

Memorandum

TO: HONORABLE MAYOR
AND CITY COUNCIL

FROM: Angelique Gaeta

**SUBJECT: MEDICAL MARIJUANA -
UPDATE ON REGISTRATION
PROCESS**

DATE: October 27, 2014

Approved



Date

10/27/14

INFORMATION

The purpose of this memorandum is to provide the City Council with an update on the registration of medical marijuana establishments operating in San José.

Background:

On June 17, 2014, the City Council approved a Medical Marijuana Regulatory Program (Program) setting forth where, in San José, medical marijuana establishments can operate and the manner in which they can operate. That Program requires all medical marijuana establishments including, but not limited to: collectives, cooperatives, and dispensaries (Collectives) to register with the City and operate in strict compliance with land use and operational regulations. The Program went into effect on July 18, 2014 and Collectives had ninety (90) days from that date, or until October 17, 2014, to submit applications to the City to begin the registration process.

The registration process requires Collectives to submit both (1) an Application for a Zoning Code Verification Certificate (Zoning Application), establishing they are operating in an area that complies with the Program's land use regulations; and (2) an Application for Registration as a Medical Marijuana Collective (Registration Application), evidencing that they will operate in strict compliance with the Program's operational regulations. Collectives who submitted both applications by October 17, 2014 have until July 17, 2015 to obtain the applied for Zoning Code Verification Certificate and Notice of Completed Registration from the City. Any applications submitted after October 17, 2014 will not be considered.

Applications Submitted:

Of the estimated 78 Collectives operating in the City, by close of business, October 17, 2014, 50¹ Collectives submitted both applications and were eligible to be considered for registration.

¹ To ensure an accurate reflection of Collectives who pursued registration by the deadline, those Collectives that submitted more than one Zoning Application during the 90 day period were counted only once. It should be noted that 11 Collectives had applications denied early in the process and did not submit new or amended applications.

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As of the date of this memorandum, 14 of those applicants have received a Zoning Code Verification Certificate (with 2 of those 14 applicants each receiving two certificates, one for their dispensing location and one for their off-site cultivation location). Those 14 applicants will now proceed through the second part of the registration process and have their Registration Application reviewed. The 36 remaining applicants are still pending and staff will provide an update as the review of their applications is completed.

Enforcement:

Collectives that did not submit the requisite applications by the given deadline or have had one of the required applications denied and failed to submit another application by the deadline are required to immediately cease operations. Should those Collectives nevertheless continue to operate, *both the Collective and the owner of the property where the Collective is situated* may be subject to criminal felony and misdemeanor charges by the District Attorney's Office and criminal and civil action by the City, which can include: prosecution for misdemeanor violation of the San José Municipal Code; administrative citation fines ranging from \$2,000 to \$50,000 per day, per violation; administrative action carrying penalties of up to \$100,000; and civil action in Santa Clara County Superior Court for unlawful and unfair business practices, with fines of up to \$2,500 per day, per violation and/or up to six months in jail per violation.

City staff will continue to focus its enforcement efforts first on those Collectives located immediately adjacent to residential uses and those that have:

- (1) Engaged in public nuisance activity;
- (2) Failed to pay the Marijuana Business Tax; or
- (3) Located too close to public schools.

Thereafter, City staff will focus on those Collectives located too close to the remaining sensitive uses identified by Council: child day care centers, community and recreation centers, libraries, parks, substance abuse rehabilitation centers, emergency residential shelters, adult daycare centers, and religious assembly uses.

/s/

ANGELIQUE GAETA
ASSISTANT TO CITY MANAGER

For questions please contact Angelique Gaeta, Assistant to the City Manager, at (408) 535-8253.