

**ORDINANCE NO. 9**  
**(Series 2017)**

**AN ORDINANCE AMENDING THE GEORGETOWN MUNICIPAL CODE  
CONCERNING THE CULTIVATION OF MARIJUANA**

**WHEREAS**, the cultivation of marijuana for personal use is permitted by the Colorado Constitution Article XVIII, section 16; and

**WHEREAS**, the cultivation and use of marijuana for medical use is permitted by Colorado Constitution Article XVIII, section 14; and

**WHEREAS**, the Colorado General Assembly has enacted state legislation governing the manner in which these rights may be exercised, which legislation specifically recognizes the authority of local governments, including the Town, to impose local land use, health, safety and other regulations upon the cultivation and sale of recreational and medical marijuana; and

**WHEREAS**, in the exercise of this authority, the Board of Selectmen has previously enacted chapter 5.20 of the Georgetown Municipal Code (the “Code”) concerning retail marijuana sales; chapter 5.24 of the Code concerning medical marijuana cultivation and sale; and chapter 15.55 of the Code concerning regulation of primary caregivers; and

**WHEREAS**, the Board of Selectmen wishes to further govern the circumstances under which marijuana may be cultivated for personal and medical use, as a supplement to the regulatory and licensing programs established in Code chapters 5.20, 5.24 and 15.55; and

**WHEREAS**, the Board of Selectmen finds that the cultivation of marijuana for personal and medical use by persons other than primary caregivers has the potential to poses health and safety concerns not adequately addressed by current provisions of the Code; and

**WHEREAS**, the Board of Selectmen wishes to enact a new chapter 9.56 within Title 9 of the Georgetown Municipal Code to address this aspect of marijuana cultivation and use.

**NOW, THEREFORE, BE IT ORDAINED BY THE BOARD OF SELECTMEN OF THE TOWN OF GEORGETOWN, COLORADO:**

**Section 1.** The Georgetown Municipal Code is hereby amended by the addition of a new chapter 9.56 within Title 9 of the Code, entitled Personal Marijuana Cultivation and Use, to read as follows:

**Chapter 9.56**

**Personal Marijuana Cultivation and Use**

**9.56.010 Legislative Declaration**

This chapter shall apply to the cultivation and use of marijuana for personal and medical purposes as permitted by the Colorado Constitution Article XVIII, section 14 and section 16 and is regulated by, inter alia, C.R.S. 12-43.3-101, et seq., C.R.S. 25-1.5-106, and C.R.S. 18-18-406. This chapter shall apply to all cultivation and use of marijuana not otherwise regulated under the Code by chapter 5.20 (medical marijuana sales); chapter 5.24 (retail marijuana sales) or chapter 15.55 (primary caregiver licensing).

#### **9.56.020 Definitions.**

As used in this chapter, these terms have the following meanings:

*Marijuana* shall have the same meaning as the term "usable form of marijuana" as set forth in Article XVIII, section 16(1)(f) of the Colorado Constitution or as may be fully defined and any applicable state law or regulation.

*Primary residence* for purposes of this chapter means the place that a person, by custom and practice, makes his or her principal domicile and address and to which the person intends to return following any temporary absence such as a vacation. Residence is evidenced by actual daily physical presence, use, and occupancy of the primary residence and the use of the residential address for domestic purposes, such as, but not limited to slumber, preparation of and partaking of meals, regular mail delivery, vehicle and voter registration, or credit, water, and utility billing. A person shall have only one primary residence within the Town. A primary residence shall not include accessory buildings.

#### **9.56.030 Cultivation of Marijuana Prohibited; Exception.**

Cultivation of any form of marijuana is prohibited within the Town except as permitted to a primary caregiver under chapter 15.55 of this Code, or under this chapter. Marijuana may only be grown, cultivated or processed as an accessory use at the primary residence of the person conducting such activity under this chapter and only for such person's own personal or medical use under this chapter or by a licensed primary caregiver on behalf of a patient pursuant to chapter 15.55.

#### **9.56.040 Requirements and Limitations on Growing of Marijuana in Residential Structures for Personal Use.**

A person may grow, cultivate, possess, produce or use marijuana for personal or medical use within the Town subject to the following restrictions:

- (a) Cultivation, production, or possession of marijuana plants must be in full compliance with all applicable provisions of this chapter 9.56, Article XVIII, sections 14 and 16 of the Colorado Constitution, the Colorado Medical Marijuana Code, C.R.S. §§12-43.3-101 et seq., the Medical

Marijuana Program, C.R.S. §25-1.5-106, and state regulations promulgated thereunder.

(b) Marijuana plants must be cultivated, produced, or possessed exclusively within the person's primary residence.

(c) The cultivation, production, or possession of marijuana plants must not be perceptible from the exterior of the primary residence, including but not limited to:

- (1) common visual observation, including any form of signage;
- (2) odors, smells, fragrances, or other olfactory stimulus in excess of that which is customary of a residential neighborhood;
- (3) light pollution, glare, or brightness that disturbs the repose of another; and
- (4) vehicular or foot traffic, including parking, in excess of that which is customary of a residential neighborhood.

(d) Marijuana plants shall not be grown or processed in multifamily units or in the common areas of attached residential developments.

(e) Cultivation, production, or possession of marijuana plants shall be limited to the following space limitations within a primary residence: within a single-family dwelling unit (Group R-1 as defined by the International Residential Code): a secure, defined, contiguous maximum one hundred fifty (150) square foot area within the primary residence. For purposes of this section, a "secure" area means an area within the primary residence accessible only to the adult occupants thereof. Secure premises shall be locked or partitioned off to prevent access by children, visitors, casual passersby or vandals.

(f) Cultivation, production, or possession of marijuana plants shall not occur in any accessory structure.

(g) Cultivation, production, or possession of marijuana plants shall meet the requirements of all adopted Town of Georgetown building and life/safety codes, and all water and sewer regulations adopted by the Town.

(h) Lighting. Cultivation of marijuana by the use of any light or lighting system other than a fluorescent light, light-emitting diode ("LED") or fluorescent or LED lighting system is only permitted when the premises are equipped with an automatic fire suppression system that meets the requirements of National Fire Protection Association as reflected in the currently-adopted edition of the International Building Code and International Fire Code.

- (i) Marijuana may not be grown, cultivated or processed outdoors.
- (j) The use of compressed gas products (e.g. carbon dioxide, butane) or flammable solvents for growing, cultivating or processing marijuana is prohibited.
- (k) Any lessee or tenant that uses a rental property (which must also be that person's primary residence) for the growing, cultivating or processing of marijuana shall obtain written permission from the property owner prior to establishing such use.
- (l) With respect to marijuana for personal and medical use, no more than six (6) marijuana plants, with three (3) or fewer being mature flowering plants, may be grown at a primary residence for each adult aged 21 or older. With respect to marijuana for personal medical use, in no case may more than six (6) marijuana plants be grown at a primary residence with one half or fewer being mature flowering plants, unless the person living at the primary residence and growing the plants is in possession of a patient identification card under C.R.S. 25-1.5-106(9) and/or a certificate from the person's physician stating that such greater amounts are medically necessary to address the person's debilitating medical condition.

#### **9.56.050 Enforcement, Penalties, Injunctive Relief.**

- (a) It is a civil infraction for any person violating any provision of this chapter. Any person convicted of having violated any provision of this chapter shall be punished by a fine of \$1000. Subsequent infractions by the same person shall be subject to an increased fine of up to \$2000, in the discretion of the Municipal Court Judge.
- (b) In addition to all other remedies available to the Town under this code and by law, the cultivation, production or possession of marijuana in violation of this chapter may be enjoined by the Town in an action brought in a court of competent jurisdiction.

**Section 2. Effective date.** This ordinance shall take effect upon final adoption as provided by Section 5.26 of the Territorial Charter.

**INTRODUCED, READ, APPROVED AND ORDERED POSTED IN FULL ON FIRST READING on the 22nd day of August, 2017.**

**INTRODUCED ON SECOND READING, FINALLY ADOPTED AND ORDERED POSTED AFTER PUBLIC HEARING on the 12th day of September, 2017.**

TOWN OF GEORGETOWN

By: \_\_\_\_\_  
Matthew D. Skeen, Police Judge

ATTEST:

\_\_\_\_\_  
Jennifer Yobski, Town Clerk

Posted up in full on the Town's website and at Town Hall and two (2) other designated posting locations within the limits of the Town after final adoption, in accordance with Section 5.26 of the Territorial Charter.

\_\_\_\_\_  
Jennifer Yobski, Town Clerk

Date: \_\_\_\_\_