



# Memorandum

TO: HONORABLE MAYOR  
AND CITY COUNCIL

FROM: Mayor Chuck Reed

SUBJECT: Medical Marijuana Collectives

DATE: May 12, 2014

APPROVED:

DATE:

5/12/14

## RECOMMENDATION

It is recommended that the City Council:

A) Amend the draft ordinance Title 20.80.775, Restrictions and Conditions, Item D to read:

At the time of issuance of a Zoning Code Verification Certificate, no Medical Marijuana Collective or Medical Marijuana Collective, Cultivation Site Only shall be located on a parcel of real property that is closer than a minimum of one hundred and fifty (150) feet from any residential use as measured ~~by the foot path of travel in a~~ *straight line between the boundary lines of the parcels that are closest to one another*; and

B) Establish the effective date of each ordinance regulating Medical Marijuana Collectives and Cultivation to be **30 days** after the second reading of the ordinance.

C) A collective that is:

- in possession of a valid receipt for payment of Marijuana Business Tax; and
- has no outstanding code compliance orders; and
- is eligible to register; and
- is not disqualified from registration; and
- that meets the distance requirements from schools and other uses outlined in Title 20.80.775, Items A & B; and
- that meets the distance requirements from residential uses in Title 20.80.775, Item D

shall have: **90 days from the effective date of the ordinance** to apply for Zoning Verification and Registration needed to complete its registration, whether for its existing site or a new site; and **one year from the effective date of the ordinance** to obtain Zoning Verification and Registration and move if necessary.

D) From the effective date of the ordinance, all collectives must comply with all other operational regulations (such as the prohibition of consumption onsite, in parking lots, or at neighboring properties or public right-of-way, enforcement of age limits, etc.) outlined in Title 6.

## **BACKGROUND & ANALYSIS**

### ***Item A – Measurement***

Nowhere else in the Zoning Code do we use “foot path of travel” as a measurement, and we shouldn’t start now. Should the Council adopt the Planning Commission recommendation, collectives will be allowed **closer** to homes, which is exactly what our residents don’t want.

### ***Item B – Implementation***

Implementation may take time. However, every collective currently operating in San Jose is doing so in violation of the law. If they want to continue operations, they need to do so under a system that complies with state law and the federal guidelines.

This recommendation recognizes the staff time involved to issue Zoning Verifications and register collectives as well as the need for additional staffing for ongoing regulation. However, during this implementation period, collectives are going to need to operate in compliance with the ordinances. San Jose residents want the bad behavior to stop – especially the sales of marijuana to our youth.

For this reason, collectives wishing to stay in operation must comply with the regulatory components outlined in Title 6. Doing so is not only neighborly, but is a collective’s best defense against federal prosecution.