



Legislation Text

File #: 17-850, **Version:** 2

Ordinance No. 17-29 creating Section 212 (Unlawful Transfer of Marijuana) of Part 2 (Other Dangerous Weapons and Substances) of Article 7 (Dangerous Weapons and Substances) of Chapter 9 (Public Offenses) of the Code of the city of Colorado Springs 2001, as amended, pertaining to the unlawful transfer of marijuana and providing penalties for the violation thereof.

(Legislative)

Presenter:

Bret Waters, Deputy Chief of Staff

Summary:

The proposed ordinance creates the new section of City Code Chapter 9, Part 2, Article 7, Section 212 pertaining to the unlawful transfer of marijuana

Previous Council Action:

Council has acted on a number of medical marijuana related ordinances, but the proposed ordinance is not limited to medical marijuana and insures Code compliance for other marijuana related uses.

Background:

The Marijuana Working Group meets to discuss ordinances and policies related to the current medical marijuana moratorium and future code and licensing amendments. Through those discussions following input from the Colorado Springs Police Department, it was recognized that the unlawful transfer of retail marijuana is occurring throughout the City. The operation of a retail marijuana establishment is currently prohibited in Chapter 2 of the City Code.

One way that businesses have attempted to circumvent the prohibition on the retail sale of marijuana is by the “transfer” or “gifting” of marijuana in exchange for other goods or services. This practice, which was specifically outlawed in 2016 by the State Legislature, occurs when a person receives marijuana in exchange for purchasing a separate service or product, such as a smoking device. This practice is prohibited under the Colorado Revised Statutes and the proposed ordinance mirrors language from the state statute.

The proposed ordinance will codify that prohibition within the “Dangerous Weapons and Substances” portion of the “Public Offenses” provisions of Chapter 9 of the City Code. This ordinance will specifically codify that it is a violation to transfer marijuana or marijuana concentrate at no cost to a person if the transfer is in any way related to remuneration for any other service or product. In addition to this public offenses section, there is a companion ordinance placing this same prohibition within the City Zoning Code.

By adopting this ordinance, the City may more efficiently utilize its Municipal Court system in conjunction with its zoning enforcement remedies and any available remedies through the State court system. Nothing in this section is meant to inhibit any individual's personal use or possession of marijuana pursuant to article XVIII, section 16(3) (a) - (e) of the Colorado Constitution.

This item supports the City's strategic goal relating to building community and collaborative relationships in that the ordinance insure clarity related to the remuneration of marijuana within the city as a prohibited act.

Financial Implications:

There is no financial implication to the City.

Board/Commission Recommendation:

On February 7, 2017, the City's Marijuana Working Group unanimously recommended approval of the ordinance to City Council.

Stakeholder Process:

The proposed ordinance was developed by City staff and vetted through the City's Marijuana Working Group. The Medical Marijuana Group consists of voting representatives from the medical marijuana industry, medical marijuana caregivers, business representatives, and neighborhood organizations, and a member of the City Council. The Working Group is supported by non-voting City Staff from Planning, Police, Fire, City Clerk's Office, CSU, City Attorney's Office, and the Mayor's Office. Voting members of the Working Group are officially appointed by the City Council.

Alternatives:

1. Approve the recommendation of the Medical Marijuana Working Group;
2. Modify the recommendation of the Medical Marijuana Working Group; or
3. Deny the recommendation of the Medical Marijuana Working Group.

Proposed Motion:

Approve an ordinance creating a new Section 212 (Unlawful Transfer of Marijuana) of Part 2 (Other Dangerous Weapons and Substances) of Article 7 (Dangerous Weapons and Substances) of Chapter 9 (Public Offenses) of the Code of the City of Colorado Springs 2001, as amended, pertaining to the unlawful transfer of marijuana and providing penalties for the violation thereof.

An ordinance creating Section 212 (Unlawful Transfer of Marijuana) of Part 2 (Other Dangerous Weapons and Substances) of Article 7 (Dangerous Weapons and Substances) of Chapter 9 (Public Offenses) of the Code of the city of Colorado Springs 2001, as amended, pertaining to the unlawful transfer of marijuana and providing penalties for the violation thereof.