

BEFORE THE BOARD OF COUNTY COMMISSIONERS OF ALAMOSA COUNTY

ORDINANCE NO: 17

RE: ORDINANCE PROHIBITING THE OPERATION OF MARIJUANA CULTIVATION FACILITIES, MARIJUANA PRODUCT MANUFACTURING FACILITIES, MARIJUANA TESTING FACILITIES, OR RETAIL MARIJUANA STORES LOCATED IN ALAMOSA COUNTY, COLORADO.

Commissioner Yohn moved for the adoption of the following resolution. Commissioner Dunne seconded the motion.

WHEREAS, a public hearing and the first reading of the proposed ordinance was held on September 11, 2013 which testimony was received. It was published in full in the Valley Courier on September 13, 2013; and

WHEREAS, a second public hearing was held on the proposed ordinance on September 30, 2013 and was adopted and said Ordinance shall take effect immediately. It will be republished by title and amendments only in the Valley Courier as soon as possible.

ALAMOSA COUNTY ORDINANCE NO: 17

ORDINANCE PROHIBITING THE OPERATION OF MARIJUANA CULTIVATION FACILITIES, MARIJUANA PRODUCT MANUFACTURING FACILITIES, MARIJUANA TESTING FACILITIES, OR RETAIL MARIJUANA STORES LOCATED IN ALAMOSA COUNTY, COLORADO.

WHEREAS, pursuant to § 30-15-401, C.R.S., the Board of County Commissioners of Alamosa County, Colorado (hereinafter the "Board"), has the general enabling power to adopt ordinances for the control or licensing of those matters of purely local concern, and to do all acts and make all regulations which may be necessary or expedient for the promotion of the health, safety and welfare of the present and future residents of Alamosa County; and

WHEREAS, on November 6, 2012, the voters of Colorado approved the adoption of Amendment 64, Personal Use and Regulation of Marijuana; and

WHEREAS, Amendment 64 became effective upon official declaration of the vote thereon by proclamation of the Governor, pursuant to Section 1(4) of Article V, of the Colo. Constitution; and

WHEREAS, Amendment 64 defines a "locality" in part in section 2(e) of Section 16 to include a county; and

WHEREAS, part 5(f) of Section 16 provides the following:

(f) A locality may enact ordinances or regulations, not in conflict with this section or with regulations or legislation enacted pursuant to this section,



governing the time, place, manner and number of marijuana establishment operations; establishing procedures for the issuance, suspension, and revocation of a license issued by the locality in accordance with paragraph (h) or (i), such procedures to be subject to all requirements of Article 4 of Title 24 of the Colorado Administrative Procedure Act or any successor provision; establishing a schedule of annual operating, licensing, and application fees for marijuana establishments, provided, the application fee shall only be due if an application is submitted to a locality in accordance with paragraph (i) and a licensing fee shall only be due if a license is issued by a locality in accordance with paragraph (h) or (i); and establishing civil penalties for violation of an ordinance or regulation governing the time, place, and manner of a marijuana establishment that may operate in such locality. **A locality may prohibit the operation of marijuana cultivation facilities, marijuana product manufacturing facilities, marijuana testing facilities, or retail marijuana stores through the enactment of an ordinance or through an initiated or referred measure; provided, any initiated or referred measure to prohibit the operation of marijuana cultivation facilities, marijuana product manufacturing facilities, marijuana testing facilities, or retail marijuana stores must appear on a general election ballot during an even numbered year.** (Emphasis added)

and;

WHEREAS, Amendment 64 conflicts with federal law, as the possession, cultivation, sale and use of marijuana remains illegal under federal criminal statutes; and

WHEREAS, The Board of County Commissioners of Alamosa County finds that the licensing and operation of retail marijuana establishments provided for in Amendment 64, makes marijuana more readily available in the community and facilitates recreational use of marijuana, and therefore presents a threat to the health and education of Alamosa County's children, and to the health, safety and general welfare to the public as a whole; and

WHEREAS, the licensing and operation of medical marijuana centers, medical marijuana infused products manufacturing, and optional premises cultivation operations pursuant to the Colorado Medical Marijuana Code and Alamosa County's regulations on medical marijuana shall be unaffected by this ordinance; and

WHEREAS, the Board of Alamosa County Commissioners desires to present to the registered and eligible electors of Alamosa County at the regular election in November 2014, the question of whether to allow or prohibit retail marijuana establishments as set forth herein; and

WHEREAS, the Board further recognizes the protections afforded by Amendment 64 to individual residents, and desires to affirm the right of personal use of marijuana and nothing in this ordinance shall affect that right;

WHEREAS, the Board shall certify the following question or one substantially similar to the following on the ballot for the 2014 general election:



PURSUANT TO THE AUTHORITY GRANTED BY PART 5(F) OF SECTION 16, OF AMENDEMENT 64 OF THE COLORADO CONSTITUTION, SHALL ALAMOSA COUNTY ALLOW THE OPERATION OF MARIJUANA CULTIVATION FACILITIES, MARIJUANA PRODUCT MANUFACTURING FACILITIES, MARIJUANA TESTING FACILITIES, OR RETAIL MARIJUANA STORES AS THOSE TERMS ARE DEFINED IN PART 2 OF SECTION 16, OF AMENDMENT 64 OF THE COLORADO CONSTITUTION, WITHIN THE UNINCORPORATED BOUNDARIES OF ALAMOSA COUNTY, COLORADO?

Yes _____

No _____

NOW, THEREFORE, BE IT ORDAINED, by the Board of County Commissioners of Alamosa County, State of Colorado, that:

1. Effective immediately there shall be a prohibition on the new construction, alteration, or use of any building, structure, or property used for the sale, distribution, cultivation, and dispensing of marijuana and there shall be no operation of any marijuana cultivation facility, marijuana product manufacturing facility, marijuana testing facility, or retail marijuana store as those terms are defined by Amendment 64, Section 16, Paragraph (2), within the unincorporated boundaries of Alamosa County, State of Colorado.

2. This Ordinance shall remain in effect until such time as an election question is submitted to the registered electors of Alamosa County on whether to allow such uses within the unincorporated boundaries of Alamosa County as authorized by Amendment 64.

3. The following question, unless sooner amended by the Board, shall be submitted to a vote of the registered and eligible electors of Alamosa County, Colorado, at the regular election in November 2014:

RETAIL MARIJUANA BALLOT QUESTION:

PURSUANT TO THE AUTHORITY GRANTED BY PART 5(F) OF SECTION 16, OF AMENDEMENT 64 OF THE COLORADO CONSTITUTION, SHALL ALAMOSA COUNTY ALLOW THE OPERATION OF MARIJUANA CULTIVATION FACILITIES, MARIJUANA PRODUCT MANUFACTURING FACILITIES, MARIJUANA TESTING FACILITIES, OR RETAIL MARIJUANA STORES, AS THOSE TERMS ARE DEFINED IN PART 2 OF SECTION 16, OF AMENDMENT 64 OF THE COLORADO CONSTITUTION WITHIN THE UNINCORPORATED BOUNDARIES OF ALAMOSA COUNTY, COLORADO?

Yes _____

No _____

4. If the majority of the registered and eligible electors of Alamosa County votes to allow the operation of marijuana cultivation facilities, marijuana product manufacturing facilities, marijuana testing facilities, or retail marijuana stores within the unincorporated boundaries of Alamosa County, the regulations established by Alamosa County regarding Medical Marijuana shall apply immediately upon certification of the election results.



5. The Board hereby finds, determines and declares that this Ordinance is necessary for the immediate preservation of the health, safety and welfare of the citizens of Alamosa County, Colorado because the use and/or sale of marijuana remains illegal under federal criminal statutes and the issuance of any recreational use license would make marijuana more readily available in the community and children.

6. Any person who violates this county ordinance as adopted commits a class 2 petty offense, and upon conviction thereof, shall be punished by a fine of not more than one thousand dollars for each separate violation. Each day in which the violation occurs shall be considered a separate offense.

7. The foregoing text is the authentic text of Alamosa County Ordinance No. 17. The first reading of said Ordinance took place on September 11, 2013 at a regular Board of County Commissioners Meeting. It was published in full in the Valley Courier on September 13, 2013. The Ordinance was adopted on second reading at a special Board of County Commissioners Meeting on September 30, 2013, and shall take effect immediately. It will be republished by title and amendment only in the Valley Courier as soon as possible.

Roll call vote resulting in approval: Commissioners Allen, Dunne & Yohn in favor. None opposed.

DATED: September 30, 2013.

(S E A L)



ATTEST:

Melanie Woodward
Melanie Woodward, Clerk of the Board

BOARD OF COUNTY COMMISSIONERS OF
ALAMOSA COUNTY

By

Darius Allen
Darius Allen, Chairman



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10/9/2013 10:13 AM
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Melanie Woodward
Alamosa Cnty Clerk