

AN ORDINANCE IMPOSING A TEMPORARY MORATORIUM ON THE ACCEPTANCE, PROCESSING AND APPROVAL OF ANY APPLICATION FOR A TOWN OF HOT SULPHUR SPRINGS PERMIT OR LICENSE CONCERNING THE OPERATION OF ANY BUSINESS INVOLVING THE SALE OR CULTIVATION OF MEDICAL MARIJUANA PURSUANT TO ARTICLE 18, SECTION 14 OF THE COLORADO CONSTITUTION, DECLARING THE INTENTION OF THE HOT SULPHUR SPRINGS BOARD OF TRUSTEES TO CONSIDER THE ADOPTION OF APPROPRIATE REGULATIONS GOVERNING SUCH BUSINESSES TO THE EXTENT ALLOWED BY LAW, DIRECTING TOWN STAFF TO INVESTIGATE THE TOWN'S AUTHORITY TO REGULATE SUCH BUSINESSES AND TO PREPARE REGULATIONS FOR THE BOARD'S CONSIDERATION, AND DECLARING AN EMERGENCY

WHEREAS, in November 2000 the voters of the State of Colorado adopted Amendment 20 to the Colorado Constitution, which authorizes the sale of medical marijuana for use in the treatment of certain debilitating medical conditions; and

WHEREAS, the Town of Hot Sulphur Springs is a statutory municipality incorporated and organized pursuant to the provisions of Section 31-2-101, et seq., C.R.S.; and

WHEREAS, the Town of Hot Sulphur Springs is empowered under its general police powers, the Colorado Land Use Control Enabling Act (C.R.S. §§ 29-20-101 to -107), and Article 23 of Title 31 of the Colorado Revised Statutes to adopt such ordinances as are necessary and convenient for the purposes of land use in order to protect the health, safety, and welfare of the Town's residents; and

WHEREAS, in recent weeks the Town of Hot Sulphur Springs has received inquiries from businesses desiring to cultivate and process medical marijuana and/or to dispense medical marijuana to individuals permitted by state law to use it ("Medical Marijuana Dispensaries?"); and

WHEREAS, the Town has no current land use or business regulations governing the operation of Medical Marijuana Dispensaries and the Board of Trustees finds that the Town's existing land use, development and business regulations do not adequately address and regulate the potential impacts created by Medical Marijuana Dispensaries and that the approval of such uses under the Town's existing regulations will result in undesired and unintended impacts which may degrade the health, safety, and welfare of the public; and

WHEREAS, the Board of Trustees finds that there is a potential for, and likelihood of, the continued submission of land use and/or business applications for Medical Marijuana Dispensaries during the next weeks and months prior to the completion of the Town staff's preparation of new regulations for such uses; and

WHEREAS, a moratorium of nine (9) months, up to and including September 3, 2010, is a reasonable period for the Town to research, investigate, prepare and, if appropriate, adopt and implement regulations governing medical marijuana businesses; and

WHEREAS, the imposition of a moratorium on the acceptance, processing and approval of all applications relating to the establishment and/or operation of medical marijuana businesses, including but not limited to business or sales tax license applications, zoning applications or building permit applications, would allow Town staff to investigate the real or potential impacts of such businesses, if any, on Hot Sulphur Springs businesses and citizens and the authority of the Town to regulate medical marijuana businesses, and to prepare for the Board of Trustees' consideration and adoption any appropriate regulations; and

WHEREAS, the Board of Trustees will instruct the Town's staff and consultants to promptly and without undue delay prepare new regulations as provided in this Ordinance; and

WHEREAS, such a moratorium will not cause undue hardship or unduly prejudice the individuals and entities that have only recently inquired about establishing a medical marijuana business; and

WHEREAS, this Ordinance is necessary for the immediate preservation of the public peace, health and safety in that the issuance of approvals to establish and/or operate a medical marijuana business could bestow certain legal rights upon such businesses before the Town has a reasonable opportunity to investigate fully the potential impacts of such businesses and to develop, adopt and implement appropriate regulations.

NOW, THEREFORE, BE IT ORDAINED by the Board of Trustees of the Town of Hot Sulphur Springs, Colorado, that:

Section 1. The Board of Trustees adopts the recitations set forth herein as findings of the Board.

Section 2. Immediately upon adoption of this Ordinance, a moratorium shall be imposed upon the acceptance, processing and approval of any and all applications for licenses or permits relating to the establishment and/or operation of medical marijuana businesses within the Town of Hot Sulphur Springs. Current zoning regulations do not allow such use as a permitted use or use by special review and Town staff is hereby directed not to accept, process, review or approve any such applications during the effective period of the moratorium.

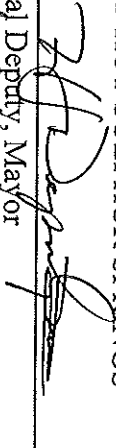
Section 3. Town staff is hereby further directed to research, investigate, draft and submit for the Board of Trustees' consideration, before the end of the moratorium period, appropriate regulations governing medical marijuana businesses within the Town of Hot Sulphur Springs.

Section 4. The Town Board finds that it is authorized to adopt this Ordinance pursuant to C.R.S. § 31-15-103, § 31-15-401, § 31-15-501, §§ 31-23-301, *et seq.*, and §§ 29-20-101, *et seq.*

Section 5. Emergency. The Board of Trustees finds that this Ordinance is necessary for the immediate preservation of the public peace, health and safety in that the issuance of approvals to establish and/or operate a medical marijuana business could bestow certain legal rights upon such businesses before the Town has a reasonable opportunity to investigate fully the potential impacts of such businesses and to develop, adopt and implement appropriate regulations and the immediate passage of this Ordinance is warranted in order to protect the health, safety and welfare of the residents of the Town. This Ordinance shall take effect upon the Mayor's signature.

INTRODUCED, READ, PASSED AND ADOPTED AS AN EMERGENCY MEASURE AND ORDERED PUBLISHED BY A VOTE OF NOT LESS THAN ¾ OF ALL MEMBERS OF THE BOARD OF TRUSTEES OF THE TOWN OF HOT SULPHUR SPRINGS, COLORADO, AT A REGULAR MEETING HELD ON THE 3RD DAY OF DECEMBER, 2009

TOWN OF HOT SULPHUR SPRINGS

By: 
Hershaj Deputy, Mayor

ATTEST:
By: 
Sandy White, Town Clerk

17th
Approved December 8, 2009.

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