



**TOWN OF LARKSPUR
ORDINANCE NO. 6.19**

AN EMERGENCY ORDINANCE EXTENDING THE TEMPORARY MORATORIUM ESTABLISHED BY ORDINANCE 6.18 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, on November 5, 2009, the Town of Larkspur Town Council adopted Ordinance 6.18 imposing a moratorium on 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, distributes, or proposes to grow, sell or distribute medical marijuana pursuant to the authority granted by Article XVIII, Section 14 of the Colorado Constitution. Ordinance 6.18 directed Town Staff and the Town of Larkspur Planning Commission to refuse to accept for filing, and not to process or review, any such new or pending applications during the moratorium period, and

WHEREAS, the purpose of the moratorium established by Ordinance 6.18 was to allow the Town Staff and the Town Council to investigate the Town's ability to regulate such businesses, and to develop and implement appropriate regulations deemed necessary by the Town Council, and

WHEREAS, Ordinance 6.18 provided that the moratorium was to remain in effect for a period of 180 days, and

WHEREAS, the Town staff and Town Council have diligently investigated and pursued determining appropriate regulations for such business within the Town of Larkspur, and

WHEREAS, several matters have occurred during the period of the moratorium that have created uncertainty as to the regulations the Town may adopt, including but limited to (1) litigation of cases involving prohibition of such businesses or regulation of such businesses by the municipalities of Centennial and Castle Rock that have been appealed and such appeals remain pending, (2) introduction of legislation including H.B. 1284 that would, among other things, provide state regulation of some aspects of such businesses, further define and implement the provisions of Article XVIII, Section 14 of the Colorado Constitution, and direct the Colorado Department of Public Health and Environment to adopt

regulations relating to such businesses, and (3) ongoing meetings among Douglas County and the municipalities within Douglas County to try to coordinate their efforts to regulate such businesses, and

WHEREAS, in order to enact regulations that are consistent with legislation that may be adopted in this legislative session, with the decisions of the Colorado appellate courts, and with the efforts of the other public entities in Douglas County, the Town Council deems it appropriate to extend the moratorium established by Ordinance 6.18, and

WHEREAS, the duration of the extension of the moratorium imposed by this ordinance is reasonable in 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 or distribute medical marijuana; and

WHEREAS, anyone desiring to open a business that grows, sells or distributes medical marijuana will not be unfairly prejudiced by the imposition of the short, temporary moratorium extension 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 the moratorium established by Ordinance 6.18 is hereby extended for a period of One-Hundred and Eighty (180) days from the date of this Ordinance, unless sooner repealed.

3. 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.

4. 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) §31-15-401 C.R.S. concerning municipal police powers; and (v) §31-15-501 C.R.S. concerning municipal power to regulate business;

5. 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 an application for a Town permit or license relating to the operation of a business that sells or distributes medical marijuana until the Town has had a reasonable opportunity to determine: (i) the extent of the Town's regulatory authority over businesses that sell or distribute medical marijuana; and (ii) 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 sells 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.

6. 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.

7. 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 15th DAY OF APRIL, 2010.

Votes Approving: 7
Votes Opposing: 0
Votes Abstaining: 0
Absent: 0

ATTEST:

**TOWN COUNCIL
TOWN OF LARKSPUR, COLORADO**

Manfred Krimmer
Town Clerk

By: _____
Sherilyn K. West
Mayor