

ORDINANCE NO. 8**Series 2013**

February 19, 2013: Introduced as Council Bill 4, Series 2013 by Councilor Russell Stewart, seconded by Councilor Scott Roswell and considered in full text on first reading. Passed by a vote of 6 yes and 0 no.

June 4, 2013: Considered in full text on second reading. Passed by a vote of 6 yes and 0 no.

**A BILL FOR AN ORDINANCE
OF THE CITY OF CHERRY HILLS VILLAGE
AMENDING ARTICLE VII OF CHAPTER 10 OF THE CHERRY HILLS VILLAGE
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 AND 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 Cherry Hills Village to pass legislation reconciling the Cherry Hills Village 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.

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF CHERRY HILLS VILLAGE, COLORADO, ORDAINS:

Section 1. Section 10-7-10 of the Cherry Hills Village Municipal Code, *Definitions*, is amended by the addition of the following terms:

Marijuana means that definition contained in Section 10-12-20(1) of this Code.

Marijuana accessories means that definition contained in Section 10-12-20(2) of this Code.

Marijuana product means that definition contained in Section 10-12-20(6) of this Code.

Openly and publicly means in a manner observable by or in a place accessible to members of the general public.

Public area or building means an area or buildings and facilities owned, leased or under the control of the city, and includes, but is not limited to, public buildings, structures, parking lots, parks, playgrounds, streets, alleys, sidewalks, trails or open space areas.

Section 2. Section 10-7-70 of the Cherry Hills Village Municipal Code, *Possession of drug paraphernalia*, is hereby amended to add a new subsection (c) to read as follows:

(c) The provisions of this Section shall not apply to personal possession or use of marijuana accessories as such term is defined in Section 10-12-20(2) of this Code by any person that is twenty-one years of age or older to the extent provided by Article XVIII, Section 16, of the Colorado Constitution.

Section 3. Section 10-7-80 of the Cherry Hills Village Municipal Code, *Possession of marijuana*, is hereby amended to read in full as follows:

Sec. 10-7-80. Possession of marijuana; unlawful procurement for or sales of marijuana to persons under twenty-one years of age.

(a) Except as to personal use or possession by any person that is twenty-one years of age or older to the extent provided by Article XVIII, Section 16, of the Colorado Constitution, it is unlawful to possess one ounce or less of marijuana, marijuana products or marijuana accessories and upon conviction thereof, or plea of guilty or no contest thereto, shall be punishable by a fine only in accordance with Section 1-4-20 of this Code.

(b) It is unlawful for any person to purchase marijuana 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.

(c) It is unlawful for any person to consume or grow marijuana openly and publicly or in a manner that endangers others.

(d) It is unlawful to make marijuana that is grown for personal use in accordance with Article XVIII, Section 16, of the Colorado Constitution available for sale in any manner.

(e) It is an affirmative defense to 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.

(f) The provisions of this Section shall not apply to any person who possesses or uses marijuana or marijuana concentrate pursuant to the Dangerous Drugs Therapeutic Research Act.

Section 4. Existing Section 10-7-90 of the Cherry Hills Village Municipal Code, *Abusing toxic vapors*, shall be renumbered to Section 10-7-100, and a new Section 10-7-90 shall be adopted to read in full as follows:

10-7-90. Unlawful consumption, sale or use in public areas or buildings.

It is unlawful for any person to display, consume, sell, dispense or use marijuana, marijuana products or marijuana accessories in or upon any public area or building.

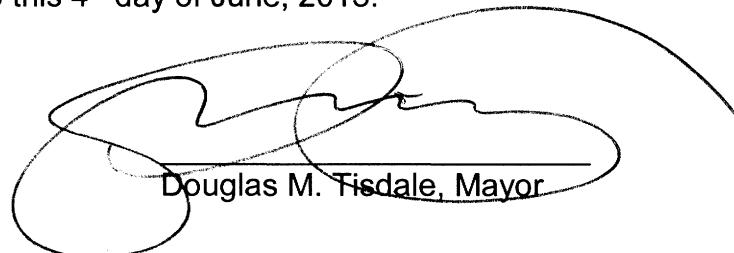
Section 5. **Severability.** If any provision of this Ordinance should be found by a court of competent jurisdiction to be invalid, such invalidity shall not affect the remaining portions or applications of this Ordinance that can be given effect without the invalid portion, provided that such remaining portions or applications of this ordinance are not determined by the court to be inoperable. The City Council declares that it would have adopted this Ordinance and each section, subsection, sentence, clause, phrase, or portion thereof, despite the fact that any one or more section, subsection, sentence, clause, phrase, or portion be declared invalid.

Section 6. **Safety.** This Ordinance is deemed necessary for the protection of the health, welfare and safety of the community.

Section 7. **Effective Date.** This Ordinance shall become effective ten (10) days after publication after second reading in accordance with Section 4.5 of the Charter for the City of Cherry Hills Village.

Adopted as Ordinance No. 8 Series 2013, by the City Council of the City of Cherry Hills Village, Colorado this 4th day of June, 2013.

(SEAL)



ATTEST:

Laura Smith
Laura Smith, City Clerk

APPROVED AS TO FORM:

Linda Michow
Linda Michow, City Attorney

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**CITY OF CHERRY HILLS VILLAGE
ADOPTION OF ORDINANCE
ORDINANCE 8, SERIES 2013**

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AMENDING ARTICLE VII OF CHAPTER
10 OF THE CHERRY HILLS VILLAGE
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BY PERSONS TWENTY-ONE YEARS
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PERSONS UNDER TWENTY-ONE AND
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UNLAWFUL

Copies of the Ordinances are on file at
the office of the City Clerk and may be
inspected during regular business hours.

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