

**TOWN OF GRAND LAKE
ORDINANCE NO. ____-2010**

**AN ORDINANCE AMENDING CHAPTER 7 OF THE GRAND LAKE
TOWN CODE BY THE ADDITION OF A NEW ARTICLE 5,
PROHIBITING CERTAIN USES RELATING TO MEDICAL MARIJUANA**

WHEREAS, the Colorado Legislature adopted legislation which in pertinent part added a new Article 43.3 to Title 12 of the Colorado Revised Statutes, to be known as the Colorado Medical Marijuana Code; and

WHEREAS, the Colorado Medical Marijuana Code clarifies Colorado law regarding the scope and extent of Amendment 20 to the Colorado Constitution, Article XVIII, § 14, and at the same time authorizes a regulatory scheme for the retail sale, distribution, cultivation and dispensing of medical marijuana through facilities referred to as “Medical Marijuana Centers,” and further authorizes licensing mechanisms for “Optional Premises Cultivation Operations” and “Medical Marijuana-Infused Products Manufacturers”; and

WHEREAS, C.R.S. § 12-43.3-106 specifically authorizes the governing body of a municipality to “vote to prohibit the operation of medical marijuana centers, optional premises cultivation operations, and medical marijuana-infused products manufacturers”; and

WHEREAS, C.R.S. § 12-43.3-310 specifically authorizes a municipality “to prohibit the operation of medical marijuana centers, optional premises cultivation operations, and medical marijuana-infused products manufacturers . . . based on local government zoning, health, safety, and public welfare laws for the distribution of medical marijuana that are more restrictive than this article”; and

WHEREAS, C.R.S. § 12-43.3-308(1)(c) provides that the state and local licensing authorities shall not receive or act upon a new application pursuant to the Colorado Medical Marijuana Code “for a location in an area where the cultivation, manufacture, and sale of medical marijuana as contemplated is not permitted under the applicable zoning laws of the municipality, city and county, or county”; and

WHEREAS, the Board of Trustees has carefully considered Article XVIII, § 14 of the Colorado Constitution, the Colorado Medical Marijuana Code, and the secondary effects of medical marijuana centers, optional premises cultivation operations, and medical marijuana infused products manufacturing on the health, safety and welfare of the Town of Grand Lake and its inhabitants; and

WHEREAS, the Board of Trustees further recognizes the protections afforded by Article XVIII, Section 14 of the Colorado Constitution, and desires to affirm the ability of patients and primary caregivers to otherwise be afforded the protections of Article XVIII, Section 14 of the Colorado Constitution and C.R.S. § 25-1.5-106, as the same may be amended from time to time.

NOW THEREFORE BE IT ORDAINED BY THE BOARD OF TRUSTEES OF THE TOWN OF GRAND LAKE, COLORADO, THAT:

1. The Code of the Town of Grand Lake, Colorado, is hereby amended by adding to Chapter 7, the following Article 5 , Medical Marijuana.

Section 5: Medical marijuana.

7-5-1 Authority and Applicability.

1. Authority

The Town's authority to adopt this Section is found in: The Colorado Medical Marijuana Code, C.R.S. § 12-43.3-101, *et seq.*; the Local Government Land Use Control Enabling Act, C.R.S. 29-20-101, *et seq.*; C.R.S. 31-23-101, *et seq.* (municipal zoning powers); C.R.S. §§ 31-15-103, 31-15-401. (municipal police powers); C.R.S. § 31-15-501 (municipal authority to regulate businesses); and Chapter 12-2 of the Grand Lake Town Code.

2. Applicability.

This Article shall apply to all property within the Town.

7-5-2 Uses prohibited.

It is unlawful for any person to operate, cause to be operated or permit to be operated a medical marijuana center, an optional premises cultivation operation, or a medical marijuana-infused products manufacturing facility in the Town.

7-5-3 Definitions. For purposes of this Section, the following terms shall have the following meanings:

1. *Medical marijuana* means marijuana that is grown and sold for a purpose authorized by Article XVIII. § 14 of the Colorado Constitution.
2. *Medical marijuana center* means a person licensed to operate a business as described in the Colorado Medical Marijuana Code that sells medical marijuana and medical marijuana-infused products, and which a municipality is authorized to prohibit as a matter of law.
3. *Medical marijuana-infused products manufacturer* means a person licensed pursuant to the Colorado Medical Marijuana Code to operate a business manufacturing medical marijuana-infused products, and which a municipality is authorized to prohibit as a matter of law.

4. *Optional premises cultivation operation* means a person licensed pursuant to the Colorado Medical Marijuana Code to grow and cultivate marijuana for a purpose authorized by Article XVIII, § 14 of the Colorado Constitution, and which a municipality is authorized to prohibit as matter of law.
5. *Patient* has the meaning set forth in Article XVIII, § 14(1)(c) of the Colorado Constitution.
6. *Primary caregiver* has the meaning set forth in Article XVIII, § 14(1)(f) of the Colorado Constitution.

7-5-4 Patients and Primary Caregivers.

Nothing in this Article 5 shall be construed to prohibit, regulate or otherwise impair the use of medical marijuana by patients as defined by the Colorado Constitution, or the provision of medical marijuana by a primary caregiver to a patient in accordance with the Colorado Constitution, and consistent with C.R.S. § 25-1.5-106, and rules promulgated thereunder, as the same statute and rules may be amended from time to time.

7-5-5 Penalty.

A violation of the provisions o this Article shall be punishable as follows:

- (1) By a fine of not more than Three Hundred Dollars (\$300.00), or imprisonment in the county jail for not more than one (1) year, or both such fine and imprisonment;
 - (2) Each and every day a violation of the provisions of this Article is committed, exists or continues shall be deemed a separate offense;
 - (3) The Town is specifically authorized to seek an injunction, abatement, restitution or any other remedy necessary to prevent, enjoin, abate, or remove the violation; and
 - (4) Any remedies provided for herein shall be cumulative and not exclusive, and shall be in addition to any other remedies provided by law or in equity.
2. Repeal - Existing ordinances or parts of ordinances inconsistent with the provisions of this ordinance are hereby repealed, except that this repeal shall not affect or prevent the prosecution or punishment of any person for any act done or committed in violation of any ordinance hereby repealed prior to the taking effect of this ordinance.
 3. Validity - If any section, subsection, sentence, clause or phrase of this ordinance is, for any reason, held to be invalid or unconstitutional, such decision shall not affect the validity or constitutionality of the remaining portions of this ordinance. The Town of Grand Lake hereby declares that it would have passed this ordinance, and each

section, subsection, clause or phrase hereof, irrespective of the fact that any one or more sections, subsections, sentences, clauses and phrases be declared unconstitutional.

INTRODUCED, PASSED AND ADOPTED AT A REGULAR MEETING OF THE BOARD OF TRUSTEES OF THE TOWN OF GRAND LAKE AND SIGNED THIS _____ DAY OF JULY, 2010.

Votes Approving: _____
Votes Opposing: _____
Absent: _____
Abstaining _____

ATTEST:

TOWN OF GRAND LAKE

Ronda Kolinske, CMC
Town Clerk

By: _____
Judy M. Burke
Mayor