

TOWN OF TIMNATH, COLORADO
ORDINANCE NO. 78, SERIES 2009

AN ORDINANCE IMPOSING A TEMPORARY MORATORIUM ON THE SUBMISSION ACCEPTANCE, PROCESSING, AND APPROVAL OF ANY APPLICATION FOR A TOWN OF TIMNATH PERMIT OR LICENSE RELATED TO A MEDICAL MARIJUANA DISPENSARY PURSUANT TO THE AUTHORITY GRANTED BY ARTICLE 18, SECTION 14 OF THE COLORADO CONSTITUTION; DIRECTING THE PROMPT INVESTIGATION OF THE TOWN'S REGULATORY AUTHORITY OVER SUCH BUSINESSES; DECLARING THE INTENTION OF THE TOWN COUNCIL TO CONSIDER THE ADOPTION OF APPROPRIATE TOWN REGULATIONS WITH RESPECT TO SUCH BUSINESSES IF PERMITTED BY LAW; AND DECLARING AN EMERGENCY

WHEREAS, in the November 2000 general election, the voters of the State of Colorado adopted Amendment 20 to the Colorado Constitution ("Article XVIII Section 14") which authorizes and limits the sale of medical marijuana for use in the treatment of debilitating medical conditions; and

WHEREAS, the Town Council has been made aware that there appears to be a proliferation of businesses wishing to cultivate medical marijuana and/or provide it to those who qualify under state law; and

WHEREAS, the Town has no current land use or business regulation governing the operation of businesses or cooperatives that cultivate and/or offer medical marijuana for sale and/or distribution ("Medical Marijuana Dispensaries"); and

WHEREAS, the imposition of a one hundred and eighty (180) day moratorium on the submission, acceptance, processing, and approval of all applications for Town permits and licenses relating to the operation of Medical Marijuana Dispensaries will allow the Town staff and the Town Council to investigate the Town's ability to regulate such businesses, and to develop and implement any appropriate regulations; and

WHEREAS, a one hundred and eighty (180) day moratorium is a reasonable length of time and no longer than necessary for the Town to properly investigate, develop, and, if appropriate, adopt and implement any regulations with respect to Medical Marijuana Dispensaries; and

WHEREAS, proprietors of Medical Marijuana Dispensaries will not be unduly prejudiced by the imposition of such moratorium.

NOW THEREFORE, THE COUNCIL OF THE TOWN OF TIMNATH, COLORADO, ORDAINS:

Section 1. Findings and Intent. The above and foregoing recitals are incorporated herein by reference and adopted as findings and determinations of the Town Council of the Town of Timnath.

Section 2. Imposition of Temporary Moratorium on Applications For Permits and Licenses Related to Businesses That Sell Medical Marijuana. Upon the adoption of this Ordinance a moratorium is imposed upon the submission, acceptance, processing, and approval of all applications for permits and licenses by the Town of Timnath related to a Medical Marijuana Dispensary. The Town staff is directed to refuse to accept for filing, and not to process or review, any such new applications for such businesses during the moratorium period.

Section 3. Staff To Investigate and Prepare Proposed Regulations. Before the expiration of the moratorium imposed by this Ordinance the Town staff, working with the Town Attorney, shall prepare appropriate regulations for Medical Marijuana for consideration by the Town Council

Section 4. Police Power Finding. The Town Council hereby finds, determines, and declares that this Ordinance is necessary and proper to provide for the safety, preserve the health, promote the prosperity, and improve the order, comfort and convenience of the Town of Timnath and the inhabitants thereof.

Section 5. Authority. The Town Council hereby finds, determines and declares that it has the power to adopt this Ordinance pursuant to: (i) the Local Government Land Use Control Enabling Act, Article 20 of Title 29, C.R.S.; (ii) Part 3 of Article 23 of Title 31, C.R.S. (concerning municipal zoning powers); (iii) Section 31-15-103, C.R.S. (concerning municipal police powers); (iv) Section 31-15-401, C.R.S. (concerning municipal police powers); (v) Section 31-15-501 (concerning municipal power to regulate businesses); (vi) the authority granted to home rule municipalities by Article XX of the Colorado Constitution; and (vii) the powers contained in the Town of Timnath, Colorado Home Rule Charter (the "Charter").

Section 6. Emergency Declared; Effective Date; Expiration. Pursuant to Section 3.6 of the Charter, the Council finds, determines and declares that passage of this Ordinance is necessary for the immediate preservation of the public peace, health and safety in order to prevent a person from filing an application for a Town permit or license relating to the operation of a Medical Marijuana Dispensary until the Town has had a reasonable opportunity to determine: (i) the extent of the Town's regulatory authority over such businesses; and (ii) what regulations, if any, should be imposed by the Town upon such businesses. Failure to immediately impose the moratorium provided for in this Ordinance will potentially allow acquisition of certain rights with respect to Medical Marijuana Dispensaries before the Town has had the reasonable opportunity to consider appropriate regulations thereof. The Town Council further determines that the adoption of this Ordinance as an emergency ordinance is in the best interest of the citizens of the Town of Timnath. This Ordinance shall be effective upon adoption. The moratorium imposed by this Ordinance shall commence as of the

date of the adoption of this Ordinance, and shall expire one hundred and eighty (180) days thereafter, unless repealed prior to that date.


MOVED, SECONDED AND PASSED BY A MAJORITY OF THE COUNCIL MEMBERS PRESENT THIS 16TH DAY OF SEPTEMBER, 2009.

TOWN OF TIMNATH, COLORADO



Donna Benson, Mayor

ATTEST:

By: 

Milissa McGuire, Town Clerk

