



October 13, 2016

Dear Mayor Patterson,

I write in protest of San Juan Capistrano's move to in essence re-criminalize marijuana in your city should the voters of California pass Proposition 64 in November to legalize it.

Requiring a permit for someone to grow a personal marijuana garden, and making it a potential misdemeanor with a six-month sentence to grow without one, is rather like a law giving women the right to vote—but requiring them to get a permission slip from their husbands, or else face jail time.

We expect litigation over what constitutes a “reasonable” regulation by locals under Prop. 64. I do not find your ordinance reasonable or within the spirit of pending state law. I am disturbed by councilman Reeve's comment that, "We all oppose Prop. 64 and this is the most forceful thing we can do in response." This sounds to me like the council intends to subvert the will of California voters.

A simple solution would be to allow outdoor cultivation, or cultivation in greenhouses, which wouldn't require any building code permits (and really, for only six plants, shouldn't be an issue indoors either). Outdoor cultivation would be the most ecological solution, as well as preserving the city's ability to recoup state law enforcement funds (see below).

As to the notion that cannabis dispensaries invite crime, in fact the opposite is true, see: http://www.canorml.org/medical_marijuana/do_dispensaries_increase_crime. I agree it's a problem that marijuana businesses must operate largely in cash; state officials are lobbying the federal government as we speak for changes in banking laws to fix that problem.

By taking this hard line, your city is denying itself funding from tax revenues in a regulated cannabis market. Section 34019 (f) (3) (C) of Prop. 64 states:
Beginning with fiscal year 2017-2018 the Department of Finance shall estimate revenues to be received pursuant to sections 34011 and 34012 and provide those estimates to the Controller no later than June 15 of each year....the Controller shall disburse from the Tax Fund to the appropriate account, without regard to fiscal year, the following:

Twenty percent (20%) shall be deposited into the State and Local Government Law

Enforcement Account and disbursed by the Controller as follows:

To the Board of State and Community Corrections for making grants to local governments to assist with law enforcement, fire protection, or other local programs addressing public health and safety associated with the implementation of the Control, Regulate and Tax Adult Use of Marijuana Act. The Board shall not make any grants to local governments which have banned the cultivation, including personal cultivation under Section 11362.2(b)(3) of the Health and Safety Code, or retail sale of marijuana or marijuana products pursuant to Section 26200 of the Business and Professions Code or as otherwise provided by law.

Section 11362.2(b)(3): Notwithstanding paragraph (3) of subdivision (a) of Section 11362.1, a city, county, or city and county may completely prohibit persons from engaging in actions and conduct under paragraph (3) of subdivision (a) of Section 11362.1 outdoors upon the grounds of a private residence.

Please reconsider this hasty move and repeal your ordinance. I'm sure that Best Best and Krieger would be happy to take your money to defend an ordinance they've written, as they've done elsewhere with medical marijuana laws. But I would rather save you and the citizens of San Juan Capistrano the trouble and expense.

Sincerely,

Ellen Komp
Deputy Director
California NORML
www.CaNORML.org