ORDINANCE NO. 15-79

AN ORDINANCE CREATING A SIX (6) MONTH MORATORIUM ON THE PROCESSING OF ANY LAND USE APPROVAL OR LICENSING APPLICATION FOR A NEW MEDICAL MARIJUANA FACILITY OR THE CHANGE OF LOCATION OF A CURRENTLY OPERATING MEDICAL MARIJUANA FACILITY WITHIN THE CITY LIMITS

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 November 2000 the voters of the State of Colorado approved Amendment 20, adding Art. XVIII, Sec. 14 to the Colorado Constitution which permits the medical use of marijuana for persons suffering from debilitating medical conditions; and

WHEREAS, City Code § 2.3.101 "declares it to be in the interest of the health, safety and welfare of the citizens of the City, and a proper exercise of the police power, to require the licensing of persons and businesses providing medical marijuana related services"; and

WHEREAS, when the City's licensing and land use regulations for medical marijuana related services and medical marijuana facilities were adopted in 2011, retail marijuana sales and related businesses were not yet sanctioned in Colorado; 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 has fundamentally changed since the initial land use and licensing provisions related to medical marijuana facilities in 2011 and requires a new analysis regarding the land uses related to approval of new medical marijuana facilities in the future and the change of location or expansion of currently operating medical marijuana facilities; and

WHEREAS, the increasing number of and new types of uses for medical marijuana facilities has created increasing health, safety and welfare concerns throughout the City; and

WHEREAS, the City currently lacks licensing regulations for the cultivation, manufacture or sale of medical marijuana or medical marijuana-infused products for caregivers; and

WHEREAS, the rapidly changing situation regarding marijuana statewide and the considerable interest in the establishment of new medical marijuana facilities and the change of location or expansion of currently operating medical marijuana facilities within the City has illustrated the need for renewed study of the impacts of new marijuana uses to determine the appropriateness and sufficiency of existing zoning and land use regulations to ensure the protection of the public health, safety and welfare in accord with City Code § 7.2.102; and

WHEREAS, under the City Code the approval of any licensing applications for medical marijuana facilities requires land use and zoning approval; and

WHEREAS, the City Council believes the processing of any land use approvals for new establishments of new medical marijuana facilities, certain licensing applications, or any other approvals requesting establishment of new medical marijuana facilities or the change of location of currently operating medical marijuana facilities prior to the City studying adoption of updated land

use, zoning or other necessary regulations will cause irreparable harm to the public health, safety and welfare.

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

Section 1. City Council finds and determines a situation affecting the life, health, property, and the public peace exists in that the request for any new land use, zoning or licensing approvals to establish new medical marijuana facilities or changes of location of currently operating medical marijuana facilities within the City limits are imminent and the City does not have adequate zoning or land use regulations in place to mitigate the impacts of this type of activity to preserve the public health, safety and welfare. For purposes of this Ordinance, "medical marijuana facility" shall have the same meaning as defined in the "Zoning Code of the City of Colorado Springs."

Section 2. To address this situation, City Council hereby immediately imposes a six (6) month moratorium on the processing of any new land use or licensing approvals for any new medical marijuana facility or the change of location of an existing medical marijuana facility within the City limits, with the six (6) month period to run from November26, 2015 to and including May25, 2016. The moratorium will not be extended.

Section 3. City Council hereby directs City staff not to process any land use or licensing reviews or approvals for any new medical marijuana facility or the change of location of an existing medical marijuana facility unless through a fully completed medical marijuana business license application submitted to the City Clerk prior to 5:00 p.m. on November25, 2015. Provided, however, that if an existing licensee of a medical marijuana facility provides evidence of hardship to the City Clerk that such licensee occupies premises through a leasehold expiring during the moratorium, the licensee may seek a change of location and land use and licensing approvals may commence for such change in location. The sufficiency of the evidence of hardship shall be determined in the discretion of the City Clerk and shall require, at a minimum, proof that the current leasehold may not be extended or held over, that the licensee has received written notice of termination that will occur during the moratorium based solely on the expiration of the lease, and that there is no applicable option to purchase the leased property.

Section 4. City Council finds that this six (6) month moratorium period is reasonable and necessary to permit the City to study the impacts of new types of marijuana-related land uses and determine whether additional land use, zoning, or other regulations are necessary to protect and preserve the public health, safety and welfare.

Section 5. Task Force. Within the first sixty days of the Moratorium period described in Section 2 of this resolution, a Task Force shall be appointed by the President of the City Council of Colorado Springs, and confirmed by the entire City Council, and shall review, study, develop, evaluate, and review appropriate laws and regulations pertaining to marijuana businesses for presentation to the City Council including but not limited to location and licensing criteria, fees, advertising, and other time, place, manner, and number regulations. All existing locations of marijuana facilities will be allowed to operate at their current locations with the current licensing criteria. Any expanded facilities must conform to existing zoning regulations. New facilities will be required to conform to the new zoning regulations.

a) The Task Force shall be comprised of, but not limited to at least one representative with the following criteria: 1) a representative of the City Clerk's Office; 2) an attorney with significant experience in representing the marijuana industry; 3) a representative of the City's law enforcement; 4) a representative of the City Attorney's office; 5) a representative of the City's Planning Department; 6) a representative of Colorado Springs marijuana businesses; 7); a representative from a Colorado Springs neighborhood organization; and 8) a representative from the Mayor's Office;

b) The Chairperson of the Task Force shall be appointed by the President of the City Council;

c) The Task Force shall hold regular meetings with the ultimate purpose of proposing an ordinance establishing new licensing and zoning regulations for new marijuana establishments in Colorado Springs; and

d) The Task Force shall issue its report no more than one hundred twenty (120) days from the establishment of the task force, which report shall include recommendations on regulating marijuana in the city and may include a draft ordinance.

Section 6. This Ordinance shall be in full force and effect from and after its final adoption and publication as provided by Charter.

Section 7. City Council deems it appropriate that this Ordinance be published by title and summary prepared by the City Clerk and that this

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

Introduced, read, passed on first reading and ordered published this 27th day of October, 2015.

Finally passed: November 10, 2015

Council President

Delivered to Mayor on _____.

Mayor's Action:

☒ Approved on November 12, 2015.

☐ 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

COLORADO SPRINGS INCORPORATED SEAL SEPTEMBER 5, 1872 COLORADO

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I HEREBY CERTIFY, that the foregoing ordinance entitled **"AN ORDINANCE CREATING A SIX (6) MONTH MORATORIUM ON THE PROCESSING OF ANY LAND USE APPROVAL OR LICENSING APPLICATION FOR A NEW MEDICAL MARIJUANA FACILITY OR THE CHANGE OF LOCATION OF A CURRENTLY OPERATING MEDICAL MARIJUANA FACILITY WITHIN THE CITY LIMITS"** was introduced and read at a regular meeting of the City Council of the City of Colorado Springs, held on October 13, 2015, that said ordinance was amended and passed on second reading at a regular meeting held on October 27, 2015, and finally passed at a regular meeting of the City Council of said City, held on November 10, 2015, and that the same was published by title and summary, in accordance with Section 3-80 of Article III of the Charter, in the Daily Transcript, a newspaper published and in general circulation in said City, at least ten days before its passage.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed the seal of the City, this 12th day of November, 2015.

Sarah B. Johnson, City Clerk

COLORADO SPRINGS INCORPORATED SEAL SEPTEMBER 3, 1872 COLORADO

1st Publication Date: October 16, 2015
2nd Publication Date: October 30, 2015
3rd Publication Date: November 18, 2015

Effective Date: November 23, 2015 Initial: SBJ
City Clerk