DRAFT

ORDINANCE NO. _____

AN ORDINANCE OF THE CITY OF SAN JOSE AMENDING SECTIONS 20.10.040, 20.50.100, 20.70.100, 20.80.760, 20.80.765, 20.80.775, 20.80.780, 20.80.790, 20.100.1530, 20.100.1535, AND 20.100.1540 OF TITLE 20 (ZONING) OF THE SAN JOSE MUNICIPAL CODE RELATING TO MEDICAL AND NON-MEDICAL MARIJUANA TO CHANGE "MEDICAL MARIJUANA COLLECTIVE" TO "MEDICAL CANNABIS COLLECTIVE," "MEDICAL MARIJUANA COLLECTIVE CULTIVATION SITE ONLY," TO "MEDICAL CANNABIS COLLECTIVE CULTIVATION SITE ONLY," "MEDICAL MARIJUANA COLLECTIVE DISPENSARY SITE ONLY," TO "MEDICAL CANNABIS COLLECTIVE DISPENSARY SITE ONLY," AND TO ADD "MEDICAL CANNABIS BUSINESS," AND "NON-MEDICAL CANNABIS BUSINESS" AS NEWLY ENUMERATED RESTRICTED USES IN SPECIFIED INDUSTRIAL ZONING DISTRICTS AND THE DOWNTOWN PRIMARY COMMERCIAL ZONING DISTRICT AND TO MAKE OTHER TECHNICAL, FORMATTING, NON-SUBSTANTIVE 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, PP16-076 and PP17-070; 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, pursuant to Section 26055(h) of the California Business and Professions Code, this Ordinance is statutorily exempt from the requirements of CEQA on the basis

that the project will adopt ordinances, rules and/or regulations, that will require subsequent discretionary review under CEQA to engage in non-medical cannabis activity in the City of San José; 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 1) Statutory Exemption pursuant to Section 26055(h) of the California Business and Professions Code; and 2) 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. Section 20.10.040 of Chapter 20.10 of Title 20 of the San José Municipal Code is amended to read as follows:

20.10.040 - Interpretation.

A. In interpreting and applying the provisions of this Title, they shall be held to be for the purpose of promoting the public safety, health, convenience, comfort, prosperity, or general welfare of the community. It is not intended by this Title to interfere with or abrogate or annul any easements, covenants, or other agreements between parties; provided, however, that where this Title imposes a greater restriction upon the use of Buildings or premises or upon Height of Buildings, or requires larger open spaces than are imposed or required by other ordinances, rules, regulations or by easements, covenants, or agreements, the provisions of this Title shall govern.

B. No provision of this Title is intended to nor shall be interpreted or applied to allow or authorize a use or Structure that violates federal, state or local law, provided, however that a ~~Medical Marijuana Collective~~ Medical Cannabis Collective, Medical Cannabis Collective Cultivation Site Only, Medical Cannabis Collective Dispensary Site Only, Medical Cannabis Business, or Non-medical Cannabis Business that is in full compliance with all applicable state and local laws and regulations may assert an affirmative defense to criminal or civil enforcement of this Code where such enforcement action is based solely upon those operations by a ~~collective~~ Medical Cannabis Collective, Medical Cannabis Collective Cultivation Site Only, Medical Cannabis Collective Dispensary Site Only, Medical Cannabis Business, or Non-medical Cannabis Business that are expressly recognized in and fully conform to the provisions of this Code.

SECTION 2. Table 20-110 of Chapter 20.50 of Title 20 of the San José Municipal Code is amended to read as follows:

Table 20-110
Industrial Districts Land Use Regulations

Use	Zoning District					Applicable Sections & Notes
	CIC	TEC	IP	LI	HI	
Industry						
Auction	C	C	C^{GP}	C^{GP}	-	
Industrial services	-	-	-	P	P	
Laboratory, processing	P	P	P	P	P	
Manufacturing and assembly						

Light	P	P	P	P	-	
Medium	P	P	P	P	P	
Heavy	-	-	-	-	P	
Research and development	P	P	P	-	-	
Catalog and mail order	P	P	P	P	-	
Construction/corporation yard	-	-	-	S	S	
Establishment for the repair, cleaning of household, commercial or industrial equipment or products	-	-	-	P	P	
Extraction of minerals from the ground, including quarrying	-	-	-	-	C	
Hazardous materials storage facility	-	-	-	C	C	
Hazardous waste facility	-	-	-	-	C	
Junkyard	-	-	-	-	C	
Miniwarehouse/Ministorage	-	-	-	P	P	
Outdoor uses or storage, industrial	-	-	-	S	P	Section 20.50.210
Private electrical power generation facility	C	C	C	C	C	
Stockyard, including slaughter	-	-	-	-	C	
Warehouse/distribution facility	P	P	P	P	P	

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Wholesale sale establishment	P	S	S	P	P	
Wineries, breweries	P	P	P	P	P	
Additional Uses						
Any use not set forth in Tables 20-30, 20-50, 20-90	-	-	-	-	C	
Any use without a permanent fully enclosed building on-site	C	C	C	S	S	
Commercial support	-	P	P	-	-	Note 5; Section 20.50.110
Retail sales, goods and merchandise	P	P	-	-	-	Note 5; Section 20.50.110
Retail art studio	P	P	-	-	-	
Off-sale, alcoholic beverages - beer and/or wine only	C	C	-	-	-	Note 5; Section 20.50.110
Off-sale, alcoholic beverages, full range of alcoholic beverages	C	C	-	-	-	Note 5; Section 20.50.110
Off-sale, alcoholic beverages - beer and/or wine only and incidental to a winery/brewery	C	C	C	C	C	Note 12; Section 20.50.110
Off-sale, alcoholic beverages - distilled spirits only and incidental to a distillery	C	C	C	C	C	Note 12; Section 20.50.110
Bakery, retail	P	P	-	-	-	Note 5; Section 20.50.110
Aquaculture; Aquaponics	S	S	S	S	S	

Certified farmers' market	-	S	S	-	-	Part 3.5, Chapter 20.80
Certified farmers' market - small	-	P	P	-	-	Part 3.5, Chapter 20.80
Food, beverage, groceries	P	P	-	-	-	Note 5; Section 20.50.110
Neighborhood agriculture	P	P	P	P	P	
Nursery, plant	P	P	-	C	C	
Outdoor vending	A	A	-	A	A	Part 10, Chapter 20.80
Outdoor vending - fresh fruits and vegetables	P	P	P	P	P	Part 10, Chapter 20.80
Large format commercial establishment	-	-	C^{GP}	C^{GP}	-	
Large format commercial establishment, associated commercial	-	-	C^{GP}	C^{GP}	-	Section 20.50.115
Warehouse retail	-	-	C	C	C	Section 20.50.130
Sales, office furniture, industrial equipment, machinery	P	P	-	C	-	
Seasonal sales	P	P	P	P	P	Part 14, Chapter 20.80
Education and Training						

Day care center	C	C	C^{GP}	C^{GP}	-	
School, driving (class A & B license)	-	-	-	P	P	
Instructional art studios	P	P	-	-	-	
Instructional art studios, live models	C	C	-	-	-	
Private instruction, personal enrichment	P	P	-	-	-	
School - elementary and secondary (public or private)	C	C	-	-	-	Note 11
School, post secondary	C	C	C	-	-	
School, trade and vocational	C	C	-	C	C	
Entertainment and Recreation Related						
Recreation, commercial/indoor	P	C on lands with a General Plan land use designation of Transit Employment Center; C^{GP} on lands with other General Plan land use designations	C^{GP}	C^{GP}	-	Note 5, Section 20.50.110
Recreation, commercial/outdoor	C	-	-	-		
Relocated cardroom	C^{GP}	C^{GP}	C^{GP}	C^{GP}	-	Section 20.80.1155
Performing arts production and rehearsal space, excluding performances	P	C	C	C^{GP}	-	
Stadium, 2,000 seats or fewer	C^{GP}	C on lands with a General Plan land use	-	-	-	Note 15

including incidental support uses		designation of Transit Employment Center; C^{GP} on lands with other General Plan land use designations				
Stadium, more than 2,000 seats including incidental support uses	CC^{GP}	-	-	-	-	Note 15; Note 16
Food Services						
Caterer	P	P	-	-	-	
Drinking establishments	C	C	-	-	-	
Drinking establishments interior to a full-service hotel/motel that includes 75 or more guest rooms	P	S if within 150 feet of residentially used or zoned Lot; P if not within 150 feet of residentially used or zoned Lot	P^{GP}	-	-	Section 20.80.475; Note 13
Drinking establishment in conjunction with a winery or brewery	C	C	C	C	C	
Public eating establishments	P	P	-	C	C	Note 5, Section 20.50.110 and Section 20.50.113
Outdoor dining, incidental to a public eating establishment	P	S if within 150 feet of residentially used or zoned Lot; P if not within 150 feet of residentially used or zoned Lot	-	C	C	Note 5, Section 20.50.110 and Section 20.50.113
Health and Veterinary Services						

Animal boarding, indoor	P	P	-	-	-	Note 14
Animal grooming	P	P	-	-	-	Note 14
Emergency ambulance service	C	C^{GP}	C^{GP}	C^{GP}	-	
Hospital/in-patient facility	C	C	C	-	-	Note 6
Medical ~~marijuana~~ cannabis collective	R	-	R	R	R	Part 9.75, Chapter 20.80
Medical ~~marijuana~~ cannabis collective cultivation site only	R	-	R	R	R	Part 9.75, Chapter 20.80
Medical ~~marijuana~~ cannabis collective dispensary site only	R	-	R	R	R	Part 9.75, Chapter 20.80
Medical cannabis business	R	-	R	R	R	Part 9.75, Chapter 20.80
Non-medical cannabis business	R	-	R	R	R	Part 9.75, Chapter 20.80
Office, medical	P	P	C	-	-	Note 5, Section 20.50.110
Veterinary clinic	P	P	-	-	-	Note 14
General Services						
Crematory	-	-	-	C^{GP}	C	Note 7
Mortuary, without funeral services	-	-	-	P	P	
Dry cleaner	P	P	-	-	-	
Hotel/motel	P	P on lands with a General Plan land use	C^{GP}	-	-	Note 13

		designation of Transit Employment Center; P^{GP} on lands with other General Plan land use designations				
Laundromat	P	P	-	-	-	
Maintenance and repair, small household appliances	P	P	-	-	-	
Messenger services	P	P	-	-	-	
Personal services	P	P	-	-	-	Note 5, Section 20.50.110
Photo processing and developing	P	P	P	P	P	
Printing and publishing	P	P	P	P	P	
Social service agency	-	C	C	C	C	
Offices and Financial Services						
Automatic teller machine	P	P	P	P	P	Section 20.80.200
Business support use	P	P	-	-	-	
Financial institution	P	P	-	C^{GP}	-	Note 5, Section 20.50.110
Office, general business	P	P	P	-	-	
Office, research and development	P	P	P	-	-	
Public, Quasi-Public and Assembly Uses						
Church/religious assembly	C	C on lands with a General Plan land use	C^{GP}	C^{GP}	-	

		designation of Transit Employment Center; C^{GP} on lands with other designations				
Residential						
Hotel supportive housing	C	C	C	C	C	Note 17; Part 22 of Chapter 20.80
Emergency residential shelter, more than 50 beds	C	C^{GP}	C^{GP}	C	-	Section 20.80.500
Emergency residential shelter, 50 beds or fewer	P	C	C^{GP}	C	-	Section 20.80.500
Living quarters, custodian, caretakers	-	-	-	-	C	Note 1
Drive-Through Use						
Drive-through in conjunction with any use	C	C^{GP}	C^{GP}	C^{GP}	-	
Recycling Uses						
Processing facility	-	C	C	S	S	
Transfer facility, recycling	-	C	C	S	S	
Collection facility, large	-	-	-	-	P	
Reverse vending machine	A	A	A	A	A	
Collection facility, small	A	A	A	A	A	

Transportation and Utilities						
Common carrier	-	-	-	C	P	
Common carrier depot	S	S	S	S	S	
Community television antenna systems	C	C	C	C	C	
Data center	S	S	S	S	S	
Off-site, alternating and alternative use parking arrangements	S	S	S	S	S	Section 20.90.200
Parking establishment not permitted in Tables 20-30, 20-50 and 20-90	C	C	C	C	C	
Off-street parking establishment	C	C	C	C	C	
Television, radio studio	C	C	C	C	C	
Utility facilities, excluding corporation yards, storage or repair yards and warehouses	C	C	C	C	C	
Wireless communications antenna	C	C	C	C	C	Note 18, Sections 20.100.1300, 20.80.1915
Wireless communications antenna, slimline monopole	S	S	S	S	S	Note 18, Sections 20.80.1900, 20.80.1915
Wireless communications antenna, building mounted	P	P	P	P	P	Note 18, Sections 20.80.1910,

						20.80.1915
Power Generation						
Base load power plant	-	-	-	-	C	
Stationary peaking power plant	-	-	-	C	C	
Transportable peaking power plant	-	-	-	C	C	
Private electrical power generation facility	C	C	C	C	C	
Co-generation facility	S	S	S	S	S	
Stand-by/Back-up/Small-scale Renewable Power						
Facilities that do not exceed noise and air standards	P	P	P	P	P	
Facilities that do exceed noise and air standards	C	C	C	C	C	
Temporary stand-by or backup electrical power generation facility	P	P	P	P	P	
Solar photovoltaic power system	P	P	P	P	P	Section 20.100.610 C.7.
Vehicle Related Uses						
Auto dealer, wholesale, no on-site storage	P	P	P	-	-	
Car wash, detailing	C	C	-	-	-	
Gasoline service station or charge	P	C	C^{GP}	C^{GP}	-	Note 2, Note 8

station, excluding incidental service or repair						
Gasoline service station or charge station with incidental service and repair	P	C	C^{GP}	C^{GP}	-	Note 3
Sale, brokerage, or lease (rental) of passenger vehicles, pick-up trucks not exceeding 25 feet in length, and motorcycles	C	C	-	C	-	Note 10
Warehouse retail indoor sale of passenger vehicles, pick-up trucks not exceeding 25 feet in length, and motorcycles	C	C	C	C	C	Section 20.50.140
Repair and cleaning of vehicles	C	-	-	P	P	Note 4
Sale or lease of commercial trucks, buses, trailers, campers, boats, mobilehomes, construction equipment	C	-	-	C	-	
Sale, vehicle parts	P	P	-	P/S	-	Note 9
Vehicle tow yard	-	-	-	C	S	
Vehicle wrecking, including sales of parts	-	-	-	-	C	
Historic Reuse						
Historic landmark structure reuse	S	S	S	S	S	Part 8.5, Chapter 20.80

Notes:

1. Site must be seven (7) acres or more.
2. No incidental repair or service.
3. Incidental repair includes air conditioning service, carburetor and fuel injection service, electrical service, radiator service, and tune-up, lube, oil change, and smog check, as well as tires, batteries and accessories installation. Does not allow body repair or painting.
4. All vehicle-related repair, service, and accessory or other installation, excepting the cleaning of vehicles, shall be conducted within a fully enclosed Building.
5. Retail; recreation, commercial/indoor establishments; Public Eating Establishments; outdoor dining, incidental to a public eating establishment; financial institutions; medical clinics; medical offices; and Personal Service establishments are Permitted in the IP district subject to the limitations of Commercial Support Use, Section 20.50.110. Public Eating Establishments in the LI or HI districts are limited to a maximum of six hundred fifty (650) gross square feet in size.
6. Refer to the General Plan for criteria to determine if the use is permissible at the proposed location.
7. Crematories shall be separated by at least five hundred (500) linear feet from residential uses, schools, and day care centers, which distance(s) shall be measured from the nearest points of the Parcel boundary on which the crematory is proposed and the Parcel boundary on which the residential, school or day care center use is located.
8. Charge Stations that are incidental to a separate primary use, that do not impact on-site or off-site vehicular circulation, and that serve patrons of the primary use on-Site are Permitted in all Industrial Zoning Districts.
9. Vehicle parts sales are permitted in the LI district when the total floor area dedicated to retail display and open to the public occupies no more than fifteen (15) percent of the gross floor area of the individual tenant space. Vehicle parts sales establishments that exceed fifteen (15) percent of the gross floor area of the individual tenant space are subject to a Special Use Permit.
10. Any incidental vehicle-related repair, service, and accessory or other installation, excepting the cleaning of vehicles, shall be conducted within a fully enclosed Building.
11. Public schools are subject to the regulations of this Title, subject to the provisions of California Government Code Section 53094 for classroom facilities.
12. Off-sale of alcoholic beverages. The total square footage of alcoholic beverages on display in a retail area and the total square footage of retail floor area in which alcoholic beverages are displayed for sale shall be the lesser of the following:
    a. Two hundred fifty (250) gross square feet; or
    b. Five (5) percent of the winery's, brewery's, or distillery's entire gross floor area; and any and all alcoholic beverages made available for retail sale shall be limited only to those alcoholic beverages manufactured and produced on-site.
13. At least two (200) hundred rooms and four (4) or more stories in height are required for Hotels located in the TEC Transit Employment Center Zoning District.
14. In the TEC Zoning District, all uses involving any type of care for animals, including but not limited to grooming, boarding, and medical care, must be conducted wholly inside a Building.
15. Primary uses include sporting events, large assembly, concerts, and entertainment events of similar character and intensity. Incidental support uses include offices, locker rooms, retail,

Public Eating Establishments, Drinking Establishments, Outdoor Vending Facilities, and other commercial uses of similar character and intensity.

16. Use permit applications for stadiums that consist of more than two thousand seats and that are in an airport influence area shall be referred to the Santa Clara Airport Land Use Commission prior to approval by the City.
17. Hotel Supportive Housing may be Permitted only with a Conditional Use Permit pursuant to Part 22 of Chapter 20.80 and only until December 31, 2026.
18. Certain modifications of existing Wireless Facilities may be Permitted with an Administrative Permit in accordance with Section 20.80.1915 of Chapter 20.80.

SECTION 3. Table 20-140 of Chapter 20.70 of Title 20 of the San José Municipal Code is amended to read as follows:

Table 20-140
Downtown Districts Land Use Regulations

Use	**Zoning District**		**Applicable Notes & Sections**		
	DC	**DC-NT1**	**Additional Use Regulations for the DG Overlay Area**	**Parking**	**Applicable to All Downtown Districts**
Offices and Financial Services					
Automatic teller machine	P	P		No parking	Section 20.80.200
Business support use	P	P	S, Notes k and n	No parking	
Financial institution	P	P	S, Note n	2.5 per 1,000 sq. ft.	
Financial services	P	P	S, Notes m and n	No parking	

Offices, business and administrative	P	P	S, Notes i and n	2.5 per 1,000 sq. ft.	Section 20.70.110
Payday lending establishment	R	R			Part 12.5, Chapter 20.80; Section 20.200.875
Research and development	P	P	-	2.5 per 1,000 sq. ft.	Note 1
General Retail					
Off-sale, alcoholic beverages - beer and/or wine only	C	C		No parking	Section 20.80.900
Off-sale, alcohol beverages - full range of alcoholic beverages	C	C		No parking	Section 20.80.900
Auction	S	-	S	No parking	
Certified farmers' market	S	S		No parking	Part 3.5, Chapter 20.80
Certified farmers' market - small	P	P		No parking	Part 3.5, Chapter 20.80
Food, beverage, groceries	P	P		No parking	
Open air sales establishments and areas	S	S		No parking	
Outdoor vending	S	S		No parking	Part 10, Chapter 20.80
Outdoor vending - fresh fruits and vegetables	P	P		No parking	Part 10, Chapter 20.80

Pawn shop, pawn broker	C	C	Note b	No parking	
Retail sales, goods and merchandise	P	P	S/P, Note a	No parking	
Seasonal sales	P	P		No parking	Part 14, Chapter 20.80
Education and Training					
Day care center	P	P	S, Notes c and n	No parking	
School, post-secondary	P	P	-	1 per 360 sq. ft.	
School, trade and vocational	P	P	-	1 per 360 sq. ft.	
Personal enrichment, instructional art	P	P	-, Note d	1 per 360 sq. ft.	
School, elementary (grades K - 8)	C	C	-	1 per teacher and employee	
High school (grades 9 - 12)	C	C	-	.75 per teacher and employee and 1 per each 10 students	
Entertainment and Recreation Related					
Amusement game arcade	S	-	S, -	No parking	
Movie theater	P	P		No parking	
Recreation commercial/indoor	P	P		No parking	
Poolroom	S	-		No parking	
Private club or lodge	P	P	-	1 per 360 sq. ft.	

Art display structure	S	-	S	No parking	Section 20.70.140
Lighting display	A/S	A/S			Note e, Section 20.70.150
Food Services					
Banquet - facility	P	P		No parking required	
Caterer	P	P	C, Note f	No parking	
Drinking establishments	C	C		No parking	
Drinking establishments with an approved maximum occupancy load of over 250 persons and that operate between 12:00 midnight and 6:00 a.m.	CC	-		No parking	Note 7
Drinking establishments interior to a full-service hotel/motel with 75 or more guest rooms	P	P		No parking	Section 20.80.475
Public eating establishments	P	P		No parking	Note 9
Wineries, breweries	C	C		No parking	
Health and Veterinary Services					
Animal grooming	P	P	-	No parking	
Animal boarding, indoor	P	P	-	No parking	
Emergency ambulance service	C	-	-	No parking	
Hospital/in-patient medical facility	C	-	-	1.5 per doctor	

Medical or dental clinic/out-patient facility	P	P	-	1.5 per doctor	
Medical ~~marijuana~~ cannabis collective	R	-	-	No parking	Part 9.75, Chapter 20.80
Medical ~~marijuana~~ cannabis collective dispensary site only	R	-	-	No parking	Part 9.75, Chapter 20.80
Medical cannabis business	R	-	-	No parking	Part 9.75, Chapter 20.80
Non-medical cannabis business	R	-	-	No parking	Part 9.75, Chapter 20.80
Veterinarian	P	P	-	1.5 per doctor	
General Services					
Bed and breakfast inn	P	P	S, Note l	.35 per room	Part 2, Chapter 20.80
Hotel/motel	P	P	-, Note l	.35 per room	
Maintenance and repair of household appliances, small	P	P	-	No parking	
Mortuary and funeral services	C	C	-	.75 per employee and vehicle	
Personal services	P	P	Note g	No parking	
Printing and publishing	P	P	Note h	No parking	
Public, Quasi-Public and Assembly Uses					
Auditorium	C	-	C	No parking	

Cemetery	C	C	-	No parking	
Church/religious assembly	P	P		No parking	
Information center	P	P		No parking	
Museums, libraries	P	-	P	No parking	
Parks, playgrounds, or community centers	P	P	S, Note j	No parking	
Residential [GP]					
Residential shelter	C[GP]	-	-	1 per 4 beds, 2.5 per 1,000 sq. ft.	
Live/work uses	P[GP]	S[GP]		1.5 per unit	Section 20.70.120
Residential multiple dwelling	P[GP]	P[GP]	-	1 per unit	
Residential care facility for seven or more persons	C[GP]	C[GP]	-	.75 per employee	
Residential services facility, for seven or more persons	C[GP]	C[GP]	-	.75 per employee	
Hotel supportive housing	C[GP]	C[GP]	-	.35 per room	Note o; Part 22 of Chapter 20.80
Single room occupancy (SRO) living unit facility	S[GP]	S[GP]	-	.6 per room	Part 15, Chapter 20.80
Single room occupancy (SRO) residential hotel	S	S	-	.6 per room	Part 15, Chapter 20.80
Residential Accessory Uses [GP]					

Accessory buildings and accessory structures	P^{GP}	P^{GP}	-	No parking	Note 2
Recycling Uses					
Reverse vending machine	S	S	-	No parking	Part 13, Chapter 20.80
Small collection facility	S	S	-	No parking	Part 13, Chapter 20.80
Transportation and Communication					
Community television antenna systems	C	-	-	No parking	
Off-site and alternating use parking arrangements	P	P	-	N/A	Section 20.90.200
Off-street parking establishment	P	P	-	N/A	
Private electrical power generation facility	C	C	-	1 for each vehicle used in the operation of such facility	
Standby generators that do not exceed noise or air standards	A	A	-	N/A	
Temporary stand-by/backup generators	P	P	-	N/A	
Short term parking lot for uses or events other than on-site	S	S		N/A	
Radio and television studios	P	-	Note n	No parking	
Wireless communications antenna	S	-	-	No parking	Note 10, Sections 20.80.1900, 20.80.1915

Wireless communications antenna, building mounted	P	-	-	No parking	Note 10, Sections 20.80.1900, 20.80.1915
Electrical Power Generation					
Solar photovoltaic power system	P	P	-	No parking	Section 20.100.610 C.7.
Vehicle Related Uses					
Accessory installation for cars and passenger trucks	P	-	-	No parking	
Car wash, detailing	P	-	-	No parking	
Gasoline service station or charge station	P	-	-	No parking	Note 3, Note 8
Gasoline service station or charge station, with incidental service and repair	P	-	-	No parking	Note 3
Sale and lease, vehicles and equipment (less than one ton)	P	-	-	1.5 per employee	Note 4
Tires, batteries, accessories, lube, oil change, smog check station, air conditioning	P	-	-	2 per bay or .75 per employee	Note 5
Sale, vehicle parts, new	P	-	-	No parking required	
Historic Reuse					
Historic landmark structure reuse	S	S		Section 20.90.220 E.	Part 8.5, Chapter 20.80

Notes applicable to the DG area only:

a. Second-hand stores not dealing primarily in antiques, artworks, or vintage clothing require a Special Use Permit in the DG overlay area.

b. Only as a use incidental to a retail jewelry store, otherwise, not Permitted.

c. Only as a use incidental to existing on-site office use, otherwise not Permitted.

d. Culinary/art school with public classes and public demonstrations allowed, includes such areas as dance, music, martial arts, and fine arts.

e. Section 20.70.150 specifies the permits required under Title 20 for a lighting display.

f. Only as a use incidental to restaurant, grocery or bakery uses for primarily on-site sales, otherwise not Permitted.

g. Excludes check-cashing services and bail bond services.

h. Only if dedicated primarily to on-site retail customer copy services, otherwise not Permitted.

i. Exception for travel agencies and real estate agencies which are the only Permitted uses.

j. Community centers are allowed with a Special Use Permit.

k. Exception for copy shops and mail centers which are the only Permitted uses.

l. Use of ground floor to be primarily dedicated to customer-related public services.

m. Includes financial retail services such as payroll advances, foreign currency exchange, debit card services and related financial services products but excludes check cashing except as an ancillary use.

n. In order to be a Permitted use, the space to be occupied shall have been vacant on January 1, 2012, the size of the space of such use shall be limited in size to a total maximum area of no greater than twenty thousand (20,000) square feet, and the space shall not be located within a corner tenant space that is directly adjacent to the intersection of two public Streets. Any use that does not meet all of the criteria specified above in this note may be allowed with a Special Use Permit, and a Special Use Permit is and shall be required.

o. Hotel Supportive Housing may be Permitted only with a Conditional Use Permit pursuant to Part 22 of Chapter 20.80 and only until December 31, 2026.

Notes applicable to Downtown Primary Commercial (DC) Zoning District, including DG area:

1. Excludes manufacturing uses.

2. No Lot may be used solely for an Accessory Structure or Accessory Building.

3. Incidental repair includes air conditioning service, carburetor and fuel injection service, electrical service, radiator service, and tune-up, lube, oil change, and smog check, as well as tires, batteries and accessories installation. Does not allow body repair or painting.

4. All activity must be conducted indoors.

5. Non-engine and exhaust-related service and repair allowed as incidental use.

6. Limited to instrumental and vocal music and readings. Also, notwithstanding the provisions of Section 20.200.940 B., incidental instrumental and vocal music shall be allowed between the hours of 6:00 a.m. and 12:00 a.m.

7. Maximum occupancy load shall be that maximum occupancy load determined by the City fire marshal.
8. Pedestal Charge Stations that are incidental to a separate primary use, that do not impact on-site or off-site vehicular circulation, and that serve patrons of the primary use on-Site are permitted in all Downtown Zoning Districts.
9. Includes on-site outdoor dining area(s).
10. Certain modifications of existing Wireless Facilities may be Permitted with an Administrative Permit in accordance with Section 20.80.1915 of Chapter 20.80.

SECTION 3. Section 20.80.760 of Chapter 20.80 of Title 20 of the San José Municipal Code is amended to read as follows:

Part 9.75

MEDICAL ~~MARIJUANA~~ CANNABIS COLLECTIVES, MEDICAL CANNABIS COLLECTIVES CULTIVATION SITES ONLY, MEDICAL CANNABIS COLLECTIVES DISPENSARY SITES ONLY, MEDICAL CANNABIS BUSINESSES, AND NON-MEDICAL CANNABIS BUSINESSES

20.80.760 - Compliance required

A. No person shall operate, or suffer or allow the operation of, a Medical ~~Marijuana~~ Cannabis Collective, ~~Medical Cannabis Collective~~ Medical Cannabis Collective Cultivation Site Only, Medical Cannabis Collective Dispensary Site Only, ~~cultivation site, Medical Cannabis dispensary site,~~ Medical Cannabis Business, or Non-medical Cannabis Business; provided, however, that a person may assert an affirmative defense to a criminal or civil enforcement action brought to enforce the provisions of this Title where the person, collective, business or activity is in full compliance with all of the applicable terms, provisions and conditions of this Code, including without limitation the provisions of this Part.

B. In addition to the requirements set forth in Section 20.80.760A. above, no person shall operate, or suffer or allow the operation of, a Medical ~~Marijuana~~ Cannabis Collective, Medical Cannabis Collective Cultivation Site Only, Medical Cannabis Collective Dispensary Site Only, Medical Cannabis Business, or Non-medical Cannabis Business until such time as a zoning code verification certificate has been duly applied for and issued by the Director pursuant to the provisions of Chapter 20.100 of this Title, which zoning code verification certificate confirms full conformance of a proposed Medical ~~Marijuana~~ Cannabis Collective, Medical Cannabis Collective Cultivation Site Only, Medical Cannabis Collective Dispensary Site Only, Medical Cannabis Business, or Non-medical Cannabis Business with all of the applicable locational siting requirements of this Title; provided a licensed Medical Cannabis Collective may expand its use to include a Medical Cannabis Business or Non-medical Cannabis Business without having to obtain a new zoning code verification certificate pursuant to this Section 20.80.760B. The application for such zoning code verification certificate shall be filed pursuant to the requirements and processes set forth in said Chapter 20.100.

C. In addition to the requirements set forth in Sections 20.80.760A. and 20.80.760B. above, no person shall operate, or suffer or allow the operation of, a Medical Cannabis Collective, a Medical Cannabis Collective Cultivation Site Only, a Medical Cannabis Collective Dispensary Site Only, a Medical Cannabis Business, or a Non-medical Cannabis Business until such time as all required state licenses have been duly applied for and issued by the State of California and are effective pursuant to the provisions of state law.

~~C~~D. Notwithstanding the foregoing, all persons who choose to be involved with cannabis, Medical ~~Marijuana~~ Cannabis, a Medical ~~Marijuana~~ Cannabis

Collective, a Medical Cannabis Collective Cultivation Site Only, a Medical Cannabis Collective Dispensary Site Only, a Medical Cannabis Business, or a Non-medical Cannabis Business do so entirely at their own risk that such involvement may constitute a violation of federal or state law.

SECTION 4. Section 20.80.765 of Chapter 20.80 of Title 20 of the San José Municipal Code is amended to read as follows:

20.80.765 - Personal use cultivation

The provisions of this Part are not intended to and shall not regulate the cultivation or possession of ~~medical marijuana~~ cannabis for ~~a medical use as~~ personal use cultivation in full compliance with all applicable state and local laws ~~by a qualified patient or primary caregiver~~ at their primary residence located within a zoning district that allows for residential uses.

SECTION 5. 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 - Restrictions and Conditions

The location and operation of Medical ~~Marijuana~~ Cannabis Collectives, Medical Cannabis Collective Cultivation Sites Only, Medical Cannabis Dispensary Sites Only, Medical Cannabis Businesses, and Non-medical Cannabis Businesses shall be subject to and shall comply 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 a Medical ~~Marijuana~~ Cannabis Collective, Medical Cannabis Collective Cultivation Site Only, Medical Cannabis Collective Dispensary Site Only, Medical Cannabis Business,

or Non-medical Cannabis Business under or pursuant to other provisions of the San José Municipal Code or other applicable State or local laws, regulations or policies. Anyone operating, or allowing or suffering the operation of, a Medical ~~Marijuana~~ Cannabis Collective, Medical Cannabis Collective Cultivation Site Only, Medical Cannabis Collective Dispensary Site Only, Medical Cannabis Business, or Non-medical Cannabis Business 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 a Medical ~~Marijuana~~ Cannabis Collective, Medical Cannabis Collective Cultivation Site Only, Medical Cannabis Collective Dispensary Site Only, Medical Cannabis Business, or Non-medical Cannabis Business 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 at the Medical ~~Marijuana~~ Cannabis Collective, Medical Cannabis Collective Cultivation Site Only, Medical Cannabis Collective Dispensary Site Only, Medical Cannabis Business, or Non-medical Cannabis Business; 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. At the time of issuance of a zoning code verification certificate, no Medical ~~Marijuana~~ Cannabis Collective, Medical ~~Marijuana~~ Cannabis Collective Dispensary Site Only, ~~or~~ Medical ~~Marijuana~~ Cannabis Collective Cultivation Site Only, Medical Cannabis Business, or Non-medical Cannabis Business shall be located closer than a minimum of one thousand (1,000) feet from any Parcel on which a public or private preschool, elementary school, or secondary school exists; and

B. At the time of issuance of a zoning code verification certificate, no Medical ~~Marijuana~~ Cannabis Collective, Medical ~~Marijuana~~ Cannabis Collective

Dispensary Site Only, ~~or~~ Medical ~~Marijuana~~ Cannabis Collective Cultivation Site Only, Medical Cannabis Business, or Non-medical Cannabis Business shall be located closer than a minimum of one thousand (1,000) feet from any Parcel on which any of the following uses exist: a Child Day Care Center, a community or recreation center, a park, or a library; and

C. At the time of issuance of a zoning code verification certificate, no Medical ~~Marijuana~~ Cannabis Collective, Medical ~~Marijuana~~ Cannabis Collective Dispensary Site Only, ~~or~~ Medical ~~Marijuana~~ Cannabis Collective Cultivation Site Only, Medical Cannabis Business, or Non-medical Cannabis Business shall be located closer than a minimum of five hundred (500) feet from any Parcel on which any of the following uses exist: a substance abuse rehabilitation center or an Emergency Residential Shelter; and

D. At the time of issuance of a zoning code verification certificate, no Medical ~~Marijuana~~ Cannabis Collective, Medical ~~Marijuana~~ Cannabis Collective Dispensary Site Only, ~~or~~ Medical ~~Marijuana~~ Cannabis Collective Cultivation Site Only, Medical Cannabis Business, or Non-medical Cannabis Business shall be located closer than a minimum of one hundred fifty (150) feet from any Parcel on which any of the following uses exist: religious assembly or adult day care center; and

E. The distances established in Subsections A. through D. above shall be measured as follows:

1. For a Medical ~~Marijuana~~ Cannabis Collective, Medical ~~Marijuana~~ Cannabis Collective Dispensary Site Only, ~~or~~ Medical ~~Marijuana~~ Cannabis Collective

Cultivation Site Only, Medical Cannabis Business, or Non-medical Cannabis Business located in a multi-tenant Building with tenant spaces occupied by uses other than the collective, 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 ~~Marijuana~~ Cannabis Collective, Medical ~~Marijuana~~ Cannabis Collective Dispensary Site Only, ~~or~~ Medical ~~Marijuana~~ Cannabis Collective Cultivation Site Only, Medical Cannabis Business, or Non-medical Cannabis Business that is the sole occupant of a Building, 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 Building envelope.

F. At the time of issuance of a zoning code verification certificate, no Medical ~~Marijuana~~ Cannabis Collective, ~~or~~ Medical ~~Marijuana~~ Cannabis Collective Dispensary Site Only, Medical Cannabis Business, or Non-medical Cannabis Business shall be located on a Parcel of real property that is closer than a minimum of fifty (50) feet from any Parcel on which another Medical ~~Marijuana~~ Cannabis Collective, ~~or~~ Medical ~~Marijuana~~ Cannabis Collective Dispensary Site Only, Medical Cannabis Business, or Non-medical Cannabis Business is located, as measured in a straight line between the boundary lines of the Parcels that are closest to one another; and

G. At the time of issuance of a zoning code verification certificate, no Medical ~~Marijuana~~ Cannabis Collective, Medical ~~Marijuana~~ Cannabis Collective Dispensary Site Only, ~~or~~ Medical ~~Marijuana~~ Cannabis Collective Cultivation Site Only, Medical Cannabis Business, or Non-medical Cannabis Business shall be located on a parcel of real property that is closer than a minimum of one hundred

fifty (150) feet from any residential use, including a residential legal nonconforming use, that is not incidental to a primary nonresidential use, as measured in a straight line between the boundary lines of the Parcels that are closest to one another; and

H. At the time of issuance of a zoning code verification certificate, no Medical ~~Marijuana~~ Cannabis Collective, Medical ~~Marijuana~~ Cannabis Collective Dispensary Site Only, ~~or~~ Medical ~~Marijuana~~ Cannabis Collective Cultivation Site Only, Medical Cannabis Business, or Non-medical Cannabis Business that is located in the Industrial Zoning Districts shall be located on a Parcel of real property that is within any of the following areas:

1. The area within the North San José Area Development Policy Boundary as defined in Section 14.29.020 D. of Title 14 of this Code; or
2. The area within the Edenvale Area Development Policy boundaries, which is that area within the corporate limits of the City of San José, consisting of approximately two thousand three hundred twelve (2,312) acres, as specified and depicted in the Edenvale Area Development Policy adopted and as amended by the City Council.
3. The area within the International Business Park Boundary, which for purposes of this Title means and consists of that area within the corporate limits of the City of San José bounded by Interstate Highway 880, Montague Expressway, Trade Zone Boulevard, the Union Pacific Railroad line, Murphy Avenue, and Brokaw Road.

I. At the time of issuance of a zoning code verification certificate, no Medical ~~Marijuana~~ Cannabis Collective, ~~or~~ Medical ~~Marijuana~~ Cannabis Collective Cultivation Site Only, Medical Cannabis Collective Dispensary Site Only, Medical

Cannabis Business, or Non-medical Cannabis Business that is located in the Light Industrial Zoning District shall be located on a Parcel of real property that is within either of the following areas:

1. Those certain enterprise zones that have been or may be created and whose boundaries have been or may be established through a resolution adopted by the City Council or by the City Manager pursuant to a resolution adopted by the City Council; or
2. Those other business incentive zones (such as a foreign trade zone) that may be created and whose boundaries are established through a formal, public action taken by the City Council.

J. No Medical ~~Marijuana~~ Cannabis Collective, Medical Cannabis Collective Cultivation Site Only, Medical Cannabis Collective Dispensary Site Only, Medical Cannabis Business, or Non-medical Cannabis Business shall be located on the ground floor of Structures or Buildings located on real property that, in whole or in part and at the time of issuance of a zoning code verification certificate, is within the DC-Downtown Primary Commercial Zoning District.

K. No Medical ~~Marijuana~~ Cannabis Collective, Medical Cannabis Collective Cultivation Site Only, Medical Cannabis Collective Dispensary Site Only, Medical Cannabis Business, or Non-medical Cannabis Business 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.

L. All activities conducted at a Medical ~~Marijuana~~ Cannabis Collective, Medical Cannabis Collective Cultivation Site Only, Medical Cannabis Collective Dispensary Site Only, Medical Cannabis Business, or Non-medical Cannabis Business shall at all times fully comport with the provisions of ~~California Health & Safety Code Sections 11362.5 et seq. through Section 11362.83~~ the Compassionate Use Act, the Medical Marijuana Program Act, the Medical 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

M. ~~No retail sales of any products shall occur or be allowed at a Medical Marijuana Collective; provided, however, that transfers of Medical Marijuana products in strict compliance with~~ All activities conducted at a Medical Cannabis Collective, Medical Cannabis Collective Cultivation Site Only, Medical Cannabis Collective Dispensary Site Only, Medical Cannabis Business, or Non-medical Cannabis Business shall at all times fully comport with the provisions of Chapter 6.88 of Title 6 of this Code ~~and all applicable State laws may occur~~; and

N. The hours within which a Medical ~~Marijuana~~ Cannabis Collective, Medical Cannabis Collective Cultivation Site Only, Medical Cannabis Collective Dispensary Site Only, Medical Cannabis Business, or Non-medical Cannabis Business may choose to operate shall be within the hours of 9:00 a.m. and 9:00 p.m.

SECTION 6. Sections 20.80.780 and 20.80.790 of Chapter 20.80 of Title 20 of the San José Municipal Code is deleted in its entirety as follows:

~~20.80.780 - Prohibition of Cultivation, Processing, Manufacture, Distribution, Testing, and Sale of Nonmedical Marijuana~~

~~The purpose of this Part is to confirm that:~~

~~A. The cultivation, processing, manufacture, distribution, testing, and sale of Non-medical Marijuana Cannabis, including marijuana cannabis products, is a prohibited restricted land use in all zoning districts in the City of San José. Non-medical MarijuanaCannabis is any marijuana cannabis or marijuana cannabis product, as defined in Division 10 of the California Health and Safety Code, which is not regulated by the City under Chapter 6.88 of Title 6 of this Code.~~

~~B. Notwithstanding, Subsection A. , if Proposition 64 (also known as the Control, Regulate, and Tax Adult Use of Marijuana Act ("AUMA") passes at the November 8, 2016 statewide general election, not more than six (6) living marijuana plants may be planted, cultivated, harvested, dried, or processed by a person over the age of twenty one (21) inside a private residence, or inside an accessory building to a private residence that is fully enclosed and secure and located upon the grounds of the private residence, as an incidental use to the primary private residential use, provided that marijuana in excess of 28.5 grams produced by plants kept for indoor personal cultivation under this Part must be stored in a locked space on the grounds of the private residence not visible from the public right-of-way. Any personal cultivation under this Part shall comply with all requirements of this Code, including without limitation, Chapter 17.12 of this Code and Title 24 of this Code.~~

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~~20.80.790~~ Sunset Clause

~~Subsection B. of Section 20.80.780 of this Chapter shall automatically sunset and have no force or effect in the event AUMA fails to pass at the November 8, 2016 statewide general election.~~

~~In the event AUMA fails to pass at the November 8, 2016 statewide general election, the cultivation, processing, manufacture, distribution, testing, and sale of nonmedical marijuana, including marijuana products, whether indoors or outdoors, shall continue to be prohibited in all zoning districts of the City of San José.~~

SECTION 7. Chapters 20.100.1530, 20.100.1535, and 20.100.1540 of Title 20 of the San José Municipal Code is amended to read as follows:

20.100.1530 - Availability of Certificate - Medical ~~Marijuana~~ Cannabis Collective, Medical Cannabis Collective Cultivation Site Only, Medical Cannabis Collective Dispensary Site Only, Medical Cannabis Business, or Non-medical Cannabis Business.

A. A Medical ~~Marijuana~~ Cannabis Collective, Medical Cannabis Collective Cultivation Site Only, Medical Cannabis Collective Dispensary Site Only, Medical Cannabis Business, or Non-medical Cannabis Business shall keep, or cause to be kept, a true and correct copy of the zoning code verification certificate issued by the Director for that Medical ~~Marijuana~~ Cannabis Collective, Medical ~~Marijuana~~ Cannabis Collective Dispensary Site Only, ~~and for any~~ Medical ~~Marijuana~~ Cannabis Collective Cultivation Site Only, Medical Cannabis Business, or Non-medical Cannabis Business, in legible condition, on the premises of that Medical ~~Marijuana~~ Cannabis Collective, Medical ~~Marijuana~~ Cannabis Collective, Dispensary Site Only, ~~and on the premises of any~~ Medical ~~Marijuana~~ Cannabis

Collective Cultivation Site Only, Medical Cannabis Business, or Non-medical Cannabis Business.

B. A Medical ~~Marijuana~~ Cannabis Collective, Medical Cannabis Collective Cultivation Site Only, Medical Cannabis Collective Dispensary Site Only, Medical Cannabis Business, or Non-medical Cannabis Business shall present, or cause to be presented, the copy of its zoning code verification certificate to the City Manager or his/her designee, a City police officer or City code enforcement officer who is at the Site of the Medical ~~Marijuana~~ Cannabis Collective, Medical Cannabis Collective Cultivation Site Only, Medical Cannabis Collective Dispensary Site Only, Medical Cannabis Business, or Non-medical Cannabis Business immediately upon request.

20.100.1535 - Updated certificate - Medical ~~Marijuana~~ Cannabis Collective, Medical Cannabis Collective Cultivation Site Only, Medical Cannabis Collective Dispensary Site Only, Medical Cannabis Business, or Non-medical Cannabis Business.

A Medical ~~Marijuana~~ Cannabis Collective, Medical Cannabis Collective Cultivation Site Only, Medical Cannabis Collective Dispensary Site Only, Medical Cannabis Business, or Non-medical Cannabis Business shall apply for a new zoning code verification certificate whenever it intends to modify its operations in a manner that may impact compliance with the provisions and conditions set forth in this Title.

20.100.1540 - Nontransferability - Medical ~~Marijuana~~ Cannabis Collective, Medical Cannabis Collective Cultivation Site Only, Medical Cannabis Collective Dispensary Site Only, Medical Cannabis Business, or Non-medical Cannabis Business

A zoning code verification certificate may not be transferred or assigned, except that a zoning code verification certificate may be transferred or assigned to another Medical ~~Marijuana~~ Cannabis Collective, Medical Cannabis Collective Cultivation Site Only, Medical Cannabis Collective Dispensary Site Only, Medical Cannabis Business, or Non-medical Cannabis Business that plans to operate on the same Site and has obtained a new or updated registration pursuant to Chapter 6.88 of the Code authorizing such transfer or assignment.

PASSED FOR PUBLICATION of title this _____ day of _____, 2017, by the following vote:

AYES:

NOES:

ABSENT:

DISQUALIFIED:

SAM LICCARDO
Mayor

ATTEST:

TONI J. TABER, CMC
City Clerk