

ORDINANCE NO.

AN ORDINANCE OF THE CITY OF SAN JOSE AMENDING SECTION 20.10.040 OF CHAPTER 20.10, SECTION 20.50.100 OF CHAPTER 20.50, AND SECTION 20.80.760 OF CHAPTER 20.80, ADDING A NEW PART 9.76 TO CHAPTER 20.80, AND AMENDING SECTIONS 20.100.1530, 20.100.1535, AND 20.100.1540 OF CHAPTER 20.100 OF TITLE 20 OF THE SAN JOSE MUNICIPAL CODE TO ADD CANNABIS MANUFACTURING, CANNABIS TESTING, AND CANNABIS DISTRIBUTION AS NEWLY ENUMERATED RESTRICTED USES IN SPECIFIED INDUSTRIAL ZONING DISTRICTS, AND MAKING OTHER TECHNICAL, NON-SUBSTANTIVE, OR FORMATTING CHANGES

WHEREAS, an Addendum to the Final Program Environmental Impact Report for the Envision San José 2040 General Plan certified by the City Council on November 1, 2011, by Resolution No. 76041, and the Supplemental Environmental Impact Report to the Envision San José 2040 General Plan certified by the City Council on December 15, 2015 by Resolution No. 77617, and the Addenda thereto, all in conformance with the California Environmental Quality Act of 1970 (CEQA), as amended, was prepared and approved by the Planning Director on November 9, 2018, for this Ordinance; 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 and approves the application and use of said Addendum as the appropriate environmental clearance 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 Cannabis Collective, Medical Cannabis Collective Cultivation Site Only, Medical Cannabis Collective Dispensary Site Only, Medical Cannabis Business, Non-medical Cannabis Business, Cannabis Manufacturing (Type 6) Business, Cannabis Distribution Business, or Cannabis Testing 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 Medical Cannabis Collective, Medical Cannabis Collective Cultivation Site Only, Medical Cannabis Collective Dispensary Site Only, Medical Cannabis Business, Non-medical Cannabis Business, Cannabis Manufacturing (Type 6) Business, Cannabis Distribution Business, or Cannabis Testing Business that are expressly recognized in and fully conform to the provisions of this Code.

SECTION 2. Section 20.50.100 of Chapter 20.50 of Title 20 of the San José Municipal Code is amended to read as follows:

20.50.100 Allowed Uses and Permit Requirements

- A. "Permitted" land uses are indicated by a "P" on Table 20-110.
- B. "Permitted" uses which may be approved only on property designated on the Land Use/Transportation Diagram of the General Plan, as amended, with the Combined Industrial/Commercial land use designation or, in the case of Hotel/Motel establishments, which may also be approved on property designated on the Land Use/Transportation Diagram of the General Plan, as amended, with the Preferred Hotel Site Overlay, are indicated by a "P^{GP}" on Table 20-110.
- C. "Conditional" uses are indicated by a "C" on Table 20-110. These uses may be allowed in such designated districts, as an independent use, but only upon issuance of and in compliance with a Conditional Use Permit as set forth in Chapter 20.100.

"Conditional" uses which may be approved only on property designated on the Land Use/Transportation Diagram of the General Plan, as amended, with the Combined Industrial/Commercial Designation or, in the case of Hotel/Motel establishments, may also be approved on property designated on the Land Use/Transportation Diagram of the General Plan, as amended, with the preferred Hotel Site Overlay, are indicated by a "C^{GP}" on Table 20-110. These uses may be allowed in such designated districts, as an independent use, but only upon issuance of and in compliance with a Conditional Use Permit as set forth in Chapter 20.100.

D. "Conditional" uses requiring City Council approval as the initial decision-making body are indicated by a "CC" on Table 20-110. These uses may be allowed in such designated districts, as an independent use, but only upon issuance of and in compliance with a Conditional Use Permit approved by the City Council as set forth in Chapter 20.100. Applications for these uses shall first be considered by the planning commission at a public hearing of the Commission for the Commission's report and recommendation on the application to the City Council pursuant to the processes set forth in Chapter 20.100.

"Conditional" uses which may be approved only on property designated on the Land Use/Transportation Diagram of the General Plan, as amended, with the Combined Industrial/Commercial designation are indicated by a "CC^{GP}" on Table 20-110. These uses may be allowed in such designated districts, as an independent use, but only upon issuance of and in compliance with a Conditional Use Permit as set forth in Chapter 20.100.

E. "Special" uses are indicated by a "S" on Table 20-110. These uses may be allowed in such designated districts, as an independent use, but only upon issuance of and in compliance with a Special Use Permit as set forth in Chapter 20.100.

F. "Administrative" uses are indicated by an "A" on Table 20-110. These uses may be allowed in such designated districts, as an independent use, but only upon issuance of and in compliance with an Administrative Permit as set forth in Chapter 20.100.

G. "Restricted" land uses are indicated by an "R^{GP}" on Table 20-110. These uses may occur in such designated districts, as an independent use, but only upon issuance of and in full compliance with a valid and effective Zoning Code Verification Certificate as set forth in Chapter 20.100. "Restricted" uses may only

occur on property designated on the Land Use/Transportation Diagram of the General Plan, as amended, with a Combined/Industrial Commercial, Industrial Park, Light Industrial, or Heavy Industrial designation.

- H. Land uses not permitted are indicated by a "-" on Table 20-110. Land uses not listed on Table 20-110 are not permitted.
- I. When the right column of Table 20-110 includes a reference to a section number or a footnote, the regulations cited in the section number or footnote applies to the use. In addition, all uses are subject to any other applicable provision of this Title 20 and any other title of the San José Municipal Code.

**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	
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 including incidental support uses	C ^{GP}	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	-	-	-	Note 15
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 cannabis collective	R ^{GP}	-	R ^{GP}	R ^{GP}	R ^{GP}	Part 9.75, Chapter 20.80
Medical cannabis collective cultivation site only	R ^{GP}	-	R ^{GP}	R ^{GP}	R ^{GP}	Part 9.75, Chapter 20.80
Medical cannabis collective dispensary site only	R ^{GP}	-	R ^{GP}	R ^{GP}	R ^{GP}	Part 9.75, Chapter 20.80
Medical cannabis business	R ^{GP}	-	R ^{GP}	R ^{GP}	R ^{GP}	Part 9.75, Chapter 20.80
Non-medical cannabis business	R ^{GP}	-	R ^{GP}	R ^{GP}	R ^{GP}	Part 9.75, Chapter 20.80
<u>Cannabis Manufacturing (Type 6) Business</u>	R ^{GP}	-	R ^{GP}	R ^{GP}	R ^{GP}	<u>Part 9.76, Chapter 20.80</u>
<u>Cannabis Distribution Business</u>	R ^{GP}	-	R ^{GP}	R ^{GP}	-	<u>Part 9.76, Chapter 20.80</u>
<u>Cannabis Testing Business</u>	-	-	R ^{GP}	-	-	<u>Part 9.76, Chapter 20.80</u>
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 designation of Transit Employment Center; P ^{GP} on lands with other General Plan land use designations	C ^{GP}	-	-	Note 13
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 designation of Transit Employment Center; C ^{GP} on lands with other designations	C ^{GP}	C ^{GP}	-	
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 station, excluding incidental service or repair	P	C	C ^{GP}	C ^{GP}	-	Note 2, Note 8
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 hundred (200) 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 (2,000) 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. Section 20.80.760 of Chapter 20.80 of Title 20 of the San José Municipal Code is amended to read as follows:

20.80.760 Compliance Required

- A. No person shall own, operate, tolerate, allow the operation of, or profit from the ownership of operate, or suffer or allow the operation of, a Medical 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 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 own, operate, tolerate, allow the operation of, or profit from the ownership of operate, or suffer or allow the operation of, a Medical 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 Zzoning Ccode Vverification Ccertificate has been duly applied for and issued by the Director pursuant to the provisions of Chapter 20.100 of this Title, which Zzoning Ccode Vverification Ccertificate confirms full conformance of a proposed Medical 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 Zzoning Ccode Vverification Ccertificate pursuant to this Section 20.80.760B. The application for such Zzoning Ccode Vverification Ccertificate 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 own, operate, tolerate, allow the operation of, or profit

~~from the ownership of 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.

- D. Notwithstanding the ~~provisions of this Section 20.80.760~~ ~~foregoing~~, all persons who choose to be involved with cannabis, Medical Cannabis, 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 do so entirely at their own risk that such involvement may constitute a violation of federal or state law.

SECTION 4. A new Part is added to Chapter 20.80 of Title 20 of the San José Municipal Code to be numbered, entitled and to read as follows:

Part 9.76

Cannabis Manufacturing (Type 6) Business, Cannabis Distribution Business, and Cannabis Testing Business

20.80.796 Purpose

The purpose of this Part is to further fulfill the purposes and intents set forth in Chapter 6.88 of Title 6 of the San José Municipal Code.

20.80.797 Definitions

Unless expressly defined in this Title otherwise, the terms used in this Part shall have the meanings ascribed to them in Chapter 6.88 of Title 6 of the San José Municipal Code.

20.80.798 Compliance Required

- A. No person shall own, operate, tolerate, allow the operation of, or profit from the ownership of a Cannabis Manufacturing (Type 6) Business, Cannabis Distribution Business, or Cannabis Testing 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 20.80.798A. above, no person shall own, operate, tolerate, allow the operation of, or profit from the ownership of a Cannabis Manufacturing (Type 6) Business, Cannabis Distribution Business, or Cannabis Testing 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 Cannabis Manufacturing (Type 6) Business, Cannabis Distribution Business, or Cannabis Testing Business with all of the applicable locational siting requirements of this Title; provided an existing registered Medical Cannabis Business may expand its operation to include cannabis manufacturing (Type 6) or cannabis distribution but must obtain a new Zoning Code Verification Certificate pursuant to this Section 20.80.760B. if such activity is conducted at a new site. The application for such

Zoning Code Verification Certificate shall be filed pursuant to the requirements and processes set forth in Chapter 20.100.

- C. In addition to the requirements set forth in Sections 20.80.798A. and 20.80.798B. above, no person shall own, operate, tolerate, allow the operation of, or profit from the ownership of a Cannabis Manufacturing (Type 6) Business, Cannabis Distribution Business, or Cannabis Testing 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.
- D. Notwithstanding the provisions of this Section 20.80.798, all persons who choose to be involved with cannabis, Cannabis Manufacturing (Type 6) Business, Cannabis Distribution Business, or Cannabis Testing Business do so entirely at their own risk that such involvement may constitute a violation of federal or state law.

20.80.799 Restrictions and Conditions

The location and operation of Cannabis Manufacturing (Type 6) Business, Cannabis Distribution Business, and Cannabis Testing Business 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 Cannabis Manufacturing (Type 6) Business, Cannabis Distribution Business, or Cannabis Testing Business under or pursuant to other provisions of the San José Municipal Code or other applicable State or local laws, regulations or policies. Any person operating, or allowing or suffering the operation of, a Cannabis Manufacturing (Type 6) Business, Cannabis Distribution Business, or Cannabis Testing 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 Cannabis Manufacturing (Type 6) Business, Cannabis Distribution Business, or

Cannabis Testing 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 Cannabis Manufacturing (Type 6) Business, Cannabis Distribution Business, or Cannabis Testing 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 Cannabis Manufacturing (Type 6) Business, Cannabis Distribution Business, or Cannabis Testing Business shall be located closer than a minimum of six hundred (600) 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 Cannabis Manufacturing (Type 6) Business, Cannabis Distribution Business, or Cannabis Testing Business shall be located closer than a minimum of six hundred (600) feet from any Parcel on which any of the following uses exist: a Child Day Care Center or a place of religious assembly with a Child Day Care Center; and

- C. At the time of issuance of a Zoning Code Verification Certificate, no Cannabis Manufacturing (Type 6) Business, Cannabis Distribution Business, or Cannabis Testing Business shall be located closer than a minimum of six hundred (600) feet from any Parcel on which any of the following uses exist: a community/recreational facility, a park, or a library; and

- D. At the time of issuance of a Zoning Code Verification Certificate, no Cannabis Manufacturing (Type 6) Business, Cannabis Distribution Business, or Cannabis Testing Business shall be located closer than a minimum of one hundred fifty (150) feet from any Parcel with residential use, including a residential legal nonconforming use that is not incidental to a primary nonresidential use; and

- E. The distances established in Subsections A. through D. above shall be measured as follows:
1. For a Cannabis Manufacturing (Type 6) Business, Cannabis Distribution Business, or Cannabis Testing Business located in a multi-tenant Building with tenant spaces occupied by uses other than the Cannabis Business, the distance shall be measured in a straight line from the Parcel boundary of the sensitive use to the nearest exterior wall of the Cannabis business' occupied tenant space in the shared Building.
 2. For a Cannabis Manufacturing (Type 6) Business, Cannabis Distribution Business, or Cannabis Testing 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 Cannabis Business' Building envelope.
- F. All activities conducted at a Cannabis Manufacturing (Type 6) Business, Cannabis Distribution Business, or Cannabis Testing Business shall at all times fully comport with the provisions of Chapter 6.88 of Title 6 of this Code; and
- G. A Cannabis Manufacturing (Type 6) Business, Cannabis Distribution Business, or Cannabis Testing Business shall not operate between the hours of 12:00 midnight and 6:00 a.m. except pursuant to and in compliance with a Conditional Use Permit as provided in Chapter 20.100.
- H. No outdoor activity, including loading, sweeping, landscaping or maintenance shall occur within fifty (50) feet of any residentially zoned property between the hours of 12:00 midnight and 6:00 a.m. except pursuant to and in compliance with a Conditional Use Permit as provided in Chapter 20.100.

I. Performance Standards

1. In the IP, LI and HI industrial districts no primary, secondary, incidental or conditional use or activity related thereto shall be conducted or permitted:
 - a. In a manner that causes or results in the harmful discharge of any waste materials into or upon the ground, into or within any sanitary or storm sewer system, into or within any water system or water, or into the atmosphere; or
 - b. In a manner that constitutes a menace to persons or property or in a manner that is dangerous, obnoxious, or offensive by reason of the creation of a fire, explosion, or other physical hazard, or by reason of air pollution, odor, smoke, noise, dust vibration, radiation, or fumes; or
 - c. In a manner that creates a public or private nuisance.

2. Without limiting the generality of the preceding subsection, the following specific standards shall apply in the industrial zoning districts:
 - a. Incineration. There shall be no incineration on any site of any waste material.
 - b. Vibration. There shall be no activity on any site that causes ground vibration which is perceptible without instruments at the property line of the site.

c. Air pollution. Total emissions from any use or combination of uses on a site shall not exceed the emissions and health risk thresholds as established by the Director of Planning.

3. Noise.

a. The sound pressure level generated by any use or combination of uses shall not exceed the decibel level at any property line as shown in Table 20-135, except upon issuance and in compliance with a special use permit as provided in Chapter 20.100.

SECTION 5. Section 20.100.1530 of Chapter 20.100 of Title 20 of the San José Municipal Code is amended to read as follows:

20.100.1530 Availability of Certificate - Medical Cannabis Collective, Medical Cannabis Collective Cultivation Site Only, Medical Cannabis Collective Dispensary Site Only, Medical Cannabis Business, ~~or~~ Non-medical Cannabis Business, Cannabis Manufacturing (Type 6) Business, Cannabis Distribution Business, or Cannabis Testing Business

A. A Medical Cannabis Collective, Medical Cannabis Collective Cultivation Site Only, Medical Cannabis Collective Dispensary Site Only, Medical Cannabis Business, ~~or~~ Non-medical Cannabis Business, Cannabis Manufacturing (Type 6) Business, Cannabis Distribution Business, or Cannabis Testing 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 Cannabis Collective, Medical Cannabis Collective Dispensary Site Only, Medical Cannabis Collective Cultivation Site Only, Medical Cannabis Business, ~~or~~ Non-medical Cannabis Business, Cannabis Manufacturing (Type 6) Business,

Cannabis Distribution Business, or Cannabis Testing (Business in legible condition, on the premises of that Medical Cannabis Collective, Medical Cannabis Collective, Dispensary Site Only, Medical Cannabis Collective Cultivation Site Only, Medical Cannabis Business, ~~or~~ Non-medical Cannabis Business, Cannabis Manufacturing (Type 6) Business, Cannabis Distribution Business, or Cannabis Testing Business.

- B. A Medical Cannabis Collective, Medical Cannabis Collective Cultivation Site Only, Medical Cannabis Collective Dispensary Site Only, Medical Cannabis Business, ~~or~~ Non-medical Cannabis Business, Cannabis Manufacturing (Type 6) Business, Cannabis Distribution Business, or Cannabis Testing 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 Cannabis Collective, Medical Cannabis Collective Cultivation Site Only, Medical Cannabis Collective Dispensary Site Only, Medical Cannabis Business, ~~or~~ Non-medical Cannabis Business, Cannabis Manufacturing (Type 6) Business, Cannabis Distribution Business, or Cannabis Testing Business immediately upon request.

SECTION 6. Section 20.100.1535 of Chapter 20.100 of Title 20 of the San José Municipal Code is amended to read as follows:

20.100.1535 Updated Certificate - Medical Cannabis Collective, Medical Cannabis Collective Cultivation Site Only, Medical Cannabis Collective Dispensary Site Only, Medical Cannabis Business, ~~or~~ Non-medical Cannabis Business, Cannabis Manufacturing (Type 6) Business, Cannabis Distribution Business, or Cannabis Testing Business

A Medical Cannabis Collective, Medical Cannabis Collective Cultivation Site Only, Medical Cannabis Collective Dispensary Site Only, Medical Cannabis Business, ~~or~~

Non-medical Cannabis Business, Cannabis Manufacturing (Type 6) Business, Cannabis Distribution Business, or Cannabis Testing Business shall apply for a new Zzoning Ceode Vverification Ceertificate whenever it intends to modify its operations in a manner that may impact compliance with the provisions and conditions set forth in this Title.

SECTION 7. Section 20.100.1540 of Chapter 20.100 of Title 20 of the San José Municipal Code is amended to read as follows:

20.100.1540 Nontransferability - Medical Cannabis Collective, Medical Cannabis Collective Cultivation Site Only, Medical Cannabis Collective Dispensary Site Only, Medical Cannabis Business, ~~or~~ Non-medical Cannabis Business, Cannabis Manufacturing (Type 6) Business, Cannabis Distribution Business, or Cannabis Testing Business

A Zzoning Ceode Vverification Ceertificate may not be transferred or assigned, except that a Zzoning Ceode Vverification Ceertificate may be transferred or assigned to another Medical Cannabis Collective, Medical Cannabis Collective Cultivation Site Only, Medical Cannabis Collective Dispensary Site Only, Medical Cannabis Business, ~~or~~ Non-medical Cannabis Business, Cannabis Manufacturing (Type 6) Business, Cannabis Distribution Business, or Cannabis Testing 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 _____, 2019, by the following vote:

AYES:

NOES:

ABSENT:

DISQUALIFIED:

SAM LICCARDO
Mayor

ATTEST:

TONI J. TABER, CMC
City Clerk