

CITY OF WHEAT RIDGE, COLORADO
INTRODUCED BY COUNCIL MEMBER SANG
Council Bill No. 11
Ordinance No. 1466
Series 2010

TITLE: AN ORDINANCE EXTENDING THE MORATORIUM ENACTED BY SECTION 2 OF ORDINANCE 1453, SERIES 2009 ON THE SUBMISSION, ACCEPTANCE, PROCESSING, AND APPROVAL OF ANY APPLICATION FOR A CITY OF WHEAT RIDGE PERMIT OR LICENSE RELATED TO THE OPERATION OF A BUSINESS OR COOPERATIVE THAT SELLS OR CULTIVATES MEDICAL MARIJUANA

WHEREAS, on September 14, 2009 City Council for the City of Wheat Ridge, Colorado ("City Council") adopted Ordinance 1453, Series 2009, which Ordinance enacted a temporary moratorium on the submission, acceptance, processing, and approval of all applications for City permits and licenses relating to the operation of businesses or cooperatives that sell, distribute or cultivate medical marijuana ("Medical Marijuana Dispensaries"); and

WHEREAS, on March 8, 2010, City Council adopted Ordinance 1459, Series 2010, which extended that moratorium until July 13, 2010; and

WHEREAS, on November 23, 2009 City Council adopted Ordinance 1457, Series 2009, which extended that moratorium until March 13, 2010; and

WHEREAS, one purpose for extending the moratorium was to allow state officials time to address and possibly regulate or limit the operation of Medical Marijuana Dispensaries on a state-wide basis; and

WHEREAS, Colorado House Bill 10-1284 concerning the regulation of the cultivation, sale, distribution and manufacture of medical marijuana on a state-wide basis was signed into law by the Governor on June 7, 2010; and

WHEREAS, through House Bill 10-1284, the General Assembly enacted the Colorado Medical Marijuana Code at Article 43.3 of Title 12, C.R.S. (the "Code"); and

WHEREAS, the Code is a new state and local licensing model for the cultivation, sale, distribution and manufacture of medical marijuana which will be implemented by the Colorado Department of Revenue, state's licensing authority; and

WHEREAS, the Code authorizes the Colorado Department of Revenue to adopt emergency rules to implement the Code's provisions; and

WHEREAS, those rules will likely impact pursuant to subsection 202(1)(b)(I) of the Code, municipalities are authorized to extend any temporary moratorium concerning

the sale, cultivation, distribution or manufacture of medical marijuana until the effective date of the Colorado Department of Revenue's rules; and

WHEREAS, extending the moratorium enacted by Ordinance 1453 until the Colorado Department of Revenue's rules become effective will provide City staff and City Council with additional time to investigate, develop, and if appropriate, adopt and implement regulations with respect to Medical Marijuana Dispensaries consistent with state law; and

WHEREAS, proprietors of Medical Marijuana Dispensaries will not be unduly prejudiced by the imposition of such moratorium.

NOW THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF WHEAT RIDGE COLORADO:

Section 1. Findings and Intent. The above and foregoing recitals are incorporated herein by reference and adopted as findings and determinations of the City Council of the City of Wheat Ridge.

Section 2. Extension of Moratorium on Applications For Permits and Licenses Related to Businesses That Cultivate and/or Sell Medical Marijuana. Upon the adoption of this Ordinance, the moratorium imposed in Section 2 of Ordinance 1453, Series 2009 shall be extended until the rules that are adopted by the Colorado Department of Revenue pursuant to the authority granted it in the Code become effective. The City staff is directed to continue refusing to accept for filing, and not to process or review, any new applications for permits or licenses related to Medical Marijuana Dispensaries during the moratorium period.

Section 3. Authority. The City 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, C.R.S. (concerning municipal power to regulate businesses); (vi) the authority granted to home rule municipalities by Article XX of the Colorado Constitution; (vii) the powers contained in the City of Wheat Ridge, Colorado Home Rule Charter (the "Charter"); and subsection 12-43.3-202(1)(b)(I), C.R.S. (concerning medical marijuana).

Section 4. Safety Clause. The City Council hereby finds, determines, and declares that this Ordinance is promulgated under the general police power of the City of Wheat Ridge, that it is promulgated for the health, safety, and welfare of the public and that this Ordinance is necessary for the preservation of health and safety and for the protection of public convenience and welfare. The City Council further determines that the Ordinance bears a rational relation to the proper legislative object sought to be attained.

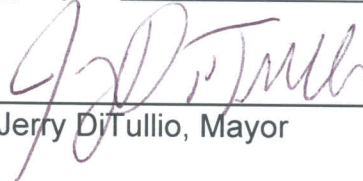
Section 5. Severability; Conflicting Ordinances Repealed. If any section, subsection or clause of this ordinance shall be deemed to be unconstitutional or otherwise invalid, the validity of the remaining sections, subsections and clauses shall not be affected thereby. All other ordinances, parts of ordinances or codes adopted thereby in conflict with the provisions of this ordinance or the code or ordinance adopted hereby are hereby repealed.

Section 6. Effective Date. This Ordinance shall take effect upon adoption, as permitted by Section 5.11 of the Charter.

INTRODUCED, READ, AND ADOPTED on first reading by a vote of 7 to 1 on this 14th day of June, 2010, ordered published by title in a newspaper of general circulation in the City of Wheat Ridge in full on the City's website, public hearing and consideration on final passage set for **Monday, the 28th of June, 2010, at 7 p.m.**, in the Council Chambers, 7500 West 29th Avenue, Wheat Ridge, Colorado.

READ, ADOPTED AND ORDERED PUBLISHED on second and final reading by a vote of 6 to 1, this 28th day of June, 2010.

SIGNED by the Mayor on this 28th day of June, 2010.



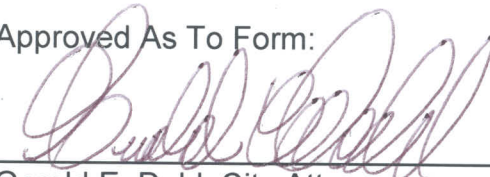
Jerry DiTullio, Mayor

ATTEST:



Michael Snow, City Clerk

Approved As To Form:



Gerald E. Dahl, City Attorney

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