

**ORDINANCE NO. 7
SERIES 2009**

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF GUNNISON ESTABLISHING A TEMPORARY MORATORIUM ON THE ESTABLISHMENT OR OPERATION OF ANY BUSINESS THAT SELLS OR TRADES IN MEDICAL MARIJUANA AS DEFINED IN ARTICLE XVIII, SECTION 14, OF THE COLORADO CONSTITUTION WITHIN THE CITY OF GUNNISON FOR A PERIOD OF SIX MONTHS, AND ESTABLISHING A PENALTY FOR THE VIOLATION THEREOF.

WHEREAS, the City of Gunnison, Colorado, (the “City”) is a home rule municipality and has broad Constitutional and statutory powers to regulate businesses and the use of lands within the City limits; and

WHEREAS, pursuant to said authority and the provisions of Article I, Section 1.2, Article V, Section 5.9, and Article VI, Section 6.2, of the City of Gunnison Municipal Home Rule Charter, the City has adopted certain policies, plans, ordinances, and resolutions pertaining to the regulation of business and the development of property within the City limits, levying taxes, and establishing penalties for violations of ordinances; and

WHEREAS, the City currently has no ordinances or regulations addressing the use, possession, cultivation or sale of medical marijuana as defined in Article XVIII, Section 14 of the Colorado Constitution; and

WHEREAS, the unregulated establishment or operation of businesses dealing in medical marijuana may have a negative impact on existing businesses, schools, churches, and private property owners within the City limits; and

WHEREAS, the Colorado Department of Health and Environment has not yet established clear guidelines for dispensing, packaging, distributing, or the sale of medical marijuana, and a health and safety risk exists for purchasers of medical marijuana within the City limits.

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF GUNNSION, COLORADO, ORDAINS THAT:

Section 1. The Council of the City of Gunnison hereby makes the following findings of fact:

- (a) The possession and use of medical marijuana was authorized and limited by Article XVIII, Section 14 of the Colorado Constitution, adopted by the voters of the State of Colorado on November 7, 2000.
- (b) No businesses are currently operating within the City limits of Gunnison providing medical marijuana as defined in Article XVIII, Section 14 of the Colorado Constitution.
- (c) Several communities in Colorado have seen the establishment of businesses making medical marijuana available in a seemingly retail store setting.
- (d) The City of Gunnison, at present, does not have any regulations concerning taxation, zoning, or licensing pertaining to businesses that provide medical marijuana.
- (e) The City of Gunnison, at present, does not have any ordinances that allow the sale, use, or possession of medical marijuana pursuant to Article XVIII, Section 14 of the Colorado Constitution.

- (f) The unregulated establishment or operation of medical marijuana businesses within the City limits of Gunnison would have an unknown impact on adjacent businesses in the central business district, commercial district, and within residential zones and other areas of the community where adjacent property owners would be affected.
- (g) A temporary moratorium would allow City Staff the time necessary to research the tax options, zoning concerns, public health concerns and legal circumstances surrounding medical marijuana and make appropriate recommendations to Council as to regulations and rules for the establishment and operation of businesses providing medical marijuana to the public.

Section 2. That commencing on the effective date of this ordinance, it shall be unlawful for any person, group of persons, or legally-recognized entity to sell or dispense for consideration medical marijuana, as that term is defined in Article XVIII, Section 14, of the Colorado Constitution. It shall not be unlawful to engage in any act specifically authorized by Article XVIII, Section 14, of the Colorado Constitution.

Section 3. That any person who is convicted of a violation of this ordinance shall be subject to a fine not to exceed \$1,000.00 and/or imprisonment not to exceed 90 days.

Section 4. That the provisions of this ordinance are temporary in nature and are intended to be replaced by subsequent legislative enactments. This ordinance will expire and terminate six months from its effective date.

Section 5. That City Staff is hereby directed to develop ordinances and make recommendations to the City Council concerning the taxation, regulation, licensing, and location which may be appropriate for the dispensing of medical marijuana.

INTRODUCED, READ, PASSED AND ORDERED PUBLISHED this 8th day of September, 2009, on first reading, and introduced, read, and adopted on second and final reading this 22nd day of September, 2009.

Mayor

(SEAL)

ATTEST:

City Clerk

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