

TOWN OF EMPIRE
Ordinance No. 232, Series 2013

**AN ORDINANCE IMPOSING A MORATORIUM ON THE LOCATION AND
OPERATION OF MARIJUANA ESTABLISHMENTS OR MARIJUANA CLUBS
IN THE TOWN OF EMPIRE; AND DECLARING AN EMERGENCY.**

WHEREAS, the Town of Empire, Colorado (the "Town"), is a statutory town and political subdivision of the State of Colorado, duly organized and operating under the constitution and laws of the State and has created; and

WHEREAS, the Board of Trustees of the Town (the "Board") is acting hereunder as the governing body of the Enterprise; and

WHEREAS, at the November 2012 general election, the voters of the State of Colorado adopted Amendment 64 to the Colorado Constitution as Article XVIII Section 16 ("Amendment 64") which authorizes the personal use, possession, growth, transport and transfer of marijuana in limited amounts and under limited circumstances; and

WHEREAS, Amendment 64 further authorizes the conduct of business to cultivate, produce, test and sell marijuana and marijuana products; and

WHEREAS, Amendment 64 permits persons twenty-one years of age or older to possess, use, display, purchase and distribute without remuneration one ounce or less of marijuana, and to grow, process and transport marijuana plants; and

WHEREAS, Amendment 64 also contemplates the retail production and sale of marijuana ("Marijuana Establishments"), and establishes a time schedule under which such establishments may be established and regulated by the state and/or local governments; and

WHEREAS, during the 2013 legislative session, the Colorado General Assembly adopted new statutes, specifically those stated in SB 13-283 amending Titles 9, 12, 13, 16, 24, 25, 26, 27, 39, and 42, implementing the provisions in Amendment 64 and address related matters; and

WHEREAS, state regulation of Marijuana Establishments is also dependent upon the Colorado Department of Revenue adopting regulations for such establishments prior to July 1, 2013; and

WHEREAS if the Colorado Department of Revenue fails to adopt regulations by July 1

WHEREAS, relying on the authority in Amendment 64 for individual adult consumption of one ounce or less of marijuana, establishments (“Marijuana Clubs”) have been created in other municipalities for the purpose of allowing members or guests to consume marijuana or marijuana products on site; and

WHEREAS, if Marijuana Establishments or Marijuana Clubs were allowed to be established and operate in the Town without appropriate regulation, they may be located in areas or under conditions that may be inconsistent with surrounding uses or otherwise be detrimental to the public health, safety and welfare; and

WHEREAS, the imposition of a moratorium to and through January 1, 2014, on the submission, acceptance, processing, and approval of applications for Town permits and licenses concerning the operation of Marijuana Establishments or Marijuana Clubs is reasonable and will allow the Town to develop appropriate policies and, if needed, regulations concerning the same.

NOW THEREFORE, BE IT ORDAINED BY THE TOWN BOARD OF THE TOWN OF EMPIRE, COLORADO, AS FOLLOWS:

Section 1. Findings and Intent. The above and foregoing recitals are incorporated herein by reference and adopted as findings and determinations of the Town Board of the Town of Empire.

Section 2. Imposition of Moratorium on the Establishment and Operation of Marijuana Establishments or Marijuana Clubs. A moratorium is hereby imposed on the submission, acceptance, processing, and approval of any application for a Town permit or license to operate a Marijuana Establishment or Marijuana Club under any basis, including Article XVIII Section 16 of the Colorado Constitution or any provision of the Empire Town Code. The Town clerk and any other staff who may be requested is directed to refuse to accept for filing, and not to process or review any application for such Marijuana Establishments or Marijuana Clubs during the moratorium period.

Section 3. Medical Marijuana Establishments. This Ordinance and the moratorium imposed will not apply to the lawful operation any local medical marijuana establishments, as defined by Amendment 64 (November 2012) to the Colorado Constitution and its implementing legislation.

Section 4. Duration and Exception.

(a) The moratorium imposed by this Ordinance shall commence as of the effective date of this Ordinance, and shall expire on January 1, 2014, unless sooner extended or repealed.

approval of such application or the operation of any specific type of Marijuana Establishment or Marijuana Club.

Section 5. Declaration of Unlawful Activity; Penalty. It is unlawful for any person to locate, operate or otherwise establish or conduct any Marijuana Establishment, as that term is defined by Article XVIII, Section 16 of the Colorado Constitution, within the Town of Empire during the moratorium imposed by this Ordinance, or to permit, aid or otherwise facilitate the same. A violation of this Section 5 shall be punishable by a fine not to exceed one thousand dollars (\$1,000), imprisonment for a period not to exceed one (1) year or both such fine and imprisonment. With respect to violations of this Ordinance which are continuous, a separate offense shall be deemed committed for each day the violation occurs or continues. In addition to these criminal penalties, the Town is authorized to seek injunctive relief, abatement authorization and any other civil remedy, recourse and cause of action available in law or equity.

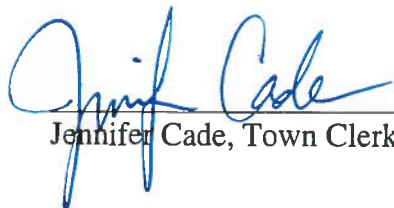
Section 6. Police Power Finding. The Town Board hereby finds, determines, and declares that this Ordinance is necessary and proper to provide for the safety, preserve the health, promote the prosperity, and improve the order, comfort and convenience of the Town of Empire and the inhabitants thereof.

Section 7. Authority. The Town Board hereby finds, determines and declares that it has the power to adopt this Ordinance pursuant to: (i) Section 16(5)(f) of Article XVIII of the Colorado Constitution; (ii) the Local Government Land Use Control Enabling Act, Article 20 of Title 29, C.R.S.; (iii) Part 3 of Article 23 of Title 31, C.R.S. (concerning municipal zoning powers); (iv) Section 31-15-103, C.R.S. (concerning municipal police powers); (v) Section 31-15-401, C.R.S. (concerning municipal police powers); and (vi) Section 31-15-501, C.R.S. (concerning municipal power to regulate businesses).

Section 9. Severability. Should any one or more sections or provisions of this Ordinance be judicially determined invalid or unenforceable, such judgment shall not affect, impair or invalidate the remaining provisions of this Ordinance, the intention being that the various sections and provisions are severable.

Section 10. Emergency Declared; Effective date; Expiration. Pursuant to C.R.S. § 31-16-105, the Board finds, determines and declares that passage of this Ordinance is necessary for the immediate preservation of the public health and safety in order to address any requests for permits for Marijuana Establishments or Marijuana Clubs. Failure to immediately enact this Ordinance could result in requests being received, which may not be able to be denied. The Board of Trustees further determines that the adoption of this Ordinance as an emergency ordinance is in the best interest of the citizens of the Town of Empire. Therefore, this Ordinance

ATTESTED AND CERTIFIED:



Jennifer Cade, Town Clerk

PASSED, ADOPTED AND APPROVED at a Regular Meeting of the Town Board of the Town of Empire, Colorado, held on the 16 day of July, 2013.




Wendy Koch, Mayor

ATTESTED AND CERTIFIED:



Jennifer Cade, Town Clerk



CITY attorney



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ATTESTED AND CERTIFIED:



Jennifer Cade, Town Clerk

PASSED, ADOPTED AND APPROVED at a Regular Meeting of the Town Board of the Town of Empire, Colorado, held on the ___ day of June, 2013.

Wendy Koch, Mayor

ATTESTED AND CERTIFIED:

Jennifer Cade, Town Clerk

6-26-13

NOTICE

Notice is hereby given that the Empire Board of Trustees will hold a Public Hearing on Tuesday July 16, 2013 at 6:30 p.m. to consider and adopt on second reading, Ordinance 232,

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The proposed ordinance may be inspected from 8:30