

**ORDINANCE**

**A SPECIAL ORDINANCE PROHIBITING RETAIL MARIJUANA ESTABLISHMENTS AND IMPOSING A MORATORIUM ON THE PROCESSING OF APPLICATIONS UNTIL DECEMBER 31, 2013**

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, the City Council has placed a ballot issue before the City's electors concerning the imposition of a special sales tax on the retail sale of marijuana,

WHEREAS, the City Council has placed an advisory ballot question before the City's electors asking the electors whether the City Council should prohibit retail marijuana establishments in the City;

WHEREAS, the City Council desires to review the outcome of the sales tax ballot issue and the advisory ballot question prior to deciding how to address retail marijuana establishments;

WHEREAS, therefore 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 pending the outcome of the sales tax ballot issue;

WHEREAS, by temporarily prohibiting marijuana establishments in the City and imposing a moratorium on the processing of related applications until December 31, 2013, the City Council will have time to determine how to address marijuana establishments in the City and to review and adopt necessary regulations if the City Council decides to allow such establishments in the City; 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.** Temporary prohibition. The use of property for a marijuana cultivation facility, marijuana product manufacturing facility, retail marijuana store or marijuana testing facility within the meaning of Colo. Const. art. XVIII, §16 shall be prohibited in all zone districts in the City pending expiration of the moratorium as set forth in Section 3, below.
- Section 2.** Application and processing moratorium. A moratorium is imposed upon the processing and approval of all applications for permits and licenses by the City for marijuana cultivation facilities, marijuana product manufacturing facilities, retail marijuana stores or marijuana testing facilities within the meaning of Colo. Const. art. XVIII, §16. City staff is directed to refuse to process, review or approve any such applications for such businesses during the moratorium period.
- Section 3.** Expiration. The moratorium imposed by the Ordinance shall commence as of the date of the adoption of this Ordinance and shall expire on December 31, 2013, unless repealed prior to that date or extended, if necessary, as determined by City ordinance.
- Section 4:** 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 5:** 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 6:** This ordinance shall take effect five (5) days after final approval and publication.