

ORDINANCE NO. 1557

An ordinance amending Chapter 22 of the Code of the City of Jamestown, North Dakota, by creating Section 22-54 relating to the possession of marijuana and marijuana paraphernalia.

WHEREAS, the North Dakota Century Code §40-05-02(29) has authorized cities to restrict the possession of marijuana within city limits and provide for fines and penalties; and

WHEREAS, the City of Jamestown has determined that it is in the best interest of the health, safety, and welfare of the City to restrict the possession of marijuana within city limits in accordance with the North Dakota Century Code and any amendments thereto.

NOW, THEREFORE, be it ordered by the City Council of the City of Jamestown, North Dakota, that Chapter 22, Section 54 be created as follows:

ARTICLE 22-54 - MARIJUANA AND MARIJUANA PARAPHERNALIA

22-54-01 - Unlawful to Possess Marijuana.

1. Any person in possession of one-half ounce of marijuana or more, or more than two grams of tetrahydrocannabinol, as those terms are defined by N.D.C.C. §19-03.1-01 and any amendments thereto within the City of Jamestown shall be charged with a Class B Misdemeanor.
 - a. For a first offense, the fine must be at least five hundred dollars (\$500.00). For a second offense or more within two years, the fine must be at least seven hundred fifty dollars (\$750.00).
2. Any person in possession of less than one-half ounce of marijuana, or less than two grams of tetrahydrocannabinol, as those terms are defined by N.D.C.C. §19-03.1-01 and any amendments thereto, within the City of Jamestown shall be charged with an infraction.
 - a. For a first offense, the fine must be at least two hundred fifty dollars (\$250.00). For a second offense or more within two years, the fine must be at least five hundred dollars (\$500.00).
3. If an individual under the age of twenty-one pleads guilty or is found guilty of a first offense regarding possession of one-half ounce [14.175 grams] or less of marijuana, the court also may sentence the individual to an evidence-based alcohol and drug education program operated under rules adopted by the department of human services under section 50-06-44. For a second or subsequent offense regarding possession of one-half ounce [14.175 grams] or less of marijuana, the court also shall sentence the individual to an evidence-based alcohol and drug education program operated under rules adopted by the department of human services under section 50-06-44.

22-54-02 – Unlawful to Possess Marijuana Paraphernalia.

1. A person may not use or possess with the intent to use drug paraphernalia to ingest, inhale, or otherwise introduce marijuana or tetrahydrocannabinol into the human body, or possess with the intent to use drug paraphernalia to store or contain marijuana or tetrahydrocannabinol as defined in N.D.C.C. §19-03.1-01, N.D.C.C. §19-03.4-01, § 19-03.4-02 and any amendments thereto, within the City of Jamestown. A person violating this section is guilty of an infraction.
 - a. For a first offense, the fine must be at least two hundred fifty dollars (\$250.00). For a second offense or more within two years, the fine must be at least five hundred dollars (\$500.00).

22-54-03 - Unlawful to Ingest Marijuana by Persons Under Twenty-One Years of Age.

1. It shall be unlawful for a person who is under twenty-one years of age to intentionally ingest, inhale, inject, or otherwise take into the body marijuana or tetrahydrocannabinol, as those terms are defined by N.D.C.C. §19-03.1-01 or any amendments thereto, unless the substance was medical marijuana obtained in accordance with chapter 19-24.1 Of the North Dakota Century Code and any amendments thereto. The marijuana or tetrahydrocannabinol must have been ingested, inhaled, injected or otherwise taken into the body of the accused in the City of Jamestown or the marijuana or tetrahydrocannabinol must have been detected in the body of the accused in the City of Jamestown. A person violating this section is guilty of a class B Misdemeanor.

22-54-04 – Records to be Sealed.

When a person pleads guilty or is found guilty of a first offense for possession of marijuana, marijuana paraphernalia, or two grams or less of tetrahydrocannabinol, the court, upon motion, shall seal the court record of that conviction if the person is not subsequently convicted within two years of a further violation of this chapter and has not been convicted of any other criminal offense. Once sealed, the court record may not be opened even by order of the court.

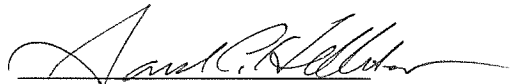
22-54-05 - Burden of Proof.

1. The burden of proof of any exemption or exception is upon the person claiming it.
2. In the absence of proof that a person is the duly authorized holder of an appropriate registration or order form issued by the State of North Dakota, the person is presumed not to be the holder of the registration or form. The burden of proof is upon the person to rebut the presumption.
3. No liability is imposed by this chapter upon any authorized state, county, or municipal officer engaged in the lawful performance of the officer's duties.
4. In all prosecutions under this chapter involving the analysis of a substance or sample thereof, a certified copy of the analytical report signed by the director of the North Dakota state crime laboratory or the director's designee, or electronically posted by the

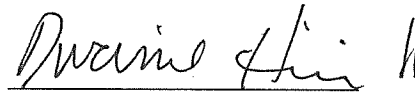
director of the state crime laboratory or the director's designee on the crime laboratory information management system and certified by a law enforcement officer or individual who has authorized access to the crime laboratory information management system through the criminal justice data information sharing system, must be accepted as prima facie evidence of the results of the analytical findings.

ATTEST:

APPROVED:



Sarah Hellekson
City Administrator



Dwaine Heinrich
Mayor

Introduced by Council Member Steele
Seconded by Council Member Kamlitz
First Reading: March 7, 2022
Second Reading: April 4, 2022
Final Passage: April 4, 2022
Roll Call No. 4 showed: 5 ayes, 0 nays, 0 absent