

Chapter 4 – Medical Marijuana

AN ORDINANCE OF THE TOWN COUNCIL OF THE TOWN OF BROADUS, MONTANA, IMPOSING A TEMPORARY MORATORIUM ON THE OPENING, OPERATION, AND LICENSING OF ANY ESTABLISHMENTS THAT GROW, SELL OR DISTRIBUTE MEDICAL MARIJUANA, AND DIRECTING THE STUDY OF THE NEW PROPOSED ORDINANCES TO REGULATE SUCH ESTABLISHMENTS.

WHEREAS, on November 2, 2004, Montana voters adopted the Medical Marijuana Act, which codified at 50-46-101, MCA et seq., and at that time and in subsequent legislative sessions the legislature failed to include language or authorize State agencies to promulgate administrative rules concerning a multitude of logistical issues surrounding the Act and the concerns of local governments about its application in their communities and parameters under which a local government has authority to regulate its effects; and,

WHEREAS, the Medical Marijuana Act permits the cultivation, manufacture, delivery, transfer, and transportation of marijuana or paraphernalia by a qualified patient or a caregiver, as those terms are defined in the Act; and,

WHEREAS, establishments that grow, sell or distribute medical marijuana or paraphernalia could have a blighting or detrimental effect on neighborhoods or on nearby schools, or recreational facilities, and can through such blighting effect create a public nuisance; and,

WHEREAS, section 76-2-306 MCA, permits a town to adopt an interim zoning ordinance for the immediate preservation of the public peace, property, health, or safety, which interim zoning ordinance may take effect immediately; and,

WHEREAS, State law allows the Town to adopt an interim zoning ordinance to protect public safety, health, and welfare without following the procedures otherwise required preliminary to the adoption of zoning ordinances, and such interim ordinances may prohibit uses that may be conflict with a contemplated zoning proposal, which the legislative body is considering within a reasonable time; and,

WHEREAS, the Town Council of the Town of Broadus has determined that the licensing, opening, or operation or any establishments that grow, sell or distribute medical marijuana or paraphernalia within the Town limits of the Town of Broadus, could be immediately detrimental to, harmful to, and a threat to the peace, property, health, safety, and welfare of the Town and its inhabitants, until such time as the Town has had an opportunity to further study such issue and an opportunity to adopt appropriate ordinances, zoning or otherwise, to appropriately deal with any such establishments; and,

WHEREAS, after first having provided lawful public notice, as required by section 76-2-306(2), MCA, the Town Council conducted a public hearing on June 1, 2010, with respect to this proposed Ordinance, and invited public comment.

NOW, THEREFORE, BE IT ORDAINED by the Town Council of the Town of Broadus, Montana, as follows:

Section 4-1: The terms “marijuana,” “paraphernalia,” “qualifying patient,” and “caregiver” have the meaning attributed to those terms by the Medical Marijuana Act.

Section 4-2: The Town Council hereby directs the Town of Broadus Planning Board to

Council may consider the issue within approximately four (4) months of the date of the enactment of this ordinance.

Section 4-4: Until such new ordinance, zoning or otherwise, are adopted and in order to deal with the issues described above, any establishments attempting to grow, sell, or distribute medical marijuana or paraphernalia are hereby prohibited from being opened, operated, ore licensed within the Town of Broadus. The prohibition in the preceding sentence shall not apply to a qualifying patient who possesses not more than six (6) marijuana plants and one (1) ounce of usable marijuana solely for the patient's own use, nor shall it apply to a care giver who possesses not more than six (6) marijuana plants and one (1) ounce of usable marijuana solely for each of his or her qualifying patient's use. During the period of this interim ordinance, the number of plants in a caregiver's possession may not exceed the number of plants allowed under the Medical Marijuana Act for the number of qualifying patients, which were registered to him or her o the effective date of this ordinance.

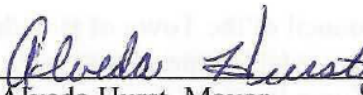
Section 4-5: Any individual, entity or establishment that violates the terms of the restrictions set forth above shall be deemed to be creating a public nuisance, and shall be subject to the prosecution in the same manner as one who violates Town Ordinances, and shall be subject to the penalties as described in section 3-19 of the Town of Broadus Public Nuisance ordinance.

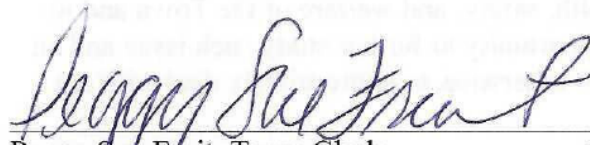
Section 4-6: In the event any word, phrase, clause, sentence, paragraph, section, or other part of this Ordinance set forth herein in held invalid by a court of competent jurisdiction, such judgment shall affect only that part held invalid, and the remaining provisions thereof shall continue in full force and effect.

Section 4-7: This Ordinance shall take effect immediately upon its adoption by the Town Council of the Town of Broadus, Montana and signing by the Mayor thereof.

APPROVED by the Town Council on first reading May 18, 2010.

PASSED, APPROVED AND ADOPTED by the Town council of the Town of Broadus, Montana, on second reading June 1, 2010.


Alveda Hurst, Mayor


Peggy Sue Fruit, Town Clerk

