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CITY OF PORTLAND, OR

**ORDINANCE PROPOSED BY INITIATIVE PETITION**

The City of Portland Ordains:

**Section 1: TITLE**

An Ordinance to Make Adult Marijuana-Related Offenses the Lowest Law Enforcement Priority in the City of Portland

**Section 2: PURPOSE**

The purpose of this ordinance is:

- (1) To make investigations, citations, arrests, property seizures, and prosecutions for adult marijuana offenses the City of Portland's lowest law enforcement priority; and
- (2) To transmit notification of the enactment of this ordinance to state and federal elected officials who represent Portland.
- (3) To create a Citizen Oversight Committee to oversee the implementation of this ordinance.

**Section 3: FINDINGS**

WHEREAS decades of arresting and jailing tens millions of marijuana users have failed to end marijuana use, the City of Portland should take a new approach;

WHEREAS each year it is estimated that Oregon spends over \$60 million and thousands of law enforcement hours enforcing marijuana laws;

WHEREAS Oregon's law enforcement resources would be better spent preventing and investigating serious crimes like murder, rape, assault, robbery, burglary, and driving under the influence of alcohol and other drugs; and

WHEREAS current marijuana policies continue to needlessly harm medical marijuana patients by restricting their access to their medicine;

WHEREAS it is the intent of the voters of the City of Portland that any economic analysis or fiscal impact statements conducted by City of Portland officials should include the savings associated with reduced costs on law enforcement, prosecution, and punishment as a result of this ordinance's implementation;

THEREFORE the people of Portland do hereby enact the following ordinance to be added to the Portland City Code, establishing the marijuana policy of the City.

**Section 4: DEFINITIONS**

For the purposes of this ordinance, the following words and phrases shall have the

meanings respectively ascribed to them by this section:

- (1) "Adult" means an individual who is 21 years of age or older.
- (2) "Portland law enforcement officer" means a member of the Portland Police Bureau or any other municipal agency or department within Portland that engages in law enforcement activity.
- (3) "Lowest law enforcement priority" means a priority such that all law enforcement activities related to all offenses other than marijuana-related offenses shall be a higher priority than all law enforcement activities related to marijuana-related offenses, except for designated exceptions.
- (4) "Marijuana-related offenses" means any offense in which possession, delivery or manufacture of marijuana is an element.
- (5) "Marijuana" means all parts of the plant *Cannabis sativa* L., whether growing or not; the seeds thereof; the resin extracted from any part of the plant; and every compound, manufacture, salt, derivative, mixture, or preparation of the plant, its seeds or resin.

#### Section 5: LOWEST LAW ENFORCEMENT PRIORITY

- (1) Portland law enforcement officers shall make law enforcement activity relating to adult marijuana-related offenses their lowest law enforcement priority. Law enforcement activities relating to adult marijuana-related offenses include, but are not limited to, investigation, citation, arrest, seizure of property, or providing assistance to the prosecution of adult marijuana-related offenses.
- (2) This lowest law enforcement priority policy shall not apply to the following:
  - (a) distribution or sale of marijuana to minors; possession, use, distribution, sale, or cultivation of marijuana by minors; distribution, sale, cultivation, or use of marijuana on public property; or driving under the influence of marijuana;
  - (b) marijuana-related offenses on private property, if a person in lawful possession of the private property requests police intervention;
  - (c) marijuana-related offenses within 100 feet of any lawfully licensed business, if the licensee, licensee's agent, employee, or contractor, with the authority to do so, requests police intervention; and
  - (d) marijuana-related offenses within 1,000 feet of any school ordinarily attended by children under 18 years of age.
- (3) Portland law enforcement officers and other municipal employees within Portland shall not accept formal deputization or commissioning by a federal law enforcement agency to the extent that such deputization or commissioning will include investigating, citing, arresting, or seizing property from adults for

marijuana-related offenses included in the lowest law enforcement priority policy. Portland law enforcement officers who are already deputized or commissioned by a federal agency may not accept renewal of formal deputization or commissioning by a federal law enforcement agency to the extent that such deputization or commissioning will include investigating, citing, arresting, or seizing property from adults for marijuana-related offenses included in the lowest law enforcement priority policy.

(4) The lowest law enforcement priority policy shall apply to cooperating with state or federal agents to arrest, cite, investigate, prosecute, or seize property from adults for marijuana-related offenses.

(5) The City of Portland, or any city agencies, shall not accept any funds from any source, organization or individual, including federal funds or state funds, to the extent that such funds would be used to or are conditioned upon a requirement that the City of Portland investigate, cite, arrest, or seize property from adults for marijuana-related offenses included in the lowest law enforcement priority policy.

(6) Any new, amended, or renewed city contract with a law enforcement agency shall include the priorities and reporting requirements outlined in this ordinance, specifying that the agency and its agents shall abide by the same lowest law enforcement priority policy and reporting requirements in Portland that Portland law enforcement officers must abide by under this ordinance.

#### Section 6: COMMUNITY OVERSIGHT

(1) A Community Oversight Committee shall be appointed to oversee the implementation of this ordinance. The committee shall be formed and begin meeting within 100 days of the enactment of this ordinance, even if some of its members have not been appointed. The committee will be composed of three city residents, one harm reduction advocate, two criminal defense attorneys, one civil liberties advocate, one medical marijuana patient, and one drug abuse and prevention counselor, each of whom shall be appointed by the Mayor to serve a term of four years. If any committee member can no longer serve on the committee, the Mayor shall appoint a replacement committee member.

(2) Responsibilities of the committee shall include:

(a) Meeting at least quarterly, or more frequently as necessary;

(b) Ensuring timely implementation of this ordinance, with the cooperation of the Portland Police Bureau in providing data needed to ensure compliance;

(c) Collecting any grievances from individuals who believe they were arrested, cited, investigated, subjected to property seizures, or subjected to other law enforcement activity contrary to the spirit of the lowest law enforcement priority policy;

(d) Designing a supplemental report form by no later than seven months after the

enactment of this ordinance, which Portland law enforcement officers shall use to report all adult marijuana arrests, citations, property seizures, and instances of assisting in state or federal arrests, citations, and property seizures for any adult marijuana offense. The supplemental report form shall be designed to elicit sufficient details about each incident and the circumstances surrounding each incident for the committee to determine whether the Portland law enforcement officer's or officers' actions were consistent with the lowest law enforcement priority policy. The form shall have questions that include but are not limited to:

(i) the time and date of the arrest, citation, or property seizure;

(ii) the location of the arrest, citation, or property seizure, including whether it was on public or private property;

(iii) a description of how the officer came to encounter the marijuana, and whether the investigation began for a reason other than a possible marijuana violation;

(iv) the race, age, and gender of the person who was arrested or cited or had his or her property seized;

(v) the name, BPST number, and employer of each Portland law enforcement officer involved in the arrest, citation, or property seizure.

(e) Requesting the presence at a committee meeting of any Portland law enforcement officer who engaged in law enforcement activity relating to one or more marijuana-related offenses under circumstances which appear to violate the lowest law enforcement priority policy. A Portland law enforcement officer's decision not to attend the committee meeting shall not be grounds for discipline but shall be noted in the supplemental report dealing with each law enforcement activity so investigated;

(f) Submitting written reports semi-annually to the Portland City Council on implementation of this ordinance. The first report shall be at the first Portland City Council meeting after 12 months after the enactment of this ordinance. The reports shall include but not be limited to:

(i) the number of arrests, citations, investigations, property seizures, and instances of assistance to federal agencies or actors for adult marijuana-related offenses by Portland law enforcement officers in Portland and the nature of these offenses;

(ii) the number of prosecutions for adult marijuana-related offenses in Portland and the nature of these offenses;

(iii) information confirming whether Portland has participated in any other marijuana-related law enforcement activities with the federal government;

(iv) the estimated amount of time and money spent by the city on law enforcement for adult marijuana-related offenses, including but not limited to

investigating, citing, arresting, and prosecuting, and punishing marijuana offenders with property seizure, jail, imprisonment, probation, parole, mandatory drug treatment, or supervised release;

(v) all instances of arrests, citations, investigations, property seizures, and officers assisting in marijuana prosecutions or federal marijuana investigations and other activities that the committee believes violated the spirit of the lowest law enforcement priority policy; and

(vi) other information the committee deems necessary.

(3) (a) The Portland Police Bureau and any other agency within Portland whose agents have enforced any marijuana laws during the year prior to the report's filing shall submit to the committee a written report on all adult marijuana arrests, adult marijuana citations, property seizures related to adult marijuana-related offenses, destruction of marijuana, and prosecutions for adult marijuana-related offenses, including prosecutions undertaken by the Multnomah County District Attorney's Office. The report shall be submitted on a semi-annual basis beginning seven months after the enactment of this initiative. These reports shall include:

(i) the number of infraction, misdemeanor, and felony arrests, citations, and prosecutions for adult marijuana-related offenses;

(ii) the number of arrests, citations, and prosecutions for adult marijuana-related offenses, categorized by the specific charge;

(iii) the locations of the arrests and citations; and

(iv) the breakdown of arrests and citations by race, age and gender.

(b) Within five business days after each arrest, citation, or property seizure for an adult marijuana-related offense, each arresting or citing officer and each officer making a property seizure shall submit to the committee a supplemental report. Within five business days after any state or federal arrest, citation, or property seizure for an adult marijuana-related offense that a Portland law enforcement officer assisted with, each Portland law enforcement officer who assisted shall submit to the committee a supplemental report. Such reports shall be public records to the extent permitted by state law.

(c) If any arrest, citation, or property seizure for an adult marijuana-related offense occurs before the committee has designed the supplemental form, the arresting or citing officer or the officer making a property seizure shall provide to the committee a written report containing the information discussed in part (2)(d) of section 6.

#### Section 7: NOTIFICATION OF FEDERAL AND STATE OFFICIALS

Beginning three months after the enactment of this initiative, the Mayor shall execute the mandatory and ministerial duty of sending letters on an annual basis to

Portland voters; Portland's U.S. representatives, both of Oregon's U.S. senators, Portland's state senators and representatives to the Oregon State Legislature, the governor of Oregon, and the president of the United States. These letters shall state that "The citizens of the City of Portland have passed an initiative to deprioritize marijuana-related offenses and request that the federal and Oregon state governments take immediate steps to legally tax and regulate marijuana use, cultivation, and distribution, and to authorize state and local communities to do the same." This duty shall be carried out until state and federal laws are changed accordingly.

#### Section 8: ENFORCEABILITY

All sections of this ordinance are mandatory. If any provision of this ordinance is not carried out properly, any person who is registered to vote in Portland may seek a writ of mandamus from the Multnomah County Circuit Court to ensure the law is fully implemented.

#### Section 9: SEVERABILITY

If any provision of this ordinance or the application thereof to any person or circumstance is held invalid, the remainder of the ordinance and the application of such provisions to other persons or circumstances shall not be affected thereby.

#### Section 10: ENACTMENT

Unless otherwise provided by ordinance or statute, this ordinance shall take effect upon the certification of the election results establishing passage of this ordinance.