

TOWN OF DOLORES

**ORDINANCE NO. 513
SERIES 2013**

**MARIJUANA REGULATIONS POSSESSION AND CONSUMPTION ON TOWN
PROPERTY UNDERAGE (18-20) POSSESSION AND CONSUMPTION**

WHEREAS, Amendment 64 to the Colorado Constitution, regarding the use and regulation of marijuana in Colorado has legalized the possession and/or consumption of small amounts of marijuana (up to an ounce) (six plants); and,

WHEREAS, Amendment 64 does not allow for consumption of marijuana openly and publically or in a manner that endangers others; and,

WHEREAS, Amendment 64 allows a person, employer, school, hospital, detention facility, corporation or any other entity who occupies, owns or controls a property to prohibit or otherwise regulate the possession, consumption, use, display, transfer, distribution, sale, transportation or growing of marijuana on or in that property; and,

WHEREAS, the Town of Dolores finds it in the best interests of all its citizens to regulate the possession, consumption, use, display, transfer, distribution, sale, transportation or growing of marijuana in or on Town property.

NOW THEREFORE, BE IT ORDAINED BY THE DOLORES TOWN BOARD THAT:

The Dolores Municipal Code is hereby amended to add, Section 9.12.41 Marijuana, Possession, Consumption of Marijuana on Town Property

(a) Definitions

(1) "Marijuana" or "Marihuana" whenever used in the Dolores Municipal Code 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.

(2) Town Property: Town property shall include, but is not limited to, all real estate owned occupied or used by the Town such as Town Hall, all parks and other facilities, trails, river property, streets and sidewalks etc.

(3) Town: Town means the Town of Dolores

(b) It shall be unlawful for any person to possess, consume, use, display, transfer, distribute, sell, transport or grow any marijuana or marijuana products as defined in paragraph (a) above on Town property as defined above. Except that the transportation of marijuana or marijuana as defined in (a) above shall be allowed on city streets and sidewalks.

(c) A violation of this section shall be punishable as set forth in Section 1.12.010 Violations Penalty Dolores Municipal Code as may be amended from time to time.

BE IT FURTHER ORDAINED THAT THE Dolores Municipal Code is amended to add: Section 9.12.042 Underage Consumption/Possession of Marijuana

(a) Any person age 18 to 20 years of age who possesses, consumes, uses, displays, transfers, distributes, sells, or grows marijuana or marihuana as defined in Dolores Municipal Code Section 9.12.41(a) Definitions in the Town of Dolores commits illegal possession or consumption of marijuana by an underage person.

Illegal possession or consumption of marijuana by an underage person is a strict liability offense.

(b) Illegal possession or consumption of marijuana by an underage person shall be punished by a fine of not more than five hundred dollars or jail up to 180 days or both a fine and jail sentence. The court, upon sentencing a defendant pursuant to this paragraph (b), may, in addition to any fine, suspend jail time on condition that the defendant submit to and complete an substance abuse or assessment, an substance abuse education program, or an substance abuse program at such defendant's own expense.

(c) Prima facie evidence of a violation of subsection (2) of this section shall consist of:

(1) Evidence that the defendant age 18 to 20 years of age and possessed, consumed, used, displayed, transferred, distributed, sold or grew marijuana as defined in Dolores Municipal Code Section 9.12.41(a) anywhere in the Town of Dolores; or

(2) Evidence that the defendant was age 18 to 20 years of age and manifested any of the characteristics commonly associated with marijuana consumption, or impairment, or is under the influence of marijuana while present anywhere in the Town of Dolores.

(d) The qualitative result of a marijuana test or tests shall be admissible at the trial of any person charged with a violation of subsection (2) of this section upon a showing that the device or devices used to conduct such test or tests have been approved as accurate in detecting marijuana by the executive director of the appropriate state department which regulates marijuana detection testing.

(e) In any judicial proceeding in the Dolores Municipal Court concerning a charge of underage possession/consumption, the court shall take judicial notice of methods of testing a person's blood, breath, saliva, or urine for the presence of marijuana and of the design and operation of devices certified by the department of public health and environment for testing a person's blood, breath, saliva, or urine for the presence of marijuana. This subsection shall not prevent the necessity of establishing during a trial that the testing devices were working properly *and* that such testing devices

were properly operated. Nothing in this subsection shall preclude a defendant from offering evidence concerning the accuracy of testing devices.

(f) No law enforcement officer shall enter upon any private property to investigate any violation of this section without probable cause.

A violation of this section shall be punishable as set forth in Section 1.12.010 Dolores Municipal Code Violations Penalty as may be amended from time to time.

REPEALER. All orders, bylaws, ordinances, and resolutions of the Town, or parts thereof, inconsistent or in conflict with this Ordinance, are hereby repealed to the extent only of such inconsistency or conflict.

SEVERABILITY. If any section, paragraph, clause, or provision of this Ordinance shall for any reason be held to be invalid or unenforceable, the invalidity or unenforceability of such section, paragraph, clause, or provision shall not affect any of the remaining provisions of this Ordinance, the intent being that the same are severable.

RECORDING AND AUTHENTICATION. Upon adoption hereof, this Ordinance shall be recorded in a book kept for that purpose and shall be authenticated by the signatures of the Mayor and the Town Clerk.

EFFECTIVE DATE. This ordinance shall be effective upon publication after final passage.

PUBLIC HEARING. This ordinance shall be considered for second or final reading on the 11th day of February, 2013, at the hour of 6:30 p.m. in the Town Board Chambers in Town Hall, Dolores Colorado, at which time and place all persons may appear and be heard concerning the same.

PASSED, ADOPTED AND APPROVED ON FIRST READING THIS 14TH DAY OF JANUARY, 2013.

TOWN OF DOLORES

ATTEST:

DUVALL TRUELSEN, Mayor

LANA HANCOCK, Town Clerk

PASSED, ADOPTED AND APPROVED ON SECOND AND FINAL READING THIS 11TH DAY OF FEBRUARY, 2013.

TOWN OF DOLORES

ATTEST:

DUVALL TRUELSEN, Mayor

LANA HANCOCK, Town Clerk

APPROVED AS TO FORM:

MICHAEL F. GREEN, Town Attorney