

ORDINANCE

AN ORDINANCE ADDING A NEW CHAPTER 18.84 TO THE MANITOU SPRINGS MUNICIPAL CODE PROHIBITING MARIJUANA CLUBS IN THE CITY

WHEREAS, on November 6, 2012, Colorado voters approved an amendment to Article XVIII, Section 16 of the Colorado Constitution that makes the personal use, possession and limited home growing of marijuana for adults twenty-one years of age or older legal under Colorado law;

WHEREAS, Article XVIII, Section 16 of the Colorado Constitution, however, contains a local option, similar to the local option for medical marijuana that authorizes the City Council to adopt an ordinance prohibiting the retail sale, cultivation, manufacturing and testing of marijuana within the corporate limits of the City;

WHEREAS, Article XVIII, Section 16 of the Colorado Constitution expressly provides that the open and public consumption of marijuana remains illegal under Colorado law;

WHEREAS, the City Council desires prohibit clubs or establishments, other than licensed medical marijuana facilities or licensed recreational marijuana facilities (if ultimately allowed in the City) at which individuals gather to consume, distribute, or use marijuana in all zone districts in the City; and

WHEREAS, the City's authority to adopt this Ordinance is found in: Article XVIII, Section 16 of the Colorado Constitution; Article XX of the Colorado Constitution; the Local Government Land Use Control Enabling Act, C.R.S. 29-20-101, *et seq.*; C.R.S. 31-23-101, *et seq.* (municipal zoning powers); C.R.S. §§ 31-15-103, 31-15-401. (municipal police powers); and C.R.S. § 31-15-501 (municipal authority to regulate businesses).

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

Section 1. A new Chapter 18.84 is hereby added to the Manitou Springs Municipal Code to read as follows:

Chapter 18.84 – MARIJUANA CLUBS

18.84.010 – Definitions.

"Marijuana club" means a place not used for residential purposes where individuals gather to consume, grow or distribute or otherwise use marijuana, regardless of whether such place calls itself private or public or charges an admission, membership or similar fee. A marijuana establishment with a valid license under Article XVIII, Section 16 of the Colorado Constitution (recreational marijuana establishments) or under Section 14 of Article 18 to the Colorado Constitution (medical marijuana establishments) and their accompanying state regulations and this Code, shall not constitute a marijuana club.

18.84.020 – Prohibited.

Marijuana clubs are prohibited in all zone districts in the City.

- Section 2:** If any article, section, paragraph, sentence, clause or phrase of this ordinance is held to be unconstitutional or invalid for any reason, such decision shall not affect the validity or constitutionality of the remaining portions of this ordinance. The City Council hereby declares that it would have passed this ordinance and each part or parts hereof irrespective of the fact that any one part or parts be declared unconstitutional or invalid.
- Section 3:** The repeal or modification of any provision of Manitou Springs Municipal Code by this ordinance shall not release, extinguish, alter, modify or change in whole or in part any penalty, forfeiture or liability, either civil or criminal, which shall have been incurred under such provision. Each provision shall be treated and held as still remaining in force for the purpose of sustaining any and all proper actions, suits, proceedings and prosecutions for enforcement of the penalty, forfeiture or liability, as well as for the purpose of sustaining any judgment, decree or order which can or may be rendered, entered or made in such actions, suits, proceedings or prosecutions.
- Section 4:** This ordinance is deemed necessary for the protection of the health, welfare and safety of the community.
- Section 5:** This ordinance shall take effect five (5) days after final approval and adoption on second reading.

Passed on First Reading and Ordered Published this 19th day of March 2013.

/s/ Donna Kast
City Clerk

A Public Hearing will be held at the April 2, 2013 City Council meeting. The Council Meeting will be held at 7:00 P.M. at City Hall, 606 Manitou Avenue, Manitou Springs, Colorado.

Ordinance Published March 21, 2013 (in full)
City's Official Website and City Hall

Passed on Second Reading and Ordered Published this 2nd day of April 2013.

Approved: /s/ Marc A. Snyder
Mayor and City Council

Attest: /s/ Donna Kast
City Clerk

Published April 4, 2013 (in full)
City's Official Website and City Hall