



SENT TO COUNCIL:

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City Manager's Office

Memorandum

TO: HONORABLE MAYOR AND
CITY COUNCIL

FROM: Deanna J. Santana
Scott P. Johnson
Joseph Horwedel

SUBJECT: MEDICAL MARIJUANA

DATE: May 13, 2011

Approved

Date

5/13/11

INFORMATION

The purpose of this Information Memo is provide an update to the City Council regarding: (1) Revenue received to date from the Marijuana Business Tax (MBT), (2) Update from Code Enforcement's upcoming communication efforts to all of the City's known Medical Marijuana businesses, and (3) Preliminary timeline for the Medical Marijuana Regulatory Program.

Marijuana Business Tax

On November 2, 2010, San José voters approved Measure U, which permits the City to impose a gross receipts business tax on all marijuana businesses in the City. The City's MBT rate was set by the City Council at 7% of gross receipts, effective March 1, 2011. The MBT is due monthly on or before the last day of the following month. Staff has identified approximately 105 Medical Marijuana Collectives currently operating in San José that have been issued a business tax certificate.

As of May 10, 73 Medical Marijuana Collectives have remitted approximately \$290,000 in taxes for the month of March. In addition, four Collectives have remitted their April MBTs early, totaling approximately \$20,000. The Finance Department is working with the City Manager's Budget Office to develop a Marijuana Business Tax forecast, but this forecast can only be considered preliminary given the limited amount of collection data and the many factors that need to be integrated into the revenue projections. These factors include future business closures and the impact of implementation of the City's Medical Marijuana Regulatory Program.

Later this month the City Manager's Office will issue a Manager's Budget Addendum (MBA) that will reflect all of the budgetary actions required to implement and sustain the Medical Marijuana Regulatory Program. This will include on-going resources for the Regulatory Program, as well as resources to implement the fiscal audit and collection requirements of the Marijuana Business Tax. Specifically, these efforts will include on-going periodic revenue compliance audits of all collectives operating in the City, and implement immediate compliance actions on those Collectives that did not remit timely tax payments. A failure to pay on or before the due date results in a penalty of 25% of the amount of the tax due, plus interest on the unpaid tax.

Code Enforcement Communication with Existing Marijuana Businesses

Early next week, the Department of Planning, Building and Code Enforcement will mail an advisory letter to the property and business owners of all Medical Marijuana Collectives operating within the

HONORABLE MAYOR AND CITY COUNCIL

Subject: Medical Marijuana

May 13, 2011

Page 2

City that provides information about the City Council’s action on April 12 and 19 regarding establishing zoning and land use regulations (Title 20) pertaining to Medical Marijuana Collectives.

The letter will outline the proposed major provisions in Title 20 that the City Council initiated action to the Planning Commission pertaining to Medical Marijuana Collectives, including permissible zoning districts, sensitive use distance requirements, and other requirements relating to buildings with active pedestrian use. In addition, this letter informs the establishments of the possibility of the enforcement of existing State law that prohibits the location of a Medical Marijuana Collective within 600 feet of a public and private school before any approved ordinances go into effect. Lastly, this letter will advise those property and business owners that the Planning Commission is scheduled to conduct a public hearing (Council Chambers) regarding proposed land use regulations on June 8 and will encourage attendance to provide input.

Preliminary Implementation Timeline

Upon the Planning Commission’s review of Title 20 on June 8, Title 20 (Land use/Zoning) will be presented to the City Council on June 14 for its first reading and Title 6 (Regulatory) will for its second reading. Staff will request a second reading of Title 20 on June 21. If the Ordinances and Staffing Plan are approved (e.g., MBA), staff may be able to make applications available as early as July. Staff is working with a goal in mind to have the 10 Collectives selected. More information regarding the application process will be made available in July. Below is a preliminary timeline for program implementation.

Date	Milestone/Deliverable
May 20 thru 27	Manager’s Budget Addendum (MBA) Released
June 8	Planning Commission hearing on Title 20, Land Use/Zoning Regulations
June 14	First reading of Title 20— Land Use/Zoning Second reading Title 6—Regulations City Council Consideration of MBA
June 21	Second Reading, Title 20
July TBD	Applications Made Available for Medical Marijuana Registration With Further Instructions on Process
July 14	Title 6 Effective Date
July 21	Title 20 Effective Date
July – August	Application Process Implemented
September	GOAL: Select 10 Collectives and Process Registration with the City

For the most up-to-date information on the above timeline, please visit the City’s Medical Marijuana Website at: <http://sanjoseca.gov/medicalmarijuana.asp>.

/s/
DEANNA J. SANTANA
Deputy City Manager

/s/
SCOTT P. JOHNSON
Director of Finance

/s/
JOSEPH HORWEDEL
Director of Planning,
Building & Code Enforcement

For more information, please contact Deanna J. Santana, Deputy City Manager at (408) 535-8280.

