ORDINANCE NO. 2010-23

AN ORDINANCE OF THE MAYOR AND COUNCIL OF THE CITY OF PEORIA, MARICOPA COUNTY, ARIZONA, AMENDING CHAPTER 14 OF THE PEORIA CITY CODE (1977 EDITION), BY AMENDING ARTICLE 14-2 DEFINITIONS AND ARTICLE 14-9 NON-RESIDENTIAL DISTRICTS, PROVIDING FOR SEPARABILITY AND PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, the Planning and Zoning Commission of the City of Peoria, Maricopa County, Arizona, held a public hearing on July 15, 2010, to consider a proposed amendment to the Peoria City Code, 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 June 25, 2010; and

WHEREAS, the Planning and Zoning Commission of the City of Peoria, Arizona at its regularly convened meeting of July 15, 2010, voted to recommend to the Mayor and Council of the City of Peoria, Arizona, that amendments be made to the Peoria City Code (1977 edition); 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 Article 14-9, Non-Residential Districts, of the Peoria City Code (1977 edition):

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

SECTION 1. Article 14-2, Definitions and Article 14-9, Non-Residential Districts, of Chapter 14 of the Peoria City Code (1977 edition) shall be amended to read as shown in Exhibit A.

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

SECTION 3. SEPARABILITY. 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.

PASSED AND ADOPTED by the Mayor and Council of the City of Peoria, Maricopa County, Arizona this 17th day of August, 2010.

Bob Barrett

Bob Barrett, Mayor

8/27/10

Date Signed

ATTEST

Mary Jo Waddell

Mary Jo Waddell, City Clerk

APPROVED AS TO FORM:

Stephen M. Kemp, City Attorney

Published in: Peoria Times Pub.

Dates: June 25, 2010

Effective Date: September 22, 2010

Exhibit A

ARTICLE 14-2 DEFINITIONS

Retail Liquor Store means a business that sells beer or intoxicating liquors in an unopened package for consumption off the premises of the business having a Series 9 license issued by the Arizona Department of Liquor License and Control and derive the majority of sales from beer and intoxicating liquors. Businesses which hold a Series 9 license and sell beer or intoxicating liquor accessory to another permitted principal or conditional use are not considered Retail Liquor Stores.

Tavern, Bar, Lounge ~~*or establishment*~~ means a business that sells beer or intoxicating liquor for consumption on the premises and having ~~and a~~ ~~Spirituous~~ Liquor License with any of the following classifications: Bar License (Series #06) or Beer and Wine Bar License (Series #07) or the equivalent of such license, and excluding restaurants and recreation and social clubs. (Ord. No. 98-34A)

Tobacco Retailer means a business which allows for the smoking of tobacco on premises and sells tobacco and/or tobacco accessories. These businesses are also subject to the Smoke Free Arizona Act, A.R.S. § 36-601.01 and R9-2-101 of the Arizona Administrative Code. Hookah, Tobacco, Cigar, and Shisha Lounges or Bars are considered Tobacco Retailers for the purposes of the Zoning Ordinance.

ARTICLE 14-9-3 LAND USE MATRIX

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
AUTOMOBILE RELATED												
Car Wash, Automated; Self Service	-	-	-	-	C	C	C	C	-	-	P	P
~~Car Wash, Self Service~~	-	-	-	-	C	C	C	C	-	-	P	P
Parking Space with Electric Vehicle Charging Equipment	A	A	A	A	A	A	A	A	A	A	A	A
EATING & DRINKING ESTABLISHMENTS												
Restaurants, Drive-~~Thru~~Through or Drive-Up# (Ord. No. 06-07)	-	P*	P*	P*	P*	-	P*	P*	-	-	-	-
Tavern, Bar, Lounge ~~or Establishment that sells alcoholic beverages for consumption on premise, excluding restaurants~~#	-	-	C	C	C	C	C	C	-	-	-	-
GENERAL RETAIL												
Tobacco Retailer	-	P	-	-	P	P	P	P	-	-	-	-
INSTITUTIONAL												
Public/Private Schools, Charter Schools, College and University Facilities excluding College & University Campuses# (Ord. No. 05-58A)	P	P	P	P	P	P	P	P	P	P	P	P

ARTICLE 14-9-5 LIMITATIONS ON USE

A. Automobile Related

5. Gas Service Stations shall be subject to all of the following additional requirements: (Ord. No. 03-171)

   a. Minimum frontage of one *hundred-eighty* (180) feet on one arterial street is required.

   b. No part of any building, canopy, fuel dispenser, or accessory equipment shall be within 200 feet of any residentially zoned property.

   c. A minimum of 500 feet separation is required between gas service stations located on the same side of the street. Gas Service Stations separated by arterial streets are not subject to this requirement.

   ~~b.~~d All of the following development standards shall apply:

      1) The minimum side and rear building setback including canopies, from a property line abutting a residential zoning district: ~~twenty-five~~thirty (~~25~~30) feet.

      2) The minimum side and rear building setbacks including canopies, from a property line abutting a non-residential zoning district: ten (10) feet.

      3) The minimum street setback for buildings, ~~including~~ fuel dispensers, accessory equipment, and canopies: twenty-five (25) feet.

      4) All fuel pump mechanism and any accessory equipment dispensing fuel shall be covered by canopies.

      5) Under canopy mounted lights shall be flush with the underside of the canopy.

      6) Fuel tanks larger than 1,000 gallons must be located underground. Above ground tanks shall be screened from street view, shall not exceed 6-feet in height and shall be setback at least 25-feet from *any public street.*

B. Eating & Drinking Establishments

2. Restaurants with Drive-Throughs:

   a. All drive through lanes, menu boards, speaker box, and other related elements shall be located at least 50 feet from any residential property or use. Speakers at drive-throughs shall not be audible from residential zoned property. Sound shall be mitigated by the use of sound attenuation walls, landscaping or other measures.

   b. The drive-through lane shall be separated from parking areas and driving lanes by a minimum 5-foot wide landscaping island or other alternative as approved by the Planning Manager.

   c. Drive-through canopies and other appurtenances shall be architectural compatible with the main building architecture.

   d. Through the Conditional Use Permit (CUP) process, the conditions considered for imposition by the Planning and Zoning Commission may include, but are not limited to, a restriction on operating hours, additional screening, relocation of the drive through, modification of the minimum drive-through stacking requirements, noise and visual mitigation and other measures appropriate to the relevant circumstances.

~~2~~3. Outdoor Dining and Seating Areas: (Ord. No. *06-07*)

a. Such areas shall be located immediately adjacent to the restaurant or establishment to which it is an accessory use.

b. The use shall not interfere with pedestrian access, fire lanes, driveways, or traffic visibility at driveways or street intersections.

c. Such areas shall not exceed 25% of the gross floor area (GFA) of the establishment. The Planning and Zoning Commission may waive this requirement if is found that sufficient mitigation measures are provided to eliminate potential adverse impacts on adjacent properties.

d. Through the Conditional Use Permit (CUP) process, the conditions considered for imposition by the Planning and Zoning Commission may include, but is not limited to, a restriction on operating hours, additional screening, re-location of the outdoor dining and seating area, noise and visual mitigation and other measures appropriate to the relevant circumstances.

~~3.~~4. Tavern, Bar, or Lounge:

a. The exterior building wall shall not be located within one-thousand (1000) feet of the property lines of a state designated Local Alcohol Reception Center.

b. The exterior building walls of the use shall be located at least two-hundred (200) feet from the property lines of a residentially zoned property;

c. Through the Conditional Use Permit (CUP) process, the conditions considered for imposition by the Planning and Zoning Commission may include, but are not limited to, a restriction on operating hours, additional screening, relocation of any outdoor patio areas, live entertainment standards, noise and visual mitigation and other measures appropriate to the relevant circumstances.

~~Tavern, Bar, Lounge or establishment that sells beer or intoxicating liquor on the premises for consumption on premises shall be subject to the following additional requirement:~~

~~The exterior building wall shall not be located within one thousand (1000) feet of the exterior property lines of a state designated Local Alcohol Reception Center.~~