

DRAFT

ORDINANCE NO. _____

**AN ORDINANCE OF THE CITY OF SAN JOSE AMENDING
SECTION 20.50.110 RELATING TO COMMERCIAL
SUPPORT USES IN THE IP INDUSTRIAL PARK ZONING
DISTRICT AND TABLE 20-110, OF TITLE 20 (ZONING) OF
THE SAN JOSE MUNICIPAL CODE RELATING TO
COMMERCIAL SUPPORT USES WITHIN THE
BOUNDARIES OF THE NORTH SAN JOSE AREA
DEVELOPMENT POLICY AREA**

WHEREAS, pursuant to Section 15168 of the CEQA Guidelines, the City of San José has determined that the proposed project is pursuant to or in furtherance of and within the scope of previously approved program evaluated in the Final Program Environmental Impact Report for the North San José Development Policies Update (the “NSJADP FEIR”) and addenda thereto, for which findings were adopted by the City Council through its Resolution No. 72768 on June 21, 2005, and the Final Program Environmental Impact Report for the Envision San José 2040 General Plan (the “General Plan FEIR”) as supplemented, and addenda thereto, for which findings were adopted by City Council through its Resolution Nos. 76041 and 77617 on November 1, 2011 and December 15, 2015, respectively, and does not involve new significant effects beyond those analyzed in the DSAP FEIR, or the FEIR and their supplement; 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 NSJADP FEIR and addenda thereto, and General Plan FEIR and the addenda thereto, prior to taking any approval actions on this Ordinance; and

WHEREAS, the proposed furthers the economic development goals and policies of the Envision San José 2040 General Plan and supports the implementation of the North San José Area Development Policy; and

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

SECTION 1. 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 | - | - | |

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|---|---|---|---|---|---|-------------------|
| 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 | | | | | | |

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| 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 / <u>A</u> | - | - | 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 |

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| 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 | |

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| 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 | - | - | - | Note 15 |

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| | | 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 |

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| 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 | - | R | R | R | Part 9.75, Chapter 20.80 |
| Medical cannabis collective cultivation site only | R | - | R | R | R | Part 9.75, Chapter 20.80 |
| Medical 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 designation of | C ^{GP} | - | - | Note 13 |

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| | | 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 | C ^{GP} | C ^{GP} | - | |

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| | | use 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 | | | | | | |
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| 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 |

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| 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 | - | - | |

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| 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 | | | | | | |

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| Historic landmark structure reuse | S | S | S | S | S | Part 8.5, Chapter 20.80 |
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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. Commercial support uses are subject to and limited by Section 20.50.110. Commercial support uses subject to Section 20.50.110.A are permitted (P) uses. Commercial support uses subject to Section 20.50.110.B in the primary Industrial Park Building(s) require an administrative (A) permit. Commercial support uses subject to Section 20.50.110.C in a single-use Building require a Development Permit.~~ 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 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 2. Section 20.50.110 of Chapter 20.50 of Title 20 of the San José Municipal Code is amended to read as follows:

A. With the exception of commercial support uses that are subject to Subsections B or C herein, Ccommercial support is permitted in the IP industrial park district only when all of the following criteria are met:

A1. Such commercial uses serve the immediate area; and

B2. Such commercial uses are located entirely within Buildings occupied by primary uses permitted in the IP district; and

C3. The sum of all such commercial uses in any single building on the site occupies no more than ten percent of the gross floor area of the building or no more than twenty thousand square feet, whichever is less; or, in the case of medical offices as the sole commercial support use in a building, the sum of such medical office use in any single building on the site

occupies no more than twenty percent of the gross floor area of the building or no more than twenty thousand square feet, whichever is less; and

D4. Such commercial uses are limited to the following:

- 4a. Retail; including off-sale of alcohol, subject to a conditional use permit.
- 2b. Recreation, commercial/indoor.
- 3c. Personal service establishment.
- 4d. Public eating establishment.
- 5e. Outdoor dining, incidental to a public eating establishment.
- 6f. Financial institution.
- 7g. Medical clinic.
- 8h. Medical office.
- 9i. Amusement game devices, up to nine (9) per business establishment, as ~~an~~-(incidental) to one or more of the above enumerated commercial uses.

B. Commercial support uses in any single building occupying more than ten (10) percent of the gross floor area of the building or more than twenty thousand (20,000) square feet is permitted within the boundaries of the North San José Area Development Policy only when all of the following criteria are met:

- 1. Such commercial uses are consistent with the North San José Area Development Policy; and
- 2. Such commercial uses are located in the IP Industrial Park District; and
- 3. Such commercial uses serve the immediate area; and

4. Such commercial uses are located entirely within Buildings occupied by primary uses permitted in the IP district; and
5. Such commercial uses meet all of the following criteria:
 - a. Must be developed under an approved Administrative (A) Permit;
 - b. Is developed in support of Research and Development uses or Office, Research and Development, and has a General Plan land use designation that support such uses; and
 - c. Includes a parking arrangement that is established through reciprocal cross-access easements or other enforceable mechanism(s) to serve all uses on the Site; and
6. The sum of all such commercial uses on any single Site occupies no more than twenty (20) percent of the gross floor area of the Building or no more than forty thousand (40,000) square feet, whichever is less; and
7. Such commercial uses are limited to the following:
 - a. Retail, including off-sale of alcohol subject to a conditional use permit.
 - b. Recreation, Commercial/Indoor.
 - c. Personal Service Establishment.
 - d. Public Eating Establishment.
 - e. Outdoor dining, incidental to a public eating establishment, subject to a special use permit if within one hundred and fifty (150) feet of residentially-used or residentially-zoned lot.
 - f. Amusement Game Devices, up to nine (9) per business establishment, as incidental to one or more of the above enumerated commercial uses, subject to approval of license by the chief of police.

C. Commercial support in a single-use Building is permitted within the boundaries of the North San José Area Development Policy only when all of the following criteria are met:

1. Such commercial uses are consistent with the North San José Area Development Policy; and
2. Such commercial uses are located in the IP Industrial Park District; and
3. Such commercial uses serve the immediate area; and
4. Such commercial uses are situated within a Site that also meets all of the following criteria:
 - a. Must be developed under an approved Development Permit that encumbers the primary Industrial Park Building(s) on the Site as well as the incidental single-use Building;
 - b. Is developed in support of Research and Development uses or Office, Research and Development, and is in a Zoning District and has a General Plan land use designation that support such uses; and
 - c. Includes a parking arrangement that is established through reciprocal cross-access easements or other enforceable mechanism(s) to serve all uses on the Site; and
5. The sum of all such commercial uses on any single Site occupies no more than twenty (20) percent of the gross floor area of Buildings or no more than forty thousand (40,000) square feet, whichever is less; and
6. Such commercial uses are limited to the following:
 - g. Retail, including off-sale of alcohol subject to a conditional use permit.
 - h. Recreation, Commercial/Indoor.

- i. Personal Service Establishment.
- j. Public Eating Establishment.
- k. Outdoor dining, incidental to a public eating establishment, subject to a special use permit if within one hundred and fifty (150) feet of residentially-used or residentially-zoned lot.
- l. Amusement Game Devices, up to nine (9) per business establishment, as incidental to one or more of the above enumerated commercial uses, subject to approval of license by the chief of police.

D. For the purposes of this Section, "single-use building" means a building limited in use to only those uses enumerated in Section 20.50.110.C.6.

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

