



COUNCIL AGENDA: 01/09/18

FILE: 17-523

ITEM: 3.8

Memorandum

TO: HONORABLE MAYOR
AND CITY COUNCIL

FROM: Edgardo Garcia

**SUBJECT: UPDATES TO THE CANNABIS
REGULATORY PROGRAM FINES**

DATE: December 15, 2017

Approved

D. DSL

Date

12/21/17

RECOMMENDATION

Adopt a resolution amending the Administrative Citation Schedule of Fines to add and update fines for violations of Chapter 6.88 of Title 6 of the San José Municipal Code related to the City's Cannabis Regulatory Program, and repealing Resolution 77772.

OUTCOME

Adoption of the above resolution will establish fines for sections recently added to and updated in Chapter 6.88 of the Municipal Code related to the regulation of medical and non-medical cannabis.

BACKGROUND

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.

December 18, 2015 marked the City's deadline for San José collectives to obtain Registration. By the deadline, 16 medical marijuana collectives achieved successful registration with the City of San José. On November 14, 2017, the City Council reaffirmed that the City is not accepting new applications, and only the City Council action can re-open the registration period.

On September 30, 2014, the City Council adopted a resolution¹ amending the Administrative Citation Schedule of Fines ("Schedule") to create escalating fines for certain violations of the Regulatory Ordinance. Since then, in response to changing needs and conditions related to

¹ Resolution No. 77163

regulating cannabis, the City Council made additional amendments to the Schedule on December 16, 2014² and March 29, 2016³.

On November 14, 2017, the City Council voted to allow the City's 16 existing registered medical marijuana collectives to add non-medical activities. In addition to expanding the allowable activities from medical to non-medical, the City Council approved reference to "marijuana" to be updated to "cannabis" to align with the State of California terminology. The Code update also allows medical and non-medical cannabis businesses, as allowed under State law, where previously only medical marijuana collectives were allowed.

ANALYSIS

The current Administrative Schedule of Fines refers to "medical marijuana collectives." With the addition of non-medical cannabis to the City's Program and the allowance of businesses in addition to non-profit collectives, it is necessary to update the Schedule to incorporate the new types of registrants and violations.

Compliance with the City's Code can improve when administrative fines are reasonable and proportional to the violation being cited. In addition, escalating fines for repeat violations tends to further encourage compliance with the Code. Accordingly, the changes being proposed to the Administrative Citation Schedule of Fines establish appropriate fines for violations of various sections of Chapter 6.88 and expand the fine schedule from medical marijuana collectives to medical cannabis collectives, medical cannabis businesses, and non-medical cannabis businesses.

EVALUATION AND FOLLOW-UP

The Administration has consistently provided the City Council with updates via informational memoranda regarding the progress of the City's cannabis regulatory program, changes in State law, and other developments potentially impacting the regulatory landscape.

PUBLIC OUTREACH

This memorandum will be posted on the City's Council Agenda website for the January 9, 2018 Council Meeting, and a link will be sent to the email list maintained by the Police Department's Division of Cannabis Control.

² Resolution No. 77254 created fine amounts for violations of Sections 6.88.300 (A) (Operating Without First Having Applied for Registration, Paying Required Fees and Receiving a Notice of Completed Registration) and 6.88.300 (B) (Failing to Operate Pursuant to a Noticed of Completed Registration).

³ Resolution No. 77702 created escalating fines for violations deemed to be less serious, moderate, or serious offenses.

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COORDINATION

This memorandum has been coordinated with the City Manager's Budget Office and the City Attorney's Office.

COMMISSION RECOMMENDATION/INPUT

No commission recommendation or input is associated with this action.

CEQA

Not a Project, File No. PP17-008, General Procedure & Policy Making resulting in no changes to the physical environment.

/s/

EDGARDO GARCIA

Chief of Police

For questions, please contact Wendy Sollazzi, Division Manager, Division of Cannabis Regulation, San José Police Department, at (408) 537-9890.

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