

ORDINANCE NO. 359

CITY OF CREEDE

AN ORDINANCE EXTENDING THE CURRENT TEMPORARY MORATORIUM ON THE SUBMISSION, ACCEPTANCE, PROCESSING, AND APPROVAL OF ANY APPLICATION FOR A CITY OF CREEDE LICENSE OR PERMIT FOR THE OPERATION OF A BUSINESS THAT SELLS MEDICAL MARIJUANA PURSUANT TO THE AUTHORITY GRANTED BY ARTICLE 18, SECTION 14 OF THE COLORADO CONSTITUTION.

WHEREAS, on January 14, 2010, the Board of Trustees imposed a one hundred and eighty day moratorium on the submission, acceptance, processing and approval of all applications for City permits and licenses relating to the operation of Medical Marijuana Dispensaries to allow City staff and the Board of Trustees to investigate the City's abilities to regulate such businesses and to develop and implement appropriate regulations; and

WHEREAS, the Colorado General Assembly has passed and the Governor has signed into law legislation that relates to the operation of Medical Marijuana Dispensaries and options for municipalities in regulating such operations; and

WHEREAS, other Colorado cities are currently addressing issues concerning the operation of Medical Marijuana Dispensaries similar to those facing the City; and

WHEREAS, City is actively studying its options, and needs additional time to complete research and public input.

WHEREAS, a one hundred-eighty (180) day extension of the current moratorium is a reasonable length for the City to properly investigate, develop, and, if appropriate, implement regulations with respect to Medical Marijuana Dispensaries; and

WHEREAS, potential proprietors of Medical Marijuana Dispensaries will not be unduly prejudiced by the extension of the current moratorium.

NOW, THEREFORE, BE IT ORDAINED BY THE BOARD OF TRUSTEES OF THE CITY OF CREEDE, THAT:

Section 1: Findings and Intent. The above and foregoing recitals are incorporated herein by reference and adopted as findings and determinations of the Board of Trustees of the City of Creede.

Section 2: Extension of Current Moratorium on Application for Permits and Licenses Related to Businesses That Sell Medical Marijuana. Upon the adoption of this Ordinance, the current moratorium imposed upon the submission, acceptance, processing, and approval of all applications for permits and licenses by the City of Creede related to a Medical Marijuana Dispensary is extended for an additional one hundred eighty days (180). All staff are directed to refuse to accept for filing

and not to process or review, any such new application for such businesses during the extended moratorium period.

Section 3: Staff to Investigate and Prepare Proposed Regulations. Before the expiration of the moratorium imposed by this Ordinance, the City staff, working with the City Attorney, shall prepare appropriate regulations for Medical Marijuana Dispensaries for consideration by the Board of Trustees.

Section 4: Authority. The Board of Trustees 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 C.R.S. (concerning municipal power to regulate businesses); and (vi) the powers contained in the Creede Municipal Code..

Section 5: Emergency Declared; Effective Date; Expiration. The Board of Trustees 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 the processing and approval of any application for a City permit or license relating to the operation of a Medical Marijuana Dispensary, until the City has had a reasonable opportunity to determine: (i) the extent of the City's regulatory authority over such businesses, including, but not limited to, the authority to license, zone and prohibit; (ii) what regulations, if any, should be imposed by the City upon such businesses; and (iii) evaluate the impact, if any, that the United States Supreme Court case of *Gonzales, et. al. v. Raich, et al.*, 545 U.S. 1, 125 S.Ct. 2195, 162 L.Ed. 2d 1 (2005) has on any regulations that the City may consider in regulating these dispensaries. 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 City has had a reasonable opportunity to consider appropriate regulations thereof. The City Council further determines that the adoption of this Ordinance as an emergency ordinance is in the best interest of the citizens of the City of Creede. The moratorium imposed by the Ordinance shall commence as of the date of the adoption of this Ordinance and shall expire one hundred-eighty (180) days thereafter, unless repealed prior to that date.

Section 6: If any article, section, paragraph, sentence, clause or phrase of this ordinance is held to be unconstitutional or invalid for any reason, such decision shall not affect the validity or constitutionality of the remaining portions of this ordinance. The Board of Trustees hereby declare that it would have passed this ordinance and each part or parts hereof irrespective of the fact that any one part or parts be declared unconstitutional or invalid.

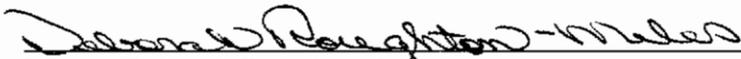
Section 7: This ordinance is deemed necessary for the protection of the health, welfare and safety of the community.

Section 8: This ordinance shall take effect upon final approval and adoption.

A Public Hearing on this ordinance was held at the July 7, 2010, Special Meeting of the Board of Trustees.

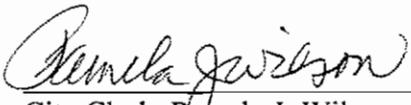
Approved, Passed and Adopted on this first reading and ordered published this 7th day of July, 2010.

CITY OF CREEDE:



Mayor, Deborah Roughton-Miles 7/8/10
Date

ATTEST:



City Clerk, Pamela J. Wilson 7/8/10
Date