

## **Ordinance No. 753**

AN ORDINANCE OF THE MAYOR AND COMMON COUNCIL OF THE TOWN OF PRESCOTT VALLEY, A MUNICIPAL CORPORATION OF ARIZONA, ADOPTING BY REFERENCE A DOCUMENT ENTITLED “NONPROFIT MEDICAL MARIJUANA DISPENSARIES AND CULTIVATION” (DECLARED BY RESOLUTION NO. 1733 TO BE A PUBLIC RECORD) WHICH AMENDS CHAPTER 13 “ZONING” OF THE TOWN CODE TO ADOPT REASONABLE ZONING REGULATIONS THAT LIMIT THE USE OF LAND FOR REGISTERED NONPROFIT MEDICAL MARIJUANA DISPENSARIES TO SPECIFIED AREAS; PROVIDING THAT ALL OTHER CHAPTERS, ARTICLES AND SECTIONS OF THE TOWN CODE, NOT HEREIN AMENDED, SHALL REMAIN IN FULL FORCE AND EFFECT; PROVIDING THAT, IF ANY PROVISION IN THIS ORDINANCE IS HELD INVALID BY A COURT OF COMPETENT JURISDICTION, THE REMAINING PROVISIONS SHALL NOT BE AFFECTED BUT SHALL CONTINUE IN FULL FORCE AND EFFECT; AND PROVIDING THAT THIS ORDINANCE SHALL BE EFFECTIVE THIRTY (30) DAYS AFTER ITS PASSAGE AND APPROVAL ACCORDING TO LAW.

WHEREAS, on November 2, 2010, the voters of Arizona approved Proposition 203, the “Arizona Medical Marijuana Act” (AMMA), codified in A.R.S. §36-2801 *et seq.*; and

WHEREAS, the AMMA provides for medical use, possession and cultivation of marijuana by and for persons suffering from defined debilitating medical conditions; and

WHEREAS, the possession, use, sale, distribution or transportation of marijuana is a violation of federal law and, when possessed, used, sold, distributed or transported for any purpose other than medical use under the AMMA, is also a violation of state law; and

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

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

WHEREAS, the AMMA authorizes municipalities to adopt reasonable zoning restrictions that limit the use of land for registered dispensaries to specific areas; and

WHEREAS, in October 2010, the League of Cities and Towns (League), through collaboration with local municipalities, drafted a model ordinance which included (among other items) definitions, permitted land use districts, and application and operation requirements; and

WHEREAS, on November 18, 2010, Town staff presented the League’s model ordinance to the Town Council and the Prescott Valley Planning and Zoning Commission (P&Z) in a joint work-study session; and

WHEREAS, the Town Council directed staff to prepare a similar ordinance for the Town and to present it to the P&Z at its meeting on December 13, 2010.

WHEREAS, at the conclusion of the P&Z meeting, staff was directed to further revise the proposed draft to increase certain separation requirements between dispensaries and other sensitive uses, to allow for an increase of maximum square footage of floor area for dispensaries and storage areas pursuant to a Use Permit, and to require separation restrictions for additional uses not originally contemplated; and

WHEREAS, Staff presented a revised draft to P&Z at its meeting on January 10, 2011, and P&Z unanimously recommended approval of the revised draft; and

WHEREAS, the Town Council has now determined that, for the reasons set forth above and for the purpose of preserving the peace, health and safety of the community, it is in the best interests of the Town to amend the Town Code as provided herein; and

WHEREAS, ARS §9-802 provides for adoption by reference of "public records"; and

WHEREAS, the document entitled "Nonprofit Medical Marijuana Dispensaries and Cultivation" has been declared by Resolution No. 1733 to be a "public record";

NOW, THEREFORE, BE IT ORDAINED BY THE MAYOR AND COMMON COUNCIL OF THE TOWN OF PRESCOTT VALLEY, ARIZONA, AS FOLLOWS:

SECTION ONE. That certain document entitled "Nonprofit Medical Marijuana Dispensaries and Cultivation" of the Town Code of the Town of Prescott Valley, declared to be a "public record" by Resolution No. 1733 (and available for public inspection in the Office of the Town Clerk, 7501 East Civic Circle, Prescott Valley, Arizona, 86314), is hereby referred to, adopted and made a part hereof as if fully set forth herein.

SECTION TWO. That all other Chapters, Articles and Sections of the Town Code not herein amended shall remain in full force and effect.

SECTION THREE. That, if any provision in this Ordinance is held invalid by a Court of competent jurisdiction, the remaining provisions shall not be affected but shall continue in full force and effect.

SECTION FOUR. That this Ordinance shall be effective thirty (30) days after its passage and approval according to law.

PASSED AND APPROVED by the Mayor and Common Council of the Town of Prescott Valley, Arizona, this \_\_\_\_ day of \_\_\_\_\_, 2011.

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Harvey C. Skoog, Mayor

ATTEST:

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Diane Russell, Town Clerk

APPROVED AS TO FORM:

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Ivan Legler, Town Attorney