

O-2013-7

AN ORDINANCE

IMPOSING A TEMPORARY MORATORIUM ON THE LICENSING, PERMITTING, ESTABLISHMENT OR OPERATION OF ANY NEW MARIJUANA ENTERPRISE, AS DEFINED HEREIN, PURSUANT TO AMENDMENT 64, APPROVED BY COLORADO VOTERS AT THE NOVEMBER 6, 2012 ELECTION AND CODIFIED AT ARTICLE XVIII, SECTION 16 OF THE COLORADO CONSTITUTION

WHEREAS, in the November 2012 general election, the voters of the State of Colorado adopted Amendment 64 to the Colorado Constitution ("Amendment 64"), which has been codified as Article XVIII, Section 16 of the Colorado Constitution; and

WHEREAS, Amendment 64 allows persons twenty-one years of age or older to consume or possess limited amounts of marijuana and provides for the licensing of marijuana cultivation facilities, product manufacturing facilities, testing facilities and retail stores; and

WHEREAS, Amendment 64 requires the state Department of Revenue to adopt a set of regulations to implement the provisions of Amendment 64 no later than July 1, 2013; and

WHEREAS, Amendment 64 contemplates a system of state and local oversight of marijuana-related businesses, but does not allow for any such business to be licensed, to apply for a license, or to begin operating until after the state regulations are in place; and

WHEREAS, Amendment 64 further provides that local governments may adopt their own regulations governing certain aspects of marijuana-related businesses, or may choose to prohibit any or all of the four categories of marijuana-related businesses either by ordinance adopted by the City Council or through a vote of the electorate no earlier than the November 2014 election; and

WHEREAS, the City Council believes that it cannot reasonably determine its position on whether to regulate or prohibit marijuana-related businesses until after the state's regulations are in effect; and

WHEREAS, notwithstanding the language in Amendment 64 making it unlawful for any person to operate a marijuana cultivation, product manufacturing, testing or retail business before the state regulations take effect, media reports regarding the establishment of marijuana smoking clubs in various locations across the state support the City Council's finding that there is a

substantial risk that marijuana-related businesses will attempt to locate and operate in Lakewood in the months ahead; and

WHEREAS, the City Council finds that allowing any of the four categories of marijuana-related businesses referenced in Amendment 64 or any other "Marijuana Enterprises," as that term is defined herein, before any state regulations have been adopted would present a significant hazard to the public health, safety and welfare; and

WHEREAS, the City Council further finds that temporarily prohibiting the establishment or operation of Marijuana Enterprises is within the City Council's authority to regulate the uses of land and buildings; and

WHEREAS, because marijuana remains a controlled substance under federal law, municipal officials across Colorado are also awaiting direction from various federal officials as to whether the federal government intends to continue prosecuting marijuana use and possession cases in Colorado; and

WHEREAS, the City Council finds that a moratorium on the licensing, permitting, establishment or operation of any new marijuana-related business and any Marijuana Enterprise is necessary to (a) maintain the status quo; (b) allow the Council and staff to review and understand any new regulations adopted by the state; (c) give the federal government an opportunity to state its position on marijuana enforcement in Colorado; and give the Council a full and fair opportunity to determine which of the available options is appropriate to protect the health, safety and welfare of the residents of Lakewood.

NOW, THEREFORE, BE IT ORDAINED by the City Council of the City of Lakewood:

SECTION 1. The foregoing recitals are incorporated and made part of this Ordinance.

SECTION 2. There shall be a suspension or moratorium on the establishment of any new marijuana cultivation facility, product manufacturing facility, testing facility or retail store, as those businesses are defined by Amendment 64 to the Colorado Constitution, or any Marijuana Enterprise within the legal boundaries of the City of Lakewood. As used herein, "Marijuana Enterprise" means an organization, business, club, or commercial operation in any nonresidential area that allows its members and their guests to sell, buy, transfer and/or consume marijuana or marijuana products on the premises. A Marijuana Enterprise does not include any Medical Marijuana Center or other Medical Marijuana business operating pursuant to Chapter 5.51 of the Lakewood Municipal Code. No application for a license or permit to operate any of the foregoing businesses may be submitted, accepted, reviewed or approved during the pendency of the moratorium established by this Ordinance.

SECTION 3. During the moratorium imposed by this Ordinance, the City Council directs City staff to provide regular status reports on state regulations, actions of the federal government, and other matters necessary for the Council's evaluation of its various options, and to provide an ultimate recommendation to the Council of a proposed course of action.

SECTION 4. The City Council finds and declares that the provisions of this Ordinance are temporary in nature and are intended to be replaced by subsequent legislative enactment of the Council. The moratorium imposed by this Ordinance shall terminate at the close of business on January 1, 2014, one-hundred eighty (180) days after July 1, 2013, the date by which the state is required to adopt regulations implementing Amendment 64, unless terminated earlier by resolution or ordinance adopted by the City Council.

SECTION 5. The provisions of this Ordinance are not intended to and shall not affect the validity of any lawfully existing Medical Marijuana Center or other Medical Marijuana business operating pursuant to Chapter 5.51 of the Lakewood Municipal Code.

SECTION 6. This Ordinance shall take effect thirty (30) days after publication following signature.

I hereby attest and certify that the within and foregoing ordinance was introduced and read on first reading at a regular meeting of the Lakewood City Council on the 11th day of February, 2013; published by title in the Denver Post and in full on the City of Lakewood's website, www.lakewood.org, on the 14th day of February, 2013; set for public hearing on the 25th day of February, 2013, read, finally passed and adopted by the City Council on the 25th day of February, 2013 and, signed and approved by the Mayor on the 26th day of February, 2013.

Bob Murphy, Mayor

ATTEST:

Margy Greer, City Clerk

APPROVED AS TO FORM:

Tim Cox, City Attorney