



# Memorandum

TO: MAYOR AND CITY COUNCIL FROM: Councilmember Rose Herrera

SUBJECT: Medical Marijuana Enforcement DATE: December 9, 2013

APPROVE

*Rose Herrera (AQ)*

*December 9, 2013*

**RECOMMENDATION:**

Approve staff recommendation (b)(2), to direct the Administration to return to the City Council in 30 days with a ban prohibiting the operation of Medical Marijuana establishments in San José.

**BACKGROUND:**

San José maintains a reputation for excellent quality of life and public safety through collaboration between the City Administration and the community, and in the prudent use of our city's limited resources. A discussion of our city's approach to addressing medical marijuana establishments must carefully weigh impacts to these resources, including personnel and staff time.

The City Council should adopt a ban on medical marijuana establishments in San José because a new regulatory program would burden our overstretched Police Department with additional responsibilities while our officers continue to provide public safety enforcement related to these establishments. Currently, unregulated establishments could potentially be associated with organized crime, illegally obtained marijuana, criminal funding, and crimes associated with guns and drug sales. Additionally, as mentioned in a letter to the Council from District Attorney Jeffrey Rosen, unregulated dispensaries burden our Police Department with other illegal activities such as the robbery and high speed chase that occurred this year. To continue to meet the needs of our residents and to best use our limited city staff, time and resources, San José should implement ban on medical marijuana establishments.

Medical marijuana establishments present public safety, regulatory, and financial challenges for our city during a time of limited city resources. A ban on these establishments would address the crime associated with these establishments, and would protect our city staff from being overwhelmed by requirements to regulate the conduct of these establishments.

While I support compassionate use, I also believe that dispensaries represent a public safety nuisance in our community. We should look to surrounding jurisdictions like Morgan Hill, which has acknowledged California state law, Prop 215, while maintaining the city's right to ban dispensaries. In the case of Morgan Hill, medical marijuana distribution facilities were banned while clinics; health

care facilities, residential care facilities for persons with chronic, life threatening illnesses; and hospices licensed pursuant to the California State Health and Safety code were exempted.

According to the National Crime Prevention Council, "some people are confused about marijuana's medical uses. There are no medically accepted uses for smoking marijuana. THC, the active chemical in marijuana, is manufactured into a pill and available with a prescription to treat nausea and vomiting that occur with some cancer treatments and to help people with AIDS gain weight". Additionally, the marijuana sold today is far stronger than it was two or three decades ago, and far more dangerous.

Finally, compassion for all of our residents, both patients suffering from chronic diseases and residents impacted by these establishments, demands that we refocus our efforts on public safety and city services that we are capable of and required to provide.

As Sunnyvale Mayor Melinda Hamilton put it after the Sunnyvale City Council voted on December 14, 2010, to ban medical marijuana dispensaries, "We want to be a community that is compassionate, but not at the expense of our future."

At the City Council Special Meeting on Medical Marijuana on December 13, 2010, I made a motion to ban medical marijuana establishments in our city. In the absence of Council support for an outright ban I have, in the past, supported strict regulations. Now that the City Council is revisiting this issue, I believe that the time is right to move forward with a ban.