

ORDINANCE

AN ORDINANCE AMENDING CHAPTER 9.24 “POSSESSION OF MARIJUANA/DRUG PARAPHERNALIA” OF THE MANITOU SPRINGS MUNICIPAL CODE CONCERNING THE PERSONAL USE OF MARIJUANA PURSUANT TO ARTICLE XVIII, SECTION 16, OF THE COLORADO CONSTITUTION

WHEREAS, Colorado voters approved an amendment to the State Constitution, 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; and

WHEREAS, to be consistent with state law, the City Council of the City of Manitou Springs has determined to make conforming changes to Chapter 9.24 “Possession of Marijuana/Drug Paraphernalia” of the Manitou Springs Municipal Code.

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

Section 1: Chapter 9.24 of the Manitou Springs Municipal Code is hereby repealed and reenacted to read as follows:

9.24.010 – Defined.

As used in this chapter:

“Marijuana” means all parts of the plant of the genus cannabis whether growing or not, the seeds thereof, the resin extracted from any part of the plant, and every compound, manufacture, salt, derivative, mixture, or preparation of the plant, its seeds, or its resin, including marijuana concentrate. “Marijuana” does not include industrial hemp, nor does it include fiber produced from the stalks, oil, or cake made from the seeds of the plant, sterilized seed of the plant which is incapable of germination, or the weight of any other ingredient combined with marijuana to prepare topical or oral administrations, food, drink, or other product.

“Marijuana accessories” means any equipment, products, or materials of any kind which are used, intended for use, or designed for use in planting, propagating, cultivating, growing, harvesting, composting manufacturing, compounding, converting, producing, processing, preparing, testing, analyzing, packaging, repackaging, storing, vaporizing, or containing marijuana, or ingesting, inhaling, or otherwise introducing marijuana to the human body.

“Drug paraphernalia” means all equipment, products, and material of any kind which are used, intended for use, or designed for use in planting, propagating, cultivating, growing, harvesting, manufacturing, compounding, converting, producing, processing, preparing, testing, analyzing, packaging, repackaging,

storing, containing, concealing, injecting, ingesting, inhaling, or otherwise introducing into the human body a controlled substance in violation of the statutes of the state of Colorado.

“Public place” means a place to which the public or a substantial number of the public has access, and includes but is not limited to highways, streets, sidewalks, transportation facilities, schools, places of amusement, parks, playgrounds and the common areas of public and private buildings and facilities. “Public place” also includes property owned, operated, leased or maintained by the State or any political subdivision or agency thereof, or property owned, operated, leased or maintained by the City of Manitou Springs.

9.24.020 – Marijuana – possession by persons under twenty-one years of age.

It is unlawful for any person under the age of twenty-one (21) to knowingly possess, use, display, purchase, or transport marijuana in any amount.

9.24.030 – Marijuana – possession, consumption, transferring, and cultivation by persons twenty-one years of age or older.

- A. It is unlawful for any person twenty-one (21) years of age or older to knowingly:
 - (1) possess, use, display, purchase, or transport more than one (1) ounce of marijuana;
 - (2) consume marijuana openly or publicly, upon any public place, or in a manner that endangers others;
 - (3) transfer, dispense, or sell marijuana, provided, however, that the transfer of one (1) ounce or less of marijuana without remuneration to a person who is twenty-one years of age or older shall not be unlawful;
 - (4) possess, grow, process, or transport more than six (6) marijuana plants or more than three (3) mature, flowering marijuana plants.
- B. Notwithstanding the provisions of this Section, it shall not be unlawful for a person twenty-one (21) years of age or older to possess, grow, process, or transport no more than six (6) marijuana plants, with three (3) or fewer being mature, flowering plants, provided that the growing takes place in an enclosed, locked space, is not conducted openly or publicly, and the marijuana produced by the plants on the premises is not made available for sale.

9.24.040 – Marijuana – procuring for or by a minor; sales to a minor.

- A. It is unlawful for any person to purchase for consumption or possession by, to otherwise provide for consumption or possession by, or to sell to, any person under the age of twenty-one (21) years, marijuana.

- B. It is unlawful for any person under the age of twenty-one (21) to possess, attempt to purchase, purchase or obtain marijuana, either directly or indirectly, or through an intermediary, by misrepresentation of age or by any other means.

9.24.050 – Possession of drug paraphernalia.

- A. It is unlawful to possess drug paraphernalia if the person in possession thereof knows or reasonably should know that it could be used in violation of the statutes of the state of Colorado.
- B. The provisions of this Section shall not apply to the possession of marijuana accessories by a person that is twenty-one (21) years of age or older.

9.24.060 – Violation – Penalty.

Violation of this chapter is punishable as provided in Section 1.01.100 of this code.

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 5th day of March 2013.

/s/ Donna Kast
City Clerk

A Public Hearing will be held at the March 19, 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 7, 2013 (in full)
City's Official Website and City Hall

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

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

Attest: /s/ Donna Kast
City Clerk

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