

**ORDINANCE NO. 20-06**

**INTRODUCED BY:  
Council Member Sweeney  
Council Member Peterson**

**AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF  
FEDERAL HEIGHTS, COLORADO, DELETING IN ITS ENTIRETY  
SECTION 38-91, OPEN MARIJUANA CONTAINER – MOTOR  
VEHICLE PROHIBITED OF THE  
FEDERAL HEIGHTS MUNICIPAL CODE**

WHEREAS, the City seeks to adopt with amendments the 2020 Model Traffic Code for Colorado, which is authored by the Colorado Department of Transportation, and based upon the State's Uniform Motor Vehicle Law, C.R.S. Section 42-1-101 et seq.; and

WHEREAS, the Uniform Motor Vehicle Law's Alcohol and Drug Offenses include Open Alcoholic Beverage Container – Motor Vehicle Prohibited (C.R.S. Section 42-4-1305) and Open Marijuana Container – Motor Vehicle Prohibited (C.R.S. Section 42-4-1305.5); and

WHEREAS, for consistency of administration and enforcement and because the City has previously adopted and will continue to have the Open Alcoholic Beverage Container offense as part of the Model Traffic Code, the Police Department desires to repeal the Open Marijuana Container offense set forth in Chapter 38 of the Code of Ordinances and adopt it as part of the Model Traffic Code.

**BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF FEDERAL HEIGHTS, COLORADO:**

Section 1. Section 38-91, Open Marijuana Container – Motor Vehicle Prohibited, of the Federal Heights Municipal Code, is repealed in its entirety:

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. All other ordinances or portions thereof inconsistent or conflicting with this ordinance or any portions hereof are hereby repealed to the extent of such inconsistency or conflict.

Section 4. The repeal or modification of any provision of the Federal Heights 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 5. This ordinance is deemed necessary for the protection of the health, welfare and safety of the community.

Section 6. Violations of this ordinance are subject to the penalties set forth in Section 1-15 of Federal Heights Municipal Code or as otherwise provided in this ordinance.

INTRODUCED, READ AND PASSED AS AN ORDINANCE, ON FIRST READING,  
AT A REGULAR MEETING OF THE CITY COUNCIL OF THE CITY OF FEDERAL  
HEIGHTS, COLORADO, THE 7<sup>th</sup> DAY OF July 2020.

READ, PASSED AND ADOPTED AS AN ORDINANCE ON SECOND READING,  
AT A REGULAR MEETING OF THE CITY COUNCIL OF THE CITY OF FEDERAL  
HEIGHTS, COLORADO, THE 4<sup>th</sup> DAY OF August 2020.

/s/ Linda S. Montoya, Mayor

ATTEST:  
/s/ Patti K. Lowell, CMC  
City Clerk

APPROVED AS TO FORM:  
/s/ William P. Hayashi  
City Attorney