

Memorandum

To: Honorable Mayor, Vice Mayor, and Members of City Council
From: John Lollis, City Manager
cc: Ms. Julia Lew, City Attorney
Ms. Patrice Hildreth, Administrative Services Director
Mr. Brad Dunlap, Community Development Director
Mr. Glenn Irish, Fire Chief
Mr. Chuck McMillan, Police Chief
Date: March 17, 2014
Re: City Council Member Request to Distribute Information: City of San Pablo

Per the request of a Member of City Council, for the Council's information and reference, please find under cover a copy of a news article reporting the City of San Pablo's (Contra Costa County) current consideration of prohibiting the cultivation of medical marijuana within city limits.

Please let me know if I can be of any further assistance in this matter.

San Pablo proposes law prohibiting growing any marijuana plants in homes

By Robert Rogers Contra Costa Times Contra Costa Times

Posted:

ContraCostaTimes.com

SAN PABLO -- An ordinance set for final approval next week prohibiting medical marijuana card holders from growing pot plants in their own homes would be the most far-reaching anti-marijuana law in Contra Costa County.

The San Pablo City Council voted 4-0 on March 3 to move ahead with a local ordinance declaring all cultivation of marijuana plants a public nuisance and reaffirming its existing ban on any medical marijuana dispensaries.

The ordinance is slated for adoption by the City Council on Monday. If approved, it becomes effective 30 days later, said City Manager Matt Rodriguez.

"The city is concerned because of the increases of crime and violence associated with marijuana in the community," Rodriguez said.

State voters decriminalized medical marijuana for qualified patients and caregivers with the passage of The Compassionate Use Act in 1996. Some East Bay cities have granted permits to medical marijuana dispensaries, including nearby Richmond, and many others have passed ordinances prohibiting the shops.

Fresno County and the city of Live Oak have passed similar bans in recent months, according to news reports. Concord passed a ban on outdoor plants last year.

San Pablo police Cmdr. Jeff Palmieri listed a series of recent violent crimes that involved marijuana as a reason to adopt a new ordinance. There were 20 felony marijuana sales arrests in the city in 2013, up from 14 in 2009, he said. Police busted four people for marijuana cultivation in large grows last year, Palmieri added, more than the previous four years combined.

"Some people think that there is no link between violence and marijuana, but that's not true," Palmieri said. "My last arrest on the street a few months ago was disarming a man with a semi-automatic handgun and marijuana for sale."

According to a city staff report, "Marijuana cultivation poses the potential threat of criminal harm as well as interference with the welfare of surrounding property owners."

But not all residents are so sanguine about giving police new powers to punish marijuana users. The new law could give police or code enforcement officials access to houses to investigate complaints about odor or other concerns.

"They are talking about home grows," resident Ron Deziel said. "It's scary that the police in San Pablo can now take on the authority to go into somebody's house on the basis of a complaint or if they smell what they think is marijuana."

While California law protects the right of qualified medical marijuana patients and their caregivers to cultivate marijuana -- up to 12 plants -- for medical purposes, the state Supreme Court last year ruled in *city of Riverside v. Inland Empire Patients Health and Wellness Center Inc.* that the objectives of such state laws were "modest" and those acts did not create a "broad right" to access medical marijuana, a ruling San Pablo officials say puts their proposed ordinance on solid legal ground.

"The Riverside case threw a wrinkle into our (medical marijuana) efforts in California," said Allen St. Pierre, executive director of The National Organization for the Reform of Marijuana Laws.

The Third District Court of Appeal upheld Live Oak's ban and that case is being appealed to the state Supreme Court.

"We're not trying to pre-empt state or federal law," Rodriguez said. "We recognize this is an increased activity in residential neighborhoods and, based on that, this is an appropriate ordinance."

Growers of small amounts of marijuana could face fines and citations, according to the law.

The Associated Press contributed to this story. Contact Robert Rogers at 510-262-2726 or rogers@bayareanewsgroup.com. Follow him at [Twitter.com/SFBaynewsrogers](https://twitter.com/SFBaynewsrogers).

IF YOU GO

What: San Pablo City Council meeting

When: 6 p.m. Monday

Where: City Council chamber, 13831 San Pablo Ave.