

ORDINANCE NO. 25632

**AN ORDINANCE OF THE CITY OF SAN JOSE
AMENDING SECTIONS 20.08.820, 20.08.830,
20.08.880 AND 20.08.890 OF CHAPTER 20.08 OF
TITLE 20 OF THE SAN JOSE MUNICIPAL CODE
TO PERMIT THE ESTABLISHMENT OF MEDICAL
MARIJUANA DISPENSARIES WITH AN
ADMINISTRATIVE PERMIT.**

WHEREAS, this ordinance was found to be categorically exempt from environmental review, per the provisions of Section 15061(b)(3) of the California Environmental Quality Act of 1970 as amended, on June 3, 1998 under File No. 98-06-131.

BE IT ORDAINED BY THE COUNCIL OF THE CITY OF SAN JOSE:

SECTION 1 Section 20.08.820 of Chapter 20.08 of Title 20 of the San Jose Municipal Code is amended to read as follows:

20.08.820 Administrative Permit Required.

- A. No person shall operate or allow or suffer the operation of a Medical Marijuana Dispensary except in compliance with a Administrative Permit issued pursuant to Part 6 of Chapter 20.52.
- B. The application for such Administrative Permit shall be filed by the operator of the Medical Marijuana Dispensary pursuant to the requirements of Section 20.52.205 of Part 6 of Chapter 20.52.

SECTION 2. Section 20.08.830 of Chapter 20.08 of Title 20 of the San Jose Municipal Code is amended to read as follows:

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20.08.830 Administrative Permit Not Applicable.

Nothing in this Part shall regulate or prohibit the following uses which comply with Proposition 215:

- A. The cultivation or possession of marijuana for medical use by a single patient or caregiver; or
- B. The cultivation or possession of marijuana by a cooperative of three or less patients;

SECTION 3. Section 20.08.880 of Chapter 20.08 of Title 20 of the San Jose Municipal Code is amended to read as follows:

20.08.880 Findings.

- A. The Administrative Permit shall be granted only if the Director makes all of the following findings of fact:
 - 1. The Medical Marijuana Dispensary, as proposed and at the location requested, will not create a potentially adverse impact on surrounding uses ; and
 - 2. The proposed Medical Marijuana Dispensary, and at the location requested, will be compatible with the adjacent uses; and

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3. The proposed Medical Marijuana Dispensary will not result in the substantial aggravation of crime problems or make law enforcement unduly difficult; and
 4. The proposed Medical Marijuana Dispensary will not be detrimental to the public peace, health, safety and welfare.
- B. The Director shall deny the application where the information submitted by the applicant fails to satisfactorily substantiate each such finding.

SECTION 4. Section 20.08.890 of Chapter 20.08 of Title 20 of the San Jose Municipal Code is amended to read as follows:

20.08.890 Conditions.

- A. The use shall be conducted in compliance with the provisions of Health and Safety Code Section 11362.5.
- B. No smoking or consumption of medical marijuana shall be allowed on the site of the Dispensary.
- C. No persons under the age of 18 (eighteen) shall be permitted in the Dispensary at any time.
- D. No retail sales of any products other than medical marijuana are permitted at the Dispensary.
- E. The Dispensary shall be operated in strict compliance with the Regulations adopted by the Chief of Police:

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1. The Regulations shall address, but are not limited to such issues as, record keeping, proper identification for patients, storage of marijuana on the site, on-site cultivation and maximum amount dispensed in any single transaction; and
 2. The Regulations may be amended from time to time by the Chief. The Dispensary shall be operated in strict compliance with the most currently adopted regulations sent by certified mail to the operator of the Dispensary.
- F. All transactions shall occur at the Dispensary and all medical marijuana shall be dispensed directly to the patient or the designated caregiver. No employee, owner or volunteer of the Dispensary may make a delivery of medical marijuana.
- G. Cultivation of medical marijuana on-site is only allowed if specifically authorized by the Administrative Permit.
- H. Hours of operation shall be limited to the hours between 9:00 a.m. and 9:00 p.m.
- I. The operator and/or property owner shall be required to report any illegal activity occurring on the site or associated with the Dispensary.
- J. Each Dispensary, shall display in a manner legible and visible to its clientele:

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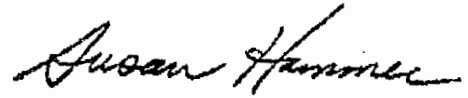
1. Notice that Persons under the age of 18 (eighteen) are not allowed in the Dispensary; and
2. Notice that all illegal activity will be reported to the police; and
3. A request that there be no smoking of the medical marijuana in the vicinity of the Dispensary.

PASSED FOR PUBLICATION OF TITLE this 23rd day of June, 1998
by the following vote:

AYES: DANDO, DIAZ, FERNANDES, JOHNSON, PANDORI,
POWERS, SHIRAKAWA, WOODY; HAMMER

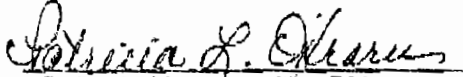
NOES: DIQUISTO

ABSENT: FISCALINI



SUSAN HAMMER
Mayor

ATTEST


PATRICIA L. O' HEARN
City Clerk



CITY OF SAN JOSÉ, CALIFORNIA

Office of the City Clerk
801 North First Street, Room 116
San José, California 95110
Telephone (408) 277-4424
FAX (408) 277-3285

FAX TRANSMITTAL

TO: Joe

FR: Cynthia

DATE: 05/03/05

NOTES:

Pls. Send check payable to "City of San Jose" a total of \$8.00 to cover for fax and document charges.

Thank you,

Records Division