ORDINANCE NO. 15-76

AN ORDINANCE CREATING A SIX (6) MONTH MORATORIUM ON THE ESTABLISHMENT OF ANY NEW MARIJUANA CONSUMPTION CLUB 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, when the City's licensing and land use regulations related to 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, the situation regarding marijuana uses statewide and within the City have fundamentally changed since 2011; and

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

WHEREAS, the lack of specific land use regulations for marijuana consumption club facilities has illustrated the need for a more comprehensive study of the impacts of marijuana consumption club activities to determine whether the existing zoning and land use regulations are sufficient to protect the public health, safety and welfare or whether new regulations will be necessary to mitigate the impacts of marijuana consumption club activities in accord with City Code § 7.2.102; and

WHEREAS, land use, zoning and other regulations regarding marijuana consumption clubs are issues of statewide interest and are being addressed at the statewide level; and

WHEREAS, the rapidly changing situation regarding marijuana statewide and the considerable interest in the establishment of new marijuana consumption club 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, the City Council believes the establishment of any new marijuana consumption clubs within the City to the City adopting updated land use, zoning or other 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 City does not have comprehensive and adequate zoning or land use regulations in place that specifically define, regulate or mitigate the impacts of marijuana consumption club facilities to preserve the public health, safety and welfare. For purposes of this Ordinance, "marijuana consumption club facility" shall be defined as: a

business, club, civic club or any similar entity operating as a place of private or public assembly for the purpose of inviting members or non-members to use or consume marijuana on site.

Section 2. To address this situation, City Council hereby immediately imposes a six (6) month moratorium on the establishment of any new marijuana consumption club facility within the City limits, with the six (6) month period to run from September 22, 2015 to and including March 22, 2016.

Section 3. City Council finds that this six (6) month moratorium period is reasonable and necessary to permit the City to study the impacts of these 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 4. This six (6) month period may be extended prior to its expiration by an amendment to this Ordinance. Any extension shall comply with City Charter § 3-70.

Section 5. This Ordinance shall be in full force and effect from and after its final adoption and publication as provided by Charter.

Section 6. 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 ____ day of _____, 2015.

Finally passed: _____

_____
Merv Bennett, Council President

Delivered to Mayor on _____.

Mayor's Action:

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

_____
_____
_____
_____

_____
John W. Suthers, 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.

_____
Merv Bennett, Council President

ATTEST:

_____
Sarah B. Johnson, City Clerk