

ORDINANCE NO. 16-_____

AN ORDINANCE ADOPTING PART 2 (MARIJUANA CONSUMPTION CLUBS) OF ARTICLE 2 (MARIJUANA) OF CHAPTER 2 (BUSINESS LICENSING, LIQUOR REGULATION AND TAXATION) OF THE CODE OF THE CITY OF COLORADO SPRINGS 2001, AS AMENDED, PERTAINING TO MARIJUANA CONSUMPTION CLUB LICENSES

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

Section 1. Part 2 (Marijuana Consumption Clubs) of Article 2 (Marijuana) of Chapter 2 (Business Licensing, Liquor Regulation and Taxation) of the Code of the City of Colorado Springs 2001, as amended, is adopted to read as follows:

ARTICLE 2: MARIJUANA

PART 2: MARIJUANA CONSUMPTION CLUBS

- 2.2.201: LEGISLATIVE DECLARATION**
- 2.2.202: DEFINITIONS**
- 2.2.203: LICENSE REQUIRED; TERM; TRANSFERABILITY; FEES**
- 2.2.204: QUALIFICATIONS OF APPLICANTS**
- 2.2.205: APPLICATION REQUIREMENTS**
- 2.2.206: MARIJUANA CONSUMPTION CLUB LICENSE**
- 2.2.207: MANAGER REGISTRATION**
- 2.2.208: INSPECTION**
- 2.2.209: MODIFICATION OF LICENSED PREMISES**
- 2.2.210: DENIAL, SUSPENSION OR REVOCATION OF LICENSE**
- 2.2.211: UNLAWFUL ACTS; VIOLATIONS**

2.2.201: LEGISLATIVE DECLARATION:

A. The City Council declares it to be in the interest of the health, safety and welfare of citizens of the City and a proper exercise of the police power to require the licensing of marijuana consumption clubs as defined in this part.

B. Nothing in this part is intended to authorize or license anything otherwise prohibited by law.

C. Nothing in this part is intended to conflict with or violate any City or State law or regulation related to the use of marijuana, medical marijuana or marijuana product.

D. Nothing in this part is meant to inhibit any individual's right to personal use of marijuana pursuant to article XVIII, section 16(3) of the Colorado Constitution.

2.2.202: DEFINITIONS:

LICENSED PREMISES: The premises specified in an application for a license under this part within which the licensee is authorized to operate a marijuana consumption club.

MARIJUANA CONSUMPTION CLUB: An 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.

2.2.203: LICENSE REQUIRED; TERM; TRANSFERABILITY; FEES:

A. It shall be unlawful for any person to operate a marijuana consumption club within the City without first obtaining a license.

1. If a marijuana consumption club was lawfully operating pursuant to the "similar use determination" of the Manager of Community Development, dated May 28, 2014, on or before September 22, 2015, then the individual or entity owning or operating the marijuana consumption club shall submit a fully completed marijuana consumption club application to the City Clerk prior to 5:00 p.m. on April 29, 2016.

2. Compliance with section 2.2.211.A and B is not required during the period within which applicants operating pursuant to the "similar use determination" of the Manager of Community Development, dated May 28, 2014 are seeking a license. Applicants shall comply with all other sections of this part 2.

3. Applicants not qualifying under subsection A(1) above have no legal-nonconforming rights, and will be deemed unlicensed and ineligible for application for licensing.

B. All marijuana consumption club licenses shall expire one year from the date of issuance, unless suspended or revoked earlier. In accord with City Code section 7.3.205, all marijuana consumption club licenses shall not be valid beyond the date of March 21, 2021.

C. No marijuana consumption club license granted or renewed shall be transferable from one person to another or from one location to another.

D. Fees shall be as established by City Council under article 1, part 5 of this chapter.

2.2.204: QUALIFICATIONS OF APPLICANTS:

In addition to the general qualifications set forth in section 2.1.401 of this chapter, every applicant for a marijuana consumption club license shall meet the following specific qualifications:

A. If an individual, the applicant shall be twenty-one (21) years of age or older.

B. If an entity, every principal and managing agent of the applicant shall be twenty-one (21) years of age or older.

C. The applicant shall have possession of the licensed premises during the term of the license.

2.2.205: APPLICATION REQUIREMENTS:

Applications shall be fully completed, with applicable documentation as required. Incomplete applications will be rejected. Applications requiring additional documentation will have a ten (10) calendar day period from date of notice for remedy, or the application may be deemed withdrawn. In addition to those matters required by section 2.1.403 of this chapter, every application for a marijuana consumption club license shall contain the following:

A. The residence address of each applicant, if an individual, or of each principal and managing agent of the applicant, if an entity, for the five (5) years prior to the date of the application;

B. A statement of the work history of each applicant, if an individual, or of each principal and managing agent of the applicant, if an entity, for the five (5) years prior to the date of the application;

C. An applicant Interview Form and one classifiable set of fingerprints for each principal and managing agent of the applicant on initial application, or each new principal and managing agent on renewal application;

D. Documentary evidence that the applicant has or will have possession of the premises to be licensed during the term of the license by ownership, lease, rental or other arrangement; and

E. A detailed diagram showing the configuration of the premises to be licensed as follows:

1. The diagram shall be no larger than 8 ½" x 11".
2. The diagram shall include the dimensions and total square footage of the premises to be licensed but does not need to be drawn to scale.
3. The diagram shall designate the use of each room or other definitive area of the premises to be licensed.
4. The diagram shall show the type of control of the exterior areas of the premises to be licensed, including, without limitation, fences, walls, and entry/exit points.
5. If the premises to be licensed consist of multiple levels, a separate diagram shall be filed for each floor.
6. The premises to be licensed shall be outlined in bold.

F. The Deputy Licensing Officer may waive the site diagram for renewal applications if the applicant adopts a diagram that was previously submitted, certifies that the configuration of the premises has not been physically changed, altered, or modified since it was prepared and that the use of any room or area in the premises has not changed.

2.2.206: MARIJUANA CONSUMPTION CLUB LICENSE:

A. Each marijuana consumption club license shall specify the name under which the licensee is to operate, the address of the licensed premises, the expiration date, the number of the license and any other information the City Clerk's Office deems necessary.

B. The marijuana consumption club license shall be at all times posted in a conspicuous place at the licensed premises.

2.2.207: MANAGER REGISTRATION:

A. It shall be unlawful for any person to work as a manager of a marijuana consumption club without first registering with the City Clerk's Office.

B. The registration of a manager with the City Clerk's Office is in lieu of the issuance of a license to a manager.

C. The City Clerk's Office shall register a manager if all of the requirements for a license as set forth under this chapter are met.

D. The manager's registration shall be issued or denied in accord with the criteria for issuance or denial of a license as set forth in section 2.1.601 of this chapter.

E. The registration may be suspended or revoked for any grounds for the suspension or revocation of a license as set forth in section 2.1.802 of this chapter or section 2.2.109 of this part.

2.2.208: INSPECTION:

A. The licensed premises shall be and remain at all times in compliance with all applicable City regulations including, but not limited to, Zoning, Building, and Fire Codes, and shall be inspected by and to the satisfaction of the Fire Department and the Deputy Licensing Officer, or their designees, prior to the issuance of a license in accord with section 2.1.701, et seq. of this chapter.

B. The licensee or the licensee's managers, employees or agents shall permit representatives of the Police Department, El Paso County Health Department, Building Official of the Pikes Peak Regional Building Department, the Fire Department, Zoning Administration, Deputy Licensing Officer or other City departments or agencies to inspect the premises of a marijuana consumption club for the purpose of ensuring compliance with the law as provided in this part.

C. City departments and agencies shall conduct inspections in accord with section 2.1.701, et seq. of this chapter.

D. It shall be unlawful for the licensee or any manager, employee or agent of the licensee to refuse to permit lawful inspection of the premises as provided in this section. In addition, the City shall have the right to inspect the premises during the period between passage of this ordinance and the issuance of licenses required by this part pursuant to City Code section 2.2.203.A.

2.2.209: MODIFICATION OF LICENSED PREMISES:

A. After issuance of a license, the licensee shall make no physical change, alteration or modification of the licensed premises that materially or substantially alters the licensed premises or the usage of the licensed premises from the diagram submitted at the time of obtaining the original license without application to, and the approval of, the Deputy Licensing Officer. The licensee whose premises are to be materially or substantially changed shall submit an application on forms provided by the City Clerk's Office.

B. For purposes of this part, physical changes, alterations or modifications of the licensed premises, or in the usage of the licensed premises requiring prior approval, shall include, but not be limited to, the following:

1. Any increase or decrease in the total physical size or capacity of the licensed premises.
2. The sealing off, creation of or relocation of a common entryway, doorway, passage or other such means of ingress and/or egress, when such common entryway, doorway or passage alters or changes the consumption of marijuana, medical marijuana and/or marijuana product within the licensed premises.
3. Any material change in the interior of the premises that would affect the basic character of the premises or the physical structure that existed in the diagram submitted at the time of obtaining the original license. However, the following types of modifications will not require prior approval, even if a local building permit is required: painting and redecorating of the premises; the installation or replacement of electric fixtures or equipment, plumbing, refrigeration, air conditioning or heating fixtures and equipment; the lowering of ceilings; the installation and replacement of floor coverings; the replacement of furniture and equipment; and any non-structural remodeling of the premises where the remodel does not expand the existing area designed for the consumption of marijuana, medical marijuana or marijuana product.
4. The destruction or demolition, and subsequent reconstruction, of a building that contained licensed premises shall require the filing of a new diagram with the City Clerk's Office

C. In making a decision with respect to any proposed changes, alterations or modifications subject to approval under this part, the Deputy Licensing Officer shall consider whether the premises, as changed, altered or modified, will meet all of the pertinent requirements of this part and the General Licensing Code. Factors to be taken into account by the Deputy Licensing Officer shall include, but not be limited to, the following:

1. The possession, by the licensee, of the changed premises by ownership, lease, rental or other arrangement.
2. Compliance with all applicable City regulations including, but not limited to, Zoning, Building and Fire Codes. No modification shall be approved unless it conforms with City Code section 7.5.1201, et seq.

D. The denial of a change, alteration or modification of the licensed premises shall be subject to the provisions of section 2.1.601 et seq. of this chapter.

2.2.210: DENIAL, SUSPENSION OR REVOCATION OF LICENSE:

A. In addition to the grounds set forth in article 1 of this chapter, a marijuana consumption club license may be denied, suspended or revoked if the applicant or a principal of the applicant:

1. Has been convicted of a felony in this State or any other state, or of a crime in any other state which, if committed in this State, would be a felony;
2. Has been convicted of three (3) or more criminal misdemeanor violations within a five (5) year period;
3. Has made a willful misrepresentation in applying for and obtaining a license;
4. Has been previously denied a license under this chapter or has had a license issued under this chapter suspended or revoked;
5. Was a principal of a marijuana consumption club whose license was revoked, unless the Deputy Licensing Officer determines that the principal was not responsible for the misconduct underlying the revocation;
6. Has been convicted of operating without a license under this chapter or performing any act for which a license is required under this part;
7. Has violated any of the provisions of this part or the General Licensing Code;
8. Knowingly permitted any unlawful act under State law or this Code upon the licensed premises;
9. Failed to maintain possession of the licensed premises; or
10. Made or caused to be made any change, alteration or modification of the licensed premises without prior approval of the Deputy Licensing Officer.

B. The suspension or revocation of a marijuana consumption club license shall be subject to the provisions of section 2.1.801 et seq. of this chapter.

2.2.211: UNLAWFUL ACTS; VIOLATIONS:

- A. No person shall operate a marijuana consumption club unless licensed.
- B. No marijuana consumption club licensee shall operate a marijuana consumption club other than upon the licensed premises.
- C. No person shall make any willful misrepresentation in applying for or obtaining a license under this part.
- D. No marijuana consumption club licensee shall fail to surrender to the City Clerk's Office the license when required.
- E. No marijuana consumption club licensee shall permit any person less than twenty-one (21) years of age to enter or remain upon the licensed premises.
- F. No marijuana consumption club licensee shall operate a marijuana consumption club on any day of the week between the hours of two o'clock (2:00) A.M. and seven o'clock (7:00) A.M.
- G. No marijuana consumption club licensee shall sell, transfer with or without remuneration, give, distribute, permit the sale of or permit the transfer with remuneration of marijuana, medical marijuana or marijuana product upon the licensed premises. As used in this subsection, "remuneration" includes, but is not limited to, any payment, compensation, reimbursement, coupon, donation, barter, trade or other monetary or non-monetary benefit, or consideration of any kind.
- H. No marijuana consumption club licensee shall cultivate, manufacture, store or permit the cultivation, manufacture or storage of marijuana, medical marijuana or marijuana product upon the licensed premises.
- I. No marijuana consumption club licensee shall cultivate or manufacture marijuana, medical marijuana or marijuana product off the licensed premises for consumption by any person other than the licensee upon the licensed premises.
- J. No marijuana consumption club licensee shall possess, consume, sell, serve, transfer with or without remuneration, distribute or permit the possession, consumption, sale, service, transfer with or without remuneration or distribution of any alcohol beverage as that term is defined in section 2.5.101 of this chapter upon the licensed premises. As used in this subsection, "remuneration" includes, but is not limited to, any payment, compensation, reimbursement, coupon, donation, barter, trade or other monetary or non-monetary benefit.

K. No licensee shall permit on the premises any violations of C.R.S. section 25-14-201, et seq., the "Colorado Clean Indoor Act".

L. No marijuana consumption club licensee shall operate or permit any person upon the licensed premises without a ventilation and filtration system that ensures odors are not detectible by a person with a typical sense of smell from any adjoining lot, parcel, tract, public right-of-way, building unit or residential unit.

M. No licensee shall operate a marijuana consumption club in a movable or mobile structure.

Section 2. This ordinance shall be in full force and effect from and after its final adoption and publication as provided by Charter.

Section 3. 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