

ORDINANCE NO. 2015- 1504

AN ORDINANCE AMENDING THE YUCCA VALLEY DEVELOPMENT CODE TO REPEAL THE TOWN BAN ON MARIJUANA DISPENSARIES AND REGULATE THE LOCATION AND OPERATION OF MEDICAL MARIJUANA DISPENSARIES

The People of the Town of Yucca Valley hereby ordain as follows:

Section 1- Title.

This initiative shall be known and may be cited as the *Yucca Valley Medical Marijuana Dispensary Authorization and Regulation Act*.

Section 2 — Findings and declarations.

The People of the Town of Yucca Valley, California, find that the intent of this ordinance is to exempt a limited number of medical marijuana dispensaries from the Town's prohibition on medical marijuana dispensaries, to make exempted medical marijuana dispensaries eligible for a business registration certificate, to advance local control, to restrict the location and operation of exempted medical marijuana dispensaries, and to impose civil and criminal sanctions for violation of these local requirements;

In 1996 California voters approved Proposition 215, the Compassionate Use Act. The People of the State of California declared that their purpose in enacting the ballot measure was, "to ensure that seriously ill Californians have the right to obtain and use marijuana for medical purposes where that medical use is deemed appropriate and has been recommended by a physician who has determined that the person's health would benefit from the use of marijuana in the treatment of cancer, anorexia, AIDS, chronic pain, spasticity, glaucoma, arthritis, migraine, or any other illness for which marijuana provides relief. " ;

Proposition 215 called on federal and state governments "to implement a plan to provide for the safe and affordable distribution of marijuana to all patients in medical need of marijuana.";

In 2003, the California State Legislature enacted Senate Bill 420, codified in *Health and Safety Code, sections 11362.7 et seq.*, known as the Medical Marijuana Program Act. The Medical Marijuana Program Act clarified the scope of the Compassionate Use Act and promoted uniform and consistent application of Proposition 215 throughout the state by ensuring that seriously ill Californians and their caregivers have access to medical marijuana through collective, cooperative cultivation projects;

The Medical Marijuana Program Act expanded limited criminal immunity to qualified marijuana patients and their primary caregivers by decriminalizing possession, furnishing, sale, cultivation, transportation, or possession for sale of marijuana, or for providing or maintaining a place for the manufacture, processing, storage, or distribution of marijuana;

In 2008, pursuant to *Health and Safety Code, section 11362.81, subd. (d)*, the California Attorney General issued Guidelines for the Security and Non-Diversion of Marijuana Grown for Medical Use. The Guidelines recognize and protect the rights of qualified patients, their designated primary caregivers, and medical marijuana collectives and cooperatives to access safe and affordable marijuana for medical purposes, by establishing reasonable parameters upon the manner in which medical marijuana may be cultivated while protecting public health, safety, and welfare;

In October 2009, the Office of the United States Attorney General released a memorandum that stated, "prosecution of individuals with cancer or other serious illnesses who use marijuana as part of a recommended treatment regimen consistent with applicable state law, or those caregivers in clear and unambiguous compliance with existing state law who provide such individuals with marijuana, is unlikely to be an efficient use of limited federal resources.";

In 2010, the Medical Marijuana Program Act was amended to prohibit a medical marijuana "cooperative, collective, dispensary, operator, establishment, or provider," other than a licensed residential or elder medical care facility, that is "authorized by law" to possess, cultivate, or distribute medical marijuana, and that "has a storefront or mobile retail outlet which ordinarily requires a local business license," to be located within six hundred feet (600') of a school. The 2010 amendment also made clear that nothing in the Medical Marijuana Program Act shall prevent a city or other local governing body from "adopting local ordinances that regulate the location, operation, or establishment of a medical marijuana cooperative or collective" or from the "the civil and criminal enforcement" of such ordinances;

In December 2011, the United States Attorney General, during a House Judiciary Committee hearing, testified to the effect that limited federal resources would not be used to prosecute medical marijuana entities operating within state laws;

In August 29, 2013, the Office of the United States Attorney General released a subsequent memorandum which once again advised that federal enforcement efforts against the seriously ill and their individual caregivers was not an efficient use of federal resources, and set forth an expectation that states and local governments which enacted laws authorizing marijuana related conduct will

implement strong and effective regulatory and enforcement systems that address any threat those state laws could pose to public safety, public health, and other law enforcement interests;

On September 10, 2013, during a United States Senate Judiciary hearing, Deputy United States Attorney General James Cole testified that all United States Attorneys are required to comply with Office of the United States Attorney General's policies related to those states with medical marijuana laws, so that those medical marijuana entities complying with state and local laws and regulations are unlikely to threaten federal law enforcement priorities;

During the November 5, 2013, Town of Yucca Valley, California, Town Council Meeting, law enforcement for the Town of Yucca Valley confirmed the absence of nuisance and crime activities related to the sole medical marijuana dispensary then operating within the Town of Yucca Valley;

As recently as February 14, 2014, the Department of the Treasury provided guidance for financial institutions seeking to provide banking services to medical marijuana related entities, thereby enhancing the availability of financial services for, and the financial transparency of medical marijuana related entities;

On February 21, 2014, the California Police Chiefs Association dropped their prior policy of "unconditional opposition" to laws sanctioning medical marijuana related entities operating within California;

The People of the Town of Yucca Valley, California, support the right of qualified patients to use medical marijuana in accordance with the recommendation or approval of a licensed physician in good standing with the Medical Board of California, the Compassionate Use Act, the Medical Marijuana Program Act, the California Attorney General Guidelines, and the United States Departments of Justice and Treasury policies regarding state and local regulation of medical marijuana;

The People of the Town of Yucca Valley, California, recognize the need for a framework that effectively implements Proposition 215 by establishing local regulations consistent with the Compassionate Use Act, Medical Marijuana Program Act, and the California Attorney General Guidelines related to the cultivation, distribution and land use of medical marijuana dispensaries within the Town of Yucca Valley to ensure that seriously ill patients have suitable access to medication;

The People of the Town of Yucca Valley, California, strongly oppose law enforcement resources being used to arrest, prosecute, and incarcerate qualified patients and designated

caregivers who use and provide medical marijuana in accordance with the Compassionate Use Act, the Medical Marijuana Program Act, and the California Attorney General Guidelines;

The People of the Town of Yucca Valley, California, support safe and orderly access to medical marijuana in a manner which protects qualified patients, designated caregivers, collectives, public health, public safety and the welfare of the community. The absence of a sufficient number of recognized medical marijuana collectives results in qualified patients and designated caregivers being denied legally recognized medication, or incurring the hardship and expense of traveling great distances to obtain their medicine;

The People of the Town of Yucca Valley, California, recognize that neither the Compassionate Use Act nor the Medical Marijuana Program Act sufficiently address local licensing, regulation, and land use restrictions related to medical marijuana collectives;

The People of the Town of Yucca Valley, California, recognize that in the absence of detailed state regulation, local governments must adopt policies and regulations to protect their communities and ensure that their resident qualified patients have safe and adequate access to legally recognized medication;

The People of the Town of Yucca Valley, California, recognize that according to the California State Board of Equalization, state mandated medical marijuana collectives contribute millions of dollars annually in sales tax to the State of California.

The People of the Town of Yucca Valley, California, recognize that municipalities statewide have successfully imposed annual medical marijuana dispensary business fees based on a percentage of gross receipts. The fee based revenue supports much needed municipal services such as public safety, public health and welfare, and community education;

The People of the Town of Yucca Valley, California, recognize that medical marijuana collectives organized and operating as nonprofit mutual benefit corporations ensure the security of medical marijuana and safeguard against its diversion for non-medical purposes;

The People of the Town of Yucca Valley, California, find that those nonprofit medical marijuana dispensaries that, prior to July 1, 2014, filed articles of incorporation with the California Secretary of State, obtained a California State Board of Equalization seller's permit to operate in the Town of Yucca Valley, and submitted an application to obtain a California State Department of Food and Agriculture license to sell nursery stock within the Town of Yucca Valley; and also those that have operated in the Town within three years prior to January 1, 2015 pursuant to an agreement with the Town; demonstrate a willingness to engage in lawful activity in full compliance with the

Compassionate Use Act, the Medical Marijuana Program Act, and the Attorney General Guidelines, all of which reduce costs associated with local regulation and enforcement efforts.

NOW, THEREFORE, The People of the Town of Yucca Valley do ordain as follows:

Section 3 — Amendment to Section 9.14.050 of the Town of Yucca Valley Development Code.

Section 9.14.050 of the Town of Yucca Valley Development Code is hereby amended as follows (any underlined language is new and is inserted, whereas any strike-through language is existing and is deleted.):

9.14.050 Marijuana Dispensaries

A. Prohibition. The establishment or operation of a marijuana dispensary or medical marijuana dispensary for the sale or distribution of marijuana, including medical marijuana, is prohibited. No special use permit, variance, building permit or other entitlement for use shall be accepted, processed, approved or issued for the establishment or operation of, and no person shall otherwise establish a marijuana dispensary or medical marijuana dispensary. This prohibition shall apply regardless of the professed status of any person as a qualified patient or primary caregiver as those terms are defined by State law. A medical marijuana dispensary that has been provided with written notice from the Town Clerk indicating that its application submitted pursuant to section 9.53.060 or 9.53.070 is complete, shall be exempted from this prohibition and thus eligible for a business registration certificate and regulatory safety permit, so long as that exempted medical marijuana dispensary remains in full compliance with each of the requirements and standards set forth in Chapter 9.53.

B. No person, firm, corporation, association, collective, cooperative, club, society, or other organization shall operate any type of marijuana delivery-by-vehicle service, nor deliver any type of marijuana product to any person at any location other than on the premises of an exempted medical marijuana dispensary as defined in section 9.53.030 of this code.

Section 4 – Amendment to Section 9.99.140 of the Town of Yucca Valley Development Code

Section 9.99.140 of the Town of Yucca Valley Development Code is hereby amended as follows (any underlined language is new and is inserted, whereas any strike-through language is existing and is deleted.):

...

~~**Medical Marijuana Cooperative:** Two or more persons collectively or cooperatively cultivating, using, transporting, processing, administering, delivering or making available medical marijuana, with or without compensation. The term “medical marijuana cooperative” shall include medical marijuana collective.~~

~~**Medical Marijuana Dispensary:** Any facility or location, including a mobile facility or delivery service whether such mobile facility or delivery service is independent from or affiliated with any fixed facility or location in the Town, where medical marijuana is made available to, distributed by, sold or supplied to one or more of the following: (1) more than a single qualified patient, (2) more than a single person with an identification card, or (3) more than a single primary caregiver. The term “medical marijuana dispensary” shall include all facilities or locations, including storefronts and offices, associated with any medical marijuana dispensary, as defined herein, that handle or process the paperwork for joining a medical marijuana or medical marijuana cooperative as defined herein, to receive financial compensation or donations for the marijuana, or give vouchers or other indicia of membership to individuals, regardless of whether marijuana is ultimately dispensed from the location or a mobile or off site delivery source independent of the facility or location. The term “medical marijuana dispensary” shall also include a medical marijuana cooperative, and any other medical marijuana collective, operator, establishment or provider.~~

Marijuana: As defined in Health and Safety Code, section 11018.

Marijuana Dispensary: Any facility, site, or location (whether for profit or not-for-profit) where marijuana is distributed, sold exchanged, given away, or made available to and/or distributed by or to another.

Medical Marijuana Dispensary: A nonprofit clinic, cooperative, collective, club, business or group comprised of qualified patients and their designated primary caregivers, the sole intent of which is to provide education, referral, or network services, and to facilitate/assist in the lawful production, acquisition, and provision of medical marijuana to its qualified patient participants within the terms of the Compassionate Use Act and the Medical Marijuana Program Act and is organized and operated in compliance with the Attorney General Guidelines.

Section 5 - Amendment of the Yucca Valley Development Code to add Chapter 9.53.

Chapter 9.53 of the Yucca Valley Development Code, is hereby added to read as follows.
(Any underlined language is new and is inserted.):

Chapter 9.53 **Medical Marijuana Dispensaries.**

Sections:

- 9.53.010 Authority and title.
- 9.53.020 Scope of chapter.
- 9.53.030 Definitions.
- 9.53.040 Operating standards.
- 9.53.050 Location Restrictions.
- 9.53.060 Preferred Exemptions
- 9.53.070 Non-preferred Exemptions.
- 9.53.080 Recognized exemptions and regulatory safety permits.
- 9.53.090 Maximum number of medical marijuana dispensaries.
- 9.53.100 Annual Operating Fee.
- 9.53.110 Maintenance of Records
- 9.53.120 Audits
- 9.53.130 Applicability to existing medical marijuana operations
- 9.53.140 Compliance with this chapter and state law
- 9.53.150 Violation and enforcement

9.53.010 Authority and title.

Pursuant to the authority granted by *Article XI, section 7 of the California Constitution, Health and Safety Code, sections 11362.5 and 11362.7 et seq., and Government Code, sections 37100 and 37101*, the People of the Town of Yucca Valley do enact this chapter, which shall be known and may be cited as the Town of Yucca Valley "Medical Marijuana Dispensary Authorization and Regulation Act."

9.53.020 Scope of chapter.

The operating standards established in this chapter apply to any site, facility, location, use, and nonprofit entity, including but not limited to a cooperative, collective, association, dispensary or other business currently operating in the Town of Yucca Valley that cultivates distributes, dispenses, stores, sells, exchanges, processes, delivers, or gives away marijuana for medical purposes to qualified patients, health care providers, patients' primary caregivers, or physicians, pursuant to *Health and Safety Code, section 11362.5* (adopted as Proposition 215, the

Compassionate Use Act of 1996) or any state regulations adopted in furtherance thereof. Any such facility shall, within the Town of Yucca Valley, operate in conformance with the standards set forth in this Chapter to assure compliance with California law and to mitigate any adverse secondary effects from said operations.

9.53.030 Definitions.

For purposes of this chapter, the following words and phrases shall mean:

"Exempted medical marijuana dispensary" means a medical marijuana dispensary that has been provided written notice from the Town Clerk indicating that its application pursuant to section 9.53.060 or 9.53.070 has been deemed complete, is exempt from the prohibition described in section 9.14.050, and is eligible for a business registration certificate and regulatory safety permit, so long as it remains in full compliance with each of the requirements and standards set forth in Chapter 9.53.

"Cutting" means a cut from a medical marijuana plant that is no more than one foot in length and that can be used to grow another marijuana plant in a different location.

"Marijuana" shall have the same definition as set forth in Health and Safety Code, section 11018.

"Marijuana dispensary" means any facility, site, or location (whether for profit or not-for-profit) where marijuana is distributed, sold exchanged, given away, or made available to and/or distributed by or to another.

"Medical marijuana" means marijuana including all marijuana products, infusions, and concentrates containing the active ingredients of the marijuana plant used for medical purposes in accordance with the Compassionate Use Act and the Medical Marijuana Program Act.

"Medical marijuana dispensary" means a nonprofit clinic, cooperative, collective, club, business or group comprised of qualified patients and their designated primary caregivers, the sole intent of which is to provide education, referral, or network services, and to facilitate/assist in the lawful production, acquisition, and provision of medical marijuana to its qualified patient participants within the terms of the Compassionate Use Act and the Medical Marijuana Program Act, and is organized and operated in compliance with the attorney General Guidelines.

"Operator" means any person responsible for the establishment, organization, supervision, or oversight of the operation of a medical marijuana dispensary, including but not limited to members who perform the functions of president, vice-president, director, operating officer, financial officer, secretary, or treasurer. Ability to control one or more of the following functions shall be prima facie

evidence that such person is an operator: (1) to hire, select, or separate employees or staff, including volunteers; (2) to acquire facilities, furniture, equipment or supplies other than occasional replenishment of stock; (3) to disburse funds of the business other than occasional expenditures for replenishment of stock; or (4) to make, or participate in making, policy decisions relative to the operations of the business.

"Physician" shall have the same definition as set forth in Health and Safety Code, section 11362.7, subd. (a).

"Preferred Exemption" means a medical marijuana dispensary that has Articles of Incorporation file stamped by the California Secretary of State on or before the date of July 1, 2014, a valid California State Board of Equalization Seller's Permit issued on or before the date of July 1, 2014, for operation at a location within the Town of Yucca Valley, and a State of California, Department of Food and Agriculture application for a license to sell nursery stock within the Town of Yucca Valley and proof said application was submitted to and received by the California Department of Food and Agriculture on or before the date of July 1, 2014; or a medical marijuana dispensary that has operated in the Town within three years prior to January 1, 2015 pursuant to an agreement with the Town.

9.53.040 Operating standards.

Each exempted medical marijuana dispensary must comply with the following minimum requirements, in addition to other requirements imposed by the Town of Yucca Valley Development and Municipal Codes.

A. At all times the medical marijuana dispensary is open for business, it shall provide at least one security guard who is licensed, possesses a valid California Department of Consumer Affairs, Bureau of Security and Investigative Services Department "security guard card" at all times, and has a valid Town of Yucca Valley business registration certificate.

B. The security guard and dispensary personnel shall monitor the medical marijuana dispensary facility and its immediate vicinity to assure that patrons leave the site without delay and do not consume medical marijuana at or in the vicinity of the dispensary including, but not limited to, the parking lot.

C. Exterior signage shall be limited to one wall sign not to exceed ten square feet in area and shall not be internally illuminated. External illumination shall be limited to after-

dusk operating hours only, and shall be in conformance with section 9.53.080 D (9). Interior signage or advertising may not be visible from the exterior.

D. No recommendation from a physician for medical marijuana shall be issued on-site.

E. There shall be no on-site sales or distribution of alcohol, tobacco, pipes, papers, water pipes, vaporizers or other paraphernalia, and no on-site consumption of food, alcohol, tobacco or marijuana by patrons.

F. Hours of operation shall be limited to 8:00 A.M. to 8:00 P.M. daily.

G. A medical marijuana dispensary shall only dispense medical marijuana to qualified patients and their caregivers as defined by California Health and Safety Code § 11362.5 (Proposition 215). A medical marijuana dispensary shall only dispense medical marijuana to such qualified patients that possess an original valid physician's recommendation, not more than one year old, for medical marijuana use by the patient.

H. A medical marijuana dispensary shall notify patrons of the following, through both the posting of a sign in a conspicuous location, and by oral notification by the dispensary operator:

1. Use of medical marijuana shall be limited to the patient identified on the physician's recommendation. Secondary sale, barter or distribution of medical marijuana is a crime and can lead to arrest.

2. Loitering on and around the dispensary site is prohibited by California Penal Code, section 647(e) and patrons must immediately leave the site and not consume medical marijuana in the vicinity of the dispensary, on the property or in the parking lot.

3. Forgery of medical documents is a felony crime.

4. A warning that patrons may be subject to prosecution under federal marijuana laws.

5. Use of medical marijuana may impair a person's ability to drive a motor vehicle or operate machinery.

I. A medical marijuana dispensary shall not provide medical marijuana to any individual in an amount not consistent with personal medical use.

A medical marijuana dispensary shall not store more than two hundred dollars in cash reserves overnight at the facility.

J. No one under 18 years of age shall be permitted to enter the medical marijuana dispensary.

K. A medical marijuana dispensary shall provide the name and phone number of an on-site staff person to the Yucca Valley Police Administration Division and Community Development Department for notification if there are operational problems with the establishment. Such staff person must respond to the Town by phone within 30 minutes if contacted during business hours.

L. All dispensary operators, employees, and volunteers shall complete a criminal background check, including a Live Scan, and submit same to the Town Community Development Department prior to starting work at the medical marijuana dispensary, at any time throughout the annual Regulatory Safety Permit period. All dispensary operators shall complete the criminal background check, including a Live Scan, prior to approval of any entitlement of use, including but not limited to an exemption, regulatory safety permit, or business registration certificate. Operators, employees, or volunteers may not have been convicted of, or plead guilty/no-contest to, a felony within the past seven years.

M. Medical marijuana shall not be grown at medical marijuana dispensary facilities, except that cuttings of the medical marijuana plant may be kept or maintained on-site for distribution to qualified patient and their primary caregivers to cultivate medical marijuana plants off-site and to return medical marijuana from the resulting mature plant for distribution by the dispensary.

N. A medical marijuana dispensary shall comply with the applicable provisions of the California Health and Safety Code, sections 11362.5 through 11362.83, the Yucca Valley Development Code, and the Yucca Valley Municipal Code.

O. If medical marijuana food product is distributed at the facility, the medical marijuana dispensary shall comply with all relevant state laws and town ordinances pertaining to the preparation, distribution and sale of such food.

P. The property must provide a sufficient odor absorbing ventilation and exhaust system so that odor generated inside the property is not detected outside the property, anywhere on adjacent property or public rights-of-way, or within any other unit located within the same building as the medical marijuana dispensary.

Q. The medical marijuana dispensary, interior and exterior, shall be monitored at all times by web-based closed-circuit television for security purposes. The camera and recording system

must be of adequate quality, color rendition and resolution to allow the ready identification of any individual committing a crime anywhere on or adjacent to the location. The recordings shall be maintained for a period of not less than ninety days. The Yucca Valley Police Administration Division may request the recordings in connection with an investigation. If the recordings are not voluntarily provided, the Police Administration Division may seek a warrant or court order for the recordings.

R. The medical marijuana dispensary shall have a centrally-monitored fire and burglar alarm system and the building or the portion of the building where the dispensary is located shall contain a fire-proof safe;

S. No manufacture of concentrated cannabis in violation of California Health and Safety Code section 11379.6 is allowed;

T. No medical marijuana dispensary shall operate for profit. Cash and in-kind contributions, reimbursements, and reasonable compensation provided by qualified patient participants and their primary caregivers (as those terms are defined by Health & Safety Code 11362.5) towards the medical marijuana dispensary's actual expenses of the growth, cultivation, and provision of medical marijuana shall be allowed provided that they are in strict compliance with State Law. All such cash and in-kind amounts and items shall be fully documented.

U. If the medical marijuana dispensary operator is not the owner of the property where the dispensary is to operate, the operator shall provide evidence to the Town prior to issuance of any entitlement or license for use that the property owner(s) consent to the operation of a medical marijuana dispensary on the property and a copy of the lease.

V. The medical marijuana dispensary shall not operate any type of delivery-by-vehicle service or provide any product to a patient or participant at any location other than on the premises of the medical marijuana dispensary.

W. All medical marijuana sold or otherwise distributed by the medical marijuana dispensary shall be packaged and contain a label in print large enough to be readable that includes the following statement:

WARNING: THIS PRODUCT CONTAINS MARIJUANA. THIS PRODUCT IS MANUFACTURED WITHOUT ANY REGULATORY OVERSIGHT FOR HEALTH, SAFETY, OR MEDICAL EFFECTIVENESS. THERE MAY BE HEALTH RISKS ASSOCIATED WITH THE INGESTION OR USE OF THIS PRODUCT.

9.53.050 Location Restrictions.

A. A medical marijuana dispensary may operate only in the “Industrial”, “Mixed Use Commercial”, “Old Town Mixed Use”, “Old Town Commercial/Residential” and “Old Town Industrial/Commercial” zoning districts.

B. No medical marijuana dispensary may be located within:

(1) 600 feet of a “school”, as defined under Health and Safety Code 11362.768 (h);

(2) 600 feet of a licensed child care facility or place where children under the age of 18 regularly gather;

(3) 600 feet of a church or house of worship existing as of the effective date of this section;

(4) 200 feet of any state highway (including State Highways 62 and 247);

(5) The distances outlined above shall be construed as the horizontal distance measured in a straight line from the property line of the school, licensed child care facility, or place where children under the age of 18 regularly gather, to the closest property line of the medical marijuana dispensary.

9.53.060 Preferred Exemptions

A. Within thirty (30) calendar days following the effective date of Chapter 9.53, the Town Clerk shall cause to be prepared an application form for use by medical marijuana dispensaries applying for a preferred exemption from Section 9.14.050.

B. The application for preferred exemption shall require a medical marijuana dispensary to pay a non-refundable processing fee in an amount established by the Town Council and submit a copy of either (a) all of items 1 thru 5 below, or (b) items 5 and 6 below:

1. Its Articles of Incorporation file stamped by the California Secretary of State on or before the date of July 1, 2014;

2. A valid California State Board of Equalization Seller’s Permit issued on or before the date of July 1, 2014 for operation at a location within the Town of Yucca Valley;

3. A State of California, Department of Food and Agriculture application for a license to sell nursery stock within the Town of Yucca Valley and proof said application was submitted to and received by the California Department of Food and Agriculture on or before the date of July 1, 2014;

4. Its most recent Statement of Information file stamped by the Secretary of State, with any amendments thereto;

5. The name, home address, telephone number, title and function(s) of each and every proposed operator of the medical marijuana dispensary, and a fully legible copy of one valid government issued form of photo identification, such as State Driver's License or Identification Card, for each and every proposed operator;

6. Evidence that demonstrates to the satisfaction of the Town Clerk that the medical marijuana dispensary has operated in the Town within three years prior to January 1, 2015 pursuant to an agreement with the Town.

C. Thirty-one (31) days following the effective date of Chapter 9.53, the Town Clerk shall begin accepting applications for preferred exemptions.

D. The Town Clerk shall ensure that each application for preferred exemption is date and time stamped and processed in the order in which it was received. For any preferred exemption applications received essentially simultaneously, as determined by the Town Clerk, the order in which they are processed shall be determined by random drawing. Such random drawing shall be held after public notice to the preferred exemption applicants of the date, time and place, of such drawing, and such drawing shall be conducted in a public setting.

E. Any medical marijuana dispensary application for any exemption submitted after the Town Clerk has issued written notices of completion of application for exemption to the maximum number of medical marijuana dispensaries, as set forth in section 9.53.090, shall be rejected. The Town Clerk shall resume accepting applications pursuant to section 9.53.070 ninety days after the total number of medical marijuana dispensaries with recognized exemption falls below the maximum limit set forth in section 9.53.090, with public notice provided pursuant to section 9.53.070(C).

F. Any application for preferred exemption submitted by a medical marijuana dispensary which does not fully comply with the requirements set forth in Section 9.53.060 shall be rejected.

G. No two applications for any exemption may be from the same corporation as indicated on the Articles of Incorporation. No person listed as an operator, or incorporator or officer on the Articles of Incorporation or Statement of Information submitted by a dispensary with its exemption application, may be listed as an operator, incorporator, or officer on any other applicant's Articles of Incorporation or Statement of Information or application, unless the prior

application had been awarded an exemption that expired or was revoked. At least one operator listed on an exemption application must also be an incorporator or officer listed on the applicant's Articles of Incorporation or Statement of Information.

H. Within ten (10) business days following submittal of an application for preferred exemption, the Town Clerk shall determine whether the application is complete, and shall either:

1. Notify the applicant in writing that the application for preferred exemption is complete; or
2. Notify the applicant in writing that the application for preferred exemption is incomplete, and set forth the reason(s) therefore, including all additional information and documentation necessary to render the application complete.

I. The applicant shall have fifteen (15) business days from the date of notice of incomplete application for preferred exemption to submit all additional information and documentation identified by the Town Clerk to complete the application. Any amended application for preferred exemption shall maintain the original date and time stamp in the order in which it was received, as set forth in section 9.53.060, subd. (D).

J. Within ten (10) business days following receipt of an amended application for preferred exemption set forth in section 9.53.060, subd. (I), the Town Clerk shall determine whether the application is complete, and shall either:

1. Notify the applicant in writing that the application for preferred exemption is complete; or
2. Notify the applicant in writing that the application for preferred exemption remains incomplete setting forth the reasons therefore and shall be considered rejected and null and void.

9.53.070 Non-preferred Exemptions.

A. Within thirty (30) calendar days following the effective date of Chapter 9.53, the Town Clerk shall cause to be prepared an application form for use by medical marijuana dispensaries applying for a non-preferred exemption from Section 9.14.050.

B. The application for non-preferred exemption shall require a medical marijuana dispensary to pay a non-refundable processing fee in an amount established by the Town Council and attach a copy of:

1. Its Articles of Incorporation file-stamped by the California Secretary of State;

2. Its most recent Statement of Information file stamped by the Secretary of State, with any amendments thereto;

3. The name, home address, telephone number, title and function(s) of each and every proposed operator of the medical marijuana dispensary, and a fully legible copy of one valid government issued form of photo identification, such as State Driver's License or Identification Card, for each and every proposed operator;

C. One hundred and eighty (180) calendar days following the date of enactment of Chapter 9.53, the Town Clerk shall begin accepting applications for non-preferred exemptions. At least 60 days prior to the opening of any non-preferred exemption application period, the Town Clerk shall mail notice of the date of such opening to all persons who have submitted a request for such notice to the Town Clerk in writing.

D. The Town Clerk shall ensure that each application for non-preferred exemption is date and time stamped and processed in the order in which it was received. For any applications received essentially simultaneously, as determined by the Town Clerk, the order in which they are processed shall be determined by random drawing. Such random drawing shall be held after public notice to the non-preferred exemption applicants of the date, time and place, of such drawing, and such drawing shall be conducted in a public setting.

E. Any medical marijuana dispensary application for non-preferred exemption submitted after the Town Clerk has issued written notices of completion of application for exemption to the maximum number of medical marijuana dispensaries, as set forth in section 9.53.090, shall be rejected. The Town Clerk shall resume accepting applications pursuant to section 9.53.070 ninety days after the total number of medical marijuana dispensaries with recognized exemption falls below the maximum limit set forth in section 9.53.090, with public notice provided pursuant to section 9.53.070(C).

F. Any application for non-preferred exemption submitted by a medical marijuana dispensary which does not fully comply with the requirements set forth in Section 9.53.070 shall be rejected.

G. No two applications for non-preferred exemption may be from the same corporation as indicated on the Articles of Incorporation. No person listed as an operator, or incorporator or officer on the Articles of Incorporation or Statement of Information submitted by a dispensary with its non-preferred exemption application, may be listed as an operator, incorporator, or officer on any other applicant's Articles of Incorporation or Statement of Information or application, unless the

prior application had been awarded an exemption that expired or was revoked. At least one operator listed on a non-preferred exemption application must also be an incorporator or officer listed on the applicant's Articles of Incorporation or Statement of Information.

H. Within ten (10) business days following application for non-preferred exemption, the Town Clerk shall determine if the application is complete, and shall either:

1. Notify the applicant in writing that the application for non-preferred exemption is complete; or
2. Notify the applicant in writing that the application for non-preferred exemption is incomplete, and set forth the reason(s) therefore, including all additional information and documentation necessary to render the application complete.

I. The applicant shall have fifteen (15) business days from the date of notice of incomplete application for non-preferred exemption to submit all additional information and documentation identified by the Town Clerk to complete the application. Any amended application for non-preferred exemption shall maintain the original date and time stamp in the order in which it was received, as set forth in section 84.10025, subd. (D).

J. Within ten (10) business days following receipt of an amended application for non-preferred exemption set forth in section 9.53.070, subd. (I), the Town Clerk shall determine whether the application is complete, and shall either:

1. Notify the applicant in writing that the application for non-preferred exemption is complete; or
2. Notify the applicant in writing that the application for non-preferred exemption remains incomplete setting forth the reasons therefore and shall be considered rejected and null and void.

9.53.080 Recognized exemptions and regulatory safety permits.

A. A medical marijuana dispensary that has been provided with written notice from the Town Clerk indicating that its preferred or non-preferred exemption application pursuant to section 9.53.060 or 9.53.070 has been deemed complete, shall be exempt from the prohibition described in section 9.14.050, and shall be eligible for a business registration certificate and eligible to apply for a regulatory safety permit, so long as said exempted medical marijuana dispensary remains in full compliance with each of the requirements and standards set forth in this Chapter;

B. Every medical marijuana dispensary shall obtain a Regulatory Safety Permit from the Director of the Community Development Department (“Director”). It shall be unlawful for any person, association, partnership or corporation to engage in, conduct or carry on, in or upon any premises within the Town a medical marijuana dispensary without the required regulatory safety permit. A copy of the Regulatory Safety Permit shall be displayed at all times in a place visible to the public in the medical marijuana dispensary.

C. Any medical marijuana dispensary desiring a regulatory safety permit required by this chapter shall, prior to initiating operations and within 45 days after being sent notice of its exemption under section 9.53.060 or 9.53.070, complete and file an application to the Director on a form supplied by the Director. The application shall be filed together with a nonrefundable fee as establish by resolution of the Town Council, to defray the cost of investigation required by this section. The application shall contain all of the following:

1. The address where the medical marijuana dispensary will operate;
2. A site plan describing the property with full dimensioned interior and exterior floor plans including electrical, mechanical, plumbing, and disabled access compliance pursuant to Title 24 of the California Code of Regulations and the federally mandated Americans with Disabilities Act;
3. Exterior photographs of the entrances, exits, street frontages, parking, front, rear, and sides of the proposed property;
4. Photographs depicting the entire interior of the proposed property;
5. If the property is being rented or leased or is being purchased under contract, a copy of such lease or contract;
6. If the property is being rented or leased, written proof that the property owner, and landlord if applicable, were given notice that the property will be used as a medical marijuana dispensary, and that the property owner, and landlord if applicable, agree to said operations;
7. The name, home address, telephone number, title and function(s) of each and every proposed operator, employee, and volunteer of the medical marijuana dispensary, and a fully legible copy of one valid government issued form of photo identification, such as State Driver’s License or Identification Card, for each and every proposed operator, employee, or volunteer. This information must be updated as operators, employees, and volunteers change;

8. Reliable proof obtained pursuant to section 9.53.040(L) that no medical marijuana dispensary operator, employee, or volunteer has been convicted of, or plead guilty/no-contest to, a felony within the past seven years.

9. A certified copy of the dispensary's Secretary of State Articles of Incorporation, Certificate(s) of Amendment, Statement(s) of Information, and a copy of the dispensary's Bylaws;

10. The name and address of the dispensary's current agent for service of process;

11. A copy of the dispensary's Board of Equalization Seller's Permit issued for operation at a location within the Town of Yucca Valley;

12. A copy of the medical marijuana dispensary operating standards and locational restrictions, listed in sections 9.53.040 and 9.53.050, containing a statement dated and signed by all dispensary operators stating under penalty of perjury that they have read, understand, and shall ensure compliance with the aforementioned operating standards.

D. The Director shall have sixty (60) calendar days in which to investigate the application and background of the applicant. The building department, the fire department, and the San Bernardino County Health Department shall inspect the premises proposed for the dispensary and shall make separate recommendations to the Director concerning compliance with the foregoing provisions.

The Director, after receiving the application and aforementioned recommendations, shall grant the permit only if he finds all of the following:

- (1) The required fee has been paid.
- (2) The application conforms in all respects to the provisions of this chapter.
- (3) The applicant has not knowingly made a material misrepresentation in the application.
- (4) the applicant has fully cooperated in the investigation of his or her application.
- (5) The applicant has not had an exemption, regulatory safety permit, or other similar license or permit denied or revoked for cause by this Town or any other city or county located in or out of this state within the five (5) years prior to the date of application.
- (6) The dispensary as proposed by the applicant would comply with all applicable laws including, but not limited to, health, zoning, fire, and safety requirements.

(7) The applicant has demonstrated compliance with the California Department of Justice, Office of the Attorney General, “Guidelines for the Security and non-Diversion of Marijuana Grown for Medical Use” standards.

(8) A regulatory safety permit shall not authorize construction of a new structure or additional habitable space to an existing structure. Regulatory Safety Permit applications which propose new construction or additions to existing structures shall comply with the application and review processes established by the Yucca Valley Development Code and any other land use plan in effect, and shall require Planning Commission review and approval.

(9) The applicant shall demonstrate compliance with the following Town of Yucca Valley Development Code minimum standards. The Director is also authorized to require compliance with provisions of the Development Code pursuant to Chapter 9.63, Conditional Use Permit requirements, and Chapter 9.68, Site Plan and Design Review where deemed necessary. The minimum standards shall include, but not be limited to:

a. Parking and screening requirements

b. Outdoor Lighting regulations

c. Commercial Design Guidelines

d. Dedication of easements for drainage facilities, streets, trails, aviation easements as required by the Development Code or any adopted land use plan.

e. Utility undergrounding.

f. ADA Access from adjacent streets and the site parking facility to the project structure.

g. Control of vehicular ingress and egress.

h. Control of on-site traffic and pedestrian circulation.

i. Control of potential nuisances;

j. Indemnification

k. Trash containment and collection.

l. Native Plant Regulations

Alternatively, the Director may refer an application for regulatory safety permit to the Planning Commission.

E. Any exempt dispensary not filing an application for regulatory safety permit within 45 days after being sent notice of its exemption shall lose its exempt status. Any exempt dispensary whose application for a regulatory safety permit is denied, or whose regulatory safety permit expires or is revoked, shall lose its exempt status. In all such cases, 90 days after the loss of any dispensary's exempt status, the Town Clerk shall resume processing and accepting exemption applications pursuant to 9.53.070(E), with public notice provided pursuant to section 9.53.070(C), until the available exemptions are filled.

F. A Regulatory Safety Permit shall be valid for a period of one (1) year, unless sooner revoked. Applications for the renewal of a regulatory safety permit shall be filed with the Director at least sixty (60) calendar days before the expiration of the current permit. Temporary permits will not be issued. Any permittee allowing his or her permit to lapse shall be required to submit a new exemption application under section 9.53.070 and pay the corresponding fees.

G. The regulatory safety permit renewal application shall be a written application to the Director under penalty of perjury. The application shall be accompanied by a nonrefundable filing fee established by separate resolution of the Town Council to help defray the cost of the investigation required for such renewals. An applicant shall be required to update the information contained in his/her prior regulatory safety permit application and provide any new and/or additional information as may be reasonably required by the Director in order to determine whether said permit should be renewed.

9.53.090 Maximum number of medical marijuana dispensaries

The number of exempted medical marijuana dispensaries within the Town shall be limited to one (1) per ten thousand (10,000) Town residents. This number shall increase with each additional ten thousand Town residents, such that for twenty thousand (20,000) Town residents the number of medical marijuana dispensaries would be limited to two (2), for thirty thousand (30,000) Town residents the number would be limited to three (3) medical marijuana dispensaries, and so on. The population figures to be used shall be those most recently determined and promulgated by the California Department of Finance for cities, counties and states.

9.53.100 Annual operating fee

Each medical marijuana dispensary operating with a regulatory safety permit shall be required to pay an annual operating fee to the Town, in an amount to be established by Town

Council resolution, to assist the Town in recovering increased law enforcement costs incurred as a result of dispensary operations in the Town. The operating fee shall be increased each year by the increase in the Consumer Price Index.

9.53.110 Maintenance of Records

A medical marijuana dispensary shall maintain records at the location accurately and truthfully documenting: (1) the full name, address, and telephone number(s) of the owner, landlord and/or lessee of the location; (2) the full name, address, and telephone number(s) of all operators and other members who are engaged in the management of the dispensary and the exact nature of each member's participation in the management of the dispensary; (3) the full name, address, and telephone number(s) of all patient members to whom the dispensary provides medical marijuana, and a copy of a government-issued identification card for all patient members; (4) the full name, address, and telephone number(s) of all primary caregiver members to whom the dispensary provides medical marijuana; (5) all receipts of the collective, including but not limited to all contributions, reimbursements, and reasonable compensation, whether in cash or in kind, and all expenditures incurred by the collective for the cultivation of medical marijuana; and (6) proof of compliance with the California Attorney General Guidelines for the Security and Non-Diversion of Marijuana Grown for Medical Use. These records shall be maintained by the dispensary for a period of five years and shall be made available by the dispensary to the Police Administration Division and/or Community Development Department upon request. If they are not produced as requested the Town may seek a search warrant, subpoena, or court order. In addition to all other formats that the dispensary may maintain, these records shall be stored by the dispensary at the location in a printed format in its fire-proof safe. Any loss, damage or destruction of the records shall be reported to the Town Community Development Department within 24 hours of the loss, destruction or damage.

9.53.120 Audits

No later than February 15 of every year, each dispensary shall file with the Town one copy of an audit of its operations of the previous calendar year, completed and certified by an independent certified public accountant in accordance with generally accepted auditing and accounting principles. The audit shall include but not be limited to a discussion, analysis, and verification of each of the records required to be maintained pursuant to this chapter.

9.53.130 Applicability to existing medical marijuana operations

Any existing medical marijuana collective, dispensary, operator, establishment, or provider that does not comply with the requirements of this chapter must immediately cease operation until such time, if any, when it complies fully with the requirements of this chapter. No medical marijuana collective, dispensary, operator, establishment, or provider that existed prior to the enactment of this chapter shall be deemed to be a legally established use under the provisions of this chapter, and such medical marijuana collective, dispensary, operator, establishment, or provider shall not be entitled to claim legal nonconforming status.

9.53.140 Compliance with this chapter and state law

A. It is unlawful for any person to (i) cause, permit or engage in the cultivation, possession, distribution or giving away of medical marijuana or (ii) own establish, operate, use or permit the establishment or operation of a medical marijuana dispensary, or to participate as an employee, contractor, agent or volunteer of a dispensary, except as provided in this chapter, and pursuant to any and all other applicable local and state laws.

B. It is unlawful for any person to knowingly make any false, misleading or inaccurate statements or representations in any forms, records, filings or documentation required to be maintained, filed or provided to the Town under this chapter, or to any other local, state or federal government agency having jurisdiction over any of the activities of dispensaries.

C. It shall be the sole responsibility of the members engaged in the management of the dispensary to ensure that the dispensary is at all times operating in a manner compliant with all applicable state laws and this chapter. Nothing in this chapter shall be construed as authorizing any actions which violate state law with regard to the cultivation, transportation, provision, and sale of medical marijuana.

D. Each exemption or regulatory safety permit issued pursuant to this chapter is personal to the operators and shall not run with the land. Medical marijuana dispensary operators shall not transfer or assign the exemption or regulatory safety permit rights or obligations thereunder, directly or indirectly, voluntarily or by operation of law, without the transferee/assignee obtaining a new exemption and regulatory safety permit. For purposes of this section, “transfer” or “assign” means a transfer, assignment, conveyance, hypothecation, mortgage, pledge, or encumbrance to any person or group of persons acting in concert of more

than twenty-five percent (25%) of the present equity ownership and/or more than twenty-five percent (25%) of the voting control of the medical marijuana dispensary or any general partner of the medical marijuana dispensary in the aggregate, taking all transfers into account on a cumulative basis, except transfers of such ownership or control interest between members of the same immediate family, or transfers to a trust, testamentary or otherwise, in which the beneficiaries are limited to members of the transferor's immediate family.

9.53.150 Violation and enforcement

A. Upon violation of any provision of this chapter, a dispensary's regulatory safety permit may be revoked by the Director of Community Development pursuant to the procedures in Chapter 9.84. A regulatory safety permit shall not be considered revoked for purposes of section 9.53.080(E) until all administrative and judicial appeals have been exhausted, or the deadlines or statute of limitations for same has expired, and the revocation decision has therefore become final.

B. Each and every violation of this chapter shall constitute a separate violation and shall be subject to all remedies and enforcement measures authorized by the Town Municipal Code. Additionally, as a nuisance per se, any violation of this article shall be subject to injunctive relief, revocation of the collective's regulatory safety permit, revocation of the certificate of occupancy for the location, costs of abatement, costs of investigation, attorney fees, and any other relief or remedy available at law or equity. The Town may also pursue any and all remedies and actions available and applicable under local and state laws for any violations committed by the dispensary and persons related or associated with the dispensary.

C. In addition to any other remedy provided by law, the Town may issue administrative citations in response to violations of this chapter, pursuant to Yucca Valley Municipal Code Chapter 1.04. The amount of the administrative citation for violation of this chapter shall be established by resolution of the Town Council.

Section 6 - Amendment to Section 9.10.020 of the Town of Yucca Valley Development Code.

Section 9.10.020, Table 2-18, Industrial District land use table, of the Town of Yucca Valley Development Code, is hereby amended as follows (Any underlined language is new and is inserted, whereas any strike-through language is existing and is deleted):

...

Type of Use	Permit Required	Notes and Other Regulations
Medical Marijuana Dispensary	NP P	Permitted only in compliance with Chapter 9.53

..

Section 9.09.020, Table 2-15, Commercial Zoning Districts District land use table, of the Town of Yucca Valley Development Code, is hereby amended as follows (Any underlined language is new and is inserted, whereas any strike-through language is existing and is deleted):

...

Type of Use	C-C	C-G	C-O	C-MU	C-N	Notes and Other Regulations
Medical Marijuana Dispensary	NP	NP	NP	CUP	NP	Permitted only in compliance with Chapter 9.53

Section 7 – Amendment to Table 4-1 of Old Town Yucca Valley Specific Plan.

Table 4-1 in Section 4.3.1 of the Old Town Yucca Valley Specific Plan, adopted by Ordinances 185 and 186 of the Town Council as described in Section 9.13.050, is hereby amended as follows (Any underlined language is new and is inserted, whereas any strike-through language is existing and is deleted.):

...

Permit Requirement by District							
Land Use	OTMU	OTHC	OTCR	OTIC	HE Overlay		Notes:
Miscellaneous							
...							
<u>Medical Marijuana Dispensary</u>	-CUP	-NP	-CUP	P	-		<u>Permitted only in compliance with Development Code Chapter 9.53</u>
...							

...

-

Section 8 - Amendment and Repeal.

The code provisions added by, amended by, or contained in this initiative ordinance may be amended only to further its purposes by ordinance passed by a majority vote of the Yucca Valley Town Council. The code provisions added by, amended by, or contained in this initiative ordinance shall not be repealed, except by an ordinance adopted by a vote of the electors.

Section 9 - Severability.

Should any provision of this initiative ordinance, or its application to any person or circumstance, be determined by a court of competent jurisdiction to be unlawful, unenforceable

or otherwise void, voidable, or invalid, that determination shall have no effect on any other provision, or the application of this initiative to any other person or circumstance and, to that end, the provisions hereof are severable_ By approving this ordinance the voters intend that each section and sub-section be explicitly severable, part-by-part, phrase-by-phrase, and word-byword, thus that the minimum language held invalid be severed.

Section 10 - Effective Date.

After its adoption by the voters, this ordinance shall be in full force and effect ten (10) days after the vote is declared by the legislative body.