

ORDINANCE NO. 1 SERIES OF 2015

AN ORDINANCE BANNING THE ESTABLISHMENT AND OPERATION OF MARIJUANA CONSUMPTION CLUB FACILITIES IN THE UNINCORPORATED AREA OF FREMONT COUNTY, COLORADO

WHEREAS, the Board of County Commissioners for Fremont County is the governing body of the County of Fremont, State of Colorado; and

WHEREAS, in the November 2012 general election, the voters of the State of Colorado approved Amendment 64, which granted certain rights to the citizens of the State of Colorado regarding retail marijuana and personal use of recreational marijuana; 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 County 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 County has exercised its local option with the passing of Ordinance No. 2013-1, prohibiting the operation of retail/recreational marijuana cultivation facilities, retail/recreational marijuana product manufacturing facilities, marijuana testing facilities and retail marijuana stores pursuant to Article XVIII, §16, of the Colorado Constitution, with exceptions for existing medical marijuana facilities located within unincorporated Fremont County; and

WHEREAS, the situation regarding marijuana uses statewide and within the County have fundamentally changed since 2012; and

WHEREAS, marijuana consumption club facilities are not specifically defined as permitted land uses in the Fremont County Zoning Resolution, and present unique health, safety and welfare issues to the residents of Fremont County and to visitors in Fremont County; and

WHEREAS, Amendment 64 specifically authorizes a local government to enact ordinances or regulations governing the time, place, manner and number of marijuana establishment operations, provided that such ordinances or regulations do not conflict with Article XVIII, Section 16 of the Colorado Constitution; and

WHEREAS, the constitutional and statutory provisions regarding recreational marijuana are silent with respect to marijuana consumption club activities, such activities being similar in nature to taverns, bars and pubs, where marijuana is consumed in a public setting; and

WHEREAS, land use, zoning and other regulations regarding marijuana consumption clubs are issues of statewide interest and need to be 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 State of Colorado and the County of Fremont has illustrated the need for a ban on such facilities for the foreseeable future; and

WHEREAS, Article XVIII, Section 16(3) specifically prohibits open and public consumption of marijuana and also prohibits consumption of marijuana in a manner that endangers others; and

WHEREAS, open and public consumption of marijuana by users in a club-type setting is not subject to specific licensing or regulatory requirements and carries great potential of intentional or inadvertent exposure of non-consenting persons to marijuana, including persons under the age of 21; and

WHEREAS, the Board of Commissioners is of the opinion that Fremont County should not become a venue for unregulated marijuana social clubs, risking irreparable harm to the public health, safety and welfare of the citizens.

NOW, THEREFORE, BE IT ORDAINED BY THE BOARD OF COUNTY COMMISSIONERS FOR FREMONT COUNTY, COLORADO:

Section 1: Purpose.

The purpose of this Ordinance is to prohibit the establishment or operation of recreational or retail marijuana consumption club facilities through the enactment of an ordinance as authorized by Amendment 64, paragraph 5(f), with certain limited exceptions.

Section 2: Authority.

This Ordinance is authorized under Article XVIII, Section 16, paragraph 5(f) of the Colorado Constitution and §30-15-401, et seq., C.R.S.

Section 3: Applicability.

This Ordinance shall apply throughout the unincorporated area of Fremont County to any marijuana consumption club facility in existence on or after the effective date of this Ordinance.

Section 4: Definitions.

Unless otherwise specified or the context otherwise requires, any terms used herein shall have the same meanings as provided in Article XVIII, Section 16 of the Colorado Constitution. For purposes of this Ordinance, “marijuana consumption club facility” shall be defined as: a business, club, civic club, cooperative club, social club or any similar entity operating as a place of private or public assembly inviting members or non-members to use or consume marijuana on site.

Section 5: Marijuana Establishments Prohibited.

The Board finds and determines a situation affecting the life, health, property, and the public peace exists in that the County and the State of Colorado have no adequate laws or regulations to specifically define, regulate or mitigate the impacts of marijuana consumption club facilities to preserve the public health, safety and welfare. Pursuant to Article XVIII, Section 16 (3)(d), consumption of marijuana is not permitted if conducted openly, publicly or in a manner that endangers others.

To address this situation, the Board of Commissioners hereby immediately imposes a permanent ban prohibiting the establishment or operation of a marijuana consumption club facility in the unincorporated areas of Fremont County.

Section 6: Enforcement. This Ordinance shall be enforced by the Fremont County Sheriff.

Section 7: Violation. It shall be unlawful for any person to violate any provision of this Ordinance. Violation of this Ordinance shall be a class 2 petty offense, as provided in §30-15-102, C.R.S., punishable upon conviction, by a fine of not more than one thousand dollars, or by imprisonment in the county jail for not more than ninety days, or by both such fine and imprisonment for each separate offense. Each day of operation of a marijuana consumption club facility in violation of this Ordinance shall be deemed a separate violation.

Section 8: Disposition of Fines and Surcharges. Unless otherwise provided by law, all fines and penalties, and the surcharge thereon, for the violation of this ordinance shall be paid into the treasury of Fremont County. In addition to the fines and penalties, any person convicted of a violation of this ordinance shall be subject to all applicable statutory surcharges, including the Victims and Witnesses Assistance and Law Enforcement Fund. This surcharge shall be paid to the clerk of the court by each person convicted of violating this ordinance. The clerk shall transmit the moneys to the respective funds in accordance with Colorado law.

Section 9: Severability Clause.


If any section, subsection, clause, or phrase of this Ordinance is for any reason held to be invalid, such holding shall not affect the validity of the remaining portions of this Ordinance.

Section 10: Publication and Effective Date.


The foregoing text is the authentic text of Fremont County Ordinance No. 2015-1. The first reading of the ordinance took place on December 8, 2015. It was published in full in the Canon City Daily Record on December 10, 2015.

It was adopted without amendments on December 22, 2015. It is to be republished by title in Canon City Daily Record on December 28, 2015 and shall take effect December 22, 2015.

Done and signed this 22nd day of Dec, at Canon City, Colorado.


Edward H. Norden, Chairman
Board of County Commissioners of
Fremont County, Colorado

I hereby testify and attest that the provisions of Ordinance 2015-1 as set forth hereinabove are true and correct to the best of my knowledge, information and belief.


Laticia E. Barr
Fremont County Clerk and Recorder