



CITY OF LOVELAND
CITY ATTORNEY'S OFFICE

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AGENDA ITEM: 9
MEETING DATE: 11/17/2009
TO: City Council
FROM: City Manager and Police Department

TITLE:

AN EMERGENCY ORDINANCE OF THE COUNCIL OF THE CITY OF LOVELAND IMPOSING A MORATORIUM ON THE ACCEPTANCE OF APPLICATIONS FOR THE ISSUANCE OF LICENSES, PERMITS AND OTHER APPROVALS RELATED TO PERSONS AND LEGAL ENTITIES ESTABLISHING MEDICAL MARIJUANA DISPENSARIES IN THE CITY

DESCRIPTION:

This is a legislative action to enact an eight-month moratorium on the establishment and operation of new medical marijuana dispensaries in Loveland. In 2000, Colorado's voters passed a constitutional amendment that legalized the medical use of marijuana by patients with certain debilitating conditions and authorized the patient's or the patient's designated primary caregiver to possess and grow certain amounts of marijuana. Until recently, this legalized use of marijuana was not a significant issue in Colorado because all uses of marijuana remained a crime under federal law. However, in February of this year, the federal government, under the new administration, announced that it would no longer enforce the federal marijuana laws so long as marijuana was being used in accordance with state law. As a result, there has been an explosion in the number of patients and primary caregivers in Colorado, including the opening of businesses known as "medical marijuana dispensaries." The City currently has at least fourteen (14) medical marijuana dispensaries ("MMDs") that have received sales tax licenses to do business in Loveland. City Staff believes that the City needs time to consider how to deal with these existing MMDs and with any future MMDs and their collateral effects. Therefore, for this reason, and because the effects of MMDs and the law related to them is rapidly evolving, City staff is recommending that City Council adopt an emergency ordinance to impose an eight-month moratorium on the establishment of new MMDs in Loveland. During this moratorium, City staff will work on proposed Code amendments to bring back to City Council for its consideration relating to the regulation of MMDs.

BUDGET IMPACT:

Yes No

SUMMARY:

The recent proliferation of MMDs in Colorado has raised a number of policy and legal issues for municipalities around Colorado, many of which do not have provisions in their codes to deal with the effects of MMDs opening in their communities. Loveland is in a similar position as it also does not have provisions in its Code to address these policy and legal issues. For a detailed description and discussion of the policy and legal issues being raised by MMDs and of the possible regulatory alternatives for the City to consider, attached is a Memorandum dated November 10, 2009, from Assistant City Attorney Moses Garcia to the Mayor and City Council.

The Loveland Police Department has serious concerns about the secondary effects of MMDs. Staff has held a number of internal meetings to discuss this issue and, on November 5, 2009, the City Manager, City Attorney, Chief of Police and Development Services Director met with their counterparts from Larimer County and the City of Fort Collins to discuss a coordinated approach to MMDs. Larimer County and Fort Collins are each currently considering a moratorium. Other nearby communities, such as Greeley and Timnath, have already adopted moratoriums. Therefore, if Larimer County and Fort Collins adopt their moratoriums and Loveland does not, this could have the effect of moving more medical marijuana dispensaries to Loveland. To avoid this happening and to give City staff time to study the issues and to propose Code amendments to Council, if needed, City staff recommends that the City Council impose an eight-month moratorium on the establishment of new MMDs in the City by means of an emergency ordinance. This moratorium will give staff an opportunity to develop proposed Code amendments to deal with these issues and to harmonize any such amendments with the State laws and regulations and court rulings that are expected to occur in the near future with respect to MMDs.

This moratorium would maintain the status quo with respect to those MMDs that have already been established in Loveland, and would allow them to continue to operate unless, under current law, they are illegal.

LIST OF ATTACHMENTS:

1. Memorandum dated November 10, 2009 from Assistant City Attorney Moses Garcia through City Attorney John Duval to Mayor and City Council titled "Medical Marijuana Dispensaries and Possible Alternative City Responses"
2. Emergency Ordinance

RECOMMENDED CITY COUNCIL ACTION:

That City Council adopt the Emergency Ordinance.

REVIEWED BY CITY MANAGER: