

**ORDINANCE NO. 21-11**

**INTRODUCED BY:  
Council Member Sellers  
Council Member Sweeney**

**AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF FEDERAL HEIGHTS,  
COLORADO, AMENDING SECTION 38-97 OF THE FEDERAL HEIGHTS  
MUNICIPAL CODE REGARDING UNLAWFUL POSSESSION  
OF A CONTROLLED SUBSTANCE**

WHEREAS, in 2020 the state legislature amended C.R.S. Section 18-18-403.5 to reduce the penalty for possession of not more than four grams of certain controlled substances under certain circumstances from a felony to a misdemeanor; and

WHEREAS, as the City of Federal Heights has jurisdiction over misdemeanor offenses and has generally desired to the extent practicable to have the municipal court maintain jurisdiction over local matters, it desires to amend the Municipal Code so that such offense could be prosecuted in the municipal court.

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF FEDERAL HEIGHTS,  
COLORADO:

Section 1. Section 38-97, Unlawful possession of a controlled substance, of the Federal Heights Municipal Court is repealed in its entirety and reenacted to provide:

Except as authorized by part 1 or 3 of article 280 of title 12, C.R.S., part 2 of article 80 of title 27, C.R.S., section 18-18-428 (1) (b) C.R.S., or part 2 of article 18, C.R.S., it is unlawful for any person to knowingly possess any material, compound, mixture, or preparation that contains not more than four grams of a controlled substance listed in schedule I or II of part 2 of article 18, C.R.S., or any quantity of a controlled substance listed in schedule III, IV or V of part of article 18, C.R.S., except as to possession of flunitrazepam, gamma hydroxybutyrate, or ketamine, or where possession of such substances constitutes a fourth or subsequent violation of this offense.

Section 2. If any article, section, paragraph, sentence, clause, or phrase of this ordinance is held to be unconstitutional or invalid for any reason, such decision shall not affect the validity or constitutionality of the remaining portions of this ordinance. The city council hereby declares that it would have passed this ordinance and each part or parts hereof irrespective of the fact that any one part or parts be declared unconstitutional or invalid.

Section 3. All other ordinances or portions thereof inconsistent or conflicting with this ordinance or any portions hereof are hereby repealed to the extent of such inconsistency or conflict.

Section 4. The repeal or modification of any provision of the Federal Heights Municipal Code by this ordinance shall not release, extinguish, alter, modify or change in whole or in part any penalty, forfeiture or liability, either civil or criminal, which shall have been incurred under such provision. Each provision shall be treated and held as still remaining in force for the purpose of sustaining any and all proper actions, suits, proceedings and prosecutions for enforcement of the penalty,

forfeiture or liability, as well as for the purpose of sustaining any judgment, decree or order which can or may be rendered, entered or made in such actions, suits, proceedings or prosecutions.

Section 5. This ordinance is deemed necessary for the protection of the health, welfare and safety of the community.

Section 6. Violations of this ordinance are subject to the penalties set forth in Section 1-15 of Federal Heights Municipal Code or as otherwise provided in this ordinance.

INTRODUCED, READ AND PASSED AS AN ORDINANCE, ON FIRST READING, AT A REGULAR MEETING OF THE CITY COUNCIL OF THE CITY OF FEDERAL HEIGHTS, COLORADO, THE 7<sup>th</sup> DAY OF September 2021.

READ, PASSED AND ADOPTED AS AN ORDINANCE ON SECOND READING, AT A REGULAR MEETING OF THE CITY COUNCIL OF THE CITY OF FEDERAL HEIGHTS, COLORADO, THE 21<sup>st</sup> DAY OF September 2021.

/s/ Linda S. Montoya, Mayor

ATTEST:

/s/ Patti K. Lowell, CMC  
City Clerk

APPROVED AS TO FORM:

/s/ William P. Hayashi, City Attorney

PUBLISHED:

Westminster Window  
September 16, 2021  
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