

ORDINANCE

AN ORDINANCE ADDING A NEW CHAPTER 18.85 TO THE MANITOU SPRINGS MUNICIPAL CODE PROHIBITING RETAIL MARIJUANA ESTABLISHMENTS 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 also requires the state to establish a system under which marijuana is regulated and taxed similarly to alcohol, to facilitate the retail sale and cultivation of marijuana;

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, recreational marijuana operations remain illegal under federal law, and the response of federal law enforcement authorities to Article XVIII, Section 16 of the Colorado Constitution remains uncertain;

WHEREAS, the City Council desires to prohibit the use of property for marijuana cultivation facilities, marijuana product manufacturing facilities, marijuana testing facilities or retail marijuana stores in all zone districts in the City, as authorized by Article XVIII, Section 16(5)(f) of the Colorado Constitution; and

WHEREAS, the City's authority to adopt this Ordinance is found in: Article XVIII, Section 16 of the Colorado Constitution; the Colorado Retail Marijuana Code, C.R.S. § 12-43.4-104(3); 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 18.85 is hereby added to the Manitou Springs Municipal Code to provide as follows:

Chapter 18.85 – RETAIL MARIJUANA ESTABLISHMENTS PROHIBITED

18.85.010 – Prohibition. The use of property as a marijuana cultivation facility, marijuana product manufacturing facility, marijuana testing facility or retail marijuana store as those establishments are defined in Article XVIII, Section 16 of the Colorado Constitution is prohibited within the corporate limits of the City.

Section 2: If any article, section, paragraph, sentence, clause or phrase of the ordinance is held to be unconstitutional or invalid for any reason, such decision shall not affect the validity or constitutionality of the remaining portion 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 shall take effect five (5) days after final approval and publication.