

ORDINANCE NO.

AN ORDINANCE OF THE CITY OF SAN JOSE AMENDING CHAPTER 6.88 OF TITLE 6 OF THE SAN JOSE MUNICIPAL CODE AS FOLLOWS: TO ADD SECTION 6.88.295 TO ADD THE DEFINITION OF TRANSPORT; TO ADD SECTION 6.88.425 TO REQUIRE IDENTIFICATION BADGES TO BE WORN; TO ADD SECTION 6.88.445 TO EXPRESSLY PROHIBIT DELIVERIES OF MEDICAL MARIJUANA; TO ADD SECTION 6.88.465 TO ALLOW A REGISTERED COLLECTIVE TO TRANSFER MEDICAL MARIJUANA TO OTHER COLLECTIVES WHO ARE REGISTERED WITH THE CITY; TO AMEND SECTIONS 6.88.212, 6.88.235, 6.88.242, 6.88.310, 6.88.330, 6.88.420, 6.88.430, 6.88.435, 6.88.440, 6.88.460 AND 6.88.900 TO ALLOW REGISTERED COLLECTIVES TO MANUFACTURE MEDICAL MARIJUANA PRODUCTS AT THEIR OFF-SITE CULTIVATION LOCATION, CLARIFY DISQUALIFICATION FROM THE REGISTRATION PROCESS, REVISE THE REQUIREMENTS FOR CULTIVATION, DECREASE THE TIME REQUIRED FOR STORING VIDEO FROM SURVEILLANCE CAMERAS FROM 90 TO 30 DAYS, IMPOSE NEW RESTRICTIONS ON CULTIVATION FOR PERSONAL USE, AND TO MAKE OTHER TECHNICAL, NONSUBSTANTIVE, OR TYPOGRAPHICAL CHANGES

WHEREAS, pursuant to the provisions of Title 21 of the San José Municipal Code, the Director of Planning determined that the proposed Ordinance is consistent with and within the scope of the analysis in the previously adopted Negative Declaration (File No. PP11-039) and Addenda thereto (File Nos. PP11-076 and PP14-030) that were prepared to identify and analyze the environmental impacts of regulations related to medical marijuana collectives; and

WHEREAS, the City Council of the City of San José is the decision-making body for this Ordinance; and

WHEREAS, the City Council considered the Negative Declaration, Addendum File No. PP14-030 and the determination of consistency therewith prior to making a decision on the approval of this Ordinance;

NOW, THEREFORE, BE IT ORDAINED BY THE COUNCIL OF THE CITY OF SAN JOSE:

SECTION 1. Section 6.88.212 of Chapter 6.88 of Title 6 of the San José Municipal Code is amended to read as follows:

6.88.212 Cultivation Site

%Cultivation Site+means the property, Location, or Premises where Medical Marijuana is cultivated, stored, Manufactured or Processed ~~cultivated or grown~~ by the members of a Collective on behalf of that Collective.

SECTION 2. Section 6.88.235 of Chapter 6.88 of Title 6 of the San José Municipal Code is amended to read as follows:

6.88.235 Medical Marijuana

%Medical Marijuana+means Marijuana used for medical purposes in accordance with California Health and Safety Code Section 11362.5, including any product containing Medical Marijuana, manufactured in accordance with all state and local laws.

SECTION 3. Section 6.88.242 of Chapter 6.88 of Title 6 of the San José Municipal Code is amended to read as follows:

6.88.242 Medical Marijuana Transfers

~~%~~Medical Marijuana Transfers+means:

- A. The transfer of Medical Marijuana from a Primary Caregiver to that Primary Caregiver~~§~~ Qualified Patient for such consideration as is sufficient to reimburse that Primary Caregiver for the Primary Caregiver~~§~~ out-of-pocket expenses and for the Primary Caregiver~~§~~ services.~~;- or~~
- B. Transfers of Medical Marijuana between Qualified Patients and Primary Caregivers facilitated through an association of those Qualified Patients and Primary Caregivers who are operating as a nonprofit Collective.~~;- or~~
- C. Transfers of Medical Marijuana between two Collectives, both of which are registered with the City pursuant to this Chapter, conducted in accordance with the restrictions set forth in Section 6.88.465.

SECTION 4. Chapter 6.88 of Title 6 of the San José Municipal Code is amended by adding a Section to be numbered, entitled and to read as follows:

6.88.295 Transport

%Transport+means all activity involved in the movement of Medical Marijuana from one location to another, including, but not limited to, loading, shipping and receiving.

SECTION 5. Section 6.88.310 of Chapter 6.88 of Title 6 of the San José Municipal Code is amended to read as follows:

6.88.310 Number of Locations

- A. No Collective shall dispense Medical Marijuana from more than one (1) location in the City.

- B. A Collective may have one (1) Cultivation Site, ~~upon which Medical Marijuana is cultivated, produced, harvested, stored, manufactured or processed.~~ The Cultivation Site may be that is separate from the location at which Medical Marijuana is dispensed, ~~or~~ Alternatively, the Cultivation Site may be at the same location as the Collective's sole dispensing site. The Cultivation Site must comply with the provisions of this Chapter and of Title 20 of this Code.

SECTION 6. Section 6.88.330 of Chapter 6.88 of Title 6 of the San José Municipal Code is amended to read as follows:

6.88.330 Registration Process

- A. **Registration Review**
 - 1. Pursuant to Section 6.88.300, no Collective shall operate in the City of San José without a Notice of Completed Registration from the City Manager. A person desiring to obtain a Notice of Completed Registration shall file a ~~registration form~~ registration application with the City Manager

that shall contain the following accurate, complete and truthful information:

- a. The legal name, and any other names, under which the Collective will be operating;
- b. The physical address and physical description (e.g., one story commercial building, etc.) of the Premises;
- c. The onsite landline telephone number for the Collective;
- d. Proof that the Location and the Premises are in compliance with the requirements of Title 20 of the Code, including but not limited to Part 9.75 of Chapter 20.80 and Part 13 of Chapter 20.100;
- e. The name, telephone number, and address of the person authorized to accept service of process for the Collective;
- f. The following information concerning each Owner, Manager, or individual member who will be participating in the actual cultivation, Processing, Manufacturing, ~~T~~ransporting or dispensing of the Medical Marijuana:
 - (1) Complete legal name, and any alias(es);
 - (2) Date of birth;

- (3) A copy of a valid government issued photo Identification Card or license;
- (4) A copy of the member's Identification Card or a copy of the Physician's Recommendation for the member;
- (5) The name, address and telephone number of the Attending Physician who provided the member with a Physician's Recommendation (post office boxes are not deemed to satisfy this requirement);
- (6) If the member is a Primary Caregiver, a copy of the written documentation provided by each Qualified Patient member designating the member as their Primary Caregiver;
- (7) Telephone number(s) where the individual Owner or Manager can be reached twenty-four (24) hours a day;
- (8) A list of all criminal convictions, other than infraction traffic violations, the jurisdiction of the conviction(s) and, the circumstances thereof;
- (9) One (1) set of fingerprints in a form acceptable to the Chief of Police; and
- (10) A detailed explanation of the member's involvement with any other Collective including, but not limited to: the name and address of the Collective; the capacity in which the member

was involved with the Collective; whether the Collective is or was the subject of any criminal investigation or prosecution, civil investigation, administrative action or civil lawsuit; whether the member or the Collective with which the member is or was associated has ever been denied, or is in the process of being denied registration, a permit, a license or any other authorization required to operate a Collective in any other city, county or state; and whether the member or the Collective with which the member is or was associated has ever had a registration, license, permit or any other authorization required to operate a Collective in any other city, county or state suspended or revoked, and the reasons therefore;

- g. A complete list of all the duties and functions of each managing member of the Collective;
- h. A copy of the lease or other such proof of the Collective's right to possess the Premises and/or Location;
- i. The Collective's operations plan, which shall be in conformance with the requirements of this Chapter and shall include:
 - (1) A management plan naming the Managers for the Collective and detailing each Manager's responsibilities;

- (2) A list of all Managers responsible for receiving, logging, and responding to complaints regarding the Collective, as required by Subsection 6.88.440K;
- (3) A security plan which identifies the Collective's Security Personnel and provides documentation of the proper certification of that personnel by the State, as required by Subsection 6.88.420J, and which details the security measures for the Location and Premises including those requirements set forth in this Chapter;
- (4) The rules and regulations of the Collective which shall comply with those requirements set forth in this Chapter;
- (5) The hours and days of operation for the Collective, including the hours and days of operation for any separate Cultivation Site;
- (6) The Medical Marijuana cultivation, Processing and Manufacturing procedures to be utilized at the Location and the Premises including a detailed explanation of how chemicals and fertilizers will be stored and what measures will be taken to minimize or offset energy use from the cultivation, ~~or~~ Processing and Manufacturing of Medical Marijuana and what measures will be taken to comply with the requirements of this Chapter;

- (7) A site plan and floor plan which details the layout of the Location and the Premises and any adjacent areas, including parking lots, which are owned or controlled by the Collective;
 - (8) An odor management plan detailing steps the Collective will take to install air purification systems and air scrubbers to ensure that the odor of Medical Marijuana will not emanate beyond the walls of the Collective's Premises; and
 - (9) Designation of the sole dispensing Location and designation of the sole Cultivation Site of the Collective.
- j. Identifying information for all savings accounts, checking accounts, investment accounts and trusts associated with the operation of the Collective;
- k. Authorization for the City Manager to:
- (1) Seek other information that the City Manager deems necessary for a complete review of the ~~registration form~~registration application; and
 - (2) Conduct an investigation into the truthfulness of the statements set forth in the ~~registration form~~registration application, including, but not limited to, a criminal history investigation by the Chief of Police with the California

Department of Justice and any other law enforcement agencies;

- I. Written consent by each Owner and Manager member of the Collective to provide the City Manager with the information and authorization described in this Section and written consent by each member of the Collective for the inspection and copying of records as specified in Subsection 6.88.330B;
- m. A dated statement signed by an individual member authorized to represent and legally bind the Collective, certifying under penalty of perjury that the information provided in the ~~registration~~ form registration application and any attachment thereto is true, complete and correct;
- n. Proof of payment of any applicable taxes due to the City pursuant to Chapters 4.66 and 4.76 of the Code; and
- o. Any other information reasonably required by the City Manager to show that the Collective is in compliance with the provisions of this Chapter.

B. Consent for Inspection of Records and Location

1. Required Consent for Inspection and Copying of Records
 - a. As part of the registration process the Collective shall provide written consent for the inspection and copying by the Chief of

Police, and any other City official charged with enforcing the provisions of this Code, of any recordings and records required to be maintained under this Chapter without requirement for a search warrant, subpoena or court order.

- b. The Collective shall be subject to the inspection and copying set forth in Subsection 6.88.330 B(1)(a) at any time and without notice during the Collective's hours of operation and at any other time upon reasonable notice.
- c. Nothing in this Chapter requires the disclosure of any Qualified Patient member's Private Medical Record.

2. Required Consent for Inspection of Location and Premises

- a. As part of the registration process, the Collective shall provide written consent for the inspection of the Location and the Premises by the Chief of Police, and any other City official charged with enforcing the provisions of this Code, without requirement for a search warrant or court order.
- b. The Collective Location and Premises shall each be subject to the inspection set forth in Subsection 6.88.330 B(2)(a) at any time and without notice during hours of operation and at any other time upon reasonable notice.

C. Signatories to Registration

Each and every Owner and Manager of the Collective shall print his or her name and sign the ~~registration form~~registration application under penalty of perjury certifying that all the information contained therein, and any attachments thereto, is true, complete and correct.

D. Investigation and Determination

1. Upon receiving a Collective's ~~registration form~~registration application, the City Manager shall proceed by the order established by Section 6.88.320 to investigate the information required in Subsection 6.88.330A through C and evaluate the compliance of the Collective with the requirements of this Chapter.
2. The City Manager shall also investigate the Location and the Premises for the purpose of assuring that each Collective complies with the requirements of this Chapter, including, but not limited to Part 4, and all public health, safety, welfare and zoning laws set forth in this Code and in State and local laws.
3. The Chief of Police shall also conduct a criminal background investigation on any Owner or Manager of the Collective and on any individual members who participate in the cultivation, ~~P~~rocessing, ~~M~~anufacturing, ~~T~~ransporting or dispensing of Medical Marijuana.

E. Disqualification from Registration

1. Any Collective may be disqualified from the registration process for any of the following reasons:
 - a. The Collective, or any person applying on behalf of a Collective, knowingly made a false statement of fact or omitted a fact required to be revealed in the registration process, or any amendment or report or other information required to be made thereunder;
 - b. The Collective Location or Premises is in violation of any building, zoning, health, safety or other provision of this Code; or of any State or local law which substantially affects the public health, welfare or safety;
 - c. The Collective violates or has violated the terms and conditions of any requirement of this Code related to the operation of a Collective, other than solely because of its existence after the effective date of this Chapter;
 - d. The Collective, or any one of its Owners or Managers have owned or leased a Location or Premises that has been the subject of an administrative, civil or criminal nuisance abatement action and court judgment or administrative determination finding the Location or Premises to be a nuisance within the past five (5) years;
 - e. The Collective was- disqualified from the registration process under this Chapter on one (1) or more of the grounds provided in

this Section within five (5) years prior to the date of the current attempt to register;

- f. The Collective's registration under this Chapter has become null and void within the past five (5) years for any of the reasons set forth in Section 6.88.350;
- g. The Collective's registration, permit, license or any other authorization issued by the City or by any State or local agency and required to operate a Medical Marijuana Collective, cooperative, dispensary, or other such establishment, has been deemed null and void or has been suspended or revoked or otherwise nullified within the past five (5) years;
- h. The Collective has conducted itself in a manner that creates or results in a public nuisance, as defined in Section 1.13.050 of this Code or Sections 3479 and 3480 of the California Civil Code, on or within three hundred (300) feet of the Location;
- i. If the Collective is a corporation, the corporation is not in good standing or authorized to do business in the State;
- j. The Collective conducted, conducts or anticipates conducting a Collective on a Location or Premises and such operation is prohibited under the terms of the lease for the Location or Premises or under the terms of another such document which memorializes the Collective's right to possess the Location or Premises;

- k. The Collective has- as an Owner or Manager or as individual members participating in the cultivation, Processing, ~~M~~manufacturing, ~~T~~transporting or dispensing of Medical Marijuana, persons who:
- (1) Are on parole or probation for the possession, sale, manufacture, use, distribution or transportation of a controlled substance~~;~~;
 - (2) Have been convicted of a crime of moral turpitude~~;~~ or
 - (3) Have been convicted of any misdemeanor or felony within the last ten (10) years involving the following:
 - (a) The use of violence, force, fear, fraud or deception;
 - (b) The unlawful possession, sale, manufacture, use, distribution or transportation of a controlled substance;
 - (c) The use of money to engage in criminal activity; or
 - (d) The unlawful possession or use of a firearm.
- l. The Collective's operation from the Location or Premises results or will result in an imminent threat to the public's health, safety or welfare~~;~~ or

m. If, based on the investigation conducted pursuant to this Section or Section 6.88.360, the City Manager finds that there are grounds for disqualification of a Collective because an Owner or Manager or an individual member participating in the cultivation, Processing, Manufacturing, Transporting or dispensing of Medical Marijuana is found in violation of Subsection E.1. k above, and the Collective proves conclusively to the City Manager that it has terminated its relationship with that individual so that the individual is prohibited from being involved in the Collective as an Owner or Manager or individual participating in the cultivation, Processing, Manufacturing, Transporting or dispensing of Medical Marijuana on behalf of the Collective, then in the City Manager's discretion, the Collective may be allowed to continue the registration process, or amended registration process, as the case may be, subject to compliance with all other requirements of this Code.

2. Appeal Procedure

A. Notice of Intended Decision

1. Upon determining the existence of any of the grounds for disqualification of an Owner, Manager, or individual member participating in the cultivation, Processing, Manufacturing, Transporting or dispensing of Medical Marijuana from the registration process pursuant to Section 6.88.330 E.1.m, the Chief of Police may issue to such individual, with a copy

to the Collective, a notice of intended decision to disqualify.

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2. The notice of intended decision shall state all the grounds and reasons upon which the disqualification is based.

3. The notice of intended decision shall advise that the disqualification shall become final unless the -individual files a written request for hearing before the Chief of Police within the time period specified below.

4. The notice of intended decision shall specify the effective date of the disqualification.

B. Procedure for Hearing before the Chief of Police

1. The written request for a hearing before the Chief of Police must be received by the Chief of Police within ten (10) calendar days of the date of service of the notice of intended decision to -disqualify.

2. The Chief of Police shall schedule a hearing which shall be held no later than thirty (30) calendar days after receipt of a timely request for hearing.

3. The Chief of Police shall serve a notice of hearing on the individual not later than ten (10) calendar days prior to the scheduled date of the hearing.

4. At the hearing before the Chief of Police, the individual shall be given the opportunity to present witnesses and documentary evidence.
5. The hearing will be conducted informally and the technical rules of evidence shall not apply. Any and all evidence which the Chief of Police deems reliable, relevant and not unduly repetitious may be considered.

C. Decision of the Chief of Police

1. Within twenty (20) calendar days after the hearing, the Chief of Police shall serve a written decision sustaining, reversing or modifying his or her intended decision on the individual.
2. The decision by the Chief of Police after hearing shall become final.
3. The written statement of decision shall contain a notice setting out Section 1.16.010 of this Code.

F. **Completed Registration.** After verification that the required Application Submission Fee and the Application Processing Fee, as set forth in Section 6.88.380, have been timely and fully paid and that all necessary information has been provided and that the Collective is in compliance with all requirements of this Chapter, the City Manager shall notify the Collective that the Annual Operating Fee and any applicable Hourly Investigative Fee, as set forth in

Section 6.88.380, are now due and payable to the City. Within ten (10) business days of receiving the Collective's payment in full of the Annual Operating Fee and any applicable Hourly Investigative Fee, the City Manager shall mail a Notice of a Completed Registration, and any subsequent updated registration, to the person authorized to accept service of process on behalf of the Collective.

- G. **Notice of Disqualification.** If the Collective has not paid the fees or taxes required by this Code, has not provided all necessary information, is not in compliance with all the requirements of this Code, or has otherwise been disqualified from the registration process, the City Manager shall mail notice to the person authorized to accept service of process on behalf of the Collective advising the Collective that it has been disqualified from the registration process.

SECTION 7. Section 6.88.420 of Chapter 6.88 of Title 6 of the San José Municipal Code is amended to read as follows:

6.88.420 Security

- A. The Premises or Location shall be equipped with, and at all times be monitored by, a web-based closed-circuit television for security purposes. The camera and recording system must be of adequate quality, color rendition and resolution to allow the ready identification of any individual committing a crime anywhere on or adjacent to the Premises or Location. The system shall be fully functional prior to Processing or cultivating of Medical Marijuana at the Premises or Location. The recordings of the monitoring shall be maintained for a period of not less than ~~ninety~~ thirty (~~30~~90) days and shall be made available and accessible to the Chief of Police and any other City official charged with enforcing the provisions of this Code immediately upon request for review and

copying, without the need for a search warrant, subpoena or court order. The Collective shall also provide the Chief of Police with the URL address of any on-site web-based video surveillance to monitor remotely at any time without a warrant, subpoena or court order.

- B. The Premises or Location shall have a centrally-monitored fire and burglar alarm system. This system shall be fully functional at all times and prior to Processing or cultivating Medical Marijuana at the Premises or Location. At a minimum, this alarm shall cover the perimeter of the Premises or Location and shall focus on those areas where Medical Marijuana is ~~cultivated, grown, produced, harvested,~~ stored, ~~Manufactured, packaged~~ Processed, or dispensed. This alarm shall be monitored by a professional alarm company at all times.
- C. If the Collective maintains records in a printed format pursuant to Section 6.88.500, then the Premises shall contain a fire-proof safe and all records required by this Chapter shall be stored in that safe.
- D. Exterior lighting on the Premises and parking area lighting for the Location shall be balanced and shall not result in glare on adjoining properties, shall complement the security systems required in Subsections A and B above to ensure that all areas of the Location are visible, and shall provide increased lighting at all entrances to the Premises. The lighting required in this subsection shall be turned on from dusk to dawn.
- E. Medical Marijuana shall be stored in buildings that are completely enclosed, and in a locked vault or safe, or other secured storage structure which is bolted to the floor or structure of the Premises.

- F. Windows and roof hatches of the Premises shall be secured from the inside with effective means so as to prevent unauthorized entry, and shall be equipped with latches or a similar mechanism that may be released quickly from the inside to allow exit in the event of emergency in compliance with all applicable building provisions in the Code.

- G. Exterior doors to the Premises shall remain locked from the outside to prevent unauthorized ingress to the Premises. Ingress shall be allowed by means of a remote release operated from within the Premises of the Collective. In all cases, doors shall remain openable from the inside to allow egress without the use of a key or special knowledge. Access-controlled egress doors shall comply with Section 1008.1.3.4 of the California Building Code.

- H. No person shall be in possession of any firearm while on the Premises or Location without having first obtained a license from the appropriate state or local agency authorizing the person to be in possession of such firearm.

- I. Persons in possession of a firearm while on the Premises or Location must provide the City Manager and the Chief of Police, ten (10) days before bringing the firearm onto the Premises, with the following:
 - 1. A copy of the license issued to the person by the appropriate state or local agency authorizing him or her to possess such firearm;

 - 2. A copy of his or her law enforcement identification (if he or she is employed by a law enforcement agency); ~~and~~

3. A copy of his or her California Driver's license or California Identification Card; and
 4. Any other information reasonably required by the Chief of Police to show that the individual is in compliance with the provisions of all laws regarding the possession and use of a firearm.
- J. There shall be a minimum of one (1) Security Personnel on duty twenty-four (24) hours a day, seven (7) days a week at the Collective's Cultivation Site. If the Collective has a separate site for dispensing only, there shall also be a minimum of one (1) Security Personnel at that Location during its hours of operation. The Security Personnel shall provide security inside the Premises, along the outside perimeter of the Premises, at parking sites immediately adjacent to the Premises and used by members of the Collective, and at sidewalks adjacent to the Collective's Location. The Collective shall employ Security Personnel subject to the following requirements:
1. All Security Personnel shall register and maintain valid registration status with the state of California's Department of Consumer Affairs. At no time shall any Security Personnel register with the State at any level that is less than that of a proprietary private security officer. Proof of application and registration for all Security Personnel shall be maintained by the Collective and shall consist of copies of all relevant documentation including: application forms, receipts for application fees and live scan fees, and actual proof of registration.

2. While on duty, all Security Personnel shall have a nameplate containing the Security Personnel's full name and the word "SECURITY" printed in bold, capital letters. The nameplate shall be exhibited prominently on the clothing, at chest level, and shall be visible and easily read at all times. The nameplate shall be a minimum of two inches high and four inches wide, with the required information printed in capital letters, at least three-fourths inches high and in a contrasting color. As an alternative to a nameplate, the Security Personnel's name and the word "SECURITY" may be embroidered on the Security Personnel's outermost garment with the required information meeting the above specifications and located at chest level.

SECTION 8. Chapter 6.88 of Title 6 of the San José Municipal Code is amended by adding a Section to be numbered, entitled and to read as follows:

6.88.425 Identification Display Requirements

- A. Each Owner, Manager and individual member engaged in the cultivation, Processing, Manufacturing, Transporting or dispensing of Medical Marijuana shall, at all times while engaged in the duties of his or her position at for -the Collective, wear in plain sight, on his or her person and at chest level, an valid identification badge, issued by the Chief of Police and containing such information, including a suitable photograph, as the Chief of Police may require.
- B. No Owner, Manager or individual member engaged in the cultivation, Processing, Manufacturing, Transporting or dispensing of Medical Marijuana shall engage in any activities on behalf of the Collective with which he or she is registered, without first obtaining a valid identification badge.

C. Identification badges shall expire one (1) year after issuance.

A-D. Application for renewed identification badges -shall be filed with the Chief of Police no later than thirty (30) days prior to the expiration of the current identification badge.

E. Identification badges are the property of the City of San José and shall be immediately collected by the Collective and provided to the Chief of Police within twenty-four (24) hours of their expiration, or within twenty-four (24) hours of the termination of the Collective's relationship with the Owner, Manager or individual member participating in the cultivation, Processing, Manufacturing, Transporting or dispensing of Medical Marijuana.

SECTION 9. Section 6.88.430 of Chapter 6.88 of Title 6 of the San José Municipal Code is amended to read as follows:

6.88.430 Cultivation of Medical Marijuana

- A. No cultivation of Medical Marijuana at the Premises or Location shall be visible with the naked eye from any public or other private property, nor shall Medical Marijuana or any product containing Medical Marijuana be visible from the exterior of any Premises used by the Collective.

- B. All areas devoted to the cultivation of Medical Marijuana shall be secured from public access by means of a locked gate and any other security measures necessary to prevent unauthorized entry.

- C. ~~No manufacture of Medical Marijuana in violation of California Health and Safety Code Section 11379.6 is allowed. The chemical Processing of Concentrated Cannabis shall continue to be prohibited under this Chapter even if California Health and Safety Code Section 11379.6 is subsequently amended or repealed, except that a separate Cultivation Site may be specifically registered with the City to engage in this activity subject to the filing of an appropriate chemical safety plan and the obtaining of any appropriate hazardous materials permits. The extraction and refinement of chemical compounds from Medical Marijuana by way of a solvent-based method utilizing compressed flammable gases or alcohol is prohibited. No Collective shall possess, dispense or Transport of any Medical Marijuana manufactured by such method. All extraction and refinement equipment used by a Collective shall be subject to review by, and approval of, the City pursuant to building codes.~~
- D. No Collective shall allow more Medical Marijuana or plants per member, other than the amounts permitted pursuant to State law, to be stored or provided at the Collective's Premises ~~and/or Location~~. All Medical Marijuana possessed by a Collective must be stored on the Collective's Premises and/or Location.
- E. ~~Except as provided in Section 6.88.465, only Medical Marijuana that was cultivated, Pprocessed, and Mmanufactured by the Collective at the Collective's Premises and/or Location, including any separate Cultivation Site, in strict accordance with State law and this Chapter, may be stored and dispensed from said Premises and/or Location. Medical Marijuana products (including edibles and concentrates) sold in the City of San Jose must be manufactured and/or processed at the Collective's Premises within the City of San Jose.~~

~~F. The cultivation of Medical Marijuana outdoors is prohibited within the City of San José, except as provided in Section 6.88.900.~~

~~F. Every Collective shall maintain complete records regarding the amount of Medical Marijuana cultivated, Processed, stored, Manufactured or destroyed at its Cultivation Site.~~

~~G. All water used in the cultivation of Medical Marijuana shall be legally obtained and shall be applied in accordance with state and local laws.~~

SECTION 10. Section 6.88.435 of Chapter 6.88 of Title 6 of the San José Municipal Code is amended to read as follows:

6.88.435 Off-Site Cultivation

- A. No Medical Marijuana shall be dispensed from a Cultivation Site, unless that site also serves as the Collective's sole dispensing location.
- B. ~~To the extent allowed by law in the local jurisdiction, t~~The Cultivation Site ~~shall~~ may be located within -one of the following counties: Santa Clara, Alameda, Merced, Monterey, San Benito, San Mateo, San Joaquin, Santa Cruz, or Stanislaus. ~~The Cultivation Site must be in compliance with State law and local law. Nothing in this Chapter allows cultivation at any location, except to the extent allowed by the law of the relevant jurisdiction.~~
- C. A Cultivation Site that does not serve as the Collective's sole dispensing location shall not be open to the public.

- D. ~~-The Collective shall maintain complete records regarding the amount of Medical Marijuana cultivated, produced, harvested, processed, stored, Manufactured or packaged destroyed~~ at its Cultivation Site.
- E. The Collective shall maintain complete records regarding the Transporting of Medical Marijuana Transfers from the Collective's offsite Cultivation Site to the Collective's dispensing location, or to the dispensing location or off-site Cultivation Site of another Collective registered with the City of San José. Such records shall include the date and time the Medical Marijuana was Transported, of the transfer as well as the amount of Medical Marijuana Transported, form whether the Medical Marijuana was in flower, concentrate or edible form, and the strain and type of Medical Marijuana Transportedferred.
- F. All Transporting of Medical Marijuana from a Collective's Cultivation Site to its dispensing location or between two registered Collectives shall be conducted between the hours of 6 a.m. and midnight.
- G. All water used in the cultivation of Medical Marijuana shall be legally obtained and shall be applied in accordance with state and local laws.
- HF. The City Manager shall promulgate regulations pursuant to Section 6.88.315 to ensure that Collectives control, record, and track their Medical Marijuana throughout the growing, cultivation, Processing, Manufacturing, Transporting and dispensing processes in accordance with State law and any guidelines adopted by the California Attorney General.

SECTION 11. Section 6.88.440 of Chapter 6.88 of Title 6 of the San José Municipal Code is amended to read as follows:

6.88.440 Collective Operations

- A. No dispensing location for the Collective shall be open between the hours of 9:00 p.m. and 9:00 a.m. on any given day.
- B. No Collective shall operate for profit.
- C. ~~–Except as provided in Section 6.88.465, only Medical Marijuana that was cultivated, Processed, and Manufactured by the Collective at the Collective's Premises or Location, including any separate Cultivation Site, in strict accordance with State law and this Chapter, may be stored and dispensed from said Premises and/or Location. This provision will not be enforced until May 18, 2016. However, all Medical Marijuana dispensed by a Collective prior to May 18, 2016 must comply with all other provisions of this Chapter and all regulations promulgated by the City Manager pursuant to Section 6.88.315. Medical Marijuana products (including edibles and concentrates) sold in the City of San Jose must be manufactured and/or processed at the Collective's Premises within the City of San Jose.~~
- D. In-kind contributions, monetary contributions and property contributions provided by members towards the Collective's Overhead Expenses shall be in strict compliance with State law. All contributions (whether in-kind, monetary or property) shall be fully documented, in writing, at the time of their receipt by the Collective and in accordance with Part 5 of this Chapter.

- E. On the fifteenth day of each month, the Collective shall provide a detailed accounting of Overhead Expenses to its membership. Contributions for Overhead Expenses shall be made through direct billing or through in-kind contribution. Monetary contributions shall be made by cash, personal check, cashier's check or credit card. All accountings, billings, and contributions (whether in-kind, monetary or property) shall be fully documented, in writing and in accordance with Part 5 of this Chapter, and shall be submitted to the Director of Finance on a quarterly basis.

- F. No persons under the age of twenty-one (21) shall be allowed at the location, and no Medical Marijuana Transfers shall be made by the Collective to a Person under the age of twenty-one (21).

- G. No Medical Marijuana shall be provided to any persons other than the individual Collective members who participate, either directly or through a Primary Caregiver, in the Collective cultivation of Medical Marijuana at or upon the Premises and/or Location of that Collective.

- H. No Medical Marijuana provided to a Primary Caregiver may be provided by the Primary Caregiver to any person other than the Primary Caregiver's Qualified Patient for whose care the Primary Caregiver is responsible.

- I. No Collective shall cause or permit the sale, dispensing, or consumption of alcoholic beverages at the Premises and/or Location or in the parking area for the Premises and/or Location.

- J. Medical Marijuana may not be inhaled, smoked, eaten, ingested, vaped, or otherwise used or consumed at the Premises and/or Location, in the parking areas of the Premises and/or Location, within -300 feet of the Premises and/or Location on the public right of way, or in those areas restricted under the provisions of California Health and Safety Code Section 11362.79.
- K. Each Collective shall operate and maintain an onsite twenty four (24)-hour landline telephone number at the Premises for receiving complaints and other inquiries regarding the Collective. An individual member engaged in the management of the Collective shall be responsible for receiving, logging, and responding to these complaints and other inquiries on a daily basis. The log shall be maintained in the records of the Collective and in accordance with Part 5 of this Chapter.
- L. ~~At no time shall any Collective or any of its members have any~~ None of the following items shall be allowed on the Premises or at the Location or in the parking area for the Premises or Location:
1. Any controlled substances, other than Medical Marijuana as defined herein;
 2. Any paraphernalia used for the ingestion of any type of controlled substance, ~~including~~ except for Medical Marijuana;
 3. Alcoholic beverages; or
 4. Firearms, except in strict compliance with federal, state and local laws and with Section 6.88.420J.

M. A sign shall be posted in a conspicuous location inside the Premises advising, in English, Spanish and Vietnamese, the following: ~~%~~Both the sale of marijuana and the diversion of marijuana for nonmedical purposes are violations of State law. The use of marijuana may impair a person's ability to operate a motor vehicle or heavy machinery. Loitering at the location of a Medical Marijuana Collective for an illegal purpose is prohibited by California Penal Code Section 647(h). This Collective is registered in accordance with the laws of the City of San José.+

N. All Owners, Managers and individual members participating in the cultivation, Processing, Manufacturing, Transporting or dispensing of Medical Marijuana shall, at all times while engaged in said activities on behalf of the Collective, wear valid identification badges provided by the City pursuant to Section 6.88.425.

SECTION 12. Chapter 6.88 of Title 6 of the San José Municipal Code is amended by adding a Section to be numbered, entitled and to read as follows:

6.88.445 Deliveries of Medical Marijuana Prohibited

A. Except as provided in Section 6.88.435 and Section 6.88.465, Collectives are prohibited from delivering Medical Marijuana to any person or location within the City.

B. Except as provided in Section 6.88.435 and Section 6.88.465, Collectives are prohibited from transporting Medical Marijuana from its Premises or Location.

C. No person shall deliver Medical Marijuana to any person or location within the City, regardless of the origin of the Medical Marijuana, except for deliveries made to a Qualified Patient by the Qualified Patient's Primary Caregiver.

SECTION 13. Chapter 6.88 of Title 6 of the San José Municipal Code is amended by adding a Section to be numbered, entitled and to read as follows:

6.88.446 6.88.446–Mobile Dispensaries Prohibited

A. Only a Collective registered pursuant to this Chapter may dispense Medical Marijuana in the City of San Jose.

B. A registered Collective may only dispense from its sole dispensing location.

SECTION 14. Section 6.88.460 of Chapter 6.88 of Title 6 of the San José Municipal Code is amended to read as follows:

6.88.460 Dispensing And Packaging of Medical Marijuana

- A. No Medical Marijuana shall be provided to any Collective member more than once per day.
- B. All Medical Marijuana shall be packaged in an opaque childproof container which shall contain a label ~~or be accompanied by a leaflet or insert~~ that clearly states, ~~in English, Spanish and Vietnamese,~~ the following:
1. The complete legal name of the Qualified Patient who will be using the Medical Marijuana;

2. If the person obtaining the Medical Marijuana is a Primary Caregiver obtaining Medical Marijuana on behalf of a Qualified Patient, the complete legal name of the Primary Caregiver and the name of the Qualified Patient for whom he or she serves as a Primary Caregiver;
3. The name, address and on-site landline telephone number of the Collective;
4. The amount of Medical Marijuana in the container;
5. The name of the Attending Physician recommending the use of Medical Marijuana for the Qualified Patient; and
6. The date the Medical Marijuana was provided; ;

C. All Medical Marijuana shall also be accompanied by a leaflet or insert that clearly states, in English, Spanish and Vietnamese, the following:

17. A list of the chemicals and or substances that were used during the cultivation, Processing and Manufacturing of the Medical Marijuana;
28. All necessary health and safety warnings regarding proper use and storage of the particular Medical Marijuana product, including, but not limited to potential side effects, suggested dosage, warnings regarding operation of motor vehicles and heavy machinery, and direction that the Medical Marijuana be stored in a clean and dry place, and be kept out of the reach of children; and

39. A statement that the City of San José neither warrants nor guarantees the quality or safety of the Medical Marijuana contained therein.

DC. All edible Medical Marijuana products shall be ~~manufactured and/or processed on the Collective's Premises within the City of San Jose and~~ placed in opaque packaging, without photos or images of food on the label. Packaging that makes the edible product attractive to children or imitates candy is ~~not allowed~~prohibited. Edible Medical Marijuana products shall not imitate commercially produced goods marketed to children. The edible product must have a label or be accompanied by a leaflet or insert that clearly states, in English, Spanish and Vietnamese, the source of the food production in addition to all of the information required by Subsections 6.88.460B and C.

SECTION 15. Chapter 6.88 of Title 6 of the San José Municipal Code is amended by adding a Section to be numbered, entitled and to read as follows:

6.88.465 Collective to Collective Transfers

A. Notwithstanding Sections 6.88.430E and 6.88.440C of this Chapter, a Collective in possession of a valid Notice of Completed Registration may transfer Medical Marijuana to another Collective in possession of a valid Notice of Completed Registration.

B. Collective to Collective transfers shall be subject to all restrictions and requirements regarding the transportation of Medical Marijuana into the City of San José.

C. Collective to Collective transfers shall be subject to all taxes imposed by state and local law.

SECTION 16. Section 6.88.900 of Chapter 6.88 of Title 6 of the San José Municipal Code is amended to read as follows:

6.88.900 Requirements and Regulations

- A. Nothing in this Chapter shall be deemed to make unlawful Personal Use Cultivation of Medical Marijuana at the private residence of either a Qualified Patient or the Qualified Patient's Primary Caregiver for use by the Qualified Patient if such cultivation is conducted pursuant to Health and Safety Code Sections 11362.765 through 11362.775.
- B. Any Personal Use Cultivation must be conducted in strict compliance with the following provisions:
1. A Qualified Patient and Primary Caregiver shall be allowed to cultivate Medical Marijuana within the private residence of either the Qualified Patient or the Qualified Patient's Primary Caregiver for the Qualified Patient's personal use ~~within the private residence of either the Qualified Patient or the Qualified Patient's Primary Caregiver;~~
 2. The residence building being used for the cultivation shall remain at all times a residence with legal and functioning cooking, sleeping and sanitation facilities;

3. Medical Marijuana cultivation shall remain at all times incidental to the residential use of the property;
4. The Qualified Patient or the Primary Caregiver shall reside in the residence where the Medical Marijuana cultivation occurs;
5. The Medical Marijuana cultivation area shall be in compliance with all current Building and Fire Codes, including without limitation, the current adopted edition of the California Building Code Section 1203.4 . Natural Ventilation; or Section 402.3 . Mechanical Ventilation;
6. The cultivation shall not adversely affect the public health or safety ~~of any person living in or visiting a residence in which it is cultivated or living in or visiting nearby properties~~ through the creation of mold, mildew, dust, glare, heat, noise, noxious gasses, odor, smoke, traffic, vibration, or other impacts; or be hazardous because of the use or storage of materials, processes, products or wastes, or for any other reason;
7. All electrical equipment used in the cultivation of Medical Marijuana shall be plugged directly into a wall outlet or otherwise hardwired. The use of extension cords to supply power to electrical equipment used in the cultivation of Medical Marijuana is prohibited;
8. From a public right-of-way, there shall be no exterior evidence of Medical Marijuana cultivation occurring at the property;

9. Medical Marijuana cultivated for personal use as provided herein shall not be distributed to any person beyond those identified in Section 6.88.262(B) or to any Collective; ~~and~~
10. Only Medical Marijuana Transfers, as defined in Section 6.88.242, may be transacted between Qualified Patients and their Primary Caregivers engaging in Personal Use Cultivation; ~~;~~
11. All water used in the cultivation of Medical Marijuana shall be legally obtained and shall be applied in accordance with state and local laws;
12. Notwithstanding the number of qualified patients or primary caregivers residing at the private residence, Medical Marijuana cultivation shall be limited to a single space within a single room that is not a garage. The single space in the single room shall be no larger than fifty (50) square feet and all Medical Marijuana plants shall be arranged in a single layer;
13. Medical Marijuana cultivated for personal use by a Qualified Patient shall be exclusively for his or her personal medical use and shall not be provided, donated, sold, or distributed to any other person or entity;
14. Medical Marijuana cultivated for personal use by a primary caregiver shall be exclusively for the personal medical use of that primary caregivers; designated qualified patients and shall not be provided, donated, sold, or distributed to any other person or entity;
15. The area used for Medical Marijuana cultivation, Processing, Manufacturing or storage shall be secured in a manner so as to prevent

access by anyone other than a Qualified Patient or Primary Caregiver;
and

16. The extraction or refinement of chemical compounds from Medical Marijuana by way of a solvent-based extraction method utilizing compressed flammable gases or alcohol is prohibited.

PASSED FOR PUBLICATION of title this _____ day of _____, 2015, by the following vote:

AYES:

NOES:

ABSENT:

DISQUALIFIED:

SAM LICCARDO
Mayor

ATTEST:

TONI J. TABER, CMC
City Clerk