

**TOWN OF LARKSPUR
ORDINANCE NO. 6.18**

AN EMERGENCY ORDINANCE IMPOSING A TEMPORARY MORATORIUM ON THE SUBMISSION, ACCEPTANCE, PROCESSING, AND APPROVAL OF ANY APPLICATION FOR A LICENSE OR PERMIT RELATED TO THE OPERATION OF A BUSINESS THAT GROWS, SELLS, RECEIVES OR DISTRIBUTES MEDICAL MARIJUANA PURSUANT TO THE AUTHORITY GRANTED BY ARTICLE XVIII, 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; AND PROVIDING FOR AN IMMEDIATE EFFECTIVE DATE OF THIS ORDINANCE

WHEREAS, The Town of Larkspur has received inquiries and has been made aware that neighboring communities as well as communities throughout the State have received inquiries from persons who may be interested in opening and operating a business which would offer medical marijuana for sale or distribution; and

WHEREAS, The sale of medical marijuana was authorized and limited by Article XVIII, Section 14 of the Colorado Constitution, adopted by the voters of the State of Colorado on November 7, 2000; and

WHEREAS, The imposition of a one hundred eighty (180) day moratorium on the submission, acceptance, processing, and approval of all applications for licenses or permits relating to the operation of a business that grows, sells, receives or distributes medical marijuana will allow the Town Staff and 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; and

WHEREAS, the Town does not have any current regulations pertaining to businesses that grow, sell, receive or distribute 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; and

WHEREAS, The duration of the moratorium imposed by this ordinance is reasonable in

Option A - regulate business license only

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 grow, sell, receive or distribute medical marijuana; and

WHEREAS, Anyone desiring to open a business that grows, sells, receives or distributes medical marijuana will not be unfairly prejudiced by the imposition of the short, temporary moratorium imposed by this ordinance;

NOW THEREFORE BE IT ORDAINED BY THE TOWN COUNCIL OF THE TOWN OF LARKSPUR, COLORADO, THAT:

1. 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 Larkspur related to a business that grows, sells, receives, distributes, or proposes to grow, sell, receive or distribute medical marijuana pursuant to the authority granted by Article XVIII, Section 14 of the Colorado Constitution. The Town Staff are directed to refuse to accept for filing, and not to process or review, any such new or pending applications during the moratorium period.
2. The moratorium imposed by this ordinance shall commence as of the date of the adoption of this Ordinance, and shall expire One-Hundred and Eighty (180) days thereafter, unless sooner repealed. The period of effectiveness of this Ordinance is referred to herein as the 'Effective Period'.
3. 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 growing, selling, receiving or distributing medical marijuana pursuant to Article XVIII, Section 14 of the Colorado Constitution. Such investigations shall be completed promptly and with due diligence.
4. 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 Larkspur and the inhabitants thereof.
5. 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, §29-20-201 C.R.S.; (ii) §31-23-301 C.R.S. concerning municipal zoning powers; (iii) §31-15-103 C.R.S. concerning municipal police powers; (iv)

Option A - regulate business license only

§31-15-401 C.R.S. concerning municipal police powers; and (v) §31-15-501 C.R.S. concerning municipal power to regulate business;

6. The Town Council 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 or pursuing an application for a Town permit or license relating to the operation of a business that grows, sells, receives or distributes medical marijuana until the Town has had a reasonable opportunity to determine: (1) the extent of the Town's regulatory authority over businesses that grow, sell, receive or distribute medical marijuana; and (2) 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 business 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 business selling or distributing 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 grows, sells, receives or distributes 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 Larkspur.
7. Should any one or more sections or provisions of this Ordinance be judicially determined to be invalid or unenforceable, such determination shall not affect, impair, or invalidate the remaining sections or provisions of this Ordinance, it being the intent of the Town Council that such invalid or unenforceable provisions are severable.
8. The Town Council finds and concludes that this Ordinance is necessary for the immediate preservation of the health, safety, and welfare of the citizens of the Town of Larkspur to protect the citizens of the Town of Larkspur and, therefore, this Ordinance shall be effective immediately upon its approval by the Town Council.

**DULY MOVED, SECONDED AND ADOPTED AS AN EMERGENCY ORDINANCE
BY THE TOWN COUNCIL OF THE TOWN OF LARKSPUR THIS 5th DAY OF
NOVEMBER, 2009.**

Votes Approving: _____
Votes Opposing: _____
Votes Abstaining: _____
Absent: _____

ATTEST:

**TOWN COUNCIL
TOWN OF LARKSPUR, COLORADO**

Manfred Krimmer
Town Clerk

By: _____
Sherilyn K. West
Mayor