



Town of Silverton

ORDINANCE NO. 2015-5

AN EMERGENCY ORDINANCE EXTENDING THE MORATORIUM ON THE PROCESSING AND APPROVAL OF ANY APPLICATION FOR A PERMIT OR LICENSE RELATED TO THE OPERATION OF A BUSINESS THAT SELLS OR PRODUCES RECREATIONAL OR MEDICAL MARIJUANA

WHEREAS, the Town of Silverton, located in the County of San Juan and State of Colorado (the “Town”), is a statutory authority duly existing under the Constitution and laws of the State of Colorado and its Municipal Code; and

WHEREAS, the members of the Town Board of Trustees (the “Board”) have been duly elected and qualified; and

WHEREAS, pursuant to Sections 31-15-401 and 31-23-301 of the Colorado Revised Statutes, the Town has broad authority to exercise its police powers to promote and protect the health, safety, and welfare of the community and its citizens; and

WHEREAS, pursuant to Section 31-23-301 of the Colorado Revised Statutes, such police powers include the power to regulate the location and use of land within the community for trade, industry, or other purposes; and

WHEREAS, Section 29-20-104 of the Colorado Revised Statutes grants the Town the authority to plan for and regulate the planned and orderly use of land on the basis of the impact thereof on the community; and

WHEREAS, the Town possesses the power and authority to impose a temporary suspension and delay in the acceptance and processing of certain applications and approvals in order to study all factors impacting the land use scheme and to develop regulations; and

WHEREAS, planning, land use, and general business regulation are well-established as purely matters of local concern; and



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WHEREAS, on November 7, 2000, the voters of Colorado approved an amendment to the Colorado Constitution that added Section 14 to Article XVIII of the Colorado Constitution which allowed for the medical use of marijuana within the state of Colorado; and

WHEREAS, on November 6, 2012, the voters of Colorado approved Amendment 64, which added Section 16 of Article XVIII of the Colorado Constitution, and created a limited exception from criminal liability under Colorado law for the cultivating, manufacturing, and testing of marijuana or marijuana products and retail stores selling marijuana products (collectively referred to as "Retail Marijuana Establishments") and established that Retail Marijuana Establishments will operate within a system licensed and regulated by the State and local governments; and

WHEREAS, the Board is aware that staff has received inquiries from persons who are interested in opening and operating businesses and cooperatives that would offer medical and retail marijuana for sale or distribution, including the cultivation of marijuana; and

WHEREAS, on March 9th, 2015, the Board held a duly noticed public hearing to consider Ordinance 2015-01 and determined on that date that its current medical and retail licensing ordinance, Ordinance 2013-05, was inadequate to protect the health, safety and welfare of the Town and its residents; and

WHEREAS, on that date, the Board adopted Ordinance 2015-01 which established a moratorium on the processing of applications for retail and medical marijuana businesses of 120 days in order to provide Town Staff sufficient time to re-evaluate the current regulatory structure the Town has in place concerning retail and medical marijuana, to evaluate whether the Town should allow marijuana cultivation facilities, to evaluate whether the Town should determine an appropriate number of retail and/or medical marijuana stores and whether there should be caps on the number of stores, and to correlate the creation of a taxation regulatory structure with the Town's licensing ordinance(s); and

WHEREAS, Despite the diligent work on Staff on its re-evaluation of the Town's regulatory structure concerning retail and medical marijuana, the Town Board hereby finds and determines that an extension of the moratorium for an additional 90 days is necessary to provide the Town the necessary time to finalize its regulatory structure concerning retail and medical marijuana; and



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WHEREAS, the Board hereby determines that would-be proprietors of medical or retail marijuana establishments will not be unduly prejudiced by the imposition of this additional time to the temporary moratorium.

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

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

Section 2. Extension of Temporary Moratorium. The moratorium concerning applications for permits and licenses related to medical marijuana and retail marijuana establishments enacted by Ordinance 2015-01 is hereby extended by __ days. Town staff is directed to decline to process, review or approve any such applications during the moratorium period. Applications for either establishment that were deemed complete by the Town Administrator pursuant to Town Code prior to adoption of this Moratorium are not impacted by the terms of this Moratorium and shall be processed consistent with Town Code.

Section 3. Investigation and Evaluation. During the moratorium, Town staff, working with the Town Attorney, shall investigate and evaluate the these issues referenced above and the regulatory authority of the Town over medical and retail marijuana establishments, including the impact of applicable court rulings and the current state and federal legislation and regulatory structures, and determine whether the Town should allow such operations within its boundaries, and if so, what regulations should govern the same.

Section 4. Police Power Finding. The Board 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 and the inhabitants thereof.

Section 5. Authority. The Board 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) C.R.S. § 31-15-103, C.R.S. (concerning municipal police powers); (iv) C.R.S. §31-15-401 (concerning municipal police powers); (iv) C.R.S. § 31-15-501 (concerning municipal power to regulate businesses); and (v) the powers contained in the Town of Silverton Municipal Code.



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Section 6. Effective Date; Expiration. As per Town of Silverton Municipal Code Section 2-16-5, the moratorium imposed by this Ordinance shall take effect immediately upon its passage by an affirmative vote of three-fourths (3/4) of the members of the Town Board because the Town Board hereby finds this Ordinance to be a case of special emergency and the immediate effectiveness of this Ordinance is necessary for the preservation of the public peace, health, and safety of the Town and the inhabitants thereof. This ordinance shall expire on July 9, 2015, unless repealed prior to that date or extended, if necessary, as determined by the Town Board.

Section 7. Severance Clause. If any part, section, subsection, sentence, clause or phrase of this ordinance is for any reason held to be invalid, such decision shall not affect the validity of the remaining portions of this ordinance. The Town Board hereby declares it would have passed this ordinance, and each part, section, subsection, sentence, clause or phrase thereof, regardless of the fact that any one or more parts, sections, subsections, sentences, clauses or phrases be declared invalid.

INTRODUCED ADOPTED AND ORDERED PUBLISHED ONCE IN FULL on this 22nd day of June, 2015.

Michelle J. Hamilton

Michelle J. Hamilton, Clerk-Treasurer

Christine M. Tookey

Christine M. Tookey, Mayor