

ORDINANCE NO. 57B

AN ORDINANCE PROHIBITING THE POSSESSION AND PERSONAL USE OF MARIJUANA AND MARIJUANA ACCESSORIES IN OR ON TOWN OF STRATTON, COLORADO OWNED BUILDING, FACILITIES, PROPERTIES AND VEHICLES

WHEREAS, in the November 2012 general election, the voters of the State of Colorado adopted Amendment 64 to the Colorado Constitution (“Article XVIII, Section 16”), that makes the personal possession, use and limited home-growing of small amounts of marijuana for adults twenty-one years of age or older legal under Colorado law; and

WHEREAS, Amendment 64 allows possessing, growing, processing, or transporting no more than six (6) marijuana plants, with three (3) or fewer being mature, flowering plants, and possession of the marijuana produced by the plants on the premises where the plants were grown, provided that the growing takes place in an enclosed, locked space, is not conducted openly or publicly, and is not made available for sale;

WHEREAS, Amendment 64 allows local governments to prohibit the possession of marijuana and marijuana accessories by persons under the age of twenty-one (21) years and to prohibit the open and public consumption of marijuana by persons of any age; and

WHEREAS, section 2(e) of Section 16, Article XVIII of the Colorado Constitution defines “locality” to include a “municipality” and the Town of Stratton (“Town”) is a municipality; and

WHEREAS, despite the adoption of Amendment 64, marijuana is still a controlled substance under Colorado and federal law which leads to the potential abuse of possessing, cultivating, growing, use and distribution; and

WHEREAS, the Board of Trustees has determined to follow Federal law regarding the possession, use and cultivation of marijuana, and has determined as an exercise of its general police power that such use and possession shall not be permitted within the corporate limits of the Town; and

WHEREAS, the Town desires to amend and update the Town’s regulations concerning possession of marijuana and marijuana accessories to recognize and implement the intent of Article XVIII.

NOW, THEREFORE BE IT ORDAINED BY THE BOARD OF TRUSTEES FOR THE TOWN OF STRATTON, COLORADO:

Section 1. Purpose. The purpose of this ordinance is to prohibit the use and possession of marijuana and marijuana accessories in or on Town of Stratton owned buildings, facilities, properties and vehicles.

Section 2. Definitions. The following definitions shall apply:

1. Marijuana Accessories. Marijuana Accessories means any equipment, products, or materials of any kind which are used, or designed for use in planting, propagating, cultivating, growing, harvesting, composting, manufacturing, compounding, converting, producing, processing, preparing, testing, analyzing,

packaging, repackaging, storing, vaporizing, or containing marijuana, or for ingesting, inhaling, or otherwise introducing marijuana into the human body.

2. Marijuana or Marihuana. Marijuana or Marihuana means all parts of the plant of the genus cannabis whether growing or not, the seeds thereof, the resin extracted from any part of the plant, and every compound, manufacture, salt, derivative, mixture, or preparation of the plant, its seeds, or its resin, including marihuana concentrate. "Marijuana" or "Marihuana" does not include industrial hemp, nor does it include fiber produced from the stalks, oil, or cake made from the seeds of the plant, sterilized seed of the plant which is incapable of germination, or the weight of any other ingredient combined with marijuana to prepare topical or oral administrations, food, drink, or other product.

Section 3. Prohibition and Penalty.

A. Possession of Drug Paraphernalia.

- a. It shall be a violation of this chapter for any person to possess drug paraphernalia. A person commits possession of drug paraphernalia if he or she possesses drug paraphernalia and knows or reasonably should know that the drug paraphernalia could be used under circumstances in violation of the laws of this state.
- b. It shall not be a violation of this chapter for a person twenty-one (21) years of age or older to possess, use, display, purchase or transport marijuana accessories to the extent provided by Article XVIII, Section 16(3) of the Colorado Constitution.

B. Possession and Use of Marijuana

- a. It is unlawful for any person to use, display, purchase, transport, transfer, possess or have in his possession, or under his control, more than one (1) ounce of marijuana.
- b. It is unlawful for any person age twenty-one (21) years or older to use, display, purchase, transport, transfer, possess or have in his possession or under his control marijuana for any reason other than personal use.
- c. It is unlawful for any person under the age of twenty-one (21) to use, display, purchase, attempt to purchase, transport, transfer, possess or have in his possession nor under his control, or obtain marijuana as defined in this section, either directly or indirectly, or through an intermediary, by misrepresentation of age or by any other means.
- d. It is unlawful for any person to possess, grow, process or transport more than six (6) marijuana plants, with three (3) or fewer being mature, flowering plants. A person may possess the marijuana produced by these plants, provided that such possession is limited to the premises where the plants were grown and further provided that the growing takes place in an enclosed locked space and is not conducted openly or publicly or made available for sale.
- e. It is unlawful for any person to possess, consume, or use marijuana as defined in this section in a public place or on property owned, leased or operated by the State or any political subdivision or agency thereof, or upon property owned, leased or operated by the Town of Stratton. For purposes of this section, public place shall

mean and include any place commonly or usually open to the general public or any resort or club accessible to members of the general public. By way of illustration, public places include, but are not limited to, public ways, streets, buildings, sidewalks, alleys, parking lots, retail stores and centers, shopping malls, places of business usually open to the general public, and automobiles or other vehicles in or upon any such place or places; but shall not include the interior or enclosed yard of private homes, residences, condominiums or apartments.

- f. It is an affirmative defense to a prosecution under this Section that a person who possesses or uses marijuana is so permitted by Colorado or federal law under the direction of a duly licensed medical or osteopathic doctor and in possession of a valid registry identification card authorizing the medicinal use of marijuana issued by the state health agency, so long as consumption or use does not occur in a public place.

- C. **Penalty.** Any person found guilty of a violation of this section shall be punished, upon conviction, by a fine in the amount of three hundred dollars (\$300.00) for each violation, but no jail sentence or other form of imprisonment may be imposed, a fine being the exclusive punishment, and no imprisonment shall be allowed under this chapter. Failure to pay a fine may result in imprisonment pursuant to Colorado Revised Statutes section 13-10-113, as amended.

Section 4: Conflicting Ordinances. All ordinances heretofore passed and adopted by the Town of Stratton Board of Trustees are hereby repealed to the extent that said ordinances, or parts thereof, are in conflict herewith.

Section 5: Severability. If any provision of this Ordinance or the application thereof to any person or circumstance is held invalid, such invalidity shall not affect other provisions or applications of the Ordinance that can be given effect without the invalid provision or application, and to this end the provisions of this Ordinance are declared to be severable.

Section 6: Immediate Effect. The Board of Trustees finds, determines, and declares that this Ordinance is necessary to the immediate preservation of the public peace, health, and safety in the Town of Stratton, Colorado. Therefore, this Ordinance shall take effect upon adoption.

INTRODUCED, READ, ADOPTED AND ORDERED PUBLISHED this 27th day of June, 2013.

[SEAL]

Richard Mann
Richard Mann, Mayor

ATTEST:

Maxine A. Rogers
Maxine A. Rogers, Town Clerk



STATE OF COLORADO)
COUNTY OF KIT CARSON)ss.
TOWN OF STRATTON)

CLERK'S CERTIFICATE

I, Maxine A. Rogers, the official Town Clerk of the Town of Stratton, do by these presents say that the foregoing Ordinance No. 57B was passed and adopted by a three-quarters majority of the Board of Trustees of the Town of Stratton on the 27th day of June, 2013, and that the above-entitled Ordinance is true, correct and fully copy of the Ordinance as shown in the records of the Town of Stratton, Colorado.

Dated this 28th day of June, 2013.

Maxine A. Rogers
Maxine A. Rogers, Town Clerk