

ORDINANCE NO. 21 - 2010

AN ORDINANCE PROHIBITING MEDICAL MARIJUANA CENTERS, INFUSED PRODUCT MANUFACTURERS' FACILITIES, AND OPTIONAL CULTIVATION OPERATIONS WITHIN THE CITY OF ALAMOSA, COLORADO

WHEREAS, the City of Alamosa has had a moratorium on the processing and approval of all applications for permits and licenses by the City related to the sale of medical marijuana in place since November 4, 2009 in order to allow the City to investigate and evaluate the regulatory authority of the City with respect to medical marijuana; and

WHEREAS, during the pendency of the Moratorium Ordinance, 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; and

WHEREAS, the Colorado Medical Marijuana Code clarifies Colorado law regarding the scope and extent of Amendment 20 to the Colorado Constitution, Article XVIII, §14, and at the same time authorizes a regulatory scheme for the retail sale, distribution, cultivation and dispensing of medical marijuana known as a "Medical Marijuana Center," and further authorizes licensing mechanisms known as an "Optional Premises Cultivation Operation" and a "Medical Marijuana-Infused Products Manufacturers' License"; and

WHEREAS, C.R.S. §12-43.3-106 specifically authorizes the governing body of a municipality to "vote to prohibit the operation of medical marijuana centers, optional premises cultivation operations, and medical marijuana-infused products manufacturers' licenses"; and

WHEREAS, at least one medical marijuana center currently exists in unincorporated Alamosa County, and the electors of Alamosa County recently voted down a question to prohibit the establishment of medical marijuana centers, optional premises cultivation operations, and medical marijuana-infused products manufacturing facilities, thereby indicating that there are other available locations for such medical marijuana facilities; and

WHEREAS, the Council has carefully considered Article XVIII, §14 of the Colorado Constitution, the Colorado Medical Marijuana Code, and the secondary effects of medical marijuana centers, optional premises cultivation operations, and medical infused products manufacturing on the health, safety and welfare of the City of Alamosa and its inhabitants.

NOW, THEREFORE, BE IT HEREBY ORDAINED by the City Council of the City of Alamosa, Colorado, as follows:

Section 1. Prohibition of Medical Marijuana Facilities. Article X of Chapter 10 is hereby established to read as follows:

ARTICLE X. MEDICAL MARIJUANA FACILITIES PROHIBITED

Sec. 10-250 Purpose

Although the possession and use of marijuana is and remains unlawful under Federal law, Section 14 of Article XVIII of the Colorado Constitution provides an exception to prosecution under state criminal laws when marijuana is possessed and used for medicinal purposes by a patient who has been diagnosed with a debilitating medical condition, and by the patient's primary caregiver. The Constitution does not, however, contain any provision for the lawful sale or distribution of marijuana to patients. The Colorado Medical Marijuana Code clarifies Colorado law regarding the scope and extent of Article XVIII, §14 of the Colorado Constitution, and at the same time authorizes a regulatory scheme for the retail sale, distribution, cultivation and dispensing of medical marijuana known as a "Medical Marijuana Center," and further authorizes licensing mechanisms known as an "Optional Premises Cultivation Operation" and a "Medical Marijuana-Infused Products Manufacturers' License. C.R.S. §12-43.3-106 specifically authorizes the governing body of a municipality to "vote to prohibit the operation of medical marijuana centers, optional premises cultivation operations, and medical marijuana-infused products manufacturers' licenses". The purpose of this Article is to prohibit, within the City of Alamosa, such medical marijuana facilities as provided for by the Colorado Medical Marijuana Code in the interest of public health, safety and general welfare.

Sec. 10-251 Prohibition on licensed medical marijuana facilities

It shall be unlawful and a violation of this Section for a person to establish, operate, cause or permit to be operated, or continue to operate within the City of Alamosa and within any area annexed to the city after the effective date of this ordinance, a medical marijuana center, a medical marijuana infused product manufacturing facility, an optional premises cultivation operation, or any business, facility or any other operation requiring a license under C.R.S. § 12-43.3-101 et seq. as that statute may be amended from time to time.

Sec. 10-252 patients and primary caregivers

Nothing in this Article shall prohibit, regulate or otherwise impair or be construed to prohibit, regulate or impair the cultivation, use or possession of medical marijuana by a patient and/or by a primary caregiver for his/her patients provided that such patient or primary caregiver is acting in accordance with all applicable provisions of article XVIII, Sec. 14(1)(c) of the Colorado Constitution, C.R.S. § 12-43.3-101 et. Seq. as amended, C.R.S. § 25-1.5-106 as amended, the regulations promulgated by the state department of public health and environment, the department of revenue or any other agency with

regulatory authority and the laws of the City.

Section 2. Repealer. All acts, orders, ordinances, resolutions, or portions thereof in conflict with the sections adopted in this Ordinance, are hereby repealed to the extent of such conflict.

Section 3. Recording and Authentication. This ordinance, immediately upon its passage, shall be authenticated by the signatures of the Mayor and City Clerk, recorded in the City book of Ordinances kept for that purposes, and published according to law.

Section 4. Effective Date. This ordinance shall take effect ten (10) days after publication following final passage.

Section 5. Declaration of Public Interest. This ordinance is necessary to preserve the peace, health, safety, welfare, and to serve the best interest of the citizens of the City of Alamosa, Colorado.

INTRODUCED, READ AND APPROVED on first reading the 1st day of December, 2010, and published as provided by law with notice of a public hearing to be held for consideration of the adoption of said ordinance on the 15th day of December, 2010, at 7:00 p.m., or as soon thereafter as the matter may be heard, or on such subsequent date to which the public hearing or Council consideration may be continued.

APPROVED, AND ADOPTED after public hearing the 15th day of December, 2010.

CITY OF ALAMOSA

By _____
Kathy Rogers, Mayor

ATTEST:

Judy A. Egbert, City Clerk