

ORDINANCE NO. 734-17

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 unless a municipality has expressly permitted the cultivation, growth or production of more than twelve plants; and

WHEREAS, the Town of Fowler desires to assure that as of the effective date of HB 17-1220 the town does not expressly permit the cultivation, growth or production of more than twelve marijuana plants on a residential property effective January 1, 2018 so that HB 17-1220 may be fully enforced within the town.

BE IT ORDAINED by the Town of Fowler Board of Trustees as follows.

1. Purpose.

- a. 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 Town of Fowler.

2. 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. “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.
3. Effective January 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.
4. Effective January 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.
5. Severability. 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.

PASSED, ADOPTED AND ORDERED PUBLISHED the 13th day of November 2017.

TOWN OF FOWLER

DATED this 13th day of November 2017.

By: _____
Charles R. Hitchcock, Mayor

ATTEST:

Kelly Lotrich, Town Clerk