

**DRAFT**

ORDINANCE NO.

**AN ORDINANCE OF THE CITY OF SAN JOSE AMENDING CHAPTER 6.88 OF TITLE 6 OF THE SAN JOSE MUNICIPAL CODE TO REMOVE THE DELIVERY ZONE RESTRICTION; INCREASE THE REGISTRATION ALLOWANCE FROM FIVE RETAIL STOREFRONTS TO TEN FOR EQUITY BUSINESS OWNERS; REVISE DEFINITIONS AND MAKE OTHER CHANGES TO BETTER ALIGN WITH STATE REGULATIONS; AND MAKE OTHER TECHNICAL, NON-SUBSTANTIVE, OR FORMATTING 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"), the Director of Planning, Building and Code Enforcement has determined that the provisions of this Ordinance do not constitute a project, under File No. PP17-008 (General Procedure and Policy Making resulting in no changes to the physical environment); and

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

**WHEREAS**, this Council has reviewed and confirms the "not a project" determination under CEQA 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. Section 6.88.204 of Chapter 6.88 of Title 6 of the San José Municipal Code is amended to read as follows:

**6.88.204 Cannabis**

"Cannabis" shall have the definition given in California Business and Professions Code Section 26001(f). ~~California Health and Safety Code Section 11018. Cannabis includes marijuana.~~

SECTION 2. Section 6.88.205 of Chapter 6.88 of Title 6 of the San José Municipal Code is amended to read as follows:

### **6.88.205 Cannabis Activity**

Each of the following is considered a "Cannabis Activity", whether for medical or non-medical use, or both:

- A. Cultivating of cannabis;
- ~~B. Processing cannabis, including packaging, trimming, and/or preparing cannabis for sale or distribution;~~
- ~~BC. Manufacturing of cannabis, including extraction of Concentrated Cannabis as well as infusion of cannabis into other products;~~
- ~~CD. Distributing of cannabis;~~
- ~~DE. Retail sSaleselling or transfersing of cannabis at a dispensary or retail storefrontand/or ;~~
- ~~F. by dDelivering cannabis; or~~
- ~~EG. Testing of cannabis at a testing laboratory.~~

SECTION 3. Section 6.88.208 of Chapter 6.88 of Title 6 of the San José Municipal Code is amended to read as follows:

### **6.88.208 Concentrated Cannabis**

"Concentrated Cannabis" shall have the definition given in Title 4 of the California Code of Regulations Section 15000(h).~~California Health and Safety Code Section 11006.5.~~

SECTION 4. Section 6.88.209 of Chapter 6.88 of Title 6 of the San José Municipal Code is amended to read as follows:

### **6.88.209 Cultivation**

"Cultivation" shall have the definition given in Title 4 of the California Code of Regulations Section 15000(q).~~means any activity involving the planting, growing, harvesting, drying, curing, grading, storing or trimming of cannabis.~~

SECTION 5. Section 6.88.210 of Chapter 6.88 of Title 6 of the San José Municipal Code is amended to read as follows:

### **6.88.210 Cultivation Site**

"Cultivation Site" ~~shall have the definition given in Title 4 of the California Code of Regulations Section 15000(r). means the property, Location, or Premises where cannabis is cultivated.~~

SECTION 6. 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 Deliver**

"Deliver" means to transport and transfer cannabis from the Location or Premises of the Cannabis Business to a Customer located at another property, Location, or Premises. Deliver does not include distribution.

SECTION 7. A new section 6.88.212.1 is added to Chapter 6.88 of Title 6 of the San José Municipal Code, to be numbered, entitled and to read as follows:

### **6.88.212.1 Delivery Employee**

"Delivery Employee" shall have the definition given in Title 4 of the California Code of Regulations Section 15000(s).

SECTION 8. Section 6.88.212.5 of Chapter 6.88 of Title 6 of the San José Municipal Code is renumbered and amended to read as follows:

### **6.88.212.~~35~~ Delivery-Only Business**

"Delivery-Only Business" means a business which only delivers cannabis and does not operate a premises or location where transfers of cannabis to customers occur. Also referred to as "Non-Storefront Retailer" per Title 4 of the California Code of Regulations Section 15414.

SECTION 9. Section 6.88.212.10 of Chapter 6.88 of Title 6 of the San José Municipal Code is renumbered as follows:

### **6.88.212.~~510~~ Delivery-Only Site**

"Delivery-Only Site" means the property, Location, or Premises from which only deliveries of cannabis are initiated.

SECTION 10. A new section 6.88.212.7 is added to Chapter 6.88 of Title 6 of the San José Municipal Code, to be numbered, entitled and to read as follows:

### **6.88.212.7 Delivery Vehicle**

"Delivery Vehicle" means a vehicle used to facilitate delivery.

SECTION 11. Section 6.88.215 of Chapter 6.88 of Title 6 of the San José Municipal Code is amended to read as follows:

### **6.88.215 Distribute**

"Distribute" shall have the same meaning as Title 4 of the California Code of Regulations Section 15000(u).~~means all activity involved in the procurement, sale, and transport of cannabis and cannabis products between Cannabis Businesses.~~ Distribute does not include delivery to a Customer.

SECTION 12. Section 6.88.217.6 of Chapter 6.88 of Title 6 of the San José Municipal Code is amended to read as follows:

### **6.88.217.6 Financial Interest in a Commercial Cannabis Business**

"Financial Interest in a Commercial Cannabis Business" shall have the same meaning as Title 4 of the California Code of Regulations Section § 15004~~of the California Department of Cannabis Control regulations.~~

SECTION 13. Section 6.88.225 of Chapter 6.88 of Title 6 of the San José Municipal Code is hereby repealed.

### **6.88.225Manager**

~~"Manager" means an individual who, directly or indirectly, is engaged in the management of a Cannabis Business, or any business entity owning a cannabis business, or any business entity owned by a cannabis business, as may be evidenced by the individual being responsible for the establishment, organization, registration, supervision, or oversight of the operation of the business and/or its employees, which oversight may include but not be limited to the following: performing the functions of president, vice president, board member, director, owner, operating officer, financial officer, secretary, treasurer, supervisor or manager.~~

SECTION 14. Section 6.88.227 of Chapter 6.88 of Title 6 of the San José Municipal Code is amended to read as follows:

### **6.88.227 Manufacture**

"Manufacture" shall have the definition given in Title 4 of the California Code of Regulations Section 15000(oo) and Section 15000(pp).~~means to blend, compound, convert, produce, derive, concentrate, extract, infuse, make, cook, bake, transform, package, or prepare cannabis, including, but not limited to, the production of Concentrated Cannabis, edible cannabis products, and/or cannabis infused products.~~

SECTION 15. Section 6.88.245 of Chapter 6.88 of Title 6 of the San José Municipal Code is amended to read as follows:

**6.88.245 On-Site Designated Representative**

"On-Site Designated Representative" means a natural person ~~Manager~~ that is designated by the Cannabis Business to be present, and who is present, at all times during the Cannabis Business's hours of operation.

SECTION 16. Section 6.88.255 of Chapter 6.88 of Title 6 of the San José Municipal Code is amended to read as follows:

**6.88.255 Owner**

"Owner" shall have the definition given in Title 4 of the California Code of Regulations Section 15003.~~means any person having more than a ten percent (10%) aggregate interest, legal or equitable, or otherwise, in a Cannabis Business. For purposes of this section, "aggregate" means the total ownership interest held by a single person through any combination of individually held ownership interests in a commercial cannabis business and ownership interests in an entity that has an ownership interest in the same commercial cannabis business. When a business entity is an owner in a commercial cannabis business, all entities and individuals with a financial interest in the entity shall be disclosed to the City Manager and may be considered owners of the commercial cannabis business. This includes all entities in a multi-layer business structure, as well as the chief executive officer, members of the board of directors, partners, trustees and all persons who have control of a trust, and managing members or non-member managers of the entity. Each entity disclosed as having a financial interest must disclose the identities of persons holding financial interests until only individual persons remain.~~

SECTION 17. Section 6.88.265 of Chapter 6.88 of Title 6 of the San José Municipal Code is amended to read as follows:

**6.88.265 Physician's Recommendation**

"Physician's Recommendation" shall have the definition given in California Business and Professions Code Section 26001(as).~~means the verbal or written communication by~~

~~an Attending Physician stating that a Qualified Patient has been diagnosed with a serious medical condition and that the medical use of cannabis is appropriate.~~

SECTION 18. Section 6.88.270 of Chapter 6.88 of Title 6 of the San José Municipal Code is amended to read as follows:

**6.88.270 Premises**

~~"Premises" shall have the definition given in Title 4 of the California Code of Regulations Section 15000(ccc). means each building or the portion of any building, on the Location, where the Cannabis Business is located, including any Cultivation Site.~~

SECTION 19. Section 6.88.280 of Chapter 6.88 of Title 6 of the San José Municipal Code is amended to read as follows:

**6.88.280 Private Medical Record**

"Private Medical Record" means documentation of the medical history of a Qualified Patient, ~~and "Private Medical Record"~~ shall not include the recommendation of an Attending Physician or doctor for the medical use of cannabis, an Identification Card, or the designation of a Primary Caregiver by a Qualified Patient.

SECTION 20. Section 6.88.282 of Chapter 6.88 of Title 6 of the San José Municipal Code is amended to read as follows:

**6.88.282 Process**

~~"Process" shall have the definition given in Title 4 of the California Code of Regulations Section 15000(eee). means to harvest, trim, dry, and/or cure cannabis.~~

SECTION 21. Section 6.88.295 of Chapter 6.88 of Title 6 of the San José Municipal Code is amended to read as follows:

**6.88.295 Transport**

"Transport" ~~shall have the definition given in California Code of Regulations Section 15000(uuu).~~ "Transport" means all activity involved in the movement of cannabis from one (1) location to another, including, but not limited to, loading, shipping and receiving. Transport does not include delivery to a Qualified Patient, Primary Caregiver or individual person age twenty-one (21) or older.

SECTION 22. Section 6.88.297 of Chapter 6.88 of Title 6 of the San José Municipal Code is amended to read as follows:

### **6.88.297 Type 6 Manufacturing**

"Type 6 Manufacturing" shall have the definition given in Title 4 of the California Code of Regulations, ~~Title 17, Division 1, Chapter 13, Section 4011817006.~~

SECTION 23. Section 6.88.300 of Chapter 6.88 of Title 6 of the San José Municipal Code is amended to read as follows:

### **6.88.300 Registration Required**

- A. No Cannabis Business shall operate in the City of San José unless and until it has first filed a registration application in accordance with the provisions of this Chapter, has paid all fees required by this Chapter, and has received a Notice of Completed Registration from the City Manager.
- B. Effective January 1, 2018 or upon issuance of licenses by the State of California, no Cannabis Business shall operate in the City of San José unless and until it has first obtained the appropriate state license or licenses for the Cannabis Activity in which it is engaged.
- C. It shall be unlawful for a Person to maintain, manage, operate, conduct, control or own a Cannabis Business unless the Cannabis Business is maintained and operated in strict compliance with a Notice of Completed Registration issued by the City Manager.
- D. It shall be unlawful for a Person to maintain, manage, operate, conduct, control or own a Cannabis Business unless the Cannabis Business is maintained and operated in strict compliance with state law, including without limitation, possessing any applicable state licenses.
- E. Only a Medical Cannabis Collective or Medical Cannabis Business in possession of a Notice of Completed Registration from the City of San José as of December 18, 2015 and continually registered since that date is eligible to apply for and receive registration to cultivate, dispense, or deliver Medical and Non-medical Cannabis.
- F. Notwithstanding Section 6.88.300 E., up to ten (10) new cannabis businesses may be registered as dispensaries, dispensaries with delivery, or delivery only to equity business owners and only to conduct transfers of cannabis to customers (i.e., not eligible to engage in cultivation). ~~Up to five of these ten (10) cannabis businesses may be dispensaries and any number of the ten (10) may be delivery only businesses.~~

- G. To be eligible to register, a Cannabis Business must be able to provide a cannabis business tax return evidencing payment of any applicable taxes due to the City pursuant to Chapter 4.66 of this Code and have no outstanding compliance orders under Chapter 1.14 of this Code.

**SECTION 24.** 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. A Cannabis Business shall have a Notice of Completed Registration from the City for each Cannabis Activity and for each Location, and shall also have any applicable state license for each Cannabis Activity at each Location.
- B. A Cannabis Business shall comply with the provisions of this Chapter and of Title 20 of this Code at each of its Locations.
- C. All registered locations must remain registered to, and controlled by, the registered cannabis business listed on its Registration.
- D. A Cannabis Business's number of locations shall conform to the regulations and limitations set forth in Table 6.88-310.

**Table 6.88.310  
Number of Cannabis Business Locations**

	<b>Per business registered on or before December 18, 2015, and continuously registered since that date</b>	<b>Per business registered after December 18, 2015</b>	<b>Notes</b>
Cultivation	Up to 2	None	
Processing	Up to 2	Up to 2	
Manufacturing	Up to 2	Up to 2	
Distributing	Up to 2	Up to 2	
Retail Storefront or Dispensary	Up to 2	Up to 1	1, 2, <u>3</u>
Delivery	Up to 1	Up to 1	<u>3</u> , <u>4</u> , <u>5</u>
Testing	Up to 2	Up to 2	
<b>MAXIMUM LOCATIONS</b>	3	3	<u>46</u>



**Notes:**

1. Businesses registered on or before December 18, 2015, and continuously registered since that date: No more than a total of thirty-two (32) Retail Storefronts or Dispensaries in the City.
2. Businesses registered after December 18, 2015: No more than a total of ~~five~~ ten (105) Retail Storefronts or Dispensaries in the City.
- ~~3. Cannabis shall only be delivered from a location in an Industrial Zoning district.~~
- ~~34. Businesses registered on or before December 18, 2015 and continuously registered since that date: No Medical Cannabis Transfers or Non-medical Cannabis Transfers from more than two (2) locations, including from any delivery location(s).~~
- ~~5 Businesses registered after December 18, 2015: No Medical Cannabis Transfers or Non-medical Cannabis Transfers, via delivery or otherwise, from more than 1 location.~~
- ~~46.~~ No cannabis business shall operate at more than three (3) locations in any combination of cannabis activities.

SECTION 25. 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. Pursuant to Section 6.88.300, no Collective or Cannabis Business shall operate in the City of San José without a Notice of Completed Registration from the City Manager. A Collective or Cannabis Business desiring to obtain a Notice of Completed Registration shall file a registration application with the City Manager that shall contain such accurate, complete and truthful information as is required pursuant to the application process set forth in the regulations promulgated by the City Manager pursuant to Section 6.88.315.
- 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 Cannabis Business 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 Cannabis Business 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 Cannabis Business's hours of operation and at any other time upon reasonable notice.
  - c. Nothing in this Chapter requires the disclosure of any Qualified Patient's Private Medical Record.
2. Required consent for inspection of Location and Premises.
- a. As part of the registration process, the Cannabis Business 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 Cannabis Business 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. The person or persons authorized to sign on behalf of and legally bind the Cannabis Business shall print his or her name and sign the 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 Cannabis Business's registration application, the City Manager shall proceed to investigate the information provided by the Cannabis Business and evaluate the compliance of the Cannabis Business 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 Cannabis Business 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 verify the age of ~~conduct a criminal background investigation on~~ any Owner ~~or Manager~~ of the Cannabis Business and on any individual persons who participate in the cultivation, processing, manufacturing, distributing, transporting, transferring, dispensing, delivering, testing, or disposing of cannabis.
- E. Disqualification from registration.

1. Any Cannabis Business may be disqualified from the registration process for any of the following reasons:
  - a. The Cannabis Business or any person applying on behalf of a Cannabis Business 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 Cannabis Business 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 Cannabis Business violates or has violated the terms and conditions of any requirement of this Code or any state law related to the operation of a Cannabis Business, other than solely because of its existence after the effective date of this Chapter;
  - d. The Cannabis Business 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 Cannabis Business was disqualified from the registration process under this Chapter on one 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 Cannabis Business'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 Cannabis Business's registration, permit, license or any other authorization issued by the City or by any state or local agency and required to operate a cannabis Collective, cooperative, Dispensary, business 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 Cannabis Business 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 Cannabis Business is a corporation, the corporation is not in good standing or authorized to do business in the state;
  - j. The Cannabis Business conducted, conducts or anticipates conducting a Cannabis Business 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 Cannabis Business's right to possess the Location or Premises;

- k. The Cannabis Business has as an Owner, ~~Manager, or has persons participating, whether directly or indirectly, in the cultivation, processing, manufacturing, distributing, transporting, transferring, dispensing, delivering, testing, or disposing of cannabis, who had a cannabis-related application denied by the State.:~~
    - i. ~~Are on parole or probation for the possession, sale, manufacture, use, distribution or transportation of a controlled substance, excluding cannabis;~~
    - ii. ~~Have been convicted of a crime of moral turpitude; or~~
    - iii. ~~Have been convicted of any misdemeanor or felony within the last ten (10) years involving the following:~~
      - 1. ~~The use of violence, force, fear, fraud or deception;~~
      - 2. ~~The unlawful possession, sale, manufacture, use, distribution or transportation of a controlled substance, excluding cannabis;~~
      - 3. ~~The use of money to engage in criminal activity;~~
      - 4. ~~Theft; or~~
      - 5. ~~The unlawful possession or use of a firearm.~~
  - l. The Cannabis Business's operation from the Location or Premises results or will result in an imminent threat to the public's health, safety or welfare;
  - m. The Cannabis Business or any one of its Owners ~~or Managers~~ owns or has owned or operated a cannabis business with any unpaid liability due to the City; or
- n2. 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 Cannabis Business because an Owner, ~~Manager, or a person participating, whether directly or indirectly, in the cultivation, processing, manufacturing, distributing, transporting, transferring, dispensing, delivering, testing, or disposing of cannabis~~ is found in violation of subsection E.1.k. above, and the Cannabis Business 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 Cannabis Business as an Owner ~~or Manager or individual participating, whether directly or indirectly, in the cultivation, processing, manufacturing, transporting, dispensing, or testing of cannabis on behalf of the Cannabis Business~~, then in the City Manager's discretion, the Cannabis Business 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.~~

- ~~i. Upon determining the existence of any of the grounds for disqualification of an Owner, Manager, or individual person participating, whether directly or indirectly, in the cultivation, processing, manufacturing, transporting, dispensing, or testing of cannabis 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 Cannabis Business, a notice of intended decision to disqualify.~~
- ~~ii. The notice of intended decision shall state all the grounds and reasons upon which the disqualification is based.~~
- ~~iii. 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.~~
- ~~iv. The notice of intended decision shall specify the effective date of the disqualification.~~

~~b. Procedure for hearing before the Chief of Police.~~

- ~~i. 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.~~
- ~~ii. 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.~~
- ~~iii. 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.~~
- ~~iv. At the hearing before the Chief of Police, the individual shall be given the opportunity to present witnesses and documentary evidence.~~
- ~~v. 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.~~

- ~~i. 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.~~
- ~~ii. The decision by the Chief of Police after the hearing shall become final.~~
- ~~iii. The written statement of decision shall contain a notice setting out Section 1.16.010 of this Code.~~

- F. Completed registration. After verification that all required application fees, 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 Cannabis Business is in compliance with all requirements of this Chapter, the City Manager shall notify the Cannabis Business that the annual operating fee and any applicable hourly inspection and/or investigative fee(s), as set forth in Section 6.88.380, are now due and payable to the City. Within ten (10) business days of receiving the Cannabis Business's payment of the annual operating fee, as set forth in Section 6.88.380, and any applicable hourly inspection or investigative fees, the City Manager shall mail a Notice of Completed Registration, and any subsequent updated registration, to the person authorized to accept service of process on behalf of the Cannabis Business.
- G. Notice of disqualification. If the Cannabis Business 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 cannabis business advising the Cannabis Business that it has been disqualified from the registration process.

SECTION 26. Section 6.88.350 of Chapter 6.88 of Title 6 of the San José Municipal Code is amended to read as follows:

**6.88.350 Registration Null and Void**

A registration deemed completed by the City Manager shall become null and void upon any of the following:

- A. Failure to pay the total amount due of any City-issued invoice or tax within thirty (30) days after the due date;
- B. Any of the reasons set forth in Subsection 6.88.330 E. regarding disqualification;

- CB.** Relocation of the Cannabis Business to a different Location or Premises without following the procedures specified in this Code or the City Manager regulations;
- DC.** One (1) year after the issuance of the registration, as set forth in Section 6.88.340 above;
- ED.** Any attempt to assign, transfer or sell a registration without following the procedures set forth in Subsection 6.88.840 B.; or
- EE.** Violation of the terms or requirements of this Chapter or Title 20 of this Code.

SECTION 27. Section 6.88.370 of Chapter 6.88 of Title 6 of the San José Municipal Code is amended to read as follows:

**6.88.370 Renewal of Registration**

- A. No registration issued under this Chapter may be renewed unless:
  - 1. A new registration application has been filed with the City Manager pursuant to the process set forth in Section 6.88.330 sixty (60) days prior to the expiration date of the current registration;
  - 2. A renewal application registration fee, as set forth in Section 6.88.380, has been paid by the Cannabis Business; and
  - 3. The Cannabis Business and its Owners ~~and Managers~~ all meet the requirements of this Chapter for registration.
- B. If a new registration application is not filed, or the required fees are not paid prior to the expiration date of the current registration, the registration shall be deemed to have expired on the date of expiration noted on the registration.

SECTION 28. 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 Cannabis Business all fees associated with the registration of that Cannabis Business. Prior to operating in the City of San José, each Cannabis Business shall timely and fully pay all fees associated with the registration of that Cannabis Business.



- B. All fees associated with the registration of a Cannabis Business shall be as set forth in the schedule of fees and charges established by resolution of the City Council.
1. All fees must be paid within thirty (30) days of invoice date. Payment becomes delinquent thirty (30) days after invoice date unless otherwise noted. Failure to pay the total amount due by the due date can be subject to penalties, interest and fees.
  2. A Cannabis Business shall ~~have the option of paying~~ the annual operating fee in one annual, ~~semi-annual, or quarterly~~ payments.
    - a. The annual operating fee shall be paid on a fiscal year basis beginning July 1, 2017, and will be prorated accordingly.
    - ~~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~~
    - be. The initial annual operating fee ~~or selected installment thereof~~ shall be paid prior to obtaining a Notice of Completed Registration. ~~Subsequent installment shall be paid on or before the fifteenth of the sixth month following the initial installment if the semi-annual payment term is selected. 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.~~
  3. No refund of any operating fee collected pursuant to this Chapter shall be made because of the discontinuation, dissolution or other termination of a Cannabis Business.
  4. Whenever the amount of any operating fee, penalty or interest has been overpaid, paid more than once, or has been erroneously or illegally collected or received by the City under this Chapter, it may be refunded to the Cannabis Business that paid the operating fee provided that a written claim for refund is filed with the Chief of Police.
  5. The Chief of Police shall have the right to examine and audit all the books and business records of the Cannabis Business in order to determine the eligibility of the Cannabis Business to the claimed refund. No claim for refund shall be allowed if the Cannabis Business refuses to allow such examination of its books and business records after request by the Chief of Police to do so.
  6. The Chief of Police shall initiate a refund of any operating fee which has been overpaid or erroneously collected whenever the overpayment or



erroneous collection is uncovered by a City audit of operating fee receipts. In the event that the operating fee was erroneously paid and the error is attributable to the City, the entire amount of the operating fee erroneously paid shall be refunded to the Cannabis Business. If the error is attributable to the Cannabis Business, the City shall retain the amount to cover processing expenses from the amount to be refunded, as set forth in the schedule of fees and charges established by resolution of the City Council.

**SECTION 29.** Section 6.88.385 of Chapter 6.88 of Title 6 of the San José Municipal Code is amended to read as follows:

**6.88.385 Payment Plans**

- A. The director of finance is hereby authorized to enter into a payment plan for the payment of outstanding cannabis business taxes, fines, and/or fees if the director of finance determines that entering into a payment plan is in the best interest of the City.
- B. A payment plan approved by the director of finance and executed by the Cannabis Business and director of finance for the payment of cannabis business taxes, fines, and/or fees shall meet the requirement for registration under Subsection 6.88.300.G. of providing a cannabis business tax return evidencing payment of any applicable taxes due to the City, and/or fines due to the City, and/or fees due to the City under this Chapter.
- C. If a Cannabis Business is not eligible for a renewal of its registration based solely on its inability to provide a cannabis business tax return evidencing payment of any applicable taxes due to the City as required under Subsection 6.88.300.G., and/or inability to provide evidence showing that all fees due the City under this Chapter have been timely paid, but a payment plan is later approved by the director of finance and executed by the Cannabis Business and director of finance, then the Ccity ~~manager~~ Manager is hereby authorized to issue a renewal of the Cannabis Business's registration and date the registration such as to effectuate no lapse in the registration.
- D. If a Cannabis Business's registration is deemed null and void pursuant to 6.88.350.A. based solely on the non-payment of invoices or taxes due to the City, the Cannabis Business may subsequently enter into a payment plan pursuant this Section. If a payment plan is approved by the director of finance and executed by the Cannabis Business and director of finance, then the City Manager is hereby authorized to issue a reinstatement of the Cannabis

Business's registration and date the registration such as to effectuate no lapse in the registration if the Cannabis Business.

- E. If the Cannabis Business fails to comply with the terms and conditions of the payment plan, then the registration for the Cannabis Business shall be null and void, and all outstanding amounts owed the City shall be immediately due and payable.

SECTION 30. 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. Video Surveillance Systems shall comply with Title 4 of the California Code of Regulations Section 15044. The Premises or Location shall be equipped with, and at all times be monitored by, a closed-circuit video surveillance recording system for security purposes. The camera and recording system must be capable of and actually record with 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.
1. The video surveillance ~~recording~~ system shall be fully functional prior to engaging in any Cannabis Activity at the Premises or Location.
  2. The video surveillance recordings shall be ~~maintained for a period of not less than thirty (30) days, or longer if required by state law, 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.
  3. The Cannabis Business shall provide the Chief of Police with remote access to the video surveillance ~~recording~~ system, including live and previously recorded video playback, at any time without a warrant, subpoena or court order.
- B. The Premises or Location shall have a separate fire and burglar alarm systems which complies with Title 4 of the California Code of Regulations Section 15047. ~~Both~~
1. The burglar alarm systems shall be fully functional at all times and prior to engaging in any Cannabis Activity at the Premises or Location.

2. At a minimum, ~~these the burglar alarm~~ systems shall cover the perimeter of the Premises or Location and shall focus on those areas where cannabis is cultivated, stored, manufactured, distributed, processed, tested or dispensed.
3. ~~The Both burglar alarm~~ systems shall comply with all requirements of Chapters 17.12, 17.68, and 17.78 of this Code and Title 24 of this Code.
44. The burglar alarm system shall be installed and programed to be a functionally complete burglar alarm system per the manufacturer's guidelines.
5. The burglar alarm system shall be provided with secondary power, ~~and monitoring by a UL-listed central station service.~~ The secondary power shall provide at least 24 hours of continued operation time in case of power failure.
- ~~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 (1) 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. The Premises or Location shall have and maintain a fire alarm system.

1. The fire alarm system shall be fully functional at all times and prior to engaging in any Cannabis Activity at the Premises or Location.
2. The fire alarm system shall comply with all requirements of Chapters 17.12, 17.68, and 17.78 of this Code and Title 24 of this Code.
3. The fire system shall be provided with secondary power. The secondary power shall provide at least 24 hours of continued operation time in case of power failure.
4. The fire alarm system shall be an automatic fire alarm system that provides both fire department and occupant notification.
  - a. 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.

b. A minimum of one (1) manual fire alarm box shall be provided in an approved location to initiate a fire alarm signal. The system shall be monitored by a UL listed central station service.

c. If the facility has a fire sprinkler system, all valves controlling the water supply for the automatic fire sprinkler system and all water flow switches shall be electrically supervised by a listed fire alarm control unit. The dedicated function fire alarm system shall be monitored offsite by a UL-listed central supervising station.

5. Exception: Automatic Fire Alarm system is not required in cannabis retail only operations in an existing B or M Occupancy that meets all of the following conditions:

a. Without existing fire alarm and smoke detection system;

b. Without use of hazardous materials;

c. Without operations such as manufacturing, cultivation, and processing; and

d. Without consumption of cannabis or smoking cannabis onsite.

D. If the Cannabis Business maintains records in a printed format pursuant to Section 6.88.500, then the Premises shall contain at least one (1) fire-proof safe and all records required by this Chapter shall be stored in one (1) or more fire-proof safes.

~~D.E.~~ 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.

~~F.E.~~ Cannabis 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 in compliance with all building and fire provisions of this Code.

~~G.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 provisions in the Code.

- HG.** 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 Cannabis Business. 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.
- IH.** All areas of the Cannabis Business not open to the public shall be secured from unauthorized entry during public operating hours.
- JL.** No person shall be in possession of any firearm while on the Premises or Location or while working for a cannabis business without having first obtained a license from the appropriate state or local agency authorizing the person to be in possession of such firearm.
- KJ.** Persons in possession of a firearm while on the Premises or Location or while working for a cannabis business must provide the City Manager and the Chief of Police, ten (10) 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.
- LK.** Security Personnel shall be required and comply with Title 4 of the California Code of Regulations Section 15045. There shall be a minimum of one (1) Security Personnel at a dispensing Location during its hours of operation.
- L.** ~~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 Customers of the Cannabis Business, and at sidewalks adjacent to the Cannabis Business's Location.~~

- M. ~~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 Cannabis Business and shall consist of copies of all relevant documentation including the actual proof of registration.
- N. ~~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. As an alternative to a nameplate, the Security Personnel may wear clothing with his or her name and the word "SECURITY" embroidered in a contrasting color on the Security Personnel's outermost garment meeting the above specifications and located at chest level.~~

SECTION 31. Section 6.88.425 of Chapter 6.88 of Title 6 of the San José Municipal Code is amended to read as follows:

**6.88.425 Identification Display Requirements**

- A. A valid identification badge must meet the requirements of Section 15043 (Licensee Employee Badge Requirement) of Title 4 of the California Code of Regulations (Medicinal and Adult-Use Commercial Cannabis Regulations).
- B. ~~While at the Cannabis Business's Premises or Location, each Owner, **Manager**, and individual person engaged, whether directly or indirectly, in the cultivation, processing, manufacturing, distributing, testing, transporting, delivery, handling or dispensing of cannabis shall, at all times while engaged in the duties of his or her position for the Cannabis Business, wear in plain sight, on his or her person and above the waist, 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.~~
- CB. While engaged, whether directly or indirectly, in the duties of his or her position for the Cannabis Business, but not at the Cannabis Business's Premises or Location, each Owner, **Manager** and individual person engaged in the cultivation, processing, manufacturing, distribution, transporting, transferring, dispensing, delivering, testing, handling or disposing of cannabis shall at all times have in his or her possession a valid identification badge, ~~issued by the Chief of Police.~~

DE. Upon request by the Chief of Police or any other City official charged with enforcing the provisions of this Code, or any state official charged with enforcing state law pertaining to Cannabis Businesses, each Owner, ~~Manager~~ and individual person engaged, whether directly or indirectly, in the cultivation, processing, manufacturing, distribution, transporting, transferring, dispensing, delivering, testing, handling or disposing of cannabis shall produce such valid identification badge for inspection.

ED. No Owner, ~~Manager~~, or individual person engaged, whether directly or indirectly, in the cultivation, processing, manufacturing, distribution, transporting, transferring, dispensing, delivering, testing, handling or disposing of cannabis shall engage in any activities on behalf of the Cannabis Business, without first submitting obtaining a legible, valid government issued identification badge to the Chief of Police.

~~E. Identification badges shall be renewed one (1) year after the date of issuance.~~

~~F. Identification badges are the property of the City of San José and shall be provided to the Chief of Police within ten (10) days of termination of the Cannabis Business's relationship with the Owner, Manager, or individual person participating, whether directly or indirectly, in the cultivation, processing, manufacturing, distribution, transporting, transferring, dispensing, delivering, testing, handling or disposing of cannabis.~~

~~G. Identification badges shall remain at the Cannabis Business's Premises when not in use.~~

~~H. Owners, Managers, and individual persons participating, whether directly or indirectly, in the cultivation, processing, manufacturing, distribution, testing, transporting, delivery, handling or dispensing of cannabis shall not take identification badges home or off the Cannabis Business's Premises, except in the case of traveling off Premises on official business of the Cannabis Business, including delivery or transport of cannabis.~~

SECTION 32. 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 Cannabis Business Operations**

A. Only a Dispensary or Retail Storefront shall be open to the public. Cannabis Business Locations that are not Dispensaries or Retail Storefronts shall not be open to the public. A Dispensary or Retail Storefront shall be open to the public



during hours of the day that are in accordance with the regulations promulgated by the City Manager pursuant to Section 6.88.315.

- B. All cannabis cultivated, processed, manufactured, distributed, transported, transferred, obtained, purchased, dispensed, delivered, or tested by the Cannabis Business must be stored and dispensed in strict accordance with state law, this Chapter and other provisions of this Code.
- C. All cannabis dispensed by a Cannabis Business must comply with all other provisions of this Chapter, all regulations promulgated by the City Manager pursuant to Section 6.88.315, and state law.
- D. All contributions (whether in-kind, monetary or property) shall be fully documented, in writing, at the time of their receipt by the Cannabis Business and in accordance with Part 5 of this Chapter.
- E. All sales and transfers of cannabis by a Medical or Non-medical Cannabis Business shall be fully documented, in writing, at the time of the sale or transfer.
- F. Each Cannabis Business shall account for all monetary contributions or payments. Monetary contributions or payments shall be made by cash, personal check, cashier's check, debit card 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.
- G. No persons under the age of twenty-one (21) shall be allowed at the Location.  
When enforcing this subsection, the Chief of Police shall consider circumstances such as site configuration, shared Location with other tenants or other constraints related to the unique circumstances of the incident.
- H. No person age twenty-one (21) or older accompanied by any person under age 21 shall be allowed at the Location, and shall be prohibited from receiving any cannabis transfers for the remainder of the business day.
- I.H. A Dispensary or Retail Storefront shall verify the age of every person entering the Premises with an Electronic Age Verification Device, excepting verified employees of the Dispensary; ~~verified employees of another Cannabis Business or State licensee~~; and City, County and/or State officials on official business.  
Manually entering identification information (for example, birthdate) is prohibited.
- J.I. No Medical Cannabis Transfers shall be made by a Cannabis Business to a person under the age of twenty-one (21).



- KJ. No Medical Cannabis shall be provided, sold, or transferred to any person who is not a Qualified Patient or Primary Caregiver, and who is not age twenty-one (21) or older.
- LK. No Non-medical Cannabis shall be provided, sold, or transferred to any person who is not age twenty-one (21) or older.
- ML. Prior to transferring Medical or Non-medical Cannabis to any person, an Electronic Age Verification Device shall be used to determine the age of the person attempting to obtain cannabis, without exception. The Electronic Age Verification Device may be mobile or fixed, and must retain a log of all scans that includes the following information: date, time, and age (or birthdate, or both).
- NM. The electronic age verification log shall be kept for a minimum of one hundred eighty (180) days.
- ON. Notwithstanding any other provision of state law, no Medical Cannabis 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.
- PO. No Cannabis Business 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.
- QP. Cannabis 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 (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.
- RQ. No cannabis shall be taken into a restroom at the Premises and/or Location, including temporary restrooms in the parking areas of the Premises and/or Location.
- SR. Each Cannabis Business shall operate and maintain an on-site twenty-four (24)-hour landline telephone number at the Premises for receiving complaints and other inquiries regarding the Cannabis Business. A person engaged in the management of the Cannabis Business 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 Cannabis Business and in accordance with Part 5 of this Chapter.

- IS.** 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 cannabis as defined herein;
  2. Any paraphernalia used for the ingestion of any type of controlled substance, except for cannabis;
  3. Alcoholic beverages; or
  4. Firearms, except in strict compliance with federal, state and local laws and with Section 6.88.420 J.
- UT.** A sign shall be posted in a conspicuous location inside the Premises advising, in English, Spanish and Vietnamese, the following: "Both the sale of cannabis and the diversion of cannabis to persons under age twenty-one (21) are violations of state law. The use of cannabis may impair a person's ability to operate a motor vehicle or heavy machinery. Loitering at the Location of a Cannabis Business for an illegal purpose is prohibited by California Penal Code Section 647(h). This Cannabis Business is registered in accordance with the laws of the City of San José."
- VU.** All water used in any Cannabis Activity shall be legally obtained and shall be applied in accordance with state and local laws.
- WV.** All electricity used in any Cannabis Activity shall be legally obtained and shall be used in accordance with state and local laws.
- XW.** The extraction and refinement of chemical compounds from cannabis by way of a Solvent-based method utilizing compressed flammable gases or alcohol in violation of state law is prohibited. No Cannabis Business shall possess, dispense or transport any cannabis manufactured unlawfully. All extraction and refinement equipment used by a Cannabis Business 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.
- YX.** Any hazardous materials shall be used and stored in full compliance with Chapter 17.68 of this Code.
- ZY.** All activities conducted at a Cannabis Business shall at all times fully comport with the provisions of California Health & Safety Code Section 11362.5 et seq., the Compassionate Use Act, the Medical Marijuana Program Act, the Adult Use

of Marijuana Act, the Medicinal and Adult-Use Cannabis Regulation and Safety Act, and any other applicable state laws or regulations, as the same may be amended from time to time; provided, however, that if there is a conflict between the provisions of this Code and the provisions of state law, the most restrictive law allowed to apply shall govern and control.

**SECTION 33.** Section 6.88.445 of Chapter 6.88 of Title 6 of the San José Municipal Code is amended to read as follows:

**6.88.445 Deliveries of Cannabis**

- A. Except as provided in Subsections B and C below, Cannabis Businesses are prohibited from delivering cannabis to any person or location within the City.
- B. Cannabis dispensaries that are registered pursuant to this Chapter may apply for registration to deliver Medical Cannabis, Non-medical Cannabis, or both.
- C. Delivery-only cannabis businesses that are registered pursuant to this Chapter may apply for registration to deliver Medical Cannabis, Non-medical Cannabis, or both.
- ~~D.~~ The City Manager shall promulgate regulations pursuant to Section 6.88.315 to establish an application process and procedures to allow Cannabis Businesses registered pursuant to this Chapter to deliver cannabis within the City. The regulations shall also include security procedures, vehicle requirements, cannabis storage requirements, age verification 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.

**SECTION 34.** 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 Cannabis Business registered pursuant to this Chapter may dispense cannabis in the City of San José.
- B. Except as provided in Subsections 6.88.445 B and C, a registered Cannabis Business may only dispense from its registered dispensing Location or Locations.

SECTION 35. Section 6.88.450 of Chapter 6.88 of Title 6 of the San José Municipal Code is amended to read as follows:

**6.88.450 Owner, ~~Manager~~ and Individual Person Requirements**

~~A. No Owner, Manager, or individual person who will be participating, whether directly or indirectly, in the cultivation, processing, manufacturing, distributing, testing, transporting, delivery, handling or dispensing of cannabis shall:~~

~~1. Be on parole or probation for the possession, sale, manufacture, use, distribution or transportation of a controlled substance, excluding cannabis;; or~~

~~2. Have been convicted of a crime of moral turpitude; or~~

~~3. Have been convicted within the last ten (10) years of any misdemeanor or felony involving any 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, excluding cannabis;~~

~~c. The use of money to engage in criminal activity;~~

~~d. Theft; or~~

~~e. The unlawful possession or use of a firearm.~~

~~4. Be under the age of twenty one (21).~~

A.B. A Cannabis Business shall ban, prohibit, or otherwise refuse entry to any Person violating the provisions of this Chapter.

B.C. A Cannabis Business shall maintain a log of persons banned, prohibited, or otherwise refused entry 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 person's name (if available), brief description (if name is not available), date and time of the incident(s), section(s) of this Chapter violated, and the date the person was banned, prohibited, or otherwise refused entry.

C.D. Each Cannabis Business shall designate an On-site Designated Representative who shall be present during all hours of the Cannabis Business's operation. The On-Site Designated Representative shall meet the following minimum requirements:

~~1. Be a Manager for the Cannabis Business;~~

- 12. Comply with all laws and ordinances;
- 23. Carry on his or her person, at all times when he or she is functioning as the On-site Designated Representative, a valid government issued photo identification card or license;
- 34. Upon request by the Chief of Police, any other City official charged with enforcing the provisions of this Code, or any state official charged with enforcing state law regarding Cannabis Businesses, produce such photo identification card or license for inspection;
- 45. Be available at the telephone number identified in the registration as the on-site landline telephone number for the Premises;
- 56. Cooperate fully with the Chief of Police, any other City official charged with enforcing the provisions of this Code, or any state official charged with enforcing state law regarding Cannabis Businesses 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;
- 67. 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
- 78. Immediately report to the Chief of Police and the County health department, any information indicating that any person experienced an adverse reaction to, or other difficulty related to, any cannabis procured from the Cannabis Business.
- DE. No Owner, ~~Manager~~, or individual person participating, whether directly or indirectly, in the cultivation, processing, manufacturing, distribution, testing, transporting, delivery, handling or dispensing of cannabis 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 Cannabis Business's Premises or Location.

**EF.** No Owner, ~~Manager~~, or individual person participating, whether directly or indirectly, in the cultivation, processing, manufacturing, distribution, testing, transporting, delivery, handling or dispensing of cannabis 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 (24) hours of its discovery.

**SECTION 36.** 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 Cannabis**

~~A. \_\_\_\_\_ Prior to delivery or sale at a retailer, a~~ All cannabis and cannabis products ~~transferred to a Customer~~ shall be labeled and placed ~~packaged~~ in a tamper-evident, resealable, child-resistant package in accordance with Section 26120 of the Business and Professions Code and any other applicable state law or regulation.

~~B. \_\_\_\_\_ In addition, Medical Cannabis and Medical Cannabis products transferred to a Customer shall contain a label that clearly states the following information:~~

- ~~1. \_\_\_\_\_ The name, address and on-site landline telephone number of the Cannabis Business;~~
- ~~2. \_\_\_\_\_ The container contains Medical Cannabis; 3. \_\_\_\_\_ The amount of Medical Cannabis in the container;~~
- ~~4. \_\_\_\_\_ The complete legal name of the Qualified Patient who will be using the Medical Cannabis;~~
- ~~5. \_\_\_\_\_ If the person obtaining the Medical Cannabis is a Primary Caregiver obtaining Medical Cannabis 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;~~
- ~~6. \_\_\_\_\_ The name of the Attending Physician recommending the use of Medical Cannabis for the Qualified Patient; and~~
- ~~7. \_\_\_\_\_ The date the Medical Cannabis was provided.~~

**SECTION 37.** Section 6.88.480 of Chapter 6.88 of Title 6 of the San José Municipal Code is amended to read as follows:

**6.88.480 Property Maintenance**

The Owner and/or ~~operator~~**Manager** of a Cannabis Business shall keep the Premises and Location in a clean and safe condition by, at a minimum, performing all of the following tasks:

- A. Properly remove and store all trash, litter, rubbish and debris on the Premises and Location at the end of each business day; and
- B. Properly dispose of all trash, litter, rubbish and debris from the Premises and Location; and
- C. Remove graffiti placed upon the Premises and Location within forty-eight (48) hours of its occurrence; and
- D. Keep driveways, sidewalks, parkstrips, fire access roads and streets on or adjacent to the Premises and location clear and clean; and
- E. Provide lighting on the Premises and Location to ensure the safety of the public and the employees of the Cannabis Business; and
- F. Otherwise operate in a manner that does not create or result in any significant adverse impacts upon its Premises and Location or within ~~twentythree hundred~~ (~~20300~~) feet of the Premises and Location.

SECTION 38. Section 6.88.490 of Chapter 6.88 of Title 6 of the San José Municipal Code is amended to read as follows:

**6.88.490 Performance Standards**

- A. A Cannabis Business, including its Owner, ~~Manager~~ and/or operator shall conduct its operations in a manner that does not create or result in a public nuisance on the Premises and Location or within ~~twentythree hundred~~ (~~20300~~) feet of the Premises and Location, including but not limited to:
  - 1. Disturbance of the peace;
  - 2. Illegal drug activity;
  - 3. Public drunkenness;
  - 4. Drinking in public;
  - 5. Gambling;



6. Prostitution;
  7. Sale of stolen goods;
  8. Public urination;
  9. Theft;
  10. Assaults;
  11. Batteries; or
  12. Acts of vandalism.
- B. The Cannabis Business shall maintain a log of any public nuisance activity on the Premises and Location or within ~~twentythree hundred~~ (20300) 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 Cannabis Business; and the police case number, if applicable.
- C. When enforcing this subsection, the Chief of Police shall consider circumstances such as site configuration, shared Location with other tenants or other constraints related to the unique circumstances of the incident.

**SECTION 39.** Section 6.88.810 of Chapter 6.88 of Title 6 of the San José Municipal Code is amended to read as follows:

**6.88.810 Compliance with this Chapter and State Law**

- A. It is unlawful for any person to cause, permit or engage in the cultivation, possession, manufacture, testing, sales, transfers, distribution, processing, transporting, delivery or giving away of cannabis. To establish an affirmative defense to civil and criminal enforcement of the provisions of the San José Municipal Code, the person seeking to invoke the defense must establish compliance with all other applicable state and local laws.
- B. It is unlawful for any person to cause, permit or engage in any activity related to cannabis, and a person may not establish an affirmative defense to civil and criminal enforcement of the provisions of the San José Municipal Code unless in strict compliance with any and all state and local laws.



- C. It is unlawful for any person to knowingly make any false, misleading or inaccurate statements or representations in any forms, records, filings or documentation required to be maintained, filed or provided to the City under this Chapter, or to any other federal, state or local government agency having jurisdiction over any of the activities of Cannabis Businesses.
- D. It shall be the responsibility of the Owners, ~~Managers~~ or persons working at or for the Cannabis Business to ensure that the Cannabis Business is, at all times, operating in a manner compliant with all applicable state and local laws. Nothing in this Chapter shall be construed as authorizing any actions which violate state law with regard to the cultivation, processing, manufacturing, distributing, transporting, transferring, dispensing, delivering, testing, disposing, and sale of cannabis.

SECTION 40. Section 6.88.840 of Chapter 6.88 of Title 6 of the San José Municipal Code is amended to read as follows:

**6.88.840 Registration Nontransferable**

- A. No Person shall assign or transfer any Notice of Completed Registration issued under this Chapter and any attempt to assign or transfer any Notice of Completed Registration issued pursuant to this Chapter shall render the Notice of Completed Registration null and void.
- B. Notwithstanding Subsection A above and Subsection 6.88.350, ~~DE~~, a Cannabis Business wishing to transfer ownership or management of the Cannabis Business may do so provided that:
  - 1. The Cannabis Business shall submit all required forms, pay any associated fees, and follow any procedures specified in the City Manager regulations.
  - 2. The Cannabis Business receives a new or amended Notice of Completed Registration confirming the change in ownership or management.
- C. Notwithstanding Subsection B above, a Cannabis Equity Owner may not transfer ownership to a non-equity owner such that the total amount of equity ownership falls below fifty-one percent (51%) for a period of five (5) years following the original date of receipt of a Notice of Completed Registration.
- D. Notwithstanding Subsection B above, a Cannabis Equity Business may not transfer shares of ownership to non-equity owners or partners such that the aggregate total of equity ownership falls below fifty-one percent (51%) for a

period of five (5) years following the original date of receipt of a Notice of Completed Registration.

PASSED FOR PUBLICATION of title this \_\_\_\_\_ day of \_\_\_\_\_, 2024, by the following vote:

AYES:

NOES:

ABSENT:

DISQUALIFIED:

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MATT MAHAN  
Mayor

ATTEST:

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TONI J. TABER, CMC  
City Clerk