

DRAFT

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 6.88.213 TO ADD THE DEFINITION OF DISPENSARY; TO ADD SECTION 6.88.214 TO ADD THE DEFINITION OF DISPENSING; TO AMEND SECTIONS 6.88.242, 6.88.310, 6.88.360, 6.88.380, 6.88.400, 6.88.420, 6.88.425, 6.88.430, 6.88.435, 6.88.440, 6.88.445, 6.88.446, 6.88.450, 6.88.460, 6.88.465 AND 6.88.490 TO ALLOW A REGISTERED COLLECTIVE TWO LOCATIONS FOR CULTIVATION, TO ALLOW A REGISTERED COLLECTIVE ONE CULTIVATION SITE OUTSIDE THE CITY BUT WITHIN THE STATE OF CALIFORNIA, TO ALLOW A CULTIVATION SITE WITHIN THE CITY TO BE SHARED BY TWO REGISTERED COLLECTIVES, TO ALLOW A REGISTERED COLLECTIVE TO APPLY FOR REGISTRATION TO DELIVER MEDICAL MARIJUANA TO MEMBERS SUBJECT TO REGULATIONS PROMULGATED BY THE CITY MANAGER, TO ALLOW MEDICAL MARIJUANA TO BE TRANSFERRED BETWEEN A REGISTERED COLLECTIVE AND OTHER COLLECTIVES LAWFULLY OPERATING WITHIN THE STATE OF CALIFORNIA, TO SPECIFY RECORDKEEPING REQUIREMENTS RELATED TO PERFORMANCE STANDARDS AND TO MAKE OTHER TECHNICAL, NONSUBSTANTIVE, OR TYPOGRAPHICAL CHANGES

WHEREAS, pursuant to the provisions and requirements of the California Environmental Quality Act of 1970, together with related State CEQA Guidelines and Title 21 of the San José Municipal Code (collectively, "CEQA"), a Negative Declaration for this project was adopted by the City Council under Resolution No. 75984 on September 13, 2011 under File No. PP11-039, and subsequent addenda thereto under File Nos. PP11-076, PP14-030 and PP16-076; and

WHEREAS, pursuant to Section 15164 of the CEQA Guidelines, the City of San José has determined that no new effects would occur from and no new mitigation measures would be required for the adoption of this Ordinance; and

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

WHEREAS, this City Council has reviewed and considered the adopted Negative Declaration and related City Council Resolution No. 75984, as addended, prior to taking any approval actions on this Ordinance;

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

SECTION 1. Chapter 6.88 of Title 6 of the San José Municipal Code is amended by adding a new section to be numbered and entitled and to read as follows:

6.88.213 Dispensary

“Dispensary” means the property, Location, or Premises where transfers of Medical Marijuana between Qualified Patients and Primary Caregivers are facilitated through an association of those Qualified Patients and Primary Caregivers who are operating as a nonprofit Collective.

SECTION 2. Chapter 6.88 of Title 6 of the San José Municipal Code is amended by adding a new section to be numbered and entitled and to read as follows:

6.88.214 Dispensing

“Dispensing” means the transfer 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.

SECTION 3. Section 6.88.242 of Chapter 6.88 of Title 6 of the San Jose 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's Qualified Patient for such consideration as is sufficient to reimburse that Primary Caregiver for the Primary Caregiver's out-of-pocket expenses and for the Primary Caregiver's services.
- 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 located within the state of California, both of which are ~~registered with the city pursuant to this chapter~~ registered, licensed, or otherwise lawfully operating pursuant to state law and the law in the relevant local jurisdiction, and conducted in accordance with the restrictions set forth in Section 6.88.465.

SECTION 4. 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 Location in the City.
- B. A Collective may have ~~one~~ up to two (2) Cultivation Sites that ~~is~~ are separate from the Location at which Medical Marijuana is dispensed. Alternatively, ~~the one (1)~~ Cultivation Site may be at the same Location as the Collective's sole Dispensing site. ~~The~~ Cultivation Sites must comply with the provisions of this Chapter and of Title 20 of this Code.

SECTION 5. Section 6.88.360 of Chapter 6.88 of Title 6 of the San José Municipal Code is amended to read as follows:

6.88.360 Change in Location and Updated Registration Forms

- A. Any time a Collective changes its Dispensing or cultivation Location or Premises, it shall, immediately upon obtaining a zoning code verification certificate pursuant to Title 20 of this Code, or if the Location or Premises is outside of the City of San José, prior to beginning operations at the Location or Premises, apply to amend its registration ~~re-register~~ with the City Manager. The Collective shall file an amended registration form with the City Manager for review along with a registration amendment fee, as set forth in Section 6.88.380. ~~The process and the fees for re-registration shall be the same as the process and fees set forth for registration in Section 6.88.330.~~ A Collective may not begin operations at the new Location or Premises until it receives an amended ~~new~~ notice of completed registration for its new Location or Premises.

- B. Within fifteen calendar days of any other change in the information provided in the registration form which is not covered by Subsection A above or Subsection C below, or any change in status of compliance with the provisions of this Chapter, including any change in the Collective's ownership or management members, or a change in any member who participates in the actual cultivation, Processing, Manufacturing, Transporting or Dispensing of the Medical Marijuana, the Collective shall file updated forms containing all information that has changed ~~an amended registration form~~ with the City Manager for review along with an Application Receipt Fee ~~registration amendment fee~~, as set forth in Section 6.88.380. Upon verification that all required fees have been paid, all necessary information has been provided, and that the Collective is in compliance with all requirements of this Chapter, the City Manager shall provide confirmation that the updated forms have been approved ~~mail a new notice of completed registration~~ to the Person authorized to accept service of process on behalf of the Collective.
- C. Within fifteen calendar days of any change in the information provided in the registration form regarding Persons authorized to represent the Collective and regarding the Collective's agent for service of process, the Collective shall file with the City Manager written notification of such change.
- D. Each and every individual Owner and Manager of the Collective shall print his or her name and sign any form required to be updated, under penalty of perjury, certifying that all information contained in the updated forms is true, complete and correct.

SECTION 6. Section 6.88.380 of Chapter 6.88 of Title 6 of the San José Municipal Code is amended to read as follows:

6.88.380 Fees and Charges

- A. The City Manager is hereby authorized to charge and collect from each Collective all fees associated with the registration of that Collective. Prior to operating in the City of San José, each Collective shall timely and fully pay all fees associated with the registration of that Collective.
- B. All fees associated with the registration of a Collective shall be as set forth in the Schedule of Fees and Charges established by Resolution of the City Council, including, but not limited to the following:
1. A Medical Marijuana Collective application receipt fee for the cost to the City of accepting an application for registration;
 2. A Medical Marijuana Collective application processing fee for the cost to the City of processing an application for registration;
 3. An hourly investigation fee for any costs incurred by the City above those costs included in the application processing fee which are associated with further investigation and review of an application for registration;
 4. A Medical Marijuana Collective annual operating fee for the cost to the city of operating a Medical Marijuana regulatory program;
 - a. A Collective shall have the option of paying the Medical Marijuana operating fee in annual, semi-annual, or quarterly payments.

- b. The selection of the payment dates shall be made prior to the date that the initial payment is due and shall remain unchanged for the duration of the year.
- c. The initial Medical Marijuana operating fee or selected installment thereof shall be paid prior to obtaining a notice of complete registration. Subsequent installments shall be paid on or before the fifteenth of the three, six, and nine months following the initial installment if the quarterly payment term is selected.
- d. No portion of any Medical Marijuana operating fee shall be refunded.

e. The Medical Marijuana operating fee shall be paid on a fiscal year basis beginning July 1, 2017, and will be prorated accordingly.

- 5. A Medical Marijuana Collective amendment fee for the cost to the city of reviewing amendments to the registration form filed by the Collective; and
- 6. A Medical Marijuana Collective renewal registration fee for the cost to the City of processing an application to renew a Collective's registration.
- 7. Any fees for inspection that are not included within the other fees associated with registration.

SECTION 7. Section 6.88.400 of Chapter 6.88 of Title 6 of the San José Municipal Code is amended to read as follows:

6.88.400 Operating Regulations and Conditions

- A. The provisions of this Part shall constitute terms and conditions applicable to each registration.
- B. The provisions of this Part shall also constitute operating regulations that are applicable to each Collective registered with the City of San José and, if the Collective engages in off-site cultivation, the separate Cultivation Site for that Collective.
- C. It shall be unlawful for any Person or Collective registered under this Chapter, or required to be registered under this Chapter, whether or not such Person or Collective is actually so registered, to violate any of the provisions of this Part or to violate any provision of regulations promulgated by the City Manager pursuant to Section 6.88.315.

SECTION 8. 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 thirty 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 separate a centrally-monitored fire and burglar alarm systems. ~~Both These~~ systems shall be fully functional at all times and prior to Processing or cultivating Medical Marijuana at the Premises or Location. At a minimum, ~~these is alarms systems~~ shall cover the perimeter of the Premises or Location and shall focus on those areas where Medical Marijuana is cultivated, stored, manufactured, processed, or dispensed. ~~This alarm shall be monitored by a professional alarm company at all times.~~ Both systems shall comply with all requirements of Chapter 17.12 of this Code and Title 24 of this Code.

1. The burglar alarm system shall be installed and prograded to be a functionally complete burglar alarm system per the manufacturer's guidelines. The system shall be provided with secondary power and monitoring by a UL listed central station service.

2. The fire alarm system shall be an automatic fire alarm system that provides both fire department and occupant notification. Where an approved automatic sprinkler system is installed and the notification devices/appliances activate via sprinkler water flow, the sprinkler system may be used as fire detection for the alarm system. A minimum of one manual fire alarm box shall be provided in an approved location to initiate a fire alarm signal. The system shall be provided with secondary power and monitoring by a UL listed central station service.

- 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 all requirements of Chapter 17.12 of this Code and Title 24 of this Code~~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 days before bringing the firearm onto the Premises or Location, 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);
 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 Security Personnel on duty twenty-four hours a day, seven days a week at the each of the Collective's Cultivation Sites. If the Collective has a separate site for Dispensing only, there shall also be a minimum of one 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 9. Section 6.88.425 of Chapter 6.88 of Title 6 of the San Jose Municipal Code is amended to read as follows:

6.88.425 Identification Display Requirements

A. While at the Collective's Premises or Location, eEach 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 for the Collective, wear in plain sight, on his or her Person and at chest level, a 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. While engaged in the duties of his or her position for the Collective, but not at the Collective's Premises or Location, each Owner, Manager and individual member engaged in the cultivation, Processing, Manufacturing, Transporting or Dispensing of Medical Marijuana shall at all times have in his or her possession a valid identification badge, issued by the Chief of Police and containing such information, including a suitable photograph, as the Chief of Police may require, and upon request by the Chief of Police or any other City official charged with enforcing the provisions of this Code, produce such valid identification badge for inspection.

CB. 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.

DG. Identification badges shall expire one year after issuance.

~~D. Application for renewed identification badges shall be filed with the chief of police no later than thirty 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 hours of their expiration, or within twenty-four 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 10. 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. The extraction and refinement of chemical compounds from Medical Marijuana by way of a solvent-based method utilizing compressed flammable gases or alcohol in violation of state law is prohibited. No Collective shall possess, dispense or Transport 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 Chapter 17.12 of this Code or Title 24 of this Code ~~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. All Medical Marijuana possessed by a Collective must be stored on the Collective's Premises.
- E. The cultivation of Medical Marijuana outdoors is prohibited within the City of San José.
- 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 11. Section 6.88.435 of Chapter 6.88 of Title 6 of the San Jose 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, ~~the one (1) of a Collective's~~ Cultivation Sites may be located outside of the City of San Jose and within the state of California, one of the following counties: Santa Clara, Alameda, Merced, Monterey, San Benito, San Mateo, San Joaquin, Santa Cruz, or Stanislaus. A Cultivation Site outside of the City of San Jose shall not be a Collective's sole

Cultivation Site. Nothing in this chapter allows cultivation at any Location, except to the extent allowed by the law of the relevant jurisdiction.

C. Two (2) Collectives may share a single Cultivation Site within the City of San Jose provided that the Medical Marijuana cultivated by each Collective is kept separate. Notwithstanding Section 6.88.212, Manufacturing shall not occur at a Cultivation Site that is shared by two (2) Collectives. A shared Cultivation Site shall not be a Collective's sole Dispensing Location and no Medical Marijuana shall be dispensed from a shared Cultivation Site.

D. A Cultivation Site that does not serve as the Collective's sole Dispensing Location shall not be open to the public.

ED. The Collective shall maintain complete records regarding the amount of Medical Marijuana cultivated, processed, stored, manufactured or destroyed at its Cultivation Site.

EE. The Collective shall maintain complete records regarding the Transporting of Medical Marijuana from the Collective's off-site 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, the amount of Medical Marijuana Transported, whether the Medical Marijuana was in flower, concentrate or edible form, and the strain of Medical Marijuana Transported.

GF. 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 6:00 a.m. and midnight.

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

- IH.** 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 cultivation, Processing, Manufacturing, Transporting and Dispensing processes in accordance with state law and any guidelines adopted by the California Attorney General.

SECTION 12. Section 6.88.440 of Chapter 6.88 of Title 6 of the San Jose Municipal Code is amended to read as follows:

6.88.440 Collective Operations

- A. No Dispensing Location for the Collective shall be open to the public 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 December 18, 2016. However, a~~All Medical Marijuana dispensed by a Collective ~~prior to December 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.

- 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 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.

- 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 three hundred 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-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. 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, except for Medical Marijuana;
 - 3. Alcoholic beverages; or

4. Firearms, except in strict compliance with federal, state and local laws and with Section 6.88.420 I.
- 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 or possess valid identification badges provided by the City pursuant to Section 6.88.425.

SECTION 13. Section 6.88.445 of Chapter 6.88 of Title 6 of the San Jose Municipal Code is amended 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 and Subsection C,
 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 or in Subsection C, Collectives are prohibited from Transporting Medical Marijuana from its Premises or Location.

C. Collectives that are registered pursuant to this Chapter may apply for registration to deliver Medical Marijuana within the City following the implementation of an application process and promulgation of regulations governing delivery of Medical Marijuana. The City Manager shall promulgate regulations pursuant to Section 6.88.315 to establish an application process and procedures to allow Collectives registered pursuant to this Chapter to deliver Medical Marijuana within the City. The regulations shall also include security procedures, vehicle requirements, Medical Marijuana storage requirements, and hours of the day during which deliveries may be made. The fees associated with the registration process for delivery shall be as set forth in the schedule of fees and charges established by resolution of the city council

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

SECTION 14. Section 6.88.446 of Chapter 6.88 of Title 6 of the San José Municipal Code is amended to read as follows:

6.88.446 Mobile Dispensaries Prohibited

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

- B. Except as provided in Subsection 6.88.445 C., aA registered Collective may only dispense from its sole Dispensing Location.

SECTION 15. Section 6.88.450 of Chapter 6.88 of Title 6 of the San Jose Municipal Code is amended to read as follows:

6.88.450 Owner, Manager and Membership Requirements

- A. No Owner, Manager or any member who will be participating in the actual cultivation, Processing, Manufacturing, Transporting or Dispensing of the Medical Marijuana shall:
1. Be on parole or probation for the possession, sale, distribution or transportation of a controlled substance, or
 2. Have been convicted of a crime of moral turpitude, or convicted with the last ten years of any misdemeanor or felony involving any one of 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
 3. Be under the age of twenty-one.

- B. Members shall sign an agreement with the Collective that states that members shall not distribute Medical Marijuana to nonmembers and that members shall not use Medical Marijuana for other than medicinal purposes.
- C. The Collective shall terminate the membership of any member violating any provisions of this Chapter. The Collective shall maintain a log of members terminated for violating the provisions of this Chapter. The log shall include any information required by the Chief of Police, including but not limited to the member's name, date and time of the incident(s), section(s) of this Chapter violated, and the date the membership was terminated.
- D. Each Collective shall designate an on-site representative who shall be present during all hours of the Collective's operation. The On-Site Designated Representative shall meet the following minimum requirements:
1. Be a Manager for the Collective;
 2. Comply with all laws and ordinances;
 3. Carry on his or her person, at all times when he or she is functioning as the on-site representative, a valid government issued photo Identification Card or license;
 4. Upon request by the Chief of Police or any other City official charged with enforcing the provisions of this Code, produce such photo Identification Card or license for inspection;
 5. Be available at the telephone number identified in the registration as the on-site landline telephone number for the Premises;

6. Cooperate fully with the Chief of Police and any other City official charged with enforcing the provisions of this Code with any inquiry, inspection, request, or investigation necessary or appropriate to implement the requirements of this Code or to enforce any other state or local law;
7. Immediately report to the Chief of Police any violations of state or local law or conditions which the On-Site Designated Representative knows, or reasonably should know, exist on the Premises and at the Location and could result or have resulted in harm or an imminent threat of harm to the health, safety or general welfare of any Person or member of the public; and
8. Immediately report to the Chief of Police, the county health department, and members of the Collective any information indicating that a member experienced an adverse reaction to, or other difficulty related to, any Medical Marijuana procured from the Collective.

E. No Collective Owner, Manager, or individual member of the Collective participating in the cultivation, Processing, Manufacturing, Transporting or Dispensing of Medical Marijuana shall fail to make a report to the Chief of Police, immediately upon discovery of any conduct which raises a reasonable suspicion that a misdemeanor or felony crime under the laws of the state has been committed on the Collective's Premises or Location.

F. No Collective Owner, Manager, or individual member of the Collective participating in the cultivation, Processing, Manufacturing, Transporting or Dispensing of Medical Marijuana shall fail to report any conduct which raises a

reasonable suspicion of a violation of this Chapter to the Chief of Police within twenty-four hours of its discovery.

SECTION 16. 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.~~

AB. All Medical Marijuana shall be packaged in an opaque child-~~resistant~~proof container which shall contain a label that clearly states, the following:

1. The name, address and on-site landline telephone number of the Collective;
2. The container contains Medical Marijuana; and
3. The amount of Medical Marijuana in the container.

B. Labels on Medical Marijuana shall also provide the following information:

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;~~35. The name of the Attending Physician recommending the use of Medical Marijuana for the Qualified Patient; and

46. 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:

1. A list of the chemicals and/or substances that were used during the cultivation, Processing and Manufacturing of the Medical Marijuana;
2. 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
3. A statement that the City of San José neither warrants nor guarantees the quality or safety of the Medical Marijuana contained therein.

D. All edible Medical Marijuana products shall be 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 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 6.88.460 A., B., and C.

SECTION 17. Section 6.88.465 of Chapter 6.88 of Title 6 of the San Jose Municipal Code is amended to read as follows:

6.88.465 Collective to Collective Transfers

- A. Notwithstanding Sections 6.88.430 DE 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 located within the state of California provided said Collective is registered, licensed, or otherwise lawfully operating pursuant to state law and the law in the relevant local jurisdiction. ~~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. —must comply with all other provisions of this Chapter, and must comply with all regulations promulgated by the City Manager pursuant to Section 6.88.315.
- C. Collective to Collective transfers shall be subject to all taxes imposed by state and local law.

SECTION 18. Section 6.88.490 of Chapter 6.88 of Title 6 of the San Jose Municipal Code is amended to read as follows:

6.88.490 Performance Standards

A. The Owner, Manager and/or operator of a Collective shall not conduct the operations of the Collective in a manner that creates or results in a public nuisance on the Premises and Location or within three hundred feet of the Premises and Location, including but not limited to:

A1. Disturbance of the peace;

B2. Illegal drug activity;

C3. Public drunkenness;

D4. Drinking in public;

E5. Gambling;

F6. Prostitution;

G7. Sale of stolen goods;

H8. Public urination;

I9. Theft;

J10. Assaults;

~~K~~11. Batteries; or

 ~~L~~12. Acts of vandalism.

B. The Collective shall maintain a log of any public nuisance activity on the Premises and Location or within three hundred feet of the Premises and Location. The log shall include any information required by the Chief of Police, including but not limited to the date and time of the occurrence; the type of activity; the circumstances surrounding the activity; the identity of any Persons involved in the activity, if known; the corrective action taken by the Collective; and the police case number, if applicable.

PASSED FOR PUBLICATION of title this _____ day of _____, 2016, by the following vote:

AYES:

NOES:

ABSENT:

DISQUALIFIED:

SAM LICCARDO
Mayor

ATTEST:

TONI J. TABER, CMC
City Clerk