



# Memorandum

TO: CITY COUNCIL

FROM: Mayor Chuck Reed

SUBJECT: MEDICAL MARIJUANA  
ESTABLISHMENTS

DATE: December 9, 2013

APPROVED:

*Chuck Reed*

DATE:

12/9/13

## RECOMMENDATION

Approve Councilmember Rocha's memo with the following additions:

Bring back the ordinances approved by the Council in 2011 with whatever changes may be necessary to be in compliance with state law and the US Attorney General's Enforcement Memorandum and the following changes:

- a. Prohibit on-site consumption as defined in the earlier ordinance section 6.88.440.
- b. Develop an underage decoy program along the lines of our program to deal with sales of tobacco.
- c. Ensure that all restrictions placed on smoking tobacco also apply to smoking marijuana.
- d. Allow off-site cultivation, with sufficient controls to comply with the Enforcement Memorandum and protect existing users from negative impacts.
- e. Allow cultivation in the CIC, LI, and HI industrial zones, subject to the same restrictions as for wineries and breweries, with off-sales only as incidental uses, and with sufficient controls to comply with the Enforcement Memorandum and protect existing users from negative impacts.
- f. Disqualify from the registration process any medical marijuana business, collective, or dispensary, when the business/collective/dispensary itself or any one of its owners or managers, have been the subject of three (3) or more documented and verified code violations and/or nuisance activities within one year of the time in which the business is being considered for approval under the regulatory scheme that is eventually passed by council; and
- g. Prohibit the citing of any such medical marijuana business/collective/dispensary on a parcel that has been the subject of three (3) or more documented and verified code violations and/or nuisance activities within one year of the time in which the site is being considered for approval under the regulatory scheme that is eventually passed by council.

## BACKGROUND

### Enforcement

The most critical part of any marijuana regulatory system is the ability to enforce it. We have seen over the past three years the futility of passing laws without a robust enforcement ability. For example,

many collectives refuse to pay our marijuana tax, even though it is required. Whether the Council bans collectives or regulates collectives our actions can and will be ignored unless there is some serious risk of criminal prosecution for serious violations. We should seek to increase our own powers of enforcement and to reach an understanding with the DA and the US Attorney for their assistance.

#### Protecting Children

As the District Attorney noted in his letter dated December 6, 2013, we should be extremely concerned about marketing to children and take significant steps to make sure our children are not targets or recipients of marijuana. Access to marijuana by minors is also a major concern of the US Attorney General and in order to comply with the Enforcement Memorandum we must prohibit the following:

- Sales or transfers to minors,
- Trafficking near areas associated with minors,
- Marketing in a manner that appeals to minors,
- Diversion, directly or indirectly, and purposefully or otherwise, to minors.

#### Protecting Neighborhoods

As noted by the District Attorney, we need meaningful and responsible restrictions on marijuana just as we have on bars and liquor stores. With appropriate restrictions and meaningful enforcement we can eliminate negative impacts on our neighborhoods. Establishing distance restrictions and prohibiting on site consumption are necessary to make sure that dispensaries are not magnets from minors and to make sure the surrounding areas are not impacted by customers.

#### Off-site Cultivation

Our prior ordinance did not permit offsite cultivation. That is something we should consider changing, but it must be done in a manner that has enough control to be consistent with the US Attorney General's Enforcement Memorandum. For land use purposes, cultivating marijuana should be allowed in the LI, HI and CIC zoning districts with the same restrictions as we place on breweries and wineries, and with reasonable conditions to protect existing companies from negative impacts.

#### Limits on Numbers

Our experience over the past year demonstrates that the total number of collectives is much less important than their location and operation. If we implement a strong and effective regulatory and enforcement system to control the cultivation, distribution, sale and possession of medical marijuana as required under the Enforcement Memorandum, we will have a lot fewer collectives than we have now and their operations and locations will create fewer problems than we have now. A strong and effective regulatory system, together with enforcement of the distance provisions, will address the majority of the community concerns.