

City of Loveland, Colorado
MEDIA RELEASE

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FOR IMMEDIATE RELEASE

Medical marijuana moratorium explained

The Loveland City Council Tuesday night passed an emergency ordinance placing an eight-month moratorium on the establishment of new medical marijuana dispensaries (MMDs) in Loveland. Passed as an emergency ordinance, it went into effect immediately.

To better understand the City Council action, an explanation of key words and terminology in the emergency ordinance is provided here, followed by a summary of the ordinance itself.

Terminology:

- MMDs mean “a property, premises or structure used to sell, distribute, transmit, give, dispense or otherwise provide marijuana in any form and in any manner to a patient or primary caregiver.”
- A “patient” means “a person who has a debilitating medical condition.” A debilitating medical condition includes specifically: cancer, glaucoma and HIV; and, more generally, any “chronic or debilitating disease or medical condition” certain symptoms of which the patient’s physician believes would be alleviated by marijuana.
- A “primary caregiver” means “a person, other than the patient or the patient’s physician, who is eighteen years of age or older and *has significant responsibility for managing the well-being of a patient who has a debilitating medical condition.*” Unfortunately, Section 14, Article XVIII of the Colorado Constitution and State statutes do not define for us the meaning of this emphasized phrase and the Colorado Department of Public Health and Environment is still in the process of considering a definition for this phrase. However, the Colorado Court of Appeals has recently decided that it means that a primary caregiver must do more to “manage the well-being of a patient” than merely provide the patient with marijuana.

The ordinance summary:

- The ordinance only prohibits the establishment and operation of certain new MMDs in Loveland for an eight-month period beginning November 18, 2009, and ending on July 16, 2010, (the “Moratorium Period”), unless terminated earlier by future city council action.
- Not affected by the Ordinance are MMDs that have satisfied, prior to the Moratorium Period, all of the following criteria: (a) have been issued a City sales tax license; (b) have opened for business at the location designated in the sales tax license application; (c) have begun the legal sale of marijuana at that location; and (d) comply with all of the City’s zoning requirements for the location.
- Also not affected by the limitations of the Ordinance are any MMDs established and operating before and during the Moratorium Period that are operated by a primary caregiver who provides marijuana to only five patients, regardless of whether the primary caregiver provides the marijuana with or without compensation (“Small Caregivers”). However, Small Caregivers are still required to obtain a City sales tax license if they sell marijuana to any of their five patients and they must comply with the City’s zoning requirements.
- In addition, those primary caregivers who do not have physical business locations within the Loveland city limits, but deliver to patients within Loveland (“Delivery Caregivers”), are not affected by the Ordinance except they must obtain a sales tax license for their marijuana sales within Loveland.
- The City’s Sales Tax Office will not to accept sales tax licenses applications for MMDs during the Moratorium Period except for Small Caregivers and Delivery Caregivers. In addition, no other City Department will accept an application for any other license, permit or other City approval during the Moratorium Period that may be required under the City Code to establish and operate an MMD in Loveland, except with respect to Small Caregivers.
- No person or entity can establish or operate an MMD in Loveland without having first obtained from the City a validly issued sales tax license, except that those Small Caregivers who do not sell marijuana to any of their five patients are not required to obtain a City sales tax license.
- An MMD that has been properly established under the Ordinance before the Moratorium Period, cannot transfer its sales tax license from the original location for which the license was issued to a new location.
- Persons and entities applying for a City sales tax license during the Moratorium Period must state on the license application whether their business will involve in anyway the provision of marijuana to patients or primary caregivers.
- Violation by any person or entity of any of the provisions of the Ordinance will be a misdemeanor offense subject to maximum penalties of a \$1000 fine or one year in jail, or

both. Also, each day a violation exists is considered a separate offense and each separate offense is subject to the maximum penalties.

The entire ordinance may be viewed at www.cityofloveland.org