

DRAFT

ORDINANCE NO.

**AN ORDINANCE OF THE CITY OF SAN JOSE AMENDING
TITLE 20 (ZONING ORDINANCE OR ZONING CODE) OF
THE SAN JOSE MUNICIPAL CODE TO AMEND SECTIONS
20.80.763, 20.80.770, 20.80.775 AND 20.80.780 FROM
PART 9.75 OF CHAPTER 20.80, AND TO MAKE OTHER
TECHNICAL, NON-SUBSTANTIVE, OR FORMATTING
CHANGES WITHIN THOSE SECTIONS OF TITLE 20 OF
THE SAN JOSE MUNICIPAL CODE**

WHEREAS, an Addendum to Initial Study/Negative Declaration, as addended to, was prepared in conformance with the California Environmental Quality Act of 1970 (CEQA), as amended for this Ordinance under File Number PP23-001 (the “Addendum to Initial Study/Negative Declaration”); and

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

WHEREAS, this Council of the City of San José has considered, approved and adopted said Addendum to Initial Study/Negative Declaration under separate Council resolution 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 20.80.763 of Chapter 20.80 of Title 20 of the San José Municipal Code is amended to read as follows:

20.80.763 Restrictions and Conditions.

The location and operation of, and any person operating, or allowing or suffering the operation of, a Medical Cannabis Collective Dispensary Site Only, Medical Cannabis Dispensary, or Cannabis Retail Storefront shall be subject to and shall comply with, or shall cause the compliance with, all of the following restrictions and conditions set forth in this Section, in addition to those restrictions and conditions that may be imposed on said business or location under or pursuant to other provisions of the San José Municipal Code or other applicable State or local laws, regulations or policies, at all times; provided, however, that if there is a conflict between the provisions of this Section and the provisions of any other applicable State or local law, the most restrictive law allowed to apply shall govern and control:

- A. No person, or Medical Cannabis Collective, Medical Cannabis Collective Dispensary Site Only, Medical Cannabis Business, or Non-medical Cannabis Business, shall receive a Zoning Code Verification Certificate if another such Certificate exists within the distances established in Table 20-165 from another Medical Cannabis Dispensary or Cannabis Retail Storefront.
- B. No Medical Cannabis Collective Dispensary site only, Medical Cannabis Dispensary, or Cannabis Retail Storefront shall be located or shall operate on any floor of a retail commercial shopping center located on a Parcel or Parcels totaling over forty (40) acres in size.
- C. All activities conducted at a Medical Cannabis Collective Dispensary site only, Medical Cannabis Dispensary, or Cannabis Retail Storefront shall at all times fully comport with the provisions of the Compassionate Use Act, the Medical Marijuana Program Act, the Medicinal and Adult Use Cannabis Regulation and Safety Act, the Adult Use of Marijuana Act, and any other applicable state laws, as the same may be amended from time to time; and

- D. All activities conducted at a Medical Cannabis Collective Dispensary site only, Medical Cannabis Dispensary, or Cannabis Retail Storefront shall at all times fully comport with the provisions of Chapter 6.88 of Title 6 of this Code.
- E. The proposed Medical Cannabis Collective Dispensary site only, Medical Cannabis Dispensary, or Cannabis Retail Storefront would not lead to the grouping of more than four of any combination of the following uses within a one thousand-foot radius: Medical Cannabis Collective Dispensary sites only, Medical Cannabis Dispensaries, or Cannabis Retail Storefronts. This shall be measured from the nearest exterior wall of the cannabis business' occupied tenant space in a shared building, or to the nearest exterior wall of the cannabis business' building envelope if the business is the sole tenant of a building.

SECTION 2. Section 20.80.770 of Chapter 20.80 of Title 20 of the San José Municipal Code is amended to read as follows:

20.80.770 Setback Standards.

- A. All restrictions and conditions for a Medical Cannabis Collective Dispensary Site Only, or a Medical or Non-medical Cannabis Business shall conform to the regulations set forth below in Table 20-165.
- B. All restrictions and conditions apply at the time of issuance of a zoning code verification certificate.

**Table 20-165
Medical Cannabis Dispensary Sites Only,
or Medical or Non-medical Cannabis Business
Setback Standards**

<u>Minimum Setback (Feet)</u>						
<u>Areas</u>	<u>Public or private preschool, elementary school, or secondary school</u>	<u>Daycare Center, Youth Center</u>	<u>Parks, community and recreation center, library</u>	<u>Substance abuse rehabilitation center, Emergency Residential Shelter</u>	<u>Residential</u>	<u>Another Medical Cannabis Dispensary or Cannabis Retail Storefront</u>
<u>Downtown</u>	<u>1,000</u>	<u>600</u>	<u>-</u>	<u>-</u>	<u>-</u>	<u>500</u>
<u>Urban Village</u>	<u>1,000</u>	<u>1,000</u>	<u>-</u>	<u>500</u>	<u>-</u>	<u>1,000</u>
<u>Outside of Downtown or Urban Village</u>	<u>1,000</u>	<u>1,000</u>	<u>1,000</u>	<u>500</u>	<u>300</u>	<u>1,000</u>

<u>Minimum Setback (Feet)</u>					
<u>Areas</u>	<u>Parks, community and recreation center, library</u>	<u>Substance abuse rehabilitation center, Emergency Residential Shelter</u>	<u>Residential</u>	<u>Public or private, elementary school, or secondary school, Daycare Center, Youth Center</u>	<u>Another Medical Cannabis Dispensary or Cannabis Retail Storefront</u>
<u>Downtown</u>	<u>=</u>	<u>=</u>	<u>=</u>	<u>500 from property line or 1,000 path of travel, whichever is more</u>	<u>See 20.80.763(E)</u>
<u>Urban Village</u>	<u>=</u>	<u>500</u>	<u>=</u>		
<u>Outside of Downtown or Urban Village</u>	<u>500</u>	<u>500</u>	<u>300</u>		

				<u>restrictive.</u> <u>See</u> <u>20.80.775.A</u>	
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SECTION 3. Section 20.80.775 of Chapter 20.80 of Title 20 of the San José Municipal Code is amended to read as follows:

20.80.775 Measurement.

- A. The distances established in Table 20-165 above for a public or private ~~preschool~~, elementary school, or secondary school, youth center, or child daycare center, shall be measured as either of the following follows:
- (a1) ~~Horizontal~~ In a straight line at a minimum of 500 feet from the property line of the public or private ~~preschool~~, elementary school, or secondary school, youth center, or child daycare center, to the closest property line of the lot on which the Medical Cannabis Collective Dispensary site only, Medical Cannabis Dispensary, or Cannabis Retail Storefront is to be located without regard to intervening structures.
- (b2) Path of travel at a minimum of 1,000 feet from the nearest public entrance of the public or private elementary school, or secondary school, youth center, or child daycare center, to the nearest public entrance of the Medical Cannabis Collective Dispensary site only, Medical Cannabis Dispensary, or Cannabis Retail Storefront. For purposes of this part, path of travel includes a continuous, unobstructed way of pedestrian passage by means of which the use may be approached, entered, and exited, where open to the public.

(c3) The most restrictive measurement shall control.

B. The distances established in Table 20-165 above for parks, community and recreation center, library, substance abuse rehabilitation center, emergency residential shelter, or another dispensary or Cannabis Retail Storefront shall be measured, as follows:

1. For a Medical Cannabis Collective Dispensary site only, Medical Cannabis Dispensary, or Cannabis Retail Storefront, from any parks, community and recreation center, library, substance abuse rehabilitation center, or emergency residential shelter located in a multi-tenant Building with tenant spaces occupied by uses other than the dispensary, the distance shall be measured in a straight line from the Parcel boundary of the sensitive use to the nearest exterior wall of the collective's occupied tenant space in the shared Building.
2. For a Medical Cannabis Collective Dispensary site only, Medical Cannabis Dispensary, or Cannabis Retail Storefront, from any parks, community and recreation center, library, substance abuse rehabilitation center, or emergency residential shelter that is the sole occupant of a building or buildings, the distance shall be measured in a straight line from the Parcel boundary of the sensitive use to the nearest exterior wall of the dispensary's closest building envelope.
- ~~3. For a Medical Cannabis Collective Dispensary site only, Medical Cannabis Dispensary, or Cannabis Retail Storefront, from another dispensary or Cannabis Retail Storefront, the distance shall be measured from the nearest public entrance to the nearest public entrance following path of travel. For purposes of this part, path of travel includes a continuous, unobstructed way~~

~~of pedestrian passage by means of which the use may be approached, entered, and exited, where open to the public.~~

C. The distances established in Table 20-165 above for residential uses shall be measured as follows:

1. For a Medical Cannabis Collective Dispensary site only, Medical Cannabis Dispensary, or Cannabis Retail Storefront; the distance shall be measured from the nearest public entrance to the closest residential use following path of travel. For purposes of this part, path of travel includes a continuous, unobstructed way of pedestrian passage by means of which the use may be approached, entered, and exited, where open to the public.

SECTION 4. Section 20.80.780 of Chapter 20.80 of Title 20 of the San José Municipal Code is repealed in its entirety:

~~20.80.780 Police Beat Exclusion Area.~~

~~No Medical Cannabis Collective Dispensary site only, Medical Cannabis Dispensary, or Cannabis Retail Storefront shall be located or shall operate within a Police Beat area with 20% above the average citywide reported crime rate as defined by the San José Police Department, except for locations within Downtown.~~

PASSED FOR PUBLICATION of title this _____ day of _____, 2023, by the following vote:

AYES:

NOES:

ABSENT:

DISQUALIFIED:

MATT MAHAN
Mayor

ATTEST:

TONI J. TABER, CMC
City Clerk