

TOWN OF MOFFAT, COLORADO

ORDINANCE NO. 2019-01

AN ORDINANCE ESTABLISHING REGULATIONS ON THE CONSUMPTION AND CULTIVATION OF MARIJUANA FOR PERSONAL USE

WHEREAS, on November 6, 2012, Colorado voters approved an amendment to Article XVIII, Section 16 of the Colorado Constitution (Amendment 64), that legalizes, under Colorado law, the personal use, possession and limited cultivation of recreational marijuana for adults twenty-one years of age or older; and

WHEREAS, Amendment 64 requires that the cultivation of recreational marijuana for personal use take place in an enclosed, locked space, but does not define such terms; and

WHEREAS, the Town staff recommends that the Town define “enclosed, locked space” to ensure the effective and proper enforcement of the limitations set forth in Amendment 64; and

WHEREAS, the Town staff recommends that the Town address the regulations concerning consumption and cultivation of both medical and recreational marijuana for personal use; and

WHEREAS, the Town of Moffat is authorized to adopt this Ordinance under Article XX of the Colorado Constitution and Amendment 64; and

WHEREAS, additional authority to adopt this Ordinance is found in the Local Government Land Use Control Enabling Act, Section 29-20-101, C.R.S.; Section 31-23-101, C.R.S. (municipal zoning powers); and Section 31-15-501, C.R.S. (municipal authority to regulate businesses); and

WHEREAS, the Town of Moffat Board of Trustees has determined that these proposed regulations are in the best interests of the City.

NOW, THEREFORE, BE IT ORDAINED BY THE BOARD OF TRUSTEES OF THE TOWN OF MOFFAT, COLORADO, as follows:

Section 1. The Town of Moffat regulations for personal use of both medical and recreational marijuana is outlined in the attached Exhibit A, titled “Town of Moffat Personal Use - Marijuana Regulations”.

This Ordinance, 2019-01

FIRST READ on this 5th day of February, 2019

SECOND READING and ADOPTED on this 12th day of February, 2019

TOWN OF MOFFAT, COLORADO

By: Patricia Reigel, Mayor

ATTEST:

Sarah Van Horn, Town Clerk

TOWN OF MOFFAT- EXHIBIT A
PERSONAL USE- MARIJUANA REGULATIONS

Scope and purpose:

These rules govern the cultivation and consumption of marijuana for personal use in the Town.

Definitions:

Dwelling shall mean a building used exclusively for residential occupancy and for permitted accessory uses, including single-family dwellings, two-family dwellings, and multi-family dwellings. The term *dwelling* shall not include hotels, motels, tents, RV's, or other structures designed or used primarily for mobile or temporary occupancy.

Enclosed space shall mean an area having all sides closed to the weather and not visible to the public, and able to be locked to prevent unauthorized entry.

Locked shall mean secured so as to prevent access.

Marijuana products shall mean either concentrated marijuana products or marijuana products that are comprised of marijuana and other ingredients and intended for use or consumption, such as, but not limited to, edible products, ointments, and tinctures.

Multi-family dwelling shall mean a dwelling containing three (3) or more dwelling units, not including hotels, motels, and similar group accommodations.

Openly shall mean perceptible from a place that is open to the general public.

Publicly shall mean occurring on any publicly owned property, or on any non-residential property open to the general public, including any place to which the public or a substantial number of the public have access without restriction, including, but not limited to, roadways, transportation facilities, offices, retail stores, restaurants, places of amusement, parks, playgrounds, and the common areas of public buildings.

Public right-of-way shall mean any street, avenue, boulevard, road, highway, sidewalk, alley or similar place that is leased, owned, or controlled by a governmental entity.

Single-family attached dwelling shall mean a single-family dwelling attached to one (1) or more dwellings or buildings, with each dwelling located on its own separate lot.

Single-family dwelling shall mean a dwelling containing no more than one (1) dwelling unit.

Two-family dwelling shall mean a dwelling containing two (2) dwelling units.

Marijuana Cultivation and Consumption:

Cultivation and consumption, generally.

1. No marijuana cultivation or consumption shall be conducted openly or publicly.
2. Marijuana cultivation shall comply with all applicable requirements of the laws and regulations of the Town and the State.
3. In no event shall a person cultivating marijuana pursuant to these regulations keep, cultivate, or process more marijuana than such person is entitled to possess under Article XVIII, Section 14 or 16 of the Colorado Constitution.
4. All marijuana cultivation shall take place in a locked and enclosed space.
5. All marijuana products kept on premises where marijuana plants are grown shall be stored in a locked and enclosed space.
6. No marijuana produced for personal use shall be made available for sale.

Cultivation within dwellings.

1. No dwelling shall be used primarily as a place to cultivate marijuana.
2. In no event shall more than twelve (12) marijuana plants of any size, or six (6) mature marijuana plants, be cultivated or kept within, or on the same legal parcel as, any single-family dwelling.
3. No marijuana plants may be cultivated within any dwelling unit in a two-family or multi-family dwelling.
4. Marijuana cultivation shall not be perceptible from the exterior of the dwelling in which the cultivation occurs.
5. The use of compressed gases and solvents for marijuana cultivation is prohibited.
6. The use of any lighting for indoor marijuana cultivation shall be limited to light-emitting diodes (LEDs), compact fluorescent lamps (CFLs) or other fluorescent lighting. All high-intensity discharge (HID) lighting, including, but not limited to, mercury-vapor lamps, metal-halide (MH) lamps, ceramic MH lamps, sodium-vapor lamps, high-pressure sodium (HPS) lamps and xenon short-arc lamps, is prohibited.
7. No marijuana cultivation activity shall result in the emission of any gas, vapors, odors, smoke, dust, heat or glare that is noticeable at or beyond the property line of the dwelling at which the cultivation occurs. Sufficient measures and means of preventing the escape of such substances from a dwelling must be provided at all times. In the event that any gas, vapors, odors, smoke, dust, heat or glare or other substances exit a dwelling, the owner of the subject premises shall be liable for such conditions and shall be responsible for immediate, full clean-up and correction of such condition. The owner shall properly dispose of all such materials, items, and other substances in a safe, sanitary and secure manner and in accordance with all applicable federal, state, and local laws and regulations. In the event there is a lessee

of the subject premises , the owner and the lessee shall be jointly and severally liable for such conditions.

Violations and Penalties:

Any person who violates any of the provisions of this Ordinance shall be guilty of a misdemeanor criminal offense punishable by a \$500.00 fine per offense, per instance.