

ORDINANCE NO. 19, SERIES OF 2010

AN ORDINANCE RESTRICTING LICENSED MEDICAL MARIJUANA FACILITIES TO CERTAIN ZONE DISTRICTS.

WHEREAS, in 2000 Colorado's electorate voted to amend the Colorado Constitution and thereby authorized the medical use of marijuana by patients diagnosed by licensed physicians as having debilitating medical conditions, as more fully set forth in Section 14 of Article XVIII thereof; and

WHEREAS, pursuant to the provisions of said Section 14 of Article XVIII, and other state law, the Colorado Department of Public Health and Environment ("CDPHE") established and maintains a confidential registry identification card system for patients authorized to engage in the medical use of marijuana and has promulgated certain rules pertaining to the medical use of marijuana by patients; and

WHEREAS, during the past year there has been considerable discussion, debate and confusion in Colorado as to whether facilities that cultivate, manufacture and sell medical marijuana and medical marijuana-infused products for use by patients (commonly called "dispensaries") are exempt from criminal prosecution under state laws; and

WHEREAS, in an effort to clarify at least some of the uncertainty regarding dispensaries and to clearly authorize by statute the operation of business facilities that cultivate, sell or manufacture medical marijuana and medical marijuana-infused products in jurisdictions that do not chose to prohibit such facilities, the Colorado General Assembly recently enacted the Colorado Medical Marijuana Code, Article 43.3 of Title 12, C.R.S., that provides for the licensing and other regulation of such facilities by both the state and local governments; and

WHEREAS, the City of Cañon City wishes to comply with the applicable provisions of state law pertaining to the cultivation, manufacture, sale, distribution and use of medical marijuana and medical marijuana-infused products, while also limiting the locations within the City where licensed medical marijuana facilities may be located and operated; and

WHEREAS, the City of Cañon City does not wish or intend to facilitate or authorize any acquisition, possession, production, use, distribution, transportation, cultivation or sale of medical marijuana or medical marijuana-infused products that is not authorized by Section 14 of Article XVIII of the Colorado Constitution and other applicable laws of the State of Colorado, including, but not limited to, the Colorado Medical Marijuana Code.

NOW THEREFORE, BE IT ORDAINED BY THE COUNCIL OF CAÑON CITY, as follows:

Section 1. The Cañon City Municipal Code is hereby amended to add a new subsection 17.08.272 to read as follows:

17.08.272 “Licensed Medical Marijuana Facility” shall have the same meaning that is given to such term in Section 5.56.020 of the Cañon City Municipal Code.

Section 2. Subsection 17.12.130(A) of the Cañon City Municipal Code is hereby amended to add at the appropriate alphabetical place in such subsection “Licensed Medical Marijuana Facility” as one of the permitted uses in the C district, general commercial.

Section 3. Subsection 17.12.150(A) of the Cañon City Municipal Code is hereby amended to add at the appropriate alphabetical place in such subsection “Licensed Medical Marijuana Facility” as one of the permitted uses in the I district, class 1 industrial.

Section 4. Subsection 17.14.040(A) of the Cañon City Municipal Code, which lists “commercial uses” that are prohibited in a TMU overlay zone located on a site where the underlying zone district is residential, or predominantly residential, is hereby amended to add a new paragraph 11 to read:

11. “Licensed Medical Marijuana Facility”.

Section 5. Subsection 17.14.040(B) of the Cañon City Municipal Code, which lists “industrial uses” that are prohibited in a TMU overlay zone located on a site where the underlying zone district is residential or predominately residential, is hereby amended to add a new paragraph 9 to read:

9. “Licensed Medical Marijuana Facility”.

Section 6. Except for the zone districts identified in Sections 2 and 3 of this ordinance, no business operated to cultivate, manufacture or sell medical marijuana or medical marijuana-infused products shall be established or operated within any zone district of the City; provided that any such business that was legally operating within the CB district, central business district commercial, and current on its sales tax reporting and remittance obligations to the City as of June 1, 2010 may continue to operate in such district until July 1, 2011 if such business is operated in full compliance with all applicable state and local laws and the owner of such business, on or before August 15, 2010, files a complete application for a medical marijuana facility license to be issued by the City pursuant to Chapter 5.56.

Section 7. There shall be added to the Cañon City Municipal Code a new Section 17.20.240 to read as follows:

17.20.240 Location and other restrictions and requirements applicable to Licensed Medical Marijuana Facilities.

A. Requirements and Restrictions. In zone districts where a Licensed Medical Marijuana Facility is a permitted use, each such licensed medical marijuana facility, in addition to being subject to the general requirements and restrictions applicable within such zone district, shall be subject to the requirements and

restrictions set forth in Chapter 5.56 of this Code, and applicable provisions of Colorado law, including but not limited to the Colorado Medical Marijuana Code.

- B. Nothing in this ordinance shall permit or be construed to permit any act, activity or omission that is illegal under the laws of the State of Colorado.

Section 8. The moratorium imposed by Ordinance No. 15, Series of 2010 is hereby lifted for purposes of authorizing the City’s medical marijuana licensing authority, City officers and employees to process and approve, when warranted, applications for licenses and permits of all types, including but not limited to medical marijuana facility licenses, sales tax licenses and building permits, that are or might be associated with the opening and operation of a licensed medical marijuana facility in accordance with applicable City and state law, including but not limited to this Ordinance No. 19, Series of 2010, Ordinance No. 18, Series of 2010, the Colorado Medical Marijuana Code and Section 14 of Article XVII of the Colorado Constitution.

Section 9. Safety Clause. The City Council hereby finds, determines, and declares that this ordinance is necessary for the immediate preservation of the public peace, health, and safety of the residents of the City.

Tony Greer, Mayor

ATTESTATION & CERTIFICATION

07/06/2010 – Introduced, Read by title & Passed on first reading
07/10/2010 – Published
07/19/2010 – Passed & Adopted on second reading
07/24/2010 – Effective

Becky Walker, MMC
City of Cañon City, Colorado