



**ORDINANCE NO. 28169**

1 AN ORDINANCE relating to the public use and display of marijuana and medical  
2 cannabis; amending Chapter 8.28 of the Tacoma Municipal Code (“TMC”)  
3 by the addition thereto of two new sections, to be known and designated as  
4 Sections 8.28.011 and 8.28.012, relating to the public use and display of  
5 marijuana and medical cannabis; and amending TMC 8.29.060 to revise the  
6 definition of “drug paraphernalia” to be consistent with state law.

7 WHEREAS Chapter 8.28 of the Tacoma Municipal Code (“TMC”), “Narcotics,”  
8 regulates the use, possession, and distribution of controlled substances, and

9 WHEREAS state laws relating to marijuana, usable marijuana, marijuana-  
10 infused products, and medical cannabis have undergone substantial revisions, and

11 WHEREAS state law defines the limitations on the public use and display of  
12 marijuana, usable marijuana, marijuana-infused products, and medical cannabis,  
13 and

14 WHEREAS the public use and display of marijuana, usable marijuana,  
15 marijuana-infused products, and medical cannabis adversely affects public safety,  
16 health, and welfare, and

17 WHEREAS making the TMC consistent with state law regarding the public  
18 use and display of marijuana, usable marijuana, marijuana-infused products, and  
19 medical cannabis will clarify prohibited conduct and enhance enforcement, and

20 WHEREAS TMC Chapter 8.29, “Drug Paraphernalia,” regulates the use,  
21 possession, and distribution of drug paraphernalia, and

22 WHEREAS state law related to drug paraphernalia was altered by the  
23 passage of Initiative 502 in November 2012, eliminating the penalties for  
24 marijuana-related paraphernalia, and  
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WHEREAS making the TMC consistent with state law will clarify prohibited conduct and enhance enforcement related to drug paraphernalia; Now, Therefore,

BE IT ORDAINED BY THE CITY OF TACOMA:

Section 1. That Chapter 8.28 of the Tacoma Municipal Code is hereby amended by the addition thereto of two new sections, to be known and designated as Sections 8.28.011 and 8.28.012, as set forth in the attached Exhibit "A."

Section 2. That Section 8.29.060 of the Tacoma Municipal Code is hereby amended as set forth in the attached Exhibit "B."

Section 3. Severability. If any part, provision, or section of these chapters are held to be void or unconstitutional, all other parts not expressly so held shall continue in full force and effect.

Passed \_\_\_\_\_

\_\_\_\_\_  
Mayor

Attest:

\_\_\_\_\_  
City Clerk

Approved as to form:

*Delon Caspi*  
\_\_\_\_\_  
Deputy City Attorney



EXHIBIT "A"

Chapter 8.28  
NARCOTICS

Sections:

8.28.005 Enforcement priority.

8.28.010 Unlawful acts.

8.28.011 Opening or consuming package containing marijuana, useable marijuana, or marijuana-infused product in view of general public – Penalty – Adoption by Reference.

8.28.012 Crimes – Limitations of chapter – Public display of medical cannabis – Adoption by Reference.

8.28.015 Presence where drugs kept.

8.28.020 Definitions.

8.28.030 Complaint.

8.28.040 Violation – Penalty.

8.28.050 Severability.

**8.28.005 Enforcement priority.**

The police chief and city attorney shall make the investigation, arrest, and prosecution of cannabis (a/k/a "marijuana") offenses the lowest enforcement priority, as this term may be defined in their policies and procedures manuals, for adult personal use.

**8.28.010 Unlawful acts.**

A. It is unlawful, except as provided pursuant to Chapter 69.50 RCW as now or hereafter amended, for any person to:

1. Offer to sell, offer to purchase, or purchase any controlled substance with the intent to sell, or purchase any such controlled substance or any other liquid, substance, or material in lieu of such controlled substance; or
2. Have in his or her actual or constructive possession 40 grams or less of marijuana.

B. Definitions.

1. "Controlled substance" means any substance classified in Schedule I, II, III, IV, or V of Chapter 69.50 RCW as now or hereafter amended.
2. "Marijuana" means marijuana as defined by RCW 69.50.101 as now or hereafter amended.
3. "Offer" has its ordinary meaning and includes a manifestation in any form of willingness to enter into a bargain.

C. Inference of Intent. In any prosecution pursuant to subsection A of this section, any person who makes an offer to sell or offer to purchase a controlled substance, or who makes a purchase of a controlled substance or any other liquid, substance, or material in lieu of such controlled substance, may be inferred to have acted with intent to do the same unless such offer shall be explained by evidence satisfactory to the trier of fact to have been made without such criminal intent.

**8.28.011 Opening or consuming package containing marijuana, useable marijuana, or marijuana-infused product in view of general public – Penalty – Adoption by Reference.**

RCW 69.50.445, "Opening or consuming package containing marijuana, useable marijuana, or marijuana-infused product in view of general public – Penalty," as now enacted or hereinafter amended, is hereby adopted by reference as if fully set forth herein.



**8.28.012 Crimes – Limitations of chapter – Public display of medical cannabis – Adoption by Reference.**

RCW 69.51A.060(1), "Crimes – Limitations of chapter," as now enacted or hereinafter amended, is hereby adopted by reference as if fully set forth herein.

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## EXHIBIT "B"

1 **8.29.060 Illegal conduct.**

2 A. It is unlawful for any person to use, or to possess with intent to use, drug paraphernalia to plant, propagate,  
3 cultivate, grow, harvest, manufacture, compound, convert, produce, process, prepare, test, analyze, pack,  
repack, store, contain, conceal, inject, ingest, inhale, or otherwise introduce into the human body a controlled  
substance other than marijuana. Any person who violates this subsection is guilty of a misdemeanor.

4 B. It is unlawful for any person to deliver, possess with intent to deliver, or manufacture with intent to deliver  
5 drug paraphernalia, knowing, or under circumstances where one reasonably should know, that it will be used  
to plant, propagate, cultivate, grow, harvest, manufacture, compound, convert, produce, process, prepare, test,  
6 analyze, pack, repack, store, contain, conceal, inject, ingest, inhale, or otherwise introduce into the human  
body a controlled substance other than marijuana. Any person who violates this subsection is guilty of a  
misdemeanor.

7 C. Any person 18 years of age or over who violates subsection B of this section by delivering drug  
8 paraphernalia to a person under 18 years of age who is at least three years his junior is guilty of a gross  
misdemeanor.

9 D. It is unlawful for any person to place in any newspaper, magazine, handbill, or other publication any  
10 advertisement, knowing, or under circumstances where one reasonably should know, that the purpose of the  
advertisement, in whole or in part, is to promote the sale of drug paraphernalia. Any person who violates this  
subsection is guilty of a misdemeanor.

11 E. Every person who sells or gives, or permits to be sold or given to any person, any drug paraphernalia in any  
12 form commits a class I civil infraction under chapter 7.80 RCW. For purposes of this subsection, "drug  
paraphernalia" means all equipment, products, and materials of any kind which are used, intended for use, or  
13 designed for use in planting, propagating, cultivating, growing, harvesting, manufacturing, compounding,  
converting, producing, processing, preparing, testing, analyzing, packaging, repackaging, storing, containing,  
14 concealing, injecting, ingesting, inhaling, or otherwise introducing into the human body a controlled substance  
other than marijuana. Drug paraphernalia includes, but is not limited to, objects used, intended for use, or  
15 designed for use in ingesting, inhaling, or otherwise introducing ~~marijuana, cocaine, hashish, or hashish oil~~  
into the human body, such as:

16 1. Metal, wooden, acrylic, glass, stone, plastic, or ceramic pipes with or without screens, permanent screens,  
~~hashish heads,~~ or punctured metal bowls;

17 2. Water pipes;

18 3. Carburetion tubes and devices;

19 4. Smoking and carburetion masks;

20 ~~5. Roach clips: Meaning objects used to hold burning material, such as a marijuana cigarette, that has become  
too small or too short to be held in the hand;~~

21 ~~6. Miniature cocaine spoons and cocaine vials;~~

22 ~~7. Chamber pipes;~~

23 ~~8. Carburetor pipes;~~

24 ~~9. Electric pipes;~~

25 ~~10. Air-driven pipes; and~~

26 ~~11. Chillums;~~

~~12. Bongs; and~~

~~13. Ice pipes or chillers.~~



- 1 F. It shall be no defense to a prosecution for a violation of subsection E that the person acted, or was believed
- 2 by the defendant to act, as agent or representative of another.
- 3 G. Nothing in subsection E of this section prohibits legal distribution of injection syringe equipment through
- 4 public health and community-based HIV prevention programs, and pharmacies.
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