City of Birmingham
A Walkable Community

MEMORANDUM

Police Department

DATE: **November 18, 2014**

TO: **Joseph A. Valentine, City Manager**

FROM: **Donald A. Studt, Police Chief**

SUBJECT: **Repeal of Ordinance 74-310. – Possession, Transport of Usable Marihuana in or upon a Motor Vehicle or Self Propelled Vehicle.**

The revised Public Health Code relating to medical marijuana, as well as recent court decisions, have rendered our ordinance 74-310 unconstitutional. This ordinance was enacted in February 2013 to mirror state law provisions for transport of usable marijuana which is no longer valid.

The City Attorney has researched this issue and recommends this section be repealed. We agree. Other ordinances will remain in effect.

SUGGESTED RESOLUTION:
To repeal Sec. 74-310. – Possession, transport of usable marihuana in or upon a motor vehicle or self-propelled vehicle.

- **Sec. 74-310. - Possession, transport of usable marihuana in or upon a motor vehicle or self-propelled vehicle.**

(a)

A person shall not transport or possess usable marihuana as defined in Section 26423 of the Public Health Code, 1978 PA 368, MCL § 333.26423, in or upon a motor vehicle or any self-propelled vehicle designed for land travel unless the usable marihuana is one or more of the following:

(1)

Enclosed in a case that is carried in the trunk of the vehicle.

(2)

Enclosed in a case that is not readily accessible from the interior of the vehicle, if the vehicle in which the person is traveling does not have a trunk.

(b)

A person who violates this section is guilty of a misdemeanor punishable by imprisonment for not more than 93 days or a fine of not more than $500.00 or both.

(Ord. No. 2124, 2-11-13)