

Memorandum

TO: HONORABLE MAYOR
AND CITY COUNCIL

FROM: Planning Commission

SUBJECT: SEE BELOW

DATE: November 13, 2018

SUBJECT: FILE NO. PP18-086: AN ORDINANCE OF THE CITY OF SAN JOSÉ AMENDING TITLE 4 (REVENUE, FINANCE AND BUSINESS TAXES AND TITLE 20 (ZONING ORDINANCE OR ZONING CODE) OF THE SAN JOSÉ MUNICIPAL CODE TO: AMEND SECTIONS 4.88.100 OF CHAPTER 4.88 TO EXTEND THE SUNSET DATE OF THE URBAN AGRICULTURE INCENTIVE ZONE; AND TO AMEND CHAPTERS TO UPDATE , CLARIFY AND MAKE MINOR MODIFICATIONS TO SECTIONS 20.30.100, 20.30.200, 20.40.100, 20.50.100, 20.50.125, 20.50.300, 20.70.510, 20.90.130, 20.90.210, 20.100.1300, AND ADD NEW DEFINITION SECTIONS 20.200.181 AND 20.200.261 TO MAKE TECHNICAL, FORMATTING, MINOR MODIFICATIONS, OR NON-SUBSTATIVE CHANGES WITHIN THOSE SECTIONS OF TITLE 20 OF THE SAN JOSE MUNICIPAL CODE.

RECOMMENDATION

The Planning Commission voted 7-0-0 to recommend that the City Council:

1. Consider the Determination of Consistency with the Envision San José 2040 General Plan Final Program Environmental Impact Report (FEIR), for which findings were adopted by City Council through Resolution No. 76041 on November 1, 2011, and Supplemental EIR Resolution No. 77617, adopted by City Council on December 15, 2015, and Addenda thereto. Pursuant to Section 15168 of the CEQA Guidelines, the City of San José has determined that this activity is within the scope of the earlier approved programs and the Final Program EIRs adequately describe the activity for purposes of CEQA. The project does not involve new significant effects beyond those analyzed in the Final Program EIRs; and
2. Approve an ordinance amending Title 4 (Revenue, Finance, and Business Taxes) and Title 20 (the Zoning Code) of the San José Municipal Code to extend the expiration date of the Urban Agriculture Incentive Zone to January 1, 2029; amend San José Municipal Code Section 20.30.100 to add Secondary Units as a permitted use in the R-M Multiple Residence Zone; amend San José Municipal Code Section 20.30.200 to add a new Note 6 to Table 20-60 to cross-reference the existing Code section for side setback exceptions; amend San José Municipal Code Section 20.40.100 to add Child Day Care incidental to

an existing school site, or a permitted on-site church/religious assembly use, involving no Building additions or changes, as a permitted use in the PQP Zoning District and to amend Note 6 for Table 20-90, to add certain 100% affordable housing projects as conditional or special uses in Urban Villages; amend San José Municipal Code Section 20.50.100, to substitute catering facility for caterer and outdoor storage for storage in Table 20-110; add a new section, 20.50.125 establishing incidental office use as a permitted use, in the LI and HI Zoning Districts and defining such incidental office use and establishing parking criteria for such use; amend San José Municipal Code Section 20.55.300 to include the CIC and TEC zoning districts; amend San José Municipal Code Section 20.70.510 to clarify types of establishments included as retail commercial establishments and change an incorrectly referenced code section; amend San José Municipal Code Section 20.90.130 to correct the required single-family driveway length to eighteen (18) feet; amend San José Municipal Code Section 20.90.210 for clarity as to required parking for structures or uses existing as of November 10, 1965; and amend San José Municipal Code Section 20.100.1300 to allow exceptions to be granted for an increase of up to ten (10) feet in the general zoning district maximum height limitations for elevator shafts and stairwells; and add new San José Municipal Code Sections 20.200.181 and 20.200.261 defining Catering Facility and Construction/Corporation Yard and to make other technical, non-substantive, or formatting changes within those sections.

OUTCOME

Approval of the proposed Municipal Code amendments will amend Chapter 4.88 of Title 4 and various chapters within Title 20 as described in the attached staff report.

BACKGROUND

At the October 24, 2018, the proposed item was removed from the Consent Calendar to the Public Hearing Calendar by Commissioner Griswold. Commissioner Griswold asked for clarification regarding the proposed change to Section 20.100.1300. Commissioner Griswold wanted to ensure that the 10-foot exception in height being proposed for elevator shafts and stairwells would not allow an increase to the overall building height. Staff clarified that the exception in Section 20.100.1300 would only permit elevator shafts and stairwells to exceed the general zoning district height by up to ten feet. Commissioner Griswold was satisfied with the response and no further discussion was held regarding this item. There was no public comment related to the proposed Municipal Code changes.

The Commissioners then voted to recommend approval of the item per staff's recommendations.

ANALYSIS

A complete analysis of the issues regarding the Zoning Ordinance changes is contained in the attached Planning Commission Staff Report.

EVALUATION AND FOLLOW-UP

If the proposed Title 4 and Title 20 amendments are approved by Council, the new ordinance will be effective 30 days after the second reading.

PUBLIC OUTREACH

Staff held a community meeting on Monday, September 10, 2018 at City Hall in room T-332. A public hearing notice, including the Planning Commission and City Council hearing dates was published in the San José Post-Record and emailed to a list of interested groups and individuals. Staff posted the hearing notice, staff report, and draft ordinance on the PBCE Department website. Staff has been available to discuss the proposal with interested members of the public.

COORDINATION

The preparation of the proposed ordinance and this memorandum were coordinated with the City Attorney's Office.

CEQA

A Determination of Consistency with the Envision San José 2040 General Plan Final Program Environmental Impact Report (FEIR), for which findings were adopted by City Council through Resolution No. 76041 on November 1, 2011, and Supplemental EIR Resolution No. 77617, adopted by City Council on December 15, 2015, and Addenda thereto. Pursuant to Section 15168 of the CEQA Guidelines, the City of San José has determined that this activity is within the scope of the earlier approved programs and the Final Program EIRs adequately describe the activity for purposes of CEQA. The project does not involve new significant effects beyond those analyzed in the Final Program EIRs.

/s/

Rosalynn Hughey, Secretary
Planning Commission

For questions, please contact Lea Simvoulakis, Supervising Planner, at (408) 535-7837.

Attachment: Staff Report to Planning Commission



Memorandum

TO: PLANNING COMMISSION

FROM: Rosalynn Hughey

SUBJECT: See Below

DATE: October 24, 2018

SUBJECT: File No. PP18-086. AN ORDINANCE OF THE CITY OF SAN JOSÉ AMENDING TITLE 4 (REVENUE, FINANCE AND BUSINESS TAXES AND TITLE 20 (ZONING ORDINANCE OR ZONING CODE) OF THE SAN JOSÉ MUNICIPAL CODE TO: AMEND SECTIONS 4.88.100 OF CHAPTER 4.88 TO EXTEND THE SUSET DATE OF THE URBAN AGRICULTURE INCENTIVE ZONE; AND TO AMEND CHAPTERS TO UPDATE , CLARIFY AND MAKE MINOR MODIFICATIONS TO SECTIONS 20.30.100, 20.30.200, 20.40.100, 20.50.100, 20.50.125, 20.50.20.70.510, 20.90.130, 20.90.210, 20.100.1300, AND ADD NEW DEFINITION SECTIONS 20.200.181 AND 20.200.261 TO MAKE TECHNICAL, FORMATTING, MINOR MODIFICATIONS, OR NON-SUBSTANTIVE CHANGES WITHIN THOSE SECTIONS OF TITLE 20 OF THE SAN JOSE MUNICIPAL CODE.

RECOMMENDATION

Staff recommends that the Planning Commission recommend that the City Council;

1. Consider the Determination of Consistency with the Envision San José 2040 General Plan Final Program Environmental Impact Report (FEIR), for which findings were adopted by City Council through Resolution No. 76041 on November 1, 2011, and Supplemental EIR Resolution No. 77617, adopted by City Council on December 15, 2015, and Addenda thereto. Pursuant to Section 15168 of the CEQA Guidelines, the City of San José has determined that this activity is within the scope of the earlier approved programs and the Final Program EIRs adequately describe the activity for purposes of CEQA. The project does not involve new significant effects beyond those analyzed in the Final Program EIRs; and
2. Adopt an ordinance amending Title 4 (Revenue, Finance, and Business Taxes) and Title 20 (the Zoning Code) of the San José Municipal Code to extend the expiration date of the Urban Agriculture Incentive Zone to January 1, 2029; amend San José Municipal Code Section 20.30.100 to add Secondary Units as a permitted use in the R-M Multiple Residence Zone; amend San José Municipal Code Section 20.30.200 to add a new Note 6 to Table 20-60 to cross-reference the existing Code section for side setback exceptions; amend San José Municipal Code Section 20.40.100 to add Child Day Care incidental to

an existing school site, or a permitted on-site church/religious assembly use, involving no Building additions or changes, as a permitted use in the PQP Zoning District and to amend Note 6 for Table 20-90, to add certain 100% affordable housing projects as conditional or special uses in Urban Villages; amend San José Municipal Code Section 20.50.100, to substitute catering facility for caterer and outdoor storage for storage in Table 20-110; add a new section, 20.50.125 establishing incidental office use as a permitted use, in the LI and HI Zoning Districts and defining such incidental office use and establishing parking criteria for such use; amend San José Municipal Code Section 20.55.300 to include the CIC and TEC zoning districts; amend San José Municipal Code Section 20.70.510 to clarify types of establishments included as retail commercial establishments and change an incorrectly referenced code section; amend San José Municipal Code Section 20.90.130 to correct the required single-family driveway length to eighteen (18) feet; amend San José Municipal Code Section 20.90.210 for clarity as to required parking for structures or uses existing as of November 10, 1965; and amend San José Municipal Code Section 20.100.1300 to allow exceptions to be granted for an increase of up to ten (10) feet in the general zoning district maximum height limitations for elevator shafts and stairwells; and add new San José Municipal Code Sections 20.200.181 and 20.200.261 defining Catering Facility and Construction/Corporation Yard and to make other technical, non-substantive, or formatting changes within those sections.

OUTCOME

Approval of the proposed Municipal Code amendments will amend Chapter 4.88 of Title 4 and various chapters within Title 20 as described in the Analysis section below.

BACKGROUND

PBCE staff routinely updates the Zoning Code and various applicable Titles in the Municipal Code to update the Code, make clarifying changes, minor modifications, technical, formatting and other non-substantive changes to the Code to ensure that the Municipal Code is able to continue to facilitate development and implement the General plan. The changes described below are intended to correct errors, add definitions, make minor modifications, e clarify language, and facilitate implementation of the City's General Plan.

ANALYSIS

Title 4: Revenue, Finance, and Business Taxes: Amend Section 4.88.100 Sunset Provision

Changes to this section of Title 4 will update the sunset date for the City of San José's Urban Agriculture Incentive Zone Program from January 2019 to January 2029. This changes is required if the City wishes to implement Assembly Bill 465 which amends Government Code Sections 51042 to extend this date for entering into an Urban Agricultural Incentive Zone Act contract.

Title 20: Amend Chapter 20.30, 20.40, 20.50, 20.70, 20.90, 20.100, and 20.200 of the Zoning Ordinance

1. Section 20.30.100: Amend Table 20-50 to add Secondary Units as a permitted use in the R-M Multiple Residence Zone per the previous adoption of Ordinance 30133.
 - a. In June 2018, the City Council passed Ordinance 30133 to allow Secondary Dwelling units in the R-M Multiple Residence District. This change did not get carried over to the use table 20-50. This change will now show Secondary Units as a permitted use on Table 20-50.
2. Section 20.30.200: Amend Table 20-60 to add a new Note 6 to reference an existing code section related to side setbacks.
 - a. New Note 6 reference section 20.30.260 which is an existing side setback exception for uses in the R-M and R-MH Zoning districts. This exception is often missed during project review and adding Note 6 to the Development Standards Table, Table 20-60, will ensure the proper implementation of this exception.
3. Section 20.40.100: Amend Table 20-90 to add Child Day Care incidental to an existing school site a permitted on-site church/religious assembly use involving no Building additions or changes as a permitted use in the PQP Zoning District.
 - a. Currently Child Day Care centers located on an existing school site or as incidental to a permitted on-site church/religious assembly use involving no building additions or changes to the site is not listed as a permitted use in the PQP Public/Quasi-Public Zoning District. The proposed amendment would allow this as a permitted use for any existing facility would already have a permit and the child care component would be incidental to the main use.
4. Section 20.50.100: Amend Table 20-90 to modify existing Note 6 and add certain 100% Affordable Housing projects as a permitted use to the table.
 - a. This change amends Note 6 on table 20-90 to make 100% deed-restricted low, very low and extremely low income Housing that are located in an urban village a Conditional or Special Use use, if consistent with the General Plan.
5. Section 20.50.100: Amend Table 20-100 to include catering facility as a permitted use and remove the Caterer use.
 - a. Table 20-100 previously listed the enumerated use as a Caterer, and this will be changed to be a Catering Facility.
6. Section 20.50.125: Add a new section, 20.50.125 to specify an amount of permitted incidental office use in the LI Light Industrial and HI Heavy Industrial Zoning Districts.
 - a. Staff has consistently allowed 15% incidental office use to those uses permitted in the LI and HI Industrial Zoning Districts. The recommended ordinance will codify this requirement.

7. 20.50.300: Update the performance standards in this section to correctly include the CIC Combined/Industrial Commercial and TEC Transit Employment Center Zoning Districts.
 - a. When these two Zoning Districts were created, their addition to the Performance Standards section of 20.50.300 was not included. The recommended ordinance will address that issue.
8. Section 20.70.510: Add clarifying language to this section for easy of understanding and change an incorrectly referenced code section.
 - a. This recommended ordinance will add clarifying language to the section and correct a cross referenced section number.
9. Section 20.90.130: Amend this section to reference the correct single-family driveway length as previously approved under Ordinance 29821.
 - a. The Single-Family development standards currently reflect an 18 foot driveway is required. This change was not carried through to Section 20.90.130. This section will now correctly identify the allowed driveway width for a single-family home.
10. Section 20.90.210: Amend this section to add clarity to this section.
 - a. The few words added to this section help this section read more clearly.
11. Section 20.100.1300: Amend this section to allow elevator shafts and stairwells to extend above the general zoning district height by a maximum height by 10 feet.
 - a. This section provides an exception for elevator shafts and stairwells to exceed the maximum height limit established by the Zoning District. This change will allow greater use of the site by allowing a building to meet the height limit of a Zoning District, rather than losing a floor to a floor and a half of space to ensure that the elevator equipment meets the height requirement of the Zoning District. The exception will not be allowed to change height limits under Chapter 20.85, such as FAA safety limits.
12. Section 20.200.181 and 20.200.261: Add new definitions for Catering Facility and Construction/Corporation Yard.
 - a. These definitions are two common definitions, and defining these uses will help aid in customer use of the code.

General Plan Conformance

The Envision San Jose 2040 General Plan encourages the periodic review of the Zoning Ordinance and other supporting Ordinances in the Municipal Code to ensure that the document reflects the goals, policies, and implementation of the General Plan.

General Plan Goals/Policies: Title 4: Revenue, Finance, and Business Tax: Urban Agriculture

Updates to Title 4, the extension of the Urban Agriculture Incentive Zone Program (UAIZ) is supported by the Envision San José 2020 General Plan. Specifically, Goal LU -12 seeks to preserve existing and viable agriculture land in and around the City of San José. The City of San José recognizes that encouraging Urban Agriculture throughout the city is a critical component of providing healthy food options for all residents.

1. *Urban Agriculture Goal LU-12 – Urban Agriculture- Expand the cultivation and sale of locally grown agriculture as an environmentally sustainable means of food production and as a source of healthy food for San José residents.*
2. *Urban Agriculture Land Use Policy LU-12.1 Maintain existing and facilitate the development of new and expanded community gardens and farmers’ markets throughout San José, prioritizing the provision of these gardens in low income, nutritionally-deficient neighborhoods.*
3. *Urban Agriculture Land Use Policy LU-12.8 Support the efforts of non-profit organizations and the County to integrate and/ or maintain sustainable small scale agriculture within existing and planned parks and open spaces including the planned Martial Cottle County Park, Guadalupe Gardens, and other publicly or privately owned properties where appropriate.*

Updating the sunset date of the existing UAIZ ordinance is mandated by the State of California under Assembly Bill 465 which amends Government Code Sections 51042 to extend this date for entering into an Urban Agricultural Incentive Zone contract. The extension of this date will allow the city to continue to encourage the cultivation and sale of locally grown agriculture, will support small scale agricultural within the urban areas of the city, and continue to allow individuals to find urban spaces that can produce food for low income, nutritionally-deficient neighborhoods.

General Plan Goals/Policies: Title 20- Zoning Ordinance

The proposed amendments to Title 20 support the Goals and Policies of the General Plan by providing clarity to certain sections of the code which will allow for better implementation of the goals and policies of the General plan. Other proposed amendments will facilitate development and help streamline affordable housing, which is a key component of the General Plan.

1. *General Land Use Policy LU-1.10: Review criteria in the Zoning Ordinance and update it as appropriate to reflect Land Use goals, policies, and implementation actions in this Plan.*
2. *General Land Use Policy LU-1.5: Maintain a Zoning Ordinance and Subdivision Ordinance that aligns with and supports the Land Use/Transportation Diagram and Envision General Plan goals and policies. Develop new Zoning Districts which enumerate uses and establish development standards, including heights, to achieve vital missed-use complete communities and facilitate their implementation.*

The amendments to Sections 20.30.100, 20.30.200, 20.40.100, 20.50.100, 20.50.300, 20.70.510, 20.90.130, 20.90.210, 20.100.1300, 20.200.181, and 20.200.261 are all technical, formatting, minor modifications, or non-substantive changes needed to be made as part of the ongoing maintenance of the Zoning Code. These changes help ensure that the Zoning Ordinance appropriately reflects the goals and policies of the General Plan.

3. *Building Height Policy CD-8.2: Consider the Envision General Plan Community Design Goals, Policies, and Implementation Actions which provide guidance for the appropriate regulation of building heights to be implemented through the Zoning Ordinance.*
4. *Building Height Policy CD-8.3: While the height of new development should be regulated to avoid long-term land use incompatibilities, ensure proposed Zoning Ordinance changes establish adequate maximum building heights to allow full build-out of the planned job and housing growth capacity.*
5. *Community Health, Safety, and Wellness Policy CD-5.8: Comply with applicable Federal Aviation Administration regulation identifying maximum heights for obstructions to promote air safety.*
6. *Safe Airport Policy TR-14.2: Regulate development in the vicinity of airports in accordance with Federal Aviation Administration regulations to maintain the airspace required for the safe operation of these facilities and avoid potential hazards to navigation.*

The City of San Jose is an urbanized city, and recent development and redevelopment has produce increasingly larger buildings throughout the city. Given the increasing costs associated with the development, the ability to maximize the utility of any given property determines whether the development community will continue to invest in the City and provide the infrastructure need to provide for the expected jobs and housing growth anticipated over the life of this General Plan. In many instances, the height limitation of a Zoning District will force the reduction of the approved building heights because the elevator shafts and stairwells are not permitted to exceed the height limitation of the Zoning District. As such, projects lose a floor to a floor and a half of buildable spaces in order to bring these two items under the height limit of the Zoning District. In order to adjust for this issue, the current amendment to the Zoning Ordinance will require the physical building to meet the intended height limit of the Zoning Ordinance, but allow for an exception for these two building elements. This height exception will not increase the overall height of buildings, and all design criteria related to neighborhood context will still be applicable to the overall project. These two projections are limited in size and scope and will not impair the integrity of the established heights because the overall building will still conform to the height requirements of the individual Zoning Districts. Additionally, the city's General Plan requires all projects to be in conformance with FAA height determinations. All projects will be required to conform to any FAA limitation as this is required for General Plan consistency. If the exception would violate any FAA rules and regulations, the exception would not be applied to the proposed project. This proposed change was referred to the Airport Land Use Commission (ALUC) for comment on September 10, 2018. This item was heard at an ALUC hearing on September 26, 2018. The ALUC found the changes to be consistent with the SJC and RHV CLUPs.

7. *Urban Village Planning Policy IP-5.12: Residential projects that are 100% affordable to low (up to 60% AMI), very low (30-50% AMI) and extremely low income (up to 30% AMI), can proceed within an Urban Village ahead of a Growth Horizon, or in a Village in a current Horizon that does not have a Council approved Plan, if the project meets the following criteria:*
- a. *The project does not result in more than 25% of the total residential capacity of a given Urban Village being developed with affordable housing ahead of that Village's Growth Horizon. For Villages with less than a total housing capacity of 500 units, up to 125 affordable units could be developed, however the total number of affordable units cannot exceed the total planned housing capacity of the given Village.*
 - b. *The development is consistent with the Urban Village Plan for a given Village, if one has been approved by the City Council.*
 - c. *Development that demolishes and does not adaptively reuse existing commercial buildings should substantially replace the existing commercial square footage.*
 - d. *The project is not located on identified key employment opportunity sites, which are sites generally 2 acres or larger, located at major intersections and for which there is anticipated market demand for commercial uses within the next 10 to 15 years.*
 - e. *Affordable housing projects built in Villages under this policy would not pull from the residential Pool capacity*

During the Four Year Review of the General Plan, the Task Force identified that changes to the General Plan were needed to facilitate affordable housing within the City. Part of the Task Force's recommendation was to create and implement Implementation Policy IP-5.12. In order to facilitate the production of 100% deed restriction affordable housing projects per the General Plan, the Zoning Ordinance needs to be amended to remove the barrier that currently exists in the code and create the mechanism that helps facilitate the implementation of this General Plan policy.

PUBLIC OUTREACH/INTEREST

Staff followed Council Policy 6-30: Public Outreach Policy, in that notices for the public hearings were posted on the City's website and published in the San Jose Post-Record and emailed to a list of interested groups and individuals. This staff report and attachments were posted on the City's website. Staff has been available to respond to questions from the public.

Staff initiated outreach efforts to gather public input on the proposed Zoning Code changes, and held a community meeting at City Hall on September 10, 2018. No members of the public attended the meeting.

COORDINATION

The preparation of the proposed ordinance and this staff report were coordinated with the City Attorney's Office.

CEQA

Determination of Consistency with the Envision San José 2040 General Plan Final Program Environmental Impact Report (FEIR), for which findings were adopted by City Council through Resolution No. 76041 on November 1, 2011, and Supplemental EIR Resolution No. 77617, adopted by City Council on December 15, 2015, and Addenda thereto. Pursuant to Section 15168 of the CEQA Guidelines, the City of San José has determined that this activity is within the scope of the earlier approved programs and the Final Program EIRs adequately describe the activity for purposes of CEQA. The project does not involve new significant effects beyond those analyzed in the Final Program EIRs.



ROSALYNN HUGHEY, DIRECTOR
Planning, Building and Code Enforcement

Attachments:

- 1) Draft marked-up text with proposed Title 4 and Title 20 Amendments

DRAFT

ORDINANCE NO.

AN ORDINANCE OF THE CITY OF SAN JOSE AMENDING SECTION 4.88.100 OF TITLE 4 AND SECTIONS 20.30.100, 20.30.200, 20.40.100, 20.50.100, 20.55.300, 20.70.510, 20.90.130, 20.90.210, AND 20.100.1300 OF TITLE 20 AND ADDING SECTIONS 20.50.125, 20.200.181 AND 20.200.261 TO TITLE 20 OF THE SAN JOSE MUNICIPAL CODE TO CLARIFY THAT SECONDARY UNITS ARE A PERMITTED USE IN THE RESIDENTIAL MULTIPLE FAMILY ZONING DISTRICT, CLARIFY INCIDENTAL CHILD DAY CARE AS A PERMITTED USE IN THE PQP ZONING DISTRICT, ADD CERTAIN 100% AFFORDABLE HOUSING AS A CONDITIONAL OR SPECIAL USE IN A MIXED USE DEVOLVEMENT IN AN URBAN VILLAGE IN THE COMMERCIAL ZONING DISTRICT, SUBSTITUTE CATERING FACILITY FOR CATERER AS A PERMITTED USE IN THE COMMERCIAL ZONING DISTRICT, CLARIFY THE STANDARDS FOR INCIDENTAL OFFICE USE IS A PERMITTED USE IN THE LIGHT INDUSTRIAL AND HEAVY INDUSTRIAL ZONING DISTRICTS, ADD STAIRWELLS AND ELEVATOR AS USES ELIGIBLE FOR EXCEPTION FROM GENERAL ZONING DISTRICT HEIGHT LIMITS, ADD NEW DEFINITIONS OF CATERING FACILITY AND CONSTRUCTION/CORPORATION YARD AND MAKE OTHER TECHNICAL, FORMATTING, MINOR MODIFICATION, OR NON-SUBSTANTIVE CHANGES WITHIN TITLE 20 OF THE SAN JOSE MUNICIPAL CODE

WHEREAS, pursuant to Section 15168(c)(2) of the CEQA Guidelines, the City of San José has determined that the proposed amendments to Title 4 and Title 20 of the San José Municipal Code are pursuant to, in furtherance of and within the scope of the previously approved program evaluated in the Final Program Environmental Impact Report for the Downtown Strategy 2000 (the “FPEIR”), for which findings were adopted by City Council through its Resolution No. 72767 on June 21, 2005, and Addenda thereto; the Final Program Environmental Impact Report for the Envision San José 2040 General Plan (the “FEIR”), for which findings were adopted by City Council through its Resolution No. 76041 on November 1, 2011, and Supplemental Environmental Impact Report (the “SEIR”), for which findings were adopted by City Council through its Resolution No. 77617, adopted by City Council on December 15, 2015, and Addenda thereto, all collectively referred to herein as the “Final Program EIRs”, and does not involve new significant effects beyond those analyzed in the Final Program EIRS; and

WHEREAS, the City Council of the City of San José is the decision-making body for these amendments to Title 4 and Title 20 of the San José Municipal Code; and

WHEREAS, this Council of the City of San José has considered and approves the information contained in the Final Program EIRs and related City Council resolutions and the determination of consistencies therewith prior to acting upon or approving the subject amendments to the San José Municipal Code;

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

SECTION 1. Section 4.88.100 of Chapter 4.88 of Title 4 of the San José Municipal Code is amended to read as follows:

4.88.100 Sunset Provision

The City shall not enter into a new urban agriculture incentive contract or renew an existing urban agriculture incentive contract after January 1, 20~~4~~29, unless the Urban Agriculture Incentive Zones Act is amended to authorize contracts after that date. Any urban agriculture incentive contract entered into pursuant to the Urban Agriculture Incentive Zones Act and this chapter on or before January 1, 20~~4~~29 will be valid and enforceable for the duration of the urban agriculture incentive contract.

SECTION 2. Section 20.30.100 of Chapter 20.30 of Title 20 of the San José Municipal Code is amended to read as follows:

20.30.100 Allowed Uses and Permit Requirements

- A. Permitted" land uses are indicated by a "P" on Table 20-50.
- B. "Conditional" uses are indicated by a "C" on Table 20-50. 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.
- C. "Special" uses are indicated by an "S" on Table 20-50. 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.
- D. "Restricted" land uses are indicated by an "R" on Table 20-50. 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.

- E. Land uses not permitted are indicated by a "-" on Table 20-50. Land uses not listed on Table 20-50 are not permitted.
- F. When the right column of Table 20-50 includes a reference to a section number or a footnote, the regulations cited in the section number or footnote apply 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 20-50
Residential Districts
Land Use Regulations**

Use	Zoning District				Applicable Sections & Notes
	R-1	R-2	R-M	R-MH	
Residential Uses					
One-family dwelling	P	P	P	C	Note 1, Section 20.30.110
Secondary dwelling	P	P	P	-	Note 2, Section 20.30.150
Two-family dwelling	-	P	P	-	Note 2, Section 20.30.110
Multiple dwelling	-	-	P	-	
Guesthouse	-	-	C	-	Section 20.30.120
Mobilehome parks	-	-	-	P	
Travel trailer parks	-	-	-	C	
Residential care facility, six or fewer persons	P	P	P	P	
Residential care facility, seven or more persons	-	-	C	C	
Residential service facility, six or fewer persons	P	P	P	P	

Residential service facility, seven or more persons	-	-	C	C	
Servants quarters attached to a one-family dwelling or attached to a garage structure	P	-	-	-	Note 3
Sororities, fraternities and dormitories occupied exclusively (except for administrators thereof) by students attending college or other educational institutions	-	-	C	-	
Single room occupancy living unit facility	-	-	C	-	Part 15, Chapter 20.80
Residential Accessory Uses and Improvements					
Accessory buildings and structures	P	P	P	P	Note 4; Section 20.80.200
Home occupations	P	P	P	P	Part 9, Chapter 20.80
Mixed use, residential/commercial	-	-	C	-	Note 10
Entertainment and Recreation Related					
Equestrian and riding club	C	-	-	-	
Golf course	C	C	C	-	Note 5
Private club or lodge	-	-	C	-	
Swim or tennis club	C	C	C	C	
Education and Training					
Child day care center located on an existing school site or as an incident to an on-site church/religious assembly use involving no building additions or changes to the site	P	P	P	P	
Day care center	C	C	C	C	

School - Elementary and secondary (public)	P	P	P	-	
School - Elementary and secondary (private)	C	C	C	-	
Public, Quasi-Public and Assembly Uses					
Cemetery	C	C	C	C	
Church/religious assembly	C	C	C	C	
Museums, libraries, parks, playgrounds, or community centers (privately operated)	C	C	C	C	
Museums, libraries, parks, playgrounds, or community centers (publicly operated)	P	P	P	P	
Health and Veterinary Services					
Emergency ambulance service	C	C	C	C	
General Services					
Certified farmers' market	S	S	S	S	Part 3.5, Chapter 20.80; Note 7
Certified farmers' market - Small	P	P	P	P	Part 3.5, Chapter 20.80; Note 7
Neighborhood agriculture	P	P	P	P	Part 9, Chapter 20.80
Outdoor vending - Fresh fruits and vegetables	P	P	P	P	Part 10, Chapter 20.80; Notes 7 and 8
Bed and breakfast inn	C	C	C	-	Section 20.80.110
Transportation and Utilities					
Community television antenna systems	C	C	C	C	

Off-site, alternating use and alternative use parking arrangements	S	S	S	S	Section 20.90.200
Parking establishment, off-street	C	C	C	C	Section 20.90.150
Utility facilities, excluding corporation yards, storage or repair yards and warehouses	C	C	C	C	
Wireless communication antenna	C	C	C	C	Note 9, Sections 20.30.130, 20.30.140, 20.80.1900, 20.100.1300 and 20.80.1915
Wireless communication antenna, slimline monopole	S	S	S	S	Note 9, Sections 20.30.130, 20.30.140, 20.80.1900, 20.100.1300 and 20.80.1915
Wireless communication antenna, building mounted	P	P	P	P	Note 9, Sections 20.30.130, 20.30.140, 20.80.1910, 20.100.1300 and 20.80.1915
Electrical Power Generation					
Stand-By/Backup					
Facilities that do not exceed noise or air standards	S	S	S	S	Note 6
Facilities that do exceed noise or air standards	-	-	-	-	
Solar photovoltaic system	P	P	P	P	Sections 20.100.610.C.7 and 20.100.1030.A.6
Historic Reuse					
Historic landmark structure reuse	C	C	C	C	Part 8.5, Chapter 20.80

Notes:

1. Only one one-family dwelling unit per lot in the R-1, R-2, R-M and R-MH districts.
2. A maximum of two living units per lot are permitted in the R-2 district. A secondary dwelling on a lot in the R-2 district may be permitted without a development permit in accordance with the provisions of Section 20.30.150 if there is only one primary living unit on the lot and that primary living unit is a one-family dwelling.
3. Only permitted in the R-1-1 estate residential district.
4. No lot may be used solely for an accessory structure or an accessory building.
5. No driving ranges or miniature golf facilities.
6. Stand-by or backup generators that would not otherwise require some permit from the city (including but not limited to building, electrical, or mechanical), and do meet the applicable noise and air standards are not subject to the special use permit requirement.
7. Allowed on school sites, library sites, community center sites, church/religious assembly sites, and other publicly accessible sites that contain government operations including but not limited to United States Post Offices or State of California Department of Motor Vehicles offices.
8. The activity must conform with the location and operational requirements in Section 20.80.820 of Part 10, Chapter 20.80. Allowed for up to eight hours per day for each vending facility, but not to exceed eight hours per day per lot.
9. Certain modifications of existing wireless facilities may be permitted with an administrative permit in accordance with Section 20.80.1915 of Chapter 20.80.
10. Permitted or special uses allowed in the CP commercial pedestrian zoning district may be allowed with a special use permit for a residential-commercial mixed use project, except that twenty-four-hour non-residential uses or conditional uses allowed in the CP commercial pedestrian zoning district require a conditional use permit.

SECTION 3. Section 20.30.200 of Chapter 20.30 of Title 20 of the San José Municipal Code is amended to read as follows:

20.30.200 Development Standards

All development in the residential zoning districts shall conform to the development regulations set forth below in Table 20-60.

**Table 20-60
Residential Zoning Districts Development Standards**

Regulations	Zoning District							
	R-1-8	R-1-5	R-1-2	R-1-1	R-1-RR	R-2	R-M	R-MH

Minimum lot area (square feet or acreage)	5,445	8,000	20,000	43,560	5 acres	5,445	6,000	6,000
Minimum setback (feet)								
Front	20	20	30	30	50	15	10	15
Side, interior (Note 6)	5	5	15	20	20	5	5	5
Side, corner (Note 6)	12.5	12.5	15	20	30	10	7.5	7.5
Rear, interior	20	20	25	25	30	25	25	25
Rear, corner	20	20	25	25	30	25	15	15
Minimum driveway length (feet) measured from lot line (Note 5)	18	18	18	18	18	0	0	0
Maximum height (feet) (Notes 1, 2 and 4)	35	35	35	35	35	35	45 or established in Chapter 20.85	45
Maximum number of stories (Note 3)	2.5	2.5	2.5	2.5	2.5	2.5	Not applicable	3
Parking	See Chapter 20.90							
Floor area ratio	See Part 9 of Chapter 20.100 for single-family house permit criteria that may apply							

Notes:

1. Refer to Part 9 of Chapter 20.100 regarding single-family house permit requirements and Section 20.200.510 regarding the definition of "height."
2. An alternative maximum height may be established as described in Chapter 20.85. Where an alternative maximum height restriction has been established as described in Chapter 20.85, that regulation described in Chapter 20.85 shall govern and control over the provisions in this section.
3. Refer to Section 20.200.120 regarding the definition of "basement"; refer to Section 20.200.1210 regarding the definition of "story"; and refer to Section 20.200.1220 regarding the definition of "half story".

4. An alternative maximum height may be established as described in Chapter 20.85. Where an alternative maximum height restriction has been established as described in Chapter 20.85, that regulation described in Chapter 20.85 shall govern and control over the provisions of this section.
5. The minimum driveway length shall also comply with the minimum setback requirements for the zoning district in which the lot is situated.
6. Refer to section 20.30.260 for side setback exceptions in the R-M and R-MH districts.

SECTION 4. Section 20.40.100 of Chapter 20.40 of Title 20 of the San José Municipal Code is amended to read as follows:

20.40.100 Allowed Uses and Permit Requirements

- A. "Permitted" land uses are indicated by a "P" on Table 20-90
- B. "Conditional" uses are indicated by a "C" on Table 20-90. 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 parcels designated on the land use/transportation diagram of the general plan, as amended, with a designation that allows residential use are indicated by a "C^{GP}" on Table 20-90. These uses may be allowed in such designated districts, as a part of mixed use residential/commercial, but only upon issuance of and in compliance with a conditional use permit as set forth in Chapter 20.100.
- C. "Conditional" uses requiring city council approval as the initial decision-making body are indicated by a "CC" on Table 20-90. 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.
- D. "Special" uses are indicated by a "S" on Table 20-90. 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. "Special" uses which may be approved only on parcels designated on the land use/transportation diagram of the general plan, as amended, with a designation that allows residential use are indicated by a "S^{GP}" on Table 20-90. These uses may be allowed in such designated districts, as a part of mixed use residential/commercial, but only upon issuance of and in compliance with a special use permit as set forth in Chapter 20.100.

- E. "Administrative" uses are indicated by an "A" on Table 20-90. 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.
- F. "Restricted" land uses are indicated by an "R" on Table 20-90. 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.
- G. Land uses not permitted are indicated by a "-" on Table 20-90. Land uses not listed on Table 20-90 are not permitted.
- H. When the right column of Table 20-90 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 20-90
Commercial Districts and Public/Quasi-Public Zoning District
Land Use Regulations

Use	Zoning District					Notes & Section
	CO	CP	CN	CG	PQP	
General Retail						
Retail sales, goods and merchandise	-	P	P	P	-	Note 21
Alcohol, off-site sales - beer and/or wine only	-	C	C	C	-	Section 20.80.900; Note 21
Alcohol, off-site sales, full range of alcoholic beverages	-	C	C	C	-	Section 20.80.900; Note 21
Aquaculture/ Aquaponics	S	S	S	S	S	

Auction	-	-	-	C	C	
Bakery, retail	-	P	P	P	-	Note 21
Certified Farmers' Market	S	S	S	S	S	Part 3.5, Chapter 20.80
Certified Farmers' Market - Small	P	P	P	P	P	Part 3.5, Chapter 20.80
Food, beverage, groceries	-	P	P	P	S	
Neighborhood Agriculture	P	P	P	P	P	Title 7; Note 19
Nursery, Plant	P	P	P	P	P	Note 1
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
Pawn shop/broker	-	C	C	C	-	See Title 6
Seasonal sales						Part 14, Chapter 20.80
Retail Art Studio	-	P	P	P	-	Section 20.80.1175, Note 21
Education and Training						

Child Day Care Center located on an existing School Site or as an incident to a permitted on-site church/religious assembly use involving no Building additions or changes to the Site	P	P	P	P	P-	Note 21
Day care center	C	C	C	C	C	
Instructional Art Studios	-	P	P	P	S	
Instructional Art Studios, with live models	-	C	C	C	C	
Private instruction, personal enrichment	-	P	P	P	S	
School - elementary and secondary (public or private)	C	C	C	C	S	Note 16; Note 20; Note 21
School, driving (class C & M license)	-	P	P	P	S	Note 2; Note 20; Note 21
School, Post Secondary	-	P	P	P	S	Note 3; Note 20; Note 21
School, Trade and Vocational	-	C	C	C	S	Note 16; Note 20; Note 21
Entertainment and Recreation Related						
Arcade, Amusement Game	-	C	C	C	-	Note 21
Dancehall	-	C	C	C	C	Note 21

Poolroom/billiards establishment	-	C	C	C	-	Note 21
Private club or lodge	C	C	C	C	-	
Recreation, Commercial indoor	-	P	P	P	S	Note 21
Recreation, Commercial outdoor	-	C	C	C	C	Note 21
Relocated Cardroom	-	-	-	C	-	Section 20.80.1155
Stadium, 2,000 seats or fewer	-	C	C	C	C	Note 17
Stadium, more than 2,000 seats	-	CC	CC	CC	CC	Note 17; Note 18
Theatre, indoor	-	C	C	C	C	Note 21
Theatre, outdoor	-	-	-	C	C	Note 21
Food Services						
Banquet Facility	-	C	C	C	C	
Caterer	-	P	P	P	S	Note 4
Drinking Establishments	-	C	C	C	-	Note 21
Drinking Establishments interior to a full-service hotel/motel that includes 75 or more guest rooms	-	P	P	P	-	Section 20.80.475; Note 21
Public Eating Establishments	-	P	P	P	-	Note 21

Outdoor dining, incidental to a Public Eating Establishment or a retail establishment	-	P	P	P	-	Section 20.40.520; Note 21
Wineries, breweries	-	C	C	C	-	Note 21
Incidental recreational dancing as part of a Public Eating Establishment or Drinking Establishment	-	P	P	P	-	Note 21
Health and Veterinary Services						
Animal boarding, indoor	P only as incidental to Neighborhood Agriculture; Otherwise prohibited.	P	P	P	P only as incidental to Neighborhood Agriculture; Otherwise S.	Section 20.40.120
Animal grooming	P only as incidental to Neighborhood Agriculture; Otherwise prohibited.	P	P	P	P only as incidental to Neighborhood Agriculture; Otherwise S.	Section 20.40.120
Emergency ambulance service	C	C	C	C	C	
Hospital/in-patient facility	C	C	C	C	C	Note 21
Office, Medical	P	P	P	P	S	Note 21
Veterinary Clinic	-	P	P	P	C	Note 16
General Services						

Bail Bond Establishment - outside main jail area	-	P outside of Urban Village; S in Urban Village	P	P	-	Part 1.5, Chapter 20.80
Bail Bond Establishment - within main jail area	-	P outside of Urban Village; S in Urban Village	P	P	-	Note 14; Part 1.5, Chapter 20.80
Bed and Breakfast Inn	-	P	P	P	-	Part 2, Chapter 20.80; Note 21
Dry cleaner	-	P	P	P	-	Note 21
Hotel or Motel	-	P	P	P	-	Note 21
Single Room Occupancy (SRO) Hotel	-	C	C	C	-	Part 15, Chapter 20.80
Laundromat	-	P	P	P	-	Note 21
Maintenance and repair, small household appliances	-	P	P	P	-	Note 21
Messenger services	P	P	P	P	-	Note 2; Note 21
Mortuary and Funeral Services	P	P	P	P	-	Note 21

Personal Services	-	P	P	P	-	Section 20.200.880; Note 21
Photo processing and developing	-	P	P	P	-	Note 21
Printing and publishing	-	P	P	P	-	Note 21
Offices and Financial Services						
Automatic teller machine	P	P	P	P	S	Section 20.80.200
Business Support	-	P	P	P	-	Note 21
Financial institution	P	P	P	P	-	Note 21
Office, General Business	P	P	P	P	S	Section 20.40.110; Note 21
Payday Lending Establishment	-	R outside of Urban Village; Prohibited in Urban Village	R	R	-	Part 12.5, Chapter 20.80; Section 20.200.875
Public, Quasi-Public and Assembly Uses						
Cemetery	C	C	C	C	C	
Church/religious assembly	C	C	C	C	S	Note 16; Note 20; Note 21
Construction/ corporation yard associated with Public,	-	-	-	-	C	

Quasi-Public or Assembly Use or Transportation or Utility Use						
Museums, libraries, parks, playgrounds, or community centers (publicly operated)	P	P	P	P	P	Note 21
Museums, libraries, parks, playgrounds, or community centers (privately operated)	C	C	C	C	S	Note 20; Note 21
Residential						
Emergency Residential Shelter	C	C	C	C	C	Section 20.80.500
Live/Work Uses	-	S	S	S	-	Note 6; Section 20.80.740
Mixed Use residential/commercial	-	C ^{GP} outside of Urban Village; S ^{GP} in Urban Village	C	C ^{GP}	-	Note 6
Residential Care Facility for seven or more persons	C	C	C	C	C	
Residential Service Facility for seven or more persons	C	C	C	C	C	

Hotel Supportive Housing	C	C	C	C	C	Note 22; Part 22 of Chapter 20.80
Single Room Occupancy Living Unit	-	C	C	C	-	Note 6; Part 15, Chapter 20.80
Drive-Through Uses						
Drive-through Uses in conjunction with any use	-	-	C	C	C	
Recycling Uses						
Reverse Vending Machine	A	A	A	A	A	Part 13, Chapter 20.80
Small Collection Facility	A	A	A	A	A	Part 13, Chapter 20.80
Transportation and Utilities						
Data Center	-	-	-	C	-	Note 21
Common Carrier	-	-	-	-	C	Note 21
Common Carrier Depot	-	-	-	-	S	Note 21
Community television antenna systems	C	C	C	C	C	
Off-site, Alternating Use and Alternative Parking Arrangements	S	S	S	S	S	Section 20.90.200

Parking Establishment, Off-street	C	C	C	C	C	
Short term parking lot for uses or events other than on-site	-	-	-	C	C	Note 7
Television, radio studios without antenna/dishes	-	-	-	C	C	
Utility Facilities, excluding corporation yards, storage or repair yards and warehouses	C	C	C	C	C	
Utility Facilities including corporation yards, storage or repair yards and warehouses	-	-	-	-	C	
Wireless Communication Antenna	C	C	C	C	C	Note 23, Sections 20.100.1300, 20.80.1915
Wireless Communication Antenna, Slimline Monopole	S	S	S	S	S	Note 23, Sections 20.80.1900, 20.80.1915
Wireless Communication Antenna, Building Mounted	P	P	P	P	P	Note 23, Sections 20.80.1910, 20.80.1915
Electrical Power Generation						
Fuel Cells	P	P	P	P	P	

Private Electrical Power Generation Facility	C	C	C	C	C	Note 2
Co-generation Facility	S	S	S	S	S	
Stand-by/Backup						
Facilities that do not exceed noise or air standards	A	A	A	P	A	
Facilities that do exceed noise or air standards	C	C	C	C	C	
Temporary Stand-by/Backup	P	P	P	P	P	
Solar Photovoltaic System	P	P	P	P	P	Section 20.100.610 C.7.
Vehicle Related Uses						
Accessory installation, passenger vehicles and pick-up trucks	-	C	C	P	-	
Auto dealer, wholesale, no on-site storage	P	P	P	P	-	
Car wash, detailing	-	-	C	C	-	
Gasoline Service or Charge Station	-	C	C	P	C	Note 8, Note 15
Gasoline Service or Charge Station with incidental service and repair	-	C	C	P	C	Note 9, Note 13

Glass sales, installation and tinting	-	-	C	P	-	Note 13
Leasing (rental) passenger vehicles, pick-up trucks not exceeding twenty-five feet in length, and motorcycles	-	C	C	P	-	Note 2
Sale, brokerage, or lease, commercial vehicles	-	C	C	C	-	Note 13
Sale or brokerage, Passenger Vehicles, pick-up trucks not exceeding twenty-five feet in length, and motorcycles	-	C	S	P	-	Note 12, Note 13
Sale, vehicle parts	-	S	P	P	-	Note 11
Tires, batteries, lube, oil change, smog check station, air conditioning servicing of passenger vehicles and pick-up trucks	-	C	C	P	-	Note 10, Note 13
Historic Reuse						
Historic Landmark Structure reuse	S	S	S	S	S	Part 8.5, Chapter 20.80

Notes applicable to all commercial districts:

1. In the CP district, landscaping materials, such as rock, mulch, and sand are limited to prepackaged sales.
2. No on site storage of vehicles permitted in the CP and CN zoning districts.
3. Includes public and private colleges and universities, as well as extension programs and business schools.

4. Not a catering facility.
5. No on site storage of vehicles permitted.
6. In an urban village, mixed-use residential/commercial only : (a) under an approved urban village plan with an implementation financing strategy approved by the city council; or (b) without an approved urban village plan in a signature project consistent with the general plan or (c) if residential portion of use is 100% deed restricted and affordable to persons of low very low and/or extremely low income as defined in California Government Code Section 65915 et seq and in conformance with all criteria in the general plan for such use. Live/work in an area with an urban village designation or urban village overlay in the general plan shall be consistent with applicable approved urban village plans.
7. Use must be less than twenty-four hours.
8. No incidental repair or service permitted.
9. Incidental repair includes non-invasive engine service, maintenance and repair, including but not limited to, air conditioning service, fuel system service, electrical service, coolant system service, tune-up, fluid exchanges, steering and suspension system service, brake system service, transmission adjustment and service, lube, oil change, smog check, diagnostics and vehicle inspections, stock catalytic converters and manifolds, as well as tires, batteries and accessories installation. Does not allow body repair, welding, vehicle restorations, other types of exhaust system repair, the removal of cylinder heads, engines, transmissions/transfer cases and differentials, or painting.
10. Includes non-invasive engine service, maintenance and repair, including but not limited to, air conditioning service, carburetor and fuel injection system service, electrical service, radiator coolant system service, and tune-up, fluid exchanges, steering and suspension system service, brake system service, transmission adjustment and service, lube, oil change, and smog check, diagnostics and vehicle inspections, stock catalytic converters and manifolds, as well as tires, batteries and accessories installation. Does not allow body repair, welding, vehicle restorations, other types of exhaust system repair, the removal of cylinder heads, engines, transmissions/transfer cases and differentials, or painting.
11. No outdoor sales areas or dismantling allowed.
12. In the CG district, incidental repair of vehicles requires a special use permit. Incidental repair of vehicles is prohibited in all other commercial districts.
13. All vehicle-related repair, service, and accessory or other installation shall be conducted within a fully enclosed building.
14. Bail bond establishments shall not be located and are prohibited uses on the ground floors of structures located within the main jail area, as that area is defined in Section 20.80.070 of Chapter 20.80 of this title. Bail bond establishments are allowed as shown on Table 20-90 on other, above-ground floors of structures. All bail bond establishments shall meet all distance requirements specified in Section 20.80.075 of Chapter 20.80 of this title.
15. Charging 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 commercial zoning districts.
16. Public schools are subject to the regulations of this title, subject to the provisions of California Government Code Section 53094 for classroom facilities.

17. Primary uses include sporting events, assembly venues, 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.
18. Use permit applications for stadiums that consist of more than 2,000 seats and that are in airport influence areas shall be referred to the Santa Clara Airport Land Use Commission prior to approval by the city.
19. Neighborhood agriculture in conformance with this title is a permitted use that may operate on a site without a permanent building on that site.
20. The city council is the decision-making body for special use permit appeals for this use pursuant to Section 20.100.220 of this title.
21. In the PQP public/quasi-public zoning district, the following uses may be allowed as a use supporting and incidental to a primary PQP use:
 - a. Offices, retail, public eating establishments, and other commercial uses of similar character and intensity, with approval of a special use permit; and
 - b. Drinking establishments, off-sale of alcoholic beverages, arcade amusement games, poolroom/billiards establishments, wineries, breweries, and data centers, with approval of a conditional use permit.
22. 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.
23. 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 5. 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" 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.
- 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 <u>outdoor</u> 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						
<u>Caterer-Catering Facility</u>	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	P _{GP}	-	-	Section 20.80.475; Note 13

		residentially used or zoned Lot				
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	-	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 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,	C	-	-	C	-	

mobilehomes, construction equipment						
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 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 6. Section 20.50.300 of Chapter 20.55 of Title 20 of the San José Municipal Code is amended to read as follows:

20.50.300 Performance Standards

- A. In the IP, LI, HI, s CIC, and the TEC zoning ~~and HI industrial~~ districts no primary, secondary, incidental or conditional use or activity related thereto shall be conducted or permitted:
1. 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

2. 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
 3. In a manner that creates a public or private nuisance.
- B. Without limiting the generality of the preceding subsection, the following specific standards shall apply in the industrial zoning districts:
1. Incineration. There shall be no incineration on any site of any waste material.
 2. 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.
 3. 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.
 4. 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.

Table 20-135 Noise Standards	
	Maximum Noise Level in Decibels at Property Line
Industrial use adjacent to a property used or zoned for residential purposes	55
Industrial use adjacent to a property used or zoned for commercial purposes	60
Industrial use adjacent to a property used or zoned for industrial or use other than commercial or residential purposes	70

SECTION 7. Section 20.70.510 of Chapter 20.70 of Title 20 of the San José Municipal Code is amended to read as follows:

20.70.510 Late Night Uses and Activity

- A. No retail commercial establishment (including but not limited to a public eating establishment and/or retail sales) or entertainment establishment (without alcohol) shall be open between the hours of 12:00 midnight and 6:00 a.m. in the DC and DC-NT1 districts except with a special use permit as provided in Chapter 20.~~100.800~~180 of this title.
- B. No drinking establishment shall be open between the hours of 12:00 midnight and 6:00 a.m. in the DC or DC-NT1 districts except with a conditional use permit as provided in Chapter 20.100 of this title.

SECTION 8. Section 20.90.130 of Chapter 20.90 of Title 20 of the San José Municipal Code is amended to read as follows:

20.90.130 Driveways

Each off-street vehicle parking space shall be provided with:

- A. A driveway not less than ten feet wide for ingress and egress; and

- B. A maneuvering area, such as an aisle or driveway, of appropriate dimension and design to provide safe and efficient means of entry and exit by automobiles and other motor vehicles; and
- C. For all lots with a one-family dwelling use, unless otherwise provided in this title, a driveway not less than ~~twenty-three~~ eighteen (18) feet long measured at its shortest side.
- D. Notwithstanding any other provisions of this title, in a main street district, driveways providing vehicular access to a main street shall be no more than twenty feet in width at the minimum building setback line, except that the decision- maker may approve a wider driveway through a development permit based on a finding that greater width is needed to accommodate loading or other truck access.
- E. Primary vehicular access for a corner lot in a main street district shall not be provided from the main street frontage.

SECTION 9. Section 20.90.210 of Chapter 20.90 of Title 20 of the San José Municipal Code is amended to read as follows:

20.90.210 Vehicle Parking - Change in Structure or Use

- A. No structure constructed, or use instituted, prior to November 10, 1965 shall be required to meet the off-street parking requirements of this title unless there is a substantial change in the structure or in the use of the structure or land.

For purposes of this section, "change" means any enlargement, conversion or alteration in structure or use. A "substantial change" means more than a forty percent difference between (a) and (b), as follows: (a) the number of parking spaces required under current Code for the structure or use, as the structure or use it existed on November 10, 1965, and (b) the number of parking spaces required under the current Code for the proposed structure or use. [Substantial change: $b - a = c$, if $c/a > .40$ (40%)]

- 1. If the change is not a substantial change, no additional off-street parking is required.
 - 2. If the change is a substantial change, the current off-street parking requirements shall apply to the entire structure or use.
- B. Except as provided by section for the downtown parking management zone, any structure constructed after November 10, 1965 which is changed shall be required to meet and maintain the off-street parking requirements for the entire structure or use.

SECTION 10. Section 20.100.1300 of Chapter 20.100 of Title 20 of the San José Municipal Code is amended to read as follows:

20.100.1300 General

Pursuant to and in accordance with the provisions hereinafter set forth in this part, the director or the planning commission on appeal may, but shall not under any circumstances be required to, grant the following variances and exceptions:

A. Development variance.

1. Variances hereinafter referred to as "development variances," to the height, number of stories, frontage, setback, coverage, density, area, off-street parking, fencing, loading and landscaping requirements and regulations of this title.

B. Development exception.

1. Certain exceptions, hereinafter referred to as "development exceptions" as follows:
 - a. Exceptions permitting an incursion by buildings or structures of up to, but not more than, five feet into the rear setback area prescribed by this title, provided, however, that no exception granted hereunder shall permit the vertical projection of any building or structure to be closer than ten feet, measured horizontally, to the rear property line.
 - b. Exceptions permitting elevator shafts and stairwells to cause the associated Structure to exceed the general zoning district height limitation for the zoning district in which the Structure is located, but only up to ten (10) feet above the general zoning district height limitation and subject to design review, including but not limited to screening requirements.
 - i. This exception shall not apply to allow any Structure, including all elevator shafts and stairwells, to exceed height the limitations applicable under Chapter 2.85 of this Title.
 - bc. Exceptions permitting church steeples, church bell towers, church roofs, wireless communication antenna and associated structures which exceed in height the height limitations prescribed in this title; provided, however, that the following exception from these provisions shall apply.

- i. Wireless communication antennae that meet the height limitations of Section 20.80.1900 or 20.80.1910, as applicable, shall not be subject to the development exception requirements set forth in this part.

ed. Exceptions from the area requirements for a lot or parcel in any residential district having an area of less than three thousand square feet, provided such area is not less than the area of such lot or parcel on March 1, 1977 (or, if the lot was created after March 1, 1977, then as approved by the city) and that no such exception shall permit any diminution in such area and provided further that if such lot or parcel has or is to have a structure or structures thereon, no such exception shall be issued for such lot or parcel unless all such structures are dwelling structures or structures accessory thereto, and all such structures comply with the height and setback requirements of this title. An exception permitted by this subsection may be issued at the same time as an exception provided for in Subsection 1. above.

de. Exceptions to the off-street parking and loading requirements and regulations of this title.

SECTION 11. A new section 20.50.125 is added to Chapter 20.50 of Title 20 of the San José Municipal Code to be numbered, entitled and to read as follows:

20.50.125 Incidental Office Use, LI Light Industrial and HI Heavy Industrial Districts

A. Incidental office use is a permitted use in the LI Light Industrial and HI Heavy Industrial Districts, only when the incidental office use meets all of the following conditions:

1. The incidental office use is directly related to and supportive of an existing industrial permitted, conditional, or special use operating on the site; and

2. The incidental office use:

a. Occupies no more than fifteen (15) percent of the building floor area used and occupied by the existing subject industrial permitted, conditional, or special use.

B. No additional parking will be required for the incidental office use if the incidental office use occupies no more than fifteen (15) percent of the building floor area used and occupied by the existing subject industrial permitted, conditional, or special use.

SECTION 12. A new section 20.200.181 is added to Chapter 20.200 of Title 20 of the San José Municipal Code to be numbered, entitled and to read as follows:

20.200.181 Catering Facility

A catering facility is a place where the commercial preparation and cooking of food occurs.

SECTION 13. A new section 20.200.261 is added to Chapter 20.200 of Title 20 of the San José Municipal Code to be numbered, entitled and to read as follows:

20.200.261 Construction/Corporation Yard

A Construction/Corporation Yard means a use providing for maintenance, servicing, or storage of motor vehicles, equipment, or construction materials/supplies, or for the dispatching of service vehicles; or distribution of supplies or construction material required in connection with a business activity, transportation service, or similar activity. This use may include accessory offices related to such activities.

PASSED FOR PUBLICATION of title this _____ day of _____, 2018, by the following vote:

AYES:

NOES:

ABSENT:

DISQUALIFIED:

SAM LICCARDO
Mayor

ATTEST:

TONI J. TABER, CMC
City Clerk

