m~~n~~.The business entrance and all window areas shall be illuminated during evening hours and shall comply with the City's lighting standards regarding fixture type, wattage, illumination levels, shielding etc.
   n~~o~~. The windows and/or entrances shall not be obstructed and must maintain a clear view into the premises during business hours.
   o~~p~~. No consumption of Marijuana or any product containing Marijuana shall occur on the premises of a Qualifying Marijuana Dispensary.
   p~~q~~. 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.

3. *Marijuana Manufacturing, Cultivation or Testing Facility.*
    a. Other than for delivery to an authorized Qualifying Marijuana Dispensary, distributing, transmitting, dispensing, giving, selling, or providing Marijuana is prohibited.
    b. All cultivation, manufacturing, testing and storage of Marijuana and Marijuana plants shall occur within secured, enclosed buildings and structures.
    c. The use shall not be located within 2,640-feet of another Marijuana Manufacturing, Cultivation or Testing Facility.
    d. The use shall not be located within 1,000-feet of the property line of Day-Care Facilities, Pre-Schools, Public/Charter or Private Schools.
    e. The use shall not be located within 500-feet of the property line of a residentially-zoned property.
    f. There shall be no signage advertising the location of Qualifying Marijuana Dispensaries or retail sales of Marijuana on the premises.
    g. The Zoning Administrator may require additional ventilation and air filtration necessary to ensure compatibility with adjacent uses.