

ORDINANCE NO. 04-2018

AN ORDINANCE OF THE TOWN OF GARDEN CITY MODIFYING THE GARDEN CITY MUNICIPAL CODE REGARDING IMPRISONMENT AS A PENALTY FOR VIOLATION

WHEREAS, the Board of Trustees of the Town of Garden City has determined that certain changes should be made to the Garden City Municipal Code regarding the possibility of imprisonment as a penalty for violation; and

WHEREAS, the Board of Trustees has determined that imprisonment as a penalty for violation should be eliminated from the Garden City Municipal Code in its entirety.

NOW THEREFORE, BE IT ORDAINED BY THE BOARD OF TRUSTEES OF THE TOWN OF GARDEN CITY, COLORADO AS FOLLOWS:

Section 1. Purpose: Eliminate the possibility of imprisonment from the Garden City Municipal Code in its entirety.

Section 2. Amendments:

The following sections and subsections of the Garden City Municipal Code are hereby modified as follows (excluded subsections are not modified and shall remain as currently stated in the code):

Sec. 1-4-20. General penalty for violation.

(a) Any person who violates or fails to comply with any provision of this Code for which a different penalty is not specifically provided shall, upon conviction thereof, be punished by a fine not exceeding \$2,650.00, to be adjusted by inflation on January 1, 2016, and each subsequent year except as hereinafter provided in Section 1-4-30. In addition, such person shall pay all costs and expenses in the case, including attorney fees. Each day such violation continues shall be considered a separate offense.

Sec. 1-4-30. Application of penalties to juveniles.

Every person who, at the time of commission of the offense, was at least ten but not yet eighteen years of age, and who is subsequently convicted of or pleads guilty or nolo contendere to a violation of any provision of this Code, shall be punished by a fine not exceeding \$2,650.00 per violation or count, unless a different fine is specifically set forth herein. Any voluntary plea of guilty or nolo contendere to the original charge or to a lesser or substituted charge shall subject the person so pleading to all fines and/or penalties applicable to the original charge.

Sec. 2-4-90. Powers of Municipal Court.

(a) The Municipal Judge shall have all judicial powers relating to the operation of the Municipal Court, subject to any rules of procedure governing the operation and conduct of the Municipal Court promulgated by the Colorado Supreme Court and the state statutes. The Municipal Judge shall have the following powers:

- (1) The Municipal Judge may impose fines as authorized by this Code and may require useful public service, driving school, alcohol or drug classes or rehabilitation, counseling or therapy and other similar or alternative sentences.

Sec. 2-4-360. - Suspension of sentence.

The Municipal Judge is authorized to suspend the payment of any fine, or any part thereof, assessed for a violation of this Code or any ordinance. The Municipal Judge may impose reasonable conditions upon such suspension, revoke such suspension and reinstate the sentence for a violation of such condition.

Sec. 2-4-370. - Stay of execution.

In the discretion of the Municipal Judge, a stay of execution may be granted to enable a defendant, for good cause, to pay a fine or penalty at a later date or in installments. There shall be no charge for the first stay of execution, which may be granted for up to one month. For each extension of time requested thereafter by a defendant, there shall be imposed an administrative charge as set forth in the Town's Fee Schedule. In the event that a defendant does not meet the terms of the stay of execution as required by the Municipal Court, the Municipal Court may impose an additional penalty in the form of a fine.

Sec. 2-4-510. Right to a trial by jury.

In any action before the Municipal Court when the defendant is entitled to a trial by jury, the defendant shall have a jury trial upon request as set forth in Section 2-4-580 of this Division. The jury shall consist of three jurors unless a greater number, not exceeding six, is requested by the defendant. If a defendant is not entitled to a trial by jury, the matter shall be tried to the Municipal Court.

Sec. 8-1-60. Violation; penalty.

(b) The following sections of the Model Traffic Code may be punishable by a fine not exceeding \$2,650.00:

- (1) Section 1105, Speed contest - speed exhibitions - aiding and facilitation - immobilization of motor vehicle - definitions;
- (2) Section 1401, Reckless driving - penalty;

(3) Section 1413, Eluding or attempting to elude a police officer.

Sec. 8-2-30. Penalty.

Any person violating this Article may be punished by a fine of up to \$2,650.00. Each day that a violation of this Article continues shall be considered a separate offense.

Sec. 10-7-240. Penalties.

(a) Unless otherwise provided in this Division, any person who commits a violation of this Division, upon conviction thereof, shall be sentenced as follows:

- (1) Any person who openly and publicly displays or uses less than two ounces of marijuana or marijuana concentrate, upon conviction thereof, shall be punished by a fine of \$100.00.
- (2) A person who is 21 years of age or older who transfers any amount of marijuana to a person who is less than 21 years of age, upon conviction thereof, shall be punished by a fine not to exceed \$2,650.00.
- (3) A person who unlawfully cultivates, grows or possesses more than six marijuana plants and fewer than 12 marijuana plants shall, upon conviction thereof, be punished by a fine not to exceed \$2,650.00.
- (4) A person 21 years or older who possesses more than one ounce of marijuana but not more than two ounces shall, upon conviction thereof, be punished by a fine of not more than \$100.00.
- (5) Upon conviction of any other violation of this Division, a person shall be sentenced by a fine not to exceed \$2,650.00.

Sec. 16-3-150. Standards of conduct.

(g) *Tip boxes* . An adult business that provides tip boxes shall conspicuously display in the common area of the premises one or more signs in letters at least one inch high to read as follows:

**ADULT ENTERTAINMENT IS REGULATED
BY THE TOWN OF GARDEN CITY**

Any tips are to be placed in the tip box and not handed directly to the entertainer. Any physical contact between the patron and the entertainer is prohibited by law. Violators face maximum penalties of \$2,650.00.

Sec. 16-4-260. Penalties; injunctive relief.

(c) Any violation of this Article which is not set forth in the Colorado Medical Marijuana Code shall be deemed to be a misdemeanor and shall be punishable by a fine of \$2,650.00. Each day that a violation of this Article continues shall be considered a separate offense.

Sec. 16-5-230. Penalties.

Any person who violates any provisions of this Article, upon conviction thereof, shall be punished by a fine not exceeding \$2,650.00. Each day that a violation of this Article continues shall be considered a separate offense, and such violation may be charged and conviction had for each day that such violation continues or is allowed to continue.

Sec. 18-6-30. Amendments.

(9) IFC Section 109.3, Penalty, is amended to read as follows:

"109.3 Penalty. Persons who shall violate a provision of this code or shall fail to comply with any of the requirements thereof or who shall erect, install, alter, repair or do work in violation of the approved construction documents or directive of the fire code official, or of a permit or certificate used under provisions of this code, shall be guilty of a misdemeanor, punishable by a fine of not more than \$2,650.00. Each day that a violation continues after due notice has been served shall be deemed a separate offense."

(10) IFC Section 114.4, Failure to comply, is amended to read as follows:

"114.4 Failure to comply. Any person who shall continue any work after having been served with a stop work order, except such work that a person is directed to perform to remove a violation or unsafe condition, shall be guilty of a misdemeanor, punishable by a fine of not more than \$2,650.00."

Section 3. Repeal. Existing Ordinances or parts of Ordinances governing the same matters as embraced in this Ordinance are hereby repealed.

Section 4. Severability. Should any one or more sections or provisions of this Ordinance or of the Code adopted by reference be judicially determined to be unenforceable, such judgment shall not affect, impair or invalidate the remaining provisions of this Ordinance or the Codes adopted by reference. The intent being that the various sections and provisions are severable and that the general intent of the Ordinance shall remain enforceable.

Section 5. Interpretation. This Ordinance shall be so interpreted and construed as to effectuate its general purpose.

Section 6. Publication. The Town Clerk shall certify to the passage of this Ordinance and cause notice of its contents and passage to be published.

Section 7. Effective Date. Except as otherwise specifically provided herein, the provisions enacted by this Ordinance shall become effective thirty (30) days after publication as provided by law.

PASSED, ADOPTED AND APPROVED THIS ____ DAY OF MAY, 2018.

TOWN OF GARDEN CITY

By: _____
Mayor

ATTEST:

Town Clerk