

ORDINANCE NO. 17-_____

AN ORDINANCE AMENDING SECTION 203 (PERMITTED, CONDITIONAL AND ACCESSORY USES) 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 USES AND PROVIDING REMEDIES FOR THE VIOLATION THEREOF

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 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, throughout the City numerous persons utilize property on which retail marijuana transactions occur in contravention of state criminal and land use laws and municipal ordinances; and

WHEREAS, the City desires to explicitly ordain that it is a violation of its Zoning Code to utilize or permit to be utilized any property within the City to conduct unlawful retail marijuana transactions under state criminal and land use laws and the City's municipal zoning, land use and criminal ordinances; and

WHEREAS, pursuant to the City Code, the criminal provisions contained within the Colorado Revised Statutes, and Colorado Revised Statutes sections

31-23-301 and 31-23-308, a violation of this ordinance shall constitute an act permitting the City to utilize the enforcement remedies provided within the City Code and the municipal and/or state court systems; 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 ORDAINED BY THE CITY COUNCIL OF THE CITY OF COLORADO SPRINGS:

Section 1. Section 203 (Permitted, Conditional and Accessory 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:

7.3.203: PERMITTED, CONDITIONAL AND ACCESSORY USES

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Notes:

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7. Refer to subsection 7.3.205~~16~~ of this part for additional standards for MMJ facilities located within the OR and OC zone districts.

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:

* * *

L. MARIJUANA USES, OTHER: In any zoning district, it shall be a violation of this Zoning Code to utilize or permit to be utilized any property in the following manner:

1. To operate a retail marijuana establishment.
2. To transfer or permit the transfer of marijuana or marijuana concentrate at no cost to a person if the transfer is in any way related to remuneration for any other service or product.
3. As used in this section, marijuana and marijuana concentrate shall have the same meanings as set forth in section 9.7.206 of this City Code.
4. In addition to any other competent evidence identifying a substance as marijuana, or marijuana concentrate, results of the field test known as the "Duquenois-Levine Reagent System" shall be admissible in evidence and shall be prima facie evidence of whether or not the substance tested was marijuana or marijuana concentrate.

LM. * * *

MN. * * *

NO. * * *

OP. * * *

PQ. * * *

QR. * * *

RS. * * *

ST. * * *

TU. * * *

Section 3. Any person violating Paragraph L (Marijuana Uses, Other) of 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) shall be subject to the remedies provided in Section 1005 (Remedies) of Part 10 (Zoning Enforcement) of Article 5 (Administration and

Procedures) of Chapter 7 (Planning, Development and Building) of the Code of the City of Colorado Springs 2001, as amended.

Section 4. This ordinance shall be in full force and effect from and after its final adoption and publication as provided by Charter.

Section 5. 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 _____, 2017.

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