



Memorandum

TO: CITY COUNCIL
FROM: Mayor Chuck Reed
Councilmember Oliverio
SUBJECT: MUNICIPAL REGULATIONS
AND ENFORCEMENT
PERTAINING TO MEDICINAL
USE OF CANNABIS
DATE: June 18, 2010

APPROVE *Chuck Reed* **DATE:** *6/18/10*

RECOMMENDATIONS:

We recommend that:

- a. With regards to collectives that are currently located in San Jose, direction is given to focus enforcement on the closure of any collective that is within 500 feet from sensitive uses enumerated in the staff report and/or any collective located outside the CG Commercial General Zoning District.

Further direction includes the following:

- i. Return to Council with an analysis of the most appropriate level of concentration of such uses in a given area, similar to the ABC licensing model; and
 - ii. Return to Council with an analysis of other appropriate zoning designations which could be potential locations for the establishment of collectives, such as the Combined Industrial/Commercial (CIC) and CG Commercial General zoning designations.
- b. The Administration is directed to conduct polling in July 2010 to inform an August 3, 2010 Council discussion on marijuana taxation.
 - c. On August 3, 2010, the City Attorney is directed to present the Council with language to be approved for a November 2010 ballot measure that includes taxation of medical marijuana or any other legal uses.

- d. Staff is directed to schedule a Council Study Session in November 2010 on issues pertaining to medical marijuana collectives after the results of the “*Regulate, Control and Tax Cannabis Act of 2010*” ballot measure are known.

BACKGROUND:

On March 30, 2010, the City Council adopted principles in regards to medical marijuana collectives and cooperatives. These principles, identified below, should continue to be our guide as we proceed with developing regulations on medical marijuana.

1. San Jose recognizes that California law allows a patient’s primary caregiver to cultivate and possess marijuana for the personal medical purposes of the patient upon the recommendation of a physician.
2. San Jose will follow the guidance of the California Attorney General and the United States Attorney General in criminal enforcement of the laws regarding medicinal use of marijuana.
3. Individuals or entities that cultivate or distribute marijuana for profit are operating illegally under state law and are illegal under San Jose municipal code.

We appreciate the recent recommendations presented by staff and the engagement of the community stakeholders, but recommend that Council consideration on any additional zoning/land use policy issues and the regulatory program for medical marijuana be postponed from the June 22, 2010 Council meeting. We recommend instead that issues pertaining to medical marijuana should be addressed at a Council study session later this year, and Council action be taken thereafter.