

ORDINANCE NO. 16

Series 2009

AN ORDINANCE IMPOSING A TEMPORARY MORATORIUM ON THE SUBMISSION, ACCEPTANCE, PROCESSING, AND APPROVAL OF ANY APPLICATION FOR A TOWN OF BRECKENRIDGE PERMIT OR LICENSE RELATED TO THE OPERATION OF A BUSINESS THAT SELLS MEDICAL MARIJUANA PURSUANT TO THE AUTHORITY GRANTED BY ARTICLE 18, SECTION 14 OF THE COLORADO CONSTITUTION; DIRECTING THE PROMPT INVESTIGATION OF THE TOWN'S REGULATORY AUTHORITY OVER SUCH BUSINESSES; DECLARING THE INTENTION OF THE TOWN COUNCIL TO CONSIDER THE ADOPTION OF APPROPRIATE TOWN REGULATIONS WITH RESPECT TO SUCH BUSINESSES IF PERMITTED BY LAW; DECLARING AN EMERGENCY; AND PROVIDING FOR AN IMMEDIATE EFFECTIVE DATE OF THIS ORDINANCE

BE IT ORDAINED BY THE TOWN COUNCIL OF THE TOWN OF BRECKENRIDGE, COLORADO:

Section 1. Findings and Intent. The Town Council of the Town of Breckenridge, Colorado hereby finds, determines, and declares as follows:

1. The Town Council has been made aware that the Department of Community Development has received an inquiry from a person who may be interested in opening and operating a business within the Town which would offer medical marijuana for sale.
2. The sale of medical marijuana was authorized and limited by Article 18, Section 14 of the Colorado Constitution, adopted by the voters of the State of Colorado on November 7, 2000.
3. The Town has no current land use or business regulation governing the operation of a business selling medical marijuana within the Town of Breckenridge.
4. Based upon information provided to the Town Council by the Police Chief, it appears that businesses selling medical marijuana may present unique regulatory problems that the Town's current laws, ordinances, rules and regulations do not adequately address.
5. The imposition of a ninety (90) day moratorium on the submission, acceptance, processing, and approval of all applications for Town permits and licenses relating to the operation of a business that sells medical marijuana will allow the Town staff and the Town Council to investigate the Town's ability to regulate such businesses, and to develop and implement any appropriate regulations deemed necessary by the Town Council.
6. Because the Town does not have any current regulations pertaining to businesses that sell medical marijuana, the Town will suffer irreparable harm if a short, temporary moratorium on the submission, acceptance, processing, and approval of Town permits and licenses related to the operation of such businesses is not imposed.
7. The duration of the moratorium imposed by this ordinance is reasonable in length, and is no longer than is required for the Town to properly investigate, develop, and, if appropriate, adopt and implement any regulations deemed necessary with respect to businesses that sell medical marijuana.
8. Proprietors desiring to open a business that sells medical marijuana will not be unfairly prejudiced by the imposition of the short, temporary moratorium imposed by this ordinance.

Section 2. Imposition of Temporary Moratorium on Applications For Permits and Licenses Related to Businesses That Sell Medical Marijuana. Upon the adoption of this ordinance a moratorium is imposed upon the submission, acceptance, processing, and approval of all applications for permits and licenses by the Town of Breckenridge related to a business that sells, or proposes to sell, medical marijuana pursuant to the authority granted by Article 18, Section 14 of the Colorado Constitution. The Town staff and the Town of Breckenridge Planning Commission are directed to refuse to accept for filing, and not to process or review, any such new applications during the moratorium period.

Section 3. Effective Dates of Moratorium. The moratorium imposed by this ordinance shall commence as of the date of the adoption of this ordinance, and shall expire ninety (90) days thereafter, unless sooner repealed.

Section 4. Staff To Investigate and Prepare Proposed Regulations. Before the expiration of the moratorium imposed by this ordinance the Town staff, working with the Town Attorney, shall carefully review the legal authority of the Town to regulate businesses selling medical marijuana pursuant to Article 18, Section 14 of the Colorado Constitution. Such investigations shall be completed promptly and with due diligence. If directed to do so by the Town Council, the Town

Attorney shall prepare appropriate new regulations with respect to such businesses for consideration by the Town Council.

Section 5. Police Power Finding. The Town 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 Town of Breckenridge and the inhabitants thereof.

Section 6. Authority. The Town 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; and (vii) the powers contained in the Breckenridge Town Charter.

Section 7. Emergency Declaration. The Town Council of the Town of Breckenridge hereby finds, determines, and declares that an emergency exists and that this ordinance is necessary for the immediate preservation of public property, health, welfare, peace or safety. The adoption of this ordinance on an emergency basis is necessary in order to prevent a person from filing an application for a Town permit or license relating to the operation of a business that sells medical marijuana until the Town has had a reasonable opportunity to determine: (i) the extent of the Town's regulatory authority over businesses that sell medical marijuana; and (ii) what regulations, if any, should be imposed by the Town upon such businesses. Failure to immediately impose the moratorium provided for in this ordinance will potentially allow a person to submit an application for a permit or license from the Town (including, but not limited to an application for a development permit; an application for a business (BOLT) license; or an application for a sales tax license), and to possibly acquire certain rights with respect to the processing of such applications before the Town has the reasonable opportunity to evaluate the possible community impacts that might be associated with the operation of a businesses selling medical marijuana and to implement appropriate regulations with respect to such businesses. This could lead to the Town being forced to allow the operation of a business that sells medical marijuana in a location or in such a manner that would be out of character with the community and which would negatively affect the cultural, environmental, and neighborhood areas of the Town, and potentially present issues related to crime or the potential of crime. The Town Council further determines that the adoption of this ordinance as an emergency ordinance is in the best interest of the citizens of the Town of Breckenridge.

Section 8. Effective Date. Pursuant to Section 5.11 of the Breckenridge Town Charter this ordinance shall take effect and be in full force upon adoption of this ordinance by the affirmative votes of at least five (5) members of the Town Council.

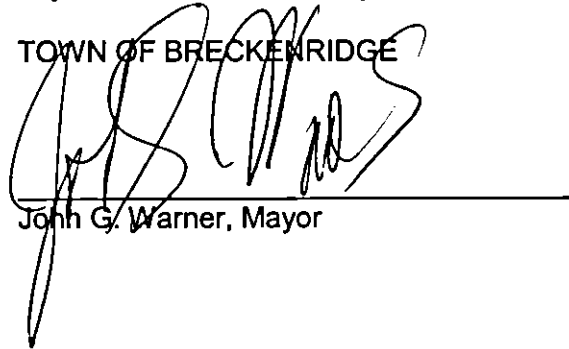
Section 9. Publication. This ordinance shall be published in full within ten (10) days after adoption, or as soon thereafter as possible, as required by Section 5.11 of the Breckenridge Town Charter.

ADOPTED AND APPROVED as an Emergency Ordinance this 23rd day of June, 2009.

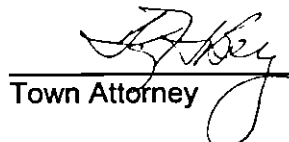
ATTEST:

TOWN OF BRECKENRIDGE


Mary Jean Loufel, CMC, Town Clerk


John G. Warner, Mayor

APPROVED IN FORM

 6/23/09
Town Attorney Date

This Ordinance was published in full in the Summit County Journal, a newspaper of general circulation within the Town of Breckenridge on July 3, 2009.