

CITY OF WHEAT RIDGE, COLORADO
INTRODUCED BY COUNCIL MEMBER REINHART
Council Bill No. 02
Ordinance No. 1531
Series 2013

TITLE: AN ORDINANCE AMENDING SECTIONS 16-131 AND 16-133 OF THE WHEAT RIDGE CODE OF LAWS CONCERNING POSSESSION OF MARIJUANA AND DRUG PARAPHERNALIA

WHEREAS, in the recent November 2012 general election, the voters of the State of Colorado adopted Amendment 64 to the Colorado Constitution (“Amendment 64”), codified at Article XVIII Section 16 regarding the personal use and regulation of marijuana; and

WHEREAS, Amendment 64 legalized the possession, use, display, purchase or transportation of marijuana accessories or one ounce or less of marijuana for persons twenty-one years of age or older; and

WHEREAS, Amendment 64 allows persons twenty-one years of age or older to possess, grow, process or transport no more than six marijuana plants, with three or fewer being mature, flowering plants and to possess the marijuana produced by the plants on the premises where the plants were grown, provided that the growing takes place in an enclosed, locked space, is not conducted openly or publicly, and is not made available for sale; and

WHEREAS, Amendment 64 allows local governments to prohibit the possession of marijuana and marijuana accessories by persons under the age of twenty-one years and to prohibit the open and public consumption of marijuana by persons of any age; and

WHEREAS, Wheat Ridge Code of Laws Sections 16-131 and 16-133 concern unlawful conduct regarding the possession and use of marijuana and marijuana accessories; and

WHEREAS, the City Council desires to amend those Code provisions in accordance with Amendment 64.

NOW THEREFORE BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF WHEAT RIDGE, COLORADO:

Section 1. Section 16-131 of the Wheat Ridge Code of Laws is amended to read as follows:

Sec. 16-131. Possession of Marijuana

- (a) For the purpose of this section, the FOLLOWING DEFINITIONS APPLY:
terms
- (1) "Marijuana," "marihuana" and "cannabis" are synonymous and shall include all parts of the plant ~~cannabis sativa L.~~ OF THE GENUS CANNABIS, whether growing or not; the seed thereof; the resin extracted from any part of such plant; and every compound, manufacture, ~~sale~~ SALT, derivative, mixture, or preparation of such plant, its seeds or resin but shall not include INDUSTRIAL HEMP, the mature stalks of such plant, fiber produced from its stalks, oil or cake made from the seeds of such plant, any other compound, manufacture, ~~sale~~ SALT, derivative, mixture or preparation of its mature stalks, except the resin extracted therefrom, fiber, oil or cake, or the sterilized seeds of such plant which is incapable of germination, OR THE WEIGHT OF ANY OTHER INGREDIENT COMBINED WITH MARIJUANA TO PREPARE TOPICAL OR ORAL ADMINISTRATIONS, FOOD, DRINK, OR OTHER PRODUCT.
 - (2) ~~The term~~ "Cannabis concentrate" means hashish, tetrahydrocannabinols, or any alkaloid, salt, derivative, preparation, compound, or mixture, whether natural or synthesized or tetrahydrocannabinols.
 - (3) "MARIJUANA PRODUCTS" MEANS CONCENTRATED MARIJUANA PRODUCTS AND MARIJUANA PRODUCTS THAT ARE COMPRISED OF MARIJUANA AND OTHER INGREDIENTS AND ARE INTENDED FOR USE OR CONSUMPTION, SUCH AS, BUT NOT LIMITED TO, EDIBLE PRODUCTS, OINTMENTS, AND TINCTURES
 - (4) It shall be unlawful FOR ANY PERSON UNDER TWENTY-ONE (21) YEARS OF AGE to possess OR DISPLAY MARIJUANA PRODUCTS OR one (1) ounce or less of marijuana, cannabis, or cannabis concentrate, and upon conviction thereof, or plea of guilty or no contest thereto, punishment shall not be by imprisonment, but shall be by a fine of not more than one hundred dollars (\$100.00), together with a surcharge of ten dollars (\$10.00) to be paid to the police department through the court to offset the cost of destruction of drugs, injection devises and drug paraphernalia, whether or not any of those items was confiscated from the defendant.
 - (5) It shall be unlawful openly and publicly to ~~display or consume one (1) ounce or less of~~ MARIJUANA PRODUCTS, marijuana, cannabis, or cannabis concentrate, and upon conviction thereof, or a plea of guilty or no contest thereto, punishment be by a fine of one hundred dollars (\$100.00), and by imprisonment not exceeding fifteen (15) days.

- (6) The provisions of this section shall not apply to any person who possesses or uses MARIJUANA PRODUCTS, MARIJUANA, cannabis or cannabis concentrate pursuant to the dangerous drug therapeutic research act OR IN ACCORDANCE WITH THE PROVISIONS IN ARTICLE XVIII SECTION 14 OF THE COLORADO CONSTITUTION.

Section 2. Section 16-133 of the Wheat Ridge Code of Laws is amended by the addition of Subsection (h) to read as follows:

Sec. 16-133. Drug paraphernalia

* * *

- (h) THE PROVISIONS OF THIS SECTION SHALL NOT APPLY TO THE POSSESSION, DISPLAY, PURCHASE, TRANSPORT OR USE IN PRIVATE BY ANY PERSON THAT IS TWENTY-ONE YEARS OF AGE OR OLDER OF DRUG PARAPHERNALIA THAT IS USED, INTENDED FOR USE, OR DESIGNED FOR USE IN PLANTING, PROPAGATING, CULTIVATING, GROWING, HARVESTING, COMPOSTING, MANUFACTURING, COMPOUNDING, CONVERTING, PRODUCING, PROCESSING, PREPARING, TESTING, ANALYZING, PACKAGING, REPACKAGING, STORING, VAPORIZING, OR CONTAINING MARIJUANA OR FOR INGESTING, INHALING, OR OTHERWISE INTRODUCING MARIJUANA INTO THE HUMAN BODY.

Section 3. Severability, Conflicting Ordinances Repealed. If any section, subsection or clause of this Ordinance shall be deemed to be unconstitutional or otherwise invalid, the validity of the remaining sections, subsections and clauses shall not be affected thereby. All other ordinances or parts of ordinances in conflict with the provisions of this Ordinance are hereby repealed.

Section 4. Effective Date. This Ordinance shall take effect upon adoption and signature of the Mayor, as provided by Section 5.11 of the Charter.

INTRODUCED, READ, AND ADOPTED on first reading by a vote of 7 to 0 on this 14th day of January, 2013, ordered published in full in a newspaper of general circulation in the City of Wheat Ridge, and Public Hearing and consideration on final passage set for January 28, 2013 at 7:00 p.m., in the Council Chambers, 7500 West 29th Avenue, Wheat Ridge, Colorado.


READ, ADOPTED AND ORDERED PUBLISHED on second and final reading by a vote of 8 to 0, this 28th day of January, 2013.

SIGNED by the Mayor on this 28th day of January, 2013.

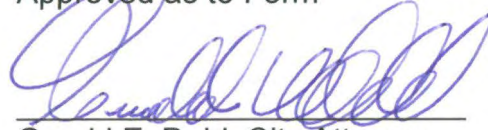



Jerry DiTullio, Mayor

ATTEST:


Janelle Shaver, City Clerk

Approved as to Form


Gerald E. Dahl, City Attorney

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