DRAFT

ORDINANCE NO.

AN URGENCY ORDINANCE OF THE CITY OF SAN JOSE AMENDING TITLE 20 (ZONING ORDINANCE) OF THE SAN JOSE MUNICIPAL CODE TO AMEND SECTION 20.30.100, AMEND SECTION 20.30.110, REPEAL SECTION 20.30.150, AMEND SECTION 20.30.310, AND ADD PART 4.5 TO CHAPTER 20.30 OF TITLE 20; AMEND SECTION 20.80.160 OF CHAPTER 20.80 OF TITLE 20; AMEND SECTION 20.90.220 OF CHAPTER 20.90 OF TITLE 20; ADD SECTION 20.200.324 AND AMEND SECTION 20.200.325 OF CHAPTER 20.200 OF TITLE 20 TO MODIFY CURRENT ACCESSORY DWELLING UNIT (ADU) PROVISIONS TO, AMONG OTHER CHANGES, OMIT MINIMUM LOT SIZE AND LOT COVERAGE REQUIREMENTS, AND TO MAKE OTHER TECHNICAL, NON-SUBSTANTIVE, OR FORMATTING CHANGES WITHIN THOSE SECTIONS OF TITLE 20 OF THE SAN JOSE MUNICIPAL CODE; AND SETTING FORTH THE FACTS CONSTITUTING SUCH URGENCY

WHEREAS, pursuant to Section 15168(c)(2) of the CEQA Guidelines, the City of San José has determined that this Ordinance is pursuant to, in furtherance of and within the scope of the previously approved program evaluated in 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"), through Resolution No. 77617, adopted by City Council on December 15, 2015, and Addenda thereto, and does not involve new significant effects beyond those analyzed in the FEIR and SEIR; and

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

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WHEREAS, this Council of the City of San José has considered and approves the information contained in the FEIR, as supplemented and addenda thereto, and related City Council Resolution Nos. 76041 and 77617 and the determination of consistency therewith prior to taking any approval actions on this Ordinance;

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

SECTION 1. Section 20.30.100 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 Zoning Districts 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 unit/a~~Accessory dwelling unit (ADU)	P	P	P	-	Note 2 and Note 3; ~~Section 20.30.150~~Part 4.5, Chapter 20.30
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	
Single room occupancy living unit facility	-	-	C	-	Part 15, Chapter 20.80

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Sororities, fraternities, and dormitories occupied exclusively (except for administrators thereof) by students attending college or other educational institutions	-	-	C	-	
Residential Accessory Uses and Improvements					
Accessory buildings and structures	P	P	P	P	Note 3; Section 20.80.200
Home occupations	P	P	P	P	Part 9, Chapter 20.80
Mixed use, residential/commercial	-	-	S	-	Note 9
Agriculture					
Certified farmers' market	S	S	S	S	Note 6
Certified farmers' market, small	P	P	P	P	Part 3.5, Chapter 20.80; Note 6
Neighborhood agriculture	P	P	P	P	Part 9, Chapter 20.80
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	-	
Entertainment and Recreation					
Equestrian and riding club	C	-	-	-	
Golf course	C	-	-	-	Note 4
Private club or lodge	-	-	C	-	

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Swim or tennis club	C	C	C	C	
General Services					
Bed and breakfast inn	C	C	C	-	Section 20.80.110
Outdoor vending, fresh fruits and vegetables	P	P	P	P	Note 6 and Note 7; Part 10, Chapter 20.80;
Health and Veterinary Services					
Emergency ambulance service	C	C	C	C	
Historic Reuse					
Historic landmark structure reuse	C	C	C	C	Part 8.5, Chapter 20.80
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	
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	

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Wireless communication antenna	C	C	C	C	Note 8; 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 8; 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 8; Sections 20.30.130, 20.30.140, 20.80.1910, 20.100.1300 and 20.80.1915
Utilities, Electrical Power Generation					
Solar photovoltaic system	P	P	P	P	Sections 20.100.610.C.7 and 20.100.1030.A.6
Stand-by/backup facilities that do not exceed noise or air standards	S	S	S	S	Note 5
Stand-by/backup facilities that do exceed noise or air standards	-	-	-	-	

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 primary living units per lot, with Accessory Dwelling units, are permitted in the R-2 district. Accessory ~~secondary d~~Dwelling units on a lot in the R-2 district may be permitted without a development permit in accordance with the provisions of Part 4.5~~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. No lot may be used solely for an accessory structure or an accessory building.

4. No driving ranges or miniature golf facilities.

5. 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.

6. 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.

7. 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.

8. Certain modifications of existing wireless facilities may be permitted with an administrative permit in accordance with Section 20.80.1915 of Chapter 20.80.

9. 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 2. Section 20.30.110 of Chapter 20.30 of Title 20 of the San José Municipal Code is amended to read as follows:

20.30.110 Incidental Uses

In addition to the occupancy of a dwelling as a residence, the following incidental uses are permitted:

A. The rental of rooms in a One-Family Dwelling to up to three (3) guests; in Two-Family Dwelling to up to two (2) guests, by each Family; and in a Multiple Dwelling Unit to up to two (2) guests per unit, if such use is clearly incidental to the occupancy of the dwelling unit by said Family as its own residence, and such rental is for a period of time longer than thirty (30) days and there are no more than six (6) persons living in the dwelling.

B. Use of the dwelling, including a ~~permitted secondary dwelling or~~ permitted Guesthouse, for Incidental Transient Occupancy in compliance with Part 2.5 of Chapter 20.80.

C. State-licensed Family Day Care Home.

D. The following non-commercial activities:

1. A garage sale consisting of the occupants' personal property;

2. Sale of goods hand-produced by the occupants;

3. Sales parties held for the purpose of selling goods to invited Guests. Such parties shall be held inside a permanent structure or in the rear yard of the dwelling unit.

E. To qualify as a non-commercial activity:

1. No more than two (2) such sales are allowed in any calendar year;

2. No such sale can be conducted for more than four (4) consecutive days;

3. Such sales shall only be conducted between the hours of 9:00 a.m. and 9:00 p.m.

SECTION 3. Section 20.30.150 of Chapter 20.30 of Title 20 of the San José Municipal Code is hereby repealed.

~~**20.30.150 Secondary Units**~~

~~Notwithstanding any other provision of this title to the contrary, secondary dwellings that meet all of the following criteria shall be allowed pursuant to the provisions of this Chapter:~~

~~A. Zoning District. A secondary dwelling that is attached to or detached from a one-family dwelling shall be permitted only in: (1) the R-1 zoning districts, the R-2 zoning district or the R-M zoning district in accordance with the provisions of Section 20.30.100, (2) in planned development zoning districts that are authorized in accordance with Chapter 20.60 of this Title if (a) the planned development is subject to the standards and allowed uses of an R-1 zoning district, or (b) the secondary dwelling conforms to the development and use standards of the planned development district, or (3) in low density cluster development issued under previously existing provisions of this title if (a) the cluster development conforms with the development standards of the R-1 zoning district, or (b) the secondary dwelling conforms to the development and use standards of the low density cluster permit.~~

~~B. Minimum Lot Size. The minimum lot size on which a Secondary Dwelling may be allowed is three thousand (3,000) square feet.~~

~~C. Density. A secondary dwelling shall not be included in calculation of residential density for the purpose of determining general plan conformance.~~

~~D. Maximum Secondary Dwelling Floor Area. The increased floor area of an attached secondary dwelling shall not exceed fifty percent (50%) of the existing living area of the primary dwelling or fifty percent (50%) of the proposed living area of the primary dwelling if the primary dwelling is being built or enlarged concurrently with construction of the secondary dwelling unit. A secondary dwelling shall not exceed the following maximum gross floor area:~~

~~1. Six hundred square feet for a secondary dwelling on a lot with an area of at least three thousand (3,000) square feet up to five thousand four hundred forty-four (5,444) square feet;~~

~~2. Seven hundred square feet for a secondary dwelling on a lot with an area of at least five thousand four hundred forty-five (5,445) and up to nine thousand (9,000) square feet;~~

~~3. Eight hundred square feet for a secondary dwelling on a lot with an area greater than nine thousand (9,000) square feet and up to ten thousand (10,000) square feet;~~

~~4. Nine hundred (900) square feet for a secondary dwelling on a lot with an area greater than ten thousand (10,000) square feet.~~

~~Table 20-55~~

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~~Minimum Lot size~~	~~Maximum gross floor area~~
~~At least 3,000 square feet and up to 5,444 square feet~~	~~600 square feet~~
~~At least 5,445 square feet and up to 9,000 square feet~~	~~700 square feet~~
~~Greater than 9,000 Square feet and up to 10,000 square feet~~	~~800 square feet~~
~~Greater than 10,000 Square feet~~	~~900 square feet~~

~~E. Required Facilities. A secondary dwelling shall include all of the following facilities:~~

~~1. A kitchen (including a sink, food preparation counter, storage cabinets, and permanent cooking facilities such as an oven and range or cooktop, that meet Building Code standards); and~~

~~2. A full bathroom (including sink, toilet, and shower and/or bath facilities).~~

~~F. Bedroom Requirement and Maximum Bedroom Area. A secondary dwelling is required to contain a combined sleeping and living area or one bedroom and shall include no more than one bedroom and one living area, except for units on lots with an area greater than nine thousand (9,000) square feet, which may contain two bedrooms. The floor area of the bedroom shall not exceed four hundred (400) square feet.~~

~~G. Bathroom Limit. A secondary dwelling shall contain no more than one bathroom.~~

~~H. Maximum Accessory Storage Area. The total size of any closet or other enclosed storage area within the secondary dwelling shall not exceed sixty (60) square feet of floor area.~~

~~I. Required Secondary Dwelling Parking.~~

~~1. One additional on-site parking space, in addition to the required on-site parking spaces for the one-family dwelling, is required for a secondary dwelling, except as provided in subsection 3 below. Tandem parking that otherwise complies with setback and paving requirements set forth in Sections 20.90.120 and 20.90.140 and Chapter 20.95 of the Municipal Code, shall be allowed.~~

~~2. The required on-site parking space for a secondary dwelling may be located on a garage driveway in the front setback area of the lot on~~

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~~which a secondary dwelling is situated provided that the driveway is at least eighteen (18) feet in length.~~

~~3. No additional parking shall be required for a secondary dwelling that meets any of the following criteria:~~

~~a. The secondary dwelling is located within one-half mile of, and has a path of travel that is always publicly accessible to a site containing an existing public rail-transit station or at least one public bus stop.~~

~~b. The secondary dwelling is located within a historic district identified in the city's historic resources inventory as defined in Chapter 13.48 of Title 13 of this Municipal Code.~~

~~c. The secondary dwelling is part of the existing primary residence, or within, or part of, an existing Accessory Building.~~

~~d. When on-street parking permits are required but not offered to the occupant of the secondary dwelling.~~

~~e. When there is a motor vehicle that is operated as part of a regional fleet by a public agency or publicly-leased motor-vehicle-sharing organization and provides hourly and daily service located within one block of the secondary dwelling.~~

~~J. Required Replacement Parking for Primary Dwelling Parking Demolished or Converted for Secondary Dwelling Construction. When a garage, carport, or covered parking structure is demolished or converted in conjunction with the construction of a Secondary Dwelling, any required off-street parking spaces that were provided by such garage, carport, or covered parking structure, shall be replaced in accordance with Section 20.90.220.B.2.~~

~~K. Development Standards. Secondary dwellings shall comply with all of the following development standards:~~

~~1. The secondary dwelling shall be subject to the setback requirements for a one-family dwelling in the zoning district in which the one-family dwelling is located, as set forth in this chapter except as follows:~~

~~a. Conversion of Existing Accessory Building - No setback over the setback specified for an Accessory Building shall be required for an existing Accessory Building, or garage, that is converted to a~~

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~~Secondary Dwelling, unless required to meet current Building and Fire Code requirements.~~

~~b. New detached Secondary Dwelling - No setback over the setback specified for an Accessory Building shall be required for the first story of a new detached Secondary Dwelling, unless required to meet current Building and Fire Code requirements.~~

~~c. Second Story Secondary Unit - A minimum setback of five (5) feet from the side and rear lot lines shall be required for any second story of a detached Secondary Dwelling.~~

~~d. Additional setback requirements may apply under the Building and Fire Codes or as a result of "no-build" easements.~~

~~2. An attached secondary dwelling shall share a common wall with the one-family dwelling, or shall share an integral roof structure having the same framing system and roof covering as the one-family dwelling and shall be separated from the one-family dwelling by no more than ten (10) feet at any given point.~~

~~3. A detached secondary dwelling shall be located in the rear yard of the lot of the one-family dwelling or shall be required to meet minimum setback requirements for an accessory building in accordance with Section 20.30.500, except that a new detached secondary dwelling unit that maintains a minimum interior side setback of five (5) feet may be located at a distance of 45 feet from the front property line.~~

~~4. A detached secondary dwelling shall be located at least six (6) feet away from the one-family dwelling.~~

~~5. A detached one story secondary dwelling shall be limited to a maximum height of eighteen (18) feet. A two story detached accessory dwelling may have a maximum roof height of twenty four (24) feet above grade. Roof height shall be determined in accordance with San José Municipal Code Section 20.200.510.~~

~~6. A detached secondary dwelling may be attached to an existing or proposed accessory building, including a garage so long as current building code requirements and requirements to address fire or safety hazards are met. A detached secondary dwelling that is attached to an existing or proposed accessory building, including a detached secondary dwelling constructed above an existing or proposed accessory building, shall not have any connecting opening between the accessory building~~

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~~and secondary dwelling, unless all connected areas meet current residential building and fire code requirements, and the maximum gross square footage for all connected areas does not exceed the limits set forth in Section 20.30.150.D above.~~

~~a. Notwithstanding the provisions of Section 20.30.150.K(6) above, a detached secondary dwelling that is attached to an existing or proposed garage may have a connecting opening, provided the garage does not have a connecting opening to any other accessory structure not used as a garage.~~

~~7. The cumulative total of the rear yard covered by the secondary dwelling, accessory buildings, and accessory structures, except pools, shall not exceed forty percent (40%) of the rear yard.~~

~~8. If situated on a lot that is equal to or greater than one-half (½) an acre in size, a secondary dwelling shall be located more than one hundred feet (100) from a riparian corridor as measured from top of bank or vegetative edge, whichever is greater.~~

~~9. A secondary dwelling shall be subject to provisions in this Municipal Code that prevent adverse impacts on a real property that is listed in the California Register of Historic Places, otherwise known as the California Register of Historic Resources.~~

~~L. Design Standards. Secondary dwellings shall comply with the following design standards:~~

~~1. An attached secondary dwelling shall incorporate architectural style, and similar materials and color of the one-family dwelling, including but not limited to roofing, siding, and windows and doors.~~

~~2. A new detached secondary dwelling located on a site that is listed on the California Register of Historic Places, otherwise known as the California Register of Historic Resources, shall incorporate architectural style, and similar materials and colors, including but not limited to roofing, sidings, and windows and doors of the one-family dwelling.~~

~~3. The front door of any attached secondary dwelling shall not be located on the same facade as the front door of the one-family dwelling if that facade fronts onto a street, unless all other locations for placement of the secondary dwelling front door would require a passageway as defined in Government Code Section 65852.2(i)(5). For a detached secondary dwelling constructed above an existing or proposed accessory building,~~

~~including a garage, an exterior stairway or fully enclosed interior stairway access may be allowed.~~

~~4. Minimum sill height for openings for a second story detached secondary dwelling unit shall be maintained at five (5) feet, measured from the interior floor level, along the building walls parallel to the nearest side and rear property lines, and located within a minimum setback of fifteen (15) feet from those property lines.~~

~~5. Any second story balconies, unenclosed entry landings, and decks shall comply with the following requirements:~~

~~a. Maintain minimum setback of fifteen (15) feet from the rear and side property line measured from the projecting face.~~

~~b. Not be provided along the building walls parallel to the nearest side and rear property lines.~~

~~6. Any portion of balconies and landings with areas greater than fifty percent enclosed with walls and covered shall be included in the total unit floor area.~~

~~7. Any porches or balconies that project beyond the footprint of the secondary dwelling unit shall be included in the cumulative total of the rear yard tabulation.~~

~~M. Application - Owner Certification. As part of the building permit application process for a secondary dwelling, the owner of record shall submit a declaration, under penalty of perjury, stating that the secondary dwelling is not intended for sale separate from the primary residence, but may be rented. Nothing in this section shall be deemed to affect the legal status of a secondary dwelling built with a lawfully issued permit if the property is subsequently transferred or sold, or if the one-family dwelling or secondary dwelling is subsequently rented or leased.~~

~~N. Code Compliance - One-Family Dwelling. An application for a secondary dwelling building permit shall not be deemed complete, and a building permit shall not be issued, if the city determines that the one-family dwelling will continue to have uncorrected violations involving applicable zoning and building code requirements, or fire or safety hazards.~~

~~O. Other Permits Required. Nothing in this section supersedes requirements for obtaining development permits pursuant to this title, or for properties subject to~~

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~~the historic preservation permit requirements set forth in Chapter 13.48 of Title 13 of the San José Municipal Code.~~

~~P. Notwithstanding Subsection O above, additional development permits shall not be required for the following:~~

~~1. A new detached Secondary Unit located on a site that is listed on the San José Historic Resources Inventory, not including sites within a City Historic District or listed as City Landmark.~~

~~2. A new detached or attached Secondary Unit located in a planned development zoning district otherwise subject to requirements of Section 20.100.500 (A)(4).~~

~~3. A new detached Secondary Unit located in a low density cluster development, in accordance with provisions of this part and with San José Municipal Code Section 20.30.500, and otherwise subject to minimum side setback requirements of the primary dwelling unit and requirements of Section 20.100.500 (A)(4).~~

~~4. A new attached Secondary Unit, located in a low density cluster development, otherwise subject to requirements of Section 20.100.500 (A)(4).~~

~~Q. Compliance with Building and Zoning Codes. A secondary dwelling shall be built in accordance with the building code set forth in Title 24 of the San José Municipal Code ("Municipal Code") and in conformance with Title 20 of the San José Municipal Code.~~

~~R. Located on One Lot. A secondary dwelling shall be located within the same subdivision unit and on the same legal parcel as the one-family dwelling to which it is ancillary.~~

SECTION 4. Section 20.30.310 of Chapter 20.30 of Title 20 of the San José Municipal Code is amended to read as follows:

20.30.310 Minor One-Story Addition - Exception for Same Side Setback as Existing Structure

One-story additions, including Accessory Dwelling Units, may be erected with the same side setback as an existing structure subject to the following restrictions:

A. No such addition shall reduce, or further diminish a nonconforming setback.

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B. The total square footage of the proposed encroachment into the nonconforming side setback ~~such addition~~ shall be no more than the square footage of the existing areas encroaching within the nonconforming Side Setback Area or one hundred fifty (150) square feet in area, whichever is less.

C. Said addition is a single-Story addition and shall not exceed twenty (20) feet in height.

D. Only one such addition shall be Permitted.

SECTION 5. A new Part 4.5 is added to Chapter 20.30 of Title 20 of the San José Municipal Code, to be numbered, entitled and to read as follows:

Part 4.5
Accessory Dwelling Units

20.30.460 Accessory Dwelling Units – Single-Family Dwelling Lot

Notwithstanding any other provision of this T~~t~~itle to the contrary, ~~secondary~~ A~~a~~ccessory D~~d~~welling ~~s~~ Units that meet all of the following criteria shall be allowed pursuant to the provisions of this ~~Chapter~~Part:

A. Zoning District. An a~~A~~ccessory ~~secondary~~ D~~d~~welling Unit that is attached to or detached from a one-family dwelling shall be permitted only ~~in~~: (1) in the R-1 zoning districts, the R-2 zoning district or the R-M zoning district in accordance with the provisions of Section 20.30.100, (2) in planned development zoning districts that allow single-family uses~~are authorized in accordance with Chapter 20.60 of this Title if (a) the planned development is subject to the standards and allowed uses of an R-1 zoning district, or (b) the secondary accessory dwelling conforms to the development and use standards of the planned development district~~, or (3) in low density cluster developments ~~issued~~ that were permitted under previously existing provisions of this title if (a) the low density cluster development conforms with the development standards of the R-1 zoning district, or (b) the ~~secondary~~ accessory dwelling conforms to the development and use standards of the low density cluster development permit, ~~,~~ or (4) on a lot, consisting of an existing single-family dwelling unit, with a General Plan Land Use/Transportation Diagram designation of Residential Neighborhood, Urban Village, Transit Residential, Urban Residential, Downtown, Mixed-use Neighborhood, Mixed-use Commercial, Rural Residential or Residential Neighborhood.

~~B. Minimum Lot Size. The minimum lot size on which a Secondary Dwelling may be allowed is three thousand (3,000) square feet.~~

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BC. Density. An accessory ~~secondary~~ dwelling shall not be included in calculation of residential density for the purpose of determining general plan conformance.

CD. Maximum Accessory ~~Secondary~~ Dwelling Floor Area. The ~~increased~~ floor area of an attached accessory ~~secondary~~ dwelling shall not exceed fifty percent (50%) of the existing or proposed living area of the primary dwelling provided that an Accessory Dwelling Unit with a floor area of eight hundred (800) square feet shall be permitted ~~or fifty percent (50%) of the proposed living area of the primary dwelling if the primary dwelling is being built or enlarged concurrently with construction of the secondary dwelling unit~~. An accessory ~~secondary~~ dwelling shall not exceed the following maximum ~~gross~~ floor area as compared to lot size:

1. One thousand (1,000) ~~Six hundred~~ square feet for ~~a secondary~~an accessory dwelling on a lot with an area of ~~at least three thousand (3,000) square feet~~ up to nine thousand ~~five thousand four hundred forty-four~~ (~~5,444~~9,000) square feet;

~~2. Seven hundred square feet for a secondary dwelling on a lot with an area of at least five thousand four hundred forty-five (5,445) and up to nine thousand (9,000) square feet;~~

~~3~~2. One thousand two hundred ~~Eight hundred~~ (~~800~~1,200) square feet for ~~a secondary~~ an accessory dwelling on a lot with an area greater than nine thousand (9,000) square feet ~~and up to ten thousand (10,000) square feet;~~

~~4. Nine hundred (900) square feet for a secondary dwelling on a lot with an area greater than ten thousand (10,000) square feet.~~

Table 20-55

~~Minimum~~ Lot size	Maximum ~~gross~~ floor area
~~At least 3,000 square feet and up~~Up to ~~5,444~~9,000 square feet	~~600~~ 1,000 square feet
~~At least 5,445 square feet and up to 9,000 square feet~~	~~700 square feet~~
Greater than 9,000 square feet ~~and up to 10,000 square feet~~	~~800~~ 1,200 square feet
~~Greater than 10,000 square feet~~	~~900 square feet~~

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DE. Required Facilities. An accessory ~~secondary~~ dwelling shall include all of the following facilities:

1. A kitchen (including a sink, food preparation counter, storage cabinets, and permanent cooking facilities such as a ~~n oven and~~ range or cooktop and oven, that meet Building Code standards); and

2. A full bathroom (including sink, toilet, and shower and/or bath facilities).

EF. Bedroom Requirement and Maximum Bedroom Area. An accessory ~~secondary~~ dwelling is required to contain a combined sleeping and living area or one (1) bedroom and shall include no more than ~~one~~ two (2) bedrooms and one (1) living area~~, except for units on lots with an area greater than nine thousand (9,000) square feet, which may contain two bedrooms~~. The floor area of ~~the~~ each bedroom shall not exceed four hundred (400) square feet.

FG. Bathroom Limit. An accessory ~~secondary~~ dwelling shall contain no more than ~~one~~ two bathrooms.

GH. Maximum Accessory Storage Area. The total size of any closet or other enclosed storage area within the ~~secondary~~ accessory dwelling shall not exceed sixty (60) square feet of floor area.

HI. Required ~~Secondary~~ Accessory Dwelling Parking.

1. One ~~additional~~ on-site parking space, in addition to the required on-site parking spaces for the one-family dwelling, is required for an accessory ~~secondary~~ dwelling, except as provided in subsection 3 below. Tandem parking that otherwise complies with setback and paving requirements set forth in Sections 20.90.120 and 20.90.140 and Chapter 20.95 of the Municipal Code, shall be allowed.

2. The required on-site parking space for an accessory ~~secondary~~ dwelling may be located on a ~~garage~~ driveway in the front and/or side setback area of the lot on which an accessory ~~secondary~~ dwelling is situated provided that the driveway is at least eighteen (18) feet in length.

3. No additional parking shall be required for an accessory ~~secondary~~ dwelling that meets any of the following criteria:

   a. The ~~secondary~~ accessory dwelling is located within one-half mile walking distance of, and has a path of travel that is always publicly accessible to, a site containing an existing public rail-transit station or at least one (1) public bus stop.

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b. The ~~secondary~~ accessory dwelling is located within a historic district identified in the city's historic resources inventory as defined in Chapter 13.48 of Title 13 of this Municipal Code.

c. The ~~secondary~~ accessory dwelling is part of the existing primary residence, or within, or part of, an existing Accessory Building.

d. When on-street parking permits are required but not offered to the occupant of the ~~secondary~~ accessory dwelling.

e. When there is a car-share vehicle located within one (1) block of the Accessory Dwelling Unit~~When there is a motor vehicle that is operated as part of a regional fleet by a public agency or publicly leased motor vehicle sharing organization and provides hourly and daily service located within one block of the secondary dwelling~~.

I~~J~~. ~~Required R~~Replacement Parking Not Required for Primary Dwelling Parking Demolished or Converted for ~~Secondary~~ Accessory Dwelling Construction. When a garage, carport, or covered parking structure is demolished or converted in conjunction with the construction of an Accessory ~~Secondary~~ Dwelling, any ~~required~~ off-street parking spaces that were provided by such garage, carport, or covered parking structure~~, shall be replaced in~~ are not required to be replaced in accordance with Section 20.90.220.B.2.

J~~K~~. Development Standards. ~~Secondary~~ Accessory dwellings shall comply with all of the following development standards:

1. The ~~secondary~~ accessory dwelling shall be subject to the setback requirements for a One-Family Dwelling in the zoning district in which the One-Family Dwelling is located, as set forth in this ~~chapter~~Part except as follows:

a. Conversion of Existing Accessory Building - No setback over the setback specified for an Accessory Building shall be required for an existing Accessory Building, or garage, that is converted to an Accessory ~~a Secondary~~ Dwelling or constructed in same location and to same dimensions as an existing structure, unless required to meet current Building and Fire Code requirements.

b. New detached ~~Secondary~~ Accessory Dwelling– A setback of four (4) feet from the side and rear lot lines, measured from the building face, shall be required for an accessory dwelling unit that exceeds forty percent (40%) rear yard coverage and is not

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converted from an existing structure or a new structure constructed in the same location and to the same dimensions as the existing structure. No setback over the setback specified for an Accessory Building shall be required for the first story of a new detached Accessory ~~Secondary~~ Dwelling that does not exceed forty percent (40%) rear yard coverage, unless required to meet current Building and Fire Code requirements.

c. Second Story Accessory ~~Secondary~~ Unit - A minimum setback of ~~five~~ four (~~5~~4) feet from the side and rear lot lines, with an overhang of one-foot or less, shall be required for any second story of a detached Accessory ~~Secondary~~ Dwelling.

d. Additional setback requirements may apply under the Building and Fire Codes or as a result of "no-build" easements or require compliance with existing easement restrictions.

2. An attached ~~secondary~~ accessory dwelling shall share a common wall with the One-Family Dwelling, or shall share an integral roof structure having the same framing system and roof covering as the One-Family Dwelling and shall be separated from the One-Family Dwelling by no more than ten (10) feet at any given point.

3. A detached ~~secondary~~ Accessory Dwelling shall be located in the rear yard of the lot of the One-Family Dwelling or shall be required to meet minimum setback requirements for an accessory building in accordance with Section 20.30.500, except that a new detached ~~secondary~~ Accessory Dwelling Unit that maintains a minimum interior side setback of ~~five (5)~~four (4) feet may be located at a distance of forty-five (45) feet from the front property line.

4. A detached Accessory ~~Secondary~~ Dwelling shall be located at least six (6) feet away from the One-Family Dwelling.

5. A detached one story Accessory ~~Secondary~~ Dwelling shall be limited to a maximum height of eighteen (18) feet. A two story detached Accessory Dwelling may have a maximum roof height of twenty four (24) feet above grade. Roof height shall be determined in accordance with San José Municipal Code Section 20.200.510.

6. A detached ~~secondary~~ Accessory Dwelling may be attached to an existing or proposed accessory building, including a garage so long as current ~~building~~ Building C~~c~~ode requirements and requirements to address fire or safety hazards are met. A detached Accessory ~~Secondary~~

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Dwelling that is attached to an existing or proposed accessory building, including a detached Accessory ~~Secondary~~ Dwelling constructed above an existing or proposed accessory building, shall not have any connecting opening between the accessory building and Accessory ~~Secondary~~ Dwelling, unless all connected areas meet current ~~residential~~ Bb~~b~~uilding Code and Ff~~f~~ire Cc~~o~~ode requirements, and the maximum gross square footage for all connected areas does not exceed the limits set forth in Section 20.30.~~150~~460.~~D~~DC above. Notwithstanding the provisions ~~of Section 20.30.150.K(6)~~ above, a detached Accessory ~~Secondary~~ Dwelling that is attached to an existing or proposed garage may have a connecting opening, provided the garage does not have a connecting opening to any other accessory ~~structure~~building not used as a garage.

7. The cumulative total of the rear yard covered by the ~~Secondary~~accessory Dwelling, accessory buildings, and accessory structures, except pools, shall not exceed forty percent (40%) of the rear yard except that such ratio shall not prohibit an eight hundred (800) square foot Accessory Dwelling Unit with minimum four (4) foot side and rear yard setbacks.

8. If situated on a lot that is equal to or greater than one-half (½) an acre in size, an accessory ~~secondary~~ dwelling shall be located more than one hundred (100) feet ~~(100)~~ from a riparian corridor as measured from top of bank or vegetative edge, whichever is greater.

~~9. A secondary dwelling shall be subject to provisions in this Municipal Code that prevent adverse impacts on a real property that is listed in the California Register of Historic Places, otherwise known as the California Register of Historic Resources.~~

K~~L~~. Design Standards. ~~Secondary~~ Accessory dwellings shall comply with the following design standards:

1. ~~An attached secondary dwelling shall incorporate architectural style, and similar materials and color of the one family dwelling, including but not limited to roofing, siding, and windows and doors.~~Any new addition for an attached Accessory Dwelling unit, on a property listed on the San José Historic Resources Inventory, shall be located along the rear wall of an existing primary dwelling, unless the Accessory Dwelling unit is fully enclosed within the existing building walls.

   a. The attached Accessory Dwelling unit shall not result in the enclosure of or net loss of any existing porch, unless such porch is located along the rear façade, and the enclosure of or net loss does not exceed ten percent (10%) or more of an existing porch.

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b. If an attached Accessory Dwelling unit is constructed on a second story of the primary dwelling, the Accessory Dwelling Unit shall not overhang the lower floors of the primary building, and shall be set back at least forty-five (45) feet from the front property line.

c. The roofline and materials of the attached Accessory Dwelling unit shall be differentiated from the primary dwelling.

2. ~~A new secondary dwelling located on a site that is listed on the California Register of Historic Places, otherwise known as the California Register of Historic Resources, shall incorporate architectural style, and similar materials and colors, including but not limited to roofing, sidings, and windows and doors of the one family dwelling.~~ A detached Accessory Dwelling unit may be constructed on any property listed on the City's Historic Resources Inventory, provided the Accessory Dwelling unit is set back at least forty-five (45) feet from the front property line.

3. The front door of any attached ~~secondary~~ Accessory Dwelling shall not be located on the same facade as the front door of the One-Family Dwelling if that facade fronts onto a street, unless all other locations for placement of the ~~secondary~~ Accessory Dwelling front door would require a passageway as defined in Government Code Section 65852.2(i)(5). For a detached ~~secondary~~ Accessory Dwelling constructed above an existing or proposed accessory building, including a garage, an exterior stairway or fully enclosed interior stairway access may be allowed.

4. Minimum sill height for openings for a second story detached ~~secondary~~Accessory Dwelling Unit shall be maintained at five (5) feet, measured from the interior floor level, along the building walls parallel to the nearest side and rear property lines, and located within a minimum setback of fifteen (15) feet from those property lines.

5. Any second story balconies, unenclosed entry landings, and decks shall comply with the following requirements:

   a. Maintain minimum setback of fifteen (15) feet from the rear and side property line measured from the projecting face.

   b. Not be located~~provided~~ along the building walls parallel to the nearest side and rear property lines.

6. Any portion of balconies and landings with areas greater than fifty percent (50%) enclosed with walls and covered shall be included in the

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total unit floor area~~.~~, measured to exterior framing, except that the floor area of an internal stairwell will be counted once.

7. Any porches or balconies that project beyond the footprint of the ~~secondary~~ Accessory Dwelling Unit shall be included in the cumulative total of the rear yard coverage tabulation.

L~~M~~. Application - Owner Certification. As part of the building permit application process for an ~~secondary~~ Accessory Dwelling, the owner of record shall submit a declaration, under penalty of perjury, stating that the ~~secondary~~ Accessory Dwelling is not intended for sale separate from the primary residence, but may be rented. Nothing in this section shall be deemed to affect the legal status of an ~~secondary~~ Accessory Dwelling built with a lawfully issued permit if the property is subsequently transferred or sold, or if the one-family dwelling or ~~secondary~~ Accessory Dwelling is subsequently rented or leased.

M. The requirements of Subsection L shall not apply to an Accessory Dwelling Unit constructed on a property developed by a Qualified Non-profit Corporation and there is an enforceable restriction on the use of the land pursuant to a recorded contract between the qualified buyer and the qualified nonprofit corporation that satisfies all of the requirements specified in paragraph (10) of subdivision (a) of Section 402.1 of the Revenue and Taxation Code. Accessory Dwelling Units meeting these requirements may be sold or conveyed separately from the primary residence to a qualified buyer in conformance with Government Code Section 65852.25.

~~N. Code Compliance - One-Family Dwelling. An application for a secondary dwelling building permit shall not be deemed complete, and a building permit shall not be issued, if the city determines that the one-family dwelling will continue to have uncorrected violations involving applicable zoning and building code requirements, or fire or safety hazards.~~

N~~O~~. ~~Other Permits Required. Nothing in this section supersedes requirements for obtaining development permits pursuant to this title, or for properties subject to the historic preservation permit requirements set forth in Chapter 13.48 of Title 13 of the San José Municipal Code.~~

~~P~~. ~~Notwithstanding Subsection O above, a~~Additional development permits shall not be required for the following:

1. ~~A new detached Secondary Unit located on a site that is listed on the San José Historic Resources Inventory, not including sites within a City Historic District or listed as City Landmark.~~An Accessory Dwelling unit located on a site that is listed on the San José Historic Resources

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Inventory that meets the design standards listed in 20.30.460(K)(1) and (L)(2) shall not require issuance of a Single-Family House Permit, or Historic Preservation Permit for a site that is a designated City Landmark or within a City Landmark District. When a garage, carport, or other accessory structure is demolished or converted into an Accessory Dwelling Unit, a Single-Family House Permit, or Historic Preservation Permit shall not be required for the demolition or conversion.

2. A new detached or attached Accessory Dwelling Unit~~Secondary Unit~~ located in a planned development zoning district otherwise subject to requirements of Section 20.100.500 (A)(4).

3. A new detached Accessory Dwelling Unit ~~Secondary Unit~~ located in a low density cluster development, in accordance with provisions of this part and with San José Municipal Code Section 20.30.500, and otherwise subject to minimum side setback requirements of the primary dwelling unit and requirements of Section 20.100.500 (A)(4).

4. A new attached Accessory Dwelling~~Secondary Unit~~, located in a low density cluster development, otherwise subject to requirements of Section 20.100.500 (A)(4).

OQ. Compliance with Building and Zoning Codes. An accessory ~~secondary~~ dwelling shall be built in accordance with the building code set forth in Title 24 of the San José Municipal Code ("Municipal Code") and in conformance with Title 20 of the San José Municipal Code.

PR. Located on One Lot. An Accessory ~~secondary~~ Dwelling shall be located within the same subdivision unit and on the same legal parcel as the One-Family Dwelling to which it is ancillary.

20.30.470 Junior Accessory Dwelling Units – Single Family Dwelling Lot

Notwithstanding any other provision of this Title to the contrary, Junior Accessory Dwelling Units, for lots consisting of single-family dwellings, that meet all of the following criteria shall be allowed pursuant to the provisions of this Part:

A. Shall not exceed five hundred (500) square feet, and constructed within the existing walls of the primary dwelling unit.

B. Shall include a separate entrance from the main entrance to the primary dwelling unit, and may include an interior entry to the main living area.

C. May share sanitation facilities with the existing primary dwelling.

D. Shall require owner-occupancy in the single-family residence in which the Junior Accessory Dwelling Unit will be permitted. Owner-occupancy shall not be required if the owner is another governmental agency, land trust, or housing organization.

E. Shall require the recordation of a deed restriction, which shall run with the land, and which shall be on file with the City, to include restriction on the size and attributes of the junior accessory unit that conforms with this section; and prohibition on the sale of the Junior Accessory Dwelling Unit separate from the sale of the single-family residence, including a statement that the deed restriction may be enforced against future purchasers.

F. Shall include at least an efficiency kitchen which shall include all of the following:

1. A cooking facility with appliances; and

2. A food preparation counter and storage cabinets that are of reasonable size in relation to the size of the Junior Accessory Dwelling Unit.

G. A Junior Accessory Dwelling Unit may also be allowed on the same lot with an Accessory Dwelling Unit, provided the following criteria are met:

1. The Accessory Dwelling Unit is fully detached and the Junior Accessory Dwelling Unit is within the proposed space of a single-family dwelling or existing space of a single-family dwelling; and

2. The Accessory Dwelling Unit shall not exceed a total floor area limitation of more than 800 square feet and a height limitation of 16 feet.

H. No additional parking shall be required for construction of a Junior Accessory Dwelling Unit.

I. When a garage is converted into a Junior Accessory Dwelling Unit, any off-street parking spaces that were provided by such garage shall be replaced in accordance with Section 20.90.220.B.3

20.30.480 Accessory Dwelling Units –Two-family and Multifamily Dwelling Lots

Notwithstanding any other provision of this Title to the contrary, Accessory Dwelling Units that meet all of the following criteria shall be allowed pursuant to the provisions of this Part:

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A. Accessory Dwelling Units may be allowed within existing portions of Two-Family/Multifamily Dwellings that are not used as livable space, including, but not limited to, storage rooms, boiler rooms, passageways, attics, basements, or garages, if each unit complies with state building standards for dwellings.

B. At least one Accessory Dwelling Unit may be provided per lot, subject to requirements in subsection A. The attached Accessory Dwelling Units may be permitted, in order of application, to not exceed a maximum of twenty-five percent (25%) of total number of all units within that lot boundary.

C. No more than two detached Accessory Dwelling Units may be allowed on a Two-Family/Multifamily Dwelling lot. A detached Accessory Dwelling Unit shall be located along the rear property line at a minimum setback distance of forty-five (45) feet from the front property line. A maximum floor area of eight hundred (800) square feet, a maximum height limit of sixteen (16) feet, and minimum rear yard and side setbacks of four (4) feet shall apply.

D. The accessory dwelling units shall comply with, as applicable, all of the provisions of Section 20.30.460.

20.30.490 Amnesty Program

Notwithstanding any other provision of this Title, Accessory Dwelling Units that meet all of the provisions set forth in the City of San José Accessory Dwelling Unit Amnesty Program shall be allowed.

SECTION 6. Section 20.80.160 of Chapter 20.90 of Title 20 of the San José Municipal Code is amended to read as follows:

20.80.160 General

Incidental Transient Occupancy meeting the criteria of this Part is an allowed use in any One-Family Dwelling, Two-Family Dwelling, Multiple Family Dwelling, Mobilehome, Live/Work Unit, ~~secondary dwelling~~ or Guest House. Incidental Transient Occupancy shall not be allowed in an Accessory Dwelling Unit.

SECTION 7. Section 20.90.220 of Chapter 20.90 of Title 20 of the San José Municipal Code is amended to read as follows:

20.90.220 Reduction in Required Off-Street Parking Spaces

A. Alternative Transportation.

1. A reduction in the required off-street vehicle parking spaces of up to fifty percent (50%) may be authorized with a development permit or a development exception if no development permit is required, for structures or uses that conform to all of the following and implement a total of at least three transportation demand management (TDM) measures as specified in the following provisions:

    a. The structure or use is located within two thousand (2,000) feet of a proposed or an existing rail station or bus rapid transit station, or an area designated as a neighborhood business district, or as an urban village, or as an area subject to an area development policy in the City's General Plan or the use is listed in Section 20.90.220.G; and

    b. The structure or use provides bicycle parking spaces in conformance with the requirements of Table 20-90.

    c. For any reduction in the required off-street parking spaces that is more than twenty percent, the project shall be required to implement a transportation demand management (TDM) program that contains but is not limited to at least one of the following measures:

        i. Implement a carpool/vanpool or car-share program, e.g., carpool ride-matching for employees, assistance with vanpool formation, provision of vanpool or car-share vehicles, etc., and assign carpool, vanpool and car-share parking at the most desirable on-site locations at the ratio set forth in the development permit or development exception considering type of use; or

        ii. Develop a transit use incentive program for employees and tenants, such as on-site distribution of passes or subsidized transit passes for local transit system (participation in the regionwide Clipper Card or VTA EcoPass system will satisfy this requirement).

    d. In addition to the requirements above in Section 20.90.220.A.1.c for any reduction in the required off-street parking spaces that is more than twenty percent (20%), the project shall be required to implement a transportation demand management (TDM) program that contains but is not limited to at least two of the following measures:

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i. Implement a carpool/vanpool or car-share program, e.g., carpool ride-matching for employees, assistance with vanpool formation, provision of vanpool or car-share vehicles, etc., and assign carpool, vanpool and car-share parking at the most desirable on-site locations; or

ii. Develop a transit use incentive program for employees, such as on-site distribution of passes or subsidized transit passes for local transit system (participation in the regionwide Clipper Card or VTA EcoPass system will satisfy this requirement); or

iii. Provide preferential parking with charging station for electric or alternatively-fueled vehicles; or

iv. Provide a guaranteed ride home program; or

v. Implement telecommuting and flexible work schedules; or

vi. Implement parking cash-out program for employees (non-driving employees receive transportation allowance equivalent to the value of subsidized parking); or

vii. Implement public information elements such as designation of an on-site TDM manager and education of employees regarding alternative transportation options; or

viii. Make available transportation during the day for emergency use by employees who commute on alternate transportation (this service may be provided by access to company vehicles for private errands during the workday and/or combined with contractual or pre-paid use of taxicabs, shuttles, or other privately provided transportation); or

ix. Provide shuttle access to Caltrain stations; or

x. Provide or contract for on-site or nearby child-care services; or

xi. Incorporate on-site support services (food service, ATM, drycleaner, gymnasium, etc. where permitted in zoning districts); or

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xii. Provide on-site showers and lockers; or

xiii. Provide a bicycle-share program or free use of bicycles on-site that is available to all tenants of the site; or

xiv. Unbundled parking; and

e. For any project that requires a TDM program:

i. The decision maker for the project application shall first find in addition to other required findings that the project applicant has demonstrated that it can maintain the TDM program for the life of the project, and it is reasonably certain that the parking shall continue to be provided and maintained at the same location for the services of the building or use for which such parking is required, during the life of the building or use; and

ii. The decision maker for the project application also shall first find that the project applicant will provide replacement parking either on-site or off-site within reasonable walking distance for the parking required if the project fails to maintain a TDM program.

2. A reduction in the required off-street vehicle parking spaces for a structure or use of up to ten percent or up to two off-street vehicle parking spaces, whichever is less, may be authorized with a development permit or a development exception if no development permit is required for a particular use, for nonresidential uses in conformance with the following:

a. In addition to the off-street bicycle parking spaces required for the structure or use, ten off-street bicycle parking spaces consisting of bicycle racks or five off-street bicycle parking spaces consisting of bicycle lockers shall be provided for every one required off-street vehicle parking space that is reduced; and

b. The bicycle parking spaces shall conform to all of the requirements of this Cchapter.

B. One-Family Dwellings.

1. A reduction in the required off-street vehicle parking for a one-family dwelling is allowed by right if the following criteria are met:

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a. At least one covered parking space is provided; and

b. No more than one dwelling or one One-Family Dwelling and one Secondary Dwelling occupy the lot; and

c. The location of the required covered parking is set back a minimum of forty-five (45) feet from the front lot line when the garage is accessed via a curb cut from the front lot line and forty (40) feet from the side corner lot line when the garage is accessed via a curb cut from the side corner lot line; and

d. The required covered parking is accessed by a driveway of a width no less than ten (10) feet and no more than twelve (12) feet; and

e. Any curb cuts accessing the parking shall be in proportion to the driveway width; and

f. No additional paving in the front setback shall be designated or used for parking; and

g. The covered parking structure shall meet all other applicable regulations of this title.

2. When a garage, carport, or covered parking structure is demolished or converted in conjunction with the construction of an Accessory ~~Secondary~~ Dwelling, ~~and the required off-street parking spaces that were provided by such garage, carport, or covered parking structure, are required to be replaced on-site, the~~ no replacement spaces ~~may be covered spaces, uncovered spaces, or tandem spaces, or replaced by the use of mechanical automobile parking lifts and in any setback area unless specific findings are made that tandem parking and parking in setback areas are not feasible based on specific site or regional topographical or fire and life safety conditions~~ are required. A garage, carport or parking structure shall be deemed converted when all or any part of an Accessory ~~Secondary~~ Dwelling is proposed to be constructed in all or any part of the area occupied by a garage, carport or parking structure. ~~Such required replacement parking spaces shall comply with Section 20.90.140 of Chapter 20.90, and the provisions for stormwater management and treatment in Chapter 20.95.~~

3. When a garage is converted in conjunction with the construction of a Junior Accessory Dwelling, and the required off-street parking spaces that were provided by such garage are required to be replaced on-site, the replacement spaces may be covered spaces, uncovered spaces, or

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tandem spaces, or replaced by the use of mechanical automobile parking lifts and in any setback area unless specific findings are made that tandem parking and parking in setback areas are not feasible based on specific site or regional topographical or fire and life safety conditions. A garage shall be deemed converted to a Junior Accessory Dwelling Unit when all or any part of the Junior Accessory Dwelling Unit is proposed to be constructed in all or any part of the area occupied by a garage.

C. Ground Floor Commercial Uses in Neighborhood Business Districts or Urban Villages.

1. The off-street vehicle parking requirement for uses subject to Note 3 on Table 20-190 in Section 20.90.060 shall be reduced to one space per four hundred (400) square feet of floor area, provided all of the following requirements are met:

a. The site is designated on the general plan land use/transportation diagram with the neighborhood business district overlay or designated as urban village; and

b. The use is located on the ground floor of a building; and

c. No parking reduction is approved for a use pursuant to Section 20.90.220.A.1 of this Cchapter.

D. Multiple Family Residential in the Main Street Districts. The decision maker may reduce the required vehicle parking spaces for a multiple-family residential use in the pedestrian oriented zoning districts with a development permit based on the following findings:

1. The project includes one or more of the following options:

a. The project includes unbundled parking that maximizes the efficient use of available parking; or

b. The project includes a car-share program that reduces the demand for parking spaces; or

c. The project promotes safe pedestrian movements by eliminating or significantly reducing the need for vehicular driveways to the Main Street by means of parcel assembly or shared access or by providing a new pedestrian walkway to the Main Street that facilitates safe and convenient access for a substantial segment of the surrounding neighborhood; and

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2. The project does not include a parking reduction pursuant to Section 20.90.220.G; and

3. For a project that includes ground floor commercial building space, the project is designed in a manner that ensures the availability of adequate parking for ground floor commercial uses; and

4. The project provides vehicle parking spaces at a parking ratio of no less than 0.8 parking spaces per residential unit.

E. Nonresidential Uses in a Main Street District. The decision maker may reduce the required vehicle parking spaces for non-residential uses by up to thirty percent (30%) with a development permit based on the following findings:

1. The project achieves one of the following:

a. The project promotes safe pedestrian movements by eliminating or significantly reducing the need for vehicular driveways to the Main Street through parcel assembly or shared access or by providing a new pedestrian walkway to the Main Street that facilitates safe and convenient access for a substantial segment of the surrounding neighborhood; or

b. The project promotes the efficient use of available parking by providing shared parking facilities; and

2. The project does not include a parking reduction for ground-floor commercial building area subject to reduced parking pursuant to Section 20.90.220.A or 20.90.220.C of this title; and

3. For a project that includes ground floor commercial building space, the project is designed in a manner that ensures the availability of adequate parking for ground floor commercial uses.

F. Miniwarehouse/Ministorage.

1. A reduction in the required off-street parking may be authorized with a development permit for those miniwarehouse/ministorage buildings meeting all of the following requirements:

a. Buildings are single story; and

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b. Loading spaces are available directly adjacent to those storage units contained in the single-story building.

G. Other Uses.

1. Up to a twenty percent (20%) reduction in the required off-street parking for private instruction or personal enrichment; sororities, fraternities and dormitories occupied exclusively (except for administrators thereof) by students attending college or other educational institutions; SROs; efficiency living units; emergency residential shelters; residential care/service facilities; convalescent hospitals; hotels/motels; bed and breakfast inns; senior housing uses; recreation uses; gasoline service or charge stations when combined with other uses; and performing arts rehearsal space uses may be approved with a development permit or a development exception if no development permit is required, provided that such approval is based upon the findings that the project is either within two thousand feet of an existing or proposed bus or rail transit stop; or the use is clustered with other uses that share all parking spaces on a site.

2. Up to a one hundred percent (100%) reduction in the required off-street parking for emergency residential shelters may be approved with a development permit or a development exception if no development permit is required.

SECTION 8. A new Section 20.200.324 is added to Chapter 20.30 of Title 20 of the San José Municipal Code, to be numbered, entitled, and to read as follows:

20.200.324 Dwelling, Junior Accessory Dwelling Unit or JADU

"Junior Accessory Dwelling Unit" or "Junior Accessory Dwelling" means a residential unit that is not more than five hundred (500) square feet in size, and contained entirely within an existing or proposed single-family structure and meets all of the requirements of Section 20.30.470. A Junior Accessory Dwelling Unit may include separate sanitation facilities, or may share sanitation facilities with the existing or proposed single-family structure.

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SECTION 9. 20.200.325 of Chapter 20.30 of Title 20 of the San José Municipal Code, is amended to read as follows:

20.200.325 Dwelling, ~~Secondary, or~~ Accessory Dwelling Unit or ADU

~~A~~ "~~secondary dwelling~~Accessory Dwelling Unit" or "Accessory Dwelling" means an attached or detached residential dwelling which is ancillary to a One-Family, Two-Family, or Multiple-Family ~~-~~Dwelling and provides complete independent living facilities for one or more persons that include permanent provision for living, sleeping, eating, cooking, and sanitation on the same parcel as the One-Family, Two-Family, or Multiple-Family Dwelling ~~Unit~~ is situated. ~~A secondary dwelling shall be considered an accessory dwelling unit for the purpose of application of state law pertaining to accessory dwelling units.~~

SECTION 10. This Ordinance is declared by the City Council to be an urgency measure necessary for the immediate preservation of the public peace, health or safety. The facts constituting such urgency are as follows: the California State Legislature adopted three bills (Assembly Bill 881, Senate Bill 13, and Assembly Bill 68) which become effective January 1, 2020, and are intended to increase the state's supply of affordable housing by facilitating the construction of accessory dwelling units ("ADUs"); California Government Code Section 65852.2(a)(4), as amended, provides that any existing local ADU ordinance failing to meet the requirements of State law shall be null and void unless and until the local agency adopts a new ordinance complying with California Government Code Section 65852.2; and the City Council finds it is necessary to adopt this Ordinance as such an urgency ordinance to immediately address changes to State law to replace regulations for ADUs, to address peace, health and safety issues related to the effective regulation of ADUs, and avoid any statutory conflicts.

SECTION 11. This Ordinance shall become effective immediately upon its adoption pursuant to Section 605 of the Charter of the City of San Jose and shall remain effective until the effective date of any superseding ordinance.

ADOPTED this _____ day of _____, 2019, by the following vote:

AYES:

NOES:

ABSENT:

DISQUALIFIED:

SAM LICCARDO
Mayor

ATTEST:

TONI J. TABER, CMC
City Clerk

DRAFT--Contact the Office of the City Clerk at (408)535-1260 or CityClerk@sanjoseca.gov for final document.