

ORDINANCE NO. 16-_____

AN ORDINANCE 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

WHEREAS, the City of Colorado Springs ("City") is a home rule city and Colorado municipal corporation created and organized pursuant to Art. XX of the Colorado Constitution and the Charter of the City of Colorado Springs; and

WHEREAS, City Code § 7.2.102 sets forth the purpose and intent of the City's zoning and land use regulations is "to protect property values, to preserve neighborhoods and to protect private property from adjacent nuisances such as noise, excessive traffic, incompatibility of uses, inappropriate design of buildings, and visual obstructions"; and

WHEREAS, in the November 2012 general election, the voters of the State of Colorado approved Amendment 64; and

WHEREAS, Amendment 64 added Section 16 of Article XVIII to the Colorado Constitution and created a limited exception from criminal liability under Colorado law for the cultivation, manufacturing, and transportation of marijuana and marijuana products; and

WHEREAS, Amendment 64 authorizes the City to prohibit the operation of marijuana cultivation facilities, marijuana product manufacturing facilities, marijuana testing facilities, marijuana retail stores, and retail marijuana establishments; and

WHEREAS, the City has exercised its local option and ordained it "unlawful for any person to operate a retail marijuana establishment within the City of Colorado Springs"; and

WHEREAS, on September 22, 2015 the City Council ordained a six (6) month moratorium on the establishment of any new marijuana consumption clubs within the City limits; and

WHEREAS, the situation regarding marijuana uses statewide and within the City have fundamentally changed since 2011 and requires a new analysis regarding the land uses related to approval of marijuana-related land uses; and

WHEREAS, the increasing number of and new types of marijuana-related land uses has created increasing health, safety and welfare concerns throughout the City; and

WHEREAS, marijuana consumption club facilities are not specifically defined in the City's Zoning Code as permitted land uses in any zone district and present unique health, safety and welfare issues that are not addressed in the City's zoning and land use regulations; and

WHEREAS, City Code § 7.2.107 ordains "it shall be unlawful to use any building, structure, or land or to erect, move, structurally alter, convert, extend, or enlarge any building or other structure except in conformity with the requirements established in the zone district in which said structure, building, or land is located and in accord with the provisions of this Zoning Code."; and

WHEREAS, marijuana consumption club facilities do not operate under any specific constitutional grant of authority and operate throughout the City without land use approvals from the City; and

WHEREAS, the lack of specific land use regulations for marijuana consumption club facilities has illustrated the need for a comprehensive zoning and land use regulations to sufficiently protect the public health, safety and welfare and to mitigate the impacts of marijuana consumption club facility activities in accord with City Code § 7.2.102; and

WHEREAS, the City Council determines that marijuana consumption club facilities are not operating in a similar fashion to other civic use types; and

WHEREAS, the City Council determines that the proliferation of marijuana consumption club facilities and the current model being utilized by marijuana consumption club facilities throughout the City is injurious to the public's health, safety and welfare; and

WHEREAS, the City Council does not intend through the zoning regulation of marijuana consumption club facilities to inhibit any individual's right to personal use of marijuana pursuant to article XVIII, section 16(3) of the Colorado Constitution; and

WHEREAS, the City Council determines that a five (5) year period for the licensing and winding down of operations for marijuana consumption club

facilities is appropriate, substantially advances legitimate government interests protecting the public's health safety, and welfare, does not prevent the economically viable use of property, and protects the rights of the public and property owners.

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF COLORADO SPRINGS:

Section 1. 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) of Chapter 7 (Planning, Development and Building) of the Code of the City of Colorado Springs 2001, as amended, is amended to read as follows:

7.2.302: DEFINITIONS OF USE TYPES:

* * *

D. * * *

3. * * *

b. Social Clubs: A club providing social or meeting facilities. Typical uses include private social clubs and fraternal organizations. **A Marijuana Consumption Club as defined in City Code § 2.2.202 shall not be considered a social club under this Zoning Code.**

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Section 2. 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, is amended to read as follows:

7.3.205: ADDITIONAL STANDARDS FOR SPECIFIC LAND USES:

* * *

K. Marijuana Consumption Club Facility (MCC facility): MCC facilities are prohibited within the City limits unless prior to September 22, 2015 the MCC facility was lawfully operating pursuant to the “similar use determination” of the Manager, dated May 28, 2014. Those MCC facilities operating pursuant to the similar use determination shall be considered non-conforming uses under this Zoning Code, must be licensed by the City of Colorado Springs and shall cease operations no later than March 21, 2021. No MCC facility shall operate or permit any person upon the licensed premises without a ventilation and filtration system that ensures odors are not detectable by a person with a typical sense of smell from any adjoining lot, parcel, tract, public right-of-way, building unit or residential unit. Any MCC facility operating after March 21, 2021 shall be considered an unlawful use under this Zoning Code.

KL. * * *

LM. * * *

AN. * * *

NO. * * *

OP. * * *

PQ. * * *

QR. * * *

RS. * * *

ST. * * *

Section 3. This ordinance shall be in full force and effect from and after its final adoption and publication as provided by Charter.

Section 4. Council deems it appropriate that this ordinance be published by title and summary prepared by the City Clerk and that this

ordinance be available for inspection and acquisition in the office of the City Clerk.

Introduced, read, passed on first reading and ordered published this ____ day of _____, 2016.

Finally passed: _____
_____ Council President

Mayor's Action:

- Approved on _____.
- Disapproved on _____, based on the following objections:

Mayor

Council Action After Disapproval:

- Council did not act to override the Mayor's veto.
- Finally adopted on a vote of _____, on _____.
- Council action on _____ failed to override the Mayor's veto.

Council President

ATTEST:

Sarah B. Johnson, City Clerk