

ORDINANCE NO. 929

AN ORDINANCE RESTRICTING THE NUMBER OF MARIJUANA PLANTS THAT MAY BE POSSESSED, CULTIVATED, GROWN OR PRODUCED ON A RESIDENTIAL PROPERTY

WHEREAS, the Colorado constitution is silent on where marijuana plants may be grown or possessed for medical or recreational use; and

WHEREAS, large scale cultivation sites in residential properties create a public safety issue; and

WHEREAS, large scale cultivation sites are a public nuisance by creating a fire hazard putting first responders at risk and may create water damage and mold in the residential property; and

WHEREAS, large scale cultivation on a residential property can produce a noxious smell that limits the ability of others living in the area to enjoy the quiet of their homes; and

WHEREAS, the sites of large scale cultivation are often rental homes and the renters cause significant damage to the home by retrofitting the home to be used as a large-scale cultivation site lowering the value of the home and often lowering the value of the neighborhood; and

WHEREAS, the sites of large scale cultivation on a residential property can create a target for criminal activity, creating an untenable public safety hazard; and

WHEREAS, in the seventy-first general assembly in 2017, the Colorado legislature adopted House Bill (“H.B.”) 17-1220 amending C.R.S. §18-18-406(3)(a)(I) and C.R.S. §25-1.5-106(8.5)-(8.6) limiting the number of marijuana plants on a residential property to not more than twelve (12) unless a municipality has expressly permitted the cultivation, growth or production of more than twelve (12) plants; and

WHEREAS, the City of Rocky Ford desires to assure that as of the effective date of HB 17-1220 the City does not expressly permit the cultivation, growth or production of more than twelve (12) marijuana plants on a residential property effective April 1, 2018 so that HB 17-1220 may be fully enforced within the City.

BE IT ORDAINED by the City of Rocky Ford City Council as follows:

Section 1. Chapter 16 of the Rocky Ford Municipal Code is hereby amended to add a new Article 11, to read as follows:

ARTICLE 11

MARIJUANA CULTIVATION FOR PERSONAL USE

16-11-10 Purpose and legislative intent.

This ordinance clarifies local law to assure provisions of H.B. 17-1220 codified in C.R.S. §18-18-406 regarding the maximum number of marijuana plants that may be cultivated, grown or produced on a residential property may be enforced within the City of Rocky Ford.

16-11-20 Definitions.

A. "Residential property" in this ordinance means a single unit providing complete independent living facilities for one or more persons, including permanent provisions for living, sleeping, eating, cooking, and sanitation.

B. "Residential property" also includes the real property surrounding a structure, owned in common with the structure, that includes one or more single units providing complete independent living facilities.

16-11-30 Prohibitions.

Effective April 1, 2018, no person shall knowingly possess at, cultivate, grow or produce more than twelve (12) marijuana plants on or in a residential property regardless of whether the plants are for medical or recreational use and regardless of the number of persons residing temporarily or permanently on the residential property.

Section 2. Effective April 1, 2018, all previously adopted ordinances or parts of ordinances allowing, or that may be interpreted as allowing or permitting, a person to knowingly possess at, cultivate, grow or produce more than twelve (12) marijuana plants on or in a residential property regardless of whether the plants are for medical or recreational use and regardless of the number of persons residing temporarily or permanently on the residential property are repealed or amended to the extent necessary to conform with this ordinance.

Section 3. If any clause, sentence, paragraph or part of this ordinance or the application thereof to any person or circumstances shall for any reason be adjudged by a court of competent jurisdiction to be illegal or invalid, such judgment shall not affect application to other persons or circumstances and those other portions of this ordinance not illegal or invalid shall continue in full force and effect as to those provisions.

ORDAINED AND PASSED this 13th day of March, 2018.



ATTEST:


Cheryl Grasmick, City Clerk

By 
J. R. Thompson, Mayor

Passed first reading this 13th day of February, 2018

Passed final reading this 13th day of March, 2018

STATE OF COLORADO)
) ss
CITY OF ROCKY FORD)

I, Cheryl Grasmick, City Clerk of the City of Rocky Ford, Colorado do hereby certify that the above and foregoing ordinance was introduced, read in full, and passed on first reading at a regular meeting of the city council, February 13, 2018, and published in the Rocky Ford Daily Gazette, the official newspaper of said city, and was finally passed, approved, and adopted at the regular meeting of the city council held on 13th day of March, 2018, and ordered published in the Rocky Ford Daily Gazette, the official newspaper of said City, as Ordinance Number 929 of the City of Rocky Ford, Otero County, Colorado.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed the seal of the City of Rocky Ford, this 13th day March, 2018.





Cheryl Grasmick, City Clerk