

CITY OF RIFLE, COLORADO
ORDINANCE NO. 10
SERIES OF 2015

AN ORDINANCE OF THE CITY OF RIFLE, COLORADO, AMENDING SECTION 10-8-120 OF THE RIFLE MUNICIPAL CODE TO CHANGE THE MENTAL STATE ELEMENT OF THE OFFENSE OF POSSESSION OF DRUG PARAPHERNALIA, AND AMENDING SECTION 10-8-130 OF THE RIFLE MUNICIPAL CODE TO PROVIDE FOR THE SEALING OF CONVICTION RECORDS FOR CERTAIN MARIJUANA RELATED OFFENSES BY MINORS.

WHEREAS, Chapter 10 of the Rifle Municipal Code (the “Code) defines criminal offenses within the City of Rifle (the “City”), describes the acts which constitute such criminal offenses and sets forth the penalties therefor; and

WHEREAS, under Section 10-8-120 of the Code, the mental state required for the offense of possession of drug paraphernalia by an accused violator of that Section is that the drug paraphernalia found in the accused’s possession be used under circumstances which violate state law; and

WHEREAS, under the Uniform Controlled Substances Act of 1992, §§18-18-101, C.R.S., *et seq.*, the mental state required for the offense of possession of drug paraphernalia is knowledge by an accused offender that the drug paraphernalia found in the accused’s possession could be used under circumstances which violate state law; and

WHEREAS, the City Council has recognized in the Code that it is appropriate for the Municipal Court, under certain circumstances, to seal a record of conviction for the offense of purchase, possession, or consumption of alcoholic beverages by a minor; and

WHEREAS, in light of the similarities of alcoholic beverage and marijuana criminal enforcement in Colorado, the City Council desires to further recognize in the Code that it is also appropriate for the Municipal Court, under certain circumstances, to seal a record of conviction of a minor for possession, consumption, and certain related offenses involving marijuana; and

WHEREAS, the City Council finds that Section 10-8-120 of the Code should be amended in order to change the mental state required for the offense of possession of drug paraphernalia to mirror the mental state required for the same offense under state law, and that Section 10-8-130 of the Code should be amended to prescribe the conditions under which a record of conviction for certain marijuana related offenses by minors shall be sealed by the Municipal Court.

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF RIFLE, COLORADO, THAT:

Section 1. The foregoing recitals are incorporated herein as if set forth in full.

Section 2. Section 10-8-120 of the Rifle Municipal Code is hereby amended to read as follows, the following ~~strike through~~ text depicting the deleted language, and the following **bold, double underlined text** depicting newly enacted language:

Sec. 10-8-120. Possession of drug paraphernalia.

(a) A person commits possession of drug paraphernalia if he or she possesses drug paraphernalia and ~~intends to use the drug paraphernalia~~ **and knows or reasonably should know that the drug paraphernalia is practically certain to be used** under circumstances in violation of state law.

(b) Any person who commits possession of drug paraphernalia commits a Class B municipal offense.

(c) Prior to a peace officer searching a person, a person's premises, or a person's vehicle, the peace officer may ask the person whether the person is in possession of a hypodermic needle or syringe that may cut or puncture the officer, or whether such a hypodermic needle or syringe is on the premises or in the vehicle to be searched.

Section 3. Section 10-8-130 of the Rifle Municipal Code is hereby amended to read as follows, the following **bold, double underlined text** depicting newly enacted language:

Sec. 10-8-130. Possession of marijuana, marijuana products and marijuana accessories.

(c) Upon the expiration of one (1) year from the date of a conviction in Municipal Court for a violation of Paragraph (a)(3) above involving one (1) ounce or less of marijuana, any person convicted of such violation may petition the Municipal Court for an order sealing the record of such conviction. The Municipal Court shall grant such petition if the subject conviction is the first criminal conviction of the petitioner and petitioner has not been arrested for, charged with or convicted of any felony, misdemeanor or petty offense during the period of one (1) year following the date of the subject conviction.

INTRODUCED on May 6, 2015, read by title, passed on first reading, and ordered published by title as required by the Charter.

INTRODUCED a second time at a regular meeting of the Council of the City of Rifle, Colorado, held on May 20, 2015, passed without amendment, approved, and ordered published in full as required by the Charter.

Dated this ____ day of _____, 2015.

CITY OF RIFLE, COLORADO

BY: _____
Mayor

ATTEST:

City Clerk