

Memorandum

TO: HONORABLE MAYOR
AND CITY COUNCIL

FROM: Edgardo Garcia
Chief of Police

**SUBJECT: MEDICAL MARIJUANA
PROGRAM UPDATE**

DATE: March 29, 2017

Approved

D. DSL

Date

3/30/17

INFORMATION

This memo is to provide the City Council with an update on the establishment of the Division of Medical Marijuana Control within the San José Police Department and several issues related to medical marijuana in San José. An update on enforcement cases currently being litigated will be issued separately by the City Attorney's Office.

DIVISION OF MEDICAL MARIJUANA CONTROL

In June of 2016, the Division of Medical Marijuana Control was created within the Police Department to effectively administer and oversee the operations of the Medical Marijuana Program. The Division is operated out of the Office of the Chief of Police and consists of both sworn and civilian staff. The Police Department conducted a nationwide recruitment and selected a Division Manager who joined the Department in February 2017.

The newly created division coordinates regulatory efforts across multiple departments and agencies. The Division works directly with staff members from various City departments including the City Manager's Office, City Attorney's Office, Fire, Finance, and the Planning, Building and Code Enforcement Departments in a collaborative effort to effectively address the unique aspects of the Medical Marijuana Program.

The Medical Marijuana Program regulates:

- Where medical marijuana collectives can operate;
- Who can operate medical marijuana collectives; and
- How medical marijuana collectives can operate.

The City's regulations apply to all types of medical marijuana operations including collectives, dispensaries, manufacturing facilities, delivery services, cultivation, extraction, etc. It is illegal for any marijuana entity to operate in San José without first getting a Notice of Completed Registration as a Medical Marijuana Collective from the City. Violators are subject to closure, fines, and criminal prosecution.

Currently, there are 16 Registered Collectives in San José with a list maintained on both the Police Department website at <http://www.sjpd.org/COP/MedicalMarijuana/> and the main City's website at www.sanjoseca.gov/medicalmarijuana. Any operators not on this list are violating local and state law.

It is important to note that the City of San José is NOT taking new applications currently for Medical Marijuana Collectives. The one-time application period closed on October 17, 2014. Only the City Council can reopen a new application registration process.

Medical marijuana collectives also must comply with the State of California's Medical Cannabis Regulation and Safety Act and other state laws. Under state law, all medical marijuana facilities will be required to obtain a state license in 2018. Local authorization, such as San José's Registration, is required before a facility can obtain a state license for medical cannabis.

PROPOSITION 64, ADULT USE OF MARIJUANA ACT

Proposition 64, the Adult Use of Marijuana Act, requires the State to establish a state regulatory and licensing system to issue licenses for nonmedical marijuana uses by January 2018. Proposition 64 allows local governments to put in place certain local guidelines and prohibitions. In San José, the only legal marijuana operations are the 16 Registered Collectives already registered to dispense medical marijuana; nonmedical sales are prohibited in San José at this time.

It is anticipated that the State will be issuing draft medical and recreational regulations in the next few months. Staff will bring back strategies to Council in the Fall after the State regulations have been finalized.

DELIVERY REGISTRATIONS

On October 18, 2016, the City Council amended the medical marijuana ordinances to allow Registered Collectives to deliver medical marijuana in San José. Prior to beginning delivery operations, the Registered Collective must go through an additional review process with the Division of Medical Marijuana Control and receive a Delivery Registration notice.

The Division issued the first Delivery Registration notice on February 17, 2017 and the second on March 17, 2017. Registered Collectives registered to do delivery are listed on the Police Department and City websites as well.

All other marijuana delivery businesses are prohibited in San José, and any businesses that deliver marijuana in San José are doing so in violation of local and state law. Violators are subject to closure, fines, and criminal prosecution.

DISTRIBUTORS, MANUFACTURERS, TESTING LABS

City Council has directed staff to explore whether to allow medical marijuana distributors, manufacturers, and testing labs to operate in San José and, if so, how many and where. Staff is currently awaiting the issuance of state regulations for these types of facilities and will issue a report and present it to the Community and Economic Development Committee in June.

ENFORCEMENT

Enforcement of the City's medical marijuana regulations is a multi-departmental effort involving staff from the Police Department, Code Enforcement, City Attorney's Office, and others. Staff from the Police Department and Code Enforcement do regular inspections and respond to complaints from residents and businesses about non-compliant marijuana collectives. To report a non-compliant medical marijuana establishment or operator, please email the Division of Medical Marijuana Control at dmmc@sanjoseca.gov.

The number of non-compliant storefront collectives has dropped dramatically from a high of approximately 120 prior to the adoption of the ordinances to three today. All the non-compliant locations are being litigated currently with a goal of effecting compliance and/or closure. The City Attorney will provide Council with additional details in their update.

/s/
EDGARDO GARCIA
Chief of Police

For questions, please contact Wendy Sollazzi, Division Manager, San José Police Department, at (408) 537-9890.