

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.

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1 **SEC. 12X.3. FINDINGS**

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

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

14 (c) It is the hope of the citizens of San Francisco that the federal and California state
15 governments will change the laws to tax and regulate marijuana, thus eliminating the problems and
16 costs caused by marijuana so as to eliminate costs and problems of prohibition, and keep
17 marijuana off the streets and away from children, and raising raise tax revenues for vital public
18 services.

19 **SEC. 12X.4. DEFINITIONS**

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

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

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

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

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

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

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

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

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

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

14 (3) distribution or sale of marijuana on public property (including public streets,
15 sidewalks, parks, buildings or other public property) or within view of any person on public
16 property, provided that the lowest law enforcement shall apply to distribution or sale of
17 marijuana occurring entirely within a private residence or other private building, except as
18 otherwise provided in Sections 12X.5(b)(1), (2) or (5); or

19 (4) driving under the influence; or

20 (5) a marijuana offense that occurs in conjunction with or is related to an act or
21 threat of violence, or where law enforcement officers reasonably believe that the marijuana
22 offense poses a substantial threat of serious physical harm to the public.

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

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

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

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

13 ~~SEC. 12X.6. COMMUNITY OVERSIGHT~~

14 ~~(a) An advisory Community Oversight Committee shall monitor the implementation~~
15 ~~of this ordinance. The Community Oversight Committee shall consist of eleven seven voting~~
16 ~~members appointed by the Board of Supervisors. Each member of the San Francisco Board~~
17 ~~of Supervisors shall appoint one city resident to the Community Oversight Committee. The~~
18 ~~Chief of Police and the District Attorney may each send a representative as a non-voting~~
19 ~~liaison to the meetings. Each Committee member shall serve at the pleasure of the~~
20 ~~Supervisor who appointed him or her. The Community Oversight Committee shall begin~~
21 ~~meeting as soon as a quorum of members are appointed. Members shall serve at the~~
22 ~~pleasure of the Board of Supervisors, for a term of two years. The Board shall appoint one~~
23 ~~member with each of the following qualifications or backgrounds:~~

24 ~~(1) one medical cannabis patient;~~

25 ~~(2) one criminal defense attorney;~~

1 ~~(3) — one representative of a medical cannabis dispensary operating in San~~
2 ~~Francisco;~~
3 ~~(4) — one civil liberties advocate;~~
4 ~~(5) — one harm reduction practitioner;~~
5 ~~(6) — one representative of a drug policy reform organization; and~~
6 ~~(7) — one representative from any of the following categories: juvenile justice~~
7 ~~advocate, advocate for homeless persons, resident of public housing, or representative of an~~
8 ~~organization providing services to or advocating on behalf of residents of public housing in~~
9 ~~San Francisco.~~

10 ~~(b) — The Police Department, the Department of Public Health and the District~~
11 ~~Attorney are encouraged to send one representative as a non-voting liaison to the advisory~~
12 ~~committee.~~

13 ~~(c) — At the initial meeting of the advisory committee, and annually thereafter, the~~
14 ~~committee shall select a chairperson, and any other officers deemed necessary by the~~
15 ~~committee. Consistent with the requirements of state and local law, the committee shall~~
16 ~~establish rules for its own organization. All meetings shall be open to the public, except as~~
17 ~~provided by law.~~

18 ~~(b d) — The Community Oversight Committee shall:~~

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

21 ~~(2) — Receive statements from individuals who believe they were subjected to law~~
22 ~~enforcement activity contrary to the lowest law enforcement priority policy.~~

23 ~~(3) — Design a supplemental report form for San Francisco law enforcement officers~~
24 ~~to use to report all adult marijuana arrests, citation, and property seizures, and all instances of~~
25 ~~officers assisting in federal arrests, citations, and property seizures for any marijuana offenses~~

1 by adults within the City and County of San Francisco. The Community Oversight Committee
2 shall design the supplemental report with the goal of allowing the Committee to ascertain
3 whether San Francisco law enforcement officers followed the lowest law enforcement priority
4 policy.

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

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

20 (6) Within one year of the effective date of this ordinance, make recommendations
21 to the Police Department and Police Commission regarding regulations for implementing this
22 ordinance.

23 (7) Recommend to the Board of Supervisors policy changes that would further the
24 purposes of this Chapter.

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

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

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

13 **SEC. 12X.8. GENERAL WELFARE CLAUSE**

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

18 **SEC. 12X.9. SEVERABILITY**

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

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

3 By: _____
4 MOLLY S. STUMP
5 Deputy City Attorney
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