

ORDINANCE NO. 2
(Series 2010)

AN ORDINANCE OF THE TOWN OF LAKE CITY, COLORADO EXTENDING AND EXPANDING A MORATORIUM ON GRANTING ANY LICENSE, UTILITY TAP OR OTHER PRIVILEGE TO ALLOW OR FACILITATE THE ESTABLISHMENT AND OPERATION OF CERTAIN BUSINESSES ENGAGED IN THE CULTIVATION AND SALE OF MEDICAL MARIJUANA PRODUCTS WITHIN THE TERRITORIAL LIMITS OF THE TOWN, AND DECLARING AN EMERGENCY.

WHEREAS, on December 30, 2009, the Board of Trustees of Lake City, Colorado adopted Ordinance No. 5, Series 2009 imposing a 6-month moratorium on the review of applications for medical marijuana dispensaries, the purpose thereof being to allow time for a study to be made of reasonably predictable impacts of such land uses upon the health, safety and welfare of the general public, and to allow consideration of zoning and other regulations needed to mitigate those impacts; and

WHEREAS, experiences with the regulation and policing of medical marijuana dispensaries have varied among municipalities Statewide and across the country, with several reporting increases in criminal behavior and related negative environmental impacts in the vicinity of new dispensaries including burglary, robbery, homicide, loitering, vehicular traffic, noise and illegal drug sales; and

WHEREAS, several lawsuits have been filed in Colorado challenging the local regulation of dispensaries by other municipalities, leading the State legislature to announce an intent to adopt uniform laws and regulations having Statewide application on the subject of medical marijuana dispensaries; and

WHEREAS, although State legislation (HB 1284) has now been enacted, it will not be scheduled to become effective until July 1, 2010 and the scope of its application needs to be more fully analyzed and understood, and more public input on its options needs to be allowed, before the Town decides upon any course for its own legislation, the objective being to avoid conflicts in legislation that could trigger even more litigation; and

WHEREAS, Ordinance No. 5, Series 2009 will expire by its own terms on June 30, 2010, unless the Town Trustees extend the term of the subject moratorium; and

WHEREAS, additional time is necessary for further legal research, secondary impact study, proper zoning consideration to address the effect and impact of medical marijuana dispensaries; and

WHEREAS, an extension of the existing moratorium will provide the Town with the time needed to draft local legislation in harmony with the anticipated new State laws, and possibly with judicial decisions predicated thereon; and

WHEREAS, it appears that an extension of the existing moratorium is the only practical way to address these sensitive matters in a manner that will best promote the public peace, safety and welfare for a reasonable period of time that is no longer than necessary to accomplish the foregoing objectives.

NOW, THEREFORE, BE IT ORDAINED BY THE BOARD OF TRUSTEES OF THE TOWN OF LAKE CITY, COLORADO as follows:

SECTION 1: Moratorium Extension. For the reasons set forth hereinabove, and in order to preserve the public peace, safety, and welfare, the moratorium established by Ordinance No. 5, Series 2009, as adopted on December 30, 2009, is hereby extended for a period of one year through and including June 30, 2011.

SECTION 2: Scope and Effect. The moratorium referred to in Section 1 above shall hereby be expanded to prohibit the acceptance for review of applications pertaining to not only medical marijuana dispensaries, but also so-called optional premises medical marijuana cultivation operations, medical marijuana infused products manufacturing and medical marijuana centers. Said applications shall be deemed to include those for related water taps, sales and use tax licenses, amendments to the Town's official zoning map, site development, sign permits, zoning use certificates, certificates of occupancy, use permits, building permits, occupancy permits and other entitlements for establishment and operation of medical marijuana dispensaries in any zone of the Town during the duration of the moratorium as extended by this Resolution.

SECTION 3: Method of Amendment, Extension or Termination. The subject moratorium shall be subject to amendment, extension or termination by either subsequent resolution or ordinance approved by a majority of the Town's Board of Trustees.

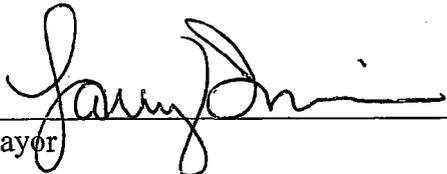
SECTION 4: Adoption and Incorporation. The findings contained in Ordinance No. 5, Series 2009 are hereby adopted and incorporated by reference as though fully set forth herein.

SECTION 5: Exclusions. This ordinance shall not be deemed to limit the medical marijuana growing and dispensation rights of so-called medical "care providers" provided in the Colorado constitution.

SECTION 6: Severability. If any section, subdivision, paragraph, sentence, clause or phrase of this resolution or any part thereof is for any reason held to be unconstitutional, or invalid or ineffective by any court of law, such decision shall not affect the validity or effectiveness of the remaining portions of this resolution or any part thereof. The Board of Trustees of the Town of Lake City hereby declares that it would have passed each section, subsection, subdivision, paragraph, sentence, clause or phrase thereof regardless of the fact that any one or more sections, subsections, subdivisions, paragraphs, sentences, clauses or phrases be declared unconstitutional, invalid or ineffective.

SECTION 7: Emergency Declared. The Board of Trustees finds and concludes that this moratorium ordinance is necessary for the immediate preservation of the peace, health, welfare, safety and economic well being of the Town of Lake City, and that the prospect for any proliferation of the marijuana businesses described hereby in an unrestricted and unregulated environment within the Town constitutes an emergency.

Approved and Adopted this 16th day of June, 2010, by the affirmative vote of not less than two-thirds of the members of the Board of Trustees of Lake City, Colorado.



Mayor

ATTEST:



Town Clerk