



Memorandum

TO: HONORABLE MAYOR
AND CITY COUNCIL

FROM: Edgardo Garcia

SUBJECT: UPDATES TO THE MEDICAL
MARIJUANA PROGRAM

DATE: October 5, 2016

Approved

D. D. Sy L

Date

10/6/16

RECOMMENDATION

In addition to the recommendations from the Planning Commission (Items 4.1 (a) and (b)), it is recommended that the City Council:

- (c) Consider an ordinance of the City of San José amending Title 6 (Business Licenses of Regulations) of the San José Municipal Code by amending Chapter 6.88 to add and amend regulations pertaining to Medical Marijuana Collectives, and the cultivation and dispensing of medical marijuana, and making other technical, non-substantive, or formatting changes:
 - (1) Allow each Registered Collective to have two locations for cultivation, manufacturing and extraction in addition to one dispensing-only location;
 - (2) Allow each Registered Collective to locate one of their allotted cultivation-only facilities outside of San José anywhere within the State of California subject to state and local law and regulations;
 - (3) Allow for cultivation facilities within the City of San José to be shared by two Registered Collectives;
 - (4) Allow each Registered Collective to deliver medical marijuana to patients and establish the parameters under which deliveries could take place;
 - (5) Allow transactions/transfers between Registered Collectives and Registered/Licensed/Permitted cultivators, manufacturers, and dispensaries of medical marijuana products throughout the State of California; and
 - (6) Approve technical changes to update the Code with respect to definitions, badging procedures, crime reporting requirements, daily purchases, changing the calendar for payment of the Annual Operating Fee from calendar year to fiscal year, and other administrative changes.

- (d) Provide direction to staff to:
 - (1) Suspend further work on CEQA review and Code changes related to allowing medical marijuana greenhouses in industrial zoning districts due to low interest from the industry;

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- (2) Refer to the next City Council Priority Setting Session the issue of exploring whether to allow medical marijuana distributors, manufacturers, and testing labs to operate in San José and, if so, how many and where; and
- (3) Return to Council with analysis of Proposition 64, the Adult Use of Marijuana Act, and next steps for the City of San José.

OUTCOME

If adopted by the City Council, the proposed ordinance would amend the Municipal Code provisions regulating the operations of Medical Marijuana Collectives based on City Council direction to staff as discussed in public hearings held on December 18, 2015 and March 29, 2016. Additionally, if adopted, the Code changes recommended by staff will update and make technical changes to the Code, improving efficacy of the regulatory program.

EXECUTIVE SUMMARY

San José currently has 16 Registered Collectives operating under the purview of the Medical Marijuana Program. Adoption of the staff recommendation would:

- Create opportunities for Registered Collectives to have additional sites for cultivation of medical marijuana, both inside and outside of San José.
- Allow Registered Collectives that complete a separate Delivery Registration process with the San José Police Department's Division of Medical Marijuana Control to deliver medical marijuana to their patients.
- Create provisions for San José Registered Collectives to obtain medical marijuana and medical marijuana products from and transfer to other licensed/permitted/registered cultivators, manufacturers, and dispensaries statewide.
- Make other technical changes to the regulations, including updating fire alarm provisions, badging procedures, crime reporting requirements, daily purchases, and Registration processes.

BACKGROUND

San José's Medical Marijuana Program

On June 17, 2014, the City Council approved a Medical Marijuana Regulatory Program ("Program") to regulate the cultivation, manufacturing and dispensing of medical marijuana in the City of San José. The Program is comprised of two ordinances (the Medical Marijuana Land Use Ordinance, within Title 20 of the Code; and the Medical Marijuana Regulatory Ordinance, at Chapter 6.88 of Title 6 of the Code). These ordinances went into effect on July 18, 2014.

Registration as a medical marijuana collective requires that the collective first obtain a Zoning Code Verification Certificate from the Director of Planning, Building, and Code Enforcement, then that the collective meet all requirements in the Code and achieve a Notice of Completed Registration from the City Manager.

Under the Code, the registration application period was open for 90 day, from July 18, 2014 - October 17, 2014. The City is not accepting new applications, and only City Council action can re-open the registration period.

Initially, collectives applying for registration had one year to come into full compliance and attain the Notice of Completed Registration. On May 19, 2015, the City Council ("Council") extended that deadline by six months to December 18, 2015. By the December 18, 2015 deadline, 16 collectives achieved successful registration with the City of San José.

On December 8, 2015, the Council adopted several changes to the Code, including technical changes and implementation of the carry-over period for Registered Collectives. Council also directed staff to return in March 2016 for further action.

On March 29, 2016, Council directed staff to move forward on implementation of a number items. The direction given and recommendations related to changes to the Zoning Code are addressed in the memorandum from the Planning Director and recommendation from the Planning Commission. Analysis of each item is addressed below, and the full synopsis and direction from the March 29, 2016 meeting may be found in Attachment A.

With the adoption of the Operating Budget for fiscal year 2016-2017, the Council authorized the creation of a Division of Medical Marijuana Control ("Division") in the Police Department under the direction of a civilian Division Manager with both sworn and civilian staffing. Until Division staff is on board and the program is fully transitioned to the Police Department, staff in the City Manager's Office continues to provide support with policy work, intergovernmental relations, inquiries from stakeholders, and certain aspects of the Registration renewal process. The Police Department is currently recruiting for the Division Manager position.

State Regulations

San José's Medical Marijuana Regulatory Program was created in an absence of State licensure or regulation of medical marijuana. On October 9, 2015, Governor Edmund G. Brown signed three bills creating a state medical marijuana regulatory program, now called the Medical Cannabis Regulation and Safety Act ("Act"). The Act took effect on January 1, 2016. On June 27, 2016, the Governor signed SB 837, a budget trailer bill that included a number of updates to the Act. In September 2016, the Governor signed additional legislation regarding medical cannabis manufacturing and fire safety, as well as cultivation license types.

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Under the Act, the State will be issuing licenses to medical marijuana dispensaries, cultivators, manufacturers, distributors, transporters, and testing laboratories. To obtain a state license, the applicant must first have a local permit, license, or other authorization.

Implementation of the State's regulatory scheme and issuance of licenses is anticipated to occur before the end of 2018.

The Act makes a clear distinction between "personal use" cultivation by patients and caregivers, and "commercial use" requiring licensure. The Medical Marijuana Program Act, the current state law that provides an affirmative defense against prosecution to patients and caregivers who "collectively cultivate" medical marijuana, is scheduled to expire one year after the first licenses are issued.

ANALYSIS

San José's Medical Marijuana Program requires a closed-loop or vertical-integration model, with collectives cultivating and manufacturing the medical marijuana products they dispense. To increase access to different strains and varieties of medicinal products, the Council on December 8, 2015 gave authority for San José's Registered Collectives to transfer medical marijuana between San José Registered Collectives. To ensure time to grow crops and install manufacturing equipment, the City Council gave the Registered Collectives an additional year (until December 18, 2016) as a "carryover period," in which they could obtain products from third-party vendors.

With the state implementing a comprehensive licensure program, staff is recommending a number of potential changes to San José's program with the goals of keeping medical marijuana out of the hands of children and youth, providing safe access to medical marijuana to patients and caregivers, continuing comprehensive regulation, and discouraging illegal cultivation, manufacturing, and sales.

Over the past year, since the adoption of the new state laws, the medical cannabis landscape has changed dramatically in California. Around the state, a number of cities and counties have begun to adopt regulatory programs for various aspects of the industry.

The state licensure program is not yet in place. Regulations continue to be promulgated. For this reason, should Council approve the following recommendations, staff will work closely with the Registered Collectives to ensure that operations will be compliant with state regulatory requirements come January 1, 2018.

Cultivation Locations – Recommendations (c)(1), (2) and (3)

Currently, San José collectives may have one location for dispensing and one location for cultivating (including manufacturing and extracting). Alternately, collectives may co-locate their dispensing and cultivating locations. Per Council direction in March, staff is now recommending that each Registered Collective be allowed to have no more than two locations for cultivation, manufacture, and extraction.

The Code currently allows cultivation locations to be in San José or in a jurisdiction in one of the following counties (subject to state and local law): Alameda, Merced, Monterey, San Joaquin, San Mateo, Santa Clara, Santa Cruz, or Stanislaus. Currently, none of San José's Registered Collectives has San José-Registered cultivation site outside the City of San José. However, that is anticipated to change in the near future as more and more cities and counties bring their medical cannabis regulatory programs online.

Per Council direction in March, staff recommends that each Registered Collective be allowed to have one cultivation-only facility that is located outside of San José and within the State of California (subject to state and local law). The facility will have to meet all local requirements and obtain local permits/licensure/authorization. The collective will also have to meet San José's security requirements and inspection requirements.

Under the changes recommended above, the possible combinations of sites a San José Registered Collective could have include:

- One dispensary-only site in San José and two cultivation sites in San José;
- One dispensary-only site in San José, one cultivation site in San José, and one offsite cultivation site elsewhere in the State of California;
- One co-located dispensary/cultivation site in San José and one cultivation site in San José; OR
- One co-located dispensary/cultivation site in San José and one cultivation site in elsewhere in the State of California.

Per Council direction, staff is also recommending changing the Code to allow for cultivation facilities within the City of San José to be shared by two Registered Collectives. The crops will have to be separated, not intermingled, and tracked in accordance with local and state law. Security requirements and all other registration requirements would be the same as a cultivation site that was not shared.

For cultivation sites outside of San José, staff recommends that sharing of a site be limited to the restrictions in place under state law and the regulations of the local jurisdiction in which the shared site is located.

Delivery of Medical Marijuana to Qualified Patients – Recommendation (c)(4)

The delivery of medical marijuana is currently banned in the City of San José. The illegal delivery market continues to operate in violation of local and state law, and enforcement has been a challenge given limited resources.

Per Council direction, staff recommends allowing Registered Collectives to deliver medical marijuana to patients. To protect against diversion of medical marijuana to children and youth and to protect the safety of delivery drivers, staff recommends the following parameters under which deliveries could take place:

- Only Registered Collectives may apply to operate delivery service;
- Deliveries may only be made to qualified patients and/or caregivers 21 or older;
- Delivery hours will be restricted to the hours of 8 a.m. to midnight;
- A Registered Collective providing delivery services must continue to maintain its Registered Collective dispensing site in addition to operating as a delivery service;
- Orders must be placed with the Registered Collective, not with the driver;
- Delivery drivers must be employees of the Registered Collective and must obtain a Driver badge from the Police Department;
- Delivery drivers will be required to undergo an additional background check by the Police Department that includes a review of driving record;
- Medical cannabis must be securely stored in the vehicle;
- Vehicles must be inspected by the Police Department;
- Vehicles must be outfitted with GPS and cameras to protect against diversion of marijuana;
- No logos, advertising, or other identifying information can be used on the vehicle; and
- All medical marijuana be packaged and labeled to meet all packaging and labeling requirements of the Code (just as if it were being transferred at the dispensary).

Regulations for delivery will be promulgated and added to the existing City Manager Regulations for Medical Marijuana Collectives. By including these requirements in the City Manager Regulations, staff can respond quickly to changing conditions, technological advances, and state requirements.

Prior to beginning delivery service, a Registered Collective will be required to fill out a “Registered Collective – Delivery Service Application,” including a detailed Delivery Service Plan and Delivery Security Plan, as well as pay associated fees. The City will issue a “Notice of Completed Registration – Delivery Service” to those Registered Collectives meeting the requirements for operating a delivery service and will list those meeting the requirements on the Program’s website.

If Council approves allowing delivery by Registered Collectives, staff will return with amendments to the Fees and Charges Report.

Transactions/transfers between Registered Collectives and Registered/Licensed/Permitted Cultivators and Manufacturers and Dispensaries throughout the State of California – Recommendation (c)(5)

Staff is recommending an amendment to the regulatory ordinance that would allow Registered Collectives in San José to engage in transactions or transfers of medical marijuana and medical marijuana products with licensed/permitted cultivators, manufacturers, and dispensaries throughout the State of California. As the state likely will not be issuing licenses until 2018, staff will develop an interim plan of requiring Registered Collectives to track and trace the products they obtain and to log certain information about the provider.

The Police Department's Division of Medical Marijuana Control will update the City Manager's Regulations to require Registered Collectives to fill out a form or otherwise document:

- Required information about each batch obtained from a cultivator, manufacturer, or dispensary, including the State Board of Equalization number of that cultivator, manufacturer, or dispensary;
- Required information about each batch transferred to a cultivator, manufacturer, or dispensary, including the State Board of Equalization number of that cultivator, manufacturer, or dispensary;
- No later than January 31, 2018, that each cultivator/manufacturer/dispensary is in possession of a local permit, registration, or other authorization (this is information required to be submitted to obtain a state license);
- No later than July 1, 2018, that each cultivator/manufacturer/dispensary has submitted an application for state licensure;
- By January 1, 2019, that each cultivator/manufacturer/dispensary is in possession of the applicable state licenses in compliance with the Medical Cannabis Regulation and Safety Act.

Council's direction in March included transactions/transfers with cultivators and manufacturers statewide. Staff is recommending adding "dispensaries" to the list as some San José's Registered Collectives have locations in other jurisdictions or have business relationships with collectives/dispensaries located in other jurisdictions.

Promulgating these regulations through the City Manager's Regulations rather than in the Municipal Code will allow staff to update the date requirements should the State's timeline for issuing licenses be delayed.

Technical Updates to the Municipal Code – Recommendation (c)(6)

The draft ordinance contains a number of language changes/technical changes to update the Code with respect to definitions, badging procedures, crime reporting requirements, daily

purchases, fire code requirements, and changing the calendar for payment of the Annual Operating Fee from calendar year to fiscal year, and other administrative changes.

Definitions: With the changes recommended regarding cultivation sites, staff is recommending adding a definition for “Medical Marijuana Collective, Dispensary Site Only” to the definitions currently in the code (“Medical Marijuana Collective” and “Medical Marijuana Collective, Cultivation Site Only”).

Badging Procedures: This amendment would continue to require persons working for a collective to display while working at the collective's premises or location their ID badge issued by the Chief of Police. It would additionally require persons working for a collective, while away from the collective's premises or location but carrying out the business of the collective, to carry on their person and to provide to any City official enforcing this code, their ID badge issued by the Chief of Police.

Crime Reporting Requirement: This amendment would add a requirement that Collectives report any misdemeanor or felony crime committed at the collective's premises or location, any suspected violations of Chapter 6.88 (or other sections of the Municipal Code), any discrepancies of inventory or unauthorized destruction of medical marijuana, any diversion of medical marijuana to non-members or persons under 21 years of age, or any violation of the integrity of collective operations.

Daily purchases: Currently the code allows one purchase per patient per day. While the goal was to prevent abuse of marijuana, in reality, staff has found that the requirement inconveniences those patients who complete a purchase and discover that they have forgotten an item. This was a frequent complaint of seniors who attended the community outreach meetings.

Fire Code: Among the security requirements for medical marijuana collectives and medical marijuana cultivation sites is a requirement that each facility have a fire alarm system installed that meets the Code requirements. This amendment will clarify the code language to provide more specifics about the type of fire alarms required.

Annual Operating Fee Calendar: Because the Registered Collectives were first registered in December 2015, payments of the Annual Operating Fee are assessed on a calendar year basis and paid on a quarterly basis (if the Collective chooses to pay in installments rather than one lump sum). The City operates on the July 1 to June 30 fiscal year. Having the two out of sync creates problems as the Annual Operating Fee recovers the cost of staff and other program requirements for the Division of Medical Marijuana Control. For this reason, staff is recommending a Code change to adjust the Annual Operating Fee from calendar year to fiscal year.

Medical Marijuana Greenhouses in Industrial Zoning Districts – Recommendation (c)(1)

On March 29, 2016, Council directed staff to bring forward changes to the Municipal Code to allow Registered Collectives to cultivate medical marijuana in greenhouses in industrial zoning

districts. The annual operating fee for Registered Collectives was amended to cover CEQA analysis for a number of Code changes, including greenhouses.

Through the community outreach process, a survey of Registered Collectives, and additional meetings and conversations with Registered Collectives and their representatives, staff has learned that only one of the 16 Registered Collectives is interested in developing a greenhouse in an industrial zoning district. Furthermore, those who are not interested do not want to pay for a CEQA review that will only benefit one Registered Collective.

Staff has done some preliminary review of greenhouse cultivation in states with large-scale commercial cultivation and has found the use to be most prevalent in agricultural areas with low residential density. Staff has significant concerns about potential environmental impacts, including odor impacts to neighboring businesses and residents.

For these reasons, staff is recommending Council give direction at this time for staff to suspend further work on the CEQA review and Code changes related to allowing medical marijuana greenhouses in industrial zoning districts.

Distributors/Transporters, Manufacturers, and Testing Labs – Recommendation (d)(2)

Under the Medical Cannabis Regulation and Safety Act, the State will issue separate licenses for cultivators, dispensaries, manufacturers, testing labs, distributors and transporters. Currently, the San José Municipal Code only allows manufacturing and cultivating as part of the operations of a vertically integrated Registered Collective.

Under state law, medical cannabis will be required to be tested at an independent testing lab. Testing lab licensees may only hold licenses in that category and may not have investors or owners with other financial interests in the medical marijuana industry. The amount of medical marijuana onsite at a testing lab is relatively small, compared to at dispensaries or manufacturing sites.

As testing will be required by state law, Registered Collectives have expressed interest in seeing independent testing labs located in San José rather than having to take product to cities such as Oakland, Berkeley, or Santa Cruz for independent testing. At its March 29, 2016 meeting, Council expressed interest in the category of testing labs, but did not provide direction to staff regarding this use.

With respect to manufacturing, staff has heard from companies interested in locating a facility in San José. During the community outreach meetings, a number of attendees stated they are interested in manufacturing medical cannabis products in San José. It is possible that there are manufacturers currently making infused medical marijuana products in San José who might be looking for a path to legitimacy. In addition, at the September 28, 2016 meeting, the Planning Commission recommended that Council explore the issue of allowing medical cannabis manufacturing in San José.

At its March 29, 2016 meeting, Council heard some testimony from individuals interested in manufacturing medical cannabis products in San José, but did not provide direction to staff regarding this use.

With respect to distributors and transporters, staff is aware of the controversy surrounding the provisions of state law requiring the use of distributors (much like in the alcohol industry). At the March 29, 2016 meeting, Council directed staff to return with analysis on allowing medical cannabis distributors in San José.

If the City were to create provisions for any or all of these uses, it would require analysis and recommendations regarding whether to allow the use, which zoning districts to allow the use in, whether to include a limitation on the number of state-licensed users in that category, and what type of operating regulations and registration process to put in place, as well as CEQA review. For this reason, staff recommends that Council refer to the next City Council Priority Setting session the issue of exploring whether to allow medical marijuana distributors, manufacturers, and testing labs to operate in San José and, if so, how many and where.

Impacts of Proposition 64, the Adult Use of Marijuana Act – Recommendation (d)(3)

On November 8, 2016, the voters of California will vote on whether or not to legalize the adult use (or recreational use) of marijuana by individuals age 21 and older.

Under the proposition, an individual age 21 and older would be allowed to smoke or ingest marijuana products as well as possess, process, transport, purchase, obtain, or give away without compensation of any sort. Possession limits per individual are set at not more than:

- 28.5 grams of marijuana (not concentrated cannabis);
- Four to eight grams of concentrated cannabis including that contained in marijuana products (Note: the proposition includes conflicting language stating four grams in some places and eight in others);
- Six living plants (including possession of the marijuana produced by those plants).

Should Proposition 64 pass, it becomes law on November 9, 2016. It is important to note, though, that, if passed, Proposition 64 does **not** immediately legalize recreational sales, cultivation, or manufacturing. Those activities require a state license, and state licenses are not likely to be issued until 2018 (although there are provisions in the proposition allowing the state to issue emergency licenses to existing providers).

Under San José's Municipal Code, recreational marijuana uses would remain illegal, unless or until the Council voted to change the Code. The City's Medical Marijuana Program is for medical cannabis only. However, the City's Marijuana Business Tax (currently set at 10%) applies to all marijuana businesses, not just medical marijuana.

Staff provided an overview of Proposition 64 for the City Council meeting of October 4, 2016, when Council reviewed the propositions on the state ballot. Staff recommends returning to Council with further analysis of Proposition 64, the Adult Use of Marijuana Act, and policy alternatives and recommendations for next steps for the City of San José.

EVALUATION AND FOLLOW-UP

This report fulfills Council direction provided on March 29, 2016 outlined in Attachment A.

POLICY ALTERNATIVES

Alternative #1: Keep existing requirements for the number of cultivation sites inside and outside of San José.

Pros: Having fewer sites will require fewer staff resources to inspect and monitor.

Cons: Registered Collectives in San José may have difficulties meeting patient needs. This would be a reversal of previous Council direction.

Reason for not recommending: Council previously directed staff to implement these changes.

Alternative #2: Continue to ban the delivery of medical marijuana in San José.

Pros: By not allowing delivery, the risk of diversion to underage patients may be lowered. There would be no risk of crimes against drivers who have medical cannabis or payments in their vehicles.

Cons: Illegal delivery is happening in San José already. Allowing Registered Collectives to deliver to patients will meet the needs of elderly and disabled patients and will help quash the illegal delivery services.

Reason for not recommending: Regulated delivery is a better option than the illegal delivery currently happening in San José.

Alternative #3: Do not allow transactions/transfers with registered/licensed/permitted medical marijuana cultivators, manufacturers, and dispensaries. Continue to require vertical integration only.

Pros: The City will have better control of products sold in San José with vertical integration. The state is not yet issuing licenses.

Cons: The staff plan offers a bridge to state licensing. By not allowing transactions/transfers, patients will have to go outside of San José to obtain specialized medical products such as lotions and tinctures.

Reason for not recommending: Council provided this direction in March 2016, and staff has been working to develop a methodology for implementing it in a way that protects patient safety and meets patient needs.

PUBLIC OUTREACH

Staff held a public outreach meeting on this direction on July 26, 2016 regarding the changes recommended in this memo. In addition, in March 2016, staff held two stakeholder outreach meetings regarding the proposed Council direction that was the basis of these recommendations. Staff also held community meetings in every Council district in April and May of 2016 to update members of the public on how the medical marijuana program and ordinance works.

The Planning Commission held a public hearing on the Zoning Code changes on September 28, 2016. Email announcements about the Planning Commission and City Council hearings were emailed to lists maintained by the Department of Planning, Building and Code Enforcement and City Manager's Office. Staff invited the 16 Registered Collectives and their representatives to a briefing on October 5, 2016. This memorandum will be posted on the City's Council Agenda website for the October 18, 2016 Council Meeting, and a link will be sent to the City Manager's Office medical marijuana email list.

COORDINATION

This memorandum has been coordinated with the Department of Planning, Building and Code Enforcement, the Fire Department, the Finance Department, and the City Attorney's Office.

COMMISSION RECOMMENDATION/INPUT

On September 28, 2016, the Planning Commission conducted a public hearing on the proposed amendments to the Zoning Code. The Planning Commission voted 4-0-3 (Ballard, Bit-Badal, and Yesney absent) to recommend that the City Council: (i) consider and approve the Third Addendum to the Negative Declaration pursuant to the California Environmental Quality Act; (ii) approve the proposed amendments to Title 20 (the Zoning Code) of the San José Municipal Code as recommended by the Director of Planning, Building and Code Enforcement; and (iii) to direct staff to explore and analyze non-vertical models and licensing stand-alone medical marijuana manufacturers.

FISCAL/POLICY ALIGNMENT

Implementation of prior Council direction and the staff recommendation outlined in this report will result in an expansion of the Medical Marijuana Program in San José. The City could see an increase in Marijuana Business Tax revenue as a result of this expansion, which would benefit the General Fund. Funding for regulating the Registered Collectives comes from the Annual Registration Fee, which is designed to be cost-recovery. However, given how new this regulatory function is and the continued evolution of the regulatory landscape at the state level, Program

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requirements may change. Staff is monitoring the staffing impacts as the Program develops and is planning to bring forward at midyear an assessment of the personnel, office space, furniture, vehicles, and equipment required to carry out the regulatory functions of the Division of Medical Marijuana Control.

Increasing the number of Registered Collective cultivation sites, allowing cultivation-only sites to be located anywhere in California, and adding the ability for Registered Collectives to deliver medical marijuana to qualified patients will require additional review, monitoring, and oversight of Collective activities. While staff plans to leverage technology to monitor some of these activities, it is likely that additional personnel will be required to ensure a robust regulatory presence.

Additionally, any exploration of adding new registration categories, such as Distributors/Transporters, Manufacturers, and Testing Labs, would require staffing and resources for policy work, community outreach, coordination with state agencies, and CEQA review.

CEQA

Negative Declaration (File No. PP11-039, Resolution No. 75984), as addended by File Nos. PP11-076, PP14-030, and PP16-076.

/s/
EDGARDO GARCIA
Chief of Police

For questions, please contact Sgt. David Woolsey, San José Police Department, at (408) 277-4115 or Michelle McGurk, Assistant to the City Manager, Office of the City Manager, at (408) 535-8254.

Attachment A
Synopsis of Council Direction from March 29, 2016

(1) The supplemental memorandum from Assistant to the City Manager Angelique Gaeta and Director of Planning, Building and Code Enforcement Harry Freitas, dated March 25, 2016, was approved, responding to the City Council direction of December 8, 2015 for the Staff to return in March 2016 with an analysis on allowing transactions/transfers with registered and licensed/permitted cultivators and manufacturers of medical marijuana products throughout the State of California and with changes to Title 20 regarding the following:

- (a) Allow secondary/multiple locations for cultivation, manufacturing and extraction for the registered collectives (not to include retail locations).
- (b) Allow cultivation throughout the State of California, charging collectives the Staff time and expense to conduct inspections.
- (c) Allow collectives to inhabit a single location/site for multiple separate grows.
- (d) Remove the 50-foot restriction for cultivation and manufacturing but keep it in place for retail dispensary locations.
- (e) Allow greenhouse, but not sun-grown cultivation, in appropriately zoned locations.

(2) Clarify Staff direction moving forward into the California Environmental Quality Act (CEQA) review process, returning to Council in October 2016 with final (CEQA) clearance and changes to the Municipal Code including:

- (a) Maintain the zoning districts and sensitive-use buffers for cultivation, manufacturing and distribution as outlined in Title 20 and applying to all of the following.
- (b) Allow each individual collective a maximum of two locations for cultivation and/or manufacturing.
- (c) Allow each individual collective one cultivation – not manufacturing – location anywhere in the State of California that would count towards the maximum two locations in Item (b).
- (d) Allow that a maximum of two collectives may share a single site for cultivation – not manufacturing and not at a dispensing location – and that their crops are keep separate and closed to the public.

(3) Complete CEQA review for greenhouses and return to Council with final CEQA review in Spring of 2017.

(4) The memorandum from Vice Mayor Rose Herrera, dated March 16, 2016, was approved:

- (a) Staff was directed to continue working with manufacturers toward having childproof packaging for all marijuana products, including edibles.
- (b) Staff was directed to return to Council every three months with an information memorandum updating the progress of implementation of childproof packaging for marijuana products.

(5) The memorandum from Council Member Ash Kalra, dated March 10, 2016, was approved, and in advance of the matter coming before Council, clarify and direct the City Manager on the following items:

- (a) Clarify the December 8, 2015 direction from the Mayor and Council to have Staff analysis for the City allowing for Transactions/Transfers with Registered and

Licensed/Permitted Cultivators and Manufacturers of Cannabis Products throughout the State of California.

- (b) In addition to the analysis of Transactions/Transfers, add Distributors, as well as Delivery to patients by legally certified San José collectives to the analysis.
- (c) Delay the current audit deadline for medical marijuana dispensaries until September 30, 2016.
- (d) Delay final determination on details of packaging requirements until there is an opportunity for feedback from the State on how it is proceeding on these complex issues.
- (e) Lobbying the State in order to allow cities to preserve vertical integration as part of local control.
- (f) Work with the San José Police Department and the Santa Clara County District Attorney's Office to continue the work of closing illegal dispensaries and delivery operators throughout the City and report back regarding the status of the closures to Council on a semiannual basis starting in June 2016.

Staff was directed to explore adopting guidelines that may delegate the issue of edibles to the County of Environmental Health with possible enforcement features. Staff was requested to encourage the County to have a Study Session on Marijuana Edibles with City of San José residents encouraged to attend.

(6) The Administration's report on the cost of creating a Division of Medical Marijuana Control and sources of funding was accepted, with final approval during the Budget Process.