

1 BY AUTHORITY

2 ORDINANCE NO. _____
3 SERIES OF _____

COUNCIL BILL NO. 462
COMMITTEE OF REFERENCE:
4 SAFETY

5 A BILL

6 For the adoption of an initiated ordinance regarding the enforcement of certain marijuana
7 laws.
8

9 **WHEREAS**, on July 25, 2007, the Clerk and Recorder certified and submitted to the City
10 Council a petition for an initiated ordinance on the subject of the enforcement of certain
11 marijuana laws; and
12

13 **WHEREAS**, pursuant to § 8.3.3. (C) of the Denver Charter, the City Council shall, within
14 35 days of submission, either adopt the initiated ordinance without alteration, or refer it to a vote
15 of the people, and the City Council hereby determines to adopt the measure without expressing
16 any position as to the merits or the validity of the initiated ordinance.
17

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

20 TEXT OF INITIATED ORDINANCE

21 AN ORDINANCE to Establish a Safer Marijuana Law Enforcement Policy in Denver
22

23 WHEREAS, a majority of Denver voters approved Initiative 100 in 2005, amending
24 Denver city ordinances to remove all penalties for private adult marijuana use and
25 possession;
26

27 WHEREAS, a majority of Denver voters approved Amendment 44 in 2006, which would
28 have amended Colorado state law to remove all penalties for private adult marijuana use
29 and possession;
30

31 WHEREAS, arrests for private adult marijuana use and possession have increased in
32 Denver since the City's voters called for an end to such arrests;
33

34 WHEREAS, Denver and other Colorado taxpayers are burdened by the substantial costs
35 of investigating, arresting, prosecuting and jailing people for charges involving marijuana
36 use and possession;
37

38 WHEREAS, according to a 1994 study commissioned by the National Institute on Drug
39 Abuse, marijuana is less addictive and less intoxicating than alcohol;
40

41 WHEREAS, according to the National Institutes of Health, more than 300 Americans die
42

1 annually as the result of alcohol overdoses, and there has never been a single fatal
2 marijuana overdose recorded in the medical literature, as noted by the British Medical
3 Journal in September 2003;

4
5 WHEREAS, according to the U.S. Centers for Disease Control, alcohol use by
6 Americans directly results in more than 20,000 deaths each year, and the use of
7 marijuana directly results in zero deaths;

8
9 WHEREAS, according to U.S. Department of Justice, "About 3 million crimes occur each
10 year in which victims perceive the offender to have been drinking at the time of the
11 offense;"

12
13 WHEREAS, extensive research, documented in official reports by the British
14 government's Advisory Council on the Misuse of Drugs and the Canadian Senate
15 Special Committee on Illegal Drugs, among others, shows that -- unlike alcohol --
16 marijuana use is not generally a cause of violence or aggressive behavior and in fact
17 tends to reduce violence and aggression;

18
19 WHEREAS, the Denver Metro Domestic Violence Fatality Review Committee reported in
20 2001 that nearly 50 percent of all incidents of domestic violence in Denver involve
21 alcohol, and alcohol is a "predominant factor" in fatal cases of domestic violence;

22
23 WHEREAS, according to the Rape, Abuse and Incest National Network, "Alcohol is the
24 most commonly used chemical in drug facilitated sexual assault;"

25
26 WHEREAS, organizations dedicated to studying and educating the public about sexual
27 assault do not list marijuana as a substance associated with incidents;

28
29
30 NOW, THEREFORE, BE IT ENACTED BY THE COUNCIL OF THE CITY AND
31 COUNTY OF DENVER

32
33 A new section Art. 5, Div. 3, Sec. 38-176 of the Denver Municipal Code is added to read
34 as follows:

35
36 Art. 5, Div. 3, Sec. 38-176 Enforcement Priority -- Marijuana

37
38 A. The Denver Police Department and the City Attorney's Office shall make the
39 investigation, arrest and prosecution of marijuana offenses, where the marijuana was
40 intended for adult personal use, the City's lowest law enforcement priority.

41
42 B. "Adult personal use" is defined as the possession of less than one ounce of
43 marijuana by an adult at least 21 years of age, where the marijuana is not used or
44 displayed in public. The sale of marijuana for remuneration is not included in the
45 definition of personal use and is subject to prosecution under existing state laws.

46
47 C. On or before December 31, 2007, the Mayor of the City of Denver shall appoint an
48 eleven (11) member Marijuana Policy Review Panel to assess and report on the effects
49 of this ordinance. The Panel shall consist of one (1) at-large member of the Denver City
50 Council; two (2) residents of the City of Denver, as selected by the petitioner committee

1 that initiated this ordinance; one (1) drug/alcohol abuse prevention counselor; one (1)
2 member of the Denver Metro Domestic Violence Fatality Review Committee who is not
3 also a member of law enforcement; one (1) representative of the Denver Police
4 Department; three (3) criminal defense attorneys, one of whom shall be a public
5 defender; one (1) representative of the Denver County District Attorney's Office; and one
6 (1) representative of the Denver City Attorney's Office. The Mayor shall appoint
7 members to vacancies on the Marijuana Policy Review Panel as necessary. Members
8 shall serve terms in accordance with the bylaws established by the Panel at its first
9 meeting. The primary purpose of this panel shall be to ensure that the ordinance
10 described in this section is implemented to the greatest extent possible. The Marijuana
11 Policy Review Panel shall:

12
13 1. Elect a chairperson and meet at least quarterly or more frequently as necessary.
14 These meetings shall be open to the public and citizens may testify before the committee
15 pursuant to rules established by the Panel;

16
17 2. By March 31, 2008, establish reporting criteria for the Denver Police Department and
18 City Attorney's Office to report marijuana arrests and prosecutions; and

19
20 3. Submit a comprehensive written report with recommendations to the City Council that
21 will include, but not be limited to, information concerning the public safety, public
22 administration, public health and fiscal impacts of paragraph A., above. This report shall
23 be completed and presented at the first meeting of the full City Council occurring at least
24 six months after the receipt of the third report provided by the Denver Police Department
25 to the Marijuana Review Panel pursuant to subparagraph D, below.

26
27 D. The Denver Police Department shall report all marijuana arrests, including any
28 citations issued for marijuana use or possession, and the City Attorney's Office shall
29 report all marijuana prosecutions, including those undertaken in Denver by the Denver
30 County District Attorney's Office for arrests made in Denver, to the Marijuana Policy
31 Review Panel on a semi-annual basis in compliance with the criteria established by the
32 Panel pursuant to subparagraph C.2., above. In addition, the Denver Police Department
33 shall report, according to the same semi-annual schedule, all arrests and citations for
34 alcohol-related offenses and for offenses in which alcohol was cited as a contributing
35 factor. The report in this paragraph shall cover the January 1 – June 30 and July 1 –
36 December 31 time periods, and shall be issued no later than 45 days after the end of
37 each period.

38
39 E. Upon consideration of the report and recommendations submitted by the Marijuana
40 Policy Review Panel pursuant to subparagraph C.3., above, the City Council may
41 modify, repeal or let stand this ordinance. Otherwise, the panel shall exist until private
42 adult possession of marijuana is legal under Colorado Revised Statutes and the Denver
43 Revised Municipal Code.

44
45 F. *Severability of provisions.* If any provision of this ordinance or its application to any
46 person or circumstance is held invalid, the remainder of this ordinance or the application
47 of the terms and provisions to other persons or circumstances shall not be affected.

48
49 COMMITTEE APPROVAL DATE: August 15, 2007.

50 MAYOR-COUNCIL DATE: August 21, 2007.

1 PASSED BY THE COUNCIL _____ 2007

2 _____ - PRESIDENT

3 APPROVED: _____ - MAYOR _____ 2007

4 ATTEST: _____ - CLERK AND RECORDER,
5 EX-OFFICIO CLERK OF THE
6 CITY AND COUNTY OF DENVER
7

8 NOTICE PUBLISHED IN THE DAILY JOURNAL _____ 2007; _____ 2007

9

10 PREPARED BY: David W. Broadwell, Asst. City Attorney; DATE: August 16, 2007

11

12 Pursuant to section 13-12, D.R.M.C., this proposed ordinance has been reviewed by the office of the
13 City Attorney. We find no irregularity as to form, and have no legal objection to the proposed
14 ordinance. The proposed ordinance **is not** submitted to the City Council for approval pursuant to §
15 3.2.6 of the Charter.
16

16

17 City Attorney

18 BY: _____, _____ City Attorney

19 DATE: _____

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