

ORDINANCE NO. 2022-01

AN ORDINANCE AMENDING HARDIN CITY CODE REGARDING PUBLIC DISPLAY OF MARIJUANA

WHEREAS, the City of Hardin desires to modify and change the City Code of Hardin, Montana to reflect legalization of recreational marijuana, enacted by the 2021 Montana State Legislature in HB 701;

WHEREAS, the City of Hardin finds it is in the best interest to regulate the display of marijuana use for public health, safety, and general welfare.

NOW THEREFORE BE IT ORDAINED BY THE CITY COUNCIL FOR THE CITY OF HARDIN, MONTANA, Title 6, Chapter 10, Sections 1-4 are amended with the deletion and insertion of additional language, as follows:

6-10-1: PURPOSE AND INTENT:

- A. The purpose of this chapter is to identify acts regarding the ~~medical~~-use of marijuana within the city of Hardin that are not authorized to be conducted in a manner open or visible to the general public. In addition, the purpose of this chapter is to identify that acts related to smoking, consuming, or displaying ~~medical~~-marijuana in certain public areas are to be punished as criminal acts and as such shall be subject to criminal penalties. The purpose of establishing these acts where the use is further limited by the city as criminal is to protect the public's health, safety and general welfare.
- B. It is the intent of this chapter that the visible or open display, smoking, or consumption of marijuana or medical marijuana is to be confined to private property where that property or portions thereof are not adapted and fitted for public travel or are not in common use by the public.

6-10-2: DEFINITIONS:

MARIJUANA: Has the meaning provided in section 16-12-102 and section 50-32-101, Montana Code Annotated.

MEDICAL MARIJUANA: ~~The uses of marijuana described in section 50-46-102(5), Montana Code Annotated. Other phrases herein such as the "use of medical marijuana" or "the medical use of marijuana" shall have the same meaning and includes the term "usable marijuana".~~ Has the meaning provided in section 16-12-102, Montana Code Annotated.

PUBLIC DISPLAY OF MARIJUANA: The carrying and exhibiting of marijuana in any type of packaging that permits another to see the marijuana regardless of the form of the marijuana.

PUBLIC PLACES: In, on or upon the streets, avenues, alleys, parks, fairgrounds, and ways of the city open to the public, within or without any vehicle.

PUBLIC SMOKING OR CONSUMPTION: The smoking or consumption of marijuana in, on, within or upon any motor vehicle or any public places in the city.

VEHICLE: Every device in, upon or by which any person or property is or may be transported or drawn upon a public highway.

WAYS OF THE CITY OPEN TO THE PUBLIC: Any highway, road, street, avenue, driveway, alley, lane, parking area, sidewalk, park trail or other public or private lane within the city of Hardin that is adapted and fitted for the use of the public and that is in common use by the public.

6-10-3: PUBLIC DISPLAY, SMOKING OR CONSUMPTION OF MARIJUANA OR MEDICAL MARIJUANA; PROHIBITED:

No person authorized by title 1650, chapter 1246, Montana Code Annotated, to acquire, possess, cultivate, manufacture, deliver, transfer, or transport marijuana or medical marijuana may, on the ways of the city open to the public, in a vehicle, or public place display, exhibit, smoke or consume marijuana or medical marijuana in an open or visible manner. A violation of this section is an absolute liability offense.

6-10-4: STATE LAW SUPERSEDED AND APPLICABLE:

The provisions of this chapter shall supersede title 1650, chapter 1246, Montana Code Annotated only in so far as this chapter expands the limitations on the use of marijuana or medical marijuana. All other provisions of state law related to medical marijuana or marijuana shall be applicable.

DATE OF EFFECT.

The amendment to this ordinance shall take effect and be in force thirty (30) days from the date of its second reading and passage by the City Council as required by law.

FIRST READING AND PASSAGE By a majority vote of the members present this 1st day of March, 2022.

YEAS 5

NAYS 0



Mayor *Joe Ruess*

ATTEST:

City Clerk *Andrew Lehr*

POSTED AND MADE AVAILABLE TO THE PUBLIC this 2nd day of March, 2022.

City Clerk *Andrew Lehr*

SECOND READING AND PASSAGE By a majority vote of the members present this 14th day of March, 2022.

YEAS 6

NAYS 0



Mayor *Joe Ruess*

ATTEST:

City Clerk *Andrew Lehr*