

TOWN OF PAGOSA SPRINGS, COLORADO

**ORDINANCE NO. 779
(SERIES 2012)**

**AN ORDINANCE SUSPENDING THE PROCESSING OF
APPLICATIONS FOR MEDICAL MARIJUANA CENTERS,
MEDICAL MARIJUANA OPTIONAL PREMISES
CULTIVATION OPERATIONS AND
MEDICAL MARIJUANA INFUSED PRODUCT
MANUFACTURING BUSINESSES AND SUSPENDING THE
DELIVERY OF SUCH MEDICAL MARIJUANA BUSINESS
PRODUCTS FROM OUTSIDE OF ARCHULETA COUNTY
UNTIL JULY 30, 2013.**

WHEREAS, the Town of Pagosa Springs ("Town"), as a home rule municipality, has broad constitutional and statutory powers to regulate the use of land within its boundaries; and

WHEREAS, pursuant to said authority, and the provisions of Article 11 of the Town of Pagosa Springs Home Rule Charter ("Town Charter"), the Town has adopted certain policies, ordinances and resolutions pertaining to business licensing and the development of property within the Town, including the Town's zoning and subdivision regulations; and

WHEREAS, the voters of Colorado and voters of Archuleta County approved at the 2000 general election, an amendment to the Colorado Constitution, codified as Section 14 of Article XVIII, ("Amendment 20") which authorizes the medical use of marijuana by persons in Colorado suffering debilitating medical conditions; and

WHEREAS, despite Colorado's adoption of Amendment 20, the use of marijuana for any purpose, including the treatment of debilitating medical conditions, has remained unlawful under Federal law; and

WHEREAS, as the result of a recent modification to Federal law enforcement policy concerning the prosecution of Federal marijuana violations in states which have legitimized the use of marijuana for medical purposes, Medical Marijuana Businesses, as that term is defined later in this ordinance, have proliferated within the State of Colorado, as well as other states that have adopted constitutional provisions authorizing the medical use of marijuana; and

WHEREAS, the Town has received inquiries regarding licensing Medical Marijuana Businesses within the Town, which under the current Municipal Code section 6.1.7, is prohibited because it violates federal law; and

WHEREAS, by Ordinance No. 745 Series 2009 the Town imposed a temporary moratorium upon the consideration of pending and future applications for Medical Marijuana Dispensaries; and

WHEREAS, by Ordinance No. 752 Series 2010 the Town continued a temporary moratorium upon the consideration that the Colorado General Assembly was considering legislation that would provide a framework for implementing Amendment 20; and

WHEREAS, by Ordinance No. 756 Series 2010 the Town continued a moratorium upon the consideration that the Colorado General Assembly was considering legislation that would provide a framework for implementing Amendment 20 by July 01, 2011; and

WHEREAS, by Ordinance No. 762 Series 2011 the Town continued a moratorium upon the consideration that the Colorado General Assembly was considering additional legislation that would provide a framework for implementing Amendment 20 by July 31, 2012 , however, no additional legislation determined as of August 20, 2012; and

WHEREAS, by State of Colorado House Bill 10-1284, signed by Governor Ritter on July 1, 2010, provides new definitions for Medical Marijuana Businesses defined as; Medical Marijuana Centers, Medical Marijuana Optional Premises Cultivation Operations and Medical Marijuana Infused Product Manufacturing Businesses and sets July 01, 2011 as the date in which final rules and regulations will be implemented by the Colorado State Department of Revenue for these Medical Marijuana Businesses; and

WHEREAS, marijuana remains a controlled substance, the possession or use of which is illegal under both state and Federal law, with the limited exception of the medical use of marijuana authorized by Amendment 20; and

WHEREAS, there currently are no provisions within the Town Ordinances which would allow or regulate Medical Marijuana Businesses regarding their location relative to areas frequented by minors, security measures, their hours of operation, appropriate zoning districts for locations, or other matters necessary to assure that such businesses are legitimately operating solely as a medical marijuana business in a manner compliant with the limited exceptions set forth in Amendment 20 and in House Bill 10-1284; and

WHEREAS, the Town Council believes it to be in the best interest of the peace, health and safety to suspend the processing of applications for Medical Marijuana Centers, Medical Marijuana Optional Premises Cultivation Operations and Medical Marijuana Infused Product Manufacturing Businesses until September 01, 2012 pending final regulations and further direction by the State Department of Revenue and to provide additional time to monitor other Colorado community's progress in regards to Medical Marijuana Businesses; and

WHEREAS, the Town Council believes it to be in the best interest of the peace, health and safety to temporarily suspend the processing of applications for Medical Marijuana businesses until such time as it can determine whether to allow such businesses, and if so, the appropriate zoning, business licensing and other regulations associated with them;

WHEREAS, the Town Council believes it to be in the best interest of the peace, health and safety to temporarily prohibit the delivery of Medical Marijuana business products from outside of Archuleta County until such time as it can determine whether to allow such deliveries from Medical Marijuana businesses that are located outside of Archuleta County;

NOW, THEREFORE, BE IT ORDAINED by the Town Council of the Town of Pagosa Springs as follows:

Section 1. Findings of Fact. The Town Council of the Town of Pagosa Springs hereby makes the following findings of fact:

A. That the Town has received serious inquiries from applicants interested in opening up Medical Marijuana businesses and inquiries for delivery services from Medical Marijuana Businesses located outside of Archuleta County.

B. That the voters of the State of Colorado, as well as the voters of Archuleta County, affirmed the medical use of marijuana by voting for Amendment 20 in November of 2000.

C. That Federal Law prohibits the sale of Marijuana; however the current administration has stated that they will not seek prosecution in States that have legalized the use of medical marijuana.

D. That the Colorado Department of Revenue, per House Bill 10-1284, is tasked with writing specific regulations for Medical Marijuana Businesses, the deadline of such was recently extended to July 01, 2012, that would provide further direction to the Town regarding the breadth, scope and authority to regulate Medical Marijuana Businesses, however, as of August 20, 2012, no such regulations have been determined.

E. That considerable study is needed in order to determine if the Town should allow Medical Marijuana Businesses and if so, the appropriate zoning considerations and licensing requirements.

F. That further study is needed to determine whether it is appropriate to license and allow the operation of Medical Marijuana businesses within the Town of Pagosa Springs jurisdiction, under Article 1 of Chapter 6 of the Town's current municipal code, Business Licenses.

G. That the approval of Medical Marijuana Businesses, in the absence of appropriate regulatory guidelines, may have an irreversible negative impact upon the Town.

J. That it is necessary in the interest of public peace, health and safety to delay, until JULY 30, 2013, the processing of any applications for Medical Marijuana Dispensaries, to ensure that the legality, definition, zoning and licensing requirements are consistent with the long-term planning objectives of the Town, if so elected, allowing Town Council ample time to review the State of Colorado's final Medical Marijuana regulations that were expected prior to July 01, 2012, as provided in the House Bill 10-1284 recent deadline extension, however, the Medical Marijuana regulations.

I. That, during the above mentioned period of time, the Town should:

1. Continue to monitor and analyze the statewide and local Medical Marijuana Business issues.

2. Analyze and determine if the Town of Pagosa Springs should amend its Municipal Code to allow or to Prohibit Medical Marijuana Businesses to operate within the Town's jurisdiction.

3. If it is determined that an amendment to the Municipal Code to allow Medical Marijuana Dispensaries is appropriate and necessary, then to develop appropriate regulations for zoning and business licensing of such.

Section 2. Temporary Suspension of Applications and Delivery Services. In order to study the state wide and local implications and issues regarding Medical Marijuana Businesses, this temporary suspension is placed upon the consideration of all pending and future applications for Medical Marijuana Businesses along with current and pending delivery services from Medical Marijuana Businesses located outside of Archuleta County from delivering such Medical Marijuana products within the Town's jurisdiction. This suspension period is consistent with the recent moratorium extension of House Bill 10-1284, and is hereby adopted through JULY 30, 2013, unless expressly amended or repealed by the Town Council.

Section 3. Definition of Medical Marijuana Businesses. For the purposes of this Ordinance, the term "Medical Marijuana Businesses" shall mean and include the definitions provided from the State of Colorado in House Bill 10-1284 for Medical Marijuana Centers, Medical Marijuana Optional Premises Cultivation Operations and Medical Marijuana Infused Product Manufacturing Businesses and for the use of any property or structure for the above defined businesses including to distribute, transmit, give, or otherwise provide marijuana in any manner, in accordance with Section 14 of Article XVIII of the Colorado Constitution. In addition for the purpose of this ordinance, the term "Medical Marijuana Businesses" shall also mean delivery services of Medical Marijuana products from Medical Marijuana Businesses that are located outside of Archuleta County.

Section 4. Applicability. The provisions of the Ordinance shall affect the processing of any applications associated with Medical Marijuana Businesses.

Section 5. Direction to Staff. Town Staff is hereby directed to monitor statewide developments concerning Medical Marijuana Businesses and to present this information for Town Councils consideration at a July 2013 Town Council meeting for further direction to Town Staff.

Section 6. Public Inspection. The full text of this Ordinance, with any amendments, are available for public inspection at the office of the Town Clerk.

Section 7. Severability. If any portion of this Ordinance is found to be void or ineffective, it shall be deemed severed from this Ordinance and the remaining provisions shall remain valid and in full force and effect.

Section 8. Public hearing. A public hearing on this Ordinance shall be held on the 6 day of Sept, 2012 at 5:00 pm at the Pagosa Springs Town Hall, 551 Hot Springs Boulevard, Pagosa Springs, Colorado.

Section 9. Effective date. This Ordinance shall become effective and be in force immediately upon final passage at second reading.

INTRODUCED, READ, AND ORDERED PUBLISHED PURSUANT TO SECTION 3.9, B) OF THE PAGOSA SPRINGS HOME RULE CHARTER, BY THE TOWN COUNCIL OF THE TOWN OF PAGOSA SPRINGS, COLORADO, UPON A MOTION DULY MADE, SECONDED AND PASSED AT ITS REGULAR MEETING HELD AT THE TOWN OF PAGOSA SPRINGS, ON THE 23 DAY OF August, 2012.

TOWN OF PAGOSA SPRINGS, COLORADO

By: Ross Aragón
Ross Aragón, Mayor

Attest:

April Hessman
April Hessman, Town Clerk



FINALLY ADOPTED, PASSED, APPROVED, AND ORDERED PUBLISHED PURSUANT TO SECTION 3.9, D) OF THE PAGOSA SPRINGS HOME RULE CHARTER, BY THE TOWN COUNCIL OF THE TOWN OF PAGOSA SPRINGS, COLORADO, UPON A MOTION DULY MADE, SECONDED AND PASSED AT ITS MEETING HELD AT THE TOWN OF PAGOSA SPRINGS, ON THE 6 DAY OF Sept, 2012.

TOWN OF PAGOSA SPRINGS, COLORADO

By: Ross Aragón
Ross Aragón, Mayor

Attest:

April Hessman
April Hessman, Town Clerk



CERTIFICATE OF PUBLICATION

I, the duly elected, qualified and acting Town Clerk of the Town of Pagosa Springs, Colorado, do hereby certify the foregoing Ordinance No. 779 (Series 2012) was approved by the Town Council of the Town of Pagosa Springs on first reading at its regular meeting held on the 23 day of August, 2012, and was published by title only, along with a statement that the full text of the Ordinance, including any amendments, is available for public inspection at the office of the Town Clerk at Town Hall, on the Town's official website, on Aug 23, 2012, which date was at least ten (10) days prior to the date of Town Council consideration on second reading.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed the seal of the Town of Pagosa Springs, Colorado, this 7 day of Sept, 2012.



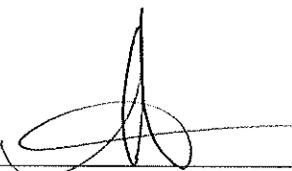
April Hessman, Town Clerk



(S E A L)

I, the duly elected, qualified and acting Town Clerk of the Town of Pagosa Springs, Colorado, do hereby certify the foregoing Ordinance No. 779 (Series 2012) was approved by the Town Council of the Town of Pagosa Springs on second reading, at its special meeting held on the 6 day of Sept, 2012, and was published by title only, along with a statement indicating the effective date of the Ordinance and that the full text of the Ordinance is available at the office of the Town Clerk, on the Town's official website, on Sept 7, 2012.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed the seal of the Town of Pagosa Springs, Colorado, this 7 day of Sept, 2012.



April Hessman, Town Clerk



(S E A L)