



Using Local Control

To Push Back on the Marijuana Industry

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How to Use Local Control Policies to Regulate Marijuana Industry: A Toolkit for Advocates and Coalitions

Overview

Just because it is legal to possess and even sell marijuana in a state, does not necessarily mean that large scale commercialization is legal. In California 85% of municipalities (cities and counties) have used local control measures to prohibit commercialization of marijuana such as retail outlets, cultivation, manufacturing, and/or delivery services. Other municipalities have adopted regulations that limit the locations, manner, and hours for marijuana industry activities in an attempt to protect residents including young people from the negative impact of marijuana.

TIP:

Learn what policy mechanisms are available in your community and who controls them.

Understand the procedures on how local ordinances move through the policy process where you live.

Since each municipality (city, county, or township) is unique, this toolkit provides tips, strategies, sample ordinances and suggested portions of ordinances that can help you and your community. You will want to evaluate the circumstances of your municipality including the political-will of elected leaders, level of influence from the business community, and your capacity for resident mobilization.

Opposing all Commercial Marijuana Activities

Local coalitions and public health advocates can start from the position of opposing all commercial marijuana activities. Top arguments in favor of a local ban/and or opting out of commercialization:

1. Marijuana sales tax revenue will never sufficiently cover the costs associated with the negative impact it creates in your community! We only need to look at the cost of alcohol and tobacco.

<https://learnaboutsam.org/costs>
2. Marijuana shop customers pay with cash. They arrive at the pot shop with a wad of cash and leave with a bag of drugs. If you think that makes them easy targets for crime you are correct. It also makes it difficult to tax and control properly. *Note: This is not an argument for banking access which would usher in Big Wall St. investment. In addition, access to banks would radically increase investment in the marijuana industry, accelerating its transformation into the next Big Tobacco.*

https://gazette.com/news/colorado-springs-police-bust-marijuana-shops-recover-million-in-cash/article_07d86d82-fcc1-11e8-b437-f7db6183a167.html?fbclid=IwAR3_64tfes3yDOkGihizlasNOgEmUI3IXzFdpY_mrQu_yLi6lzl8hZLg

3. The pot shop next door is bad for community development. The smell of the marijuana alone drives out neighboring businesses! The clientele and atmosphere do not attract the family friendly upscale businesses most communities are looking for.

<https://www.nytimes.com/2018/12/19/us/california-marijuana-stink.html?fbclid=IwAR11SIVIQckTe8T16MiSzAZ21LIEVcK88Uys9f7LPXbhVliuxn73a2opzA>

4. Negative impact on youth and neighborhoods: "Demographically and socioeconomically vulnerable populations are at higher risks of using or abusing marijuana." Marijuana use, as other substance use behaviors, is influenced by neighborhood physical, economic, and social environmental factors.

<https://www.ncbi.nlm.nih.gov/pmc/articles/PMC4860233/>

5. Permitting commercial marijuana activities does not reduce or eliminate the black market. Foreign cartels are using marijuana legalization to provide cover for illicit activities.

Today, California is the epicenter of black market marijuana --activists in California counties such as Calaveras are pushing back, trying to ban cannabis farms to cut off the cartels. They say drug traffickers are importing automatic weapons and using illegal, highly toxic pesticides that are eviscerating forest animals and poisoning freshwater sources. "We're going down the toilet bowl," says Calaveras County Sheriff Rick DiBasilio, "and it's not going to get any better." January 2018

<https://www.nbcnews.com/news/us-news/foreign-cartels-embrace-home-grown-marijuana-pot-legal-states-n875666>

These are just a few of the many reasons your community may want to completely prohibit any commercialization of marijuana. You know your community best! Pick your top 3-5 reasons and stick with them, be concise, strategic, and have supporting documentation.



Retail Marijuana Sales & More

A sample ordinance that prohibits commercial marijuana store fronts, cultivation, manufacturing, delivery, and testing.

The ordinance below is considered one of the toughest local control ordinances. It was adopted preemptively before California's Prop 64 (Adult Use of Marijuana Act). Key features include the section on medical use as a subsection under Chapter 9 Public Peace, Morals, and Welfare rather than creating a separate ordinance to deal with medical use.

In addition, the ordinance language deals with the potential that state may change (which of course it did). In addition, note that "commercial marijuana activity" by definition includes the traditional activities that one may expect (i.e. cultivation, possession, distribution, and sale) but also includes activities such as testing, storing and labeling.

Chapter 9.74 MARIJUANA USES

9.74.010 Purpose.

The purpose of this Section is to regulate personal, medical, and commercial marijuana uses. Nothing in this Section shall preempt or make inapplicable any provision of state or federal law. (Ord. 543 § 2, 2016; Ord. 538 § 3, 2016)

9.74.020 Definitions.

For purposes of this Title, the following definitions shall apply:

"Commercial marijuana activity" includes the cultivation, possession, manufacture, distribution, processing, storing, laboratory testing, labeling, transportation, distribution, delivery, or sale of marijuana and marijuana products.

"Cultivation" means any activity involving the planting, growing, harvesting, drying, curing, grading, or trimming of marijuana.

"Delivery" means the commercial transfer of marijuana or marijuana products to a customer. "Delivery" also includes the use by a retailer of any technology platform owned and controlled by the retailer, or independently licensed under California law that enables customers to arrange for or facilitate the commercial transfer by a licensed retailer of marijuana or marijuana products.

"Distribution" means the procurement, sale, and transport of marijuana and marijuana products between entities for commercial use purposes.

"Licensee" means the holder of any state issued license related to marijuana activities, including but not limited to licenses issued under Division 10 of the Business & Professions Code.

"Manufacture" means to compound, blend, extract, infuse, or otherwise make or prepare a marijuana product.

"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. It does not include:

- (i) Industrial hemp, as defined in Section 11018.5 of the California Health & Safety Code; or
- (ii) The weight of any other ingredient combined with marijuana to prepare topical or oral administrations, food, drink, or other product.

"Marijuana accessories" means any equipment, products or materials of any kind which are used, intended for use, or designed for use in planting, propagating, cultivating, growing, harvesting, manufacturing, compounding, converting, producing, processing, preparing, testing, analyzing, packaging, repackaging, storing, smoking, vaporizing, or containing marijuana, or for ingesting, inhaling, or otherwise introducing marijuana or marijuana products into the human body.

“Marijuana products” means marijuana that has undergone a process whereby the plant material has been transformed into a concentrate, including, but not limited to, concentrated cannabis, or an edible or topical product containing marijuana or concentrated cannabis and other ingredients.

“Person” includes any individual, firm, co-partnership, joint venture, association, corporation, limited liability company, estate, trust, business trust, receiver, syndicate, or any other group or combination acting as a unit, and the plural as well as the singular.

“Private residence” means a house, an apartment unit, a mobile home, or other similar dwelling.

“Sale” includes any transaction whereby, for any consideration, title to marijuana is transferred from one person to another, and includes the delivery of marijuana or marijuana products pursuant to an order placed for the purchase of the same and soliciting or receiving an order for the same, but does not include the return of marijuana or marijuana products by a licensee to the licensee from whom such marijuana or marijuana product was purchased.

Any term defined in this Section also means the very term as defined in the California Business & Professions Code or the California Health & Safety Code, unless otherwise specified. (Ord. 543 § 2, 2016; Ord. 538 § 3, 2016)

9.74.030 Personal use.

A. For purposes of this subsection, personal recreational use, possession, purchase, transport, or dissemination of marijuana shall be considered unlawful in all areas of the City to the extent it is unlawful under California law.

B. Outdoor Cultivation. A person may not plant, cultivate, harvest, dry, or process marijuana plants outdoors in any zoning district of the City. No use permit, building permit, variance, or any other permit or entitlement, whether administrative or discretionary, shall be approved or issued for any such use or activity.

C. Indoor Cultivation.

1. A person may not plant, cultivate, harvest, dry, or process marijuana plants inside a private residence, or inside an accessory structure to a private residence located upon the grounds of a private residence, or inside any other enclosed structure within any zoning district of the City. No use permit, building permit, variance, or any other permit or entitlement, whether administrative or discretionary, shall be approved or issued for any such use or activity.

2. To the extent a complete prohibition on indoor cultivation is not permitted under California law, a person may not plant, cultivate, harvest, dry, or process marijuana plants inside a private residence, or inside an accessory structure to a private residence located upon the grounds of a private residence, in excess of the limitations imposed by Health and Safety Code Section 11362.2. A person may not plant, cultivate, harvest, dry, or process marijuana plants inside any enclosed structure within any zoning district of the City which is not either a private residence or an accessory structure to a private residence located upon the grounds of a private residence.

3. The City Council may adopt, by later resolution, reasonable regulations on indoor cultivation of marijuana pursuant to Health and Safety Code Section 11362.2(b)(1). (Ord. 543 § 2, 2016)

9.74.040 Medical use.

The cultivation of medical marijuana pursuant to Section 11362.77 of the California Health and Safety Code, the establishment or operation of any medical marijuana collective, cooperative, dispensary, delivery service, operator, establishment, or provider shall be considered a prohibited use in all zoning districts of the City. No use permit, variance, building permit, or any other entitlement or permit, whether administrative or discretionary, shall be approved or issued for the cultivation of medical marijuana or the establishment of any collective, cooperative, dispensary, delivery service, operator, establishment, or provider in any zoning district, and no person shall otherwise establish such businesses or operations in any zoning district. (Ord. 543 § 2, 2016)

9.74.050 Commercial use.

A. The establishment or operation of any business of commercial marijuana activity is prohibited. No use permit, variance, building permit, or any other entitlement or permit, whether administrative or discretionary, shall be approved or issued for the establishment or operation of any such business or operation. Such prohibited businesses or operations may include, but are not limited to:

1. The transportation, delivery, storage, distribution, or sale of marijuana, marijuana products, or marijuana accessories;
2. The cultivation of marijuana;
3. The manufacturing or testing of marijuana, marijuana products, or marijuana accessories; or
4. Any other business licensed by the state or other government entity under Division 10 of the California Business & Professions Code, as it may be amended from time to time. (Ord. 543 § 2, 2016)

9.74.060 Penalty for violations.

No person, whether as principal, agent, employee or otherwise, shall violate, cause the violation of, or otherwise fail to comply with any of the requirements of this section. Every act prohibited or declared unlawful, and every failure to perform an act made mandatory by this section, shall be a misdemeanor or an infraction, at the discretion of the City Attorney or the District Attorney. In addition to the penalties provided in this section, any condition caused or permitted to exist in violation of any of the provisions of this section is declared a public nuisance and may be abated as provided in Chapter 1.14 of this Municipal Code and/or under state law. (Ord. 543 § 2, 2016; Ord. 538 § 3, 2016)

If a complete ban seems unlikely

If you think your city or county is convinced that it must allow some marijuana commercialization, testing facilities are the least objectionable. If the municipality seems determined to allow commercial store fronts, delivery and/or cultivation (because they are convinced it is inevitable, that regulation is better than the black market or there is a threat of an industry initiative), you can still advocate for the strictest ordinance possible to protect your community.

Key components to advocate for along with some sample ordinance language:

Zoning: You want the land-use/zoning regulations to include **buffer zones** (ask for 1,000 ft - they will ask for 600 ft., hang in there and fight for 1,000) around "sensitive uses" (include in that definition: schools, licensed child care/day care centers*, parks, libraries, drug treatment facilities, churches, and other uses where youth congregate). Also, **residential uses** ("uses" not residentially "zoned" - because residential properties are often grandfathered into industrial and commercial zones). **Zones** should be restricted to industrial or light industrial not commercial.

**licensed child care centers are important because there are many "licensed in-home" centers and the industry cannot always easily map the centers. This can really help limit the number of eventual locations that can be permitted.*

Try to ensure that resulting commercial facilities are not clustered in one area (typically the poorest in a community) but are distributed evenly among the city's districts.



Signage & Advertising: Outdoor and indoor w/outward facing signage should be prohibited other than the business name...no pot leaves or green crosses (you may loose on the green crosses...but you should ask that they be prohibited). Also ask for no sandwich-board signage and no sign-twirlers. Ask that cultivation sites be nondescript and not allow in public view.

Age restrictions: Minimum age for customers to enter the premises should be 21 years (as is minimum age for purchase). In addition, the minimum age for employees should be defined as 21 years as well.

Minimum Age of Employees. Persons under the age of twenty-one (21) years shall not be allowed and are not allowed on the Premises of a Commercial Cannabis Business, and shall not be allowed and are not allowed to serve as a driver. It shall be unlawful and a violation of this Chapter for any Person to employ an individual at a Commercial Cannabis Business who is not at least twenty-one (21) years of age. (Excerpt from City of Chula Vista, California, Chapter 5.19 Municipal Code)

Hours of operation: Try to keep hours as tight as possible but be ready to negotiate. Start by asking for hours such as 9 am-7 pm, hold fast at hours that mirror alcohol sales. The industry will often ask for 24 hour operations.

Security: No business permit/license issued to anyone with violent felony background. No business permit issued to any that operated illegally prior to regulations. Require security protection and define what that means. To increase security, include a requirement for security guard/s (as many local ordinances do). This is further improved by requiring the security guards have completed a security guard certification program and by prohibiting them from marijuana use (that they be "drug-free"). Insist that owners and operators are identified – no silent/hidden partners. There are a series of security elements to request that range from lighting to type of security doors, bars on windows, and much more.

Record keeping Seed-to-sale tracking system for marijuana products – a much touted protection promised by the marijuana industry. Insist that the system be up and running before retail sales commence. In addition, records for members/customers need to be managed and available for review. Unannounced visits from law enforcement should be allowed to examine the record-keeping books. Have very tight controls on the amount and conditions of products that can be declared damaged. This has been a major loophole that has been exploited in legalized states.

Odor Control regulations must be spelled out for retail, cultivation and manufacturing. If not, neighboring businesses will have serious on-going nuisance with no recourse but to move. Below is an excerpt from a city ordinance dealing with odor control.

Odor Control. Odor control devices and techniques shall be incorporated in the Premises of all Commercial Cannabis Businesses to ensure that odors from Cannabis are not detectable offsite. Commercial Cannabis Businesses shall provide a sufficient odor absorbing ventilation and exhaust system so that odor generated inside the Commercial Cannabis Business that is distinctive to its Operation is not detected outside of the Premises, anywhere on adjacent property or public rights-of-way, on or about the exterior or interior common area walkways, hallways, breezeways, foyers, lobby areas, or any other areas available for use by common tenants or the visiting public, or within any other unit located inside the same building as the Commercial Cannabis Business. As such, Commercial Cannabis Businesses must install and maintain the following equipment, or any other equipment which the Development Services Director determines is a more effective method or technology...list appropriate equipment.

Other Considerations:

- In states that have or are considering commercializing (adult use) marijuana, advocate that prior to getting a state license/permit a retailer must receive a local (city, county) permit. This ensures that state law does not pre-empt local control.
- Should address "proper" disposal of cannabis remnants or by-products and should define what "proper" means or it leaves it subject to interpretation. Those by-products should be consider bio-hazardous and follow appropriate protocols for disposal as such.
- Insist that damaged products be tracked and destroyed in a central location.

Mobile or Delivery Services

In cities that are considering permitting the delivery of marijuana (under the umbrella of medicinal use or for adult use), there are key areas where advocates can push back to minimize the impact. Some state laws (where marijuana has already been commercialized) may require municipalities to allow delivery. Still, there is a distinction to be made between allowing delivery to be made from licensed marijuana businesses outside of city boundaries and the city allowing delivery services to be housed within their boundaries.



- Advocates can request a requirement that delivery/mobile services be linked to a licensed "brick & mortar" store. This ensures that delivery businesses are more than just wandering drug dealers, and forces them to be a delivery function of a licensed brick and mortar store.
- Request that the business document that its delivery drivers are at or older than the minimum age to purchase marijuana. Maintain records for each driver and that those

records be made available to the city/law enforcement (whoever conducts the compliance monitoring).

- In some states, you cannot prohibit a delivery service from passing through a jurisdiction to reach a destination outside of a jurisdiction that does not allow delivery services.

Note:

Black market and unlicensed operators often use delivery services as cover for their operations.

The sample below is from a city that does not allow any commercial marijuana delivery/mobile businesses.

Chapter 9.47 MOBILE MARIJUANA DISPENSARIES

9.47.010 Definitions.

The following words and phrases shall, for the purposes of this chapter, have the meanings respectively ascribed to them by this section, as follows:

"Marijuana" means *cannabis sativa* in any form, whether living or dead, including but not limited to: in leaf form, including flowers from the female plant; in edible or drinkable forms, including as an additive to consumable products; the oils and resins of marijuana; or in pills or other ingestible products.

"Mobile marijuana dispensary" means any clinic, cooperative, club, business or group which transports or delivers, or arranges the transportation or delivery, of medical marijuana to a person.

"Person" means any person, firm, corporation, association, club, society, or other organization. The term person shall include any owner, manager, proprietor, employee, volunteer, or salesperson.

"Operation" means any effort to locate, operate, own, lease, supply, allow to be operated, or aid, abet or assist in the operation of a mobile marijuana dispensary. (Ord. 5037 § 2, 2016.)

9.47.020 Mobile marijuana dispensaries prohibited.

Mobile marijuana dispensaries are prohibited in the city of El Cajon. No person shall locate, operate, own, suffer, allow to be operated or aide, abet or assist in the operation of any mobile marijuana dispensary within the city. (Ord. 5037 § 2, 2016.)

9.47.030 Marijuana delivery prohibited.

(a) No person shall deliver marijuana to any location within the City from a mobile marijuana dispensary, regardless of where the mobile marijuana dispensary is located, or engage in any operation for such purposes.

(b) No person shall deliver any marijuana-infused product such as tinctures, baked goods or other consumable products, to any location within the city from a mobile marijuana dispensary, regardless of where the mobile marijuana dispensary is located, or engage in any operation for such purposes. (Ord. 5037 § 2, 2016.)

9.47.040 Chapter supplementary to zoning code.

This chapter is intended to control conduct and the use of land and properties within the city of El Cajon and is declared to be supplementary and complementary to Title 17 (Zoning Code) of this code. (Ord. 5037 § 2, 2016.)

9.47.050 Public nuisance declared.

Operation of any mobile marijuana dispensary within the city in violation of the provisions of this chapter is hereby declared a public nuisance and shall be abated pursuant to all available remedies. (Ord. 5037 § 2, 2016.)

9.47.060 Violations.

Violations of this chapter may be enforced by any applicable law. Notwithstanding any other provision of the code, a violation of this chapter is not subject to criminal penalties. (Ord. 5037 § 2, 2016.)

If your municipality attempts to allow and regulate delivery/mobile services: Please urge them to require the mobile service be a function of a “brick-and-mortar” store that has a local permit in the city it is located. Below are additional requirements that is sample language from a city ordinance that is worth advocating for:

- *All Deliveries of Cannabis or Cannabis Product shall be made by an individual person to an individual person.*
- *A Delivery of Cannabis or Cannabis Product shall not be made through the use of an unmanned vehicle.*
- *Delivery of Cannabis or Cannabis Products shall not be made to any public or private school providing instruction for kindergarten or any grades 1 through 12, Day Care Center, Treatment Facility, Youth Center, Youth-Oriented Business, Public Park, or Private Park.*
- *Deliveries to any workplace shall remain subject to any employer’s right to limit or prohibit such activity.*

Cultivation prohibited:

In cities that are considering permitting marijuana cultivation (indoor or outdoor), there are key areas where advocates can push back to minimize the impact. Some state laws (where marijuana has already been commercialized) may preempt a total prohibition on cultivation. For example in California an individual over the age of 21 is allowed to grow up to 6 plants (and no more than 6 per household). Please note that maximums vary by state. However, municipalities may still have authority to regulate how, where and under what conditions those plants for personal use may be grown. Conditions to consider regarding personal cultivation (allowed by states) include:



- Plants must be grown in area out of view from neighbors.
- Plant must be grown in a secured/locked enclosure.
- Restrictions can be made to the total number of plants per household regardless of the number of individuals living in a residence.
- Landlords/property managers, can be prohibit renters from growing and using marijuana at rental properties; including apartment complexes and individual rental units.
- Restrictions on minimum age can be applied.

We strongly urge communities to consider an outright ban of commercial cultivation. This is an (opt-out) option even in states that allow personal use among adults. The excerpts below are from a sample ordinance from a largely agricultural county in California that prohibits any marijuana cultivation and makes it a nuisance. This ordinance was adopted in 2015, prior to California's Prop 64. The county has since reaffirmed the prohibition on cultivation, including Prop 64 Adult Use Marijuana. The complete ordinance can be found on the county's website using the link provided here: <https://countyofriverside.us/AbouttheCounty/CultivatingMarijuana.aspx>

ORDINANCE NO. 925 AN ORDINANCE OF THE COUNTY OF RIVERSIDE PROHIBITING MARIJUANA CULTIVATION AND DECLARING MARIJUANA CULTIVATION TO BE A NUISANCE

This ordinance is adopted pursuant to the authority granted by Article XI, section 7 of the California Constitution, Health, and Safety Code section 11362.83, and Government Code sections 25845 and 53069.4.

Section 4. PROHIBITIONS ON MARIJUANA CULTIVATION. NUISANCE DECLARED. Marijuana cultivation, either indoors or outdoors, fixed or mobile, upon any premises within all unincorporated areas of Riverside County is prohibited and hereby declared to be unlawful and a public nuisance that may be abated in accordance with this ordinance. The foregoing prohibition shall be imposed regardless of the number of qualified patients or primary caregivers residing at the premises or participating directly or indirectly in the cultivation. Further, this prohibition shall be imposed notwithstanding any assertion that the person(s) cultivating marijuana are the primary caregiver(s) for qualified patients or that such person(s) are collectively or cooperatively cultivating marijuana.

Section 5. NOTICE TO ABATE UNLAWFUL MARIJUANA CULTIVATION. Whenever the enforcement officer determines that a public nuisance as described in this ordinance exists on any premises within the unincorporated area of Riverside County, he or she is authorized to notify the owner of the premises and any other responsible party, through issuance of a "Notice to Abate Unlawful Marijuana Cultivation."

Section 10. SUMMARY ABATEMENT. Notwithstanding any other provision of this ordinance, when any unlawful marijuana cultivation constitutes an immediate threat to public health or safety, and when the procedures set forth in sections 5 through 8 of this ordinance will not result in abatement of that nuisance within a short enough time period to avoid that threat, the enforcement officer may direct any officer or employee of the County to summarily abate the nuisance by removing and destroying the marijuana plants. The enforcement officer shall make reasonable efforts to notify the owner of the premises and any other responsible party, but the formal notice and hearing procedures set forth in this ordinance shall not apply. The County may nevertheless recover its abatement costs for abating that nuisance in the manner set forth in this ordinance.

Section 11. ENFORCEMENT. Whenever the enforcement officer becomes aware that an owner of the premises or any other responsible party has failed to abate any unlawful marijuana cultivation within ten (10) calendar days of the date of service of the Notice to Abate Unlawful Marijuana Cultivation, unless timely appealed, or of the date of the County Hearing Officer's decision requiring such abatement, the enforcement officer may take one or more of the following actions: a. Enter upon the premises and abate the nuisance by County personnel, or by private contractor under the direction of the enforcement officer. The enforcement officer may apply to a court of competent jurisdiction for a warrant authorizing entry upon the premises for purposes of undertaking the nuisance abatement work by removing and destroying the marijuana plants, including any fixtures and other moveable property and equipment used for marijuana cultivation, if necessary. b. Request that the County Counsel commence a civil action to redress, enjoin, and abate the public nuisance.

Section 13. RECOVERY OF ABATEMENT COSTS AND ATTORNEYS' FEES. a. In any enforcement action brought pursuant to this ordinance, whether by administrative proceedings, judicial proceedings, or summary abatement, each person who causes, permits, suffers, or maintains the unlawful marijuana cultivation to exist shall be liable for all abatement costs incurred by the County, and any and all costs incurred to undertake, or to cause or compel any responsible party to undertake, any abatement action in compliance with the requirements of this ordinance, whether those costs are incurred prior to, during, or following enactment of this ordinance. b. In any action by the enforcement officer to abate unlawful marijuana cultivation under this ordinance, whether by administrative proceedings, judicial proceedings, or summary abatement, the prevailing party shall be entitled to a recovery of the reasonable attorneys' fees incurred. Recovery of attorneys' fees under this subdivision shall be limited to those actions or proceedings in which the County elects, at the initiation of that action or proceeding, to seek recovery of its own attorneys' fees. In no action, administrative proceeding, or special proceeding shall an award of attorneys' fees to a prevailing party exceed the amount of reasonable attorneys' fees incurred by the County in the court action or proceeding.

Section 14. NOTICE OF ABATEMENT COSTS. At the conclusion of the abatement, the enforcement officer shall issue a bill setting forth the abatement costs to the owner of the premises and any other responsible party. The bill shall demand payment to the County of the total abatement costs within fifteen (15) calendar days of its mailing.

Section 15. SPECIAL ASSESSMENT AND LIEN. a. If the owner fails to pay the abatement costs upon demand by the County, the Board of Supervisors may order the abatement costs to be specially assessed against the premises under Government Code section 25845. The assessment may be collected at the same time and in the same manner as ordinary county taxes are collected, and shall be subject to the same penalties and the same procedure and sale in case of delinquency as are provided for ordinary county taxes. All laws applicable to the levy, collection, and enforcement of county taxes are applicable to the special assessment. b. If the Board of Supervisors specially assesses the abatement costs against the premises, the Board of Supervisors also may cause a Notice of Abatement Lien to be recorded. The Notice of Abatement Lien shall, at a minimum, identify the record owner or possessor of the premises, set forth the last known address of the record owner or possessor of the premises, set forth the date upon which abatement of the nuisance was ordered by the County Hearing Officer, the date the abatement was complete, include a description of the premises subject to the lien, and the amount of the abatement cost.

Section 16. ADMINISTRATIVE CIVIL PENALTIES. a. In addition to any other remedy prescribed in this ordinance, any nuisance as described in this ordinance may be subject to an administrative civil penalty of up to one thousand dollars (\$1000) per day. The administrative civil penalty may be imposed via the administrative process set forth in this section, as provided in Government Code section 53069.4, or may be imposed by the court if the violation requires court enforcement without an administrative process. b. Acts, omissions, or conditions in violation of this ordinance that continue, exist, or occur on more than one day constitute separate violations on each day. Violations continuing, existing, or occurring on the service date, the effective date, and each day between the service date and the effective date are separate violations. c. In the case of a continuing violation, if the violation does not create an immediate danger to

health or safety, the enforcement officer or the court shall provide for a reasonable period of time, not to exceed ten (10) calendar days, for the person responsible for the violation to correct or otherwise remedy the violation prior to the imposition of the administrative civil penalty. d. In determining the amount of the administrative civil penalty, the enforcement officer, or the court if the violation requires court enforcement without an administrative process, shall take into consideration the nature, circumstances, extent, and gravity of the violation or violations, any prior history of violations, the degree of culpability, economic savings, if any resulting from the violation, and any other matters justice may require. e. The enforcement officer may commence the administrative civil penalty process by issuance of a notice of violation and proposed administrative civil penalty, which shall state the amount of the proposed administrative civil penalty and the reasons therefore. The notice of violation and proposed administrative civil penalty shall inform the recipient of his right to request an appeal hearing in accordance with this section. The notice shall state that if such a hearing is not requested within ten (10) days of issuance of the notice of violation and issuance of the proposed administrative civil penalty, the proposed penalty shall become final and the recipient of thereof shall immediately make payment of the administrative civil penalty to the County. The notice of violation and proposed administrative civil penalty shall also state that if the administrative civil penalty is not timely paid or appealed then additional costs shall be assessed by the enforcement officer to recover administrative costs, including but not limited to costs of obtaining a title report, recording fees, noticing, scheduling and participating in further hearings, collection activities or other costs incurred to recover the administrative civil penalties. The notice of violation and proposed administrative civil penalty may be combined with a Notice to Abate Unlawful Marijuana Cultivation issued pursuant to Section 5. The notice of violation and proposed administrative civil penalty shall be served by mail addressed to all of the following: (i) the owner of the premises on which the violation exists, as named on the last County Equalized Assessment Roll, or as otherwise known to the enforcement officer; (ii) anyone other responsible party, if other than the owner(s), and if known or reasonably identifiable; and (iii) any other person known to the enforcement officer who has caused, permitted, maintained, conducted, or otherwise suffered or allowed the violation to exist. The failure to serve any person described in this subsection shall not affect the validity of service or the validity of any penalties imposed upon any other person.

Illegal marijuana cultivators are often criminal syndicates and employ stealth tactics to operate on public lands, stealing precious water and leaving behind toxic pesticides and human waste destroying the environment for years to come.

<https://www.redding.com/story/news/local/2017/08/31/pot-growers-allegedly-tried-bribe-siskiyou-co-sheriff-interstate-trafficking-plan/623087001/>

<https://www.usnews.com/news/best-states/california/articles/2017-08-08/california-man-shot-and-killed-after-confronting-pot-growers>

Taxes:

Marijuana industry promoters usually dangle the money the industry will bring to a city or county as the golden ticket to solve all the problems. We know this is not true for a number of reasons:



- 1) It costs much more to regulate marijuana and maintain public health and safety than is ever generated in tax revenue. After adding in the social costs, a local community could spend \$4.50 for every \$1 of tax revenue. Find out the money spent on alcohol/tobacco and use those numbers to educate your elected officials and voters.
- 2) The industry is fighting against the very taxes they claim to want. Once marijuana is legal with its promise of big money, the industry switches its argument and fights against taxes with claims of the black market, sick patients and equity and access. So the money doesn't seem to materialize.

<https://www.nbcnews.com/news/us-news/foreign-cartels-embrace-home-grown-marijuana-pot-legal-states-n875666>

- 3) Often city requirements mean taxes must be approved by voters. Sometimes ordinances or initiatives are passed allowing commercial marijuana facilities with no tax provisions at all—meaning the municipality has all the responsibilities and expenses of the industry with no tax income at all to offset the expenses. One example of a proviso added to a city ordinance is below—the ordinance was passed by the city after marijuana industry threatened to bring a ballot initiative. The city council put the ballot measure for taxes on the ballot first. **If voters had not approve the tax** then commercial business would not have been permitted. The section of the ordinance below is an example of how the tax requirement was written into the ordinance (City of Chula Vista):

5.19.290 Effectiveness Conditioned on Passage of Tax Measure. *The effectiveness of the ordinance enacting this Chapter is contingent upon voter approval and the continuous legal validity of a tax measure anticipated to be submitted to voters in November 2018. The tax measure would impose an excise tax, in an amount and form yet to be determined, on all Commercial Cannabis Businesses. In the event the proposed tax measure is not approved by the voters, or is suspended or invalidated for any reason, the provisions of this ordinance permitting Commercial Cannabis Businesses shall be void without any further action required by the City.*

A Word About “Medical Marijuana”

Although we do not promote the use of the term “medical marijuana” we recognize that the marijuana industry uses this term. A **major lesson learned** is that marijuana for medicinal use is being used as a ruse to crack the door open to full commercialization/legalization. The other thing to know is that the State Supreme Court in California has upheld a jurisdiction's authority to completely ban medical marijuana “dispensaries.” We suggest using alternative language for these, such as marijuana storefronts. (Please see Other Words the Matter section of this document for more about semantics.) Don't be intimidated by the threat of a lawsuit. The law is on your side.

<http://www.cacities.org/Top/News/News-Articles/2013/May/Supreme-Court-Upholds-City-of-Riverside's-Medical-Compassionate-Use-Act-nor-the-Medical-Marijuana-Program-limit-a-city-or-county-from-regulating-the-use-of-land,-and-cities-and-counties-retained-the-authority-to-provide-that-medical-marijuana-dispensaries-are-not-permitted-to-operate-within-their-borders-> See more at: <http://www.cacities.org/Top/News/News-Articles/2013/May/Supreme-Court-Upholds-City-of-Riverside's-Medical#sthash.mnJWYSjK.dpuf>

In California we heard over and over that the medical marijuana industry just wanted regulations. “Medical marijuana” retailers got regulations at the state level and before they could be fully implemented, those regulations we scrapped.

<http://www.cacities.org/Top/News/News-Articles/2017/August/Medical-Marijuana-Regulations-Withdrawn-by-State>

Other Words that Matter:

Marijuana was always marijuana until the great work of preventionists across the country gave it a negative connotation. Suddenly the marijuana industry rebranded itself as *cannabis*. We encourage the use of the word marijuana rather than cannabis. It is how we differentiate ourselves from industry followers.

Note: *Using the term marijuana is not intended to evoke any racial connotation. The argument that it does was never raised until the harms of marijuana gained national attention. It is also noteworthy that pro-legalization organizations also use the term marijuana, often in their own names.*

Marijuana storefronts or pot-shops are the retail locations that provide marijuana in our communities. The marijuana industry introduced the term *dispensaries* to legitimize marijuana as a medicine and make them more appealing in our neighborhoods. These storefronts are not pharmacies dispensing prescription drugs.

Recommendation is the proper term to use with “medical marijuana” because it is not an FDA approved medication, doctors cannot prescribe the drug, though some may recommend its use.

Conclusion:

Despite our best arguments against commercialization, sometimes a complete ban is not possible. A city or county may want to permit commercial marijuana enterprises. Here are some additional suggestions to make sure that your perspective is included:

- 1) **Have a seat on the committee:** Often a municipality will form a committee or task force when considering marijuana regulations. Marijuana industry representatives are always happy to serve on these committees, purporting their expertise (protecting their financial interests). Insist that public health experts, drug prevention specialists, public safety representatives, law enforcement, concerned parent/s, and regular community members be part of these committees and educate your community members who are willing to volunteer.
- 2) **Your voice is needed:** A strong community voice for drug prevention, community safety, and family friendly neighborhoods is needed. Make sure community members are speaking to elected officials and attending public meetings regularly to make regulations as strong as possible. Public meetings include planning boards/commission, community workshops, council/township meetings, neighborhood councils, and school boards. Build relationships and gain credibility as an expert as well as increasing decision-maker and community leaders' awareness of the growing concerns within your community about the negative impact of marijuana and what can be done to prevent those impacts.

Resources:

How to use the resources below: As you work with your local officials, you will want to have support for your arguments to ban/limit marijuana commercialization. This toolkit includes resources, examples of ordinance language, and reputable news articles about negative impacts of marijuana, research studies and more. We have taken the industry's most common arguments against regulations and included evidence and support to refute them.

Smart Approaches to Marijuana (SAM) provides a database of resources that allows you to find news articles and research studies to support your talking points/positions on a range of topics. The database can be sorted by topic. Consider printing supporting articles/studies to include in the educational packets you prepared for government officials, media/press kits, or information you provide to community members. You can choose the topics that are of the greatest interest to your community. Find these resources and more on SAM's website: <https://learnaboutsam.org/toolkit/>

Impacts on Youth

<https://www.justthinktwice.gov/>
<https://teens.drugabuse.gov/>
<https://www.samhsa.gov/>

High Intensity Drug Trafficking Area (HIDTA) Impact Reports

<https://learnaboutsam.org/california-hidta-report/>
<https://rmhidta.org/files/D2DF/FINAL-%20Volume%205%20UPDATE%202018.pdf>

Learn more by contacting: Dana Stevens dana@learnaboutsam.org