

Council Bill 736 – Concerning Possession and Consumption of Marijuana

While public consumption of marijuana has been and will continue to be illegal, Amendment 64 also made explicit provisions allowing for property owners to limit possession and consumption on their property. This bill identifies several site-specific city-owned areas in which additional protections are desirable. Additionally, though the State adopted regulations around implementation of Amendment 64 based on task force recommendations, they chose to defer on definitions in the criminal code, despite the fact that the task force acknowledged a pressing need to define “open and public.” The legislature instead referred those considerations to the Colorado Commission on Criminal and Juvenile Justice. The CCJJ is expected to make recommendations to the General Assembly in December for possible action in the 2014 legislative session. As the state’s largest population center, Denver is choosing to be proactive in defining criminal behaviors in order to effectively protect our neighborhoods, businesses and citizens and ensure that personal use of marijuana remains private.

Bill Request 13-0736 addresses the following concerns:

- Similar to existing city laws that already limit alcohol possession in city parks, this ordinance will explicitly make it unlawful to possess, consume, use, display, transfer, distribute, sell, transport, or grow marijuana within any park, mountain park, parkway or recreational facility. That prohibition will also apply to the 16th Street Mall.
- While it has previously been unlawful to openly or publicly consume one ounce or less of marijuana, this ordinance clearly defines “openly “ as occurring in a manner that is obvious through sight or smell to the public.
- The ordinance also clearly defines publicly to mean occurring or existing in a public place or in a location where members of the public can observe or perceive through sight or smell, including in vehicles.
- The ordinance repeals language enacted following a 2007 ballot measure that calls for arrest and prosecution for possession of marijuana to be the lowest law enforcement priority. Because Amendment 64 made possession of 1 ounce of marijuana or less legal for anyone 21 and over, this language is no longer necessary.
- The ordinance will allow the city to prohibit “pot giveaways” in city parks

BR13-0736 does not:

- Address the annual 4/20 rally which is permitted through a Parks and Recreation permitting process. However, behavior in parks is addressed in the bill and rally-goers will be expected to obey all associated laws and protections in place in city parks.
- Take the step that at least one other Colorado city has taken of prohibiting marijuana in any public place, including all public rights of way