

ORDINANCE NO. 26-2024

AN ORDINANCE ESTABLISHING A TEMPORARY MORATORIUM ON THE ESTABLISHMENT OF MEDICAL AND RETAIL MARIJUANA STORES THROUGH JUNE 30, 2025

WHEREAS, Article XIV, Section 4 of the *Charter* of the City of Alamosa empowers the City Council to zone the City and to make appropriate regulations and restrictions concerning land uses within the City of Alamosa; and

WHEREAS, the Alamosa *Code of Ordinances*, at sections 10-251 and 10-262 prohibits the establishment of any commercial marijuana facilities, including medical and retail marijuana stores, as those facilities are defined in the Colorado Medical Marijuana Code (C.R.S. § 12-43.3-101 et seq.) and the Colorado Retail Marijuana Code (C.R.S. § 12-43.4-101 et seq.), other than marijuana testing facilities; and

WHEREAS, the City of Alamosa has placed two questions concerning marijuana on the ballot for the coordinated election to be conducted November 5, 2024, one concerning allowing medical marijuana stores within the City, and once concerning allowing retail marijuana stores within the City, the text of which reads as follows:

SHALL THE TAXES OF THE CITY OF ALAMOSA BE INCREASED BY \$300,000 IN THE FIRST FISCAL YEAR, BEGINNING JANUARY 1, 2025, AND BY SUCH AMOUNTS AS ARE RAISED ANNUALLY THEREAFTER, BY IMPOSING AN ADDITIONAL SALES TAX OF 2 % ON THE SALE OF MEDICAL MARIJUANA AND MEDICAL MARIJUANA PRODUCTS, AND SHALL THE SALE OF MEDICAL MARIJUANA AND MEDICAL MARIJUANA PRODUCTS BE ALLOWED WITHIN THE CITY OF ALAMOSA SUBJECT TO SUCH REGULATIONS AS TO ZONING, DENSITY, NUMBER OF FACILITIES ALLOWED, ADVERTISING, HOURS OF OPERATION, SECURITY, AND OTHER MATTERS AS COUNCIL DEEMS APPROPRIATE TO ENACT, WITH THE SALES TAX RATES BEING CAPABLE OF BEING LOWERED OR REVOKED IN THE SOLE DISCRETION OF THE ALAMOSA CITY COUNCIL, WITH THE RESULTING TAX REVENUES ALLOWED TO BE COLLECTED AND SPENT, NOTWITHSTANDING ANY EXPENDITURE, REVENUE RAISING, OR OTHER LIMITATION CONTAINED IN ARTICLE X, § 20 OF THE COLORADO CONSTITUTION OR ANY OTHER LIMITATIONS PROVIDED BY LAW?

And

SHALL THE TAXES OF THE CITY OF ALAMOSA BE INCREASED BY \$300,000 IN THE FIRST FISCAL YEAR, BEGINNING JANUARY 1, 2025, AND BY SUCH AMOUNTS AS ARE RAISED ANNUALLY THEREAFTER, BY IMPOSING AN ADDITIONAL SALES TAX OF 5 % ON THE SALE OF RETAIL MARIJUANA AND RETAIL MARIJUANA PRODUCTS, AND SHALL THE SALE OF RETAIL MARIJUANA AND RETAIL MARIJUANA PRODUCTS BE ALLOWED WITHIN

THE CITY OF ALAMOSA SUBJECT TO SUCH REGULATIONS AS TO ZONING, DENSITY, NUMBER OF FACILITIES ALLOWED, ADVERTISING, HOURS OF OPERATION, SECURITY, AND OTHER MATTERS AS COUNCIL DEEMS APPROPRIATE TO ENACT, WITH THE SALES TAX RATES BEING CAPABLE OF BEING LOWERED OR REVOKED IN THE SOLE DISCRETION OF THE ALAMOSA CITY COUNCIL, WITH THE RESULTING TAX REVENUES ALLOWED TO BE COLLECTED AND SPENT, NOTWITHSTANDING ANY EXPENDITURE, REVENUE RAISING, OR OTHER LIMITATION CONTAINED IN ARTICLE X, § 20 OF THE COLORADO CONSTITUTION OR ANY OTHER LIMITATIONS PROVIDED BY LAW?

and

WHEREAS, if either or both of the ballot issues pass, the City will need to develop ordinances governing marijuana stores, including appropriate licensing and zoning regulations, and including, without limitation, regulations governing number, size and location of such facilities, hours of operation, health and safety regulations, security regulations, and licensing and enforcement procedures; and

WHEREAS, the City desires to further study the issues surrounding appropriate regulations for marijuana stores in the event the ballot issues are successful, so that marijuana stores may be appropriately regulated in the event they are allowed by vote of the citizens of Alamosa on the referred measures; and

WHEREAS, nothing in this section is meant to inhibit any individual's personal use or possession of marijuana pursuant to article XVIII, section 16(3)(a) - (e) of the Colorado Constitution;

NOW, THEREFORE, BE IT HEREBY ORDAINED by the City Council of the City of Alamosa, Colorado, as follows:

Section 1. Moratorium on the Establishment of Medical and/or Retail Marijuana stores. In the event either medical or retail marijuana stores are approved by the voters in the November 5, 2024, election, a moratorium is hereby established through June 30, 2025, unless sooner lifted by action of Council or made moot by the adoption of regulations governing such stores, on the establishment of medical and/or retail marijuana stores within the City of Alamosa

Section 2. Acceptance of applications during moratorium. During the time the moratorium is in place, the Finance Department may accept completed applications for sales tax licenses for medical and/or retail marijuana stores, and the Planning Commission may accept applications for use by special review for medical and/or retail marijuana stores, but no such application shall be acted upon while the moratorium is in place. Any applications will be dated and held until the moratorium is resolved. In the event that either of the referred measures is passed to allow medical or retail marijuana stores, applications filed while the moratorium was in effect shall be processed in the order in which they were received, and before any application filed after expiration of the moratorium, such that if any ordinance is enacted containing a limit

on total number of such stores, the order of filing of applications will be preserved through the moratorium period. The fact that any such application may have been filed for an address that later is designated as not allowing such use will not serve to grandfather the application with respect to the land use designations that were in place at the time the application was made. Instead, the application will be considered with the land use restrictions in place at the time of consideration, not of application. Additionally, in the event that any fee is established for such applications in excess of the fee paid when the application was made, the additional fee must be paid before the application will be processed.

Section 3. Staff Direction. In the event either of the referred measures concerning allowing marijuana stores within the City are approved in the November 5, 2024 election, City staff and the City Planning Commission shall investigate issues surrounding marijuana stores within the City of Alamosa and prepare a proposed ordinance or ordinances concerning appropriate licensing and zoning regulations, and including, without limitation, regulations governing number, size and location of such facilities, hours of operation, health and safety regulations, security regulations, and licensing and enforcement procedures for further consideration by the City Council during the moratorium period.

Section 4. General Repealer. All other acts, orders, ordinances, resolutions, or portions thereof in conflict with the sections adopted in this Ordinance, are hereby repealed to the extent of such conflict.

Section 5. Recording and Authentication. This ordinance, immediately upon its passage, shall be authenticated by the signatures of the Mayor and City Clerk, recorded in the City book of Ordinances kept for that purposes, and published according to law.

Section 6. Publication and Effective Date. This ordinance shall take effect ten (10) days after publication following final passage. Publication both before and after final passage shall be by the title of this ordinance, which Council determines constitutes a sufficient summary of the ordinance, together with the statement that the full text of the ordinance is available for public inspection and acquisition on the City's website and in the office of the City Clerk.

Section 7. Declaration of Public Interest. This ordinance is necessary to preserve the peace, health, safety, welfare, and to serve the best interest of the citizens of the City of Alamosa, Colorado.

Section 8. NON-Codification. The City Clerk is directed to ensure that the provisions of this ordinance **ARE NOT** codified in the Code of Ordinances of the City of Alamosa.

INTRODUCED, READ AND APPROVED on first reading the 2nd day of October, 2024, and ordered published by title and reference as provided by law with notice of a public hearing to be held for consideration of the adoption of said ordinance on the 16th day of October, 2024, at 7:00 p.m., or as soon thereafter as the matter may be heard, or on such subsequent date to which the public hearing or Council consideration may be continued.

APPROVED, AND ADOPTED after public hearing the 16th day of October, 2024.

CITY OF ALAMOSA

By _____
Ty Coleman, Mayor

ATTEST:

Holly C. Martinez, City Clerk