



# Memorandum

**TO:** HONORABLE MAYOR AND  
CITY COUNCIL

**FROM:** Councilmembers  
Rocha, Jimenez &  
Khamis

**SUBJECT:** MARIJUANA REGULATION

**DATE:** November 9, 2017

Approved

Date

9 - 9 - 17

RECOMMENDATION

That the City Council adopt the staff recommendation and adopt the following additional staff direction:

As the State releases marijuana regulations over the coming months, staff is directed to analyze how the State rules will regulate ownership of cannabis collectives, and bring forward a recommendation as to whether San Jose should allow a single cannabis business to operate more than one of the 16 dispensaries currently licensed in San Jose. (There is an existing prohibition against a single business operating more than one dispensary in San Jose Municipal Code section 6.88.310. See Attachment A for full text of this code section as revised by staff per their recommendation for this item.)

ANALYSIS

We greatly appreciate the work staff has done to bring forward the recommendations before the Council today. As the State implements its Marijuana regulatory program, it's important that we continue to evaluate San Jose's rules and ensure that our regulatory program functions effectively alongside the State's program. We believe staff's recommendations are a step in that direction and are happy to support them.

With this memo, we propose asking that staff to return with a recommendation on one additional item. Currently, section 6.88.310 of the municipal code prohibits a single business from operating more than one of the 16 dispensary locations that are currently allowed within San Jose. What this means is that each of the existing 16 dispensaries must be owned by a different operator. With this memo, we propose that staff return with a recommendation as to whether we should continue this prohibition once they have had a chance to review the proposed State regulations. The State's emergency regulations are anticipated to be released in November and the final regulations are expected in the Spring.

We don't have a position at this point as to whether this prohibition should be lifted, but do believe it is an issue we should take a second look at given the shifting regulatory context at the State level. The Council would have an opportunity to make a final decision on this issue when staff returns with their recommendation.

# ATTACHMENT A

## ORDINANCE SECTION 6.88.310

RD:TLC:LCP  
11/3/2017

~~Q.F. 4. Complies with all other regulations promulgated by the city manager pursuant to Section 6.88.315 pertaining to the registration process.~~

### **6.88.310 Number of Locations**

- A. No collective or cannabis business shall dispense ~~medical marijuana~~cannabis from more than one location in the city.
- B. A collective or cannabis business may have up to two cultivation sites that are separate from the location at which ~~medical marijuana~~cannabis is dispensed. Alternatively, one cultivation site may be at the same location as the collective's or cannabis business's sole dispensing site. Cultivation sites must comply with the provisions of this Chapter and of Title 20 of this Code.

### **6.88.315 Authority of the City Manager**

- A. The City Manager is authorized to promulgate all regulations necessary to implement the requirements and fulfill the policies of this Code relating to medical ~~marijuana~~and non-medical cannabis, including, but not limited to the following subjects:
  - 1. Registration, review, investigation, priority order and disqualification process for the collectives and cannabis businesses and forms necessary thereto.
  - 2. Internal or external security requirements for the operation of the collectives or cannabis businesses.
  - 3. Storage or display of ~~medical marijuana~~cannabis.
  - 4. Criteria necessary to promote the safe cultivation of ~~medical marijuana~~cannabis.
- B. Regulations shall be published on the City's website.
- C. Regulations promulgated by the City Manager shall have the same force and effect of law and become effective upon date of publication.

### **6.88.320 Registration Submittal**

T-19040.012\ 1464524  
Council Agenda: 11-14-17  
Item No.: 4.3c

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**DRAFT--Contact the Office of the City Clerk at (408)535-1260 or CityClerk@sanjoseca.gov for final document.**

**REVISED – Changes to Part 9, Section 6.88.900, Paragraph C, subparagraph 1 to incorporate a clerical change.**