

ORDINANCE NO. 2021-02

AN ORDINANCE OF THE MAYOR AND COUNCIL OF THE CITY OF PEORIA, AMENDING CHAPTER 11 OF THE PEORIA CITY CODE (1992) BY AMENDING RESERVED SECTION 11-75 TO ADDRESS THE PROHIBITION OF MARIJUANA ESTABLISHMENTS; AND PROVIDING FOR SEVERABILITY AND FOR AN EFFECTIVE DATE.

WHEREAS, under the Federal Controlled Substances Act, codified in 21 U.S.C. Section 801 et seq., the use, possession, and cultivation of marijuana are unlawful and subject to federal prosecution without regard to a claimed medical need; and

WHEREAS, marijuana contains tetrahydrocannabinol, which remains on Schedule I of the Controlled Substances Act pursuant to 21 U.S.C. § 811 et al.; and

WHEREAS, the statewide ballot measure I-23-2020, known as the "Smart and Safe Arizona Act," was approved by the voters in the November 3, 2020 general election ballot and became effective on December 1, 2020.

WHEREAS, the newly enacted legislation set forth in A.R.S. 36-2857 allows localities to prohibit marijuana establishments.

WHEREAS, the City of Peoria has a legitimate government interest in protecting public health, safety, and welfare of its citizens by prohibiting Marijuana Establishments in the City.

THEREFORE, it is ordained by the Mayor and Council of the City of Peoria as follows:

SECTION 1. Chapter 11 of the Peoria City Code (1992) is amended by amending Reserved Section 11-75 to address Marijuana Establishments Prohibited; Dual Licensee Exception; which shall read as follows:

Sec. 11-75. – Reserved 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 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.

SECTION 2. If any section, subsection, sentence, clause or phrase of this Ordinance is for any reason held to be invalid or unconstitutional by the decision of any Court of competent jurisdiction, such decision shall not affect the validity of the remaining portions of this Ordinance.

SECTION 3. This Ordinance shall become effective in the manner provided by law.

PASSED AND ADOPTED by the Mayor and Council of the City of Peoria, Arizona, this 19th day of January, 2021.



Cathy Carlat, Mayor

1-29-2021

Date Signed

ATTEST:



Rhonda Geriminsky, City Clerk



APPROVED AS TO FORM:



Vanessa P. Hickman, City Attorney

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