Richard Greene / Peter Harris
LAW marijuana infractions ORD
September 10, 2013
Version #7

CITY OF SEATTLE

ORDINANCE _____

COUNCIL BILL 117989

AN ORDINANCE relating to consuming marijuana in public; amending Chapter 12A.20 of the Seattle Municipal Code to conform with state law.

WHEREAS, Initiative 502 legalized adult possession of small amounts of marijuana under Washington law, established a taxed and regulated system for production, processing, and distribution of marijuana within Washington, and changed the Revised Code of Washington (RCW) accordingly; and

WHEREAS, one such change was to define the infraction of opening or consuming a marijuana product in public as a class 3 civil infraction, comparable to open consumption of alcohol in a public place, subject to a monetary penalty of up to $50, plus statutory assessments currently set at 105% of the penalty; and

WHEREAS, the fine for public consumption of alcohol in Seattle is $27; and

WHEREAS, pursuant to RCW 7.80.060 a person who does not identify him or herself to officers issuing a civil infraction "may be detained for a period of time not longer than is reasonably necessary to identify the person for purposes of issuing a civil infraction"; and

WHEREAS, over nine years ago, voters adopted Seattle Municipal Code Section 12A.20.060 which sets the investigation, arrest and prosecution of marijuana offenses as the City's lowest law enforcement priority, but the Municipal Code does not address civil citations for open public use; and

WHEREAS, whenever possible the Seattle Police Department intends to provide a first warning for persons violating the provisions of this ordinance; and

WHEREAS, enforcement of the ordinance will be closely monitored for its race and social justice impacts and the Seattle Police Department intends to contract with a consultant to develop a method for this monitoring; and

WHEREAS, smoking marijuana in public places or places of employment is separately subject to the provisions of Municipal Code Chapter 10.64 on No-smoking Areas and Chapter 70.160 RCW on Smoking in Public Places; NOW, THEREFORE,

BE IT ORDAINED BY THE CITY OF SEATTLE AS FOLLOWS:

Section 1. Chapter 12A.20 of the Seattle Municipal Code is amended to add the following section:

12A.20.100 Opening or consuming marijuana products in public.

A. It is unlawful to open a package containing or consume marijuana, useable marijuana or a marijuana-infused product in view of the general public. A person who violates this section is guilty of a class 3 civil infraction under RCW Chapter 7.80. The penalty shall be set by Municipal Court local rule and be consistent with the penalty for public consumption of alcohol (RCW 69.50.445).

B. For purposes of this section:

1. "Marijuana" means all parts of the plant Cannabis, whether growing or not, with a THC concentration greater than 0.3 percent on a dry weight basis; 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 resin. "Marijuana" does not include the mature stalks of the plant, fiber produced from the stalks, oil or cake made from the seeds of the plant, any other compound, manufacture, salt, derivative, mixture, or preparation of the mature stalks (except the resin extracted therefrom), fiber, oil, or cake, or the sterilized seed of the plant which is incapable of germination.

2. "Useable marijuana" means dried marijuana flowers, but does not include marijuana-infused products.

3. "Marijuana-infused products" means products that contain marijuana or marijuana extracts and are intended for human use, but does not include useable marijuana.

4. "THC concentration" means percent of delta-9 tetrahydrocannabinol content per dry weight of any part of the plant *Cannabis*, or per volume or weight of marijuana product, or the combined

percent of delta-9 tetrahydrocannabinol and tetrahydrocannabinolic acid in any part of the plant *Cannabis* regardless of moisture content. (RCW 69.50.101)

Section 2. The Seattle Police Department shall monitor the enforcement of this ordinance for at least two years. Monitoring shall include, but not necessarily be limited to, a periodic review and analysis of the age, race and sex of those cited for violations of this ordinance, the locations of the violations, and, to the extent feasible, the reasons officer give for the stops leading to the citations. The Department shall report the results of this monitoring to the City Council six months after the effective date of this ordinance, and subsequently each six months for at least two years after the effective date.

Section ~~2~~3. This ordinance shall take effect and be in force thirty (30) days from and after its approval by the Mayor, but if not approved and returned by the Mayor within ten (10) days after presentation, it shall take effect as provided by Seattle Municipal Code Section 1.04.020.

Passed by the City Council the ____ day of _____, 2013, and signed by me in open session in authentication of its passage this _____ day of _____, 2013.

_____
President _____of the City Council

Approved by me this ____ day of _____, 2013.

_____
Michael McGinn, Mayor

Filed by me this ____ day of _____, 2013.

_____
Monica Martinez Simmons, City Clerk

(Seal)

Form revised: December 12, 2012

FISCAL NOTE FOR NON-CAPITAL PROJECTS

Department:	Contact Person/Phone:	CBO Analyst/Phone:
Law; Legislative	Richard Greene (Law) / 684-8538; Peter Harris (Legislative) / 684-8368	n.a.

Legislation Title:

AN ORDINANCE relating to consuming marijuana in public; amending Chapter 12A.20 of the Seattle Municipal Code to conform with state law.

Summary of the Legislation:

This ordinance amends the Seattle Criminal Code to conform to one provision of the Revised Code of Washington resulting from Initiative 502, which decriminalized marijuana. The provision makes consuming marijuana or opening a package of marijuana it a Class 3 civil infraction, subject to a monetary penalty of $50.

Smoking marijuana in public places and in places of employment is separately subject to the provisions of Municipal Code Chapter 10.64 on No-smoking Areas.

Background:
(Include a brief description of the purpose and context of legislation and include record of previous legislation and funding history, if applicable.)

Seattle Municipal Code Section 12A.20.060 sets the investigation, arrest and prosecution of marijuana offenses as the City's lowest law enforcement priority, but the Municipal Code is otherwise silent on marijuana.

Please check one of the following:

__x__ **This legislation does not have any financial implications.**
(Please skip to "Other Implications" section at the end of the document and answer questions a-h. Earlier sections that are left blank should be deleted. Please delete the instructions provided in parentheses at the end of each question.)

Other Implications:

a) **Does the legislation have indirect financial implications, or long-term implications?**
(If yes, explain them here.)

Depending on the level of violations and enforcement of the new infraction, the General Subfund may see an increase in fine revenue.

b) What is the financial cost of not implementing the legislation?
(Estimate the costs to the City of not implementing the legislation, including estimated costs to maintain or expand an existing facility or the cost avoidance due to replacement of an existing facility, potential conflicts with regulatory requirements, or other potential costs.)

None.

c) Does this legislation affect any departments besides the originating department?
(If so, please list the affected department(s), the nature of the impact (financial, operational, etc), and indicate which staff members in the other department(s) are aware of the proposed legislation.)

The Police Department will be responsible for enforcement and the Municipal Court will be responsible for collecting the penalties.

d) What are the possible alternatives to the legislation that could achieve the same or similar objectives? (Include any potential alternatives to the proposed legislation, such as reducing fee-supported activities, identifying outside funding sources for fee-supported activities, etc.)

None.

e) Is a public hearing required for this legislation?
(If yes, what public hearing(s) have been held to date, and/or what public hearing(s) are planned for the future?)

No.

f) Is publication of notice with *The Daily Journal of Commerce* and/or *The Seattle Times* required for this legislation?
(For example, legislation related to sale of surplus property, condemnation, or certain capital projects with private partners may require publication of notice. If you aren't sure, please check with your lawyer. If publication of notice is required, describe any steps taken to comply with that requirement.)

No.

g) Does this legislation affect a piece of property?
(If yes, and if a map or other visual representation of the property is not already included as an exhibit or attachment to the legislation itself, then you must include a map and/or other visual representation of the property and its location as an attachment to the fiscal note. Place a note on the map attached to the fiscal note that indicates the map is intended for illustrative or informational purposes only and is not intended to modify anything in the legislation.)

No.

h) Other Issues:

List attachments to the fiscal note below: