

ORDINANCE NO. 708

AN ORDINANCE OF THE CITY OF LAS ANIMAS, COLORADO, REGULATING THE CONSUMPTION AND GROWING OF MARIJUANA

WHEREAS, the City Council of the Las Animas (the “City”) is a Colorado statutory municipality created and organized pursuant to Title 31 of Colorado Revised Statutes and the Charter of the City of Las Animas; and

WHEREAS, the City possesses the authority pursuant to C.R.S. §30-11-101(2) to “adopt and enforce ordinances and resolutions regarding health, safety and welfare issues;” and

WHEREAS, the Local Governmental Land use Enabling Act of 1974 empowers Colorado Counties to regulate the use of land based on the impact thereof on the community or surrounding area; and

WHEREAS, the Colorado Amendment 64 recognizes that local governments such as the City of Las Animas, retain authority to regulate the cultivation of medical marijuana; and

WHEREAS, the City Council of the City of Las Animas has determined that the adoption of regulations governing recreational marijuana cultivation is necessary and desirable for the health, safety and welfare of the citizens of the City of Las Animas.

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF LAS ANIMAS, COLORADO, as follows:

Section 1. Purpose.

This Ordinance is intended to apply to the growing of recreational marijuana in any zone district whether such growing is done by individuals for their own use, or by primary caregivers.

Section 2. Definitions.

(a) ***Marijuana*** shall have the same meaning as the term “useable form of marijuana” as set forth in Article XVIII, Section 14(1)(i) of the Colorado Constitution, or as may be more fully defined in any applicable state law or regulation.

(b) ***Medical marijuana*** means marijuana that is grown and sold for a purpose authorized by Section 14 of Article XVIII of the Colorado Constitution.

(c) ***Optional premises cultivation operation*** means a person licensed pursuant to the CMMC to operate a business as described in §12-43.3-403 of the CMMC.

(d) **Patient** shall have the same meaning as set forth in Article XVIII, Section 14(1)(d) of the Colorado Constitution, or as may be more fully defined in any applicable state law or regulation.

(e) **Primary caregiver** shall have the same meaning as set forth in Article XVIII, Section 14(1)(f) of the Colorado Constitution and subject to any statutory requirements or conditions, or as addressed in any applicable Colorado Department of Revenue regulations.

(f) **Possession** is defined as the act of keeping, holding, stashing, or in use of marijuana products.

(g) **Consumption** is defined as the act of inhaling smoke from burning marijuana and eating marijuana infused candies, desserts, and food.

(h) **Cultivation** is defined as the growing and/or farming of marijuana plants within a residence or other building or in a backyard or field.

(i) **Minor** is defined as any individual under the age of twenty-one without a medical marijuana license or “Red Card” and in the possession of marijuana.

Section 3. Possession and Consumption of Recreational Marijuana

All adults the age of twenty-one (21) or older may possess up to one (1) ounce of recreational marijuana upon their person at one time. Any adult in the possession of more than one (1) ounce of recreational marijuana upon their person shall face penalties in accordance with Colorado Law.

(a) It shall be unlawful for any adult the age of twenty-one (21) or older to consume recreational marijuana outside of their residence and/or private property.

(b) It shall be unlawful for any adult the age of twenty-one (21) or older to consume recreational marijuana while operating motor vehicles. Any adult found to be consuming recreational marijuana while operating motor vehicles shall face penalties in accordance with Colorado Law.

(c) It shall be unlawful for any minor to be in the presence or possession of marijuana. Should any minor be found in the possession or presence of marijuana, the minor and all individuals involved shall face penalties in accordance with Colorado Law.

Section 4. Growing of Recreational Marijuana

(a) Cultivation of recreational marijuana plants must be in full compliance with all applicable provisions of the Colorado Constitution and Amendment 64 and must not be perceptible from the exterior of the structure in which such cultivation occurs, including but not limited to:

- (1) Common visual observation, including any form of signage;
- (2) Unusual odors, smells, fragrances, or other olfactory stimulus;
- (3) Fugitive light, glare, or brightness that unreasonably disturbs the repose of another; and
- (4) Undue vehicular or foot traffic, including excess parking within the residential zone.

(b) Recreational marijuana plants shall not be grown or processed in the common areas of a multi-family or attached residential development.

(c) Not more than six (6) recreational marijuana plants may be grown, cultivated, or processed per adult and not more than twelve (12) recreational marijuana plants, no matter how many adults dwell within the residence, may be grown, cultivated, or processed per residence within any structure, building, greenhouse, or enclosure. Nor shall recreational marijuana be grown, cultivated or processed in more than one structure, building, greenhouse or enclosure on any single tract, parcel, lot, or any property held in common ownership.

(d) Such cultivation, production, or possession of recreational marijuana plants shall be limited to the following space limitations:

(1) For all structures, buildings, greenhouses, or enclosures of any kind in any zone district, temporary or permanent, other than multi-family dwelling units: A secure, defined, contiguous 1500 cubic foot area.

(2) Within a multi-family dwelling unit (Group R-2 as defined by the International Building Code): A secure, defined, contiguous 1000 cubic foot area within the primary residence of the owner of the property or lessee with permission to grow or cultivate recreational marijuana.

(f) Such cultivation, production, or possession of marijuana plants shall meet the requirements of all adopted City of Las Animas Building regulations, and other applicable regulations of the State of Colorado, the County of Bent, and any fire protection district having jurisdiction, as the same may be amended from time to time.

(g) Such cultivation, production, or possession of marijuana plants shall meet the requirements of all adopted water and sewer regulations promulgated by the City, County of Bent, or any special district having jurisdiction.

(h) For purposes of this ordinance, “a secure” area means within the primary residence, accessory structure, or enclosure accessible only to the owner or lessee of the private property. Secure premises shall be locked or partitioned off to prevent access by

children, visitors, casual passersby, vandals, or anyone not licensed and authorized to possess medical marijuana.

(i) The Cultivation, production, or possession of marijuana plants by any owner or lessee pursuant to this Ordinance is and shall be deemed consent by the owner or lessee upon reasonable notice for the City, County, and/or any fire protection district having jurisdiction to inspect the premises at reasonable times to assure compliance with the provisions of this Ordinance.

(j) Private sale of recreational marijuana grown, cultivated, or processed pursuant to this Ordinance is prohibited.

Section 5. **Penalties**

Pursuant to Colorado Law, any person who violates any of the provisions of this Ordinance commits a Class 2 petty offense and, upon conviction thereof, shall be punished by a fine of not more than one thousand dollars (1,000.00). Every day such violations continue unaddressed shall be deemed a separate offense.

Section 6. **Civil Enforcement**

In addition to the penalties prescribed in Section 5 hereof, the provisions of this Ordinance may be enforced through civil proceedings pursuant to C.R.S. 30-28-124.

Section 7. **Severability**

If any section, sentence, clause or phrase of this ordinance is, for any reason, held to be invalid or unconstitutional, such decision shall not affect the validity or constitutionality of the remaining portions of this ordinance. The City Council of the City of Las Animas hereby declares that it would have passed this ordinance, and each section, clause or phrase hereof, irrespective of the fact that any one or more of the sections, sentences, clauses and phrases be declared unconstitutional.

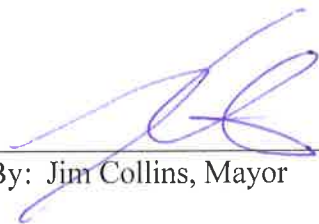
Section 8. **Effective date**

This Ordinance shall be published in full following its initial introduction and reading and published by title only following final adoption by the City Council of the City of Las Animas and shall be effective thirty (30) days following such publication by title only.

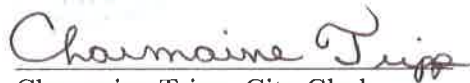
PASSED on first reading this 10th day of November, 2015.

ADOPTED on second reading this 12th day of January, 2016.

CITY OF LAS ANIMAS, COLORADO


By: Jim Collins, Mayor

ATTEST:


Charmaine Tripp, City Clerk