PLANNING AND ZONING COMMISSION
STAFF REPORT

Date	**May 4, 2023**
To	**Planning and Zoning Commission**
From	**Dan Symer, AICP** Principal Planner
Subject	**Marijuana Delivery and Retail Establishment Text Amendment (TA22-02)**

REQUEST

Lindsay Schube of Gammage & Burnham, PLC on behalf of Pitchfork Partners, Inc has submitted an applicant-initiated amendment to the Zoning Ordinance pertaining to Qualifying Marijuana Dispensary regulations as follows:

1. **Section 21-202 Definitions, "Qualifying Marijuana Dispensaries"**

   Expand the definition of a Qualifying Marijuana Dispensary to include those dispensaries holding an establishment license as a *Single Retail Location* ("Non-Medicinal Establishment") issued by the Arizona Department of Health Services, and sells marijuana and marijuana products for general non-medicinal use (adult-use).

2. **Section 21-505.M Qualifying Marijuana Dispensaries and Marijuana Manufacturing, Cultivation and Testing Facilities**

   Remove the prohibition on the delivery of marijuana and marijuana products, and add requirements to the Security Management Plan criteria pertaining to the secure transport and delivery of marijuana and marijuana products, if a Qualifying Marijuana Dispensary provides delivery services.

PURPOSE OF THE REQUEST:

The applicant's narrative is included as **Exhibit 1**, and the proposed text amendment to the Zoning Ordinance is included as **Exhibit 2**. The proposed modifications would allow Non-Medicinal Establishments to exist within Peoria, subject to the same requirements as Medical and Dual License (Medical and Non-Medicinal Establishments) facilities. In addition, the amendment would allow any Qualifying Marijuana Dispensaries to deliver marijuana and marijuana products in a manner that is consistent with the security considerations and procedures established by the State of Arizona and the Peoria Police Department.

KEY ITEMS FOR CONSIDERATION:

- Currently, the City of Peoria only allows dispensaries that hold a medical marijuana license or a dual license (both medical and Non-Medicinal Establishments).
- These amendments in no way disrupt, alter or change, current zoning restrictions pertaining to the siting of Qualifying Marijuana Dispensaries. Moreover, with the exception of the

proposed removal of the prohibition of deliveries, the existing operating limitations in the Zoning Ordinance would remain unchanged.

- It should be noted that currently, the State of Arizona only allows the transportation and delivery of medicinal marijuana and marijuana products to and from:
    - cultivation sites,
    - other dispensaries,
    - registered laboratories, and
    - qualifying medical marijuana patients.
- Other cities and counties within Arizona currently allow medicinal marijuana delivery, including delivery services to Peoria caregivers and qualifying patients.
- The Statute enables the delivery of non-medicinal ("adult-use") marijuana upon the promulgation of rules by the Arizona Department of Health Services (ADHS). The Statute requires the rules to be in place no sooner than January 1, 2023 and no later than January 1, 2025. (At the time of this report, ADHS has not enacted rules for the delivery of non-medicinal marijuana.)

REGULATORY BACKGROUND

In November 2010, Arizona voters approved Proposition 203 (known as the "Arizona Medical Marijuana Act" (AMMA)). The AMMA allowed for the use, sale, and cultivation of marijuana for medicinal use. In addition, it authorized cities and counties to enact "reasonable zoning regulations" to regulate land use for non-profit medical marijuana dispensaries and cultivation facilities.

In response to AMMA, the Peoria City Council adopted land use and applicable regulations in 2011 for the sale/distribution, growth/cultivation, and manufacturing of medical marijuana and medical marijuana products. These regulations established which zoning districts that medical marijuana establishments would be allowed, along with applicable requirements for the separation between establishments, a security plan and related security provisions. In addition, the provisions included restrictions on the hours of operation, signage, waste disposal, and the prohibition of outdoor seating, drive-throughs, and delivery services.

Subsequently, in November 2020, the Arizona voters approved Proposition 207 (known as the "Smart and Safe Arizona Act" (SSAA)). The broad scope of the SSAA included the allowance for licensed establishments to sell, and for adults over the age of 21 to possess and use non-medicinal marijuana. In addition, the SSAA prohibited the use of non-medicinal marijuana in public places or open spaces, and allowed cities to incorporate zoning regulations similar to the medical marijuana establishments. It should be noted that the SSAA precluded cities from prohibiting dual license dispensaries (Medical and Non-Medical Establishments) that operate in a shared location, creating regulations for non-medical marijuana dispensaries that are more restrictive than medical marijuana dispensaries, enacting regulations that unduly burden the operation of marijuana testing establishments, and enacting local traffic laws that prohibit the transportation of marijuana and marijuana products on public roads.

On March 8, 2021, the Peoria City Council adopted *Ordinance No. 2021-06,* which incorporated amendments to the Zoning Ordinance to implement the SSAA. This Ordinance retained the existing siting and operational zoning regulations, with modifications to the definitions and zoning districts to allow marijuana testing and dual-licensed (Medicinal and Non-Medicinal Establishment) facilities. The resulting Ordinance did not permit stand-alone, adult-use (Non-Medicinal Establishment) facilities with an Establishment License.

ANALYSIS OF REQUEST(S)

The applicant's narrative and justification for the proposed amendment are included in **Exhibit 1**. Related to the Zoning Ordinance, there are two primary parts to the proposed amendment. The first is to expand the definition of Qualifying Marijuana Dispensaries to include stand-alone Non-Medicinal Establishments, and the second is to remove the prohibition on the delivery of Marijuana Products. As part of the removal of the delivery prohibition, the proposed amendment incorporates a requirement to obtain a new or updated security plan from the Peoria Police Department to address delivery services.

In summary, the applicant's justification for the amendment is that it will:

- Increase City of Peoria tax revenue;
- Allow Peoria dispensaries to deliver to Peoria residences and to persons in other jurisdictions;
- Allow for Peoria dispensaries to better compete with dispensaries in nearby jurisdictions; and
- Utilize the same regulations that apply to Medical and Dual-Licensed facilities for Non-Medicinal Establishments.

Part #1 of Amendment – Expansion of the Qualifying Marijuana Dispensary Definition:
The existing Peoria Zoning Ordinance's definition of a Qualifying Marijuana Dispensary includes licensed Non-Profit Marijuana Dispensaries that sell Marijuana Products for medicinal purposes and Dual Licensed Dispensaries that sell Marijuana Products for medicinal and non-medicinal purposes. The proposed amendment incorporates stand-alone Non-Medicinal Establishments as a form of a Qualifying Marijuana Dispensary. The effect of incorporating Non-Medicinal Establishments into the definition is that all three-dispensary types allowed under the ARS (Medical, Dual Licensed, and Non-Medicinal Establishments) will be considered a Qualifying Marijuana Dispensary from a zoning land use perspective. Therefore, the expansion of the definition would allow licensed dispensaries that only sell non-medicinal marijuana products to exist in the same zoning districts and locations as medicinal and Dual Licensed dispensaries while being required to comply with the same applicable requirements of location, separation, security plan, and operational provisions. The existing definition and regulations of Qualifying Marijuana Establishments are included in **Exhibit 3**.

The proposed amendment is consistent with the General Plan's Smart Growth Goal 1 and Policy LUC-11 by promoting the regular evaluation of the development regulations and providing for a balanced mix of land uses that support business opportunities and improve access to services for Peoria residents.

Part #2 of Amendment – Removal of the Prohibition on Delivery:

Currently, the Peoria Zoning Ordinance prohibits Peoria-based marijuana dispensaries from delivering Marijuana Products to persons in and outside Peoria. This prohibition was established in February 2011 as part of the regulations adopted to implement the AMMA, and was maintained when the Zoning Ordinance was updated to implement the SSAA that legalized non-medicinal sales and use of marijuana.

When the Zoning Ordinance was updated to implement the 2010 AMMA, no city, county or state regulations addressing the operation, security, delivery, etc. had been developed for marijuana establishments, and a significant amount of information was unknown. Since the adoption of both acts, the AZDHS and local communities, including Peoria, have established rules and regulations that provide a high level of oversight for the state's marijuana industry. Among these regulations, AZDHS has established administrative regulations pertaining to the transportation and delivery of Marijuana Products to/from: cultivation sites, other dispensaries, registered laboratories, and qualifying medical marijuana patients. The AZDHS regulations for the delivery of non-medicinal Marijuana Products are required to be established between January 1, 2023 and January 1, 2025. When this report was written, the aforementioned regulations had not been created.

Upon review of other Phoenix metropolitan cities' regulations, staff confirmed that several cities currently allow deliveries of Marijuana Products. These cities include Phoenix, Mesa, Scottsdale, Chandler, Gilbert, Tempe, Glendale, El Mirage and Maricopa County. To that point, the applicant has asserted that Peoria-based marijuana dispensaries are at a competitive disadvantage compared to dispensaries in other cities that allow deliveries since cities are prohibited from regulating the transport and delivery of Marijuana Products on public streets. Therefore, dispensaries outside of Peoria are allowed to deliver to a qualified Peoria resident, whereas a Peoria-based dispensary cannot.

Consistent with the General Plan policies LUC-11 and CW-6 to regularly evaluate the development regulations and improve medical service and access to Peoria residents, the proposed amendment would equalize the above-referenced disparity for Peoria-based dispensaries, and allow a service qualifying Peoria residents could utilize to obtain marijuana products. It should be noted that the state currently only allows the delivery of marijuana products to qualifying patients for medicinal purposes. This will change when AZDHS develops regulations for the delivery of adult use marijuana, no later than January 1, 2025.

The proposed requirement for a dispensary that provides a delivery service is to have a new or updated security plan approved by the Peoria Police Department that is consistent with the security considerations and procedures established by the AZDHS. This provision will enable the City to proactively address potential public safety issues that will assist in minimizing security concerns. It should be noted that under the proposed amendment, Peoria dispensaries would be allowed to deliver non-medicinal Marijuana Products when AZDHS establishes the related regulation, provided the dispensaries comply with the above-referenced security plan provisions.

PUBLIC SAFETY

The Police Department staff has been consulted in the review of this request. Accordingly, in their response, the Police Department noted that although dispensaries are cash-based businesses, current marijuana dispensaries in the City have experienced few issues due to the requirement for approved Security Plans to help mitigate risk for employees and patrons. The Department has recommended that language be included requiring those dispensaries offering delivery services to update their approved Security Plan before initiating services. This recommendation has been incorporated into the proposed amendment.

PREVIOUS DISCUSSION AND ACTIONS

A limited version of this amendment (removal of the prohibition on delivery) was previously discussed at the October 6, 2020, Planning and Zoning Commission. Subsequently, on October 20, 2023, the Commission (4-1) supported the request with a recommendation to the City Council to to allow Qualifying Marijuana Dispensaries to transport and deliver marijuana and marijuana products to customers. Ultimately, the City Council did not hear the previous version of the amendment since the applicant reconsidered and amended the application to include the proposed expansion of the definition for Qualifying Marijuana Dispensaries. Since the modification is a material change to the application, a new recommendation from Planning and Zoning Commission is necessary.

At the April 20, 2023, Planning and Zoning Commission meeting, the Commission reviewed and discussed the application as a study session item. Several Commissioners acknowledged that the same standards for Medical and Dual Licensed Establishment would apply to Non-Medicinal Establishments. In addition, there was discussion centered around the applicant's assertion that the delivery request was essentially a sales tax question. That is, current qualified patients and caregivers in Peoria are already receiving deliveries from dispensaries in neighboring cities that permit delivery. The point-of-sale and sales tax is essentially generated in those neighboring jurisdictions.

At the April 25, 2023, City Council Study Session meeting, the City Council had a series of questions answered by staff and the applicant. These questions included the state's regulatory methodology for the delivery of marijuana products, differences between and the necessity for a medical and non-medical establishment licenses, and the potency provisions for medical and non-medical marijuana products. In addition, the Council asked staff to return to the City Council with the answers to several questions related to: the tax revenue of all Peoria dispensaries, the number and type of dispensaries in adjacent jurisdictions and associated tax revenues, and the percentage of deliveries made to Peoria residents from adjacent jurisdictions (if available).

COMMUNITY INVOLVEMENT

Public Noticing

The application was properly noticed pursuant to Section 21-315 of the Peoria Zoning Ordinance, which includes placing an ad in the Peoria Times at least 15 days prior to the Public Hearing.

Outreach Process

- Opportunities for public comments on the original iteration of the amendment were provided at the October 6, 2022, and October 20, 2022 Planning and Zoning Commission meetings. No public comments have been received.
- An opportunity for the public to comment on the revised application was provided at the April 20, 2023, Planning and Zoning Commission meeting. No public comments were received.
- An additional opportunity for the public to comment on the revised application was provided at the April 25, 2023, City Council meeting. No public comments were received.

Support / Opposition

At the time of this writing, the staff has not received public comments supporting or opposing the proposed Zoning Ordinance Text Amendment.

KEY FINDINGS

1. The proposed amendment would allow Non-Medicinal Establishments ("Establishment Licenses") to locate within Peoria, and they would be subject to the same siting and operational limitations that apply to Medical and Dual Licensed Establishments. In essence, all Marijuana Dispensaries are treated consistently.
2. There are no proposed changes to the siting and operational limitations in the Code; hence, the amendment would not change the number of qualifying locations.
3. The proposed amendment would enable Peoria dispensaries to offer delivery services of Marijuana Products to qualifying medical marijuana patients and caregivers. Dispensaries in surrounding communities such as Phoenix, Glendale, El Mirage and Maricopa County already offer delivery services to Peoria residents.
4. The Peoria marijuana dispensaries that provide delivery services would require a new, or revised Security Plan approved by the Peoria Police Department that specifically addresses the secure transport and delivery of Marijuana Products in compliance with the applicable state laws and regulations.
5. The proposed Security Plan provisions would supplement existing security and documentation requirements in place through AZDHS administrative rules.
6. The Delivery of *non-medicinal* Marijuana Products would be allowed once the AZDHS establishes delivery regulations. The law requires that AZDHS adopt rules to permit and regulate *non-medicinal* delivery no sooner than January 1, 2023 and no later than January 1, 2025.

POSSIBLE ACTIONS / OPTIONS

A: Approve as recommended by staff; or

B: Approve in part or with modifications; or

C: Deny; or

D: Continue action to a date certain or indefinitely.

RECOMMENDATION

Staff recommends that the Planning and Zoning Commission take the following action:

1) **Recommend approval of Case TA22-02 to the City Council.**

STAFF CONTACT

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TEXT AMENDMENT

Narrative Statement of Justification

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Submittal Date: March 22, 2023

Exhibit 1

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 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 and 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 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 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 will: 1) increase local tax revenue, and 2) allow for dispensaries in Peoria to better compete with dispensaries in nearby jurisdictions. These changes will take effect without discernible differences to the consumer.

1. Increase in Sales Tax

Allowing for dispensaries to operate in the City under an establishment license will generate additional tax revenue for the City. The City of Peoria has a local sales tax of approximately 1.8%. The revenue from this local tax is not shared with the State of Arizona. Additionally, sales of recreational marijuana products are subject to an additional Marijuana Excise Tax, or MET, collected by the State and shared with the city in which the recreational sale takes place. As this Text Amendment will allow for establishment licenses to operate in the City, Peoria dispensaries would have the flexibility to use an establishment license at their approved location, subjecting all

of their sales not only to Peoria local sales tax, but also the MET (as opposed to dual license dispensaries, where medical marijuana sales are not subject to MET). this will result in additional sales of recreational marijuana products and, consequently, additional 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 pertaining to delivery 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 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.

3. No Change in Operations; Lower Dosage Products & Transactions

An establishment license is required to operate under essentially the exact same rules and regulations as a dual license. From the consumer or passerby perspective, there will be no changes to dispensaries in Peoria from how they operate today (same zoning guidelines, same protected use setbacks, same signage, same security measures and applicable regulations, etc.), to how they will operate with the approval of the Text Amendment. However, there will be one key exception: establishment licenses may only sell "recreational" products, which have a lower maximum dosage per package and a lower total quantity per sale than medical products. Consequently, dispensaries that choose to operate under an establishment license will actually be selling less potent products and lower quantities per transaction than dispensaries operating under dual licenses (where medical sales are permitted).

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. 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 tax revenue for the City (through additional MET and tax from deliveries), 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.

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

CHAPTER 11 — LICENSE, TAXATION AND MISCELLANEOUS BUSINESS REGULATIONS

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

~~(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.~~

CHAPTER 21 — ZONING ORDINANCE

Section 21-202 – Definitions

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**; OR**
3) **A MARIJUANA ESTABLISHMENT AS DEFINED AS A SINGLE RETAIL LOCATION IN A.R.S §36-2850 AND OPERATED PURSUANT TO A.R.S. §36-2858 AT WHICH AN ENTITY HOLDING A MARIJUANA ESTABLISHMENT LICENSE FROM THE ARIZONA DEPARTMENT OF HEALTH SERVICES, AND SELLS MARIJUANA AND MARIJUANA PRODUCTS FOR GENERAL NON-MEDICINAL USE TO INDIVIDUALS WHO ARE AT LEAST TWENTY-ONE YEARS OF AGE AS PERMITTED BY A.R.S. §36-2852.**

Exhibit 2

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 AN 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.

~~j. Delivery services are prohibited.~~

i~~k~~. Drive-through services and sales are prohibited.

j~~l~~. Alcoholic beverages shall not be sold, stored, distributed or consumed on the premises.

k~~m~~. The Dispensary shall not have outdoor seating areas, but shall have adequate indoor seating to prevent outside loitering.

l~~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.

m~~o~~. The windows and/or entrances shall not be obstructed and must maintain a clear view into the premises during business hours.

n~~p~~. No consumption of Marijuana or any product containing Marijuana shall occur on the premises of a Qualifying Marijuana Dispensary.

o~~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.

Exhibit 3
Existing Regulations for
Qualifying Marijuana Establishments

Chapter 21 - Zoning, Definitions

Section 21-202 – Definitions

Cultivate and Cultivation of Marijuana means to propagate, breed, grow, prepare, and package marijuana.

Dual Licensee means an entity that holds both a non-profit medical marijuana dispensary registration and a marijuana establishment license.

Marijuana Manufacturing means to compound, blend, extract, infuse, or otherwise make or prepare a marijuana product.

Marijuana Manufacturing, or Cultivation Facility is a Marijuana Establishment, as defined in A.R.S. §36-2850, licensed by the State of Arizona that is located in a building, structure, or premises where Marijuana is cultivated or stored and which is physically separate from a Qualifying Marijuana Dispensary. Such Marijuana Manufacturing or Cultivation Facility may only provide Marijuana or Marijuana Products to Qualifying Marijuana Dispensaries. Requirements for mixed-use occupancy will be based upon the adopted building codes.*35

Marijuana Testing Facility is an entity licensed by the State of Arizona to analyze the potency of marijuana and test marijuana for harmful contaminants.

Medical Marijuana Cardholder is a natural person who is a Qualifying Patient, Designated Caregiver or Nonprofit Medical Marijuana Dispensary Agent or an independent third-party laboratory agent who has been issued and possesses a valid Registry Identification Card pursuant to A.R.S. § 36-2801, et seq.

Personal Cultivation or Processing means cultivating or processing of not more than six marijuana plants for personal use at an individual's primary residence, or not more than twelve plants where two or more individuals reside at one time. In this instance, individual shall mean a person of at least twenty-one years of age.

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 in 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 License 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.

Chapter 21 - Zoning, Non-Residential Districts

Section 21-503 Land Use Matrix

Table 21-503 Land Use Matrix

P = Permitted Use
C = Permitted Conditional Use. Conditional Use Permit required. See Section 21-322.
A = Accessory use
◆ = Any uses located within 200 feet of a residential district shall be subject to a Conditional Use Permit
= Subject to special limitations (see the following Section 21-505)
- = Not Permitted

Land Use	O-1	C-1	PC-1	PC-2	C-2	C-3	C-4	C-5	BPI	PI-1	I-1	I-2
General Industrial & Manufacturing												
Marijuana Manufacturing or Cultivation Facility #	-	-	-	-	-	-	-	-	C	C	C	C
Marijuana Testing Facility	-	-	-	-	-	-	-	-	C	C	C	C
Intense Retail												
Qualifying Marijuana Dispensary#	-	-	-	-	C	-	C	C	-	-	-	-

Chapter 21 – Zoning, Non-Residential Districts

Section 21-505. – Limitations on Uses

M. Qualifying Marijuana Dispensaries and Marijuana Manufacturing or 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 into the environment 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.

g. For the purposes of this section, qualifying zoning districts for Qualifying Marijuana Dispensaries, Manufacturing, Cultivation, and Testing Facilities does not include 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.

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

c. The use shall not be located within 2,640-feet of another Qualifying Marijuana Dispensary or Marijuana Manufacturing, Cultivation, and 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 1,000-feet of a Retail Liquor Store; Tavern, Bar or Lounge; Adult Use; Substance Abuse Treatment Centers; or State Local Alcohol Reception Center.

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

g. The product offered for retail 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.

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

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

j. Delivery services are prohibited.

k. Drive-through services and sales are prohibited.

l. Alcoholic beverages shall not be sold, stored, distributed or consumed on the premises.

m. The Dispensary shall not have outdoor seating areas, but shall have adequate indoor seating to prevent outside loitering.

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.

o. The windows and/or entrances shall not be obstructed and must maintain a clear view into the premises during business hours.

p. No consumption of Marijuana or any product containing Marijuana shall occur on the premises of a Qualifying Marijuana Dispensary.

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.

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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.