



# Memorandum

**TO: HONORABLE MAYOR AND  
CITY COUNCIL**

**FROM: TONI J. TABER, CMC**

**SUBJECT: MEDICAL MARIJUANA  
REGULATIONS  
INITIATIVE PROCESS AND  
9212 REPORT INFORMATION**

**DATE: May 16, 2014**

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## SUPPLEMENTAL

### REASON FOR SUPPLEMENTAL:

The purpose of this supplemental memo is to provide you with an outline of the initiative process, the current status of the Medical Marijuana Initiatives and a timeline relating to the process.

### BACKGROUND:

The City of San José has received a total of four Notices of Intent to Circulate Petition regarding medical marijuana regulations.

The Petition process is as follows:

1. Notice of Intent filed with the City Clerk.
2. City Attorney returns a ballot title and summary within 15 days
3. Proponents publish the ballot title and summary
4. Petition circulates after publication. Number of signatures required for qualification is according to the last report of registration filed by the County Registrar of Voters with the Secretary of State, which is in effect at the time the notice of intent to circulate the petition is published (City Charter Section 1603 (a)(1)).
5. Petition is submitted to City Clerk for prima facie review
6. City Clerk submits petition to Registrar of Voters for signature verification
  - a. City Clerk may request a random sample or a full verification. Random sampling is usually requested unless significant abnormalities are found in the prima facie review.
7. ROV completes signature verification within 30 working days of submittal
  - a. If random sample projects over 110%, the petition is certified as valid. If random sample projects between 95-100%, the ROV will complete a full verification of all signatures within 60 working days of initial submittal (Elections Code 9115).

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8. City Clerk submits certificate of sufficiency to the City Council
9. City Council may then adopt the ordinance without alteration, submit the ordinance without alteration to the next regular municipal election, or request a report pursuant to Section 9212 of the Elections Code.

Pursuant to Elections Code 9212, at any time during the circulation of the petition up to the submission of the certificate of sufficiency, the Council may request a report on any or all of the following: fiscal impact; effect on the City's general and specific plans, including the housing element, planning and zoning; land use; impact on availability and location of housing; infrastructure impact; ability to attract and retain business and employment; impact on use of vacant parcels; impact on agricultural lands, traffic congestion, existing business districts and areas designated for revitalization; any other matters the legislative body requests to be in the report. The 9212 Report must be submitted to Council no later than 30 days after the City Clerk certifies to the sufficiency of the petition. The request for a 9212 report must be agendaized in order for action to be taken.

**MEDICAL MARIJUANA INITIATIVES:**

**PETITION A: "Medical Marijuana Regulation for San José Act of 2014"**

Proponent: Dave Hodges

Number of signatures required: 20,372 (5% of 407,442 registered voters as of February 2014 report of registration to Secretary of State.)

January 13, 2014	Notice of Intent filed
January 28, 2014	Ballot Title and Summary received from City Attorney and distributed to Proponents
February 24, 2014	Publication of Notice of Intent and Ballot Title and Summary
February 24, 2014	First day petitions may be circulated

Although the proponents have until July 27, 2014 to circulate the petition, the proponent stated he is no longer pursuing this petition. The Council may still request a 9212 Report as the proponent may still legally circulate this petition until July 27<sup>th</sup>.

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**PETITION B: The City of San José Control and Regulate Medical Cannabis Act**

Proponents: James Anthony, Chair, Sensible San José

Number of signatures required: 20,372 (5% of 407,442 registered voters as of February 2014 report of registration to Secretary of State.)

March 11, 2014	Notice of Intent filed
March 26, 2014	Ballot Title and Summary received from City Attorney and distributed to Proponents

The proponents have not submitted a proof of publication; therefore, this petition is not circulating. A 9212 report cannot be requested for this petition as it cannot yet be circulated.

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PETITION C: The City of San José Control and Regulate Medical Cannabis Act

Proponents: James Anthony, Chair, Sensible San José

Number of signatures required: 20,372 (5% of 407,442 registered voters as of February 2014 report of registration to Secretary of State.)

March 21, 2014	Notice of Intent filed
March 28, 2014	Ballot Title and Summary received from City Attorney and distributed to Proponents
April 1, 2014	Publication of Notice of Intent and Ballot Title and Summary
April 1, 2014	First day petitions may be circulated

A 9212 report may be requested for this petition.

PETITION D: The City of San José Marijuana Regulation Commission Act

Proponents: Dave Hodges and John Lee

Number of signatures required, 20,566 (5% of 411,314 registered voters as of April 4, 2014 report of registration to Secretary of State)

March 12, 2014	Notice of Intent filed
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A 9212 report may not be requested for this petition because the petition has not been circulated.

PROJECTED TIMELINE

**PETITION C:**

The proponents have tentatively reserved May 27 as the day to submit their petition signatures to Council. Should they submit on May 27, the tentative schedule would be:

May 27, 2014	Proponents file signatures
May 27, 2014	City Clerk's office performs Prima Facie review
May 28, 2014	City Clerk submits petitions to the Registrar of Voters for signature verification, requesting a Random Sample
July 9, 2014	30 Working Days after submission of petitions, the Registrar of Voters provides the results of the random sampling. If found sufficient, the City Clerk must submit to the next regular City Council meeting. If found insufficient, no further action is taken.

HONORABLE MAYOR AND COUNCIL

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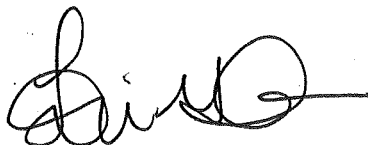
July 25, 2015	City Clerk submits certificate of sufficiency memo to City Council agenda for review prior to meeting in order to comply with City of San José open government policies
August 5, 2014	City Council takes one of the following actions: adopt the ordinance without alteration, submit the ordinance without alteration to the next regular municipal election, or request a report pursuant to Section 9212 of the Elections Code.
August 8, 2014	FINAL DATE for City Clerk to file initiative with Registrar of Voters to be included on the November 4, 2014 ballot
August 26, 2014	Council meeting the 9212 report is presented at should Council request it at the August 5, 2014 meeting. At this point, Council can adopt the ordinance without alteration or submit the ordinance without alteration to the next general municipal Election which would be 2016.

If the Random Sample is found to be insufficient (between 95% and 110%), the Registrar of Voters will take an additional 30 working days to verify all signatures. This would be August 20, 2014. Should the petition be found sufficient at that time, the initiative would go to ballot at the next General Election in 2016 as it will be received beyond the August 8, 2014 deadline.

**SECTION 9212 OF THE ELECTION CODE:**

Historically, the City Council has not requested 9212 reports prior to the certification of signatures because the proponents may change their mind and stop the process, cannot gather enough signatures, or the petition may be found to be insufficient by the Registrar of Voters.

While no petitions have been submitted at this time, the Council can request for the 9212 report in connection with Petition C as early as June 3, 2014. As the proponents for Petition C are proposing to submit signatures on May 27, the City Clerk's prima facie review will determine whether there are enough signatures to submit to the Registrar of Voters for verification. The certificate of sufficiency, should there be enough valid signatures, will not be submitted to Council until August 5, 2014 based on the timing above.



TONI J. TABER, CMC  
City Clerk

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Attachments:

- A. Petition A Notice of Intent and Ballot Title and Summary
- B. Petition B Notice of Intent and Ballot Title and Summary
- C. Petition C Notice of Intent and Ballot Title and Summary
- D. Petition D Notice of Intent

San Jose City Clerk

2014 JAN 13 AM 11:11

**VIA HAND DELIVERY**

Office of the City Clerk  
200 E. Santa Clara St.  
San Jose, CA 95113

Re: Initiative measure entitled "Medical Marijuana Regulation for San Jose Act of 2014"

**NOTICE OF INTENT TO CIRCULATE PETITION**

Dear San Jose City Clerk,

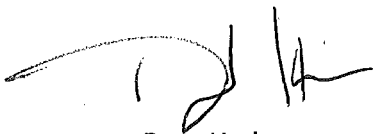
Notice is hereby given by the persons whose names appear heron of their intention to circulate the petition within the City of San Jose for the purpose of implementing a comprehensive, city wide scheme for implementing the Medical Marijuana laws of the State of California, including the "The Compassionate Use Act of 1996" ("CUA") and "The Medical Marijuana Program Act" ("MMP").

A statement of the reasons of the proposed action as contemplated in the petition is a follows: By regulating Medical Cannabis Dispensaries, the City of San Jose will ensure adequate access while protecting public safety. This Act will control the proliferation of dispensaries, ensure dispensaries are safe distances from schools, and require dispensaries to obey strict operational standards. Also, this Act will improve the local economy by creating jobs and generating revenue for the City of San Jose.

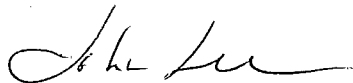
The undersigned are the proponents of the initiative measure entitled "Medical Marijuana Regulation for San Jose Act of 2014". Please prepare a circulating title and summary of the chief purposes and points of the measure. We have also included with this letter the signed statements required by Elections Code sections 9005 and 9203, our addresses, and the payment of \$200.

Thank you for your time and attention to this important matter. If you have any questions, please do not hesitate to contact Dave Hodges at 408-614-4718 or [Dave@a2c2.us](mailto:Dave@a2c2.us)

Sincerely,



Dave Hodges



John Lee

## **INITIATIVE MEASURE TO BE SUBMITTED DIRECTLY TO THE VOTERS**

The City Attorney of San Jose has prepared the following ballot title and summary of the proposed measure:

### **AN INITIATIVE ORDINANCE AMENDING TITLE 6 AND TITLE 20 OF THE SAN JOSE MUNICIPAL CODE TO INCLUDE MEDICAL MARIJUANA COLLECTIVES AS A PERMITTED LAND USE IN ALL ZONING DISTRICTS EXCEPT FOR RESIDENTIAL, TO PROVIDE FOR THE REGISTRATION OF COLLECTIVES, AND TO ESTABLISH A SAN JOSE CANNABIS COMMISSION**

This measure proposes an ordinance to allow a minimum of fifty (50) medical marijuana collectives or dispensaries, ("collectives"), to be registered within the City of San Jose. The ordinance would amend Title 6 of the San Jose Municipal Code to expressly allow storefronts, cultivation facilities, processing facilities, edible production facilities, laboratory facilities, and on-site consumption facilities for medical marijuana. Any collective existing on the effective date of the ordinance would be allowed to continue at its current location until conformance with locational siting requirements is confirmed by the Executive Director of the San Jose Cannabis Commission discussed below.

Pursuant to the ordinance, an eleven (11) member San Jose Cannabis Commission would be established, including at least six (6) members representing medical marijuana collectives. The commission would set the registration fees, recommend to the City operational and safety guidelines for collectives and monitor the collectives' compliance. The ordinance expressly provides that its purpose is to ensure that collectives that operate in compliance with the approved guidelines from the commission would be exempt from arrest and prosecution in the City. A salaried Executive Director position to be appointed by the Commission is established by the ordinance.

The ordinance would also amend Title 20 of the San Jose Municipal Code to make medical marijuana collectives a permitted land use in all zoning districts in the City, except for residential zoning districts. Permitted hours of operation would be between 7:00 a.m. and 10:00 p.m.

Collectives would not be permitted within one thousand (1000) feet of a parcel on which a public or private school exists or on which a church that includes a school exists. The Executive Director of the San Jose Cannabis Commission would be responsible for issuing a zoning code verification certificate confirming that the location of a collective is in compliance with Title 20. The Executive Director's determination would be final. The zoning code verification certificate would be transferable without limitation to another collective planning to operate at the same site.

The ordinance also specifies certain regulations of the personal cultivation of medical marijuana at the residence of either the qualified patient or the qualified patient's primary caregiver.

The initiative ordinance proposes to take precedence over other sections of the Municipal Code, resolution or policy, if there is a conflict between the initiative ordinance and the other sections of the Municipal Code, resolution or policy. Pursuant to the initiative, the initiative ordinance could be amended by a unanimous vote of the city council.

NOTICE TO THE PUBLIC: THIS PETITION MAY BE CIRCULATED BY A PAID SIGNATURE GATHERER OR VOLUNTEER. YOU HAVE THE RIGHT TO ASK.

**SAN JOSE CITY REGISTERED VOTERS ONLY**



Sensible San Jose  
*Working for Effective Cannabis Regulation*

SensibleSanJose@gmail.com

FPPC 1362613

(408) 634-2556

March 12, 2014

VIA HAND DELIVERY

Toni Taber, City Clerk  
City of San Jose  
200 East Santa Clara St.  
San Jose, CA 95113

Dear Ms. Taber:

Attached please find a copy of the text of a proposed initiative measure entitled "The City of San José Control and Regulate Medical Cannabis Act" and a Notice of Intent to Circulate Petition, which sets forth the reasons for the proposed petition. We are the proponents of the foregoing initiative measure. Enclosed is a check for \$200 to cover the filing fee for the petition.


Pursuant to California Elections Code Sections 9202 and 9203, this is a request that a ballot title and summary be prepared. It is our understanding that the City Attorney will prepare a title and summary within 15 days and that you will provide the summary to us upon receipt from the City Attorney.

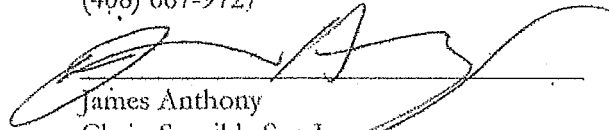
We each have signed and attached hereto a Declaration required pursuant to Elections Code Section 9608.

This will also authorize you to deal with our attorney, James Anthony of the Law Offices of James Anthony, 3542 Fruitvale Ave, 224, Oakland, California 94602, Phone: (510) 207-6243, Fax: (510) 228-0411, E-mail: info@mcldlawyer.com, should the need arise.

Please contact us or our attorney if you require any additional information or have any questions. Thank you for your assistance.

Sincerely yours,

  
\_\_\_\_\_  
Douglas Chloupek  
Director, Sensible San Jose  
170 S. Autumn St, San Jose, CA 95110  
(408) 667-9727

  
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James Anthony  
Chair, Sensible San Jose  
3542 Fruitvale Ave, 224, Oakland, CA 94602  
(510) 207-6243

Enclosures

2014 MAR 11 PM 4:01

RECEIVED  
San Jose City Clerk

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### **AN INITIATIVE ORDINANCE AMENDING TITLE 6 AND TITLE 20 OF THE SAN JOSE MUNICIPAL CODE TO INCLUDE MEDICAL MARIJUANA COLLECTIVES AS AN ALLOWED LAND USE IN CERTAIN SPECIFIED ZONING DISTRICTS, AND TO ESTABLISH A REGISTRATION PROCESS AND ZONING CODE VERIFICATION CERTIFICATE PROCESS**

This measure proposes an ordinance to allow medical marijuana collectives or dispensaries, (“collectives”), to be registered and to operate within the City of San Jose. The ordinance would amend Title 6 of the San Jose Municipal Code to establish a nondiscretionary registration process for collectives administered by the City Manager. The registration process would include requiring the managers of a collective to provide valid government-issued identification and to disclose certain felony convictions within the last seven (7) years. Collectives also would have to provide an operations plan including a security plan, a site floor plan, and a management plan detailing each manager’s responsibilities. In the event that the City Manager does not make a determination on an application for registration within sixty (60) days, the registration would be deemed issued.

The ordinance would amend the Zoning Code (Title 20) of the San Jose Municipal Code to make medical marijuana collectives an allowed land use in the following zoning districts in the City: Agricultural (A), Commercial Pedestrian (CP), Commercial Neighborhood (CN), Industrial Park (IP), Light Industrial (LI), and Heavy Industrial (HI). In doing so, the ordinance would list every other allowed land use in Open Space, Agricultural, all Commercial, and all Industrial zoning districts within the City, and not allow any modification of these zoning districts for a period of 4 years.

Collectives would not be permitted within 1000 feet of public or private K-12 schools; public or private colleges, junior colleges or universities; playgrounds; or housing facilities owned by a public housing authority. Collectives would also not be permitted within 100 feet of public or private youth centers, public swimming pools, or video arcades. The Director of Planning would be responsible for issuing a zoning code verification certificate confirming that the location of a collective is in compliance with Title 20. Permitted hours of operation would be between 9:00 a.m. and 8:00 p.m.

The ordinance would not regulate personal cultivation of medical marijuana by a qualified patient or the qualified patient’s primary caregiver, or by an association of not more than four individuals.

The ordinance expressly prohibits the City from using City funds to assist in, or from accepting any Federal funding that would be used in, the enforcement of Federal controlled substance laws to the extent that they are inconsistent with California medical marijuana laws.

The initiative ordinance proposes to take precedence over other sections of the Municipal Code, resolution or policy, if there is a conflict between the initiative ordinance and the other sections of the Municipal Code, resolution or policy. Pursuant to the initiative, the initiative ordinance could be amended by the city council after 4 years from its effective date.

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**SAN JOSE CITY REGISTERED VOTERS ONLY**

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March 21, 2014

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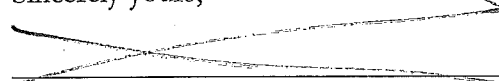
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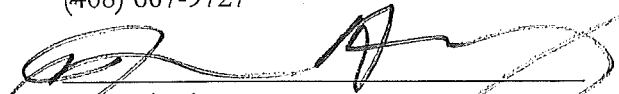
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Please contact us or our attorney if you require any additional information or have any questions. Thank you for your assistance.

Sincerely yours,

  
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170 S. Autumn St, San Jose, CA 95110  
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Enclosures  
2014 MAR 21 P 4: 56

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This measure proposes an ordinance to allow medical marijuana collectives or dispensaries, ("collectives"), to be registered and to operate within the City of San Jose. The ordinance would amend Title 6 of the San Jose Municipal Code to establish a nondiscretionary registration process for collectives administered by the City Manager. The registration process would include requiring the managers of a collective to provide valid government-issued identification and to disclose certain felony convictions within the last seven (7) years. Collectives also would have to provide an operations plan including a security plan, a site floor plan, and a management plan detailing each manager's responsibilities. In the event that the City Manager does not make a determination on an application for registration within sixty (60) days, the registration would be deemed issued.

The ordinance would amend the Zoning Code (Title 20) of the San Jose Municipal Code to make medical marijuana collectives an allowed land use in the following zoning districts in the City: Agricultural (A), Commercial Pedestrian (CP), Commercial Neighborhood (CN), Industrial Park (IP), Light Industrial (LI), and Heavy Industrial (HI).

Collectives would not be permitted within 1000 feet of public or private K-12 schools; public or private colleges, junior colleges or universities; playgrounds; or housing facilities owned by a public housing authority. Collectives would also not be permitted within 100 feet of public or private youth centers, public swimming pools, or video arcades. The Director of Planning would be responsible for issuing a zoning code verification certificate confirming that the location of a collective is in compliance with Title 20. Permitted hours of operation would be between 9:00 a.m. and 8:00 p.m.

The ordinance would not regulate personal cultivation of medical marijuana by a qualified patient or the qualified patient's primary caregiver, or by an association of not more than four individuals.

The ordinance expressly prohibits the City from using City funds to assist in, or from accepting any Federal funding that would be used in, the enforcement of Federal controlled substance laws to the extent that they are inconsistent with California medical marijuana laws.

The initiative ordinance proposes to take precedence over other sections of the Municipal Code, resolution or policy, if there is a conflict between the initiative ordinance and the other sections of the Municipal Code, resolution or policy. Pursuant to the initiative, the initiative ordinance could be amended by the city council after three (3) years from its effective date.

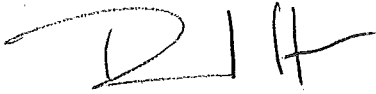
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**SAN JOSE CITY REGISTERED VOTERS ONLY**

RECEIVED  
San Jose City Clerk

**NOTICE OF INTENT TO CIRCULATE PETITION**

2011 MAY 12 PM 12:05  
Notice is hereby given by the persons whose names appear hereon of their intention to circulate a petition within the City of San José for the purpose of adopting The City of San Jose Marijuana Regulation Commission Act. A statement of the reasons of the proposed action as contemplated in the petition is as follows: The intent of this initiative is to establish a Commission to aid the City of San Jose in the regulation of Marijuana Businesses. By regulating Medical Businesses, the City of San Jose will ensure adequate access while protecting public safety. This Act will control the proliferation of Medical Marijuana, ensure Medical Marijuana does not impact schools, and require dispensaries to obey strict operational standards. Also, this Act will improve the local economy by creating jobs and generating revenue for the City of San Jose.



Dave Hodges



John Lee