



Proposal for a Humboldt County
Marijuana Legalization
Ordinance (and/or input into
Tom Ammiano's legalization
bill) from CaNORML.org,
Emerald chapter

Submitted by Ellen Komp Ca NORML ellen@canorml.org
Draft 4c, 7/31/2010

Whereas, An extensive literature review of recent Dutch-language research on cannabis cultivation has concluded that small-scale cultivation is the most effective means to remove crime from the marijuana trade, and that there is a market for outdoor, organically grown cannabis

We hereby proclaim that we voters of Humboldt County seek to exercise some measure of control over the use of cannabis consistent with respect for individual freedom and responsibility; and declaring our objectives to be the elimination of marijuana-related crime and the raising of public revenue, we hereby enact this ordinance, to be called "The Humboldt County Cannabis ~~Control~~ Ordinance."

Section 1. There is hereby created an authority to be known as the Humboldt County Cannabis Council. The Council shall be made of up seven members, appointed by the Board of Supervisors, and shall serve 4-year terms, subject to re-appointment. The Board shall include in this membership a representative for cannabis farmers, one for retailers, a human rights advocate, an agricultural inspector, a business expert, a legal expert, and an expert in weights and measures. They shall be paid a part-time salary based on a percentage of tax generated by this ordinance.

The Council shall have general supervision of the conduct of the business of cultivating, possessing, distributing, sale at retail and wholesale of cannabis, and also of the quality, purity and grade thereof. The council shall make such rules and regulations as it deems

necessary to enable it to carry out and enforce the provisions of this act, and shall prescribe the forms of application for licenses under this chapter and may require therein such information as it deems necessary.

Section 2 [formerly Section 5]. No license or permit shall be required for the cultivation or processing of cannabis for personal or family use, and not for sale, by a person over the age of 21 years. The aggregate amount of cannabis with respect to any household shall not exceed 12 pounds of cannabis flowers if there are two or more adults in the household, or 6 pounds of cannabis flowers per calendar year if there is only one adult in the household.

Section 3. Cannabis not for personal, medical or spiritual use shall be classified and taxed according to its THC content.

Oils, tinctures, salves and food products shall be taxed not on total weight but rather on the weight of cannabis contained therein, and by its grade. Any cannabis grown by a patient, caregiver, or collective member for medical use shall be untaxed by this ordinance. Anyone claiming spiritual use for cannabis shall have a hearing in court for tax relief.

An excise tax of \$5/oz on low-grade (1% - 5% THC) marijuana or \$10/oz on high grade (over 5% THC) shall be paid by the commercial cultivator to the Humboldt County assessor. A portion of that money, as well as a portion of the fees herein, shall be used to promote Humboldt county's brand through tourism, advertising, research, and public relations, to be done through the Cannabis Council.

Section 4. The Council shall, consistent with the objectives set forth in the preamble to this ordinance, issue the following licenses to such applicants as may qualify under this act and the rules and regulations of the authority: cultivation licenses, processing licenses, trade licenses, retail licenses, import licenses, research licenses and farmer-processor-retailer licenses. No such license shall be issued until the applicant demonstrates to the

satisfaction of the authority that s/he is twenty-one or more years of age, is familiar with all laws and regulations relating to cannabis, and will exercise said license in premises adequately secure and otherwise suitable. License holders must be legal residents of the State of California who live more than 50% of the year in Humboldt County.

A. The holder of a **cultivation** license may possess, propagate, grow and cultivate cannabis and carry on such other horticultural activities as are reasonably required for the commercial cultivation of cannabis, up to 25 plants per licensee or 99 plants per parcel, whichever is less. (100 plants per licensee? per acre?) A cultivation license shall be exercisable in one place only. The annual fee for a cultivation license shall be \$500.

The holder of a cultivator's license may transport cannabis for the purpose of legal cultivation and sales, and may apply to the Council (Agricultural Commissioner?) for a certified farmers' market sales permit. A certified farmers' market sales permit shall authorize the licensee, a member of the licensee's family, or an employee of the licensee to transport and sell cannabis grown by the Cultivator to a certified farmers' market at any place in the state approved by the department to anyone 21 years and over. The licensed Cannabis cultivator eligible for the certified farmers' market sales permit shall not sell more than 50 pounds of cannabis flowers annually. The fee for any permit issued pursuant to this section shall be fifty dollars (\$50) per year.

A cultivator's license also authorizes the person to whom issued to conduct tastings of cannabis produced by, or produced and packaged for, the licensee, either on or off the cultivator's premises.

The holder of a cultivation license may also have upon the premises all cannabis products, regardless of source, for sale or service only to guests during private events or private functions not open to the general public.

B. The holder of a **nursery** license may cultivate up to 1000 (2000; 10,000?) cannabis plants from seeds or cuttings for resale to licensed farmers. The annual fee for a nursery

license shall be \$750. The holder of a nursery license may apply to sell live plants at farmers markets, not to exceed 1000 plants per year.

C. The holder of a **processing** license, his or her agents and employees, may obtain cannabis only from the holder of a cultivation license. S/he may possess, transport, process, package, box and crate cannabis, and may transfer cannabis only to the holder of a ~~trade~~ wholesale or retail license, his or her agent or employees. Processing, packaging, boxing and crating of cannabis shall be conducted in only one place. The annual fee for a processing license shall be \$1000.

Cannabis shall be packaged in quantities of one pound or one ounce, by dry weight, or rolled into cigarette form in packages. It may also be processed into edibles, such as baked goods, oils, and drinks; or into tinctures or salves, subject to Health Department regulations. The processor shall cause a label to be placed on each package bearing the following information:

- (1) The name and place of business of the processor;
- (2) The cannabis grade;
- (3) Certification that the produce is organic and/or that it is free of pesticides;
- (4) Whether it was grown indoors or outdoors;
- (5) Whether or not water conservation measures such as catchment tanks were used in the cultivation and processing of the cannabis; and
- (6) The following statement: It is unlawful for any person who is under the influence of any alcoholic beverage or drug, or under the combined influence of any alcoholic beverage and drug, to drive a vehicle. Do not drive, operate machinery, or engage in any hazardous activity until it is established that you are able to tolerate marijuana and to perform such tasks safely. Special care should be taken whenever cannabis is consumed orally, since the dosage is harder to determine and effects can be felt at varying times after ingestion.
- (7) The label “Humboldt Homegrown” if desired
- (8) The genetic strain of cannabis, if desired

The processor shall affix upon each cannabis package a tax stamp or such other documentation as the authority may require, and shall transfer neither title nor possession of same to any person without the said stamps affixed.

The holder of a processor license may apply to the Council for a cannabis sales event permit. The cannabis sales event permit shall authorize the sale of cannabis products at festivals, state, county, district, or citrus fruit fairs, civic or cultural celebrations, trade shows, or similar events approved by the department.

D. The holder of a **wholesale** license, his or her agents and employees, may obtain cannabis only from a duly licensed processor, cultivator, or farmer/processor/retailer and may possess cannabis only bearing valid documentation required to be affixed to all packages. S/he may keep, store, warehouse, and transport same, and may sell cannabis only to duly licensed retailer. The annual fee for a wholesale license shall be \$3,000.

E. The holder of a **retail** license may sell cannabis only to adult members of the public, who are not visibly intoxicated or otherwise in such condition as may present a threat to public safety. All sales of cannabis to the public must take place within the licensed premises of the retailer, which premises must be enclosed. A retail license shall be exercisable only at the location specified in the license.

The holder of a retail license may sell cannabis to consumers for consumption on the premises in a bona fide coffeehouse or eating place, which is located on the licensed premises or on premises owned by the licensee that are contiguous to the licensed premises and which is operated by and for the licensee. At such bona fide public eating place cannabis may be used in the preparation of food and beverages to be consumed on the premises. Warnings about driving under the effects of cannabis, particularly when consumed in food or drink, shall be posted at these places.

All cannabis sold by a licensed retailer must bear all appropriate labels and

documentation required by this act and prescribed by the Council. Cannabis shall not be sold or distributed to any person under twenty-one years of age. The annual fee for a retail license shall be \$2,000.

The Council may, if it shall determine for good cause that the granting of any such privilege would be contrary to public welfare or morals, deny the right to exercise any on-sale privilege authorized by this section in either a bona fide eating place the main entrance to which is within 600 feet of a school ~~or church~~, or other licensed cannabis retail premises, or both.

Any license issued to any golf course facility, or any license issued to a licensee that operates at any golf course facility, entitles the licensee to make sales of cannabis from any golf cart, as defined In Section 345 of the Vehicle Code, that the licensee operates on the golf course premises.

A hotel or motel having a retail license may sell cannabis to its registered guests by means of a controlled access cannabis cabinet located in the guestrooms of those registered guests, provided that each of the following conditions is met:

(1) Access to a controlled access cannabis cabinet in a particular guestroom is provided, whether by furnishing a key, magnetic card, or similar device, or otherwise, only to the adult registered guest, if any, registered to stay in the guestroom.

(2) All employees handling the cannabis to be placed in the controlled access cannabis cabinet in any guestroom, including, but not limited to, any employee who inventories or restocks and replenishes the cannabis in the controlled access cannabis cabinet, shall be at least 21 years of age.

F. The holder of a **farmer-processor-retailer** license may cultivate, transport, process and retail cannabis subject to the same requirements of this ordinance relating to labeling, grading and taxation of a processor license, provided all cannabis processed and sold is grown on a licensed premises. The annual fee for a farmer-processor-retailer license shall be \$2,500.

G. The Council may issue **research, horticultural and breeding** licenses for a bona fide conduct of medical, social, behavioral or other research, upon such conditions and terms as the authority may prescribe consistent with the objectives of this ordinance. The holder of a plant breeders license will have discretion to maintain enough male and female Cannabis plants in seed or vegetative form to operate a plant breeding program with sufficient diversity in genetic material to develop superior lines of Cannabis for medicinal, recreational, or horticultural interests. Holders of a plant breeders license may make their Cannabis varieties available for resale to licensed farmers, nurseries and farmer-processor-retailers. The fee for a plant breeder license shall be \$1500.

Section 5. The Humboldt County Board of Supervisors shall not expend or authorize the expenditure, nor shall any expenditure be made by the city, of public funds for any activity or activities performed by any employee or agent of the city, including but not limited to members of the Humboldt county sheriffs, directed towards enforcement of Sections 11357, 11359, and/or 11360 of the California Health and Safety Code. No Humboldt County law enforcement personnel or funds shall be used to assist or aid and abet in the enforcement of Federal cannabis laws involving acts which are hereby no longer illegal.

This will reduce the current expenditure of public funds for senseless enforcement of marijuana laws, decrease tensions between the police and members of the community who are made to feel like criminals as a result of marijuana law enforcement; reduce the theft of marijuana plants by making it possible to report such thefts to the police; and make available funds for needed community services.

All existing laws and ordinances governing medical marijuana remain in full effect in Humboldt County.

Based on:

Proposed Massachusetts State Legalization Bill

<http://www.mass.gov/legis/bills/house/186/ht02/ht02929.htm>

California Business and Professions code, Sections 23355-23405.3, 23356.1

<http://www.leginfo.ca.gov/cgi-bin/displaycode?section=bpc&group=23001-24000&file=23355-23405.3>; <http://law.onecle.com/california/business/23356.1.html>
<http://law.onecle.com/california/business/23355.2.html>

Jack Herer's CHI Initiative www.jackherer.com

California Vehicle Code Section 23152

<http://www.canorml.org/laws/vc23152.html>

Prescribing information for Marinol (synthetic THC)

<http://www.drugs.com/pro/marinol.html>

Berkeley Lowest-Priority Enforcement Ordinance

<http://www.canorml.org/laws/berkeleycannabisordinance.html>

With comments from community members. Underlined portions are suggestions.

COMMENTS TO:

CA NORML

POB 1203

REDWAY, CA 95560

Emerald@CaNORML.org