

1 BY AUTHORITY

2 ORDINANCE NO. _____
3 SERIES OF _____

COUNCIL BILL NO. 463
COMMITTEE OF REFERENCE:
4 SAFETY

5 A BILL

6
7 For an ordinance providing for the submission to a vote of the qualified and registered
8 electors of the City and County of Denver at a special municipal election to be held on
9 November 6, 2007 an initiated ordinance concerning the enforcement of certain
10 marijuana laws.
11

12 **WHEREAS**, on July 25, 2007, the Clerk and Recorder certified and submitted to the City
13 Council a petition for an initiated ordinance on the subject of the enforcement of certain
14 marijuana laws; and
15

16 **WHEREAS**, pursuant to § 8.3.3 (C) of the Denver Charter, upon receipt of an initiative petition
17 the City Council may either enact the ordinance without alteration within 35 days of receipt or submit
18 the question of whether or not the ordinance should be enacted to a vote of the people at the next
19 scheduled citywide election held not less than 55 days after submission by the Council; and
20

21 **WHEREAS**, the next scheduled citywide election is the school board election due to occur on
22 November 6, 2007; and
23

24 **WHEREAS**, pursuant to §§ 31-10-108 and 1-7-116, C.R.S., and § 8.2.3 of the Denver Charter,
25 the City Council is authorized to call a special City and County election to be coordinated with the
26 school board election.
27

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

31 **Section 1.** The City Council hereby calls for a special City and County election to be
32 conducted at the same time and coordinated with the school board election to be held on November 6,
33 2007.
34

35 **Section 2.** There is hereby submitted to the properly qualified and registered electors of the

1 City and County of Denver at the special City and County election to be held November 6, 2007 an
2 initiated ordinance to read as follows:

3
4 TEXT OF INITIATED ORDINANCE

5
6 AN ORDINANCE to Establish a Safer Marijuana Law Enforcement Policy in Denver

7
8 WHEREAS, a majority of Denver voters approved Initiative 100 in 2005, amending
9 Denver city ordinances to remove all penalties for private adult marijuana use and
10 possession;

11
12 WHEREAS, a majority of Denver voters approved Amendment 44 in 2006, which would
13 have amended Colorado state law to remove all penalties for private adult marijuana use
14 and possession;

15
16 WHEREAS, arrests for private adult marijuana use and possession have increased in
17 Denver since the City's voters called for an end to such arrests;

18
19 WHEREAS, Denver and other Colorado taxpayers are burdened by the substantial costs
20 of investigating, arresting, prosecuting and jailing people for charges involving marijuana
21 use and possession;

22
23 WHEREAS, according to a 1994 study commissioned by the National Institute on Drug
24 Abuse, marijuana is less addictive and less intoxicating than alcohol;

25
26 WHEREAS, according to the National Institutes of Health, more than 300 Americans die
27 annually as the result of alcohol overdoses, and there has never been a single fatal
28 marijuana overdose recorded in the medical literature, as noted by the British Medical
29 Journal in September 2003;

30
31 WHEREAS, according to the U.S. Centers for Disease Control, alcohol use by
32 Americans directly results in more than 20,000 deaths each year, and the use of
33 marijuana directly results in zero deaths;

34
35 WHEREAS, according to U.S. Department of Justice, "About 3 million crimes occur each
36 year in which victims perceive the offender to have been drinking at the time of the
37 offense;"

38
39 WHEREAS, extensive research, documented in official reports by the British
40 government's Advisory Council on the Misuse of Drugs and the Canadian Senate
41 Special Committee on Illegal Drugs, among others, shows that -- unlike alcohol --
42 marijuana use is not generally a cause of violence or aggressive behavior and in fact
43 tends to reduce violence and aggression;

44
45 WHEREAS, the Denver Metro Domestic Violence Fatality Review Committee reported in
46 2001 that nearly 50 percent of all incidents of domestic violence in Denver involve
47 alcohol, and alcohol is a "predominant factor" in fatal cases of domestic violence;

48
49 WHEREAS, according to the Rape, Abuse and Incest National Network, "Alcohol is the

1 most commonly used chemical in drug facilitated sexual assault;”

2
3 WHEREAS, organizations dedicated to studying and educating the public about sexual
4 assault do not list marijuana as a substance associated with incidents;

5
6
7 NOW, THEREFORE, BE IT ENACTED BY THE COUNCIL OF THE CITY AND
8 COUNTY OF DENVER

9
10 A new section Art. 5, Div. 3, Sec. 38-176 of the Denver Municipal Code is added to read
11 as follows:

12
13 Art. 5, Div. 3, Sec. 38-176 Enforcement Priority -- Marijuana

14
15 A. The Denver Police Department and the City Attorney’s Office shall make the
16 investigation, arrest and prosecution of marijuana offenses, where the marijuana was
17 intended for adult personal use, the City’s lowest law enforcement priority.

18
19 B. “Adult personal use” is defined as the possession of less than one ounce of
20 marijuana by an adult at least 21 years of age, where the marijuana is not used or
21 displayed in public. The sale of marijuana for remuneration is not included in the
22 definition of personal use and is subject to prosecution under existing state laws.

23
24 C. On or before December 31, 2007, the Mayor of the City of Denver shall appoint an
25 eleven (11) member Marijuana Policy Review Panel to assess and report on the effects
26 of this ordinance. The Panel shall consist of one (1) at-large member of the Denver City
27 Council; two (2) residents of the City of Denver, as selected by the petitioner committee
28 that initiated this ordinance; one (1) drug/alcohol abuse prevention counselor; one (1)
29 member of the Denver Metro Domestic Violence Fatality Review Committee who is not
30 also a member of law enforcement; one (1) representative of the Denver Police
31 Department; three (3) criminal defense attorneys, one of whom shall be a public
32 defender; one (1) representative of the Denver County District Attorney’s Office; and one
33 (1) representative of the Denver City Attorney’s Office. The Mayor shall appoint
34 members to vacancies on the Marijuana Policy Review Panel as necessary. Members
35 shall serve terms in accordance with the bylaws established by the Panel at its first
36 meeting. The primary purpose of this panel shall be to ensure that the ordinance
37 described in this section is implemented to the greatest extent possible. The Marijuana
38 Policy Review Panel shall:

39
40 1. Elect a chairperson and meet at least quarterly or more frequently as necessary.
41 These meetings shall be open to the public and citizens may testify before the committee
42 pursuant to rules established by the Panel;

43
44 2. By March 31, 2008, establish reporting criteria for the Denver Police Department and
45 City Attorney’s Office to report marijuana arrests and prosecutions; and

46
47 3. Submit a comprehensive written report with recommendations to the City Council that
48 will include, but not be limited to, information concerning the public safety, public
49 administration, public health and fiscal impacts of paragraph A., above. This report shall
50 be completed and presented at the first meeting of the full City Council occurring at least

1 six months after the receipt of the third report provided by the Denver Police Department
2 to the Marijuana Review Panel pursuant to subparagraph D, below.
3

4 D. The Denver Police Department shall report all marijuana arrests, including any
5 citations issued for marijuana use or possession, and the City Attorney's Office shall
6 report all marijuana prosecutions, including those undertaken in Denver by the Denver
7 County District Attorney's Office for arrests made in Denver, to the Marijuana Policy
8 Review Panel on a semi-annual basis in compliance with the criteria established by the
9 Panel pursuant to subparagraph C.2., above. In addition, the Denver Police Department
10 shall report, according to the same semi-annual schedule, all arrests and citations for
11 alcohol-related offenses and for offenses in which alcohol was cited as a contributing
12 factor. The report in this paragraph shall cover the January 1 – June 30 and July 1 –
13 December 31 time periods, and shall be issued no later than 45 days after the end of
14 each 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
18 modify, repeal or let stand this ordinance. Otherwise, the panel shall exist until private
19 adult possession of marijuana is legal under Colorado Revised Statutes and the Denver
20 Revised 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 ordinance or the application
24 of the terms and provisions to other persons or circumstances shall not be affected.
25
26

27 **Section 3.** The voting machines and paper ballots for said election shall carry the following
28 designation, which shall be the title and submission clause:
29

30 Shall the voters for the City and County of Denver adopt an ordinance to the
31 Denver Revised Municipal Code that would make the private use and possession of
32 marijuana by persons 21 years of age and older the City's lowest law-enforcement
33 priority?
34

35 Yes _____ No _____
36

37 **Section 4.** Each elector voting at the election and wishing to vote for or against the ordinance
38 shall indicate the elector's choice by depressing the appropriate counter of the voting machine which
39 indicates the word "YES" or the word "NO," or by appropriate marking upon paper ballots when used.
40

41 **Section 5.** The proper officials of the City and County of Denver as are charged with duties
42 relating to the election shall, before the election, issue such calls, make such certifications and

1 publications, give such notices, make such appointments, and do all such other acts and things in
2 connection with the submission of this initiated ordinance to the registered electors of the City and
3 County of Denver at the election as are required by the Constitution and laws of the State of Colorado
4 and the Charter and ordinances of the City and County of Denver.

5
6 **Section 6.** The Clerk and Recorder shall publish the initiated ordinance in a manner consistent
7 with the publication of other ordinances before such election is held.

8
9 **Section 7.** The ballots cast at such election shall be canvassed and the results ascertained,
10 determined, and certified in accordance with the requirements of the Constitution and laws of the State
11 of Colorado and the Charter and ordinances of the City and County of Denver.

12
13 COMMITTEE APPROVAL DATE: August 15, 2007.

14 MAYOR-COUNCIL DATE: August 21, 2007.

15 PASSED BY THE COUNCIL _____ 2007

16 _____ - PRESIDENT

17 APPROVED: _____ - MAYOR _____ 2007

18 ATTEST: _____ - CLERK AND RECORDER,
19 EX-OFFICIO CLERK OF THE
20 CITY AND COUNTY OF DENVER
21

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

23
24 PREPARED BY: David W. Broadwell, Assistant City Attorney; DATE: August 16, 2007

25
26 Pursuant to section 13-12, D.R.M.C., this proposed ordinance has been reviewed by the office of the
27 City Attorney. We find no irregularity as to form, and have no legal objection to the proposed
28 ordinance. The proposed ordinance **is not** submitted to the City Council for approval pursuant to §
29 3.2.6 of the Charter.
30

31 City Attorney

32 BY: _____, _____ City Attorney

33 DATE: _____
34
35
36