ORDINANCE NO. 826

AN ORDINANCE OF THE MAYOR AND COMMON COUNCIL OF THE TOWN OF PAYSON, ARIZONA, AMENDING SECTIONS 15-15-06 AND 15-15-07 OF THE UNIFIED DEVELOPMENT CODE RELATING TO THE REGULATION OF REGISTERED MEDICAL MARIJUANA DISPENSARIES, AND DECLARING AN EMERGENCY.

WHEREAS, in January of 2011, the Town approved reasonable zoning regulations for Medical Marijuana Dispensaries ("the Dispensary Regulations") in response to the approval of the Arizona Medical Marijuana Act ("the Act") in 2010; and

WHEREAS, subsequent to the enactment of the Dispensary Regulations, the Arizona Department of Health Services approved administrative regulations ("the Regulations") to implement the Act and conducted a lottery to allocate allowable Medical Marijuana Dispensaries within Arizona; and

WHEREAS, the Regulations and subsequent litigation have clarified the meaning and repercussions of the Act; and

WHEREAS, specifically, the Regulations clarified that "a dispensary's cultivation site may be located anywhere in the state where a cultivation site is allowed by the local jurisdiction; and

WHEREAS, the Town has received correspondence from several persons interested in Medical Marijuana Dispensaries and/or Cultivation Locations within the Town; and

WHEREAS, on October 8, 2012, the Planning and Zoning Commission ("the Commission") held a public hearing on proposed amendments to Sections 15-15-06 and 15-15-07 of the Unified Development Code of the Town of Payson and the Dispensary Regulations that would (1) clarify that all Medical Marijuana Dispensary Offsite Cultivation Locations must be associated with a Medical Marijuana Dispensary that is located in Payson; and (2) in accordance with the Regulations, limit the number of Medical Marijuana Dispensaries in Payson to one ("the Proposed Amendments"); and

WHEREAS, during the Comission's Public Hearing a person awarded a Medical Marijuana Dispensary located outside of the Payson area, but who desires to cultivate medical marijuana in Payson, addressed the Commission concerning the Proposed Amendments. The person awarded the Medical Marijuana Dispensary within Payson also addressed the Commission; and

WHEREAS, five Commissioners were present at the Commission's Meeting and one of the five recused himself from participating in the discussion and recommendation on the Proposed Amendments; and

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WHEREAS, the four Commissioners participating in the discussion and recommendation of the Proposed Amendments were split two to two on whether to recommend the Proposed Amendments; and the Commissioners eventually voted to forward the Proposed Amendments to the Council with a notation that the Commission was unable obtain a majority for a motion to recommend approval or denial; and

WHEREAS, the Mayor and Common Council have held a Public Hearing on the Proposed Amendments, have considered the Proposed Amendments, and it is their desire to adopt the Proposed Amendments,

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

Section 1. That Section 15-15-06 of Chapter 154 (the Unified Development Code) of the Code of the Town of Payson is hereby amended and as amended shall read as follows:

15-15-006 Medical Marijuana Dispensary Offsite Cultivation Locations

~~A medical~~ Medical marijuana dispensary offsite cultivation locations not associated with a medical marijuana dispensary located in Payson are ~~is~~ prohibited. ~~and only~~ Only one medical marijuana dispensary offsite cultivation location shall be permitted for any ~~the single~~ medical marijuana dispensary located in Payson ~~with which it is associated~~.

Section 2. That Section 15-15-07 of Chapter 154 (the Unified Development Code) of the Code of the Town of Payson is hereby amended and as amended shall read as follows:

15-15-007 Number of Medical Marijuana Dispensaries

The number of medical marijuana dispensaries permitted within the limits of the Town of Payson shall be limited to one ~~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.

Section 3. If any portion of this Ordinance is held to be invalid or unconstitutional, such decision shall not affect the validity of the remaining portions. The Mayor and Common Council of the Town of Payson declare that they would have adopted this Ordinance and each portion thereof despite the fact that any one or more portions would be declared invalid or unconstitutional.

Section 4. Whereas, it is necessary for the preservation of the peace, health and safety of the Town of Payson, Arizona, an emergency is declared to exist, and this Ordinance shall become immediately operative and in full force and effect from and after the date of

its enactment.

PASSED AND ADOPTED BY THE MAYOR AND COMMON COUNCIL OF THE TOWN OF PAYSON this _____ day of October, 2012, by the following vote:

AYES _____ NOES _____ ABSTENTIONS _____ ABSENT _____

_____
Kenny J. Evans, Mayor

ATTEST:

_____
Silvia Smith, Town Clerk

APPROVED AS TO FORM:

_____
Timothy M. Wright, Town Attorney