

Ordinance 7, Series 2010

AN ORDINANCE PROHIBITING MEDICAL MARIJUANA CENTERS, OPTIONAL PREMISES CULTIVATION OPERATIONS, AND MEDICAL MARIJUANA-INFUSED PRODUCTS MANUFACTURING WITHIN THE TOWN OF JAMESTOWN AND REPEALING ORDINANCE 2, SERIES 2010 IN ITS ENTIRETY

WHEREAS, the Town of Jamestown adopted Ordinance 2, Series 2010 on June 7, 2010, which implemented a temporary moratorium on the establishment, licensing, permitting and operation of medical marijuana dispensaries, growing operations, and/or businesses engaged in the production of medical marijuana consumables until January 3, 2011 unless sooner repealed; and

WHEREAS, during its 2010 session, the Colorado Legislature adopted legislation which in pertinent part added a new Article 43.3 to Title 12 of the Colorado Revised Statutes, to be known as the Colorado Medical Marijuana Code, which Code went into effect during the pendency of the moratorium; and

WHEREAS, C.R.S. § 12-43.3-106 specifically authorizes a majority of the registered electors of a municipality voting at a regular election or special election called in accordance with the "Colorado Municipal Election Code of 1965", article 10 of title 31, C.R.S., or the "Uniform Election Code of 1992", articles 1 to 13 of title 1, C.R.S., as applicable, to "vote to prohibit the operation of medical marijuana centers, optional premises cultivation operations, and medical marijuana-infused products manufacturers' licenses"; and

WHEREAS, C.R.S. § 12-43.3-310 further states that Article 43.3, Title 12 specifically authorizes a municipality "to prohibit the operation of medical marijuana centers, optional premises cultivation operations, and medical marijuana-infused products manufacturers' licenses and to enact reasonable regulations or other restrictions applicable to medical marijuana centers, optional premises cultivation licenses, and medical marijuana-infused products manufacturers' licenses based on local government zoning, health, safety, and public welfare laws for the distribution of medical marijuana that are more restrictive than this article"; and

WHEREAS, C.R.S. § 12-43.3-308(1)(c) also provides that the state and local licensing authorities shall not receive or act upon a new application "for a location in an area where the cultivation, manufacturer, and sale of medical marijuana as contemplated is not permitted under the applicable zoning laws of the municipality, city and county, or county"; and

WHEREAS, at a Town special election held in coordination with the General Election on November 2, 2010, a majority of the registered electors of the Town voted in favor of prohibiting the operation of medical marijuana centers, optional premises cultivation operations, and medical marijuana-infused products manufacturing within the Town; and

WHEREAS, the Board of Trustees by this ordinance desires to confirm the prohibition of such operations as approved by the voters and repeal ordinance No. 2, Series 2010;

NOW, THEREFORE BE IT ORDAINED BY THE BOARD OF TRUSTEES OF THE TOWN OF JAMESTOWN, COLORADO:

Section 1. Definitions: For purposes of this ordinance, the following terms shall have the following meanings:

Medical marijuana means marijuana that is grown and sold for a purpose authorized by Article XVIII, § 14 of the Colorado Constitution.

Medical marijuana center, medical marijuana-infused products manufacturer, and optional premises cultivation operation shall have the same meanings as set forth in the Colorado Medical Marijuana Code, Article 43.3, C.R.S., as the same may be amended from time to time.

Patient has the meaning set forth in Article XVIII, § 14(1)(c) of the Colorado Constitution.

Primary care-giver has the meaning set forth in Article XVIII, § 14(1)(f) of the Colorado Constitution.

Section 2. Medical Marijuana Businesses Prohibited: It is unlawful for any person to operate, cause to be operated or permit to be operated in the Town a medical marijuana center, an optional premises cultivation operation, or a business as a medical marijuana-infused products manufacturer.

Section 3. Patients and Primary Care-givers: Nothing in this ordinance shall be construed to prohibit, regulate or otherwise impair the protections of the use of medical marijuana by patients as provided in Article XVIII, § 14 of the Colorado Constitution, or the provision of medical marijuana by a primary care-giver to a patient in accordance with Article XVIII, § 14 of the Colorado Constitution, the Colorado Medical Marijuana Code and rules promulgated thereunder.

Section 4. Repeal: Upon the effective date of this ordinance, Ordinance 2, Series 2010, is hereby repealed in its entirety. All other ordinances or portions thereof inconsistent or conflicting with this ordinance or any portion hereof are hereby repealed to the extent of such inconsistency or conflict.

Section 5. Applicability: This ordinance shall apply to all property, businesses, and business enterprises operating within the Town, whether stationary, mobile, or virtual.

Section 6. Enforcement: In addition to penalties set forth in C.R.S. § 12-43.3-901, any person who violates any provision of this ordinance shall be punished by a fine of not more than one thousand dollars or by imprisonment not to exceed one year, or by both such fine and imprisonment. Each day during any portion of which any violation of any provision of this ordinance is committed, continued or permitted by any such person shall be a separate offense.

Section 7. Severability: If any portion of this ordinance is held to be invalid for any reason, such decisions shall not affect the validity of the remaining portions of this ordinance. The Board of Trustees hereby declares that it would have passed this ordinance and each part hereof irrespective of the fact that any one part be declared invalid.

Section 8. Saving Clause: The repeal or modification of any provision of this ordinance shall not release, extinguish, alter, modify or change in whole or in part any penalty, forfeiture, or liability, either civil or criminal, which shall have been incurred under such provision, and each provision shall be treated and held as still remaining in force for the purpose of sustaining all proper actions, suits, proceedings and prosecutions for the enforcement of the penalty, forfeiture or liability, as well

as for the purpose of sustaining any judgment, decree, or order which can or may be rendered, entered, or made in such actions, suits, proceedings or prosecutions.

Section 9. Safety Clause; Ordinance Immediately Effective: The Board of Trustees herewith finds, determines and declares that this ordinance is necessary to the immediate preservation of the public health and safety in order to timely provide for safety of citizens and preservation of property. This ordinance shall be effective upon adoption and signing by the Mayor if approved by three-fourths of the members of the Board of Trustees.

INTRODUCED, READ, ADOPTED, APPROVED, SIGNED AND ORDERED PUBLISHED IN FULL THIS 6TH DAY OF DECEMBER, 2010.

TOWN OF JAMESTOWN, COLORADO

attest:



MARY ELLEN BURCH, TOWN CLERK



TARA SCHOEDINGER, Mayor