

**ADDENDUM TO THE MEDICAL MARIJUANA LAND USE REGULATIONS  
ORDINANCE INITIAL STUDY/ NEGATIVE DECLARATION**

Pursuant to Section 15164 of the CEQA Guidelines, the City of San José has prepared an Addendum to the Medical Marijuana Ordinances Initial Study/Negative Declaration (File No. PP11-039) because minor changes made to the project that are described below do not raise new issues about the significant impacts on the environment.

**PROJECT DESCRIPTION AND LOCATION**

**File No. PP16-076** -- An ordinance amending Title 6 – Business Licenses and Regulations and Title 20 – Zoning of the San José Municipal Code and amendments to certain City Manager’s Office (CMO) regulations.

**Location:** Citywide

The environmental impacts of this project were addressed by the Negative Declaration entitled, "Medical Marijuana Ordinances," and findings were adopted by City Council Resolution No. 75984 certified on September 13, 2011. Specifically, the following impacts were reviewed and found to be adequately considered by the Negative Declaration (ND):

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|--|--|---|
| <input checked="" type="checkbox"/> Aesthetics                         | <input checked="" type="checkbox"/> Agriculture and Forest Resources | <input checked="" type="checkbox"/> Air Quality Resources       |
| <input checked="" type="checkbox"/> Biological Resources               | <input checked="" type="checkbox"/> Greenhouse Gas Emissions         | <input checked="" type="checkbox"/> Cultural Resources          |
| <input checked="" type="checkbox"/> Geology and Soils                  | <input checked="" type="checkbox"/> Land Use and Planning            | <input checked="" type="checkbox"/> Hazardous Materials         |
| <input checked="" type="checkbox"/> Hydrology & Water Quality          | <input checked="" type="checkbox"/> Population and Housing           | <input checked="" type="checkbox"/> Mineral Resources           |
| <input checked="" type="checkbox"/> Noise                              | <input checked="" type="checkbox"/> Transportation/Traffic           | <input checked="" type="checkbox"/> Public Services             |
| <input checked="" type="checkbox"/> Recreation                         |  | <input checked="" type="checkbox"/> Utilities & Service Systems |
| <input checked="" type="checkbox"/> Mandatory Findings of Significance |  |   |

**PURPOSE OF ADDENDUM**

The CEQA Guidelines §15162 state that when a negative declaration has been adopted for a project, no subsequent EIR or negative declaration shall be prepared for that project unless the Lead Agency determines, on the basis of substantial evidence in light of the whole record, one or more of the following:

1. Substantial changes are proposed in the project which will require major revisions of the previous EIR or negative declaration due to the involvement of new significant environmental effects or a substantial increase in the severity of previously identified significant effects;
2. Substantial changes occur with respect to the circumstances under which the project is undertaken, which will require major revisions of the previous EIR or negative declaration due to the involvement of new significant environmental effects or a substantial increase in the severity of previously identified significant effects; or
3. New information of substantial importance, which was not known and could not have been known with the exercise of reasonable diligence at the time the previous EIR was certified as complete or the negative declaration was adopted, shows any of the following:
  - a. The project will have one or more significant effects not discussed in the previous EIR or negative declaration;
  - b. Significant effects previously examined will be substantially more severe than shown in the previous EIR;
  - c. Mitigation measures or alternatives previously found not to be feasible would in fact be feasible and would substantially reduce one or more significant effects of the project, but the project proponents decline to adopt the mitigation measure or alternative; or
  - d. Mitigation measures or alternatives which are considerably different from those analyzed in the previous EIR or negative declaration would substantially reduce one or more significant effects on the environment, but the project proponents decline to adopt the mitigation measure or alternative.

CEQA Guidelines §15164(b) states that an addendum to an adopted negative declaration may be prepared if only minor technical changes or additions are necessary or none of the conditions described in §15162, stated above, calling for the preparation of a subsequent EIR or negative declaration have occurred.

The proposed project includes an ordinance amending Title 6 – Business Licenses and Regulations and Title 20 – Zoning of the San José Municipal Code and amendments to certain City Manager’s Office (CMO) regulations.

**ANALYSIS:**

The proposed project involves a set of changes to existing regulations, and does not involve any activities by the City of San José that will directly change the baseline environmental setting as described in the Initial Study. Rather, the physical environmental changes that would result from the proposed project will be indirect, in that existing registered collectives will be allowed to operate differently than currently, and potentially in different, multiple locations. These indirect



effects will be realized as changes to the operations of existing registered collectives, discussed below, as well as potentially the opening of new facilities, within San José or elsewhere in California where allowed. Given there are no direct physical changes to evaluate concerning specific sites and facility operations, and that the environment impacts resulting from the proposed ordinance/regulation amendments will be indirect in nature, the analysis in the Initial Study necessarily must rely on reasonable assumptions or predictions about the manner in which the registered collectives will respond to the proposed altered regulations.

There are three components of the proposed changes to the Municipal Code and CMO regulations that could affect the amount and location of vehicular travel associated with each registered collective, by influencing the vehicle miles traveled (VMT) to/from each facility:

1. the addition of delivery services by San José registered collectives (to patients both within and outside San José),

Under the proposed Municipal Code and CMO regulation changes, registered collectives would be allowed to deliver medical marijuana products to patients in Santa Clara, Alameda, and San Mateo counties. The introduction of delivery services would reduce the number of patient trips to dispensary locations, which could reduce VMT associated with patient procurement of marijuana products. Delivery vehicles would accrue VMT during deliveries to patients; however, these services could more efficiently provide marijuana products to patients through combining or linking trips (i.e. delivering to multiple patients per delivery trip, rather than each patient traveling to/from the registered collective). Therefore, the addition of delivery services is anticipated to result in less VMT per patient compared with existing conditions. It is not expected that patient numbers will increase substantially as a result of the ordinance beyond what is anticipated due to natural growth from an aging population and a growing City. There may be some increase from patients moving from illegal delivery market to the legitimate registered market.

2. San José registered collectives will be allowed to be involved in the transaction/transfer of medical marijuana products with registered and licensed/permitted cultivators, manufacturers, and distributors throughout the State of California,

The changes would also allow San José registered collectives to be involved in the transaction/transfer of medical marijuana products with registered and licensed/permitted cultivators, manufacturers, and distributors throughout California. This would involve the transportation of marijuana and/or marijuana products from San José registered collectives (operating within or outside of San José) to other collectives throughout the State. VMT associated with collective operations would increase above existing conditions since vehicles would now be moving between the other registered and licensed/permitted cultivators, manufacturers, and distributors and the San José registered collective's cultivation site (also potentially outside the City, discussed below). However, marijuana and marijuana products are relatively light commodities that would not, in this instance, require major trucking/shipping activities subject to state law.

3. and registered collectives may open cultivation facilities throughout California.



Lastly, the changes would allow San José registered collectives to open cultivation facilities throughout California (where permissible). Under existing conditions, registered collectives in San José are only allowed to have cultivation facilities within San José or in Santa Clara, Alameda, Merced, San Benito, San Mateo, San Joaquin, Santa Cruz, or Stanislaus counties. Cultivation facilities located further from San José could result in increased VMT to transport marijuana from cultivation facilities to manufacturing/dispensing locations. However, marijuana and marijuana products are relatively light commodities that would not, in this instance, require major trucking/shipping activities subject to state law. As state law evolves, the “owners” of a San José registered collective could open a separate business and get a state license anywhere in California. State law has limits for the number of licenses per licensee.

The proposed changes to the Municipal Code and CMO regulations do not specifically include development of registered collective facilities within or outside of the City of San José, although it is foreseeable registered collectives may take advantage of the increased flexibility provided under the amended regulations, and establish new facilities allowed under the regulations. The Municipal Code and CMO regulation changes could allow for increased development of cultivation and manufacturing locations within the City and development of cultivation facilities throughout the State of California (where allowed). The specific site or sites, whether in San José or elsewhere in California as allowed, cannot be predicted now in the absence of specific development applications by a collective(s). Therefore, the anticipated future physical changes to the environment from construction or alteration of the registered collectives’ facilities can only be discussed at a conceptual or programmatic level. To the extent a registered collective seeks to develop a new facility or alter an existing facility as allowed under the proposed regulations, whether in San José or elsewhere in California, that future discretionary development proposal would be subject to project-level, site-specific environmental review under CEQA by the appropriate lead agency. During the environmental review process, the potential for the proposed or modified registered collective facility to result in environmental impacts would be evaluated and mitigation measures would be identified, as necessary, by the lead agency in whose jurisdiction the facility would be located.

## **CONCLUSION:**

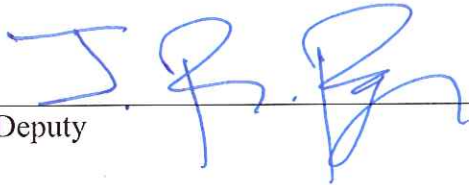
CEQA Guidelines §15164 states that the lead agency or a responsible agency shall prepare an addendum to a previously certified EIR or Negative Declaration if some changes or additions are necessary, but none of the conditions described in §15162 calling for preparation of a subsequent EIR have occurred.

Given the proposed project description and knowledge of the existing regulatory scheme and current collectives (based on the proposed project, and previous environmental review), the City of San José has concluded that the proposed project would not result in any new impacts not previously disclosed in the aforementioned IS/ND. For these reasons, an EIR or new ND is not required and an Addendum has been prepared for the proposed project.

This Third Initial Study/Addendum will not be circulated for public review, but will be attached to the 2011 IS/ND and First and Second Addenda pursuant to CEQA Guidelines §15164(c).

Harry Freitas, Director  
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9-14-16  
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Date

  
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Deputy

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