



MEMORANDUM

Date: February 9, 2016
To: City Planning Commission
From: Peter Wysocki, AICP, Planning and Community Development Director
Subject: City Planning Commission Meeting February 18, 2016
Marijuana Consumption Club Facilities Ordinance

Background:

The City of Colorado Springs (“City”) does not currently have specific zoning regulations or licensing requirements for marijuana consumption clubs and facilities. In 2014, during a zoning violation appeal hearing pertaining to Studio A64 – a marijuana consumption club located in downtown Colorado Springs - the City Council directed staff to develop regulations for marijuana consumption clubs. At that time, the City Council granted an appeal of a zoning violation issued to the club alleging a violation of the City’s Zoning Code. Specifically, the zoning violation alleged that a marijuana consumption club facility was not a permitted use in any zone district in the City. In permitting Studio A64’s land use, the City Council interpreted that Studio A64 was operating a “similar use” to a *social club*, which falls under the parent definition of a “(*membership*) club” as established in § 7.2.302 (D)(3) of the City Code. Based on that interpretation, the Manager made an official similar use determination pursuant to § 7.2.108 of the City Code that marijuana consumption club facilities are either permitted or conditionally permitted in zoning districts where (*membership*) clubs are permitted or conditionally permitted, including multi-family residential, commercial and industrial zone districts. Marijuana consumption club facilities operating within the parameters of the Manager’s similar use determination must comply with all other laws and all applicable zoning, subdivision, building and fire code requirements, and must have gone through the standard City review processes to legally operate.

On September 22, 2015, the City Council enacted a 6-month moratorium on the establishment of any new marijuana consumption clubs. The City Council directed staff to present for adoption draft regulations prior to the expiration of the moratorium. Pursuant to City Council direction, the marijuana consumption club regulations were excluded from a separate medical marijuana task force established by City Council through the adoption of a separate moratorium on new medical marijuana facilities. This “medical marijuana task force” is focused on preparing new regulations for medical marijuana facilities and home-grow operations and will not address marijuana consumption club facilities.

Proposed Ordinances:

The proposed marijuana consumption club ordinances were developed collaboratively by the Planning Department, City Clerk’s Office, Colorado Springs Police Department, Colorado Springs Fire Department
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and the City Attorney's Office with input from the Mayor's Office and Councilmember Don Knight, who was a co-sponsor of the moratoria ordinances adopted by the City Council.

Option 1:

- Marijuana consumption clubs are permitted as a use by right only in M1 and M2 zoning districts
- A 1,000-foot separation from, schools, daycare centers, and drug or alcohol treatment facilities
- A 1,000-foot separation from residentially used or zoned properties
- 1,000-foot separations are measured by pedestrian access
- Requirement for an air filtration system
- Marijuana consumption facilities currently located in zoning districts other than M1 and M2, and were lawfully operating pursuant to the similar use determination established prior to the moratorium (September 22, 2015) would have "non-conforming development" status pursuant to City Code § 7.5.1201, et seq.
- All lawfully operating clubs must obtain a license pursuant to ordinances being developed in conjunction with the City Clerk's Office

Option 2:

- Marijuana consumption clubs are permitted as a conditional use in M1 and M2 zoning districts
- All other standards same as Option 1
- Requires a City Planning Commission hearing with the potential of an appeal to City Council

Option 3:

- Establishment of any new marijuana consumption clubs within City limits would be prohibited.
- Existing clubs that were lawfully operating pursuant to the similar use determination and prior to the moratorium are provided with a five (5) year amortization period and must cease operations no later than March 21, 2021
- All lawfully operating clubs must obtain a license for the duration of permitted operations

In conjunction with the proposed zoning regulations, City staff is also preparing an ordinance establishing licensing requirements and procedures similar to other business licenses already established in Chapter 2 of the City Code. Under the current proposals, all marijuana consumption club facilities will be subject to licensure by the City. The proposed licensing ordinances define a marijuana consumption club as: [a]n establishment, organization, association, club, teapad, or other similar entity or place where a purpose is to allow the consumption of marijuana, medical marijuana or marijuana product on the premises. The draft licensing ordinances also prohibit the transfer or sale of marijuana, cultivation, manufacturing of marijuana products or storage of marijuana, operation between 2AM and 7AM, and any person under the age of 21 to enter the club. Since these types of licenses are not included in the Zoning or Subdivision Code within Chapter 7, those particular ordinances do not fall under the purview of the City Planning Commission.

Recommendation:

In spring 2014, when the Council considered the Studio A64 appeal, the Council directed staff to prepare regulations for marijuana consumption clubs. Ordinances 1 and 2 reflect the direction given by a

previous City Council. However, it appears that some members of the current Council are open to considering a ban on the establishment of new marijuana consumption clubs. Therefore, staff prepared an ordinance (Option 3) that would prohibit new clubs within City limits. Option 3 is supported by Councilmember Don Knight. The Mayor's Office does not object to Option 3. A ban on marijuana consumption clubs within the City limits would be consistent with El Paso County's ban on similar uses in unincorporated areas of the County.

Should the Planning Commission wish to recommend a ban on the establishment of new marijuana consumption clubs, staff recommends approval of the ordinance contained in Option 3, amending Section 302 (Definitions of Use Types) of Part 3 (Land Use Types and Classifications) of Article 2 (Basic Provisions, Definitions) and Section 205 (Additional Standards for Specific Land Uses) of Part 2 (Commercial Districts) of Article 3 (Land Use Zoning Districts) of Chapter 7 (Planning, Development and Building) of the Code of the City of Colorado Springs 2001, as amended, pertaining to marijuana consumption club facilities

Should the Planning Commission wish to recommend regulations for the establishment of new marijuana consumption clubs, staff recommends the ordinance contained in Option 2, amending Section 302 (Definitions of Use Types) of Part 3 (Land Use Types and Classifications) of Article 2 (Basic Provisions, Definitions and Land Use Types and Classifications) and Sections 203 (Permitted Conditional and Accessory Uses) and 205 (Additional Standards for Specific Land Uses) of Part 2 (Commercial Districts) of Article 3 (Land Use Zoning Districts) of Chapter 7 (Planning, Development and Building) of the Code of the City of Colorado Springs 2001, as amended, pertaining to marijuana consumption club facilities.