

ORDINANCE 3055

AN ORDINANCE OF THE CITY COMMISSION OF THE CITY OF GREAT FALLS, MONTANA, AMENDING ORDINANCE 3049 (AS AMENDED), WHICH IMPOSED A MORATORIUM ON THE OPENING, OPERATION, AND LICENSING OF ANY ESTABLISHMENTS THAT GROW, SELL, OR DISTRIBUTE MEDICAL MARIJUANA

WHEREAS, on February 2, 2010, the City Commission of the City of Great Falls, adopted an interim zoning ordinance, pursuant to § 76-2-306, MCA, which imposed a moratorium on the opening, operation or licensing of any establishments that grow, sell or distribute medical marijuana; and

WHEREAS, Ordinance 3049 (as amended), directed that the Great Falls Planning and Community Development Department to investigate and study the effect of the opening of establishments that grow, sell, or distribute medical marijuana or paraphernalia and to make recommendations concerning new zoning ordinances that could be adopted to better regulate and/or deal with such establishments, to limit, prohibit, or abate any negative effect implicating the health, safety, and/or welfare of the citizenry of the City of Great Falls, Montana, or blight, upon the City of Great Falls, Montana (and its entire zoning jurisdiction and its inhabitants), or the schools, recreational facilities, or neighborhoods located therein.

The City Commission further directed the Great Falls Planning and Community Development Department to present the findings of its investigation and its recommendations to the Great Falls Planning Advisory Board, and that the Board shall then provide its recommendation to the City Commission, so that the City Commission may consider the issue within approximately three (3) months of the date of the enactment of Ordinance 3049 (as amended); and

WHEREAS, on April 13, 2010, the Planning Advisory Board, acting as the Zoning Commission, conducted a public hearing to consider three (3) alternatives: (1) prohibition, (2) extending the moratorium, and (3) a zoning ordinance. After a lengthy public hearing and discussion, the Planning Board was unable to attain a sufficient number of votes on any motion to forward a recommendation to the City Commission; and

WHEREAS, after first providing lawful public notice, as required by § 76-2-306(2), MCA, the City Commission will conduct a public hearing on June 1, 2010, with respect to this proposed Ordinance, and invite public comment; and,

WHEREAS, § 76-2-306(3) , MCA, permits the legislative body to extend such interim ordinance for one (1) year. **Any such extension shall require a two-thirds vote for passage and shall become effective upon passage.**

NOW, THEREFORE, BE IT ORDAINED by the City Commission of the City of Great Falls, Montana, as follows:

Section 1: All the recitals set forth above are hereby adopted as Findings of Fact.

Section 2: Ordinance 3049 (as amended), which is set forth below in its entirety, is amended as shown below. Language that is being deleted is shown with a strikethrough, and new language is shown in bold.

Section 1: All the recitals set forth above are hereby adopted as Findings of Fact.

Section 2: The terms “marijuana,” “paraphernalia,” “qualifying patient,” and, “caregiver,” have the meaning attributed to those terms by the Medical Marijuana Act.

Section 3: The City Commission hereby directs the **City Attorney, Great Falls Police Department, Great Falls Fire Department, and the** Great Falls Planning and Community Development Department **work cooperatively** to investigate and study the effect of the opening of establishments that grow, sell, or distribute medical marijuana or paraphernalia and to make recommendations concerning new zoning ordinances that could be adopted to better regulate and/or deal with such establishments, to limit, prohibit, or abate any negative effect implicating the health, safety, and/or welfare of the citizenry of the City of Great Falls, Montana, or blight, upon the City of Great Falls, Montana (and its entire zoning jurisdiction and its inhabitants), or the schools, recreational facilities, or neighborhoods located therein.

Section 4: The City Commission hereby directs the **City Attorney, Great Falls Police Department, Great Falls Fire Department, and the** Great Falls Planning and Community Development Department to present the findings of its investigation and its recommendations to the Great Falls Planning Advisory Board, and that the Board shall then provide its recommendation to the City Commission, so that the City Commission may consider the issue within approximately ~~three (3) months~~ **nine (9) months** of the date of the enactment of this Ordinance.

Section 5: Until such new ordinances, 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, or licensed within the City of Great Falls. 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 that patient’s own use, nor shall it apply to a caregiver 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 on the effective date of this ordinance.

Section 6: 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 prosecution in the same manner as one who violates City ordinances, and shall be subject to the general penalty section set forth in section 1.4.070 of the City Code of Great Falls, and shall further be subject to such civil action to enjoin or abate the public nuisance, as the City deems appropriate. Such ability of the City to prosecute and/or enjoin or abate is in addition to any other remedies available to the City, at law or equity.

Section 7: This Ordinance is made expressly retroactive and shall apply to all applications for building permits, zoning variances, conditional use permits, zoning changes, and all other applications for building and land use permits, business licenses, safety inspections certificates, development activity, land use activity, land use changes, and any other applications for approval or any type or nature, which have been received by the City of Great Falls and not yet granted as of the effective date of this Ordinance.

Section 8: In the event any word, phrase, clause, sentence, paragraph, section, or other part of this Ordinance set forth herein is 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 3: The term of Ordinance 3049 (as amended) and as amended herein, is extended for a period of nine (9) months, or approximately one (1) year from the date of adoption of Ordinance 3049 (as amended), up to and including February 2, 2011.

Section 9: This Ordinance shall take effect immediately upon its adoption by the City Commission of the City of Great Falls, Montana, and signing by the Mayor thereof.

APPROVED by the City Commission on first reading May 4, 2010.

PASSED, APPROVED AND ADOPTED by the City Commission of the City of Great Falls, Montana, on second reading June 1, 2010.

Michael J. Winters, Mayor

ATTEST:

Lisa Kunz, City Clerk

(Seal of the City)

APPROVED FOR LEGAL CONTENT:

James W. Santoro, City Attorney

State of Montana)

County of Cascade : ss

City of Great Falls)

I, Lisa Kunz, City Clerk of the City of Great Falls, Montana, do hereby certify that I did post, as required by law and as prescribed and directed by the City Commission, Ordinance 3055 in three places within the limits of said City to-wit:

On the Bulletin Board, first floor, Civic Center Building;

On the Bulletin Board, first floor, Cascade County Court House;

On the Bulletin Board, Great Falls Public Library

(Seal of the City)

Lisa Kunz, City Clerk