

SOUTH PORTLAND CITY COUNCIL
POSITION PAPER OF THE CITY CLERK

SUBJECT:

CITIZEN INITIATED ORDINANCE #5-14/15 – Initial reading of the citizen initiated proposed use of marijuana by persons 21 years of age or older ordinance and setting the date of the public hearing on the same pursuant to Section 1107 of the City Charter. Passage requires majority vote.

POSITION:

On July 14, 2014, a citizen initiative petition was submitted to the City Clerk's office requesting amendment of the South Portland Code of Ordinances to include a use of marijuana by persons 21 years of age or older ordinance.

Pursuant to Article XI of the City Charter, South Portland voters may propose any ordinance through the initiative process, except an ordinance appropriating money or authorizing the levy of taxes. (There are some other general limitations on the right of initiative not applicable to this proposed ordinance.) Petitions must be in the form set forth in Section 1103 of the Charter. Once an initiative petition is submitted to the City Clerk, the Clerk has 20 days to determine whether it contains a sufficient number of valid signatures and whether each paper of the petition has a proper statement of the circulator. As the City Clerk, I have determined that the petition does contain the required number of valid signatures and that each paper has a valid statement of the circulator. A copy of my certificate of sufficiency of the petition pursuant to Section 1105 of the Charter is attached. Accordingly, I have forwarded the petition to the City Council.

Once a certified initiative petition is received by the City Council, the City Council is required by Section 1107 of the Charter to have the proposed ordinance read and to hold a public hearing on it. Accordingly, the proposed ordinance has been placed on this agenda for an initial reading and to schedule the public hearing for a later date, August 18, 2014.

The City Council has the option of adopting the ordinance as proposed by the petitioners. If that is the will of the Council, it could conduct its second reading and take

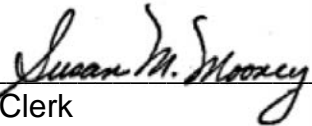
action to enact the ordinance at the conclusion of the public hearing on August 18, 2014.

If the City Council does not pass the proposed citizen initiated ordinance as written, the proposed ordinance must be submitted to the voters at least 30 days but not more than 15 months from the date of the City Council's final vote thereon.

Either way, the City Council must take final action on the proposed ordinance within 60 days of the date it receives it from the City Clerk (either by submitting it to the voters or by enacting the ordinance).

REQUESTED ACTION:

Council passage of first reading and set August 18, 2014 as the date for the City Council's public hearing and action on the proposed ordinance.



City Clerk



CITY OF SOUTH PORTLAND

GERARD A. JALBERT
Mayor

JAMES H. GAILEY
City Manager

SUSAN M. MOONEY
City Clerk

SALLY J. DAGGETT
Jensen Baird Gardner & Henry

IN CITY COUNCIL

CITIZEN INITIATED ORDINANCE #5-14/15

District One
MICHAEL R. POCK

District Two
PATRICIA A. SMITH

District Three
MELISSA E. LINSKOTT

District Four
LINDA C. COHEN

District Five
GERARD A. JALBERT

At Large
MAXINE R. BEECHER

At Large
THOMAS E. BLAKE

THE COUNCIL of the City of South Portland hereby ordains that "Code of Ordinances of the City of South Portland, Maine" be and hereby is amended by adding a new Chapter as follows (additions are underlined; deletions are ~~struck out~~):

**USE OF MARIJUANA BY PERSONS 21 YEARS OF AGE OR OLDER
ORDINANCE**

Sec. 1. Preamble.

WHEREAS, a 1995 study commissioned by the World Health Organization concluded marijuana poses a much less serious public health problem than is currently posed by alcohol;

WHEREAS, an assessment published in 2009 in British Columbia's Mental Health and Addictions Journal found health-related costs for alcohol consumers are more than eight times greater than those for marijuana consumers;

WHEREAS, according to the National Institutes of Health, more than 300 Americans die annually as the result of alcohol overdoses, and there has never been a confirmed marijuana overdose death recorded in the medical literature, as noted by the British Medical Journal in September 2003;

WHEREAS, studies conducted in 1999 by the National Academy of Sciences Institute of Medicine and 1994 by the National Institute on Drug Abuse concluded marijuana is less addictive than alcohol;

WHEREAS, the U.S. Centers for Disease Control and Prevention attributes more than 30,000 American deaths per year to the health effects of alcohol and zero deaths directly to the health effects of marijuana;

WHEREAS, extensive research documented in official reports by the British government's Advisory Council on the Misuse of Drugs and the Canadian Senate Special Committee on Illegal Drugs, among others, shows that — unlike alcohol use — marijuana use is not generally a cause of violence or aggressive behavior, and, in fact, tends to reduce violence and aggression;

WHEREAS, police officers' and prosecutors' time and resources would be better spent addressing violent crimes and property crimes instead of citing and prosecuting adults 21 years of age and older for possession of small amounts of marijuana;

WHEREAS, marijuana laws are disproportionately enforced against communities of color, and, according to a 2013 report produced by the American Civil Liberties Union, African Americans in Maine are more than two times more likely to be arrested for marijuana possession than white citizens are, despite similar rates of consumption;

WHEREAS, in an interview published in The New Yorker in January 2014, President Barack Obama acknowledged that marijuana is less harmful than alcohol in terms of its impact on the consumer;

WHEREAS, police officers and prosecutors have the discretion to refrain from issuing citations to and filing charges against adults 21 years of age and older for possession of small amounts of marijuana; and

Therefore, in the interest of the public health and public safety, and in order to better focus law enforcement resources on crimes involving violence and personal property, the People of South Portland find and declare that the use of marijuana should be legal for persons 21 years of age or older.

Sec. 2. Notwithstanding any other ordinance, it shall not be unlawful in South Portland, and must not be used as the basis for prosecution or penalty by South Portland for persons 21 years of age or older, to possess or use marijuana paraphernalia or one ounce or less of marijuana, except that it is not lawful for a person to:

- (a) use or display marijuana or marijuana paraphernalia in a public place; or
- (b) operate, navigate, or be in actual physical control of any motor vehicle, aircraft, or motorboat while under the influence of marijuana.

Sec. 3. The City of South Portland, through adoption of this ordinance, resolves to support a change in state law to tax and regulate the sale of marijuana in a manner similar to alcohol.

Explanatory Note (not part of ordinance): This is a citizen initiated ordinance; the entire text is proposed to be added as new text to the Code of Ordinances. Pursuant to City Charter Section 1107, “a proposed initiative ordinance shall be read and provision shall be made for a public hearing upon the proposed ordinance.”

Fiscal Note: Less than \$1,000

Dated: August 4, 2014



**OFFICE OF THE
CITY CLERK**

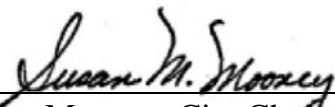
SUSAN M. MOONEY
City Clerk

JESSICA HANSCOMBE
Licensing Administrator

KAREN L. MORRILL
Assistant City Clerk

CITY CLERK'S CERTIFICATE OF SUFFICIENCY OF PETITION

I, Susan Mooney, the duly appointed City Clerk for the City of South Portland, Maine, do hereby certify, pursuant to Section 1105 of the City Charter, that I have examined the petitions submitted to me on July 14, 2014 relating to a proposed amendment of the Code of Ordinances of the City of South Portland to enact a Use of Marijuana By Persons 21 Years of Age or Older Ordinance; that the names of 1150 of the foregoing petitioners appear on the City of South Portland voting list as registered voters, which represents at least 5% of the registered voters of the City; and that each paper of the petition contains a proper statement of the circulator.



Susan Mooney, City Clerk
City of South Portland, Maine

(Seal)

July 28, 2014