

ORDINANCE NO. 4392

AN ORDINANCE CONCERNING LAND USE APPLICATIONS IN THE CITY OF GRAND JUNCTION, INSTITUTING A TEMPORARY MORATORIUM ON THE ISSUANCE OF LAND USE APPROVALS AND SALES TAX LICENSES FOR MEDICAL MARIJUANA DISPENSARIES AND PROVIDING PENALTIES FOR VIOLATION THEREOF

Recitals.

The purpose of this Ordinance is to afford the City Council an opportunity, by declaring a temporary moratorium on the filing of development applications for medical marijuana dispensaries, to determine the appropriate regulations and requirements for the conduct of those businesses in the City of Grand Junction.

A moratorium is lawful, necessary and appropriate so that the citizens of the City, by and through the City Council, may carefully evaluate and determine as appropriate the proper zoning, site specific regulation(s), use specific regulation(s) and/or licensing for any person or entity that purports to operate as a "primary care-giver" for the cultivation, sale, possession, distribution and/or provision of medical marijuana to or for any person with a "debilitating medical condition" as the same are defined In Article XVIII, Section 14, Amendment 20 of the Colorado Constitution.

This Ordinance shall apply to any person or entity applying to function, to do business as or hold itself out as a medical marijuana dispensary in the City of Grand Junction. The Ordinance shall equally apply to any person or entity regardless of zoning.

This Ordinance shall apply to any person or entity applying to function, do business as, or hold him, her or itself out as a "primary care-giver" as the same is defined in Article XVIII, Section 14, Amendment 20 of the Colorado Constitution. The Ordinance shall equally apply to any person or entity regardless of zoning and/or compliance with other applicable City regulation(s) including but not limited to home occupation.

This Ordinance shall apply to any person or entity applying for a sales tax license to function, do business as or hold him, her or itself out as a "primary care-giver" as the same is defined In Article XVIII, Section 14, Amendment 20 of the Colorado Constitution. The Ordinance shall equally apply to any person or entity regardless of compliance with other applicable State regulation(s) regarding the collection of sales tax.

Because of the proliferation of medical marijuana dispensaries and the recent incidence of two burglaries at one dispensary location, the Grand Junction Police Department by and through Chief John Camper has warned that further violent crime may result. Chief Camper has endorsed the moratorium provided for in this Ordinance.

A stated goal of the City Council is to make Grand Junction the most livable community west of the Rockies by 2025. While the Council acknowledges the rights of those members of the community that are suffering from a debilitating medical condition to access medical marijuana, the City Council must balance those rights against the need for regulation of the number, the location and the safety practices of those businesses supplying medical marijuana.

The City Council is concerned about and during the moratorium period may study whether an undue concentration of dispensaries may result in among other things the businesses becoming illegitimate. The existence of illegitimate dispensary businesses will harm those persons that rely on the drug for medicinal purposes and at the same time the community will be harmed if those businesses become fronts for criminal activity and/or targets for related crimes such as robbery, burglary and/or fraud. Through a concerted effort Attorney General Suthers and the Colorado Association of Chiefs of Police have identified significant concerns with the proliferation of dispensary businesses.

The City Council anticipates that the local legislative delegation and other State representatives and senators may be proposing legislation to "fill the gaps" that exist in the current body of law concerning Amendment 20 and medical marijuana. The City Council generally endorses a state-wide licensing process/regulation of dispensaries; however, the City Council urges that in any bill(s) that the legislature approves that Home Rule communities' right to craft more restrictive regulations be recognized and preserved.

The City Council hereby directs the City Manager and the City Attorney to monitor and evaluate any bill(s) brought to the legislature regarding medical marijuana and to advise the City Council Legislative Committee of those bills.

Consistent with the City's authority and obligation to promote the health, safety and general welfare of the citizens and residents of the City, the City Council does hereby find and determine that for a period of 12 months from the effective date of this Ordinance the City Manager is not to accept, process or act on any use or development application(s) or issue any permits for uses that are either conditional or allowed by the Zoning and Development Code for any use, business, activity or action that is known as or functions as a medical marijuana dispensary and/or a medical marijuana primary care-giver.

The City Manager shall issue no new sales tax licenses for any use, business or activity that is known as or functions as a medical marijuana dispensary and/or a medical marijuana primary care-giver. The City Manager may renew sales tax licenses issued prior to the date of this Ordinance if the licensee is in good standing with the City but no new sales tax licenses for the sale of medical marijuana shall issue.

It shall be illegal for any person or entity to function, do business as or hold him, her or itself out as a primary care-giver for the purpose of acquisition, possession, production or transportation of marijuana or paraphernalia related to the administration of such

marijuana as the same is defined in Article XVIII, Section 14, Amendment 20 of the Colorado Constitution without having a City sales tax license. An existing sales tax licensee, as of the effective date of this Ordinance, may not lawfully add medical marijuana to his, her or its inventory.

This Ordinance is reasonable and proper because there are no applications pending at this time and a temporary moratorium will allow the opportunity for careful determination of the public and private needs.

The authority for this Ordinance derives from the Colorado Constitution and the Charter and laws and ordinances of the City of Grand Junction.

This Ordinance shall expire, if not renewed or sooner repealed by the City Council, on a date 12 months from the final passage and 32 days following publication thereof.

NOW THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF GRAND JUNCTION THAT:

For the 12 month period following the date of lawful adoption of this Ordinance the City Manager, in accordance with the foregoing recitals which are adopted herein and made a part hereof, shall not accept, act on, process or approve any use or development application(s) or issue any permits for uses that are either conditional or allowed by the Zoning and Development Code for any use, business, activity or action that is known as or functions as a medical marijuana dispensary and/or a medical marijuana primary care-giver in the City of Grand Junction.

The moratorium established by this Ordinance shall apply to any person or entity applying to function, do business as, or hold itself out as a medical marijuana dispensary in the City of Grand Junction.

The moratorium shall equally apply to any person or entity regardless of zoning and/or the location of the medical marijuana dispensary.

The moratorium shall apply to any person or entity applying to function, do business as, or hold him, her or itself out as a "primary care-giver" as the same is defined In Article XVIII, Section 14, Amendment 20 of the Colorado Constitution.

The moratorium shall equally apply to any person or entity regardless of zoning and compliance with other applicable regulation(s) including but not limited to home occupation.

The moratorium shall equally apply to any person or entity, activity or action that applies for a sales tax license to function as a medical marijuana dispensary and/or a medical marijuana primary care-giver.

It shall be illegal for any person or entity to function, do business as or hold him, her or itself out as a primary care-giver for the purpose of acquisition, possession, production or transportation of marijuana or paraphernalia related to the administration of such marijuana as the same is defined in Article XVIII, Section 14, Amendment 20 of the Colorado Constitution without having a City sales tax license.

The City Manager may renew sales tax licenses issued prior to the date of this Ordinance but no new sales tax license for the sale of medical marijuana shall issue during the moratorium period. An existing City sales tax licensee, as of the effective date of this Ordinance, may not lawfully add medical marijuana to his, her or its inventory during the moratorium period.

Definitions of terms in Amendment 20 shall be applicable as necessary or required to construe this Ordinance.


Conducting business in violation of the provisions of this Ordinance constitutes a misdemeanor punishable in accordance with the penalties provided in Section 1.04.090 of the Grand Junction Code of Ordinances.

If any section, sentence, clause or phrase of this Ordinance is held invalid or unconstitutional by a court of competent jurisdiction, it shall in no way affect the validity of any remaining portions of this law.


This Ordinance shall expire, if not renewed or sooner repealed by the City Council, on a date 12 months from the final passage and 32 days following publication thereof.

INTRODUCED for FIRST READING on the 2nd of November, 2009.

PASSED and ADOPTED this 16th day of November, 2009.


President of the Council


Attest:


City Clerk

I HEREBY CERTIFY THAT the foregoing Ordinance, being Ordinance No. 4392 was introduced by the City Council of the City of Grand Junction, Colorado at a regular meeting of said body held on the 2nd of November, 2009 and that the same was published in The Daily Sentinel, a newspaper published and in general circulation in said City, at least ten days before its final passage.

I FURTHER CERTIFY THAT a Public Hearing was held on the 16th day of November, 2009, at which Ordinance No. 4392 was read, considered, adopted and ordered published in full by the Grand Junction City Council.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed the official seal of said City this 25th day of November, 2009.



Stephanie Tuin, MMC
City Clerk

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Published: November 18, 2009
Effective: December 18, 2009