



November 1, 2016

Dear City Councilmembers,

I understand that Martinez will be conducting a public hearing at your meeting tomorrow evening regarding marijuana cultivation in the city should Prop. 64 pass, and will be considering three different ordinances.

You are correct that:

*The City does not need to take action at the present time to adopt regulations or bans pertaining to nonmedical marijuana businesses since those businesses cannot operate until and unless they are licensed by the state, and the state will not issue such licenses until the state adopts regulations pertaining to same and it is not likely that those regulations will be adopted until January 2018.*

**Similarly, there is certainly no rush at the moment to pass outdoor cultivation bans before the spring planting season.**

It still astonishes me that the city finds the smell of marijuana gardens noxious, in a place where oil refineries abound. As conservative *SF Chronicle* columnist Debra Saunders recently wrote:

*Pot plumes work like the fog that comes in on little cat feet and cools the bay, except it brings relief to the nose. In a city that reeks of urine and the pungent smell of stagnant sewers, marijuana smoke has become San Francisco's deodorant.*

You are considering enacting all kinds of burdensome regulations on people that will tax city resources to force gardens indoors, to wit:

*Any fully enclosed and secure structure or residence used for the cultivation of nonmedical marijuana must have a ventilation and filtration system installed that shall prevent marijuana plant odors from exiting the interior of the structure and that shall comply with Title 15 (Buildings and Construction) of the Martinez Municipal Code.*

Under Prop. 64, locals may enact “reasonable regulations” on people’s right to grow their own marijuana should the voters approve Prop. 64. Overly burdensome regulations are likely to see legal challenges, as being outside of the letter and spirit of the law.

**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 [outdoor personal cultivation upon the grounds of a private residence], 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.** A simple solution would be to simply allow outdoor cultivation of six-plant gardens, or cultivation in greenhouses that wouldn't require any building code permits or code enforcement. I attended the Martinez city council meeting on 4/16/14 where an outdoor ban was enacted, but greenhouses were explicitly permitted. That seemed to be what the people of Martinez want. [http://www.canorml.org/news/Martinez\\_outlaws\\_outdoor\\_medical\\_marijuana\\_cultivation](http://www.canorml.org/news/Martinez_outlaws_outdoor_medical_marijuana_cultivation)

Sincerely,

Ellen Komp  
Deputy Director  
California NORML  
[www.CaNORML.org](http://www.CaNORML.org)