

1 BY AUTHORITY

2 ORDINANCE NO. \_\_\_\_\_  
3 SERIES OF \_\_\_\_\_

COUNCIL BILL NO. 736  
COMMITTEE OF REFERENCE:

4 **AS AMENDED 11-25-13**  
5 **AS AMENDED 12-05-13**

6 **A BILL**

7  
8 For an ordinance concerning the public display and consumption of marijuana.

9  
10 WHEREAS, when Denver voters approved an initiated city ordinance on November 1, 2005  
11 decriminalizing the possession of less than one ounce of marijuana by persons 21 years of age or  
12 older under city laws, the ballot title and the measure itself indicated that the intent was to allow  
13 only the “private adult use and possession of marijuana;” and

14 WHEREAS, when Denver voters approved an initiated city ordinance on November 6, 2007  
15 to make “adult personal use” of marijuana the city’s “lowest law enforcement” priority, the measure  
16 defined the term “adult personal use” to include only situations where “the marijuana is not used or  
17 displayed in public” and the ballot title emphasized to the voters that the measure again applied  
18 only to the “private use and possession of marijuana;” and

19 WHEREAS, when Denver and Colorado voters approved an initiated constitutional  
20 amendment known as Amendment 64 on November 6, 2012 decriminalizing the possession of less  
21 than one ounce of marijuana by persons 21 years of age or older,, the measure provided, “nothing  
22 in this section shall permit consumption that is conducted openly and publicly;” and

23 WHEREAS, Amendment 64 also states, “Nothing in this section shall prohibit . . . any . . .  
24 entity who occupies, owns or controls property from prohibiting or otherwise regulating the  
25 possession, consumption, display, transfer, distribution, sale, transportation, or growing of  
26 marijuana on or in that property;” and

27  
28 **NOW, THEREFORE, BE IT ENACTED BY THE COUNCIL OF THE CITY AND COUNTY OF**  
29 **DENVER:**

30 **Section 1.** Subsection 38-175, D.R.M.C. shall be amended by adding the language  
31 underlined, to read as follows:

32 **Sec. 38-175. Possession or consumption of marihuana marijuana.**

1 (a) It shall be unlawful for any person under the age of twenty-one (21) to possess  
2 one (1) ounce or less of ~~marihuana~~ marijuana. If such person is under the age of  
3 eighteen (18) years of age at the time of the offense, no jail sentence shall be  
4 imposed and any fine imposed may be supplanted by treatment as required by  
5 the court.

6  
7 (b) It shall be unlawful for any person to openly and publicly ~~display or~~ consume one (1)  
8 ounce or less of ~~marihuana~~ marijuana. ~~If such person is under the age of eighteen (18)~~  
9 ~~years of age at the time of the offense, no jail sentence shall be imposed and the fine may~~  
10 ~~be supplanted by treatment as required by the court.~~

11  
12 (1) The term "openly" means occurring or existing in a manner that is  
13 unconcealed, undisguised, or obvious.

14 (2) The term "publicly" means:

15 (a) Occurring or existing in a public place; or

16 (b) Occurring or existing in any outdoor location ~~on private non-~~  
17 ~~residential property~~ where the consumption of marijuana is  
18 clearly observable from a public place. ~~;~~ ~~or~~

19 ~~(c) Occurring or existing in any outdoor location on private~~  
20 ~~residential property where the consumption of marijuana is~~  
21 ~~clearly observable from a public street, highway or sidewalk.~~

22 (3) The term "public place" means a place to which the public or a  
23 substantial number of the public have access, and includes but is not  
24 limited to streets and highways, transportation facilities, schools, places  
25 of amusement, parks, playgrounds, and the common areas of public  
26 and private buildings or facilities.

27 (c) For the purposes of this section, section 38-175.5, and section 39-10, the term  
28 "~~marihuana~~" or "~~marijuana~~" shall mean and include all parts of the plant ~~cannabis~~  
29 ~~sativa L., whether growing or not, the seeds thereof, the resin extracted from any part~~  
30 ~~of such plant, and every compound, manufacture, salt, derivative, mixture, or~~  
31 ~~preparation of such plant, its seeds, or its resins. It does not include fiber produced~~  
32 ~~from the stalks, oil or cake made from the seeds of such plant, or the sterilized seed~~  
33 ~~of such plant which is incapable of germination, if these items exist apart from any~~

1 other item defined as "marihuana " in this section. "Marihuana " does not mean or  
2 include marihuana concentrate as defined in this section. of the genus cannabis  
3 whether growing or not, the seeds thereof, the resin extracted from any part of the  
4 plant, and every compound, manufacture, salt, derivative, mixture, or preparation of  
5 the plant, its seeds, or its resin, including marijuana concentrate. "Marijuana" does  
6 not include industrial hemp, nor does it include fiber produced from the stalks, oil, or  
7 cake made from the seeds of the plant, sterilized seed of the plant which is incapable  
8 of germination, or the weight of any other ingredient combined with marijuana to  
9 prepare topical or oral administrations, food, drink, or other product.

10  
11 ~~(d) For the purposes of this section, the term "marihuana marijuana concentrate"~~  
12 ~~shall mean hashish, tetrahydrocannabinol, or any alkaloid, salt, derivative,~~  
13 ~~preparation, compound, or mixture, whether natural or synthesized, of~~  
14 ~~tetrahydrocannabinol.~~

15  
16 **(d) It shall not be an offense under subsection (b) of this section if the**  
17 **consumption of marijuana is occurring on private residential property and the**  
18 **person consuming the marijuana is:**

19 **(1) An owner of the property; or**

20  
21 **(2) A person who has a leasehold interest in the property; or**

22  
23 **(3) Any other person who has been granted express or implied**  
24 **permission to consume marijuana on the property by the owner or the**  
25 **lessee of the property.**

26  
27 **(e) Any violation of subsection (b) of this section is hereby declared to be a non-**  
28 **criminal violation and, upon an admission or finding or judgment of guilt or liability by**  
29 **default or otherwise, the violator shall be subject to the following maximum penalties:**

30  
31 **(1) First violation: one hundred and fifty dollars (\$150.00).**

32  
33 **(2) Second violation: five hundred dollars (\$500.00).**

1                   (3) Third and each subsequent violation: nine hundred and ninety-nine dollars  
2                   (\$999.00).  
3  
4

5                   **Section 2.** Section 39-10, D.R.M.C. shall be amended by adding the language underlined,  
6 to read as follows:

7                   **Sec. 39-10. Alcohol beverages and marijuana.**

8  
9                   (a) It shall be unlawful, without legal authorization, to sell, serve, possess or consume  
10 alcohol beverages at or within any park, parkway, mountain park or other recreational  
11 facility.

12  
13                   (b) It shall be unlawful, without legal authorization, for any person to possess or consume  
14 alcohol beverages or 3.2 beer within fifty (50) feet of any roadway, playground, recreation  
15 center, or swimming pool at or within any park, parkway, mountain park or other recreational  
16 facility.

17  
18                   (c) It shall be unlawful to consume, use, display, transfer, distribute, sell, or grow marijuana  
19 at or within any park, parkway, mountain park or other recreational facility.

20  
21                   (d) Any violation of subsection (c) of this section is hereby declared to be a non-  
22 criminal violation and, upon an admission or finding or judgment of guilt or liability by  
23 default or otherwise, the violator shall be subject to the following maximum penalties:

24  
25                   (1) First violation: one hundred and fifty dollars (\$150.00).

26  
27                   (2) Second violation: five hundred dollars (\$500.00).

28  
29                   (3) Third and each subsequent violation: nine hundred and ninety-nine dollars  
30 (\$999.00).  
31

32  
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34                   **Section 3.** Division 3 of Article II of Chapter 38, D.R.M.C. shall be amended by the addition  
35 of a new section 38-175.5, to read as follows.  
36

1           **Sec. 38-175.5. Marijuana prohibited on the 16<sup>th</sup> Street Pedestrian and Transit Mall and**  
2 **adjacent streets.**

3  
4           (a) It shall be unlawful to consume, use, display, transfer, distribute, sell, or grow marijuana  
5           on the 16<sup>th</sup> Street Pedestrian and Transit Mall or on any city-owned street or sidewalk  
6           within a distance of one block from the 16<sup>th</sup> Street Pedestrian and Transit Mall.

7  
8           (b) For the purposes of this section, the 16th Street Pedestrian and Transit Mall shall mean  
9           the portion of 16th Street between the west curb line of Broadway, and the southeasterly  
10          curb line of Chestnut Street.

11  
12          (c) Any violation of subsection (a) of this section is hereby declared to be a non-  
13          criminal violation and, upon an admission or finding or judgment of guilt or liability  
14          by default or otherwise, the violator shall be subject to the following maximum  
15          penalties:

16  
17               (1) First violation: one hundred and fifty dollars (\$150.00).

18  
19               (2) Second violation: five hundred dollars (\$500.00).

20  
21               (3) Third and each subsequent violation: nine hundred and ninety-nine dollars  
22               (\$999.00).

23  
24  
25 COMMITTEE APPROVAL DATE: \_\_\_\_\_, 2013.

26 MAYOR-COUNCIL DATE: \_\_\_\_\_, 2013.

27 PASSED BY THE COUNCIL \_\_\_\_\_ 2013

28 \_\_\_\_\_ - PRESIDENT

29 APPROVED: \_\_\_\_\_ - MAYOR \_\_\_\_\_ 2013

30 ATTEST: \_\_\_\_\_ - CLERK AND RECORDER,  
31 EX-OFFICIO CLERK OF THE  
32 CITY AND COUNTY OF DENVER  
33

34 NOTICE PUBLISHED IN THE DAILY JOURNAL \_\_\_\_\_ 2013; \_\_\_\_\_ 2013

35  
36 PREPARED BY: David W. Broadwell; DATE: November 12, 2013

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Pursuant to section 13-12, D.R.M.C., this proposed ordinance has been reviewed by the office of the City Attorney. We find no irregularity as to form, and have no legal objection to the proposed ordinance. The proposed ordinance **is not** submitted to the City Council for approval pursuant to § 3.2.6 of the Charter.

Douglas J. Friednash  
City Attorney

BY: \_\_\_\_\_, \_\_\_\_\_ City Attorney  
DATE: \_\_\_\_\_