

1 [Policy Making Marijuana Offenses the Lowest Law Enforcement Priority.]

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3 **Ordinance amending the San Francisco Administrative Code by adding Chapter 12X to**
4 **make marijuana offenses by adults the lowest law enforcement priority in San**
5 **Francisco, establish a Community Oversight Committee, and require notification of**
6 **state and federal officials.**

7 Note: Additions are *single-underline italics Times New Roman*;
8 deletions are *strikethrough italics Times New Roman*.
9 Board amendment additions are double underlined.
Board amendment deletions are ~~strikethrough normal~~.

10 Be it ordained by the People of the City and County of San Francisco:

11 Section 1. The San Francisco Police Code is hereby amended by adding Sections
12 12X.1 through 12X.9, to read as follows:

13 **SEC. 12X.1. TITLE**

14 *This chapter shall be known as the Policy Making Marijuana Offenses the Lowest Law*
15 *Enforcement Priority.*

16 **SEC. 12X.2. PURPOSE**

17 *The purpose of this chapter is to:*

18 *(a) Make investigation, citations, arrests, and property seizures from adults for marijuana*
19 *offenses the City and County of San Francisco's lowest law enforcement priority;*

20 *(b) Establish a City and County policy supporting changes in state and federal laws that*
21 *support a system of taxation and regulation for adult use of marijuana; and*

22 *(c) Transmit notification of the enactment of this chapter to state and federal elected*
23 *officials who represent the City and County of San Francisco.*

24 **SEC. 12X.3. FINDINGS**

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1 (a) The federal government's war on drugs has failed. Otherwise law-abiding adults are
2 being arrested and imprisoned for nonviolent marijuana offenses, which is clogging courts and jails in
3 California. Each year California spends over \$150 million of taxpayer money enforcing marijuana
4 laws. Decades of arresting millions of marijuana users have failed to control marijuana use or reduce
5 its availability.

6 (b) San Francisco should determine its marijuana policies locally, not hand them over to
7 the federal Drug Enforcement Administration. Many recreational marijuana users are productive
8 citizens who work and pay taxes. Current marijuana policies continue to needlessly harm medical
9 marijuana patients. Law enforcement resources would be better spent fighting serious and violent
10 crimes. Making adult marijuana offenses San Francisco's lowest law enforcement priority will reduce
11 expenditures on law enforcement and punishment of these offenses.

12 (c) It is the hope of the citizens of San Francisco that the federal and California state
13 governments will change the laws to tax and regulate marijuana, thus eliminating the problems and
14 costs caused by marijuana prohibition and raising revenues for vital public services.

15 **SEC. 12X.4. DEFINITIONS**

16 For the purposes of this ordinance, the following words and phrases shall be defined as follows:

17 (a) "Adult" means an individual who is 18 years of age or older.

18 (b) "San Francisco law enforcement officer" means any peace officer employed by the City
19 and County of San Francisco, and any other employee of the City and County who is authorized to
20 engage in law enforcement activity. "San Francisco law enforcement officer" does not include the
21 District Attorney or anyone acting on behalf of the District Attorney.

22 (c) "Lowest law enforcement priority" means that all law enforcement activities related to
23 offenses other than marijuana offenses by adults shall be given a higher priority than law enforcement
24 activities related to marijuana offenses by adults, except as provided below.

1 (d) "Marijuana" means all parts of the plant Cannabis, whether growing or not, the seeds
2 thereof, the resin extracted from any part of the plant, and every compound, manufacture, salt,
3 derivative, mixture, or preparation of the plant, its seeds, or its resin.

4 **SEC. 12X.5. LOWEST LAW ENFORCEMENT PRIORITY**

5 (a) San Francisco law enforcement officers shall make law enforcement activity relating to
6 marijuana offenses by adults their lowest law enforcement priority. Law enforcement activities include,
7 but are not limited to, investigation, citation, arrest, and seizure of property.

8 (b) This lowest law enforcement priority policy shall not apply to the following:

9 (1) distribution or sale of marijuana to minors;

10 (2) possession, use, sale or distribution of marijuana by minors;

11 (3) distribution or sale of marijuana on public property; or

12 (4) driving under the influence.

13 (c) The City and County of San Francisco urges the District Attorney to adopt a policy
14 making prosecution of adults for marijuana offenses, as described herein, the lowest prosecutorial
15 priority.

16 (d) This lowest law enforcement priority policy shall apply to cooperating with federal
17 agents to arrest, cite, investigate, prosecute, or seize property from adults for marijuana offenses
18 included in the lowest law enforcement priority policy, where those marijuana offenses do not occur in
19 conjunction with other criminal activity.

20 (e) San Francisco law enforcement officers and other city and county employees shall not
21 accept or renew formal deputization or commissioning by a federal law enforcement agency if such
22 deputization or commissioning is for the sole or primary purpose of investigating, citing, arresting, or
23 seizing property from adults for marijuana offense included in the lowest law enforcement priority
24 policy.

1 (f) The City and County of San Francisco shall not accept any federal funding that would
2 be used solely or primarily to investigate, cite, arrest, or seize property from adults for marijuana
3 offenses.

4 **SEC. 12X.6. COMMUNITY OVERSIGHT**

5 (a) An advisory Community Oversight Committee shall monitor the implementation of this
6 ordinance. The Community Oversight Committee shall consist of eleven members. Each member of the
7 San Francisco Board of Supervisors shall appoint one city resident to the Community Oversight
8 Committee. The Chief of Police and the District Attorney may each send a representative as a non-
9 voting liaison to the meetings. Each Committee member shall serve at the pleasure of the Supervisor
10 who appointed him or her. The Community Oversight Committee shall begin meeting as soon as a
11 quorum of members are appointed.

12 (b) The Community Oversight Committee shall:

13 (1) Monitor the implementation of this Ordinance by gathering information, with the
14 cooperation of the San Francisco Police Department and other law enforcement agencies.

15 (2) Receive statements from individuals who believe they were subjected to law enforcement
16 activity contrary to the lowest law enforcement priority policy.

17 (3) Design a supplemental report form for San Francisco law enforcement officers to use to
18 report all adult marijuana arrests, citation, and property seizures, and all instances of officers assisting
19 in federal arrests, citations, and property seizures for any marijuana offenses by adults within the City
20 and County of San Francisco. The Community Oversight Committee shall design the supplemental
21 report with the goal of allowing the Committee to ascertain whether San Francisco law enforcement
22 officers followed the lowest law enforcement priority policy.

23 (4) Request additional information from any San Francisco law enforcement officer who
24 engaged in law enforcement activity relating to one or more marijuana offenses under circumstances
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1 that appear to violate the lowest law enforcement priority policy. An officer's decision not to provide
2 additional information shall not be grounds for discipline.

3 (5) Submit written reports semi-annually to the San Francisco Board of Supervisors on the
4 implementation of this ordinance. The Community Oversight Committee shall submit the first report no
5 later than nine months after the effective date of this ordinance. The report shall include but not
6 necessarily be limited to: the number of arrests, citations, property seizures, and prosecutions of adults
7 for marijuana offenses in the City and County of San Francisco; the breakdown of marijuana arrests
8 and citations of adults by race, age, specific charge, and classification as infraction, misdemeanor, or
9 felony; any instances of law enforcement activity that the Committee believes violated the lowest law
10 enforcement priority policy; and the estimated time and money spent by the City and County on law
11 enforcement and punishment of adults for marijuana offenses. The report shall comply with all state
12 and local confidentiality laws.

13 **SEC. 12X.7. MARIJUANA POLICY REFORM**

14 (a) It shall be the policy of the City and County of San Francisco to support policies to tax
15 and regulate marijuana for adults.

16 (b) Beginning three months after the effective date of this ordinance and continuing
17 annually thereafter, the Clerk of the Board of Supervisors shall send letters to Governor of California,
18 the President of the United States, and all elected officials representing San Franciscans in the U.S.
19 House of Representatives, the U.S. Senate, the California Assembly and the California Senate. The
20 letters shall state, "The Board of Supervisors of the City and County of San Francisco has passed an
21 ordinance to deprioritize marijuana offenses by adults, and requests that the federal and California
22 state governments take immediate steps to tax and regulate marijuana use, cultivation, and distribution
23 and to authorize state and local communities to do the same." The Clerk shall send this letter annually
24 until state and federal laws are changed accordingly.

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SEC. 12X.8. GENERAL WELFARE CLAUSE

In undertaking the enforcement of this ordinance, the City is assuming an undertaking only to promote the general welfare. It is not assuming, nor is it imposing on its officers and employees, an obligation for breach of which it is liable in money damages to any person who claims that such breach proximately caused injury.

SEC. 12X.9. SEVERABILITY

The provisions of this ordinance are declared to be separate and severable. The invalidity of any clause, sentence, paragraph, subdivision, section or portion of this ordinance, or the invalidity of the application thereof to any person or circumstances, shall not affect the validity of the remainder of this ordinance, or the validity of its application to other persons or circumstances.

APPROVED AS TO FORM:
DENNIS J. HERRERA, City Attorney

By: _____
Deputy City Attorney