

ORDINANCE NO. 1117

AN ORDINANCE IMPOSING REGULATIONS AND CONTROLS ON MEDICAL MARIJUANA DISPENSARIES BY ADDING A NEW SECTION 17-10-170 TO THE BERTHOUD MUNICIPAL CODE.

WHEREAS, marijuana remains a controlled substance, the possession or use of which is unlawful under both State and Federal law, with the limited exception of the medical use of marijuana authorized by Section 14 of Article XVIII of the Colorado Constitution; and

WHEREAS, the regulation of the location and operation of medical marijuana dispensaries within the Town is necessary to assure that such facilities are appropriately located, and that the hours and manner of operation of such facilities are consistent with the requirements of applicable law, as well as the health, safety and welfare of the community; and

WHEREAS, the Town Board of Trustees finds that existing regulations within the Town of Berthoud do not adequately address the protection of medical marijuana patients or the potential impacts of medical marijuana dispensaries within the community and that new and additional regulations are required to address these new facilities within the community; and

NOW THEREFORE BE IT ORDAINED BY THE BOARD OF TRUSTEES OF THE TOWN OF BERTHOUD, LARIMER AND WELD COUNTIES, COLORADO:

Section 1: That the Municipal Code of the Town of Berthoud should be and the same is hereby amended through the adoption of a new §17-10-170 pertaining to the regulation of medical marijuana dispensaries, which section reads, in its entirety, as follows:

Chapter 17-10-17. Medicinal Marijuana Dispensaries.

- (a) Medical marijuana dispensaries are defined as facilities which sell marijuana or its derivatives for provision to state-certified medical marijuana patients. Medical marijuana dispensaries shall only be allowed in the C1: Limited Commercial, C2: General Commercial, M1: Limited Industrial and M2: Industrial zones. Medical marijuana dispensaries shall not be allowed within any residentially zoned areas and shall not be allowed as a home occupation.
- (b) Any medical marijuana dispensary located within the Town shall be located not less than 300 feet from any existing public, private or charter school, licensed day care facility, or licensed pre-school, whether located within or outside the corporate limits of the Town.

Nothing within this section shall preclude the establishment of a public, private or charter school, licensed day care facility, or licensed pre-school within 300 feet of a pre-existing medical marijuana dispensary.

For purposes of this section, distances shall be measured consistent with the language set forth in C.R.S., §12-47-313(1)(d)(II).

- (c) Medical marijuana dispensaries shall limit their hours of operation to between 8:00 a.m. and 8:00 p.m.
- (d) Any medical marijuana dispensary within the Town shall be required to have a fully operational alarm system which must be properly maintained. Such alarm systems shall have video and voice surveillance coverage of the area(s) where the marijuana is stored and dispensed and where financial transactions occur. All alarm systems shall have redundant power supplies and circuitry to prevent de-activation, either intentional or unintentional. If an alarm system is deactivated, the company monitoring the systems must immediately notify the police department.

Medical marijuana dispensaries shall be equipped with a steel door or a solid wood core door with deadbolts in place and engaged for purposes of securing the space or location where medical marijuana is stored. In addition thereto, each medical marijuana dispensary shall be equipped with at least one silent alarm for every 500 square feet of interior business space.

- (e) Medical marijuana dispensaries shall apply for a sign permit through the Planning Department. All exterior signage associated with a medical marijuana dispensary will meet the standards established in the Town Code. In addition, no exterior signage shall use the word "marijuana," "cannabis" or any other word, phrase or symbol commonly understood to refer to marijuana.
- (f) The smoking of marijuana in public, in any location open to view of the public, or within a perimeter of 15 feet of a medical marijuana dispensary is prohibited.
- (g) All inventory containing any form of marijuana must be placed within a locked safe on the premises during hours that the business is closed. The safe must be securely bolted to the floor or installed as part of the foundation of the building in which the dispensary is located.

(h) It shall be unlawful for any medical marijuana dispensary to employ any person who is not at least 18 years of age.

(i) Each medical marijuana dispensary must be operated by a legitimate medical marijuana caregiver certified as such by the State of Colorado. Medical marijuana dispensaries shall meet all operation criteria for the dispensing of medical marijuana as required by the State of Colorado.

(j) The owner(s) and employees of a medical marijuana dispensary shall be required to undergo a criminal background investigation at the time of application and upon annual renewal. The issuance of a business license for a medical marijuana dispensary or the renewal of such license shall be denied if the background check reflects any misrepresentation, fraud or deceit within the application, or if such background check reflects that any proposed owner has a prior felony conviction related to narcotics, drugs or controlled substances.

(k) There shall be posted in a conspicuous location in each medical marijuana dispensary a legible sign containing the following warnings:

1. A warning that the diversion of marijuana for non-medical purposes is a violation of state law;
2. A warning that the use of medical marijuana may impair a person's ability to drive a motor vehicle or operate machinery, and that it is illegal under state law to drive a motor vehicle or operate machinery when under the influence of or impaired by marijuana;
3. A warning that loitering in or around the medical marijuana dispensary is prohibited by state law;
4. A warning that possession and distribution of marijuana is a violation of federal law;
5. A warning that smoking of marijuana within the dispensary or within 15 feet of the dispensary is unlawful; and
6. A warning that the smoking or consumption of marijuana in plain view of, or in a place open to, the general public is prohibited by state law.

Section 2: Penalty Clause.

It shall be unlawful to fail to do any act required by this Ordinance. Upon conviction the violator will be subject to a fine of not more than \$300.00 and/or jail not to exceed 90 days. Each day that a violation continues shall constitute a separate violation.

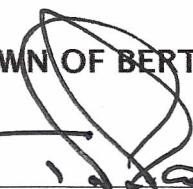
Section 3. Effective Date:

The Board of Trustees of the Town of Berthoud herewith finds, determines and designates that this Ordinance shall take effect and be in force 30 days after publication.

At its meeting Nov., 2009, a public hearing was set by the Board of Trustees of the Town of Berthoud for its meeting held on the 8th day of December 2009. After the public hearing, this Ordinance was read, passed and ordered published by the Board of Trustees at its meeting this 8th day of December 2009

ATTEST:

Mary K. Cowdin
Mary K. Cowdin - Town Clerk


TOWN OF BERTHOUD
Tom Patterson
Tom Patterson - Mayor

Approved as to form

R. B. Fickel
R. B. Fickel - Town Attorney

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