

DRAFT

ORDINANCE NO.

**AN ORDINANCE OF THE CITY OF SAN JOSE AMENDING
SECTION 10.20.140 OF CHAPTER 10.20, TITLE 10,
RELATED TO TRESPASS ON PRIVATE PROPERTY TO
INCLUDE A DEFINITION FOR "PRIVATE PROPERTY,"
AUTHORIZE POLICE OFFICERS TO GIVE NOTICE OF
"NO TRESPASSING," CLARIFY REQUIREMENTS FOR
"NO TRESPASSING SIGNS," AND PROHIBIT ENTRY FOR
UP TO SIX MONTHS**

WHEREAS, pursuant to the provisions and requirements of the California Environmental Quality Act of 1970, together with related State CEQA Guidelines and Title 21 of the San José Municipal Code (collectively, "CEQA"), the Director of Planning, Building and Code Enforcement has determined that the provisions of this Ordinance do not constitute a project, under File No. PP-17-008 (General Procedure & Policy Making resulting in no changes to the physical environment); and

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

WHEREAS, this Council has reviewed and considered the "not a project" determination under CEQA prior to taking any approval actions on this Ordinance;

NOW, THEREFORE, BE IT ORDAINED BY THE COUNCIL OF THE CITY OF SAN JOSE:

Section 10.20.140 of Chapter 10.20 of Title 10 of the San José Municipal Code is amended to read as follows:

10.20.140 Trespass on private property prohibited – ~~Exceptions~~.

A. No person shall enter, be present, or remain upon any private property without the consent of the ~~remain upon any private property or business premises after being notified by the owner, owner's agent, or lessee, lessee's agent, or other person in lawful possession, where signs forbidding entry are displayed. charge thereof to remove himself or herself therefrom.~~

1. For purposes of Subsection 10.20.140.A, sign(s) must be printed or posted in a conspicuous manner at walkway(s) or driveway(s) entering any enclosed property or portion thereof. This requirement is met if at least one sign is conspicuously printed or posted so as to be readable upon entering such private property.

B. No person shall enter, be present, or remain upon any private property, who was admonished (orally or in writing) to leave, or to leave and not return.

1. The admonishment must be made by the owner, owner's agent, without the express permission of the owner or lessee, lessee's agent, or other person in lawful possession of the private property ~~charge of private property or business premises, shall enter upon such private property or business premises after having been notified by the owner or lessee, or other person in charge thereof, to keep off or keep away therefrom. A peace officer is authorized to give the admonishment in this Section 10.20.140.B at the request of the owner, owner's agent, lessee, lessee's agent, or other person in lawful possession of the private property.~~

2. The admonishment should be documented in writing by the individual making it and should include the name or description of the person admonished, the date, approximate time, address and type of property involved. If documented, the documentation should be retained for a minimum of one year.

3. Admonishment is no longer valid after six months from the date of the admonishment.

C. The term “private property” shall mean any real property, including but not limited to, buildings, structures, yards, open spaces, walkways, courtyards, driveways, carports, parking areas, or vacant lots, owned by any person or entity other than property owned or lawfully possessed by the City of San José.

~~C. No provision of subsections A. and B. shall apply in any of the following instances:~~

~~1. When its application results in, or is coupled with, any act prohibited by the Unruh Civil Rights Act, or any other provision of law relating to prohibited discrimination against any person on account of color, race, religion, creed, ancestry or natural origin;~~

~~2. When its application results in, or is coupled with, an act prohibited by Section 365 of the California Penal Code, or any other provision of law relating to duties of innkeepers and common carriers.~~

~~3. When its application would result in an interference with, or inhibition of, peaceful labor picketing or other lawful labor activities;~~

~~4. When its application would result in an interference with, or inhibition of, any other exercise of constitutionally protected right of freedom of speech, such as, but not limited to, peaceful expressions of political or religious opinion.~~

D. No person shall loiter, stand, park or otherwise occupy any portion of the parking lot or adjacent sidewalk of a commercial business or lot which is otherwise open to the public with the intent or for the purpose of or while engaging in any of the following activities:

1. Drinking alcoholic beverages or carrying alcoholic beverages in open containers;
2. Engaging in acts of vandalism against public or private property;
3. Defacing or otherwise damaging public or private property with paint or other materials;
4. Committing an assault or battery against another person;
5. Challenging another person to fight;
6. Making loud and raucous noise; or
7. Soliciting or making the sale or transfer of alcohol or cigarettes to minors.

E. For the purpose of ~~this s~~Section 10.20.140.D, the act of loitering shall extend to persons in motor vehicles, or on motorcycles or bicycles, that are parked or standing in the parking lot of a commercial business or lot which is otherwise open to the public as well as to persons standing, sitting, or otherwise occupying a portion of such parking lot or sidewalks adjacent to such parking lot.

F. For purposes of ~~this s~~Section 10.,20.140.D, a "commercial business" includes, but is not limited to, offices, retail and wholesale businesses, and commercial businesses.

PASSED FOR PUBLICATION of title this _____ day of _____, 2025, by the following vote:

AYES:

NOES:

ABSENT:

DISQUALIFIED:

MATT MAHAN
Mayor

ATTEST:

TONI J. TABER, MMC
City Clerk