

CITY OF OURAY

ORDINANCE NO. 4 (Series 2010)

AN ORDINANCE EXTENDING THE MORATORIUM ON THE SUBMISSION, ACCEPTANCE, PROCESSING, AND APPROVAL OF ANY APPLICATION FOR A CITY OF OURAY PERMIT OR LICENSE RELATED TO THE OPERATION OF A BUSINESS THAT SELLS MEDICAL MARIJUANA AND IMPOSING A PROHIBITION ON THE CULTIVATION AND SALE OF MEDICAL MARIJUANA PURSUANT TO THE AUTHORITY GRANTED BY HOUSE BILL 1284; DIRECTING THE INVESTIGATION OF THE CITY'S REGULATORY AUTHORITY OVER SUCH BUSINESSES IN LIGHT OF THE PASSAGE OF STATE HOUSE BILL 1284; DECLARING THE INTENTION OF THE CITY COUNCIL TO CONSIDER ITS RIGHTS AND AUTHORITY OVER THE BUSINESSES DESCRIBED IN STATE HOUSE BILL 1284 AND IF NECESSARY, ADOPTION OF APPROPRIATE CITY REGULATIONS WITH RESPECT TO SUCH BUSINESSES AND DECLARING EMERGENCY IN THE ADOPTION OF THIS MORATORIUM.

SUMMARY: This extends the current moratorium on medical marijuana business in the City of Ouray, and expands the moratorium to prohibit the sale and cultivation of medical marijuana.

INTRODUCED, READ AND ADOPTED with emergency declared by 4-0 vote of the Ouray City Council, this 21st day of June, 2010.

CITY OF OURAY, COLORADO

By: s/ Robert E. Risch, Mayor

ATTEST: s/ Kathy Elmont, City Clerk

ORDINANCE NO. 4 (Series 2010)

AN ORDINANCE EXTENDING THE MORATORIUM ON THE SUBMISSION, ACCEPTANCE, PROCESSING, AND APPROVAL OF ANY APPLICATION FOR A CITY OF OURAY PERMIT OR LICENSE RELATED TO THE OPERATION OF A BUSINESS THAT SELLS MEDICAL MARIJUANA AND IMPOSING A PROHIBITION ON THE CULTIVATION AND SALE OF MEDICAL MARIJUANA PURSUANT TO THE AUTHORITY GRANTED BY HOUSE BILL 1284; DIRECTING THE INVESTIGATION OF THE CITY'S REGULATORY AUTHORITY OVER SUCH BUSINESSES IN LIGHT OF THE PASSAGE OF STATE HOUSE BILL 1284; DECLARING THE INTENTION OF THE CITY COUNCIL TO CONSIDER ITS RIGHTS AND AUTHORITY OVER THE BUSINESSES DESCRIBED IN STATE HOUSE BILL 1284 AND IF NECESSARY, ADOPTION OF APPROPRIATE CITY REGULATIONS WITH RESPECT TO SUCH BUSINESSES AND DECLARING EMERGENCY IN THE ADOPTION OF THIS MORATORIUM.

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 City enacted a temporary moratorium for 180 days on submission, acceptance, processing, and approval of all applications for City permits and licenses relating to the operation of Medical Marijuana Dispensaries on January 19, 2010; and

WHEREAS, on June 7, 2010, House Bill 1284 that regulates medical marijuana and medical marijuana businesses became law; and

WHEREAS, the City has no current land use or business regulations governing the operation of businesses or cooperatives that offer medical marijuana for sale and/or distribution; and

WHEREAS, the City Council has been made aware that staff has received inquiries from persons that are interested in opening and operating businesses, patients, and primary caregivers that would offer medical marijuana for sale; and

WHEREAS, House Bill 1284 provides local governments with certain rights and authority related to medical marijuana and medical marijuana businesses,

including the right to prohibit the sale and cultivation of medical marijuana until July 1, 2011; and

WHEREAS, the City desires to investigate the options and powers granted to local governments under House Bill 1284; and

WHEREAS, the City intends to extend the City's current moratorium on the submission, acceptance, processing and approval of all applications for the City of Ouray permits or licenses, including sales tax licenses, related to the operation of a business that sells and, or cultivates medical marijuana and expand that moratorium to include a prohibition on the sale and cultivation of medical marijuana until July 1, 2011; and

WHEREAS, there are currently no licensed medical marijuana dispensaries located within the City and as a result, no proprietors of medical marijuana dispensaries will be unduly prejudiced by the imposition of such moratorium.

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

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

Section 2. Extension of Moratorium on Applications For Permits and Licenses Related to Businesses That Sell Medical Marijuana and Imposition of Moratorium on the Sale and Cultivation of Medical Marijuana. Upon the adoption of this Ordinance the current moratorium, prohibiting the submission, acceptance, processing, and approval of any applications for permits and licenses by the City of Ouray, including sales tax licenses, related to a Medical Marijuana Dispensaries or medical marijuana related businesses is extended until July 1, 2011. The City staff and the City of Ouray Planning Commission are directed to refuse to accept for filing, and not to process or review, any such new applications for such businesses during the moratorium period. In addition, upon the adoption of this Ordinance the moratorium shall also prohibit the cultivation and sale of medical marijuana within the City of Ouray, except for primary caregivers, as defined and regulated under House Bill 1284, who must obtain a sales tax license to operated within the City of Ouray.

Section 3. Staff To Investigate and City Council Action. Before the expiration of the moratorium imposed by this Ordinance the City staff, working with the City Attorney, shall provide City Council with information regarding the local options under House Bill 1284 and City Council shall take any action it

deems necessary and proper.

Section 4. Police Power Finding. The City 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 City of Ouray and the inhabitants thereof.


Section 5. Authority. The City 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; (vii) the powers contained in the City of Ouray Charter and (viii) House Bill 1284.

Section 6. Emergency declared; Effective date; Expiration. The City Council determines that the adoption of this Ordinance as an emergency ordinance is in the best interest of the citizens of the City of Ouray. 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 on July 1, 2011, unless repealed prior to that date.

Section 7. Enforcement. Any violation of this Ordinance shall be deemed a nuisance and may be abated pursuant to the City of Ouray Municipal Code. Each day a violation continues shall be considered a separate offense. The Municipal Judge is authorized to impose increased penalties for subsequent violations by the same defendant.

INTRODUCED, READ, ADOPTED, AND ORDERED PUBLISHED with an emergency declared by 4-0 vote of the Ouray City Council, the 21st day of June, 2010.

CITY OF OURAY, COLORADO

By: 
Robert E. Risch, Mayor

ATTEST:


Kathy Elmont, City Clerk

CERTIFICATE OF ATTESTATION

I, Kathy Elmont, Ouray City Clerk, hereby certify that Ordinance No. 4 (Series No. 2010), was introduced, read and adopted with emergency declared by the Ouray City Council on June 21, 2010. Said Ordinance was published, by title and summary, in the Ouray County Plaindealer on June 25, 2010, as required by law.

Kathy Elmont
City Clerk