

DRAFT

ORDINANCE NO. _____

AN ORDINANCE OF THE CITY OF SAN JOSE AMENDING SECTION 23.04.120 OF CHAPTER 23.04 (DOWNTOWN SIGN ZONE) OF TITLE 23 TO MAKE MINOR CLARIFYING TEXT ALTERATIONS RELATED TO SKYLINE OR ROOFTOP SIGNS; REPEALING SECTION 23.02.1370 OF CHAPTER 23.02 (SIGN VARIANCES) OF TITLE 23; AND TO MAKE OTHER TECHNICAL, NON-SUBSTANTIVE, OR FORMATTING CHANGES 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 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

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 23.04.120 of Chapter 23.04 of Title 23 of the San José Municipal Code is amended to read as follows:

23.04.120 Types of signs.

A. Any combination of signs.

1. Signage allowed by Section 23.04.110 may consist of any combination of allowed freestanding signs, flat-mounted signs, projecting signs, awning signs, banners, inflatable or balloon signs, arcade signs, programmable electronic signs for assembly spaces, skyline signs and roof signs. Segmented signs are allowed.
2. Each occupancy frontage may also display window signs, temporary signs, safety or directional signs, and any other signs expressly authorized by this code.

B. Freestanding signs.

1. Except as provided in this subsection, freestanding signs shall not exceed eight feet in height above grade.
2. Freestanding signs that are less than six feet wide may be up to twenty-five feet in height above grade.
3. The height of construction signs shall be as set forth in Section 23.04.610B.6.

4. Freestanding roof signs in accordance with Subsection G below and freestanding programmable electronic signs in accordance with Subsection J below shall not be subject to the foregoing height restrictions.

C. Flat-mounted signs.

1. Flat-mounted signs (except for permitted skyline signs, flat roof-top signs and banner signs) shall be displayed no higher than thirty feet above grade, except as otherwise specifically allowed in this section and in Section 23.04.120J.4. for assembly spaces.
2. Flat-mounted signs on buildings located within two hundred feet of the travel lane of a freeway may be located at a height of up to sixty feet above grade. Such signs may orient towards a freeway regardless of whether there is an intervening street.
3. Flat-mounted signs on buildings containing wholly non-residential uses and which buildings are one hundred forty feet or greater in height above grade may be located up to a height of sixty feet above grade.
4. Flat-mounted signs (except for permitted skyline signs, flat roof-top signs and banner signs) shall be displayed no higher than eighty feet above grade when the building meets all of the following criteria:
 - a. The building is eighty feet or greater in height above grade; and
 - b. The building has a building footprint of one hundred fifty thousand square feet or greater.
5. Flat-mounted signs shall not project more than two inches from the face of the building, except for:

- a. Flat-mounted signs consisting of individual letters or letters attached to raceways; or
 - b. Flat roof-top signs that may project no more than sixty inches from the face of the roof.
- D. Vertical projecting signs, fin signs and arcade signs.
 - 1. Vertical projecting signs:
 - a. Shall be located at least twenty feet but no higher than seventy feet above grade, except that any vertical projecting sign with a total area that is one hundred square feet or less shall be located fifteen or more feet above grade; and
 - b. Shall project no more than five feet six inches from the building surface to which the sign is attached; and
 - c. May project above the cornice or parapet of a building a distance no greater than ten feet.
 - 2. Fin signs.
 - a. Shall be located at least eight feet but no higher than thirty feet above grade, except that in the San Pedro Square signage area a fin sign on a single-story building may be located no higher than forty feet above grade;
 - b. Shall project no more than seven feet six inches from the building surface to which the sign is attached; and
 - c. May project above the cornice or parapet of a building a distance no greater than the vertical dimension of the sign divided by four, except

that a fin sign located in the San Pedro Square signage area on a single-story building may project above the cornice or parapet a distance greater than the vertical dimension of the sign divided by four.

3. Arcade signs.

- a. Shall be located at least eight feet above grade.

E. Awning signs; porte-cochere signs.

- 1. Awning signs shall be located no higher than thirty feet above grade.
- 2. Signage on awnings shall be limited to twenty-five percent of the exterior surface area of the awning.
- 3. Signage on porte-cocheres shall be allowed only on vertical surfaces of the porte-cochere and shall be limited to twenty-five percent of the exterior surface area of the vertical surfaces of the porte-cochere.

F. Banner signs.

- 1. Freestanding banners shall comply with the provisions of Section 23.04.120B. above.
- 2. Projecting banners shall comply with the provisions of Section 23.04.120D. above.
- 3. Flat-mounted banners:
 - a. Shall not exceed twenty feet in width; and

- b. Shall be located no higher than fifty feet above grade, provided that banners located higher than thirty feet above grade shall be mounted within building recesses or portals.
- 4. Notwithstanding any provision of this chapter to the contrary, buildings with a footprint of seventy-five thousand square feet or greater may erect banners only in compliance with all of the following criteria:
 - a. A total maximum of five banners shall be allowed at any time;
 - b. One banner may be up to a maximum of one thousand two hundred square feet in total sign area and any and all remaining banners may be up to a maximum of six hundred square feet in total sign area; and
 - c. All banners shall be placed no higher than eighty feet above finished grade; and
 - d. All banners shall contain and display noncommercial messages only.
- G. Skyline signs; roof signs.
 - 1. Applicability.
 - a. Buildings ~~one hundred forty eight~~ feet or greater in height above grade may have either skyline signs or roof signs; and
 - ~~b. Buildings greater than eighty feet and less than one hundred forty feet in height above grade may have skyline signs; and~~
 - eb.** Non-garage uses on the top floor of parking garages may have skyline signs; and

- dc.** Buildings that are no more than one story in height and located within the San Pedro Square signage area may have one roof sign.

2. Dimensions.

- a. The total amount of square footage of sign area for all skyline signs or roof signs on buildings two hundred twenty-five feet or greater in height above grade shall not exceed two thousand square feet per building. Any one such skyline sign or roof sign shall not be larger than one thousand square feet.
- b. The total amount of square footage of sign area for all skyline signs or roof signs on buildings one hundred ninety feet or greater in height above grade and less than two hundred twenty-five feet in height above grade shall not exceed one thousand four hundred square feet per building. Any one such skyline sign or roof sign shall not be larger than seven hundred square feet.
- c. The total amount of square footage of sign area for all skyline signs or roof signs on buildings one hundred forty feet or greater in height above grade and less than one hundred ninety feet in height above grade shall not exceed one thousand one hundred square feet per building. Any one such skyline sign or roof sign shall not be larger than five hundred fifty square feet.
- d. The total amount of square footage of sign area for all skyline signs on buildings greater than eighty feet and less than one hundred forty feet in height above grade shall not exceed five hundred square feet per building. Any one such skyline sign shall not be larger than two hundred fifty square feet.

- e. The total amount of square footage of sign area for skyline signs for non-garage uses on the top floor of parking garages shall not exceed seven hundred fifty square feet per building. Any one such skyline sign shall not be larger than five hundred square feet.
 - f. Notwithstanding the provisions of Section 23.04.110A.2., the total amount of square footage of sign area for a roof sign on a building that is no more than one story in height and located in the San Pedro Square signage area shall not exceed two and twenty-five hundredths (2.25) square feet for each linear foot of building frontage. Such roof sign shall not extend more than ten feet above the cornice or parapet of a building.
- 3. Each skyline sign or roof sign shall be designed as an integral part of the building design and placed on a permanent architectural element which has been designed to accommodate it.
 - 4. There shall not be both a skyline sign and a roof sign on the same building or on connected buildings.
 - 5. Skyline signs and roof signs may be illuminated with external lighting; halolighting; and internal lighting if only the letters or symbols are illuminated. Such signs shall be illuminated only with continuous lighting, except that gradual color changes shall be allowed if there is no perception of flashing lights created.
 - 6. Skyline signs and roof signs on buildings greater than eighty feet in height above grade shall not reduce otherwise allowable signage for the building or parcel.

7. Unless otherwise set forth in this section, a total of two skyline or roof signs are allowed per building.
 8. Illuminated Skyline or Roof Signs located on buildings that are greater than eighty feet in height and less than one hundred and forty feet in height within one thousand (1,000) feet of a river or creek shall not be displayed to directly face that river or creek.
- H. Window signs. Window signs consistent with Section 23.02.1060 of this title shall be allowed on first- and second-story windows.
- I. Marquees.
1. Marquees are allowed for theatres and movie houses and on buildings containing marquees that historically were theatres or movie houses.
 2. A marquee, including any vertical projection, is a single sign and an architectural element. The vertical projection of a marquee may project above the cornice line of a building.
 3. Marquees may be animated signs or have animated sections.
 4. Marquee signage shall not be subject to the size and placement limitations elsewhere in this part, but instead shall be subject to the provisions of Section 23.04.110B.2.
- J. Programmable electronic signs.
1. For a single building with a footprint of at least one hundred twenty-five thousand square feet, a maximum of two, attached programmable electronic signs are allowed, subject to the approval of the director, whose

approval shall be issued when the sign or signs meet all of the following criteria:

- a. The sign(s) shall be located no higher than twelve feet from grade unless the director finds that a greater height achieves a pedestrian-level orientation; and
 - b. The sign(s) shall not reduce or obscure glazing; and
 - c. Each sign does not exceed a maximum size of eighteen square feet in sign area; and
 - d. No sign is displayed on the exterior of that portion of a building containing residential uses.
2. For a building with one or more single ground-floor occupancy frontages of at least one hundred linear feet, a maximum of one attached programmable electronic sign is allowed per single ground-floor occupancy frontage, or one attached sign for any ground floor occupancy with a total frontage of at least one hundred fifty feet on two streets, subject to approval of the director, whose approval shall be issued when the sign meets all of the following criteria:
- a. The sign shall be mounted to the building and located no higher than twenty-five feet above grade; and
 - b. The sign shall not reduce or obscure glazing; and
 - c. The sign shall not exceed a maximum size of thirty-five square feet in sign area and shall not exceed seventy five percent of the total sign area; and

- d. The sign shall not be mounted on the exterior of or illuminate that portion of a building facade or wall containing residential living units on the other side.
3. Programmable electronic kiosk signs. Programmable electronic kiosk signs are allowed subject to the following criteria and conditions:
- a. The total sign area on kiosks shall not exceed eighteen square feet per kiosk face in the aggregate, and no programmable electronic kiosk sign shall be located higher than eight feet in height above grade.
 - b. Programmable electronic kiosk signs may be animated and/or may be illuminated with continuous external or internal lighting.
 - c. Programmable electronic kiosk signs shall not be displayed on kiosks located within two hundred feet of another kiosk displaying a programmable display kiosk sign.
 - d. A minimum width of unobstructed sidewalk clearance of four feet shall be maintained around a kiosk for pedestrian traffic.
4. Assembly spaces.
- a. An attached or freestanding sign allowed for a small assembly space in accordance with Section 23.04.120 may have a programmable electronic sign component not to exceed seventy-five percent of the allowable sign area. No more than one sign (attached or freestanding) shall include a programmable electronic sign.
 - i. The maximum height for a freestanding programmable electronic sign shall be twenty-five feet above grade.

- ii. The maximum height for an attached programmable electronic sign shall be ~~shall be~~ thirty feet from grade.
 - b. An attached or freestanding sign allowed for a large assembly space in accordance with Section 23.04.120 may have a programmable electronic sign component not to exceed seventy-five percent of the allowable sign area.
 - i. The maximum height for a freestanding or attached programmable electronic sign shall be fifty feet from grade.
 - c. Other criteria.
 - i. The maximum area for a programmable electronic sign component shall be limited to fifty square feet if the sign is located one hundred feet from a residentially zoned parcel and to two hundred and fifty square feet for signs set back more than one hundred feet from a residentially zoned parcel.
5. Safety or directional signs for public parking garages.
- a. A safety or directional sign that is an attached sign with a programmable electronic sign component is allowed, subject to and so long as the sign fully meets the criteria set forth below in this Section 23.04.120J.5., and such sign shall not reduce otherwise allowable signage for a public parking garage:
 - i. The programmable electronic sign component of the sign shall be integrated with the allowed attached sign; and
 - ii. The programmable electronic sign component of the sign shall not be greater than ten square feet in sign area.

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feet in area may be located on one building frontage, all subject to the total maximum area allowed under Subsection 23.04.120M.1. above.

3. Architectural signs may be allowed on the exterior of that portion of a building containing residential uses.

N. Public parking garage signs.

1. Notwithstanding any other provisions of this code, one public parking garage sign per street frontage shall be allowed on any building containing a garage with two hundred or more parking spaces that are open and available for parking to the general public.
2. Such sign:
 - a. Shall be flat-mounted.
 - b. Shall be a maximum of one hundred square feet in sign area.
 - c. Shall be located at least thirty feet but no higher than seventy feet above grade and shall not project above the cornice or parapet of the building.
3. Such sign shall not reduce otherwise allowable signage for the parcel or building.

O. Freeway or highway off-ramp signs.

1. Subject to the provisions of Section 23.02.1180, a building greater than eighty feet in height above grade located on a parcel of real property that is directly adjacent to a freeway off-ramp or highway off-ramp may have only the following skyline or roof signs:

- a. A maximum of two skyline or roof signs that conform to all of the applicable requirements set forth in Section 23.04.120G.; or
- b. A maximum of one skyline or roof sign that conforms to all of the applicable requirements set forth in Section 23.04.120G. and one flat-mounted sign that meets all of the following criteria:
 - i. The size of the sign shall not exceed a maximum of one hundred square feet in sign area;
 - ii. The sign shall be mounted to the building with an orientation that is perpendicular to, and is not directly facing, the centerline of the freeway or highway off-ramp; and
 - iii. The sign shall not be visible from the main freeway or highway to which the off ramp is attached.

P. Flat roof-top signs.

- 1. Buildings with a footprint of one hundred fifty thousand square feet or greater may install a maximum of two flat roof-top signs that meet all of the following criteria:
 - a. Each flat roof-top shall not exceed a maximum of sixteen thousand square feet in sign area, and the total sign area of two flat roof-top signs shall not exceed a maximum of thirty-two thousand square feet; and
 - b. A flat roof-top sign may be externally or internally illuminated with continuous lighting between the hours of 7:00 a.m. and 12:00 a.m., but shall not be illuminated by any means after 12:00 a.m. and before 7:00 a.m.; and

- c. Any illumination of a flat roof-top sign shall fully conform with the city's lighting policies, unless an exception is granted therefor or applicable thereto; and
- d. Any illumination of a flat roof-top sign shall not produce light that is visible with the naked eye from public areas located within one hundred feet of the building on which the sign is installed.

Q. Inflatable or balloon signs.

- 1. Inflatable or balloon signs may be allowed on sites and in a manner meeting all of the following criteria:
 - a. The size of the parcel on which the inflatable or balloon sign would be located shall be a minimum of seven acres; and
 - b. A maximum of one inflatable or balloon sign may be installed on a building on each such parcel; and
 - c. The sign must be safely and securely mounted to the roof of a building with a minimum floor area of fifty thousand square feet and a maximum height of fifty feet.
- 2. The inflatable or balloon sign allowed under this section must meet the additional following criteria:
 - a. The inflatable or balloon sign shall be no greater than three thousand six hundred cubic feet in size; and
 - b. The inflatable or balloon sign shall extend no higher than the lesser of the following heights:

- i. Thirty feet above the building parapet or building roof surface if there is no parapet; or
- ii. The height set forth in a no hazard determination by the Federal Aviation Administration; and
- c. The inflatable or balloon sign shall extend no more than ten feet below the building parapet or building roof surface if there is no parapet.

R. Projected light signs.

- 1. A building with a footprint of one hundred thousand square feet or greater may be allowed one projected light sign on the building per calendar year that meets all of the following criteria:
 - a. A projected light sign shall be no greater than twelve thousand square feet in area; and
 - b. A projected light sign shall be located no higher than sixty feet above grade; and
 - c. A projected light sign shall not be of an illumination intensity or character that creates a safety hazard or undue disturbance for vehicles, pedestrian or occupants in the area, and shall conform to all applicable Federal Aviation Administration requirements; and
 - d. A projected light sign and associated projection equipment may be allowed only during such time period as specified in a permit issued by the director, finding that all the criteria specified in this section are met for a proposed projected light sign, and which time period in all

instances shall not exceed a maximum period of sixty days per calendar year; and

2. A permit application for a projected light sign shall be signed by all private property owners upon whose real property a projected light sign is projected, upon whose property associated projection equipment is located, and upon whose property the associated projected light directly traverses.
3. A projected light sign may be animated.
4. A projected light sign shall not reduce otherwise allowed signage area for the building upon which it is projected nor for any other affected property.

SECTION 2. Section 23.02.1370 of Chapter 23.02 of Title 23 of the San José Municipal Code is repealed:

~~23.02.1370 Sign variances.~~

- ~~A. Nothing herein shall preclude an applicant from requesting a variance from the provisions of this title.~~
- ~~B. The director, and the planning commission on appeal from a decision of the director, may, but shall not under any circumstances be required to, grant variances from the provisions of this title.~~
- ~~C. Such variances shall be referred to as sign variances and may be granted only pursuant to and in accordance with the procedure set forth in Chapter 20.100, Part 11 of Title 20, except that the findings required for issuance of a sign variance shall be as set forth in this section.~~

~~D. Neither the director nor the planning commission on appeal shall grant a sign variance unless it is found that:~~

~~1. Special circumstances uniquely applicable to the subject property deprive such property of the ability to display signs enjoyed by other property in the vicinity of the subject property and in the same zoning district or special sign zone or signage area. Such special circumstances shall include without limitation the size, shape, location or surroundings of the subject property, and the orientation of the buildings thereon, but shall expressly exclude any consideration of:~~

~~a. The personal circumstances of the applicant for variance; or~~

~~b. Any changes in the size or shape of the subject property made by the owner of the property and/or the applicant for variance, or made or occurring while the subject property was situated in the zoning district where it is now located, regardless of whether such changes were caused by the requirements and regulations of this Code; and~~

~~2. The sign variance, subject to such conditions as may be imposed thereon by the director or the commission:~~

~~a. Will not impair the utility or value of adjacent properties or the general welfare of the neighborhood;~~

~~b. Will not impair the integrity and character of the zoning district or special sign zone in which the subject property is located;~~

~~c. Will not materially add to visual clutter; and~~

~~d. Will not create visual blight.~~

~~E. With regard to freestanding signs, if a sign variance is issued granting a variance from a height or setback requirement, it shall not be necessary to also secure a development variance therefor.~~

~~F. With regard to attached signs:~~

- ~~1. A sign variance shall not be construed to allow a variance from any of the provisions of Chapters 20.20 through 20.60 of Title 20, and nothing contained in this section shall be construed as authorizing the issuance of sign variances effecting variances from such provisions; and~~
- ~~2. It shall be necessary to secure a development variance in order to obtain a variance from any of such provisions.~~

~~G. With regard to signs on historic buildings:~~

- ~~1. Because the ability of historic buildings to display signs is uniquely limited by virtue of the need to protect the structure's historical significance, a sign variance will allow flexibility in the placement of signs on historic buildings that are listed or eligible to be listed on the historic resources inventory of the city pursuant to Chapter 13.48 of Title 13 of this Code.~~
- ~~2. Notwithstanding the provisions of Subsection D. of this section, neither the director nor the planning commission on appeal shall grant a sign variance for signs on historic buildings listed or eligible to be listed on the historic resources inventory of the city pursuant to Chapter 13.48 of Title 13 of this Code, unless it is found that the sign variance, subject to such conditions as may be imposed thereon by the director or the commission:~~
 - ~~a. Will not impair the integrity and character of the historic building;~~

- ~~b. Will not impair the utility or value of adjacent properties or the general welfare of the neighborhood;~~
- ~~c. Will not impair the integrity and character of the zoning district or special sign zone in which the subject property is located;~~
- ~~d. Will not materially add to visual clutter; and~~
- ~~e. Will not create visual blight.~~

PASSED FOR PUBLICATION of title this ____ day of _____, 2021, by the following vote:

AYES:

NOES:

ABSENT:

DISQUALIFIED:

SAM LICCARDO
Mayor

ATTEST:

TONI J. TABER, CMC
City Clerk