

ORDINANCE NO. 13-04

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF CASTLE PINES, COLORADO AMENDING SECTIONS 10-6-10 AND 10-6-20 OF THE MUNICIPAL CODE TO RECOGNIZE THE ADOPTION AND EFFECT OF NEW ARTICLE XVIII, SECTION 16, OF THE COLORADO CONSTITUTION CONCERNING PERSONAL USE AND REGULATION OF MARIJUANA AND MARIJUANA ACCESSORIES BY PERSONS TWENTY-ONE YEARS AND OLDER AND TO MAKE USE BY PERSONS UNDER TWENTY-ONE OR USE OR DISPLAY IN PUBLIC PLACES UNLAWFUL

WHEREAS, on November 6, 2012, the voters of Colorado approved the adoption of Amendment 64, *Personal Use and Regulation of Marijuana*; and

WHEREAS, Amendment 64 became effective upon official declaration of the vote by proclamation of the Governor, pursuant to Section 1(4) of Article V, of the Colorado Constitution on December 10, 2012; and

WHEREAS, Amendment 64 adds a new Section 16 to Article XVIII of the Colorado Constitution; and

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

WHEREAS, Amendment 64 allows possessing, growing, processing, or transporting no more than six marijuana plants, with three or fewer being mature, flowering plants, and possession of 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, Amendment 64 allows entities that occupy, own or control property to prohibit the possession, use, display, transfer, sale, transportation, growing or purchase of marijuana, marijuana products or marijuana accessories on or in property under their ownership or control; and

WHEREAS, it is the desire of the City Council of the City of Castle Pines to pass legislation reconciling the Castle Pines Municipal Code to the new state law while still acknowledging that marijuana is a Schedule I Controlled Substance under the Controlled Substances Act, 21 U.S.C. §800 et seq., and has no currently accepted medical use in the United States, a lack of accepted safety for use under medical supervision, and a high potential for abuse.

THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF CASTLE PINES, COLORADO:

Section 1. Section 10-6-10, titled Possession of marijuana, of the Castle Pines Municipal Code is hereby amended to read in full as follows:

- (a) Definitions. As used in this Article 6, the following terms shall have the following meanings:
 - (1) *Marijuana* means all parts of the plant of the genus *cannabis*, whether growing or not, the seeds thereof, the resin extracted from any part of the plant, and every compound, manufacture, salt, derivative, mixture, or preparation of the plant, its seeds, or its resin, including marijuana concentrate. "Marijuana" does not include industrial hemp, nor does it include fiber produced from its stalks, oil or cake made from the seeds of the plant, or the sterilized seed of the 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) *Marijuana accessories* means any equipment, products, or materials of any kind which are used, 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.
 - (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) *Public area or building* means property, buildings or facilities owned or under the control of the City, and includes, but is not limited to, public buildings, streets, roads, highways, parks, playgrounds, trails and open space areas.
- (b) It shall be unlawful for a person under the age of twenty-one years to possess, transfer, transport or purchase marijuana products, marijuana accessories, or less than one ounce of marijuana.
- (c) It is unlawful for any person to display, consume, sell or use marijuana in or upon any public area or building.
- (d) It is unlawful for any person to purchase marijuana or marijuana products for consumption or possession by, or otherwise provide marijuana for consumption or possession by, or to sell marijuana to, any person under the age of twenty-one years.
- (e) It shall be unlawful for a person to consume marijuana openly and publicly or in a manner that endangers others.

- (f) It shall be unlawful for any person to possess, grow, process or transport more than six (6) marijuana plants, with three (3) or fewer being mature, flowering plants. A person may possess the marijuana produced by these plants, provided that such possession is limited to premises where the plants were grown and further provided that the growing takes place in an enclosed locked space and is not conducted openly or publicly or made available for sale.
- (g) It is an affirmative defense to a prosecution under this Section that a person is in possession of a valid registry identification card authorizing the medicinal use of marijuana issued by the state, so long as the consumption, use or growing does not occur openly or publicly, and is otherwise in compliance with state law.

Section 2. Section 10-6-20, titled Possession of drug paraphernalia, of the Castle Pines Municipal Code is hereby amended to add a new subsection (d) to read in full as follows:

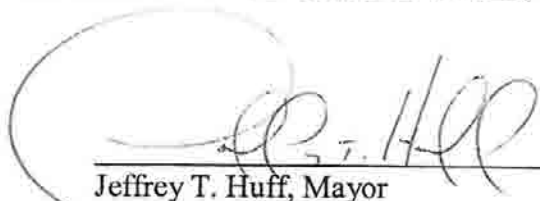
- (d) The provisions of this Section shall not apply to personal use or possession of Marijuana Accessories as defined by Section 10-22(a) of this Chapter by any person that is twenty-one years of age or older to the extent provided by Article XVIII, Section 16(3) of the Colorado Constitution.

Section 3. Severability. If any portion of this Ordinance is found to be void or ineffective, it shall be deemed severed from this Ordinance and the remaining provisions shall remain valid and in full force and effect.

Section 4. Effective Date. This Ordinance shall take effect and be in force thirty (30) days after publication following final adoption.


INTRODUCED, READ, AND PASSED ON FIRST READING, AT A REGULAR MEETING OF THE CITY COUNCIL OF THE CITY OF CASTLE PINES, COLORADO the 12th day of March, 2013.

READ, PASSED, AND ADOPTED ON SECOND READING, AT A REGULAR MEETING OF THE CITY COUNCIL OF THE CITY OF CASTLE PINES, COLORADO the 9th day of April, 2013.


Jeffrey T. Huff, Mayor

ATTEST:

Approved as to form:

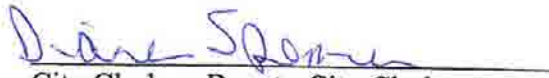

Jaime, Edwards, Interim City Clerk


Linda C. Michow, City Attorney

CERTIFICATION OF PUBLICATION

I hereby attest and certify that the within and foregoing Ordinance was introduced and read on first reading at a noticed public meeting of the Castle Pines City Council on March 12, 2013; published by title only in the *Douglas County News-Press*, together with the statement that "[t]he complete text of all ordinances is available through the City Offices and on the City's official website"; and finally passed and adopted by the City Council on April 9, 2013 following a duly noticed public meeting and ordered published by title only, with amendments if any, one time in the *Douglas County News-Press* on April 18, 2013.

ATTEST:


City Clerk or Deputy City Clerk