

ORDINANCE NO. 795

AN ORDINANCE OF THE MAYOR AND COMMON COUNCIL OF THE TOWN OF PAYSON, ARIZONA, ENACTING REASONABLE ZONING REGULATIONS LIMITING THE USE OF LAND FOR REGISTERED NONPROFIT MEDICAL MARIJUANA DISPENSARIES BY AMENDING PORTIONS OF SECTIONS 15-11 AND 15-12 AND ADDING SECTION 15-15 OF THE UNIFIED DEVELOPMENT CODE.

(MEDICAL MARIJUANA DISPENSARIES REGULATIONS)

WHEREAS, on November 2, 2010, the voters of Arizona approved Proposition 203 entitled the Arizona Medical Marijuana Act ("the Act"), codified as A.R.S. §36-2801 et. seq.; and

WHEREAS, A.R.S. §36-2806.01 allows cities, towns, and counties to "enact reasonable zoning regulations that limit the use of land for registered nonprofit medical marijuana dispensaries to specified areas" within their jurisdictions; and

WHEREAS, the possession, delivery, manufacture, cultivation, or sale of marijuana is illegal under the federal Controlled Substances Act; and

WHEREAS, the Act may be preempted or limited by the federal Controlled Substances Act; and

WHEREAS, nothing in this Ordinance is intended to permit or assist in the violation of the federal Controlled Substances Act; and

WHEREAS, states permitting the use of medical marijuana have experienced various problems associated with medical marijuana dispensaries, including mobile marijuana dispensaries and marijuana dispensary proliferation; and

WHEREAS, states permitting the use of medical marijuana have reported increased occurrences of crime associated with medical marijuana dispensaries; and

WHEREAS, the Town finds that reasonable zoning regulations regulating medical marijuana dispensaries are necessary to maintain the health and safety of the citizens of the Town; and

WHEREAS, amendments to Sections 15-11, 15-12-001, 15-12-002 and 15-12-003 of Chapter 154 (The Unified Development Code) of the Code of the Town of Payson were declared to be a public record by Resolution 2586; and

WHEREAS, Section 15-15 of Chapter 154 (The Unified Development Code) of the Code of the Town of Payson was declared to be a public record by Resolution 2586; and

WHEREAS, it is the desire of the Mayor and Common Council to amend the Unified Development Code of the Town of Payson by amending Sections 15-11, 15-12-001, 15-12-002 and 15-12-003 by reference pursuant to A.R.S. § 9-802; and

WHEREAS, it is the desire of the Mayor and Common Council to amend the Unified Development Code of the Town of Payson by adding Section 15-15 by reference pursuant to A.R.S. § 9-802,

NOW, THEREFORE, THE MAYOR AND COMMON COUNCIL OF THE TOWN OF PAYSON, ARIZONA, DO HEREBY ORDAIN AS FOLLOWS:

- Section 1. That the amendments to Sections 15-11 (Definitions) and 15-12-001, 15-12-002 and 15-12-003 (Residential, Commercial, Industrial District Use Tables) of Chapter 154 (the Unified Development Code) of the Code of the Town of Payson set forth in Resolution 2586 were heretofore declared to be a public record, are hereby referred to, and are adopted by reference as though all the provisions thereof were set forth in this Ordinance.
- Section 2. That Section 15-15 (Medical Marijuana) of Chapter 154 (the Unified Development Code) of the Code of the Town of Payson set forth in Resolution 2586 was heretofore declared to be a public record, is hereby referred to, and is adopted by reference as though all the provisions thereof were set forth in this Ordinance.
- Section 3. That at least three copies of Section 15-15 and the amendments to Sections 15-11, 15-12-001, 15-12-002, and 15-12-003, as adopted by this Ordinance shall be filed in the Office of the Clerk of the Town of Payson and the same shall be maintained and kept available for public use and inspection.
- Section 4. All ordinances and parts of ordinances in conflict with the provisions of this Ordinance are hereby repealed to the extent of such conflict.
- Section 5. If any section, subsection, sentence, clause, phrase or portion of this Ordinance is for any reason held to be invalid or unconstitutional by the decision of any court, such decision shall not affect the validity of the remaining portions of this Ordinance. The Mayor and Common Council of the Town of Payson declares that they would have adopted this Ordinance and each section, subsection, sentence, clause, phrase or portion thereof despite the fact that any one or more sections, subsections, sentences, clauses, phrases or portions would be declared invalid or unconstitutional.

PASSED AND ADOPTED BY THE MAYOR AND COMMON COUNCIL OF THE
TOWN OF PAYSON this ____ day of January, 2011, by the following vote:

AYES ____ NOES ____ ABSTENTIONS ____ ABSENT ____

Kenny J. Evans, Mayor

ATTEST:

APPROVED AS TO FORM:

Silvia Smith, Town Clerk



Timothy M. Wright, Town Attorney

**RESOLUTION NO. 2586 IS
PROVIDED FOR INFORMATION
ONLY
AT THE 1/6/11 COUNCIL MEETING.**

**RESOLUTION NO. 2586 WILL
BE AGENDIZED AS AN ACTION ITEM
AT THE 1 /20/11 COUNCIL MEETING.**

RESOLUTION NO. 2586

A RESOLUTION OF THE MAYOR AND COMMON COUNCIL OF THE TOWN OF PAYSON, ARIZONA, ENACTING REASONABLE ZONING REGULATIONS LIMITING THE USE OF LAND FOR REGISTERED NONPROFIT MEDICAL MARIJUANA DISPENSARIES BY AMENDING PORTIONS OF SECTIONS 15-11 AND 15-12 AND ADDING SECTION 15-15 OF THE UNIFIED DEVELOPMENT CODE, AND DECLARING SUCH AMENDMENTS TO BE A PUBLIC RECORD.

(MEDICAL MARIJUANA DISPENSARIES REGULATIONS)

WHEREAS, the Code of the Town of Payson was declared to be a public record by Resolution 1536 of the Town of Payson; and

WHEREAS, the Code of the Town of Payson was adopted as a public record by Ordinance 588 of the Town of Payson; and

WHEREAS, it is the intention of the Town of Payson to amend Sections 15-11 and 15-12 and to add Section 15-15 of Chapter 154 (the Unified Development Code) of the Code of the Town of Payson; and

WHEREAS, such amendments may be enacted by reference, pursuant to A.R.S. § 9-802,

NOW, THEREFORE, THE MAYOR AND COMMON COUNCIL OF THE TOWN OF PAYSON, ARIZONA, DO HEREBY RESOLVE AS FOLLOWS:

- Section 1. Section 15-11 (DEFINITIONS) of Chapter 154 of the Code of the Town of Payson is hereby amended to add the definitions set forth in Exhibit A and such amendment is declared to be a public record.
- Section 2. Portions of the use tables set forth in Sections 15-12-001, 15-12-002, and 15-12-003 of Chapter 154 of the Code of the Town of Payson are hereby amended, declared to be a public record, and the amendments to such use table portions shall read as set forth in Exhibit B.
- Section 3. Section 15-15 (MEDICAL MARIJUANA USES) of Chapter 154 of the Code of the Town of Payson is hereby added, declared to be a public record, and as added shall read as set forth in Exhibit C.
- Section 4. If any section, subsection, sentence, clause, phrase or portion of this Resolution 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 Resolution. The Town Council declares that it would have adopted this Resolution and each section, subsection, sentence, clause, phrase, or portion thereof, irrespective of the fact that any one or more sections, subsections, sentences, clauses, phrases, or portions may be declared invalid or unconstitutional.

PASSED AND ADOPTED BY THE MAYOR AND COMMON COUNCIL OF
THE TOWN OF PAYSON this _____ day of January, 2011, by the following vote:

AYES _____ NOES _____ ABSTENTIONS _____ ABSENT _____

Kenny J. Evans, Mayor

ATTEST:

APPROVED AS TO FORM:

Silvia Smith, Town Clerk



Timothy M. Wright, Town Attorney

Exhibit A
to
Resolution 2586

AMENDMENTS TO SECTION 15-11 (DEFINITIONS)

MEDICAL MARIJUANA DISPENSARY - a nonprofit medical marijuana dispensary duly registered and certified pursuant to A.R.S. §36-2804.

MEDICAL MARIJUANA DISPENSARY OFFSITE CULTIVATION LOCATION - the one additional location, if any, duly identified pursuant to A.R.S. §36-2804(B)(1)(b) during the process of registering a nonprofit medical marijuana dispensary where marijuana will be cultivated for sale at a nonprofit medical marijuana dispensary duly registered and certified pursuant to A.R.S. §36-2804.

Exhibit B
to
Resolution 2586

AMENDMENTS TO USE TABLES

Amendment to Table 15-12-001 (Residential District Uses)

Neighborhood Services Uses	R-1	R-2	R-3
<u>Medical Marijuana Dispensary and/or Medical Marijuana Dispensary Offsite Cultivation Location.</u>	<u>N</u>	<u>N</u>	<u>N</u>

Amendment to Table 15-12-002 (Commercial District Uses)

Agriculture and Related Uses	C-1	C-2	C-3
All types of agriculture and horticulture, <u>except Medical Marijuana Dispensary Offsite Cultivation Location.</u>	P	P	P
<u>Medical Marijuana Dispensary Offsite Cultivation Location. (Subject to provisions of 15-15)</u>	<u>N</u>	<u>N</u>	<u>P</u>

General Retail and Sales	C-1	C-2	C-3
<u>Medical Marijuana Dispensary (Subject to provisions of 15-15)</u>	<u>N</u>	<u>P</u>	<u>P</u>

Amendment to Table 15-12-003 (Industrial District Uses)

Agriculture and Related Uses	M-1	M-2
All types of agriculture and horticulture, <u>including Medical Marijuana Dispensary Offsite Cultivation Location. (Subject to provisions of 15-15)</u>	P	P

General Retail and Sales	M-1	M-2
<u>Medical Marijuana Dispensary (Subject to provisions of 15-15)</u>	<u>P</u>	<u>P</u>

Exhibit C
to
Resolution 2586

15-15 MEDICAL MARIJUANA USES

15-15-001 Application

The minimum requirements of this Section shall apply to all medical marijuana dispensaries and medical marijuana dispensary offsite cultivation locations located in any zoning district.

15-15-002 Administrative Permit

A. Application. An applicant for any medical marijuana dispensary or medical marijuana dispensary offsite cultivation location permit shall provide the following:

1. A notarized authorization executed by the property owner acknowledging and consenting to the proposed use of the property as a medical marijuana dispensary or a medical marijuana dispensary offsite cultivation location, as applicable;
2. The legal name of the medical marijuana dispensary or medical marijuana dispensary offsite cultivation location;
3. If the application is for a medical marijuana dispensary offsite cultivation location the name and location of the medical marijuana dispensary with which it is associated;
4. The name, address, and birth date of each officer and board member of the nonprofit medical marijuana dispensary;
5. The name, address, birth date, and valid registry identification card number of each nonprofit medical marijuana dispensary agent;
6. A copy of the operating procedures adopted in compliance with A.R.S. §36-2804(B)(1)(c);
7. A notarized certification that none of the nonprofit medical marijuana dispensary officers or board members have been convicted of any of the following offenses:
 - a. A violent crime as defined in A.R.S. §13-901.03(B) that was classified as a felony in the jurisdiction where the person was convicted; or
 - b. A violation of state or federal controlled substance law that was classified as a felony in the jurisdiction where the person was convicted except an offense for which the sentence including any

term of probation, incarceration, or supervised release was completed ten or more years earlier or an offense involving conduct that would be immune from arrest, prosecution, or penalty under A.R.S. §36-2811 except that the conduct occurred before the effective date of that statute or was prosecuted by an authority other than the State of Arizona.

8. A notarized certification that none of the nonprofit medical marijuana dispensary officers or board members has served as an officer or board member for a medical marijuana dispensary that has had its registration certificate revoked;
9. A floor plan showing the ingress and egress locations, dimensions, and type of security measures demonstrating that the medical marijuana dispensary or medical marijuana dispensary offsite cultivation location will be secured, enclosed, and locked as required by law;
10. For locations where cultivation will take place, the method of cultivation, including, but not limited to electrical, ventilation, sewer, and watering plans;
11. A disposal plan showing the method and manner for disposing of all marijuana remnants or byproducts. Such disposal shall not be in any outdoor refuse containers;
12. A scale drawing depicting the property lines and the separations from the nearest property boundary of the parcel containing the medical marijuana dispensary or medical marijuana dispensary offsite cultivation location to the property boundary of the parcel containing any existing uses listed in Section 15-15-005. If any of the uses are located within 50 feet of the minimum separation, the drawing showing actual surveyed separations shall be prepared by a registered land surveyor;
13. Proof of compliance with any Gila County Ordinances regulating medical marijuana.

- B. Approval. Within 15 calendar days of receipt of a complete application that is in full compliance with Section 15-15 and includes all required documentation, the Zoning Administrator shall issue an administrative approval.

15-15-003 Hours of Operation

A medical marijuana dispensary shall have operating hours not earlier than 9:00 am and not later than 5:00 p.m.

15-15-004 Requirements

Medical marijuana dispensaries and medical marijuana dispensary offsite cultivation locations shall:

- A. Be located in a permanent building that has been issued a certificate of occupancy and may not be located in a trailer, cargo container, mobile storage unit, motor vehicle or other non permanent structure;
- B. Not have drive-through service;
- C. Not emit dust, fumes, vapors, or odors beyond the exterior walls of the Dispensary;
- D. Not provide offsite delivery of medical marijuana;
- E. Prohibit consumption of marijuana on the premises;
- F. Not have outdoor seating areas;
- G. Display the administrative permit or approval issued pursuant to Section 15-15-002(B);
- H. Display a current registration certificate issued by the State of Arizona pursuant to A.R.S. §36-2804;
- I. Be in a building or suite used exclusively for medical marijuana and related supplies and education materials. No other sales of retail items, including alcohol, may be sold at a medical marijuana dispensary;
- J. Medical marijuana dispensaries shall have a sign that is clearly legible and visible from the entrance containing the words "Medical Marijuana Dispensary" in at least 4 inch letters;
- K. A medical marijuana dispensary offsite cultivation location shall not have any signage identifying it as a medical marijuana dispensary offsite cultivation location;
- L. Provide adequate security measures to ensure that the requirements of A.R.S. 36-2801, et. seq., all Arizona Department of Health Services Regulations, and this Section are met and that theft is discouraged. Such security measures shall include at least the following:
 - 1. A fully functioning security alarm system;
 - 2. Adequate exterior lighting; and

3. Security video monitoring system that retains all video feed for a minimum of 30 days.

M. All medical marijuana dispensaries located in C-2 zoning shall have frontage on, vehicular access to, and the primary entrance that faces a State Highway.

15-15-005 Separations

A medical marijuana dispensary or medical marijuana dispensary offsite cultivation location shall meet the following minimum separations measured in a straight line from the boundary of the parcel containing the medical marijuana dispensary or medical marijuana dispensary offsite cultivation location to the property boundary of the parcel containing any existing uses listed below:

- A. 1000 feet from any other medical marijuana dispensary or medical marijuana dispensary offsite cultivation location;
- B. 1000 feet from a residential substance abuse diagnostic and treatment facility or other residential drug or alcohol rehabilitation facility;
- C. 500 feet from a public, private, parochial, charter, dramatic, dancing, music, learning center, or other similar school or educational facility that caters to minors;
- D. 500 feet from a childcare center;
- E. 500 feet from a public library or public park;
- F. 500 feet from a church;
- G. 500 feet from a facility devoted to family recreation or entertainment, including but not limited to movie theaters, bowling, mini golf, batting cages, and arcades.

15-15-006 Medical Marijuana Dispensary Offsite Cultivation Locations

A medical marijuana dispensary offsite cultivation location not associated with a medical marijuana dispensary is prohibited and only one medical marijuana dispensary offsite cultivation location shall be permitted for the single medical marijuana dispensary with which it is associated.

15-15-007 Number

The number of medical marijuana dispensaries permitted within the limits of the Town of Payson shall be limited to two. The number of permitted medical marijuana dispensaries shall be increased by one for each population increase of 50,000 over and above the official 2010 census for Payson