

1 BY AUTHORITY

2 ORDINANCE NO. _____
3 SERIES OF _____

COUNCIL BILL NO. 864
COMMITTEE OF REFERENCE:

4
5 A BILL

6
7 For an ordinance repealing section 38-176 concerning law enforcement priorities in
8 regard to certain marijuana offenses
9

10 WHEREAS, via an initiated ordinance adopted in November, 2007 the voters of Denver
11 directed that the “personal adult use” of one ounce or less of marijuana should be the City’s
12 “lowest law enforcement priority;” and

13 WHEREAS, the 2007 initiative defined “adult personal use” to mean the possession of one
14 ounce or less of marijuana, where the marijuana is not used or displayed in public;” and

15 WEHREAS, the 2007 initiative also included the creation of a marijuana policy review
16 committee to monitor compliance with the ordinance, but expressly stated that the committee
17 would continue to exist only “until private adult possession of marijuana is legal under Colorado
18 Revised Statutes and the Denver Revised Municipal Code;” and

19 WHEREAS, via the adoption of the statewide initiated constitutional amendment known as
20 Amendment 64 of 2012, Colorado and Denver voters have provided that persons twenty-one
21 years of older can no longer be charged or prosecuted at all under any state or local law for merely
22 possessing, consuming or displaying an ounce or less of marijuana, so long at the marijuana is not
23 consumed openly and publicly; and

24 WHEREAS, the adoption of Amendment 64 renders the 2007 initiated ordinance obsolete
25 and unnecessary, and since adult personal use of marijuana is now legal under state and local
26 law, the marijuana policy review panel should be eliminated as expressly contemplated in the
27 original ordinance.
28

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

31 **Section 1.** Section 38-176 shall be repealed by deleting the language stricken, as follows:
32

33 ~~**Sec. 38-176. Enforcement priority—Marijuana.**~~

1 ~~(a) The Denver Police Department and the city attorney's office shall make the~~
2 ~~investigation, arrest and prosecution of marijuana offenses, where the marijuana was~~
3 ~~intended for adult personal use, the city's lowest law enforcement priority.~~

4
5 ~~(b) "Adult personal use" is defined as the possession of less than one ounce of marijuana~~
6 ~~by an adult at least twenty one (21) years of age, where the marijuana is not used or~~
7 ~~displayed in public. The sale of marijuana for remuneration is not included in the definition~~
8 ~~of personal use and is subject to prosecution under existing state laws.~~

9
10 ~~(c) On or before December 31, 2007, the mayor of the City of Denver shall appoint an~~
11 ~~eleven (11) member marijuana policy review panel to assess and report on the effects of~~
12 ~~this section. The panel shall consist of one (1) at large member of the Denver City Council;~~
13 ~~two (2) residents of the City of Denver, as selected by the petitioner committee that initiated~~
14 ~~this ordinance; one (1) drug/alcohol abuse prevention counselor; one (1) member of the~~
15 ~~Denver Metro Domestic Violence Fatality Review Committee who is not also a member of~~
16 ~~law enforcement; one (1) representative of the Denver Police Department; three (3) criminal~~
17 ~~defense attorneys, one (1) of whom shall be a public defender; one (1) representative of the~~
18 ~~Denver County District Attorney's Office; and one (1) representative of the Denver City~~
19 ~~Attorney's Office. The mayor shall appoint members to vacancies on the marijuana policy~~
20 ~~review panel as necessary. Members shall serve terms in accordance with the bylaws~~
21 ~~established by the panel at its first meeting. The primary purpose of this panel shall be to~~
22 ~~ensure that the ordinance described in this section is implemented to the greatest extent~~
23 ~~possible. The marijuana policy review panel shall:~~

24
25 ~~(1) Elect a chairperson and meet at least quarterly or more frequently as necessary.~~
26 ~~These meetings shall be open to the public and citizens may testify before the~~
27 ~~committee pursuant to rules established by the panel;~~

28 ~~(2) By March 31, 2008, establish reporting criteria for the Denver Police Department~~
29 ~~and city attorney's office to report marijuana arrests and prosecutions; and~~

30 ~~(3) Submit a comprehensive written report with recommendations to the city council~~
31 ~~that will include, but not be limited to, information concerning the public safety, public~~
32 ~~administration, public health and fiscal impacts of paragraph A., above. This report~~
33 ~~shall be completed and presented at the first meeting of the full city council occurring~~
34 ~~at least six (6) months after the receipt of the third report provided by the Denver~~

1 Police Department to the marijuana review panel pursuant to subparagraph (d),
2 below.

3
4 ~~(d) The Denver Police Department shall report all marijuana arrests, including any citations~~
5 ~~issued for marijuana use or possession, and the city attorney's office shall report all~~
6 ~~marijuana prosecutions, including those undertaken in Denver by the Denver County District~~
7 ~~Attorney's Office for arrests made in Denver, to the marijuana policy review panel on a~~
8 ~~semi-annual basis in compliance with the criteria established by the panel pursuant to~~
9 ~~subparagraph (c)(2), above. In addition, the Denver Police Department shall report,~~
10 ~~according to the same semi-annual schedule, all arrests and citations for alcohol-related~~
11 ~~offenses and for offenses in which alcohol was cited as a contributing factor. The report in~~
12 ~~this paragraph shall cover the January 1 through June 30 and July 1 through December 31~~
13 ~~time periods, and shall be issued no later than forty-five (45) days after the end of each~~
14 ~~period.~~

15
16 ~~(e) Upon consideration of the report and recommendations submitted by the marijuana~~
17 ~~policy review panel pursuant to subparagraph (c)(3), above, the city council may modify,~~
18 ~~repeal or let stand this ordinance. Otherwise, the panel shall exist until private adult~~
19 ~~possession of marijuana is legal under Colorado Revised Statutes and the Denver Revised~~
20 ~~Municipal Code.~~

21
22 ~~(f) Severability of provisions. If any provision of this ordinance or its application to any~~
23 ~~person or circumstance is held invalid, the remainder of this section or the application of the~~
24 ~~terms and provisions to other persons or circumstances shall not be affected.~~

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28 COMMITTEE APPROVAL DATE: _____, 2013.

29 MAYOR-COUNCIL DATE: _____, 2013.

30 PASSED BY THE COUNCIL _____ 2013

31 _____ - PRESIDENT

32 APPROVED: _____ - MAYOR _____ 2013

33 ATTEST: _____ - CLERK AND RECORDER,
34 EX-OFFICIO CLERK OF THE

CITY AND COUNTY OF DENVER

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NOTICE PUBLISHED IN THE DAILY JOURNAL _____ 2013; _____ 2013

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

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: _____