

AN ORDINANCE OF THE CITY OF SAN JOSE AMENDING TITLE 19 (SUBDIVISION) AND VARIOUS SECTIONS OF TITLE 20 (ZONING ORDINANCE OR ZONING CODE) OF THE SAN JOSE MUNICIPAL CODE TO: (A) ADD A NEW CHAPTER 19.11, 'MINISTERIAL TENTATIVE MAPS,' AND RELATED STATE LAW REFERENCES; (B) IMPLEMENT CITY COUNCIL DIRECTION TO AMEND SENATE BILL 9 (SB 9) PROVISIONS IN CHAPTER 20.30 BY: (1) REVISING EXISTING SB 9 OBJECTIVE DESIGN STANDARDS WITHIN PART 8, 'SENATE BILL 9 IMPLEMENTATION,' (2) ADDING NEW PART 9, 'CITY PERMITTED STREAMLINED IMPLEMENTATION FOR TWO-UNIT DEVELOPMENTS ON A SINGLE LOT WITHIN TWO-FAMILY ZONING DISTRICTS; (3) ADDING NEW PART 9.5, 'STREAMLINED IMPLEMENTATION FOR PROPERTIES OF LESSER SIGNIFICANCE LISTED ON THE HISTORIC RESOURCES INVENTORY WITHIN R-1 AND R-2 ZONING DISTRICTS' TO ALLOW TWO-UNIT DEVELOPMENTS ON A SINGLE LOT; (4) AMENDING SECTIONS 20.80.300, 20.80.450, 20.100.610, 20.100.1030 AND 20.100.1040 TO INCORPORATE REFERENCES TO TWO-UNIT DEVELOPMENTS; AND (5) ADDING SECTION 20.200.675 TO INCLUDE NEW DEFINITION FOR 'LOT COVERAGE'; (C) AMEND CHAPTER 20.200 TO ADD SECTION 20.200.165 TO INCLUDE NEW DEFINITION FOR 'BUILDING, MAIN,' ADD SECTION 20.200.445 TO INCLUDE NEW DEFINITION FOR 'GROUP HOME,' AMEND EXISTING DEFINITION OF RESIDENTIAL CARE FACILITY IN SECTION 20.200.1010, AMEND EXISTING DEFINITION OF 'RESIDENTIAL SERVICE FACILITY' IN SECTION 20.200.1030, AMEND SECTION 20.200.1265, 'PERMANENT SUPPORTIVE HOUSING', AND INCLUDE REFERENCES TO TRANSITIONAL AND SUPPORTIVE HOUSING IN TABLE 20-50, SECTION 20.30.100, CHAPTER 20.30; (D) AMEND CHAPTER 20.80 'SPECIFIC USE REGULATIONS', PART 2.75, 'ACCESSORY DWELLING UNITS' BY AMENDING SECTION 20.80.176, 'STREAMLINED APPROVAL' AND ADDING SECTION 20.80.177, 'TREE REMOVAL', AND PART 2.76 'ACCESSORY DWELLING UNIT CONDOMINIUM' BY AMENDING SECTION 20.80.185, 'ADU CONDOMINIUM REQUIREMENTS', TO REVISE EXISTING ACCESSORY DWELLING UNIT PROVISIONS TO ENSURE COMPLIANCE WITH STATE LAW; (E) AMEND CHAPTER 20.190 'AFFORDABLE HOUSING DENSITY BONUSES AND INCENTIVES' TO IMPROVE READABILITY AND STREAMLINE EXISTING TEXT TO ENSURE COMPLIANCE WITH STATE LAW; (F) AMEND CHAPTER 20.195 'MINISTERIAL APPROVALS' IN ITS ENTIRETY TO: (1) AMEND EXISTING TEXT TO

IMPROVE READABILITY AND MAINTAIN COMPLIANCE WITH APPLICABLE STATE LAWS, AND (2) INCORPORATE MINISTERIAL APPROVAL PROVISIONS PURSUANT TO SENATE BILL 684 AND SENATE BILL 1123; (G) INCORPORATE PROVISIONS OF SENATE BILL 1418 BY AMENDING TABLE 20-90, SECTION 20.40.100, CHAPTER 20.40, 'COMMERCIAL ZONING REGULATIONS'; AMENDING TABLE 20-110, SECTION 20.50.100, CHAPTER 20.50, 'INDUSTRIAL ZONING REGULATIONS'; AMENDING TABLE 29-138, SECTION 20.55.203, CHAPTER 20.55, 'URBAN VILLAGE AND MIXED-USE ZONING DISTRICT USE REGULATIONS'; AMENDING TABLE 20-140, SECTION 20.70.100, CHAPTER 20.70, 'DOWNTOWN ZONING REGULATIONS'; AMENDING SECTION 20.80.600, PART 8 'GASOLINE SERVICE STATION CONVERSIONS,' OF CHAPTER 20.80, 'SPECIFIC USE REGULATIONS'; AND INCORPORATE PROVISIONS OF ASSEMBLY BILL 2632 IN TABLE 20-140, SECTION 20.70.100, CHAPTER 20.70, 'DOWNTOWN ZONING REGULATIONS'; (H) AMEND CHAPTER 20.80, 'SPECIFIC USE REGULATIONS,' PART 11, 'OFF-SALE OF ALCOHOLIC BEVERAGES' SECTION 20.80.900, 'OFF-SALE OF ALCOHOLIC BEVERAGES' TO ALLOW ALCOHOLIC BEVERAGES WITHIN PREVIOUSLY ESTABLISHED ENTERTAINMENT ZONE BOUNDARY; (I) INCORPORATE HEAT PUMPS BY AMENDING CHAPTER 20.30, 'RESIDENTIAL ZONING DISTRICTS,' SECTION 20.30.400, 'SETBACK AREAS – SETBACK AREA TO BE KEPT OPEN, UNOBSTRUCTED, AND UNOCCUPIED,' CHAPTER 20.40, 'COMMERCIAL ZONING DISTRICTS AND PUBLIC/QUASI-PUBLIC ZONING DISTRICT,' SECTION 20.40.400, 'SETBACK AREAS – OPEN, UNOBSTRUCTED, AND UNOCCUPIED,' CHAPTER 20.50 'INDUSTRIAL ZONING DISTRICTS,' SECTION 20.50.270, 'SETBACK AREAS – OPEN, UNOBSTRUCTED, AND UNOCCUPIED,' CHAPTER 20.55, 'URBAN VILLAGE AND MIXED-USE ZONING DISTRICTS,' AND SECTION 20.55.101, 'EXCEPTIONS TO SETBACK REGULATIONS'; (J) AMEND SECTION 20.55.104, "MUN MIXED USE NEIGHBORHOOD DEVELOPMENT STANDARDS' TO REVISE EXISTING DEVELOPMENT STANDARDS FOR IMPROVED CLARITY; (K) AMEND CHAPTER 20.100, 'ADMINISTRATION AND PERMITS', PART 7, 'SPECIAL USE PERMITS' TO INCORPORATE AMENDMENT PROVISIONS AND ADD SECTION 20.100.860, 'AMENDMENT FINDINGS'; AND TO MAKE OTHER TECHNICAL, NON-SUBSTANTIVE, OR FORMATTING CHANGES WITHIN THOSE SECTIONS OF TITLE 20 OF THE SAN JOSE MUNICIPAL CODE

WHEREAS, pursuant to Section 15168(c)(2) of the CEQA Guidelines, the City of San José has determined that 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. A new Chapter is added to Title 19 of the San José Municipal Code, to be numbered, entitled, and to read as follows:

CHAPTER 19.11
MINISTERIAL TENTATIVE MAPS

19.11.010 Filing and Processing Requirements

A. Any person proposing a subdivision of five (5) or more lots, lying wholly or partially within the City of San José shall file a ministerial tentative map with the

Director in a form prescribed by the Director. Upon receipt of such map, an authorized member of the Department of Planning, Building and Code Enforcement shall acknowledge and indicate either electronically or in writing the date such map was received by the Department of Planning, Building and Code Enforcement to the person who filed said map. Such map shall thereafter be processed and approved or disapproved ministerially by the Director in accordance with the Subdivision Map Act, when required by state law and with the terms and provisions of this Title 19.

- B. All projects that utilize this Section shall comply with the objective standards contained in the Comprehensive Land Use Plan (CLUP) for the Reid-Hillview Airport, as adopted by the Santa Clara County Airport Land Use Commission, to the extent permitted by state law.

19.11.020 Identity of Subdivider - Statement Required

Whenever a ministerial tentative map is filed with the Director, the subdivider shall be required to provide a statement indicating:

- A. They are the owner of the property proposed for subdivision; or
- B. They have an option or contract to purchase the property proposed for subdivision or the portion thereof which they do not own; or
- C. They are the authorized agent of one who meets the requirements of subsection A. or B. of this Section.

19.11.030 Preparation - Information to be Shown

Ministerial tentative maps, which are required to be filed with the Director, shall be prepared under the direction of a licensed land surveyor or registered civil engineer, shall be clearly and legibly drawn to scale, shall be of such size and form as may be prescribed by the Director, and shall clearly show and contain all of the following:

- A. The commercial name of the proposed subdivision and the subdivision tract number, if any has been assigned, placed in the lower right-hand corner of the map;
- B. The date and scale of the map, north point, and the approximate dimensions of the boundary of the subdivision;
- C. Sufficient description to permit the property embraced by the map to be located on the ground, including a key map drawn to a scale of five hundred (500) feet to

- the inch, showing the property in relation to the adjacent land and adjacent public streets and freeways;
- D. The names and addresses of the record owner, the subdivider, and the civil engineer or land surveyor under whose direction the map was prepared, including the registration number and telephone number of the engineer or surveyor;
- E. The names and/or numbers of adjacent subdivisions and the names of the record owners of unsubdivided property adjoining the proposed subdivision;
- F. The proposed use of the property being subdivided;
- G. A statement regarding existing zoning of the property being subdivided;
- H. The location of potentially dangerous areas within and adjacent to the proposed subdivision, including areas subject to stormwater overflow, inundation, flood hazard or geological hazard, the location, width and direction of flow of all watercourses and flood-control channels, the location of culverts, and all natural or man-made drainage devices within and adjacent to the proposed subdivision;
- I. The approximate location of all existing buildings on the property proposed to be subdivided which are to be retained in the subdivision;
- J. The approximate location of any existing well or wells on the property proposed to be subdivided;
- K. The approximate location and description of significant natural vegetation and trees, rock outcroppings, general slopes, natural drainage courses and other natural features within the proposed subdivision, together with an indication as to whether such features may be retained in the subdivision;
- L. The approximate lot layout, the approximate dimensions of each lot, and an identifying number of each lot in the proposed subdivision;
- M. The approximate radius of each centerline or right-of-way line for streets in the proposed subdivision;
- N. The angle of intersecting streets if such angle deviates from a right angle by more than four degrees;

- O. The width, purpose and approximate location of all existing easements or rights-of-way (other than for freeways, streets and alleys), whether public or private, within the proposed subdivision;
- P. The location, name (if existing), width and approximate grade of existing and proposed easements or rights-of-way for freeways, streets and alleys, whether public or private and pedestrian ways within the proposed subdivision, together with typical cross-sections showing the proposed construction of proposed streets within the proposed subdivision, whenever such proposed construction does not accord with the standard cross-sections for right-way widths, roadway widths, sidewalk widths, planting strip widths and median widths for various streets contained in Section 19.36.030;
- Q. If any streets or alleys shown on the tentative map are proposed to be private streets or alleys, they shall be clearly indicated;
- R. The source of water supply for domestic purposes and fire protection for the proposed subdivision;
- S. The proposed method of sewage disposal and drainage for the proposed subdivision;
- T. Contour lines showing one-foot contours for ground slopes of less than five (5) feet vertical distance, and one hundred (100) feet horizontal distance; and five (5)-foot contours for ground slopes in excess of five (5) feet vertical distance, and one hundred (100) feet horizontal distance. Contours of land adjacent to the proposed subdivision shall also be shown whenever the surface features of such land affect the design and/or improvement of the proposed subdivision. The source of contours shown on the map shall also be supplied;
- U. Sufficient space, at least eight (8) inches by eleven (11) inches, for certificates, approvals, etc., shall be supplied; provided, however, that if it is impracticable to place upon the tentative map any matter required by this Section, such matter or information shall be furnished in a written statement which shall be submitted with such map in the same number of copies as the tentative map; and
- V. Proposed public areas, such as school sites and park sites, within the proposed subdivision and on lands immediately adjacent thereto.

19.11.040 Filing Fee

Upon the filing of a ministerial tentative map with the Director, fees shall be paid concurrently to the City as set forth in the schedule of fees established by resolution of the City Council.

19.11.050 Action by Director - Conditions for Approval or Disapproval

- A. The Director shall approve or disapprove a ministerial tentative map in writing to the subdivider within the time prescribed by the Subdivision Map Act. The Director shall approve a ministerial tentative map that complies with state law and the City's objective standards.
- B. The Director shall disapprove a ministerial tentative map that does not comply with state law or the City's objective standards. Findings for disapproval shall be made in a writing to the subdivider pursuant to the Subdivision Map Act, with the exception of a conversion of an existing building into a condominium project or stock cooperative, unless new units are being added.

19.11.060 Concurrent Filing

An application for a tentative map may be filed and processed concurrently with other ministerial applications such as described in Chapter 20.195, Ministerial Approvals, or as further allowed by California State Government Code.

19.11.070 Geohazard Zones/Grading Plan Requirements

Whenever a subdivision is proposed on a property located in a Geologic Hazard Zone, as defined in Section 17.10.225 of Title 17, or sites located in the State of California Seismic Hazard Zone maps, a Geologic Assessment, Geologic Investigation, Geotechnical (Soil) Engineering Investigation, and Grading Plan, shall be required as part of the submittal packet. Any ministerial tentative map application for a parcel located in a Geologic Hazard Zone which fails to include the following supporting documentation shall be deemed incomplete.

- A. The Grading Plan shall be prepared by a civil engineer who is registered with the State of California. The Grading Plan shall indicate the existing and proposed topography and the cut-and-fill areas of the proposed subdivision, the existing structures to be retained within the proposed subdivision, and the existing structures outside the proposed subdivision within fifty (50) feet of the exterior boundaries of the proposed subdivision, and may include any additional information to enable the Director to determine the feasibility of the proposed

development and the relationship of the proposed subdivision to surrounding areas.

B. Geologic Assessment, Geologic Investigation, and Geotechnical (Soil) Engineering Investigation.

1. The report shall be prepared by a civil engineer or engineering geologist who is registered by the state of California, specializing in the field of soil and geologic analysis. Geologic investigation shall be performed under the supervision of an engineering geologist registered and certified by the state, except that geologic investigation, not for the purpose of determining engineering data, may be supervised by a geologist registered by the state. Soil investigation shall be performed under the supervision of a civil engineer registered by the state specializing in the field of soil analysis.
2. The report shall determine the existence, potential existence or likelihood of any geologic hazards. If geologic hazards are found within or adjacent to the proposed subdivision, or may affect such subdivision, proposed or existing structures, or adjacent territory, such hazards shall be considered in the report. Said report shall include a geologic map which shall show the boundaries of the areas in which such hazards exist, and the report shall recommend corrective measures to mitigate such hazards. If critical geologic hazards exist on or adjacent to the proposed subdivision, said report and the ministerial tentative map for which the report is submitted shall list, lot by lot, every lot within the proposed subdivision which the critical geologic hazards are likely to affect, if not corrected.
3. A final geologic and/or soil report shall be compiled by the subdivider and submitted to the city engineer before the improvements required by the City for the subdivision are accepted. If no improvements are required by the City for the subdivision, the final geologic and/or soil report shall be filed before the final map or parcel map is recorded. The final geologic and/or soil report shall consist of the preliminary geologic and/or soil report and any supplemental reports, amendments, revisions and reviews covering the geologic and/or soil conditions of the subdivision, including those previously required and prepared under Section 19.11.060, or under Section 17.04.280, in Uniform Building Code subsection 7006(c), of the San José Municipal Code, or under Section 2622 and Section 2623 of Division 2 of the Public Resources Code of the state, or any ordinances subsequently enacted by the City pursuant to Chapter 7.5 of Division 2 of the Public Resources Code of the state.

19.11.080 Waste Discharge Limitation

Notwithstanding any of the provisions of Section 19.12.130, the Director shall not approve any ministerial tentative map of any proposed subdivision, unless the Director shall determine whether the discharge waste from such proposed subdivision, subject to the conditions imposed thereon by the Director, into an existing community sewer system would result in violation of existing, requirements prescribed by California Regional Water Quality Control Board, pursuant to Division 7 (commencing with Section 1300) of the Water Code. In the event that the Director finds that the proposed waste discharge would result in or add to violation of requirements of such board, the Director may disapprove the ministerial tentative map of the subdivision.

19.11.090 Review of Ministerial Tentative Map by Other Agencies

- A. Utility Providers and Other Outside Agencies. Upon the filing of the ministerial tentative map, an authorized member of the Department of Planning, Building, and Code Enforcement shall forthwith transmit a copy of such map to the city engineer and such city, county and state officers or departments, public utility companies serving the areas embraced by the map and such other jurisdictions, agencies or bodies as may be designated by the Director or as required by the Subdivision Map Act, together with a request for a report and recommendation thereon to be returned to the Director by filing with the Department of Planning, Building, and Code Enforcement not later than fifteen (15) days from the date said ministerial tentative map is received by such city engineer or company, officer, department, jurisdiction, agency or body. Failure of the city engineer or any company, officer, department, jurisdiction, agency or body to which such map was transmitted to submit such a report or recommendation within such fifteen (15)-day period shall mean that the city engineer or such company, officer, department, jurisdiction, agency or body has no report or recommendation to submit concerning such ministerial tentative map.
- B. School Districts. Within ten (10) days of the filing of a ministerial tentative map as provided in Section 19.12.010, an authorized member of the Department of Planning, Building, and Code Enforcement shall send a notice of the filing of the ministerial tentative map to the governing board of any elementary, high school or unified school district within the boundaries of which the subdivision is proposed to be located. Such notice shall also contain information about the location of the proposed subdivision, the number of units, density, and any other information which would be relevant to the affected school district. Such governing board may review the notice and may send a written report thereon to the Director. If a written report is made by the governing board, the report shall indicate the impact of the proposed subdivision on the affected school district and shall make such recommendations as the governing board of the district deems

appropriate. If a written report is made by the governing board, such report shall be returned within twenty (20) working days of the date on which the notice was mailed to the school district for comment. In the event that the governing board of any such district fails to respond within the twenty (20)-day period, such failure to respond shall be deemed approval of the proposed subdivision.

SECTION 2. Part 8 of Chapter 20.30 of Title 20 of the San José Municipal Code is amended to read as follows:

Part 8
Senate Bill 9 Implementation

20.30.800 Purpose and Applicability

- A. This Part implements Government Code sections 68582.21 and 66411.7 as amended, herein referred to as Senate Bill 9. The purpose of this Part is to apply objective local development standards for projects covered by Senate Bill 9. This Part is applicable only so long as Senate Bill 9 is operative.
- B. Where this Part or Senate Bill 9 conflict with any other provisions of this Code, this Part and Senate Bill 9 shall control. Any development standard or requirement not specifically addressed by this Part or Senate Bill 9 must conform to all other provisions of this Code and all other objective policies and requirements governing subdivisions and/or construction of one-family or two-family dwellings.

20.30.810 Urban Lot Split Standards

- A. Lot design requirements:
1. Lot Frontage
 - a. Where fifty-five (55) feet of frontage on a public right of way is not proposed for both lots created by an Urban Lot Split, pursuant to Government Code Section 66411.7, each lot shall have a minimum of thirty (30) feet of frontage on a public right-of-way and an average width of thirty (30) feet, or
 - b. Where thirty (30) feet of frontage on a public right-of-way is not proposed for both lots created by an Urban Lot Split, one of the lots shall be provided with an access ~~by a~~ corridor ~~withof~~ either at least four (4) but no more than seven (7) 12-feet or at least twelve (12) feet but no more than fifteen (15) feet of frontage, subject to vehicle

travel lane width requirement on a public street, as required by subsection c. below.

- i. Said access corridor shall maintain a width of at least four (4)12 feet to seven (7) feet or twelve (12) feet to but no more than fifteen (15) feet for the entire length of the corridor.
- ii. The length of said access corridor shall be at minimum the required front setback of the zoning district in which the lot is situated.
- iii. The access corridor shall be kept free and clear of buildings or structures of any kind except for lawful fences and underground or overhead utilities.

c. Said access corridor width in subsection b. shall be subject to the minimum vehicle travel lane width as provided below:

<u>Travel lane width of public street on which the subject lot has access (in feet)</u>	<u>Access Corridor Width (in feet)</u>
<u>Less than or equal to 20</u>	<u>12-15</u>
<u>21 and greater</u>	<u>4-7 or 12-15</u>

Note: Travel Lane width is measured from extents of the inner edges of the lane, from center of edgeline to center of edgeline, and shall not include bike lanes, bike buffers, street parking, paved shoulders, curb or sidewalks. Where striping is not installed, street parking is presumed to have a width of seven (7) feet.

e.d. Where one of the lots created by an Urban Lot Split does not propose frontage on a public right-of-way, direct access to the public right-of-way must be provided through an easement for ingress and egress and emergency access. Said easement shall have the same dimension requirements of subsection b.

i. Said easement shall be a minimum of 12 feet but no more than 15 feet in width for the entire length of the easement.

ii. The length of said easement shall be at minimum the length of the required front setback of the zoning district in which the lot is situated.

~~iii.~~—Said easement shall be recorded as a Covenant of Easement on the Parcel Map for the Urban Lot.

2. Maximum lot depth, as required by Section 19.36.230 of this Code, shall be waived for lots created by an Urban Lot Split.

B. Property line and setbacks:

1. For lots accessed by a corridor of four (4) but no more than seven (7) feet or at least twelve (12) feet to fifteen (15) feet in width:
 - a. Front property line is the property line that abuts the public street.
 - b. The front setback area is the entire length of the four (4) but no more than seven (7) foot or at least twelve (12)-foot to fifteen (15)-foot-wide access corridor.
 - c. The rear property line is any property line that is generally parallel to the public right-of-way from which the lot gains access, and that abuts properties that are not a part of the Urban Lot Split.
 - d. The remaining property lines shall be considered side property lines.
2. For lots that do not abut a public street that are accessed by an easement:
 - a. There shall be no front property line.
 - b. The rear property line is any property line that is generally parallel to the public right-of-way from which the lot gains access, and that abuts properties that are not a part of the Urban Lot Split.
 - c. The remaining property lines shall be considered side property lines.

- C. All required utility connections shall be placed on the same parcel as the unit or units the utilities are serving, or shall be located within a utility easement.

- D. A minimum of one (1) dwelling unit shall exist on a lot being subdivided at time of recordation of a Parcel Map for an Urban Lot Split.

- E. Lots created through an Urban Lot Split shall not each contain more than two (2) dwelling units, inclusive of Accessory Dwelling Units and Junior Accessory Dwelling Units. In no case shall the eCity permit more than two (2) units per lot created by an Urban Lot Split.
- F. Lots that contain a two-family dwelling created pursuant to Senate Bill 9 without an Urban Lot Split, shall be limited to one (1) attached accessory dwelling unit or two (2) detached accessory dwelling units per lots.
- G. For purposes of Government Code 66411.7(a)(3)(G), "acting in concert with" means knowing participation in a joint activity or parallel action towards a common goal whether or not pursuant to an express agreement. Examples include, but are not limited to, an adjacent parcel previously subdivided by a person acting on behalf of, acting for the predominant benefit of, acting on the instruction of, or actively cooperating with, the owner of the parcel that is being subdivided.

20.30.820 Dwelling Unit Standards

The development regulations of the R-1 Zoning District in which the lot is located shall apply, except as modified in this Section:

A. Number of Units.

- 1. A maximum of two (2) main dwelling units is permitted per lot, either as two (2) one-family dwellings or one (1) two-family dwelling.
- 2. The total number of units shall not exceed four (4) on any undivided lot or two (2) on each subdivided lot, inclusive of Accessory Dwelling Units (ADUs) or Junior Accessory Dwelling Units (JADUs).
- 3. The units may be attached or detached, and all structures must comply with the California Building Code.

B. Height and Setbacks.

- 1. The maximum building height shall not exceed thirty (30) feet or two (2) stories, whichever is lower. Roof height shall be measured in accordance with Section 20.200.510 of this Code.

2. Any detached or attached two-story units located within fifteen (15) feet of the rear property line shall be limited to a maximum height of twenty-five (25) feet.
3. The minimum setbacks from all side and rear property lines shall be four (4) feet.

C. Floor Area Ratio and Lot Coverage.

1. For purposes of this Part, the maximum Floor Area Ratio for each lot shall be 0.65, calculated in accordance with Section 20.100.1020 of this Code.
2. The maximum lot coverage, calculated in accordance with Section 20.200.675 of this Code, shall not exceed the below requirements:

<u>Lot Size (sq ft)</u>	<u>Maximum Lot Coverage</u>
<u>1,200 – 2,500</u>	<u>75%</u>
<u>2,501 – 9,000</u>	<u>65%</u>
<u>Greater than 9,000</u>	<u>60%</u>

3. The Floor Area Ratio or lot coverage calculations shall not preclude a second dwelling unit with a maximum eight hundred (800) square feet on a lot that comprises of an existing or proposed dwelling unit.
4. Floor Area and lot coverage tabulation calculations shall apply to the entire undivided lot, irrespective of any subsequent subdivision into separate parcels.

D. Additional Standards.

Encroachments. Encroachments into setback areas are allowed per Chapter 20.30, however, in no case shall an encroachment be closer than three (3) feet from a side property line. Eaves are the only encroachment allowed into a rear property line and must maintain a setback of three (3) feet in any case.

E. Conversion of an Accessory Dwelling Unit

All new units shall comply with current Building and Fire Code requirements. Any conversions of an existing Accessory Dwelling Unit to a new dwelling unit greater than one thousand two hundred (1,200) square feet shall comply with fire sprinkler requirements.

- ~~A. The cumulative Floor Area Ratio of units that are constructed pursuant to Senate Bill 9, excluding Accessory Dwelling Units and Junior Accessory Dwelling Units, shall be limited to .45 per lot or 800 sf per unit, whichever is greater.~~
- ~~1. For purposes of this Part, Floor Area Ratio and unit square footage shall be calculated per Section 20.100.1020 of this Code.~~
- ~~B. Height and stories. Units created pursuant to Senate Bill 9 shall be limited to a maximum height of no greater than thirty feet and no more than two stories. A maximum height of no greater than twenty feet and one story shall be applied to units situated within twenty feet of the rearmost property line.~~
- ~~C. Additional standards for dwelling units permitted under Senate Bill 9.~~
- ~~1. Garage frontage limit. The cumulative linear feet of the vehicular doors to a garage or garages that are oriented to face the front property line or side corner property line shall be no wider than one half of the width of the dwelling structure to which the garage or garages are attached.~~
- ~~D. Encroachments into setback areas are allowed per Chapter 20.30, however, in no case shall an encroachment be closer than three feet from a side property line. Eaves are the only encroachment allowed into a rear property line and must maintain a setback of three feet in any case.~~

20.30.830 Additional Requirements

- A. For projects covered by Senate Bill 9, the applicant shall submit a statement under penalty of perjury that within the last three years there has been no tenant in a dwelling unit that is proposed to be altered or demolished.
- B. Prior to approval of a Parcel Map for an Urban Lot Split or Ministerial Approval for a Senate Bill 9 project, the applicant shall record a deed restriction identifying that the units on the parcel or parcels may not be rented for a term of thirty (30) days or less.
- C. The applicant shall sign an affidavit stating that the applicant intends to occupy one of the housing units as their principal residence for a minimum of three (3) years from the date of the approval of the Urban Lot Split.

20.30.840 Waiver

In the event these standards physically preclude the creation of a second unit pursuant to Senate Bill 9, applicants may seek a waiver through a process to be defined in administrative guidelines promulgated by the Director of Planning, Building and Code Enforcement.

SECTION 3. A new Part 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 9 **City Permitted Streamlined Implementation for Two-Unit Developments on a Single Lot Within Two-Family Zoning Districts**

20.30.850 Purpose and Applicability

- A. This Part is enacted to allow up of two (2) one-family dwellings or one (1) two-family dwelling on a single lot within the R-2 Two-Family Zoning Districts. This Part will establish objective design standards to facilitate streamlined ministerial processing wherein the applicant requests and demonstrates eligibility. The provisions of this Part expedite the construction of two (2) dwelling units on a single lot and enable ownership opportunities for residential units within San José.
- B. Lot Splits within the R-2 Two-Family Zoning Districts are not permitted under this Section. Subdivision of lots shall only occur through the ministerial small-lot subdivision process established in Chapter 20.195.
- C. Development pursuant to this Section is not permitted on parcels located within a flood zone, fire hazard zone, earthquake fault zone, hazardous waste site, prime farmland, or environmentally protected areas, including conservation zones and endangered species habitats.

20.30.852 Dwelling Unit Standards

The development regulations of the base zoning district in which the lot is located shall apply, except as modified in this section:

- A. Number of Units.
 - 1. A maximum of two main dwelling units is permitted per lot, either as two (2) one-family dwellings or one (1) two-family dwelling.

2. Dwelling units may include Accessory Dwelling Units (ADUs) and Junior Accessory Dwelling Units (JADUs) pursuant to Government Code Section 66313 and Section 20.80.176 of this Code, as follows:

- a. Where two (2) detached one-family dwellings are permitted, one (1) detached ADU, one (1) converted ADU, and one (1) JADU may also be allowed, for a maximum of five (5) units on any undivided lot.
- b. Where one (1) attached two-family dwelling is permitted, up to two (2) detached ADUs and one (1) attached ADU may also be allowed, for a maximum of five (5) units on any undivided lot.
- c. Dwelling units may be attached or detached, provided all structures comply with the California Building Code.

B. Height and Setbacks.

- 1. The maximum building height shall not exceed thirty (30) feet or two (2) stories, whichever is lower. Roof height shall be measured per Section 20.200.510 of this Code.
- 2. Any detached or attached two-story units located within fifteen (15) feet of the rear property line shall be limited to a maximum roof height of twenty-five (25) feet.
- 3. The minimum setbacks from all side and rear property lines shall be four (4) feet. Structures shall not be constructed on lot lines.

C. Floor Area Ratio and Lot Coverage.

- 1. For purposes of this Part, the maximum Floor Area Ratio for each lot shall be 0.65, calculated in accordance with Section 20.100.1020 of this Code.
- 2. The maximum lot coverage, calculated in accordance with Section 20.200.675 of this Code, shall not exceed the below requirements:

<u>Lot Size (sq ft)</u>	<u>Maximum Lot Coverage</u>
<u>1,200 – 2,500</u>	<u>75%</u>
<u>2,501 – 9,000</u>	<u>65%</u>
<u>Greater than 9,000</u>	<u>60%</u>

3. The Floor Area Ratio or lot coverage calculations shall not preclude a second dwelling unit with a maximum eight hundred (800) square feet on a lot that comprises of an existing or proposed dwelling unit.
4. Floor Area and lot coverage tabulation calculations shall apply to the entire undivided lot, irrespective of any subsequent subdivision into separate parcels.

D. Additional Standards

1. Encroachments into setback areas are allowed per Chapter 20.30, however, in no case shall an encroachment be closer than three (3) feet from a side property line. Eaves are the only encroachment allowed into a rear property line and must maintain a setback of three (3) feet under any circumstance. 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. Building Separation. The horizontal distance between any and all points between the building walls of an accessory building and the building walls of any other building on the property, including any other accessory building(s), shall comply with Building and Fire Code regulations.

E. Additional Requirements.

Prior to approval of Ministerial Approval, the applicant shall record a deed restriction identifying that the units on the parcel or parcels may not be rented for a term of thirty (30) days or less.

20.30.855 Properties Within R-2 Two-Family Zoning District with Structures Built Prior to 1950 and Not Listed on the Historic Resources Inventory

- A. Applicability. This Section applies to properties within the R-2 Two-Family Zoning District that contain one (1) or more dwelling units built prior to 1950 and not listed on the San José Historic Resources Inventory.
- B. Evaluation Required. As part of a permit for streamlined approval to construct an additional dwelling unit that includes the alteration and/or demolition of an existing dwelling unit built before 1950 within the R-2 Two Family Zoning District the applicant must submit a historic report prepared by a qualified historic resources consultant that meets the Secretary of the Interior's Professional Qualification Standards (36 CFR Part 61). The report shall include DPR523 series forms that document and evaluate the property for eligibility for listing in

the National Register of Historic Places, the California Register of Historical Resources, and/or the San José Historic Resources Inventory as a Candidate City Landmark pursuant to the landmark significance criteria outlined in Chapter 13.48 of the San José Municipal Code.

C. Findings of Eligibility.

1. If the consultant determines the property is not eligible for listing in the National Register of Historic Places, California Register of Historic Resources, or San José Historic Resources Inventory as a Candidate City Landmark or designated City Landmark, the standards for streamlined ministerial approval established in Part 9 of Chapter 20.30 shall apply.
2. If the consultant determines the property is eligible for listing in the National Register of Historic Places, the California Register of Historic Resources, or the San José Historic Resources Inventory as a Candidate City Landmark, the construction of an additional dwelling unit shall conform to the requirements in 20.30.865 with the issuance of a Single-Family House Permit.

SECTION 4. A new Part 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 9.5

Streamlined Implementation for Properties of Lesser Significance Listed on the Historic Resources Inventory within R-1 and R-2 Zoning Districts

20.30.860 Purpose and Applicability

- A. This Part is enacted to establish objective design standards for streamlined ministerial development of up to two (2) one-family dwellings or one (1) two-family dwelling on a single lot located within R-1 or R-2 Zoning Districts, for properties of lesser significance listed on the San José Historic Resources Inventory. This requirement would exclude historical resources that are listed or determined eligible for listing on the National Register of Historic Places, California Register of Historic Resources, and/or the San José Historic Resources Inventory as a City Landmark or Historic District or Candidate City Landmark which are eligible for two-unit development under Sections 20.30.865 and 20.30.866 with the issuance of a Single Family House Permit or Historic Preservation Permit.
- B. If a property of lesser significance (such as property in a Conservation Area) listed in the Historic Resources Inventory is also classified as a historical

resource (listed or determined eligible for listing on the National Register of Historic Places, California Register of Historic Resources and/or, the San José Historic Resources Inventory as a City Landmark or Historic District or Candidate City Landmark), then the property is not considered one of lesser significance. Section 20.30.866 would apply, or Section 20.30.865 if the property is also a designated City Landmark, and the project shall not be processed using the streamlined ministerial development process and objective design standards.

- C. Lot splits are not permitted on properties of lesser significance listed on the San José Historic Resources Inventory and located within the R-1 and R-2 Zoning Districts when they conform with Section 20.30.863.

20.30.863 Two-Unit Development Standards

This Section establishes objective design standards to allow two (2) one-family dwellings or one (1) two-family dwelling on properties located within R-1 Zoning District or R-2 Zoning District as established in Section 20.30.860.

- A. Demolition. New dwelling units shall not result in the demolition of more than twenty-five percent (25%) demolition of the exterior wall/s of an existing one-family dwelling unit on site and shall be limited to side and/or the rear wall or side wall not visible from the public right-of-way.
- B. Façade Preservation. New dwelling units shall not physically alter or modify existing one-family dwelling unit facades visible from the public right-of-way.
- C. Exterior Materials. Primary exterior materials of new dwelling units shall match in type and finish the primary exterior cladding and roofing materials of the existing dwelling unit or new materials demonstrate a similar level of visual weight, surface texture, reflectivity, and color value when viewed from the public right-of-way, with the exception of non-contributing buildings in a Conservation Area where materials shall match in type and visible finish those found on at least sixty percent (60%) of contributing buildings in the Conservation Area within two hundred (200) feet of the project site.
- D. Massing. New dwelling units shall be less than the height and width of the existing one-family dwelling unit and shall have rectangular building forms.
- E. Roofs. New dwelling units shall have a primary roof type that is hipped and/or gable. Flat, shed, or butterfly roofs are not permitted unless they are a defining characteristic of the existing dwelling unit or immediate context in the Conservation Area. The roof slope shall be within ± 10 degrees (or $\pm 2:12$ pitch ratio) of the average roof pitch of the existing dwelling unit on site or contributing

buildings in a Conservation Area within two hundred (200) feet of the property and the horizontal projection (overhang) of eaves shall be within $\pm 20\%$ of the average projection of the existing dwelling on site or contributing buildings in a Conservation Area within two hundred (200) feet of the property.

- F. Siting for Attached Dwelling Units. New dwelling units proposed to be attached to an existing one-family dwelling unit shall be located on the rear of that existing one-family dwelling unit.
- G. Front Setback for Detached Dwelling Units. New detached dwelling units shall be set back at least forty-five (45) feet from the front property line.
- H. Side Setback: New dwelling units shall maintain a minimum setback of four (4) feet from all side and rear interior property lines. The side of the new dwelling unit/s facing a secondary street shall be set back at least ten (10) feet from the corner property line or within $\pm 10\%$ of the average setback of contributing buildings within two hundred (200) feet in a Conservation Area.
- I. Windows: New dwelling units shall incorporate window height-to-width ratios that match the predominant ratios of the existing dwelling unit. Windows shall align vertically and horizontally with patterns established by the existing dwelling unit on site, and the primary window type (e.g., double-hung, casement, awning, or fixed) shall match the predominant type of the existing dwelling unit. A project may use a secondary window type only if it is consistent with the location and function of similar windows on the existing dwelling or is required by building code. Modern window types (e.g., sliding windows) are not permitted unless documented as historically appropriate for the building style of the existing dwelling unit.
- J. Site Features. Landscape, fences, walls, paving, walkways, and other -site features visible from the public right-of-way that are documented in an evaluation prepared by a qualified consultant that meets the Secretary of the Interior's Professional Qualification Standards (36 CFR Part 61) as contributing to the historic character of the property shall be retained.

20.30.865 Historical Resources

Historical resources that are listed or determined eligible for listing on the National Register of Historic Places, California Register of Historic Resources, and/or the San Jose Historic Resources Inventory as a Candidate City Landmark are eligible for two unit development with conformance with the Secretary of the Interior's Standards for the Treatment of Historic Properties and the issuance of a Single Family House Permit under Part 9 of Chapter 20.100 of the San José Municipal Code.

If a property listed in the Historic Resources Inventory has more than one classification and one of those classifications is a designated City Landmark or property located in a City Historic District, then Section 20.30.866 would apply.

20.30.866 Designated City Landmarks and City Historic Districts

Designated City landmarks and properties within a designated City Historic District are eligible for two-unit development with the issuance of a Historic Preservation Permit under Chapter 13.48 of the San José Municipal Code.

SECTION 5. Section 20.80.300 of Chapter 20.80 of Title 20 of the San José Municipal Code is amended to read as follows:

20.80.300 Conversion of Dwellings, Permit Required

- A. No one-family dwelling in any District shall be converted to any other use except upon issuance of and in compliance with a:
 - 1. Site Development Permit for conversion to a two-family dwelling or a multiple dwelling, unless allowed pursuant to the provisions of Part 9 and Part 9.5 of Chapter 20.30; or
 - 2. Special Use Permit for conversion to any nonresidential use identified as a permitted, or special use in the District with the one-family dwelling; or
 - 3. Conditional Use Permit for conversion to any nonresidential use identified as a conditional use in the District with the one-family dwelling.
- B. No two-family dwelling or multiple dwelling in any District shall be converted to any other use except upon issuance of and in compliance with a:
 - 1. Permit adjustment for conversion of a two-family dwelling to a one-family dwelling; or
 - 2. Site Development Permit for conversion to a one-family, two-family, or multiple dwelling, unless allowed pursuant to the provisions of Part 9 and Part 9.5 of Chapter 20.30; or
 - 3. Special Use Permit for conversion to any nonresidential use identified as a permitted, or special use in the District with the two-family or multiple-family dwelling; or

4. Conditional Use Permit for conversion to any nonresidential use identified as a conditional use in the District with the two-family or multiple-family dwelling.
- C. Nothing contained in this Section shall be deemed or construed to permit approval of any one-family dwelling, two-family dwelling or multiple dwelling use in any district in which such use is not otherwise allowed pursuant to and to the provisions of Chapters 20.20 through 20.70 of this Title.

SECTION 6. Section 20.80.450 of Chapter 20.80 of Title 20 of the San José Municipal Code is amended to read as follows:

20.80.450 Exemption From Development Permit Requirement

No Development Permit shall be required for the following:

1. Demolition or removal of a single-family home, as defined by Section 20.80.420 of this Title, when:
 - a. A Single-Family House Permit is not required by Chapter 20.100 of this Title; and
 - b. Building permits have been issued for a replacement single-family house.
2. Demolition or removal of a building where such demolition or removal is pursuant to the approval of a non-residential development project funded by a public entity.
3. Demolition or removal of a building which the City Building Official has determined to be an immediate threat to public health or safety.
4. Demolition or removal of a building that has been ordered to be removed or demolished by the Appeals Hearing Board or by a court of law.
5. Demolition or removal of residential accessory structures, as defined in Section 20.80.420 of this Title and Section 20.80.430, and for commercial or industrial buildings no greater than **one thousand (1,000)** square feet, except for properties listed on the Historic Resources Inventory.
6. Demolition or removal of a building which is required under the provisions of Part 3 of Chapter 17.40 of Title 17 of this Code.

7. Demolition or removal of a building pursuant to the provisions of Part 9 of Chapter 20.30 of this Title.

SECTION 7. Section 20.100.610 of Chapter 20.100 of Title 20 of the San José Municipal Code is amended to read as follows:

20.100.610 Site dDevelopment pPermit rRequired

- A. A valid ~~s~~Site ~~d~~Development ~~p~~Permit, issued under this ~~p~~Part, is required prior to the issuance of any building permit or installation permit for the following activities:
1. Erection, construction, enlargement, placement or installation of a building or structure on any site, except for one (1) one-family dwelling on a single lot or parcel that would be subject to Part 9 of Chapter 20.100 regarding requirements for a single-family house permit, or a one-family dwelling or two-family dwelling pursuant to the provisions of Part 8, Part 9, or Part 9.5 of Chapter 20.30; or
 2. Erection, construction, enlargement, placement or installation of a one-family dwelling on a single lot or parcel as provided for in Section 20.100.1030(A)(4) regarding single-family house permits; or
 3. Exterior alteration of a building or structure; or
 4. Use of a lot for storage purposes; or
 5. Installation of pavement on any portion of a lot; or
 6. Underground installation.
- B. No single ~~s~~Site ~~d~~Development ~~p~~Permit shall be issued for more than one site. However, the removal and relocation of a building from one parcel to another separate parcel located within the ~~e~~City requires a single application pertaining to both parcels pursuant to Section 20.100.650.
- C. The provisions of this ~~p~~Part shall not apply:
1. If a permit is expressly not required by Section 20.100.1030 of this ~~t~~Title or a permit is issued under other provisions of this ~~e~~Chapter unless procurement of a ~~s~~Site ~~d~~Development ~~p~~Permit is made an express condition of such permit.

2. If temporary structures or buildings are to be constructed on a lot situate in a CP, CN, CG commercial districts, or the downtown zoning districts, the IP, LI or HI industrial districts, or an A agricultural district and are intended to be and are used in connection with the sale of Christmas trees or Halloween pumpkins in accordance with this ~~t~~Title, and remain on the site only for the temporary period specified for such uses in this ~~t~~Title.
3. If the underground installation is for the sole purpose of replacing an existing underground tank or tanks with a new tank or tanks whether or not total tank capacity on the site is increased.
4. If skylights are installed on existing dwellings provided that the parcel has four or fewer dwellings.
5. If the re-roof is installed on an existing building or structure which is not designated a historic landmark and does not involve any alteration to the existing roof line, provided that the material used in the re-roof meets all of the following conditions:
 - a. Is of the same material or is of a replacement material(s) that is superior to or is an upgrade from the existing material in terms of quality, aesthetics or safety features as determined by the ~~d~~Director of ~~p~~Planning, Building and Code Enforcement; and
 - b. Meets or exceeds all applicable fire and building code requirements.
6. Accessory structures on lots with one-family house, unless a permit is otherwise required by this ~~t~~Title.
7. A solar photovoltaic system mounted on the surface of an existing building or structure with a building permit in a manner that conforms to the provisions of this ~~t~~Title.

SECTION 8. Section 20.100.1030 of Chapter 20.100 of Title 20 of the San José Municipal Code is amended to read as follows:

20.100.1030 Single-~~F~~family ~~H~~house ~~P~~permit ~~R~~required

- A. A valid single-family house permit issued under this ~~p~~Part is required prior to the issuance of a building permit for a single-family house that is a covered activity, as the terms building permit and covered activity are defined in Sections 18.40.210 and 18.40.220 of Chapter 18.40 of Title 18 of this Code, if:

1. The single-family house is located within one hundred (100) feet of a riparian corridor as measured from top of bank or vegetative edge, whichever is greater; and
 2. The single-family house site is equal to or greater than one-half acre in size. Proof of payment of all applicable fees that are required under Title 18 Chapter 18.40 of this Code must be submitted to the ~~d~~Director prior to issuance of a building permit for any project that is subject to payment of fees under Part 3 of Chapter 18.40 of Title 18 of this Code.
- B. A valid single-family house permit issued under this ~~p~~Part is required prior to the issuance of a building permit for the following activities, unless specifically exempted by Subsection D. below:
1. Erection, construction, enlargement, placement or installation of a single-family house on any site; or
 2. Exterior alteration of a single-family house.
- C. A valid single-family permit issued under this ~~p~~Part is required if the project results in the creation, replacement, alteration or reconfiguration of ten thousand (10,000) square feet or more of impervious surface on a site used for a single-family house, regardless of whether a building permit or grading permit is required. Such project is subject to City Council Policy No. 6-29, entitled *City Council Policy on Post Construction Urban Runoff Management*. The project is also subject to the administrative procedures set forth in this part unless the project otherwise requires a public hearing.
- D. No single-family house permit is required under Subsection B. above if any of the following applicable criteria and conditions is met:
1. The issuance of the building permit will result in a single-family house in any residential district with a floor area ratio equal to or less than forty-five hundredths or height equal to or less than thirty feet and/or equal to or less than two stories; or the site is not an historic resource listed on the historic resources inventory pursuant to Chapter 13.48 of Title 13 of this Code, unless allowed pursuant to the provisions of Part 8, Part 9, and Part 9.5 of Chapter 20.30.
 2. The site is located in a planned development zoning district. All construction in a planned development zoning district shall be governed by the provisions of Part 8 of this ~~e~~Chapter that may require issuance of a

- ~~p~~Planned ~~d~~Development ~~p~~Permit for the review of any single-family house construction, addition, or alteration.
3. The issuance of building permits is for exterior alterations or maintenance of an existing single-family house for which alterations or maintenance:
 - a. Would not expand the exterior footprint or increase the overall square footage of the existing single-family house or result in height that is greater than thirty feet and/or greater than two stories; and
 - b. Meet the development regulations of the R-1-8 residential zoning district; and
 - c. If the house is listed as a historic resource on the ~~e~~City's historic resources inventory, would solely repair pieces of existing features on a single-family house that is a historic resource, but is not a ~~e~~City landmark or located in a ~~e~~City landmark historic district, with like materials of the same size, shape, pattern and substance and in a manner that fully conforms to approved design guidelines.
 4. The single-family houses are approved with a single ~~s~~Site ~~d~~Development ~~p~~Permit issued pursuant to Part 5 of this ~~e~~Chapter. A ~~s~~Site ~~d~~Development ~~p~~Permit may be approved if the site is located:
 - a. In an R-1 residential zoning district; and
 - b. Includes construction of more than five (5) new single-family houses, unless allowed pursuant to the ministerial approval provisions of Section 20.195.440 of Chapter 20.195.
 5. The issuance of building permits will result in a single-family house in any residential zoning district with a floor area ratio equal to or less than forty-five hundredths and a height greater than thirty feet and/or two stories, provided that all of the following additional criteria or conditions are met:
 - a. The proposed house will be located on a site within a flood zone with a one hundred-year flood depth that requires elevation of the first finished floor of the proposed house to a height of at least five (5) feet above grade; and
 - b. The height of the proposed house will be equal to or less than thirty (30) feet plus the required one hundred-year flood depth elevation

or the maximum height of the residential zoning district in which the proposed house will be located, whichever height is less; and

- c. The site is not an historic resource listed on the historic resources inventory pursuant to Chapter 13.48 of Title 13 of this Code.

d. Notwithstanding the above provisions, the floor area ratio established in Parts 8, 9 and 9.5 of Chapter 20.30 is pursuant to provisions specific to those Code Sections.

- 6. The issuance of building permits is for a solar photovoltaic system mounted on the surface of a single-family house in a manner that conforms with the provisions of this ~~t~~Title.

- E. If the site is a historic resource listed on the historic resources inventory of the ~~e~~City pursuant to Chapter 13.48 of Title 13 of this Code and the site is a ~~e~~City landmark house and/or a house located in a ~~e~~City landmark historic district, then all work performed on a ~~e~~City landmark or in a ~~e~~City landmark historic district shall be governed by the provisions of Chapter 13.48 of Part 3 of Title 13 of this Code that require issuance of a historic preservation permit. No single-family house permit shall approve work performed on a ~~e~~City landmark house or a house located in a ~~e~~City landmark historic district.

SECTION 9. Section 20.100.1040 of Chapter 20.100 of Title 20 of the San José Municipal Code is amended to read as follows:

20.100.1040 Additional Development Requiring a Single-Family House Permit

- A. Issuance of a single-family house permit subject to the administrative procedures set forth in this ~~P~~part is required if the issuance of a building permit will result in a single-family house that is a historic resource, but is not a ~~e~~City landmark or located in a ~~e~~City historic district, with a floor area ratio equal to or less than forty-five hundredths, unless allowed pursuant to the provisions of Part 9.5 of Chapter 20.30 or if the issuance of a building permit is for minor modifications involving incidental enlargement, reconstruction, replacement, repair, remodeling, rehabilitation, restoration and/or exterior alteration of a historic resource, that fully conforms to approved design guidelines, and does not affect the historic significance or character, use, intensity, architectural style, circulation or other site function of the property.
- B. Issuance of a single-family house permit is subject to the administrative procedures set forth in this ~~p~~Part, if the issuance of the building permit will result in a single-family house with a floor area ratio greater than forty-five hundredths

but equal to or less than sixty-five hundredths, unless allowed pursuant to the provisions of Part 8, Part 9, and Part 9.5 of Chapter 20.30, and all of the following applicable criteria are met:

1. Building permit does not authorize removal of more than fifty percent (50%) of the exterior walls of an existing house;
 2. Building permit is for an addition to an existing house and the addition is for either one or both of the following:
 1. A single story and ground floor addition; and/or
 2. A second-story addition which results in a second story which is no larger than sixty percent (60%) of existing first floor area and which is set back ten feet from the required front setback;
 3. A first-story or second-story infill addition into an existing space within a house constructed prior to requirement to obtain a single-family house permit for certain single-family construction.
 3. Building permit does not authorize the enclosure or net loss of ten percent (10%) or more of an existing porch;
 4. Building permit authorizes an attached garage only if the houses on each side of the subject lot have existing attached garages;
 5. Building permit requires the roofline, materials, trim and decoration details of the new construction to be the same as that on the existing house;
 6. Building permit authorizes alteration to a single-family house that is a historic resource but is not a eCity landmark or located in a eCity landmark historic district, which alterations fully conform to or exceed approved design guidelines.
- C. Subject to the provisions of Section 20.100.1030, if the issuance of a building permit will result in a single-family house with a floor area ratio greater than forty-five hundredths and all the applicable criteria of either Subsection 20.100.1040 A or 20.100.1040 B are not met, issuance of a single-family house permit shall be subject to the dDirector public hearing procedures set forth in this pPart, unless allowed pursuant to the provisions of Part 8, Part 9, and Part 9.5 of Chapter 20.30.

SECTION 10. A new section is added to Chapter 20.200 of Title 20 of the San José Municipal Code, to be numbered, entitled, and to read as follows:

20.200.165 Building, Main

Main Building means the larger building on a lot built for a use for which site is ordinarily used.

SECTION 11. A new section is added to Chapter 20.200 of Title 20 of the San José Municipal Code, to be numbered, entitled, and to read as follows:

20.200.445 Group Home

"Group home" is a one-family dwelling unit operating as a single housekeeping unit of persons, related or unrelated, where an operator provides 24-hour care for a variety of persons in need of personal services, supervision, protection, or assistance essential for sustaining the activities of daily living.

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

20.200.675 Lot Coverage

For purposes of this Part, "lot coverage" means all area of a lot, as projected on a horizontal plane, which is enclosed by the exterior walls of buildings or enclosed accessory structures or covered by decks, porches, stairs and/or landings that cover an enclosed space or paved ground area. The lot coverage tabulation will exclude uncovered porches, landings and stairs; uncovered decks, except the overhanging roof of a building or accessory structure or paved ground area is included in the lot coverage calculation; and any existing or proposed Accessory Dwelling Unit or Junior Accessory Dwelling Unit.

SECTION 13. Section 20.200.1010 of Chapter 20.200 of Title 20 of the San José Municipal Code is amended to read as follows:

20.200.1010 Residential Care Facility

"Residential Care Facility" is a facility licensed by the State of California where care, services or treatment is provided to persons living in a community residential setting. This includes licensed group homes.

SECTION 14. Section 20.200.1030 of Chapter 20.200 of Title 20 of the San José Municipal Code is amended to read as follows:

20.200.1030 Residential Service Facility

"Residential Service Facility" is a residential facility, other than a Residential Care Facility or Single Housekeeping Unit, where the operator receives compensation for the provision of personal services, in addition to housing, including but not limited to, protection, supervision, assistance, guidance, training, therapy or other nonmedical care.

This includes unlicensed group homes that provide nonmedical care and peer and other supportive services for their residents' disability needs, and in which residents share cooking, dining, and living areas, and may, in some group homes, participate in cooking, housing keeping, and other communal living activities.

SECTION 15. Section 20.200.1265 of Chapter 20.200 of Title 20 of the San José Municipal Code is amended to read as follows:

20.200.1265 Permanent Supportive Housing

"Permanent supportive housing" means housing with no limit on length of stay and that is occupied by a target population as defined in subdivision (fn) of Section 65582 of the California Government Code, as the same may be renumbered or amended from time to time, and that is linked to onsite or offsite services that assist supportive housing residents in retaining housing, improving their health status, and maximizing their ability to live and, when possible, work in the residents' community. Supportive housing shall be treated under this Title as a residential use and shall be allowed in residential, commercial, public/quasi-public, and the downtown zoning districts. Pursuant to ~~S~~state law, any 100% deed-restricted affordable housing project with at least twenty-five percent (25%) of the units dedicated to permanent supportive housing while the remainder is rent-restricted low-income housing for households earning eighty percent (80%) Area Median Income or less, shall be considered a permanent supportive housing development in entirety.

SECTION 16. 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 and Note 10; Section 20.30.110
Accessory dwelling unit (ADU)	P	P	P	-	Note 2, Note 3, and Note 10; Part 2.75, Chapter 20.80
Two-family dwelling	-	P	P	-	Note 2 and Note 10; Section 20.30.110
Multiple dwelling	-	-	P	-	Note 10
Guesthouse	-	-	C	-	Note 10; Section 20.30.120
Mobilehome parks	-	-	-	C	Note 10
Permanent supportive housing	<u>P</u>	<u>P</u>	P	<u>P</u>	<u>Note 10</u> ; Chapter 20.195
Travel trailer parks	-	-	-	C	

Residential care facility, six or fewer persons	P	P	P	P	
Residential care facility, seven or more persons	<u>C</u>	<u>C</u>	C	C	
Residential service facility, six or fewer persons	P	P	P	P	
Residential service facility, seven or more persons			<u>C</u>	<u>C</u>	
Single room occupancy living unit facility	-	-	C	-	Note 10; Part 15, Chapter 20.80
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 and Note 10
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	S	S	S	S	
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	-	
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	

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, unless allowed pursuant to the provisions of Part 8, Part 9, or Part 9.5 of Chapter 20.30, where applicable.
2. A maximum of two primary living units per lot, with Accessory Dwelling Units, are permitted in the R-2 district. Accessory Dwelling Units on a lot in the R-2 district may be permitted without a Development Permit in accordance with the provisions of Part 2.75.
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.
10. May be used as Transitional Housing. Supportive housing and transitional housing shall be subject only to those restrictions that apply to other residential dwellings of the same type within the same zone.

SECTION 17. Section 20.80.176 of Chapter 20.80 of Title 20 of the San José Municipal Code is amended to read as follows:

20.80.176 Streamlined Approval

Pursuant to Section 6632365852.2(e) of the Government Code, or as amended, this Section provides for the streamlined and ministerial approval of certain State exempt Accessory Dwelling Units. This Section may be used instead of, but not in addition to, the Accessory Dwelling Units allowed pursuant to Section 66313 65852.2(a) of the Government Code nor Section 20.80.175 of the San José Municipal Code. Accessory Dwelling Units pursuant to the provisions of this Part, shall be allowed:

A. Single Family. On lots that contain an existing or proposed single family dwelling, a maximum of one (1) converted Accessory Dwelling Unit, one (1) detached new construction Accessory Dwelling Unit, and one (1) Junior Accessory Dwelling Unit may be created in any order without prejudice; totaling up to three units if all of the following apply:

1. The Accessory Dwelling Unit or Junior Accessory Dwelling Unit is within the proposed space of a single family dwelling or existing space of a single family dwelling or Accessory Structure and may include an expansion of not more than one hundred

fifty (150) square feet beyond the same physical dimensions as the existing Accessory Structure. An expansion beyond the physical dimensions of the existing Accessory Structure shall be limited to accommodating ingress and egress.

2. The space has exterior access from the proposed or existing single-family dwelling.

The proposed detached, new construction, Accessory Dwelling Unit that does not exceed four-foot side and rear yard setbacks. The side and rear setbacks are sufficient for fire and safety.

The front setback shall be in compliance with the underlying zoning district and not to prohibit an eight hundred (800) square foot Accessory Dwelling Unit.

The Accessory Dwelling Unit has a total floor area of no more than eight hundred (800) square feet.

The Accessory Dwelling Unit has a height of no more than eighteen (18) feet.

The Junior Accessory Dwelling Unit complies with the requirements of Section 65852.22.

B. Multifamily. On lots that contain an existing or proposed multifamily dwelling structure, up to eight (8) detached Accessory Dwelling Units are allowed. However, the number of Accessory Dwelling Units allowable pursuant to this Part shall not exceed the number of existing units on that lot. On a lot with a proposed multifamily dwelling structure, up to two (2) detached Accessory Dwelling Units are allowed, and at least one Accessory Dwelling Unit may be created within a multifamily dwelling structure; if all of the following apply;

1. The maximum number of attached Accessory Dwelling Units created shall not exceed twenty-five percent (25%) of the existing multifamily dwelling units prior to the addition of any Accessory Dwelling Units.

2. Multiple Accessory Dwelling Units are located within the portions of existing multifamily dwelling structures that are not used as livable space, used within a dwelling intended for human habitation, including living, sleeping, eating, cooking, or sanitation including, and shall include but are not limited to, storage rooms, boiler rooms, passageways, attics, basements, or garages, if each unit complies with sState building standards for dwellings.

3. Each proposed detached Accessory Dwelling Unit does not exceed four-foot side and rear yard setbacks. The side and rear setbacks are sufficient for fire and safety. A

detached Accessory Dwelling Unit may be attached to another existing or proposed detached Accessory Dwelling Unit.

4. Each proposed detached Accessory Dwelling Unit has a total floor area of no more than eight hundred (800) square feet.

5. Each proposed detached Accessory Dwelling Unit has a height of no more than eighteen (18) feet.

SECTION 18. A new section is added to Chapter 20.80 of Title 20 of the San José Municipal Code, to be numbered, entitled, and to read as follows:

20.80.177 Tree Removal

Notwithstanding Chapter 13.32, the removal of ordinance-sized tree(s) from lots that meet requirements of this Part, excluding heritage tree(s) as defined in Section 13.32.140 or palm tree(s) in the Palm Haven Conservation Area, shall be processed concurrently with the ministerial approval for Accessory Dwelling Unit(s). The application shall include the following information:

- A. Brief description of each Ordinance sized tree, circumference of the tree(s) measured at 4.5 feet above ground, and species of the tree(s).
- B. Site Plan identifying the location of the tree(s), and distance of the tree(s) to the nearest building or structure.
- C. Replacement with either one 15-gallon tree, or one 24-inch box tree, in lieu of two 15-gallon trees, shall be provided onsite or through an in-lieu contribution as outlined below:
 - 1. For one-family dwellings, the tree replacement ratio shall be at a minimum 1:1 for each tree that is removed.
 - 2. For multi-family dwellings, the tree replacement shall be at a minimum 4:1 for each tree that is removed.

SECTION 19. Section 20.80.185 of Chapter-20.80 of Title 20 of the San José Municipal Code is amended to read as follows:

20.80.185 ADU Condominium Requirements

Subject to the provisions of Section 20.80.180, to achieve the purposes of this Chapter, all projects shall conform to the following requirements:

- A. ~~A maximum of two~~ ADU condominium units shall be allowed on lots that presently allow ADUs, and could include an attached Accessory Dwelling Unit and/or a detached Accessory Dwelling Unit built in accordance with Part 2.75, (Accessory Dwelling Units), Chapter 20.80. In conjunction with the ADU condominium, the parcel map approved pursuant with this ~~s~~Section may also include the subdivision of up to two (2) primary dwelling units, in conformance with Part 8, Senate Bill 9 implementation, into condominiums. This allowance shall not exceed ~~a total of four condominium units on each single-family, two-family or multi-family lot under any circumstances~~ the maximum number of attached and detached Accessory Dwelling Units allowed per lot pursuant to Government Code Section 66313.
- B. All structures and buildings included as part of a condominium project shall conform to the building and zoning requirements applicable to the zoning district in which the project is proposed to be located. Designation of individual condominium units shall not be deemed to reduce or eliminate any of the building and zoning requirements applicable to any such buildings or structures.
- C. The condominium shall be created pursuant to the Davis-Stirling Common Interest Development Act (Part 5 (commencing with Section 4000) of Division 4 of the Civil Code).
- D. The condominium shall be created in conformance with all applicable objective requirements of the Subdivision Map Act (Division 2 (commencing with Section 66410)) and all other objective requirements of this Part.
1. Neither a subdivision map nor a condominium plan shall be recorded with the county recorder without each lienholder's consent. The following shall apply to the consent of a lienholder:
 - a. A lienholder may refuse to give consent.
 - b. A lienholder may consent provided that any terms and conditions required by the lienholder are satisfied.
 2. Prior to recordation of the initial or any subsequent modifications to the condominium plan, written evidence of the lienholder's consent shall be provided to the county recorder along with a signed statement from each lienholder that states as follows:

"(Name of lienholder) hereby consents to the recording of this condominium plan in their sole and absolute discretion and the borrower

has or will satisfy any additional terms and conditions the lienholder may have."

3. The lienholder's consent shall be included on the condominium plan, or attached to the condominium plan that includes the following information:
 - a. The lienholder's signature.
 - b. The name of the record owner or ground lessee.
 - c. The legal description of the real property.
 - d. The identities of all parties with an interest in the real property as reflected in the real property records.
 - e. The lienholder's consent shall be recorded in the office of the county recorder of the county in which the real property is located.
- E. An Accessory Dwelling unit shall be sold or otherwise conveyed separate from the primary residence only under the conditions outlined in this Part and of Title 19 of the San José Municipal Code. Prior to approval of a parcel map, a home or property owners' association or similar entity shall be formed for any condominium project. The association shall, at a minimum, provide for the administration, management and maintenance of all common areas including landscaping, drive aisles and parking areas, maintenance of the exterior of all buildings, pool or common roof, the collection of dues, payment of public utilities not billed separately to each unit, and enforcement of standards within the project.
 1. The owner of a property or a separate interest within an existing planned development that has an existing association, as defined in Section 4080 of the Civil Code, shall not record a condominium plan to create a common interest development under Section 4100 of the Civil Code without the express written authorization by the existing association.
 2. For purposes of this subparagraph, written authorization by the existing association means approval by the board at a duly noticed board meeting, as defined in Section 4090 of the Civil Code, and if needed pursuant to the existing association's governing documents, membership approval of the existing association.
- F. The applicant shall prepare a declaration of covenants, conditions and restrictions (CC&Rs) which shall be recorded and apply to each owner of a

condominium unit within the project. The CC&Rs shall be recorded at, or prior to, the time of parcel map approval, and shall include all applicable conditions of approval and requirements of the City. The CC&Rs shall, at a minimum, provide:

1. That any amendment to the CC&Rs related to the conditions of approval or other requirements of this Chapter may not be approved without prior consent of the City.
 2. That there shall be an entity created (e.g., a property or homeowners' association) which shall be financially responsible for and shall provide for the effective establishment, operation, management, use, repair and maintenance of all common areas and facilities.
 3. A provision containing information regarding the conveyance of units and any assignment of parking, an estimate of any initial assessment fees anticipated for maintenance of common areas and facilities, and an indication of appropriate responsibilities for maintenance of all utility lines and services for each unit.
 4. A provision addressing the payment of utilities including water, sewer, gas and electricity by the homeowner or through the association.
 5. A provision requiring that any owner who rents his/her condominium unit shall conform to the homeowners' association which is responsible for management of the common areas and enforcement of the CC&Rs.
- G. In addition to such covenants, conditions, and restrictions that may be required by the Department of Real Estate of the State of California pursuant to Title 6 (Condominiums) of the Civil Code or other ~~S~~state laws or policies, the organization documents shall provide for the following:
1. Conveyance of units.
 2. Management of common areas within the project where common areas exist.
 3. A proposed annual operating budget containing a reserve fund to pay major anticipated maintenance, repair, or replacement expenses where shared common area infrastructure exists; and indicating the association fees needed for the operating budget and reserve fund.
 4. FHA regulatory agreement, if any.

- H. If an accessory dwelling unit is established as a condominium, the homeowner shall notify providers of utilities, including water, sewer, gas, and electricity, of the condominium creation and separate conveyance.
- I. The ADU shall comply with all applicable technical codes including the California Building and Fire Codes. Prior to approval of the parcel map, a safety inspection of the ADU shall be conducted as evidenced through issuance of a final Building Permit or a housing quality standards report from a building inspector certified by the United States Department of Housing and Urban Development.
- J. In addition to other application submittal requirements, the following information shall be provided:
 - 1. Statement regarding current ownership of all improvements and underlying land.
 - 2. A site plan and boundary map showing the location of all existing easements, structures, mature and/or scenic trees, and other improvements upon the property.
 - 3. Dimensions and location of each building or unit and the location of all fences and walls.
 - 4. The location, size, and design for all common areas, including all facilities and amenities provided within the common areas for use by unit owners.
 - 5. Location and condition for all paved areas, including pedestrian walkways.
 - 6. Maintenance plan of all buildings and common areas and facilities.

SECTION 20. Chapter 20.190 of Title 20 of the San José Municipal Code is amended to read as follows:

Chapter 20.190
Affordable Housing Density Bonuses and Incentives

20.190.010 Purpose

The purpose of this Chapter is to:

- A. Specify how the City will implement the requirements of California Government Code Section 65915 et seq. ("State Housing Density Bonuses and Incentives Law"); and

- B. Facilitate the development of affordable housing consistent with the goals, objectives, and policies of the City's General Plan Housing Element as may be amended from time to time.

20.190.020 Definitions

- A. All terms used in this Chapter that are defined in the State Housing Density Bonuses and Incentives Law shall have meaning established by the State Housing Density Bonuses and Incentives Law, ~~as the same may be amended from time to time. Government Code Section 65915 et seq. and all amendments and additions thereto, now or hereinafter enacted, that impose requirements applicable to the City related to the provision of housing Density Bonus(es) and Incentives. As of date of publication of the ordinance adopting this Chapter 20.190, the following terms are defined in the State Housing Density Bonuses and Incentives Law: Affordable Rent; Affordable Housing Cost; Child Care Facility; Density Bonus; Housing Development; Development Standard; Incentive; Low, Very Low, or Moderate Income; Maximum Residential Density; Qualifying Mobilehome Park; and Senior Citizen Housing Development.~~
- B. All terms used in this Chapter that are defined in Chapter 20.200 of this Code shall have the meaning established in Chapter 20.200. Where terms that are defined in the State Housing Density Bonuses and Incentives Law are inconsistent with the definitions of the same terms set forth in Chapter 20.200 of this Code, the meaning of the terms in the State Housing Density Bonuses and Incentives Law shall prevail.
- C. Whenever the following terms are used in this Chapter, they shall have the meaning established by this Section:
1. "Applicant" means any person, firm, partnership, association, joint venture, corporation, or any entity or combination of entities who seeks a Discretionary Approval or a Ministerial Approval from the City for a Housing Development and also includes the owner of the property if the Applicant does not own the property on which the Housing Development is proposed.
 2. "Approval Authority" means the person or body within the City that is authorized to provide initial Discretionary Approval or Ministerial Approval of a Housing Development.
 3. "Density Bonus Units" means those dwelling units granted pursuant to the provisions of this Chapter that exceed the otherwise Maximum Residential

Density for a Housing Development Site that are established in the City's General Plan.

4. "Director" means the Director of Planning, Building and Code Enforcement.
5. "Discretionary Approval" means any approval related to a Housing Development that requires the exercise of judgment or deliberation by the Approval Authority including, but not limited to, development exceptions, variances, Development Permits, general plan and specific plan approvals and amendments, zoning ordinances and amendments, and tentative maps.
6. "Ministerial Approval" means any approval related to a Housing Development that does not require the exercise of judgement or deliberation by the Approval Authority.
7. "Non-Restricted Unit" means any dwelling unit within a Housing Development excluding the Restricted Affordable Units.
8. "Regulatory Agreement" means a recorded and legally binding agreement on a form approved by the City, executed by the Applicant and ensuring that the requirements of this Chapter are satisfied. A Regulatory Agreement, among other things, shall establish: the number of Density Bonus Units and Restricted Affordable Units, their size, location, terms and conditions of affordability or age restrictions for Senior Citizen Housing Development units, the identity of any Incentives and the development production schedule, and provision for the payment of the City's cost of monitoring compliance with the Regulatory Agreement and this Chapter.
9. "Restricted Affordable Unit" means a dwelling unit within a Housing Development that will be available at an Affordable Rent or Affordable Housing Cost as defined ~~specified~~ in the State Housing Density Bonuses and Incentives Law.
10. "State Housing Density Bonuses and Incentives Law" means Government Code Section 65915 et seq. and all amendments and additions thereto, now or hereinafter enacted, that impose requirements applicable to the City related to the provision of housing Density Bonus(es) and Incentives.
- ~~11. "Unobstructed Access" means having a path of travel that is always publicly accessible.~~

20.190.030 Density Bonuses, Incentives, and Waivers or Modifications of Development Standards

A. Density Bonuses~~es Units~~.

1. Density Bonus Units. The City will grant Density Bonus(es) if required by the State Housing Density Bonuses and Incentives Law when an Applicant timely requests such a Density Bonus for a Housing Development and agrees to execute and record a Regulatory Agreement providing for the construction and maintenance of Restricted Affordable Units or Senior Citizen Housing Development units as specified by the State Housing Density Bonuses and Incentives Law.
2. Density Bonus Calculations. The number of Restricted Affordable Units and Density Bonus Units shall be calculated in accordance with State Housing Density Bonuses and Incentives Law.
3. Density Bonus Replacement Ratio. All development approved under this Chapter which involves the replacement of units which are demolished or removed shall conform with State Housing Density Bonus and Incentives Law.

B. Incentives.

1. An applicant proposing a density bonus shall be entitled to incentives as described in this Section for any development for which a written agreement and a deed of trust securing the agreement is entered into by the applicant and the City of San José. The City shall process an incentive requested by an applicant as set forth in this Section.
2. The number of incentives that may be requested shall be based upon the number the applicant is entitled to pursuant to Government Code Section 65915 and as granted in the permit. Each deviation from a specific requirement of the Municipal Code or General Plan shall be treated as a separate incentive or concession.

C. Waivers. An Applicant may apply for a waiver or modification of Development Standards that will have the effect of physically precluding the construction of a Housing Development at the densities or with the incentives permitted by the State Housing Density Bonus Incentives and Law.

~~B. Density Bonus Calculations. The number of required Restricted Affordable Units, Senior Citizen Housing Development units and permitted Density Bonus Units shall be calculated in accordance with the State Housing Density Bonuses and Incentives Law.~~

~~C. Replacement of Pre-Existing Very Low or Low Income Units.~~

~~1. An Applicant shall be ineligible for a Density Bonus or any other Incentives or waiver or modification of Development Standards under this Chapter if the Housing Development is proposed on any property that includes a parcel or parcels on which rental dwelling units are or, if the dwelling units have been vacated or demolished in the five (5) year period preceding the application, have been subject to a recorded covenant, ordinance, or law that restricts rents to levels affordable to persons and families of Low or Very Low Income; or subject to any other form of rent or price control through a public entity's valid exercise of its police power; or occupied by Low or Very Low Income households, unless the proposed Housing Development replaces those units, and either of the following applies:~~

~~a. The proposed Housing Development, inclusive of the units replaced pursuant to this paragraph, contains Restricted Affordable Units at the percentages specified in the State Housing Density Bonuses and Incentives Law.~~

~~b. Each unit in the Housing Development, exclusive of a manager's unit or units, is affordable to, and occupied by, either a Low or Very Low Income household.~~

~~2. For the purposes of Subsection C.1, "replace" shall mean either of the following:~~

~~a. If any dwelling units described in Subsection C.1. are occupied on the date of submission of the application for a Housing Development, the proposed Housing Development shall provide at least the same number of units of equivalent size or type, or both, to be made available at Affordable Rent or Affordable Housing Cost to, and occupied by, persons and families in the same or lower income category as those households in occupancy. For unoccupied dwelling units described in Subsection C.1, in a development with occupied units, the proposed Housing Development shall provide units of equivalent size or type, or both, to be made available at Affordable Rent or Affordable Housing Cost to, and occupied by, persons and families in the same or lower~~

~~income category in the same proportion of affordability as the occupied units. All replacement calculations resulting in fractional units shall be rounded up to the next whole number. If the replacement units will be rental dwelling units, these units shall be subject to a recorded affordability restriction for at least fifty-five (55) years. If the proposed development is for sale units, the units replaced shall be subject to Section 20.190.100 C.5.~~

- ~~b. If all dwelling units described in Subsection C.1 have been vacated or demolished within the five (5) year period preceding the Application, the proposed Housing Development shall provide Restricted Affordable Units equal to or greater than the maximum number of Units of equivalent size or type, or both, as existed at any point in time in the five (5) year period preceding the Application, to be made available at Affordable Rent or Affordable Housing Cost to, and occupied by, persons and families in the same or lower income category as those persons and families in occupancy at that time, if known. If the incomes of the persons and families in occupancy at that time is not known, then one-half of the required units shall be made available at Affordable Rent or Affordable Housing Cost to, and occupied by, Very Low Income persons and families and one-half of the required units shall be made available for rent at Affordable Housing Cost to, and occupied by, Low Income persons and families. All replacement calculations resulting in fractional units shall be rounded up to the next whole number. If the replacement units will be rental dwelling units, these units shall be subject to a recorded affordability restriction for at least fifty-five (55) years. If the proposed development is for sale units, the units replaced shall be subject to 20.190.100 C.5.~~

20.190.040 Additional Density Bonuses and State Incentives

- ~~A. Land Donation and Transfer for Very Low Income Units. The City will grant additional Density Bonuses if required by the State Housing Density Bonuses and Incentives Law for land donation and transfer for Very Low Income Restricted Affordable Units, when an Applicant requests an additional Density Bonus, the Applicant donates and transfers to the City, or a housing developer approved by the City, land that is acceptable to the City for the development of Very Low Income Restricted Affordable Units in accordance with the requirements of the State Housing Density Bonuses and Incentives Law.~~

- ~~B. Condominium Conversion. If required by the State Housing Density Bonuses and Incentives Law, the City will grant a Density Bonus, or at the City's option, provide other Incentives of equivalent financial value, for the conversion of apartments to condominiums, if no prior Density Bonus was awarded for the apartments, the Applicant agrees to pay for the reasonably necessary administrative costs incurred by the City pursuant to this Subsection B, and the Applicant: 1) is seeking approval to convert apartments to a condominium project; 2) requests an additional Density Bonus; and 3) agrees to provide Restricted Affordable Units as specified by the State Housing Density Bonuses and Incentives Law and this Chapter 20.190. Nothing contained in this Section shall be construed to require the City to approve a proposal to convert apartments to condominiums.~~
- ~~C. Child Care Facility. The City will grant an additional Density Bonus, if required by the State Housing Density Bonuses and Incentives Law, when an Applicant provides a Child Care Facility as specified in the State Housing Density Bonuses and Incentives Law, or at the City's option, provide an additional Incentive that contributes significantly to the economic feasibility of the construction of the Child Care Facility, unless the City finds, based upon substantial evidence, that the community has adequate Child Care Facilities. The Child Care Facility shall be required to remain in operation for a period of time that is as long as, or longer than, the period of time during which the Density Bonus Units are required to remain affordable and the Child Care Facility shall meet or exceed the attendance percentages for children of Very Low, Low and Moderate Income as specified in the State Housing Density Bonuses and Incentives Law.~~
- ~~D. Maximum Parking Ratios. Upon the request of the Applicant, the City will apply the maximum parking ratios set forth in the State Housing Density Bonuses and Incentives Law for vehicular parking, inclusive of parking for people with disabilities and guest parking, in a Housing Development that qualifies for a Density Bonus, except where the City is allowed to impose a higher parking ratio under the State Housing Density Bonuses and Incentives Law, based on either an area-wide, or jurisdiction-wide, parking study conducted within the seven (7) years prior to the date of the request.~~
- ~~E. Height Limit Increases. Upon the request of the Applicant, the City will grant the height increase set forth in the State Housing Density Bonuses and Incentives Law.~~

20.190.050 Additional Development Standards for Restricted Affordable Units

- A. Concurrent Construction. Restricted Affordable Units shall be constructed concurrently with Non-Restricted Units unless both the City and the Applicant

agree within the Regulatory Agreement to an alternative schedule for construction.

- B. Design Standards. Restricted Affordable Units shall be built on-Site and be dispersed within the Housing Development, except as approved by the City and expressly permitted in the Regulatory Agreement.
1. The design, square footage, appearance and general quality of the Restricted Affordable Units shall be compatible with the design of the Non-Restricted Units in the Housing Development.
 2. In order to achieve compatibility, Restricted Affordable Units shall be located so as not to create a geographic concentration of Restricted Affordable Units within the Housing Development;
 3. The quality of exterior design and overall quality of construction of the Restricted Affordable Units shall be consistent with the exterior design of all Non-Restricted Units in the Housing Development;
 4. The design, square footage, appearance, finishes, features and general quality of the Restricted Affordable Units shall be functionally equivalent to the Non-Restricted Units;
 5. Restricted Affordable Units shall have functionally equivalent parking to Non-Restricted Units; and
 6. Except as may be modified pursuant to a Regulatory Agreement, shall meet all Site, design, and construction standards included in Title 17 (Buildings and Construction), Title 19 (Subdivisions), and Title 20 (Zoning) of this Code, and shall also comply with all design guidelines included in applicable specific plans or otherwise adopted by the City Council, and all administrative regulations adopted pursuant to Section 20.190.110 for the implementation of this Chapter 20.190.

20.190.060 City Density Development Incentives

- ~~A. General. In addition to the parking and/or height Incentive required by the State Housing Density Bonuses and Incentives Law, the City will provide up to four (4) Incentives as specified in this Section 20.190.060 to an Applicant for a Housing Development that qualifies for a Density Bonus based on the provision of Affordable Restricted Units, if required by the State Housing Density Bonuses and Incentives Law.~~

~~B. Setback Incentives. If an Applicant for a Housing Development that qualifies for a Density Bonus based on the provision of Restricted Affordable Units requests one of the following Incentives, the grant of the Incentive will be deemed to be required in order to provide the Affordable Restricted Units and, in the absence of substantial evidence to the contrary, will be deemed not to have a specific adverse impact upon public health and safety or the physical environment or on any real property that is listed in the California Register of Historical Resources and not to be contrary to state or federal law.~~

~~1. The following reduction in the Setback Area, Front that would otherwise be required under Chapters 20.30, 20.40, and 20.75 of this Code:~~

TABLE 20-300

Housing Type	
Very Low Income	A 1 foot reduction in the otherwise applicable setback for a Housing Development with 5% Restricted Affordable Units; 1 additional foot reduction for each additional 2% increase in the number of Restricted Affordable Units; to a maximum 5 foot reduction.
Low Income	A 1 foot reduction in the otherwise applicable setback for a Housing Development with 10% Restricted Affordable Units; 0.5 additional foot reduction for each additional 2.5% increase in the number of Restricted Affordable Units; up to a maximum 5 foot reduction.
Moderate Income	A 1 foot reduction in the otherwise applicable setback for a Housing Development with 10% Restricted Affordable Units; 0.5 additional foot reduction for each additional 7% increase in the number of Restricted Affordable Units; up to a maximum 5 foot reduction.

~~2. The following reduction in the Setback Area, Rear Interior that would otherwise be required under Chapters 20.30, 20.40, and 20.75 of this Code:~~

TABLE 20-310

Housing Type	
Very Low Income	A 1 foot reduction in the otherwise applicable setback for a Housing Development with 5% Restricted Affordable Units; 1 additional foot reduction for each additional 2% increase in the number of Restricted Affordable Units; to a maximum 5 foot reduction.

Low Income	A 1 foot reduction in the otherwise applicable setback for a Housing Development with 10% Restricted Affordable Units; 0.5 additional foot reduction for each additional 2.5% increase in the number of Restricted Affordable Units; to a maximum 5 foot reduction.
Moderate Income	A 1 foot reduction in the otherwise applicable setback for a Housing Development with 10% Restricted Affordable Units; 0.5 additional foot reduction for each additional 7% increase in the number of Restricted Affordable Units; to a maximum 5 foot reduction.

3. ~~The following reduction in the Setback Area, Rear Corner that would otherwise be required under Chapters 20.30, 20.40, and 20.75 of this Code:~~

TABLE 20-320

Housing Type			
Zone	R-1-8, R-1-5, R-1-2, R-1-1, R-1-1-RR, R-2	R-M	R-MH, CO, CP, CN, CG, PQP, MS-G, MS-C
Very Low Income	A 1 foot reduction in the otherwise applicable setback for a Housing Development with 5% Restricted Affordable Units; additional 1 foot reduction for each additional 2% increase in the number of Restricted Affordable Units; to a maximum 5 foot reduction.	A 1 foot reduction in the otherwise applicable setback for a Housing Development with 5% Restricted Affordable Units; additional 1 foot reduction for each additional 1% increase in the number of Restricted Affordable Units; to a maximum 5 foot reduction.	A 1 foot reduction in the otherwise applicable setback for a Housing Development with 5% Restricted Affordable Units; additional 1 foot reduction for each additional two percent 2% increase in the number of Restricted Affordable Units; to a maximum 3 foot reduction.

Low Income	A 1 foot reduction in the otherwise applicable setback for a Housing Development with 10% Restricted Affordable Units; additional 0.5 foot reduction for each additional 2.5% increase in the number of Restricted Affordable Units; to a maximum 5 foot reduction.	A 1 foot reduction in the otherwise applicable setback for a Housing Development with 10% Restricted Affordable Units; additional 1 foot reduction for each additional 2% increase in the number of Restricted Affordable Units; to a maximum 5 foot reduction.	A 1 foot reduction in the otherwise applicable setback for a Housing Development with 10% Restricted Affordable Units; additional 1 foot reduction for each additional 5% increase in the number of Restricted Affordable Units; to a maximum 3 foot reduction.
Moderate Income	A 1 foot reduction in the otherwise applicable setback for a Housing Development with 10% Restricted Affordable Units; additional 0.5 foot reduction for each additional 7% increase in the number of Restricted Affordable Units; to a maximum 5 foot reduction.	A 1 foot reduction in the otherwise applicable setback for a Housing Development with 10% Restricted Affordable Units; additional 1 foot reduction for each additional 3% increase in the number of Restricted Affordable Units; to a maximum 5 foot reduction.	A 1 foot reduction in the otherwise applicable setback for a Housing Development with 10% Restricted Affordable Units; additional 0.5 foot reduction for each additional 15% increase in the number of Restricted Affordable Units; to a maximum 3 foot reduction.

~~C. Other Incentives. If an Applicant requests any Incentive(s) other than those specified in Subsection B above and provides the Incentive information required in Section 20.190.080 B.3 below, the Incentive will be granted unless the Approval Authority makes a written finding, based upon substantial evidence, of any of the following:~~

- ~~1. The Incentive would not result in identifiable and actual cost reductions to provide for Affordable Housing Costs or Affordable Rents for the Restricted Affordable Restricted Units; or~~
- ~~2. The Incentive would have a specific adverse impact, as defined in paragraph (2) of subdivision (d) of Government Code Section 65589.5,~~

~~upon public health and safety or the physical environment or on any real property that is listed in the California Register of Historical Resources and for which there is no feasible method to satisfactorily mitigate or avoid the specific adverse impact without rendering the Housing Development unaffordable to Low and Moderate Income households.~~

~~3. The Incentive would be contrary to state or federal law.~~

~~D. Limitation on Total Number of Incentives Allowed. If any type of incentive has been granted for Restricted Affordable Units under any other provision of this Code, including but not limited to incentives for Inclusionary Units under Chapter 5.08 of this Code, such other incentives shall be counted toward the number of Incentives required under this Chapter 20.190.~~

20.190.070 Waiver or Modification of Development Standards

~~An Applicant may apply for a waiver or modification of Development Standards that will have the effect of physically precluding the construction of a Housing Development at the densities or with the Incentives permitted by this Chapter. The Applicant bears the burden of proving that the Development Standard(s) that is/are requested to be waived or modified will have the effect of physically precluding the construction of a Housing Development with the Density Bonus or Incentive requested under this Chapter.~~

20.190.080 Application Requirements and Timing

A. General. Any Density Bonus, ~~h~~ⁱ incentive, waiver, or modification sought by an Applicant shall be made pursuant to this Chapter.

B. Timing of Application ~~and Information to be Submitted.~~

1. An application for a Density Bonus, ~~h~~ⁱ incentive, waiver or modification of Development Standard shall be submitted to the Approval Authority and processed by the Approval Authority concurrently with the ~~earliest date after the effective date of the ordinance adopting this Chapter 20.190 of the~~ following requests for Discretionary Approval or Ministerial Approval:

- a. The first application for a Development Permit for a Housing Development;
- b. An application for subdivision map approval for a Housing Development; or

- c. An application for Ministerial Approval pursuant to Section 20.195.040.

2. In the event that a resubmittal of a development permit application or ministerial approval is required based on feedback from the initial submittal, an applicant may submit a new or revised application for Density Bonus, incentive, waiver or modification which addresses noncompliance which was identified during the initial review period.

23. No application or Density Bonus, ~~I~~ncentive, waiver, or modification of Development Standard shall be deemed received until the following have been provided:

- a. All fees for the application as set forth in the schedule of fees established by resolution of the City Council have been paid. No fee shall be deemed received until any negotiable instrument has been cleared and funds deposited on the City's account.
- b. All documents specified in this Chapter or on the application form have been filed.

C. Application process and information to be submitted.

31. The application shall be on a form prescribed by the Director and shall include the following information:

- a. A brief description of the proposed Housing Development, including the total number of dwelling units, Restricted Affordable Units, and Density Bonus Units proposed.
- b. The current zoning district(s) and general plan land use designation(s) and assessor's parcel number(s) of the project Site, and a description of any Density Bonus, Incentive, or waiver/modification requested.
- c. A vicinity map and preliminary Site plan, drawn to scale, including building footprints, driveway, and parking layout.
- ~~d. If an Incentive is requested, a brief explanation as to the actual cost reduction achieved through the Incentive and how the cost reduction would result in identifiable and actual cost reductions to provide for Affordable Housing Costs or Affordable Rents for the Restricted Affordable Units.~~

- ~~e. If the modification or waiver of a Development Standard is requested, an explanation of how the Development Standard would have the effect of physically precluding the construction of a Housing Development at the densities or with the Incentives permitted by this Chapter.~~
- df. A Site plan showing location of Non-Restricted Units, Restricted Affordable Units, and Density Bonus Units within the proposed Housing Development.
- eg. Level of affordability of the Restricted Affordable Units and proposed method to ensure affordability.
- f. If the modification or waiver of a Development Standard is requested, an explanation of how the Development Standard would have the effect of physically precluding the construction of a Housing Development at the densities or with the incentives permitted by this Chapter. Additionally, the applicant must provide a reference or citation for the source of each development standard which they are requesting to modify.
- gh. If an incentive is requested, a brief explanation as to the actual cost reduction achieved through the incentive and how the cost reduction would result in identifiable and actual cost reductions to provide for Affordable Housing Costs or Affordable Rents for the Restricted Affordable Units. For incentives that are not included within Subsection B. of Section 20.190.060, the Application must include:
 - (1) Reasonable documentation that each requested Incentive will result in identifiable and actual reductions to provide the Restricted Affordable Units. Such evidence may include the submittal of the project pro forma to the Approving Authority, providing evidence that the requested Incentives would result in identifiable, financially sufficient, and actual cost reductions.
 - (2) The cost documentation shall include all ~~of~~ the following items:
 - a) The actual cost reduction achieved through the Incentive;

- b) Evidence that the cost reduction will result in identifiable and actual reductions to provide the Restricted Affordable Units; and
- c) Such other information as may be requested by the Director of the Planning, Building and Code Enforcement Department or the Director of the Housing Department, or their designee(s), which additional financial information may include, but is not limited to, information regarding capital costs, equity investment, debt service, projected revenues, operating expenses, and such other information as either Director deems necessary to allow the Approving Authority to evaluate the financial information submitted by the Applicant.
- d) If the application is for approval of Mixed Use where Mixed Use would not otherwise be allowable, evidence that the proposed non-residential use will reduce the cost of the Housing Development, and that the non-residential use is compatible with the proposed Housing Development and other existing or planned development in the area where the proposed Housing Development will be located.

42. If an ~~i~~ncentive, ~~or~~ waiver or modification of Development Standard is requested, submittal of information sufficient to allow the Approving Authority to assess whether any requested ~~i~~ncentive, ~~or~~ waiver or modification of Development Standard will have a specific adverse impact, ~~or~~ on any real property that is listed in the California Register of Historical Resources, or if there is such an impact, an analysis of potential methods to satisfactorily mitigate or avoid the specific adverse impact without rendering the Housing Development unaffordable to Low-and Moderate-Income households, and the feasibility of such methods.

53. If an ~~i~~ncentive, ~~or~~ waiver or modification of Development Standard is requested, submittal of environmental information sufficient to allow the Approving Authority to assess whether any requested ~~i~~ncentive, ~~or~~ waiver or modification of Development Standard would have a specific adverse impact upon the public health or safety, as defined in paragraph (2) of subdivision (d) of Government Code Section 65589.5, and to analyze whether there are feasible potential methods to satisfactorily mitigate or

avoid the specific adverse impact without rendering the Housing Development unaffordable to Low- and Moderate-Income households. Submittal of such environmental information as is required for a project subject to the California Environmental Quality Act ("CEQA"), Public Resources Code Section 21000 et seq., and the CEQA Guidelines shall be submitted in satisfaction of this requirement, even if the Housing Development would otherwise be exempt from CEQA.

- 64. If a waiver or modification of a Development Standard is requested, submittal of evidence that the Development Standard for which the waiver is requested will have the effect of physically precluding the construction of the Housing Development with the Density Bonus and Incentives requested.
- 75. If a Density Bonus or ~~i~~Incentive is requested for a land donation, the application shall identify the location of the land to be dedicated and shall include proof of Site control and evidence that all of the conditions for a land transfer Density Bonus that are specified in the State Housing Density Bonuses and Incentives Law will be met.
- 86. If a Density Bonus or ~~i~~Incentive is requested for a Child Care Facility, the application shall identify the location and square footage of the Child Care Facility and include evidence that all of the conditions for a Child Care Facility Density Bonus or ~~i~~Incentive that are specified in the State Housing Density Bonuses and Incentives Law will be met.
- 97. If a Density Bonus or ~~i~~Incentive is requested for a condominium conversion, the Applicant shall provide evidence that all of the conditions for a condominium conversion Density Bonus that are specified in the State Housing Density Bonuses and Incentives Law will be met.

20.190.090 Application Review and Approval Process

- A. General. An application for a Density Bonus, ~~i~~Incentive, waiver or modification of Development Standards shall be acted upon by the Approval Authority. The granting of a Density Bonus, ~~or i~~Incentive, waiver or modification of Development Standards shall not be deemed approval of the entire project, nor to affect or constrain the exercise of discretion for any subsequent approval that may be required for the project. No application shall be accepted for a Density Bonus for a Site on which a prior Density Bonus has been approved, unless the Applicant waives any right to proceed with the project as approved with the prior Density Bonus. ~~All applications for a Density Bonus within the Airport Influence Area of~~

~~an airport shall be reviewed for safety and height policy consistency with the applicable airport Comprehensive Land Use Plan.~~

B. Conditions of Approval. Before approving an application for a Density Bonus, ~~Incentive~~incentive, waiver, or modification of Development Standards the Approval Authority must make the following findings based on evidence in the record, as applicable, that:

1. The Housing Development is eligible for a Density Bonus and any ~~Incentive~~incentives, waivers or modifications requested.
2. If the Density Bonus is based all or in part on subsections (a) (b) or (c) below, a finding that the requirements for the applicable characteristics that are specified in the State Housing Density Bonuses and Incentives Law have been or will be met.
 - a. Donation of land;
 - b. Inclusion of a Child Care Facility;
 - c. A Mixed-Use development;
 - d. A condominium conversion

~~A finding that the requirements for the applicable characteristics that are specified in the State Housing Density Bonuses and Incentives Law have been or will be met.~~

C. Conditions for Denial.

1. The ~~Approval Authority~~ City may deny an application for a Density Bonus, ~~incentive, waiver, or modification pursuant to the conditions for denial set forth in the State Density Bonus and Incentives law, as amended. if the findings required by Subsection B.1 above, as applicable, cannot be made.~~
2. ~~The Approval Authority may deny an application for an Incentive other than the Incentives specified in Section 20.190.060 based on a written finding based on substantial evidence that the incentive will not result in identifiable and actual cost reductions to provide for Affordable Rent or Affordable Housing Cost.~~

- ~~3. The Approval Authority may deny an application for a waiver or modification of a Development Standard based on a written finding based on substantial evidence that application of the Development Standard will not have the effect of physically precluding the construction of the Housing Development at the densities or with the Incentives permitted by the State Housing Density Bonuses and Incentives Law.~~
- ~~4. The Approval Authority may deny an application for Incentive, waiver or modification if one of the following written findings is made, supported by substantial evidence:~~
 - ~~a. The incentive, waiver or modification of Development Standard would have a specific, adverse impact, as defined in Government Code Section 65589.5(d)(2), upon public health or safety or the physical environment or on real property listed in the California Register of Historic Resources, and there is no feasible method to satisfactorily mitigate or avoid the specific adverse impact without rendering the Housing Development unaffordable to households of Low and Moderate Income. For the purpose of this Subsection, "specific adverse impact" means a significant, quantifiable, direct, and unavoidable impact, based on objective, identified, written public health or safety standards, policies, or conditions as they existed on the date that the application for the Housing Development was deemed complete; or~~
 - ~~b. The Incentive, waiver or modification of Development Standard is contrary to state or federal law.~~
- ~~5. Nothing in this Chapter 20.190 limits the City's right to deny an affordable housing project under Government Code Section 65589.5.~~
- ~~6. Nothing in this Chapter 20.190 shall be construed to require the City to grant a Density Bonus or Incentive or any Site or portion of a Site that is designated in the General Plan Land Use/Transportation Diagram for non-residential use.~~

20.190.100 Regulatory Agreement

- A. General. Applicants for a Density Bonus, ~~i~~Incentive, waiver or modification of Development Standards shall enter into a Regulatory Agreement with the City. The terms of the draft Regulatory Agreement shall be reviewed and revised as appropriate by the Director and the City Attorney. The final Regulatory Agreement, as approved by the City Attorney, shall be executed by the Applicant

submitting an application to enter into a Regulatory Agreement that is signed by the property owner and forwarded to the Approval Authority for final approval.

- B. Timing of Agreement Approval. Approval of the Regulatory Agreement by the Approval Authority shall take place prior to the issuance of a Building Approval or Grading Approval. The Regulatory Agreement may be submitted concurrently with an application for a compliance plan. ~~either concurrently with the Discretionary Approval or Ministerial Approval that is being processed with the Density Bonus application; or under an application for a compliance plan submitted between the Discretionary Approval and Ministerial Approval, and Building Approval or Grading Approval, whichever comes first.~~
- C. Agreement Terms and Conditions. The Regulatory Agreement shall include at a minimum all of the following:
1. The total number of dwelling units approved for the Housing Development, including the number of Restricted Affordable Units and/or Senior Citizen Housing Development units;
 2. A description of the household income group to be accommodated by the Restricted Affordable Units, and the standards for determining the corresponding Affordable Rent or Affordable Housing Cost;
 3. The location, dwelling unit sizes (square feet), and number of bedrooms of the Restricted Affordable Units and/or Senior Citizen Housing Development units;
 4. Term of use restrictions for Restricted Affordable Units and/or Senior Citizen Housing Development units for the minimum period(s) of time, and age restrictions if applicable, specified in the State Housing Density Bonuses and Incentives Law;
 5. Requirements to ensure that the initial occupants of all for-sale units that qualified the Applicant for the award of the Density Bonus are persons and families ~~of Very Low, Low, or Moderate Income~~ of the appropriate income levels, as required, and that the units are offered at an Affordable Housing Cost, as that cost is defined in Section 50052.5 of the Health and Safety Code and/or meet the requirements for Senior Citizen Housing Development units as specified in the State Housing and Density Bonuses and Incentives Law. The Regulatory Agreement for for-sale Restricted Affordable Units shall include the ~~following~~ equity sharing provisions specified in Section 65915(c)(1)(C), unless it ~~is in conflict~~ s with the requirements of another public funding source or law.÷

- ~~a. Upon resale, the seller of the unit shall retain the value of any improvements, the down payment, and the seller's proportionate share of appreciation. The City shall recapture any initial subsidy, as defined in Subsection 5.d., and its proportionate share of appreciation, as defined in Subsection 5.c., which amount shall be used within five (5) years for any of the purposes described in subdivision (e) of Section 33334.2 of the Health and Safety Code that promote home ownership.~~
 - ~~b. For purposes of this Section 20.190.100, the City's initial subsidy shall be equal to the fair market value of the home at the time of initial sale minus the initial sale price to the moderate-income household, plus the amount of any down payment assistance or mortgage assistance. If upon resale the market value is lower than the initial market value, then the value at the time of the resale shall be used as the initial market value.~~
 - ~~c. For purposes of this Section 20.190.100, the City's proportionate share of appreciation shall be equal to the ratio of the City's initial subsidy to the fair market value of the home at the time of initial sale.~~
 - 6. A schedule for completion and occupancy of the Restricted Affordable Units and Density Bonus Units;
 - 7. A description of any ~~i~~incentive, waiver or modification of Development Standards, if any, being provided by the City;
 - 8. A description of remedies for breach of the Regulatory Agreement, including at the City's option, the identification of tenants or qualified purchasers as third party beneficiaries under the Regulatory Agreement;
 - 9. A termination provision stating that any granted Density Bonus and Incentive(s) shall terminate with the demolition, destruction or other removal of the structure receiving the Density Bonus and/or Incentive(s);
 - 10. A provision stating that the Regulatory Agreement shall be binding to all future owners and successors in interest; and
 - 11. Other provisions to ensure implementation and compliance with this Chapter.
- D. Recordation. Following execution of the Regulatory Agreement, the Regulatory Agreement shall be recorded on the property subject to the Regulatory Agreement.

20.190.110 Regulations

The Director is hereby authorized to promulgate forms, policies, and regulations for the implementation of this Chapter, including but not limited to, applications for additional incentives, waiver or modification of Development Standards, terms and conditions for the Regulatory Agreement as approved by the City Attorney, and applications for modification of the Regulatory Agreement.

SECTION 21. Chapter 20.195 of Title 20 of the San José Municipal Code is amended to read as follows:

CHAPTER 20.195 **MINISTERIAL APPROVALS**

Part 1 **General**

20.195.100 Purpose and Applicability

A. The purpose of this Chapter is to:

- 1.** Define and implement a ministerial review process for qualifying housing development projects pursuant to applicable provisions of state law, including but not limited to California Government Code Sections 65913.4, 65913.16, 65912.121, 65852.28 and 66499.41, 65850.02, 65583.2(i), 65941.1, 65943, 65589.5(j), 65583.2(h).
- 2.** Establish the objective design standards and procedures for review for ministerial approval.
- 3.** Specify local ministerial approval process for certain housing applications as set forth in Chapter 20.65, Parts 2, 3 and 4;
- 4.** Specify local ministerial approval process for streamlined infill housing developments; and
- 5.** Facilitate the development of housing projects consistent with the goals, objectives, and policies of the City's General Plan Housing Element as may be amended from time to time.

B. **Applicability.** This Chapter applies to housing development projects that qualify for ministerial approval under applicable state law.

1. This Chapter does not apply to the creation of an Accessory Dwelling Unit and/or Junior Accessory Dwelling Unit established in Part 2.75 of Chapter 20.80; Senate Bill 9 Implementation that meets provisions in Part 8 of Chapter 20.30; or streamlined City-initiated two-unit development that meets provisions specified in Part 9 and Part 9.5 of Chapter 20.30.

C. Discretionary Review. Projects that do not meet the criteria for ministerial approval under this Chapter or state law shall be subject to the City's standard discretionary review processes.

20.195.110 Definitions

A. All terms used in this Chapter that are defined by state law shall meet definitions established by their respective Government Code sections, as amended.

B. Whenever the following terms are used in this Chapter, they shall have the meaning established by this Section:

1. "Applicant" means the owner of the property, or person or entity with the written authority of the owner, that submits an application for Ministerial Approval of a qualifying housing development project on said property.

2. "Ministerial Approval" means:

a. Any approval related to a housing development project that does not require the exercise of judgment or deliberation by the Director as authorized by state law; or

b. Any approval related to a housing development project that meets the requirements of Chapter 20.65, Parts 2, 3 or 4, and does not require the exercise of judgement or deliberation by the Director.

3. "State Streamlined Ministerial Approval Process " means Government Code Section 65913.4 and all amendments and additions thereto, now or hereinafter enacted, that impose requirements applicable to the City related to Ministerial Approvals.

Part 2

State Streamlined Ministerial Approval

20.195.200 Applicability

This Part applies to housing development projects that seek ministerial approval under state law. Housing development projects that follow streamlined ministerial approval pursuant to state law shall follow all applicable Government Code sections and this Part for determination of eligibility, implementation, and ministerial approval.

20.195.210 Development Standards

General Development Standards. Housing development projects seeking streamlined ministerial approval as provided in state law shall meet all objective site, design, and construction standards included in Title 17 (Building and Construction), Title 19 (Subdivisions), and Title 20 (Zoning) of this Code, and shall also comply with all objective design guidelines included in applicable specific plans or otherwise adopted by the City Council, and all administrative regulations adopted pursuant to Section 20.195.230 for the implementation of this Chapter 20.195.

20.195.220 Application Review and Approval Process

A. Application Received. No application for State Streamlined Ministerial Approval shall be deemed received until the following have been provided:

1. All fees for the application as set forth in the schedule of fees established by resolution of the City Council have been paid. No fee shall be deemed received until any negotiable instrument has been cleared and funds deposited in the City's account.
2. All documents specified in this Chapter and the application form have been filed with the following information (in addition to Part 4 Specific Requirements, as applicable):
 - a. A brief description of the proposed housing development project.
 - b. The current zoning district(s), general plan land use designation(s), and assessor's parcel number(s) of the project Site.
 - c. A vicinity map and a Site plan, drawn to scale, including building footprints, driveway, and parking layout.
 - d. Indication if the Applicant also seeks a density bonus, incentive, waiver, or modification.

- e. Level of affordability of any Restricted Affordable Units and proposed method to ensure affordability.
- f. As applicable under state law, if the applicant submits an application under the provisions of the state streamlined ministerial approval process and the project is not entirely a public work, as defined in Government Code Section 65913.4, certification that the project will pay prevailing wages; if the project meets conditions specified in the process, certification that the project will employ a skilled and trained workforce.

B. Approval Process. An application for State Streamlined Ministerial Approval shall be acted upon by the Director.

- 1. Conditions for Approval. Before approving an application for Ministerial Approval, the Director must make the following findings based on evidence in the record:
 - a. The housing development project is eligible for Ministerial Approval.
 - b. Requirements pursuant to applicable state housing laws have been or will be met; and
 - c. If the application includes a request for a density bonus, incentive, waiver, or modification under Chapter 20.190, a finding that all the requirements for a density bonus and/or other incentives that are specified in Chapter 20.190 have been or will be met.
 - d. Conformance with Citywide Design Standards and applicable objective development standards.
- 2. Conditions for Denial. The Director may deny an application for Ministerial Approval if:
 - a. The findings required by Subsection B.1. above, as applicable, cannot be made.
 - b. Doing so would be contrary to state and federal law, and this finding is made in writing.
 - c. Nothing in this Chapter 20.195 limits the City's right to deny an affordable housing project under Government Code Section 65589.5.

C. Environmental. The California Environmental Quality Act (CEQA) does not apply to Ministerial Approvals, as they are statutorily exempt pursuant to California Code of Regulations Section 15268, as may be amended. Ministerial Approvals complying with the requirements of this Chapter are not subject to CEQA.

D. Permit Conditions.

1. Term. Unless otherwise required by state law, Ministerial Approvals shall automatically expire three (3) years from the date of the final action establishing that approval, unless otherwise provided in the approval, from and after the date of issuance of the Ministerial Approval, if within such three (3)-year period the proposed use of the site or vertical construction of buildings has not commenced, pursuant to and in accordance with the provisions of the Ministerial Approval. The duration of the approval may be extended as provided for in state law.
2. Conditions. Following approval of an application under the State Streamlined Ministerial Approval Process, but prior to issuance of a building permit for the development, the Director may require one-time changes to the development that are necessary to comply with the objective uniform construction codes (including, without limitation building, plumbing, electrical, fire, and grading codes), to comply with federal or state laws, or to mitigate a specific, adverse impact upon public health or safety and there is no feasible method to satisfactorily mitigate or avoid the specific adverse impact without modifying the development. A "specific, adverse impact" has the meaning defined in Government Code Section 65589.5(d)(2).
3. Failure to install public improvements. It shall be a violation of this Title for any person who has signed the acceptance of a permit or approval issued pursuant to this Chapter to fail to secure the completion of the public improvements required by the permit or approval within the time period specified. If no time period is specified, the time period for completion of improvements shall be deemed to be one (1) year from the issuance of a building permit unless an extension has been granted in writing by the Director or, if no building permit is required, one (1) year from the issuance of the permit or approval.
4. Construction Clean-up. It shall be a violation of this Title for any person responsible for construction, including but not limited to the permit holder and any contractor thereof, to fail to keep the public right-of-way free from

- construction dirt and debris. All on-site construction debris shall be removed at least weekly.
5. Window Glazing. Unless otherwise indicated on an approved plan or in the approved permit, all first-floor, ground floor windows for any commercial use shall consist of transparent glass.
 6. Maintenance of Landscape. It shall be a violation of this Title for any property owner or other person in control of any site to fail to install or maintain any landscaping required by a permit or approval issued pursuant to this Chapter or otherwise in a manner that fails to fully comply with the provisions of Chapters 15.10 or 15.11 of Title 15 of this Code. Any vegetation, required by a permit or approval, or otherwise by Chapters 15.10 or 15.11 of Title 15 of this Code, which is dead or dying, shall be replaced within sixty (60) days.
 7. Hours of Construction within five hundred (500) feet of a residential unit. No applicant or agent of an applicant shall suffer or allow any construction activity on a site located within five hundred (500) feet of a residential unit before 7:00 a.m. or after 7:00 p.m., Monday through Friday, or at any time on weekends.
 8. All projects approved under this Chapter 20.195 shall follow the stormwater management requirements listed in Sections 20.100.470 and 20.100.480, as applicable.
 9. Prior to the approval of the Tract or Parcel Map (if applicable) by the Director of Public Works, or the issuance of Building permits, whichever occurs first, all projects approved under this Chapter 20.195 shall satisfy all applicable Public Works clearance and Building Division clearance requirements.
 10. All projects approved under this Chapter 20.195 shall, if required by the Zoning Ordinance, satisfy the performance standards of the applicable Zoning Districts.

20.195.230 Regulations

The Director is hereby authorized to promulgate forms, policies, and regulations for the implementation of this Chapter.

Part 3 **Local Streamlined Ministerial Approval**

20.195.300 Applicability

- A. This Section may be used instead of, but not in addition to, the State Streamlined Ministerial Approvals allowed pursuant to applicable Government Code Sections, for this Chapter of the San José Municipal Code.
- B. Housing development projects on sites located in the Affordable Housing Overlay, Mixed-Income Housing Overlay, or Housing Element Residential Overlay; Emergency Residential Shelters that meet the requirements specified in Chapter 20.80; and Streamlined Infill Housing Developments that meet the requirements specified in this Part and in Part 4 of this Chapter.

20.195.310 Standards

- A. Development Standards. The following shall meet all objective site, design, and construction standards included in Title 17 (Building and Construction), Title 19 (Subdivisions), and Title 20 (Zoning) of this Code, and shall also comply with all objective design guidelines included in applicable specific plans or otherwise adopted by the City Council, and all administrative regulations adopted pursuant to Section 20.195.230 for the implementation of this Chapter 20.195:
 - 1. Housing Development Projects located within the Affordable Housing Overlay, Mixed-Income Housing Overlay, or Housing Element Residential Overlay.
 - 2. Emergency Residential Shelters that meet the requirements specified in Chapter 20.80.
 - 3. Streamlined Infill Housing Development that meets the requirements specified in Chapter 20.195, Parts 3 and 4.
- B. Ministerial Approval shall not be issued where any of the following apply:
 - 1. The development would require the demolition or alteration of a historic resource as defined and outlined below.
 - a. Property listed in the San José Historic Resources Inventory, including property located within a designated or eligible National Register, California Register or City Landmark Historic District or designated historic district or Conservation Area classified in the Historic Resources Inventory as an Identified Structure.

- i. An Identified Structure may be demolished if a historic report prepared by a qualified historic resources consultant meeting the Secretary of the Interior Professional Qualification Standards (Code of Federal Regulations, 36 CFR Part 61) documents and evaluates the property and determines it is not eligible for listing in the National Register, California Register, or the City of San José Historic Resources Inventory as a Candidate City Landmark.
 - b. Properties not listed in the San José Historic Resources Inventory containing one or more building(s) over 45 years old shall be documented and evaluated in a historic report prepared by a qualified historic resources consultant meeting the Secretary of the Interior Professional Qualification Standards (Code of Federal Regulations, 36 CFR Part 61). If the qualified historic resources consultant determines that the property is eligible for listing in the National Register, California Register, or the City of San José Historic Resources Inventory as a Candidate City Landmark, the building(s) may not be demolished through a ministerial process. If the qualified historic resources consultant determines that the property is not eligible under the above criteria, the building(s) may be demolished.
2. The site is designated as either prime farmland or farmland of statewide importance, as defined pursuant to United States Department of Agriculture land inventory and monitoring criteria, as modified for California, and designated on the maps prepared by the Farmland Mapping and Monitoring Program of the Department of Conservation, or land zoned or designated for agricultural protection or preservation by a local ballot measure that was approved by the voters of that jurisdiction.
3. The site contains wetlands, as defined in the United States Fish and Wildlife Service Manual, Part 660 FW 2 (June 21, 1993).
4. The site is within a very high fire hazard severity zone, as determined by the California Department of Forestry and Fire Protection pursuant to Government Code Section 51178, or within a high or very high fire hazard severity zone as indicated on maps adopted by the Department of Forestry and Fire Protection pursuant to Section 4202 of the Public Resources Code. This subparagraph does not apply to sites excluded from the specified hazard zones by a local agency, pursuant to subdivision (b) of Section 51179, or sites that have adopted fire hazard mitigation

measures pursuant to existing building standards or state fire mitigation measures applicable to the development.

5. The site is a hazardous waste site that is listed pursuant to Government Code Section 65962.5 or a hazardous waste site designated by the Department of Toxic Substances Control pursuant to Section 25356 of the Health and Safety Code, unless either of the following apply:
 - a. The site is an underground storage tank site that received a uniform closure letter issued pursuant to subdivision (g) of Section 25296.10 of the Health and Safety Code based on closure criteria established by the State Water Resources Control Board for residential use or residential mixed uses. This section does not alter or change the conditions to remove a site from the list of hazardous waste sites listed pursuant to Government Code Section 65962.5.
 - b. The State Department of Public Health, State Water Resources Control Board, Department of Toxic Substances Control, or a local agency making a determination pursuant to subdivision (c) of Section 25296.10 of the Health and Safety Code, has otherwise determined that the site is suitable for residential use or residential mixed uses.
6. The site is within a delineated earthquake fault zone as determined by the State Geologist in any official maps published by the State Geologist, unless the development complies with applicable seismic protection building code standards adopted by the California Building Standards Commission under the California Building Standards Law (Part 2.5 (commencing with Section 18901) of Division 13 of the Health and Safety Code), and by any local building department under Chapter 12.2 (commencing with Section 8875) of Division 1 of Title 2.
7. Within a special flood hazard area subject to inundation by the one percent (1%) annual chance flood (100-year flood) as determined by the Federal Emergency Management Agency in any official maps published by the Federal Emergency Management Agency. If a development proponent is able to satisfy all applicable federal qualifying criteria in order to provide that the site satisfies this subparagraph and is otherwise eligible for streamlined approval under this section, a local government shall not deny the application on the basis that the development proponent did not comply with any additional permit requirement, standard, or action adopted by that local government that is applicable to that site. A

development may be located on a site described in this subparagraph if either of the following are met:

- a. The site has been subject to a Letter of Map Revision prepared by the Federal Emergency Management Agency and issued to the local jurisdiction.
 - b. The site meets Federal Emergency Management Agency requirements necessary to meet the minimum flood plain management criteria of the National Flood Insurance Program pursuant to Part 59 (commencing with Section 59.1) and Part 60 (commencing with Section 60.1) of Subchapter B of Chapter I of Title 44 of the Code of Federal Regulations.
8. Within a regulatory floodway as determined by the Federal Emergency Management Agency in any official maps published by the Federal Emergency Management Agency, unless the development has received a no-rise certification in accordance with Section 60.3(d)(3) of Title 44 of the Code of Federal Regulations. If a development proponent is able to satisfy all applicable federal qualifying criteria that the site satisfies this subparagraph and is otherwise eligible for streamlined approval under this section, a local government shall not deny the application on the basis that the development proponent did not comply with any additional permit requirement, standard, or action adopted by that local government that is applicable to that site.
9. Lands identified for conservation in an adopted natural community conservation plan pursuant to the Natural Community Conservation Planning Act (Chapter 10 (commencing with Section 2800) of Division 3 of the Fish and Game Code), a habitat conservation plan pursuant to the federal Endangered Species Act of 1973 (16 U.S.C. Sec. 1531 et seq.), or other adopted natural resource protection plan.
10. Habitat for protected species identified as candidate, sensitive, or species of special status by state or federal agencies, fully protected species, or species protected by the federal Endangered Species Act of 1973 (16 U.S.C. Sec. 1531 et seq.), the California Endangered Species Act (Chapter 1.5 (commencing with Section 2050) of Division 3 of the Fish and Game Code), or the Native Plant Protection Act (Chapter 10 (commencing with Section 1900) of Division 2 of the Fish and Game Code).
11. Lands under conservation easement.

12. The development would have a specific, adverse impact upon public health or safety, and there is no feasible method to satisfactorily mitigate or avoid the specific adverse impact.

C. Infill Housing Standards. In addition to the requirements stated in this Part, an Infill Housing Development Project must meet all of the following criteria to be eligible for a streamlined ministerial approval process:

1. Land Use and Zoning

a. The project site must have a General Plan land use designation of Urban Residential, Transit Residential, Urban Village, or Mixed Use Commercial.

i. The project must provide residential units at a net density of forty (40) dwelling units per acre or greater. If the project is located in a General Plan land use designation that allows a density below 40 DU/AC, the project must provide at least 40 DU/AC.

a. The project is zoned Urban Residential, Transit Residential, Urban Village, or Mixed Use Commercial.

b. The infill housing development project is located in an area in which the per-capita VMT is less than or equal to the threshold of significance for residential uses or the project meets the screening criteria under the City's Transportation Analysis Policy (City Council Policy 5-1), as amended. If the project includes non-residential uses, the project must the CEQA screening criteria based on the proposed land use in Table 1 of the City's Transportation Analysis Policy, as amended.

2. Location

a. The project is located in an approved urban village (excluding Alum Rock Avenue Urban Village), Capitol Caltrain Urban Village Plan, Jackson-Taylor Specific Plan, Martha Gardens Specific Plan, or Midtown Specific Plan.

- b. The project is within one-half (½) mile of an existing major transit stop as defined by Public Resource Code Section 21064.3, as amended.
 - c. The project site is not within the Airport Influence Area approved by Council.
 - d. The project site is not located within one hundred (100) feet of a City Landmark or City Landmark District.
 - e. The project is not located on a site known to contain archaeological or paleontological resources, or human remains.
 - f. The project is not located on a site within a mobilehome park.
 - g. The project is not located within three hundred (300) feet of a creek or edge of riparian vegetation, whichever is most restrictive.
 - h. The project site is not located on a hazardous waste site included in any list compiled pursuant to Section 65962.5 of the California Government Code.
3. Demolition. The Housing Development Project does not:
- a. Demolish a unit occupied by tenants in a multi-unit dwelling (consisting of three (3) or more units) within the last five (5) years;
 - b. Demolish a project subject to an affordable housing regulatory agreement;
 - c. Demolish a unit protected under the Ellis Act; or
 - d. Reduce the total number of existing dwelling units on the site.
4. The project does not include or require the concurrent review of a:
- a. Development Exception;
 - b. Variance;
 - c. Use Permit; or
 - d. Planned Development Permit.

20.195.320 Application Requirements

- A. General. Any application for a Local Ministerial Approval sought by an Applicant shall be made pursuant to this Chapter.
- B. Application. All applications pursuant to this Chapter 20.195 shall be filed with the Director in a form prescribed by the Director. The application shall be signed by:
1. All owners of the real property included in the housing development; and
 2. The person or entity with written authority of the owner(s) to apply for Ministerial Approval for a housing development project.
- C. Application Received. No application for Ministerial Approval shall be deemed received until the following have been provided:
1. All fees for the application as set forth in the schedule of fees established by resolution of the City Council have been paid. No fee shall be deemed received until any negotiable instrument has been cleared and funds deposited on the City's account.
 2. All documents specified in this Chapter and the application form have been filed.
- D. Subdivision Application. Notwithstanding the Subdivision Map Act (Division 2 (commencing with Section 66410)), or any other applicable law authorizing the subdivision of land, the subdivision of a parcel for a housing development project pursuant to Chapter 20.65 that also meets all the requirements of this Chapter for Ministerial Approval, shall be subject to a Ministerial Approval process as set forth above and shall be processed concurrently with the Ministerial Approval for the housing development project.
- E. Tree Removal Application. Notwithstanding Chapter 13.32, the removal of tree(s), excluding heritage tree(s) as defined in Section 13.32.140 or palm tree(s) in the Palm Haven Conservation Area, necessitated by the housing development pursuant to Chapter 20.65 that also meet all the requirements of this Chapter for Ministerial Approval, shall be subject to a Ministerial Approval process as set forth above and shall be processed concurrently with the Ministerial Approval for the housing development. The application shall include the following information:
1. Brief description of each Ordinance sized tree, circumference of the tree(s) measured at 4.5 feet above ground, and species of the tree(s).

2. Site Plan identifying the location of the tree(s), and distance of the tree(s) to the nearest building or structure
3. Replacement with either one 15-gallon tree or one 24-inch box tree, in lieu of two 15-gallon trees, shall be provided onsite or through an in-lieu contribution as outlined below:
 - a. For one-family dwellings, the tree replacement ratio shall be at a minimum 1:1 for each tree that is removed.
 - b. For multi-family dwellings, the tree replacement shall be at a minimum 4:1 for each tree that is removed.
- F. The housing development project must comply with Chapter 5.08, as amended.

20.195.330 Approval Process

- A. Environmental. The California Environmental Quality Act (CEQA) does not apply to Ministerial Approvals, as they are statutorily exempt pursuant to Government Code Section 15268, as may be amended. Ministerial Approvals complying with the requirements of this Chapter are not subject to CEQA.
- B. General. An application for Local Streamlined Ministerial Approval shall be acted upon by the Director.
- C. Conditions for Approval. Before approving an application for Local Streamlined Ministerial Approval, the Director must make the following findings based on evidence in the record, as applicable, that:
 1. The housing development project is eligible for Ministerial Approval.
 2. If the application includes a request for a density bonus, incentive, waiver, or modification under Chapter 20.190, a finding that all the requirements for a density bonus and/or other incentives that are specified in Chapter 20.190 have been or will be met.
- D. Conditions for Denial. The Director may deny an application for Local Streamlined Ministerial Approval if:
 1. The findings required by Subsection C above, as applicable, cannot be made.

2. Doing so would be contrary to state and federal law, and this finding is made in writing.
 3. The development would have a specific, adverse impact upon public health or safety, and there is no feasible method to satisfactorily mitigate or avoid the specific adverse impact.
- E. Nothing in this Chapter 20.195 limits the City's right to deny an affordable housing project under Government Code Section 65589.5.
- F. Permit Conditions.
1. Term. Local Streamlined Ministerial Approvals shall automatically expire after four (4) years from and after the date of issuance of the Local Streamlined Ministerial Approval if within such four (4)-year period the vertical construction of buildings has not commenced, pursuant to and in accordance with the provisions of the Local Streamlined Ministerial Approval.
 - a. The Director may issue a one-time, one-year extension of a Local Streamlined Ministerial Approval if a complete building permit application for the project approved under the Local Ministerial Approval has been submitted.
 - b. The application for an extension must be filed on the form provided by the Director on or before the date that is three (3) business days prior to the expiration of the development permit proposed for extension and accompanied by the fees as set forth in the schedule of fees adopted by resolution of the City Council.
 - c. The decision to grant, deny, or condition an extension is a ministerial determination.
 2. Conditions. Following approval of an application under the Local Streamlined Ministerial Approval Process, but prior to issuance of a building permit for the development, the Director may require one-time changes to the development that are necessary to comply with the objective uniform construction codes (including, without limitation building, plumbing, electrical, fire, and grading codes), to comply with federal or state laws, or to mitigate a specific, adverse impact upon public health or safety and there is no feasible method to satisfactorily mitigate or avoid the specific adverse impact without modifying the development. A

"specific, adverse impact" has the meaning defined in Government Code Section 65589.5(d)(2).

3. Failure to install public improvements. It shall be a violation of this Title for any person who has signed the acceptance of a permit or approval issued pursuant to this Chapter to fail to secure the completion of the public improvements required by the permit or approval within the time period specified. If no time period is specified, the time period for completion of improvements shall be deemed to be one (1) year from the issuance of a building permit unless an extension has been granted in writing by the Director or, if no building permit is required, one (1) year from the issuance of the permit or approval.
4. Construction Clean-up. It shall be a violation of this Title for any person responsible for construction including but not limited to the permit holder and any contractor thereof to fail to keep the public right-of-way free from construction dirt and debris. All on-site construction debris shall be removed at least weekly.
5. Window Glazing. Unless otherwise indicated on an approved plan or in the approved permit, all first-floor, ground floor windows for any commercial use shall consist of transparent glass.
6. Maintenance of Landscape. It shall be a violation of this Title for any property owner or other person in control of any site to fail to install or maintain any landscaping required by a permit or approval issued pursuant to this Chapter or otherwise in a manner that fails to fully comply with the provisions of Chapters 15.10 or 15.11 of Title 15 of this Code. Any vegetation, required by a permit or approval, or otherwise by Chapters 15.10 or 15.11 of Title 15 of this Code, which is dead or dying, shall be replaced within sixty (60) days.
7. Hours of Construction within five hundred (500) feet of a residential unit. No Applicant or agent of an Applicant shall suffer or allow any construction activity on a site located within five hundred (500) feet of a residential unit before 7:00 a.m. or after 7:00 p.m., Monday through Friday, or at any time on weekends. Extension of construction hours are allowed through a Permit Amendment or Permit Adjustment.
8. All projects approved under this Chapter 20.195 shall follow the stormwater management requirements listed in Sections 20.100.470 and 20.100.480, as applicable.

9. Prior to the approval of the Tract or Parcel Map (if applicable) by the Director of Public Works, or the issuance of Building permits, whichever occurs first, all projects approved under this Chapter 20.195 shall satisfy all applicable Public Works clearance and Building Division clearance requirements.
 10. All projects approved under this Chapter 20.195 shall, if required by the Zoning Ordinance, satisfy the performance standards of the applicable Zoning Districts.
 11. All projects under this ministerial ordinance will be required to conduct Worker Environmental Awareness Program training for construction workers.
 12. Any sites located in an archaeologically sensitive area, as mapped by the General Plan, will be required to have archaeological and Tribal monitoring during ground disturbance activities such as tree removal, demolition, and grading, and Tribes that requested consultation shall be notified of any findings made on the project site.
- G. Environmental Standard Permit Conditions. Projects subject to a ministerial review process shall be subject to the City's standard environmental permit conditions adopted by City Council.

Part 4 **Specific Requirements**

20.195.400 Purpose

This Part establishes additional standards and requirements that apply to the approval of ministerial projects pursuant to applicable State housing laws.

20.195.410 Agricultural Employee Housing

Agricultural Employee Housing pursuant to California Health and Safety Code Section 17021.8 et seq. or as amended shall conform to, in addition to Part 3, the following requirements:

- A. Development Standards. All applications pursuant to this Part shall follow the requirements as follows:
 1. Setbacks. Maintain setback requirements applicable to the zoning district in which the property is located.

2. Residential Uses. Any residential uses must be located at least seventy-five (75) feet from any barn, pen, or other structure that houses livestock or poultry, and fifty (50) feet from any other agricultural use.
3. Environment. No ground disturbance is allowed within one hundred (100) feet of a riparian corridor as measured from the top of the bank or vegetative edge, whichever is greater.
4. Access. The development must have access to and from a public street composed of a dustless and compacted surface with gravel or similar permeable surface, or asphalt.

B. Additional application requirements. All applications pursuant to this Part shall incorporate the following requirements:

1. Indicate the housing type and description of the total number of units and beds proposed.
2. Indicate the number of agricultural employees occupying the housing and a description of whether the housing is temporary, seasonal, or permanent.
3. A description of the agricultural workplace and employer.
4. Identification of the entity responsible for housing maintenance.

20.195.420 State Supportive Housing

State Supportive Housing pursuant to Government Code Sections 65650 et seq. and all amendments and additions thereto shall conform to, in addition to Part 3, the following requirements:

A. Application Requirements.

1. Applicant must submit documentation demonstrating that the onsite supportive services provided meet the requirements of the Supportive Housing Law.
2. If a reduction in Supportive Housing Units is requested due to the termination of project-based rental assistance or operating subsidy through no fault of the project owner, an explanation of good faith efforts by the owner to find other sources of financial support, how any change in

the number of Supportive Service Units is restricted to the minimum necessary to maintain the project's financial feasibility, and how any change to the occupancy of the Supportive Housing Units is made in a manner that minimizes tenant disruption and only upon the vacancy of Supportive Housing Units.

20.195.430 Low Barrier Navigation Center

Low Barrier Navigation Center Ministerial Approval pursuant to Government Code Section 65660 et seq. and all amendments and additions thereto shall conform to, in addition to Part 3, the following requirements:

A. Application Requirements.

1. Applicant Identification. The application shall identify all owners of the real property where the Low Barrier Navigation Center is located or the person or entity with written authority of the owner(s) to apply for Ministerial Approval for a housing development.
2. The application shall include the following information:
 - a. A brief description of the proposed housing development including, as applicable, the total number of Low Barrier Navigation Center beds.
 - b. A site plan showing the location of, as applicable, Low Barrier Navigation beds, and all other dwelling units within the Low Barrier Navigation Center.

20.195.440 Emergency Residential Shelters

Emergency Residential Shelters pursuant to Government Code Section 65583 et seq. and all amendments and additions thereto shall conform to the additional requirements established in Section 20.80.500 of Part 6 of Chapter 20.80 of this Title.

20.195.450 Small Lot Subdivisions SB 684 and SB 1123

A. Purpose and applicability

1. The purpose of this Section is to implement the provisions of California Government Code Sections 65852.28 and 66499.41, as amended, that require cities to allow certain subdivisions resulting in ten (10) or fewer parcels, and ten (10) or fewer residential units on the proposed lot to be

subdivided, to be approved ministerially without discretionary review or public hearings.

2. Residential development may incorporate One-family dwelling units, Two-family dwelling units and/or Multifamily dwelling units to not exceed a maximum total of ten (10) units for the entire residential subdivision development project.
3. An applicant may request a waiver of a development or design standard to the extent that it physically precludes development, except that maximum height may not be waived for a project proposed on a parcel in a single-family zoning district.
4. Any housing development project that does not conform to the requirements of this Chapter or siting criteria in accordance with state law shall be subject to discretionary review.

B. Definitions.

1. "Director" means the Director of Planning, Building, and Code Enforcement.
2. "Uninhabitable" means the living space of the existing structure is damaged beyond minor to major repair, does not have fundamental services such as water, electricity, heat or plumbing, not safe, structurally unsound, unsanitary, or not fit to occupy and requires the demolition of the existing structure.
3. "Net habitable square feet" means the average of the total finished and heated floor area fully enclosed by the inside surface of walls, windows, doors, and partitions, and having a headroom of at least six and a half (6.5) feet, including working, living, eating, cooking, sleeping, stair, hall, service, and storage areas, but excluding garages, carports, parking spaces, cellars, half-stories, and unfinished attics and basements, pursuant to Government Code Section 66499.41, as amended.

C. Dwelling Unit standards.

1. Utility. All required utility connections shall be placed on the same parcel as the unit or units the utilities are serving or shall be located within a utility easement.

2. Setbacks and Height. New structures shall maintain a minimum setback of four (4) feet from all side and rear property lines that abut the adjoining properties. The dwelling unit(s) shall comply with the front setback and height requirement allowed under the existing base zoning district applicable to the lot.
3. ADUs. Accessory dwelling units shall not be allowed for housing development projects covered under this Section except for attached ADUs that conform to required standards.
4. Encroachments. Encroachments into setback areas are allowed per Chapter 20.30, however, in no case shall an encroachment be closer than three (3) feet from a side property line. Eaves are the only encroachment allowed into a rear setback and must maintain a setback of three (3) feet in any case. Additional setback requirements may apply under the Building and Fire Codes or as a result of "no-build" easements or required compliance with existing easement restrictions.

D. Additional Requirements.

1. The housing development project shall comply with the City's affordable housing requirements as set forth in Chapter 5.08.
2. Each dwelling unit shall be assigned a separate address number and shall comply with all applicable addressing requirements.
3. Issuance of a building permit is contingent on the approved tentative or parcel map and its conditions of approval. Any dedication, improvement, and sewer requirements identified in the approved tentative or parcel map or its conditions shall be addressed at the time the building permit is issued.
4. All projects that utilize this Section shall comply with the objective standards contained in the Comprehensive Land Use Plan (CLUP) for the Reid-Hillview Airport, as adopted by the Santa Clara County Airport Land Use Commission, to the extent permitted by state law.

E. Application Process.

1. If any existing housing is proposed to be demolished, the owner of the property shall sign an affidavit, in the form approved by the Director, stating that none of units proposed to be demolished were occupied by renters and shall provide a comprehensive history of the occupancy of the

units to be altered or demolished for the past five years on a form approved by the Director.

Chapter 20.195 **MINISTERIAL APPROVALS**

Part 4 **General**

20.195.010 Purpose

~~The purpose of this Chapter is to:~~

- ~~A. Specify how the City will implement the review and approval requirements of California Government Code Sections, 65650 et seq. ("State Supportive Housing Law"), 65660 et seq. ("State Low Barrier Navigation Centers Law"), 65913.4 et seq. ("State Streamlined Ministerial Approval Process"), 65912.100 et seq. ("AB 2011"), 65583 et seq. ("State Emergency Residential Shelters Law"), and California Health and Safety Code Section 17021.8 ("Agricultural Employee Housing Law"); and~~
- ~~B. Specify local ministerial approval process for certain housing applications as set forth in Chapter 20.65, Parts 2, 3 and 4;~~
- ~~C. Specify local ministerial approval process for streamlined infill housing developments; and~~
- ~~D. Facilitate the development of affordable housing consistent with the goals, objectives, and policies of the City's General Plan Housing Element as may be amended from time to time.~~

20.195.020 Definitions

- ~~A. All terms used in this Chapter that are defined in the State Supportive Housing Law, State Low Barrier Navigation Centers Law, State Emergency Residential Shelters Law, AB 2011, and the State Streamlined Ministerial Approval Process shall have the meaning established by their respective sections, as the same may be amended from time to time.~~
 - ~~1. As of date of publication of the ordinance adopting this Chapter 20.195, the following terms are defined in the State Supportive Housing Law:~~
 - ~~a. Supportive Housing;~~

- ~~b. Supportive Services;~~
 - ~~c. Target Population;~~
 - ~~d. Use by Right; and~~
 - ~~e. Lower Income Households.~~
- ~~2. As of date of publication of the ordinance adopting this Chapter 20.195, the following terms are defined in the State Low Barrier Navigation Centers Law:~~
 - ~~a. Low Barrier Navigation Center;~~
 - ~~b. Use by Right; and~~
 - ~~c. Coordinated Entry System.~~
- ~~3. As of date of publication of the ordinance adopting this Chapter 20.195, the following terms are defined in the State Streamlined Ministerial Approval Process:~~
 - ~~a. Objective Zoning Standards;~~
 - ~~b. Objective Subdivision Standards;~~
 - ~~c. Objective Design Review Standards;~~
 - ~~d. Project Labor Agreement;~~
 - ~~e. Skilled and Trained Workforce;~~
 - ~~f. Affordable Housing Cost;~~
 - ~~g. Affordable Rent;~~
 - ~~h. Development Proponent;~~
 - ~~i. Completed Entitlements;~~
 - ~~j. Moderate Income Housing Units;~~
 - ~~k. Production Report;~~
 - ~~l. State Agency;~~
 - ~~m. Subsidized;~~
 - ~~n. Reporting Period; and~~
 - ~~o. Urban Uses.~~
- ~~B. All terms used in this Chapter that are defined in Chapter 20.200 of this Code shall have the meaning established in Chapter 20.200. Where terms that are defined in the State Housing Density Bonuses and Incentives Law are inconsistent with the definitions of the same terms set forth in Chapter 20.200 of this Code, the meaning of the terms in the State Housing Density Bonuses and Incentives Law shall prevail.~~
- ~~C. Whenever the following terms are used in this Chapter, they shall have the meaning established by this Section:~~

1. ~~"Applicant" means the owner of the property, or person or entity with the written authority of the owner, that submits an application for Ministerial Approval.~~
2. ~~"Director" means the Director of Planning, Building and Code Enforcement.~~
3. ~~"Infill" means a site that was previously developed or a vacant site where at least seventy-five percent (75%) of the perimeter of the site adjoins parcels that are developed with urban uses.~~
4. ~~"Ministerial Approval" means:~~
 - a. ~~Any approval related to a housing development, Agricultural Employee Housing, Low Barrier Navigation Center, or Emergency Residential Shelter that meets the requirements of the State Supportive Housing Law, the State Low Barrier Navigation Centers Law, the State Emergency Residential Shelters Law, AB 2011, and/or the State Streamlined Ministerial Approval Process and does not require the exercise of judgement or deliberation by the Director; or~~
 - b. ~~Any approval related to a housing development that meets the requirements of Chapter 20.65, Parts 2, 3 or 4, and does not require the exercise of judgement or deliberation by the Director.~~
5. ~~"Restricted Affordable Unit" means a dwelling unit within a housing development that will be available at an Affordable Rent or Affordable Housing Cost as specified in the State Supportive Housing Law, AB 2011, and the State Streamlined Ministerial Approval Process.~~
6. ~~"State Housing Density Bonuses and Incentives Law" means Government Code Section 65915 et seq. and all amendments and additions thereto, now or hereinafter enacted, that impose requirements applicable to the City related to the provision of housing Density Bonus(es) and Incentives.~~
7. ~~"State Low Barrier Navigation Centers Law" means Government Code Section 65660 et seq. and all amendments and additions thereto, now or hereinafter enacted, that impose requirements applicable to the City related to Ministerial Approvals and Uses by Right.~~
8. ~~"State Streamlined Ministerial Approval Process" means Government Code Section 65913.4 and all amendments and additions thereto, now or~~

~~hereinafter enacted, that impose requirements applicable to the City related to Ministerial Approvals.~~

- ~~9. "State Supportive Housing Law" means Government Code Sections 65650 et seq. and all amendments and additions thereto, now or hereinafter enacted, that impose requirements applicable to the City related to Ministerial Approvals and Uses by Right.~~
- ~~10. "AB 2011" means Government Code Sections 65912.100 et seq. and all amendments and additions thereto, now or hereinafter enacted, that impose requirements applicable to the City related to Ministerial Approvals and Uses by Right.~~
- ~~11. "State Emergency Residential Shelters Law" means Government Code Section 65583 et seq. and all amendments and additions thereto, now or hereinafter enacted, that impose requirements applicable to the City related to Ministerial Approvals and Uses by Right.~~
- ~~12. "Agricultural Employee Housing Law" means Health and Safety Code Section 17021.8 et seq. and all amendments and additions thereto, now or hereinafter enacted, that impose requirements applicable to the City related to Ministerial Approvals and Uses by Right.~~
- ~~13. "Eligible Agricultural Employee Housing" has the same meaning as "Eligible Agricultural Employee Housing Development" defined in Health and Safety Code Section 17021.8 et seq., or as later amended.~~
- ~~14. "Housing Development Project" has the same meaning as defined in Government Code Section 65589.5, or as later amended.~~

Part 2

State Streamlined Ministerial Approvals

20.195.030 Ministerial Approval

- ~~A. Ministerially Approved Developments. The City will Ministerially Approve a housing development, Eligible Agricultural Employee Housing, Low Barrier Navigation Center, or Emergency Residential Shelter that meets the requirements specified in the State Supportive Housing Law, the Agricultural Employee Housing Law, the Emergency Residential Shelters Law, the State Low Barrier Navigation Centers Law, AB 2011, and/or the State Streamlined Ministerial Approval Process when an Applicant submits an application as specified by this Chapter 20.195.~~

~~B. Restricted Affordability and Supportive Housing Calculations.~~

- ~~1. If an Applicant seeks Ministerial Approval under the State Supportive Housing Law, the number of required Restricted Affordable Units, Supportive Housing Units, and Supportive Services floor area will be calculated in accordance with the State Supportive Housing Law.~~
- ~~2. If an Applicant seeks Ministerial Approval under the State Streamlined Ministerial Approval Process, the number of required Restricted Affordable Units will be calculated in accordance with the State Streamlined Ministerial Approval Process.~~
- ~~3. If an Applicant seeks Ministerial Approval under the Agricultural Employee Housing Law, the number of required Restricted Affordable Units will be calculated in accordance with the provisions of Health and Safety Code Section 17021.8 et. seq.~~

~~C. Replacement of Pre-Existing Lower Income Units. A housing development seeking Ministerial Approval under the State Supportive Housing Law shall replace any dwelling units on the site of the proposed housing development in the manner required by the State Supportive Housing Law.~~

~~D. Development Standards. Notwithstanding the State Supportive Housing Law, the State Low Barrier Navigation Centers Law, AB 2011, the State Emergency Residential Shelters Law, and the State Streamlined Ministerial Approval Process, Ministerially Approved housing developments, Low Barrier Navigation Centers, and Emergency Residential Shelters shall meet all objective site, design, and construction standards included in Title 17 (Buildings and Construction), Title 19 (Subdivisions), and Title 20 (Zoning) of this Code, and shall also comply with all objective design guidelines included in applicable specific plans or otherwise adopted by the City Council, and all administrative regulations adopted pursuant to Section 20.195.060 for the implementation of this Chapter 20.195.~~

~~E. Notwithstanding the Agricultural Employee Housing Law provisions, Eligible Agricultural Employee Housing shall comply with all of the following:~~

- ~~1. Development Standards.~~
 - ~~a. All objective site, design, and construction standards included in Title 17 (Buildings and Construction), Title 19 (Subdivisions), and Title 20 (Zoning) of this Code, and shall also comply with all~~

~~objective design guidelines included in applicable specific plans or otherwise adopted by the City Council, and all administrative regulations adopted pursuant to Section 20.195.060 for the implementation of this Chapter 20.195.~~

- ~~b. Maintain setback requirements applicable to the zoning district in which the property is located.~~
- ~~c. Residential uses must be located at least seventy-five (75) feet from any barn, pen, or other structure that houses livestock or poultry, and fifty (50) feet from any other agricultural use.~~
- ~~d. No ground disturbance is allowed within one hundred (100) feet from a riparian corridor as measured from the top of the bank or vegetative edge, whichever is greater.~~
- ~~e. The development must have access to and from a public street composed of a dustless and compacted surface with gravel or similar permeable surface, or asphalt.~~
- ~~f. The development must have access to adequate permanent water and wastewater facilities and dry utilities to serve the project. All residents must have permanent access to potable water.~~
- ~~g. If located within the Urban Service Area, the development must be connected to an existing public water system. If the development proposes to include ten (10) or more units, it must connect to an existing municipal sewer system that has adequate capacity to serve the project.~~

~~2. Additional Requirements for Eligible Agricultural Employee Housing:~~

~~If the applicant submits an application under the provisions of the Agricultural Employee Housing Law, the proposed project must comply with the following requirements:~~

- ~~a. Eligible Agricultural Employee Housing must be managed and operated by a qualified affordable housing organization (QAHO) certified by the California Department of Housing and Community Development (HCD) or a local public housing agency, and that agency either directly maintains and operates the Eligible Agricultural Employee Housing project, or contracts with another QAHO that has been certified by HCD to manage the Project. A~~

~~copy of the QAHQ's HCD certification must be included in the streamlined review application.~~

- ~~b. The applicant shall record an affordability covenant on the property to ensure the affordability of the proposed Eligible Agricultural Employee Housing for agricultural employees for not less than fifty-five (55) years; and made available at an affordable rent, as defined in Section 50053 et. seq, to lower income households, as defined in Section 50079.5 et. seq.~~
- ~~c. The issuance of a permit for Eligible Agricultural Employee Housing, occupied exclusively by agricultural employees, does not authorize any other use. If the use is discontinued, then the property must comply with all applicable Zoning requirements that exist at the time the Eligible Agricultural Employee Housing use is discontinued.~~
- ~~d. Eligible Agricultural Employee Housing shall conform with the Mobilehome Parks Act (Health and Safety Code Section 18200 et seq), and Special Occupancy Parks Act (Health and Safety Code Section 18860 et seq. where applicable.~~
- ~~e. The permittee shall submit an annual written verification by June 1, of each year, to the Director of Planning, Building, and Code Enforcement, to verify that all of the information provided in its permit application is still accurate, and provide proof that the permit to operate or exemption from the California Department of Housing and Community Development is in good standing.~~

20.195.040 Application Requirements and Timing

- ~~A. General. Aside from Ministerial Approvals for accessory dwelling units and junior accessory dwelling units as specified in State Law, any Ministerial Approval sought by an Applicant shall be made pursuant to this Chapter.~~
- ~~B. Application. All applications pursuant to this Chapter 20.195 shall be filed with the Director in a form prescribed by the Director. The application shall be signed by:
 - ~~1. All owners of the real property included in the housing development, Low Barrier Navigation Center, or Emergency Residential Shelter; or~~
 - ~~2. The person or entity with written authority of the owner(s) to apply for Ministerial Approval for a housing development, Eligible Agricultural~~~~

~~Employee Housing, Low Barrier Navigation Center, or Emergency Residential Shelter.~~

~~C. Application Received. No application for Ministerial Approval shall be deemed received until the following have been provided:~~

- ~~1. All fees for the application as set forth in the schedule of fees established by resolution of the City Council have been paid. No fee shall be deemed received until any negotiable instrument has been cleared and funds deposited on the City's account.~~
- ~~2. All documents specified in this Chapter and on the application form have been filed.~~

~~D. The application shall include the following information:~~

- ~~1. A brief description of the proposed housing development, Eligible Agricultural Employee Housing, Low Barrier Navigation Center, or Emergency Residential Shelter, including, as applicable, the total number of dwelling units, Restricted Affordable Units, Supportive Housing Units, Low Barrier Navigation Center beds, and Emergency Residential Shelter beds proposed.~~
- ~~2. The current zoning district(s) and general plan land use designation(s) and assessors parcel number(s) of the project Site.~~
- ~~3. A vicinity map and Site plan, drawn to scale, including building footprints, driveway, and parking layout.~~
- ~~4. Indication if the Applicant also seeks a density bonus, incentive, waiver, or modification.~~
- ~~5. A Site plan showing location of, as applicable, Restricted Affordable Units, Supportive Housing Units, onsite Supportive Services, Low Barrier Navigation Center beds, Emergency Residential Shelter beds, and all other dwelling units within the proposed housing development, Low Barrier Navigation Center, or Emergency Residential Shelter.~~
- ~~6. If the Applicant submits an application under the provisions of the State Supportive Housing Law, a plan for providing supportive services, with documentation demonstrating that the onsite supportive services provided meet the requirements of the Supportive Housing Law.~~

- ~~7. If a reduction in Supportive Housing Units is requested due to the termination of project-based rental assistance or operating subsidy through no fault of the project owner, an explanation of good faith efforts by the owner to find other sources of financial support, how any change in the number of Supportive Service Units is restricted to the minimum necessary to maintain the project's financial feasibility, and how any change to the occupancy of the Supportive Housing Units is made in a manner that minimizes tenant disruption and only upon the vacancy of Supportive Housing Units.~~
- ~~8. Level of affordability of any Restricted Affordable Units and proposed method to ensure affordability.~~
- ~~9. If the applicant submits an application under the provisions of the State Streamlined Ministerial Approval Process and it is not entirely a public work, certification that the project will pay prevailing wages.~~
- ~~10. If the applicant submits an application under the provisions of the State Streamlined Ministerial Approval Process and the project meets the conditions specified in the Process, certification that the project will employ a skilled and trained workforce.~~
- ~~11. If the applicant submits an application under the provisions of the Ministerial Employee Housing, as further defined in the Agricultural Employee Housing Law the proposed project must incorporate the following requirements:
 - ~~a. Housing type and description of the total number of units and beds proposed.~~
 - ~~b. Number of agricultural employees occupying the housing and description of whether housing is temporary, seasonal or permanent.~~
 - ~~c. Description of the agricultural workplace and employer.~~
 - ~~d. Entity responsible for housing maintenance.~~~~

20.195.050 Application Review and Approval Process

- ~~A. General. An application for Ministerial Approval shall be acted upon by the Director.~~

~~B. Conditions for Approval. Before approving an application for Ministerial Approval, the Director must make the following findings based on evidence in the record, as applicable, that~~

- ~~1. The housing development, Eligible Agricultural Employee Housing, Low Barrier Navigation Center, or Emergency Residential Shelter is eligible for Ministerial Approval.~~
- ~~2. If the Ministerial Approval is based all or in part on the provision of Supportive Housing, a finding that all the requirements for a Supportive housing development that are specified in the State Supportive Housing Law have been or will be met.~~
- ~~3. If the Ministerial Approval is for a Low Barrier Navigation Center, a finding that all the requirements for a Low Barrier Navigation Center that are specified in the State Low Barrier Navigation Centers Law have been or will be met.~~
- ~~4. If the Ministerial Approval request is based all or in part on the State Streamlined Ministerial Approval Process, a finding that all the requirements for a housing development approval that are specified in the State Ministerial Approval Process have been or will be met.~~
- ~~5. If the Ministerial Approval is based all or in part on the provision of AB 2011, a finding that all the requirements for housing development that are specified in AB 2011 have been or will be met.~~
- ~~6. If the Ministerial Approval is for an Emergency Residential Shelter, a finding that all the requirements for an Emergency Residential Shelter that are specified in Section 20.80.500 have been or will be met.~~
- ~~7. If the Ministerial Approval is based all or in part on the provisions of the Agricultural Employee Housing Law, a finding that all requirements for an Eligible Agricultural Employee Housing development approval that are specified in the Agricultural Employee Housing Law are met.~~
- ~~8. If the application includes a request for a density bonus, incentive, waiver, or modification under Chapter 20.190, a finding that all the requirements for density bonuses and/or other incentives that are specified in Chapter 20.190 have been or will be met.~~

~~C. Conditions for Denial.~~

- ~~1. The Director may deny an application for Ministerial Approval if the findings required by Subsection B above, as applicable, cannot be made.~~
- ~~2. The Director may deny a Ministerial Approval if doing so would be contrary to state and federal law, and this finding is made in writing.~~
- ~~3. Nothing in this Chapter 20.195 limits the City's right to deny an affordable housing project under Government Code Section 65589.5.~~

~~D. Permit Conditions:~~

- ~~1. Term. Unless otherwise required by state law, Ministerial Approvals shall automatically expire three (3) years from the date of the final action establishing that approval, unless otherwise provided in the approval, from and after the date of issuance of the Ministerial Approval if within such three-year period the proposed use of the site or vertical construction of buildings has not commenced, pursuant to and in accordance with the provisions of the Ministerial Approval. The duration of the approval may be extended as provided for in state law.~~
- ~~2. Conditions. Following approval of an application under the Streamlined Ministerial Approval Process, but prior to issuance of a building permit for the development, the Director may require one-time changes to the development that are necessary to comply with the objective uniform construction codes (including, without limitation building, plumbing, electrical, fire, and grading codes), to comply with federal or state laws, or to mitigate a specific, adverse impact upon the public health or safety and there is no feasible method to satisfactorily mitigate or avoid the specific adverse impact without modifying the development. A "specific, adverse impact" has the meaning defined in Government Code section 65589.5(d)(2).~~
- ~~3. Failure to install public improvements. It shall be a violation of this Title for any person who has signed the acceptance of a permit or approval issued pursuant to this Chapter to fail to secure the completion of the public improvements required by the permit or approval within the time period specified. If no time period is specified, the time period for completion of improvements shall be deemed to be one (1) year from the issuance of a building permit unless an extension has been granted in writing by the Director or, if no building permit is required, one (1) year from the issuance of the permit or approval.~~

- ~~4. Construction clean-up. It shall be a violation of this Title for any person responsible for construction including but not limited to the permit holder and any contractor thereof to fail to keep the public right-of-way free from construction dirt and debris. All on-site construction debris shall be removed at least weekly.~~
- ~~5. Window Glazing. Unless otherwise indicated on an approved plan or in the approved permit, all first-floor, ground floor windows for any commercial use shall consist of transparent glass.~~
- ~~6. Maintenance of Landscape. It shall be a violation of this Title for any property owner or other person in control of any site to fail to install or maintain any landscaping required by a permit or approval issued pursuant to this Chapter or otherwise in a manner that fails to fully comply with the provisions of Chapters 15.10 or 15.11 of Title 15 of this Code. Any vegetation, required by a permit or approval, or otherwise by Chapters 15.10 or 15.11 of Title 15 of this Code, which is dead or dying, shall be replaced within sixty (60) days.~~
- ~~7. Hours of Construction within five hundred (500) feet of a residential unit. No applicant or agent of an applicant shall suffer or allow any construction activity on a site located within five hundred (500) feet of a residential unit before 7:00 a.m. or after 7:00 p.m., Monday through Friday, or at any time on weekends.~~
- ~~8. All projects approved under this Chapter 20.195 shall follow the stormwater management requirements listed in Sections 20.100.470 and 20.100.480, as applicable.~~
- ~~9. Prior to the approval of the Tract or Parcel Map (if applicable) by the Director of Public Works, or the issuance of Building permits, whichever occurs first, all projects approved under this Chapter 20.195 shall satisfy all applicable Public Works clearance and Building Division clearance requirements.~~
- ~~10. All projects approved under this Chapter 20.195 shall, if required by the Zoning Ordinance, satisfy the performance standards of the applicable Zoning Districts.~~

20.195.060 Regulations

~~The Director is hereby authorized to promulgate forms, policies, and regulations for the implementation of this Chapter.~~

Part 3 **Local Ministerial Approvals**

20.195.070 Local Ministerial Approvals

Ministerially Approved Developments:

- ~~A. The City will Ministerially Approve a housing development, located in the Affordable Housing Overlay, Mixed-Income Housing Overlay, or Housing Element Residential Overlay that meets the requirements specified in Chapter 20.65 when an Applicant submits an application as specified by this Chapter 20.195.~~
- ~~B. The City will Ministerially Approve an Emergency Residential Shelter that meets the requirements specified in Chapter 20.80 when an Applicant submits an application as specified by this Chapter 20.195.~~
- ~~C. The City will Ministerially Approve a Streamlined Infill Housing Development that meets the requirements specified in Section 20.195, Parts 3 and 4, when an Applicant submits an application as specified in this Chapter 20.195.~~

20.195.080 Local Ministerial Standards

- ~~A. Development Standards. The following shall meet all objective site, design, and construction standards included in Title 17 (Building and Construction), Title 19 (Subdivisions), and Title 20 (Zoning) of this Code, and shall also comply with all objective design guidelines included in applicable specific plans or otherwise adopted by the City Council, and all administrative regulations adopted pursuant to Section 20.195.060 for the implementation of this Chapter 20.195:
 - ~~1. Housing Development in the Affordable Housing Overlay, Mixed-Income Housing Overlay, or Housing Element Residential Overlay.~~
 - ~~2. Emergency Residential Shelters that meet the requirements specified in Chapter 20.80.~~
 - ~~3. Streamlined Infill Housing Development that meets the requirements specified in Chapter 20.195, Parts 3 and 4.~~~~
- ~~B. Ministerial Approval shall not be issued where any of the following apply:~~

- ~~1. The development would require the demolition or alteration of a historic resource as defined and outlined below.~~
 - ~~a. Property listed in the San José Historic Resources Inventory, including property located within a designated or eligible National Register, California Register or City Landmark Historic District or designated historic district or Conservation Area classified in the Historic Resources Inventory as an Identified Structure.~~
 - ~~i. An Identified Structure may be demolished if a historic report prepared by a qualified historic resources consultant meeting the Secretary of the Interior Professional Qualification Standards (Code of Federal Regulations, 36 CFR Part 61) documents and evaluates the property and determines it is not eligible for listing in the National Register, California Register, or the City of San José Historic Resources Inventory as a Candidate City Landmark.~~
 - ~~b. Properties not listed in the San José Historic Resources Inventory containing one or more building(s) over 45 years old shall be documented and evaluated in a historic report prepared by a qualified historic resources consultant meeting the Secretary of the Interior Professional Qualification Standards (Code of Federal Regulations, 36 CFR Part 61). If the qualified historic resources consultant determines that the property is eligible for listing in the National Register, California Register, or the City of San José Historic Resources Inventory as a Candidate City Landmark, the building(s) may not be demolished through a ministerial process. If the qualified historic resources consultant determines that the property is not eligible under the above criteria, the building(s) may be demolished.~~
- ~~2. The site is designated as either prime farmland or farmland of statewide importance, as defined pursuant to United States Department of Agriculture land inventory and monitoring criteria, as modified for California, and designated on the maps prepared by the Farmland Mapping and Monitoring Program of the Department of Conservation, or land zoned or designated for agricultural protection or preservation by a local ballot measure that was approved by the voters of that jurisdiction.~~
- ~~3. The site contains wetlands, as defined in the United States Fish and Wildlife Service Manual, Part 660 FW-2 (June 21, 1993).~~

- ~~4. The site is within a very high fire hazard severity zone, as determined by the Department of Forestry and Fire Protection pursuant to Section 51178, or within a high or very high fire hazard severity zone as indicated on maps adopted by the Department of Forestry and Fire Protection pursuant to Section 4202 of the Public Resources Code. This subparagraph does not apply to sites excluded from the specified hazard zones by a local agency, pursuant to subdivision (b) of Section 51179, or sites that have adopted fire hazard mitigation measures pursuant to existing building standards or state fire mitigation measures applicable to the development.~~
- ~~5. The site is a hazardous waste site that is listed pursuant to Section 65962.5 or a hazardous waste site designated by the Department of Toxic Substances Control pursuant to Section 25356 of the Health and Safety Code, unless either of the following apply:
 - ~~a. The site is an underground storage tank site that received a uniform closure letter issued pursuant to subdivision (g) of Section 25296.10 of the Health and Safety Code based on closure criteria established by the State Water Resources Control Board for residential use or residential mixed uses. This section does not alter or change the conditions to remove a site from the list of hazardous waste sites listed pursuant to Section 65962.5.~~
 - ~~b. The State Department of Public Health, State Water Resources Control Board, Department of Toxic Substances Control, or a local agency making a determination pursuant to subdivision (c) of Section 25296.10 of the Health and Safety Code, has otherwise determined that the site is suitable for residential use or residential mixed uses.~~~~
- ~~6. The site is within a delineated earthquake fault zone as determined by the State Geologist in any official maps published by the State Geologist, unless the development complies with applicable seismic protection building code standards adopted by the California Building Standards Commission under the California Building Standards Law (Part 2.5 (commencing with Section 18901) of Division 13 of the Health and Safety Code), and by any local building department under Chapter 12.2 (commencing with Section 8875) of Division 1 of Title 2.~~
- ~~7. Within a special flood hazard area subject to inundation by the one percent (1%) annual chance flood (100-year flood) as determined by the Federal Emergency Management Agency in any official maps published by the Federal Emergency Management Agency. If a development~~

~~proponent is able to satisfy all applicable federal qualifying criteria in order to provide that the site satisfies this subparagraph and is otherwise eligible for streamlined approval under this section, a local government shall not deny the application on the basis that the development proponent did not comply with any additional permit requirement, standard, or action adopted by that local government that is applicable to that site. A development may be located on a site described in this subparagraph if either of the following are met:~~

~~a. The site has been subject to a Letter of Map Revision prepared by the Federal Emergency Management Agency and issued to the local jurisdiction.~~

~~b. The site meets Federal Emergency Management Agency requirements necessary to meet minimum flood plain management criteria of the National Flood Insurance Program pursuant to Part 59 (commencing with Section 59.1) and Part 60 (commencing with Section 60.1) of Subchapter B of Chapter I of Title 44 of the Code of Federal Regulations.~~

~~8. Within a regulatory floodway as determined by the Federal Emergency Management Agency in any official maps published by the Federal Emergency Management Agency, unless the development has received a no-rise certification in accordance with Section 60.3(d)(3) of Title 44 of the Code of Federal Regulations. If a development proponent is able to satisfy all applicable federal qualifying criteria in order to provide that the site satisfies this subparagraph and is otherwise eligible for streamlined approval under this section, a local government shall not deny the application on the basis that the development proponent did not comply with any additional permit requirement, standard, or action adopted by that local government that is applicable to that site.~~

~~9. Lands identified for conservation in an adopted natural community conservation plan pursuant to the Natural Community Conservation Planning Act (Chapter 10 (commencing with Section 2800) of Division 3 of the Fish and Game Code), habitat conservation plan pursuant to the federal Endangered Species Act of 1973 (16 U.S.C. Sec. 1531 et seq.), or other adopted natural resource protection plan.~~

~~10. Habitat for protected species identified as candidate, sensitive, or species of special status by state or federal agencies, fully protected species, or species protected by the federal Endangered Species Act of 1973 (16 U.S.C. Sec. 1531 et seq.), the California Endangered Species Act~~

~~(Chapter 1.5 (commencing with Section 2050) of Division 3 of the Fish and Game Code), or the Native Plant Protection Act (Chapter 10 (commencing with Section 1900) of Division 2 of the Fish and Game Code).~~

~~11. Lands under conservation easement.~~

~~12. The development would have a specific, adverse impact upon the public health or safety, and there is no feasible method to satisfactorily mitigate or avoid the specific adverse impact.~~

20.195.090 Application Requirements and Timing

~~A. General. Any Local Ministerial Approval sought by an Applicant shall be made pursuant to this Chapter.~~

~~B. Application. All applications pursuant to this Chapter 20.195 shall be filed with the Director in a form prescribed by the Director. The application shall be signed by:~~

~~1. All owners of the real property included in the housing development; and~~

~~2. The person or entity with written authority of the owner(s) to apply for Ministerial Approval for a housing development.~~

~~C. Application Received. No application for Ministerial Approval shall be deemed received until the following have been provided:~~

~~1. All fees for the application as set forth in the schedule of fees established by resolution of the City Council have been paid. No fee shall be deemed received until any negotiable instrument has been cleared and funds deposited on the City's account.~~

~~2. All documents specified in this Chapter and on the application form have been filed.~~

~~D. Subdivision Application. Notwithstanding the Subdivision Map Act (Division 2 (commencing with Section 66410)), or any other applicable law authorizing the subdivision of land, the subdivision of a parcel for the housing development pursuant to Chapter 20.65 that also meet all the requirements of this Chapter for Ministerial Approval, shall be subject to a Ministerial Approval process as set forth above and shall be processed concurrently with the Ministerial Approval for the housing development.~~

- ~~E. Tree Removal Application. Notwithstanding Chapter 13.32, removal of trees, excluding heritage tree as defined in Section 13.32.140 or a palm tree in the Palm Haven Conservation Area, necessitated by the housing development pursuant to Chapter 20.65 that also meet all the requirements of this Chapter for Ministerial Approval, shall be subject to a Ministerial Approval process as set forth above and shall be processed concurrently with the Ministerial Approval for the housing development.~~
- ~~F. Notwithstanding Chapter 5.08, Part 2, project must comply with Chapter 5.08, as amended.~~

20.195.100 Review and Approval Process

- ~~A. The California Environmental Quality Act (CEQA) does not apply to Ministerial Approvals, as they are statutorily exempt pursuant to Guidelines Section 15268, as may be amended. Ministerial Approvals complying with the requirements of this Chapter are not subject to CEQA.~~
- ~~B. General. An application for Ministerial Approval shall be acted upon by the Director.~~
- ~~C. Conditions for Approval. Before approving an application for Ministerial Approval, the Director must make the following findings based on evidence in the record, as applicable, that:~~
- ~~1. The housing development is eligible for Ministerial Approval.~~
 - ~~2. If the application includes a request for a density bonus, incentive, waiver, or modification under Chapter 20.190, a finding that all the requirements for density bonuses and/or other incentives that are specified in Chapter 20.190 have been or will be met.~~
- ~~D. Conditions for Denial.~~
- ~~1. The Director may deny an application for Ministerial Approval if the findings required by Subsection C above, as applicable, cannot be made.~~
 - ~~2. The Director may deny a Ministerial Approval if doing so would be contrary to state and federal law, and this finding is made in writing.~~
 - ~~3. The Director may deny a Ministerial Approval if the development would have a specific, adverse impact upon the public health or safety, and there~~

~~is no feasible method to satisfactorily mitigate or avoid the specific adverse impact.~~

- ~~4. Nothing in this Chapter 20.195 limits the City's right to deny an affordable housing project under Government Code Section 65589.5.~~

~~E. Permit Conditions:~~

- ~~1. Term. Local Ministerial Approvals shall automatically expire after four (4) years from and after the date of issuance of the Local Ministerial Approval if within such four (4) year period the vertical construction of buildings has not commenced, pursuant to and in accordance with the provisions of the Local Ministerial Approval.~~
- ~~a. The Director may issue a one time, one year extension of a Local Ministerial Approval if a complete building permit application for the project approved under the Local Ministerial Approval has been submitted.~~
- ~~b. The application for an extension must be filed on the form provided by the Director on or before the date that is three (3) business days prior to the expiration of the development permit proposed for extension and accompanied by the fees as set forth in the schedule of fees adopted by resolution of the City Council.~~
- ~~c. The decision to grant, deny, or condition an extension is a ministerial determination.~~
- ~~2. Conditions. Following approval of an application under the Streamlined Ministerial Approval Process, but prior to issuance of a building permit for the development, the Director may require one-time changes to the development that are necessary to comply with the objective uniform construction codes (including, without limitation building, plumbing, electrical, fire, and grading codes), to comply with federal or state laws, or to mitigate a specific, adverse impact upon the public health or safety and there is no feasible method to satisfactorily mitigate or avoid the specific adverse impact without modifying the development. A "specific, adverse impact" has the meaning defined in Government Code section 65589.5(d)(2).~~
- ~~3. Failure to install public improvements. It shall be a violation of this Title for any person who has signed the acceptance of a permit or approval issued pursuant to this Chapter to fail to secure the completion of the public~~

~~improvements required by the permit or approval within the time period specified. If no time period is specified, the time period for completion of improvements shall be deemed to be one (1) year from the issuance of a building permit unless an extension has been granted in writing by the Director or, if no building permit is required, one (1) year from the issuance of the permit or approval.~~

- ~~4. Construction clean up. It shall be a violation of this Title for any person responsible for construction including but not limited to the permit holder and any contractor thereof to fail to keep the public right-of-way free from construction dirt and debris. All on-site construction debris shall be removed at least weekly.~~
- ~~5. Window Glazing. Unless otherwise indicated on an approved plan or in the approved permit, all first floor, ground floor windows for any commercial use shall consist of transparent glass.~~
- ~~6. Maintenance of Landscape. It shall be a violation of this Title for any property owner or other person in control of any site to fail to install or maintain any landscaping required by a permit or approval issued pursuant to this Chapter or otherwise in a manner that fails to fully comply with the provisions of Chapters 15.10 or 15.11 of Title 15 of this Code. Any vegetation, required by a permit or approval, or otherwise by Chapters 15.10 or 15.11 of Title 15 of this Code, which is dead or dying, shall be replaced within sixty (60) days.~~
- ~~7. Hours of Construction within five hundred (500) feet of a residential unit. No Applicant or agent of an Applicant shall suffer or allow any construction activity on a site located within five hundred (500) feet of a residential unit before 7:00 a.m. or after 7:00 p.m., Monday through Friday, or at any time on weekends. No extension of construction hours are allowed through a Permit Amendment or Permit Adjustment.~~
- ~~8. All projects approved under this Chapter 20.195 shall follow the stormwater management requirements listed in Sections 20.100.470 and 20.100.480, as applicable.~~
- ~~9. Prior to the approval of the Tract or Parcel Map (if applicable) by the Director of Public Works, or the issuance of Building permits, whichever occurs first, all projects approved under this Chapter 20.195 shall satisfy all applicable Public Works clearance and Building Division clearance requirements.~~

- ~~10. All projects approved under this Chapter 20.195 shall, if required by the Zoning Ordinance, satisfy the performance standards of the applicable Zoning Districts.~~
 - ~~11. All projects under this ministerial ordinance will be required to conduct Worker Environmental Awareness Program training for construction workers.~~
 - ~~12. Any sites located in an archaeologically sensitive area, as mapped by the General Plan, will be required to have archaeological and Tribal monitoring during ground disturbance activities such as tree removal, demolition, and grading, and Tribes that requested consultation shall be notified of any findings made on the project site.~~
- ~~F. Environmental Standard Permit Conditions. Projects subject to a ministerial review process will be subject to the City standard environmental permit conditions adopted by City Council.~~

Part 4

Ministerial Approval for City Streamlined Infill Housing Development Projects

20.195.200 City Streamlined Approval

- ~~A. The City will ministerially approve a streamlined infill housing development that meets the requirements specified in Chapter 20.195, Part 3 Local Ministerial Approvals, and Section 20.195.250 when an Applicant submits a complete application as specified by this Chapter 20.195.~~
- ~~B. Streamlined Infill Housing Development Projects are subject to the application requirements and timing in Section 20.195.090 for Local Ministerial Approvals and subject to the review and approval process in Section 20.195.100~~

20.195.250 City Streamlined Approval Standards

~~In addition to compliance with the local ministerial standards outlined in Section 20.195.080, a streamlined infill housing development project must meet all of the following criteria to be eligible for a streamlined approval process:~~

- ~~A. Land Use and Zoning~~
 - ~~1. The project site must have a General Plan land use designation of Urban Residential, Transit Residential, Urban Village, or Mixed Use Commercial.~~

- ~~a. The project must provide residential units at a net density of forty (40) dwelling units per acre or greater. If the project is located in a General Plan land use designation that allows a density below 40 DU/AC, the project must provide at least 40 DU/AC.~~
- ~~2. The project is zoned Urban Residential, Transit Residential, Urban Village, or Mixed Use Commercial.~~
- ~~3. The infill housing development project is located in an area in which the per capita VMT is less than or equal to the threshold of significance for residential or the project meets the screening criteria under the City's Transportation Analysis Policy (City Council Policy 5-1), as amended. If the project includes non-residential uses, the project must the CEQA screening criteria based on the proposed land use in Table 1 of the City's Transportation Analysis Policy, as amended.~~

~~B. Location~~

- ~~1. The project is located in an approved urban village (excluding Alum Rock Ave Urban Village), Capitol Station Area Plan, Jackson Taylor Specific Plan, Martha Gardens Specific Plan, or Midtown Specific Plan.~~
- ~~2. The project is within one-half (1/2) mile of an existing major transit stop defined by Public Resource Code §21064.3, as amended.~~
- ~~3. Project site is not within the Airport Influence Area approved by Council.~~
- ~~4. Project site is not within 100 feet of a City Landmark or City Landmark District.~~
- ~~5. project is not located on a site known to contain archaeological or paleontological resources, or human remains.~~
- ~~6. The project is not located on a site within a mobilehome park.~~
- ~~7. The project is not located within three hundred (300) feet of a creek or edge of riparian vegetation, whichever is most restrictive.~~
- ~~8. The project site is not located on a hazardous waste site included on any list compiled pursuant to Section 65962.5 of the California Government Code.~~

~~C. Demolition. The Housing Development Project does not:~~

- ~~1. Demolish a unit occupied by tenants in a multi-unit dwelling (three (3) or more units) within the last five (5) years;~~
 - ~~2. Demolish a project subject to an affordable housing regulatory agreement;~~
 - ~~3. Demolish a unit protected under the Ellis Act; or~~
 - ~~4. Reduce the total number of existing dwelling units on the site.~~
- ~~D. The project does not include or require the concurrent review of a:~~
- ~~1. Development Exception;~~
 - ~~2. Variance;~~
 - ~~3. Use Permit; or~~
 - ~~4. Planned Development Permit.~~

SECTION 22. Section 20.40.100 of Chapter 20.40 of Title 20 of the San José Municipal Code is amended to read as follows:

20.40.100 Allowed Uses and Permit Requirements

- A. "Permitted" land uses are indicated by a "P" on Table 20-90.
- B. "Conditional" uses are indicated by a "C" on Table 20-90. These uses may be allowed in such designated districts, as an independent use, but only upon issuance of and in compliance with a Conditional Use Permit as set forth in Chapter 20.100. "Conditional" uses which may be approved only on parcels designated on the land use/transportation diagram of the General Plan, as amended, with a designation that allows residential use are indicated by a "C GP" on Table 20-90. These uses may be allowed in such designated districts, as a part of mixed use residential/commercial, but only upon issuance of and in compliance with a Conditional Use Permit as set forth in Chapter 20.100.
- C. "Conditional" uses requiring City Council approval as the initial decision-making body are indicated by a "CC" on Table 20-90. These uses may be allowed in such designated districts, as an independent use, but only upon issuance of and in compliance with a Conditional Use Permit approved by the City Council as set forth in Chapter 20.100. Applications for these uses shall first be considered by the Planning Commission at a public hearing of the Commission for the

Commission's report and recommendation on the application to the City Council pursuant to the processes set forth in Chapter 20.100.

- D. "Special" uses are indicated by an "S" on Table 20-90. These uses may be allowed in such designated districts, as an independent use, but only upon issuance of and in compliance with a Special Use Permit as set forth in Chapter 20.100. "Special" uses which may be approved only on parcels designated on the land use/transportation diagram of the General Plan, as amended, with a designation that allows residential use are indicated by an "S GP " on Table 20-90. These uses may be allowed in such designated districts, as a part of mixed use residential/commercial, but only upon issuance of and in compliance with a Special Use Permit as set forth in Chapter 20.100.
- E. "Administrative" uses are indicated by an "A" on Table 20-90. These uses may be allowed in such designated districts, as an independent use, but only upon issuance of and in compliance with an Administrative Permit as set forth in Chapter 20.100.
- F. "Restricted" land uses are indicated by an "R" on Table 20-90. These uses may occur in such designated districts, as an independent use, but only upon issuance of and in full compliance with a valid and effective zoning code verification certificate as set forth in Chapter 20.100.
- G. Land uses not permitted are indicated by a "-" on Table 20-90. Land uses not listed on Table 20-90 are not permitted.
- H. When the right column of Table 20-90 includes a reference to a section number or a footnote, the regulations cited in the section number or footnote applies to the use. In addition, all uses are subject to any other applicable provision of this Title 20 and any other title of the San José Municipal Code.

**Table 20-90
Commercial Zoning Districts and
Public/Quasi-Public Zoning District Use Regulations**

Use	Zoning District					Notes & Section
	CO	CP	CN	CG	PQP	
General Retail						
Alcohol, off-sale - beer and/or wine only	-	C	C	C	-	Note 21; Section 20.80.900

Alcohol, off-sale - full range of alcoholic beverages	-	C	C	C	-	Note 21; Section 20.80.900
Alcohol, off-sale - as incidental to a winery, brewery, or distillery	-	S	S	S	-	Note 4
Food, beverages, and groceries	-	P	P	P	S	
Nursery, plant	P	P	P	P	P	Note 1
Outdoor vending	-	A	A	A	A	Part 10, Chapter 20.80
Outdoor vending, fresh fruits, and vegetables	P	P	P	P	P	Part 10, Chapter 20.80
Pawn shop/broker	-	C	C	C	-	See Title 6
Retail art studio	-	P	P	P	-	Note 21; Section 20.80.1175
Retail bakery	-	P	P	P	-	Note 21
Retail sales, goods, and merchandise	-	P	P	P	-	Note 21
Seasonal sales	P	P	P	P	-	Part 14, Chapter 20.80
Agriculture						
Aquaculture, aquaponics, and hydroponics	S	S	S	S	S	
Certified farmers' market	S	S	S	S	S	Part 3.5, Chapter 20.80
Certified farmers' market, small	P	P	P	P	P	Part 3.5, Chapter 20.80
Neighborhood agriculture	P	P	P	P	P	Note 19; Title 7

Drive-Through Uses						
Drive-through uses in conjunction with any use	-	-	C	C	C	
Education and Training						
Child day care center located on an existing School Site or as an incident to a permitted on-site church/religious assembly use involving no building additions or changes to the site	P	P	P	P	P	Note 21
Day care center	S	S	S	S	S	
Instructional art studios	-	P	P	P	S	
Private instruction, personal enrichment	-	P	P	P	S	
School, elementary and secondary (public or private)	C	C	C	C	S	Note 16, Note 20, and Note 21
School, driving (class C & M license)	-	P	P	P	S	Note 2, Note 20, and Note 21
School, post-secondary	-	P	P	P	S	Note 3, Note 20, and Note 21
School, trade and vocational	-	C	C	C	S	Note 16, Note 20, and Note 21
Entertainment and Recreation						
Arcade, amusement game	-	P	P	P	-	Note 21

Health club, gymnasium	-	P	P	P	S	
Performing arts rehearsal space	-	P	P	P	-	
Poolroom/billiards establishment	-	P	P	P	-	Note 21
Private club or lodge	C	C	C	C	-	
Recreation, commercial indoor	-	P	P	P	S	Note 21
Recreation, commercial outdoor	-	C	C	C	C	Note 21
Relocated cardroom	-	-	-	C	-	Section 20.80.1155
Stadium, 2,000 seats or fewer	-	C	C	C	C	Note 17
Stadium, more than 2,000 seats	-	CC	CC	CC	CC	Note 17 and Note 18
Theater, indoor	-	S	S	S	S	Note 21
Theater, outdoor	-	-	-	S	S	Note 21
Food Services						
Banquet facility	-	S	S	S	S	
Caterer	-	P	P	P	S	
Commercial kitchen	-	S	P	P	-	
Drinking establishments	-	C	C	C	-	Note 21
Drinking establishments interior to a full-service hotel or motel that includes 75 or more guest rooms	-	P	P	P	-	Section 20.80.475; Note 21

Public eating establishments	-	P	P	P	-	Note 21
Public eating establishment or retail establishment with incidental outdoor dining	-	P	P	P	-	Note 21; Section 20.40.520
Public eating establishment in conjunction with a winery, brewery, or distillery	-	P	P	P	-	
Taproom or tasting room with off-sale of alcohol	-	A	A	A	-	Part 5.75, Chapter 20.80
General Services						
Bail bond establishment - outside main jail area	-	P/S	P	P	-	Note 5; Part 1.5, Chapter 20.80
Bail bond establishment - within main jail area	-	P/S	P	P	-	Note 5 and Note 14; Part 1.5, Chapter 20.80
Bed and breakfast Inn	-	P	P	P	-	Note 21; Part 2, Chapter 20.80
Dry cleaner	-	P	P	P	-	Note 21
Hotel or motel	-	P	P	P	-	Note 21
Single room occupancy (SRO) hotel	-	C	C	C	-	Part 15, Chapter 20.80
Laundromat	-	P	P	P	-	Note 21
Maintenance and repair, small household appliances	-	P	P	P	-	Note 21

Messenger services	P	P	P	P	-	Note 2 and Note 21
Mortuary and funeral Services	P	P	P	P	-	Note 21
Personal services	-	P	P	P	-	Note 21; Section 20.200.880
Photo processing and developing	-	P	P	P	-	Note 21
Printing and publishing	-	P	P	P	-	Note 21
Social service agency	-	S	S	S	S	
Health and Veterinary						
Animal boarding, indoor	P/-	P	P	P	P/S	Note 8, Section 20.40.120
Animal grooming	P/-	P	P	P	P/S	Note 8 Section 20.40.120
Emergency ambulance service	C	C	C	C	C	
Hospital/in-patient facility	C	C	C	C	C	Note 21
Medical cannabis dispensary	-	R	R	R	-	Part 9.75, Chapter 20.80
Cannabis retail storefront	-	R	R	R	-	Part 9.75, Chapter 20.80
Medical cannabis collective dispensary site only	-	R	R	R	-	Part 9.75, Chapter 20.80
Office, medical	P	P	P	P	S	Note 21
Veterinary clinic	-	P	P	P	C	Note 16
Historic Reuse						
Historic landmark structure reuse	S	S	S	S	S	Part 8.5, Chapter 20.80

Offices and Financial Services						
Automatic teller machine	P	P	P	P	S	Section 20.80.200
Business support	-	P	P	P	-	Note 21
Financial services	P	P	P	P	-	Note 21
Office, general business	P	P	P	P	S	Note 21; Section 20.40.110
Payday lending establishment	-	R/-	R	R	-	Note 24 Part 12.5, Chapter 20.80 Section 20.200.875
Retail bank	P	P	P	P	-	Note 21
Public, Quasi-Public and Assembly Uses						
Cemetery	C	C	C	C	C	
Church/religious assembly	S	S	S	S	S	Note 16, Note 20, and Note 21
Construction/corporation yard associated with public, quasi-public or assembly use or transportation or utility use	-	-	-	-	C	
Museums, libraries, parks, playgrounds, or community centers (publicly operated)	P	P	P	P	P	Note 21
Museums, libraries, parks, playgrounds, or community centers (privately operated)	C	C	C	C	S	Note 20 and Note 21
Recycling Uses						
Reverse vending machine	A	A	A	A	A	Part 13, Chapter 20.80

Small collection facility	A	A	A	A	A	Part 13, Chapter 20.80
Residential						
Emergency residential shelter within Airport Influence Area	-	S	S	S	S	Section 20.80.500
Emergency residential shelter outside of Airport Influence Area (more than 150 beds)	-	S	S	S	S	Section 20.80.500
Emergency residential shelter outside of Airport Influence Area (150 beds or fewer)	-	P	P	P	P	Section 20.80.500, Chapter 20.195
Hotel supportive housing	C	C	C	C	C	Note 22; Part 22, Chapter 20.80
Live/work uses	-	S	S	S	-	Note 6; Section 20.80.740
Low barrier navigation center	-	P	P	P	P	Chapter 20.195
Mixed use residential/commercial outside Neighborhood Business District Overlay	-	C/S	C	CGP	-	Note 6, 25 and 26
Mixed use residential/commercial within Neighborhood Business District Overlay	-	P	P	P	-	Note 28, 29 and 30
Permanent supportive housing	-	-	-	-	P	Note 27; Chapter 20.195

Residential care facility for seven or more persons	C	C	C	C	C	
Residential service facility for seven or more persons	C-P	C-P	C-P	C-P	C-P	
Single room occupancy, living unit	-	C	C	C	-	Note 6; Part 15, Chapter 20.80
Transportation and Utilities						
Data center	-	-	-	C	-	Note 21
Commercial vehicle storage	S	-	-	S	S	
Common carrier depot	S	-	S	S	S	Note 21
Community television antenna systems	C	C	C	C	C	
Parking establishment, off-street	C	-	C	C	-	
Short term parking lot for uses or events other than on-site	-	-	-	C	C	Note 7
Television, radio studios without antenna/dishes	-	-	-	C	C	
Utility facilities, excluding corporation yards, storage or repair yards and warehouses	C	C	C	C	C	
Utility facilities including corporation yards, storage or repair yards and warehouses	-	-	-	-	C	

Wireless communication antenna	C	C	C	C	C	Note 23; Sections 20.100.1300, 20.80.1915
Wireless communication antenna, slimline monopole	S	S	S	S	S	Note 23; Sections 20.80.1900, 20.80.1915
Wireless communication antenna, building mounted	P	P	P	P	P	Note 23; Sections 20.80.1910, 20.80.1915
Utilities, Electrical Power Generation						
Co-generation facility	S	S	S	S	S	
Fuel cells	P	P	P	P	P	
Private electrical power generation facility	C	C	C	C	C	Note 2
Solar photovoltaic system	P	P	P	P	P	Section 20.100.610 C.7.
Stand-by/backup facilities that do not exceed noise or air standards	A	A	A	P	A	
Stand-by/backup facilities that do exceed noise or air standards	C	C	C	C	C	
Temporary stand-by/backup	P	P	P	P	P	
Vehicle Related Uses						
Accessory installation, passenger vehicles and pick-up trucks	-	-	C	P	-	

Auto dealer, wholesale - no on-site storage	P	P	P	P	-	
Car wash, detailing	-	-	C	C	-	
Fuel service station or charge station, no incidental service or repair	-	C	C	P	C	Note 15
Fuel service station or charge station with incidental service and repair	-	-	C	P	C	Note 9 and Note 13,
Glass sales, installation, and tinting	-	-	C	P	-	Note 13
Leasing (rental) passenger vehicles, pick-up trucks not exceeding twenty-five feet in length, and motorcycles	-	-	C	P	-	Note 2
Sale, brokerage, or lease, commercial vehicles	-	-	C	C	-	Note 13
Sale or brokerage, passenger vehicles, pick-up trucks not exceeding 25 feet in length, and motorcycles	-	-	S	P	-	Note 12 and Note 13
Sale, vehicle parts	-	-	P	P	-	Note 11
Tires, batteries, lube, oil change, smog check station, air conditioning servicing of passenger vehicles and pick-up trucks	-	-	C	P	-	Note 10 and Note 13

Notes applicable to all commercial districts:

1. In the CP district, landscaping materials, such as rock, mulch, and sand are limited to prepackaged sales.
2. Classroom use only, no driving courses or onsite storage of vehicles permitted in the CP, CN, and CG Zoning Districts.
3. Includes public and private colleges and universities, as well as extension programs and business schools.
4. Alcohol, off-sales are limited to products manufactured onsite for wineries, breweries, or distilleries.
5. Permitted outside of Urban Village; Special Use Permit in Urban Villages.
6. Mixed use residential/ commercial development may be approved only on parcels designated on the land use/transportation diagram of the General Plan with a designation that allows residential use or through a General Plan or Urban Village Policy that allows mixed use development on a non-residential parcel.
7. Use must be less than twenty-four hours.
8. Permitted only as incidental to neighborhood agriculture; otherwise prohibited in CO. In PQP the use is permitted only as incidental to neighborhood agriculture; otherwise, a Special Use Permit is required.
9. Incidental repair includes non-invasive engine service, maintenance, and repair, including but not limited to, air conditioning service, fuel system service, electrical service, coolant system service, tune-up, fluid exchanges, steering and suspension system service, brake system service, transmission adjustment and service, lube, oil change, smog check, diagnostics and vehicle inspections, stock catalytic converters and manifolds, as well as tires, batteries and accessories installation. Does not allow body repair, welding, vehicle restorations, other types of exhaust system repair, the removal of cylinder heads, engines, transmissions/transfer cases and differentials, or painting.
10. ~~Includes non-invasive engine service, maintenance, and repair, including but not limited to, air conditioning service, carburetor and fuel injection system service, electrical service, radiator coolant system service, and tune-up, fluid exchanges, steering and suspension system service, brake system service, transmission adjustment and service, lube, oil change, and smog check, diagnostics and vehicle inspections, stock catalytic converters and manifolds, as well as tires, batteries and accessories installation. Does not allow body repair, welding, vehicle restorations, other types of exhaust system repair, the removal of cylinder heads, engines, transmissions/transfer cases and differentials, or painting.~~
11. No outdoor sales areas or dismantling allowed.
12. In the CG district, incidental repair of vehicles requires a Special Use Permit. Incidental repair of vehicles is prohibited in all other commercial districts.

13. All vehicle-related repair, service, and accessory or other installation shall be conducted within a fully enclosed building.
14. Bail bond establishments shall not be located and are prohibited uses on the ground floors of structures located within the main jail area, as that area is defined in Section 20.80.070 of Chapter 20.80 of this Title. Bail bond establishments are allowed as shown on Table 20-90 on other, above-ground floors of structures. All bail bond establishments shall meet all distance requirements specified in Section 20.80.075 of Chapter 20.80 of this Title.
15. Charging stations that are incidental to a separate primary use that do not impact on-site or off-site vehicular circulation, and that serve patrons of the primary use on-site are permitted in all commercial zoning districts. Hydrogen-fueling stations shall be permitted pursuant to Government Code Section 65850.7.
16. Public schools are subject to the regulations of this Title, subject to the provisions of California Government Code Section 53094 for classroom facilities.
17. Primary uses include sporting events, assembly venues, concerts, and entertainment events of similar character and intensity. Incidental support uses include offices, locker rooms, retail, public eating establishments, drinking establishments, outdoor vending facilities, and other commercial uses of similar character and intensity.
18. Use permit applications for stadiums that consist of more than 2,000 seats and that are in airport influence areas shall be referred to the Santa Clara Airport Land Use Commission prior to approval by the City.
19. Neighborhood agriculture in conformance with this Title is a permitted use that may operate on a site without a permanent building on that site.
20. The City Council is the decision-making body for Special Use Permit appeals for this use pursuant to Section 20.100.220 of this Title.
21. In the PQP public/quasi-public zoning district, the following uses may be allowed as a use supporting and incidental to a primary PQP use:
 - a. Offices, retail, public eating establishments, and other commercial uses of similar character and intensity, with approval of a Special Use Permit; and
 - b. Drinking establishments, off-sale of alcoholic beverages, arcade amusement games, poolroom/billiards establishments, wineries, breweries, distilleries, and data centers, with approval of a Conditional Use Permit.
22. Hotel supportive housing may be permitted only with a Conditional Use Permit pursuant to Part 22 of Chapter 20.80 and only until December 31, 2026.
23. Certain modifications of existing wireless facilities may be permitted with an Administrative Permit in accordance with Section 20.80.1915 of Chapter 20.80.
24. Restricted outside of Urban Villages; Prohibited in Urban Villages.
25. Conditional Use Permit required outside of Urban Villages; Special Use Permit in Urban Villages.

26. Permanent supportive housing is allowed as a residential component of mixed use residential/ commercial.
27. Permanent supportive housing is only allowed in the PQP district as 100% of the residential use.
28. The Neighborhood Business District Overlay includes North 13th Street/Luna Park, Japantown (Taylor Street only), and the Willow Glen Neighborhood Business District.
29. 100% deed-restricted affordable housing is a permitted use and commercial space requirements shall not apply; subject to conformance with General Plan policies and state law mandates. Refer to Chapter 20.195 for information regarding the ministerial approval process.
30. One-hundred percent residential projects may be permitted if they meet ground floor commercial space standard in Table 20-142, Table 20-143, or Table 20-144.

SECTION 23. Section 20.50.100 of Chapter 20.50 of Title 20 of the San José Municipal Code is amended to read as follows:

20.50.100 Allowed Uses and Permit Requirements

- A. "Permitted" land uses are indicated by a "P" on Table 20-110.
- B. "Permitted" uses which may be approved only on property designated on the Land Use/Transportation Diagram of the General Plan, as amended, with the Combined Industrial/Commercial land use designation or, in the case of Hotel or Motel establishments, which may also be approved on property designated on the Land Use/Transportation Diagram of the General Plan, as amended, with the Preferred Hotel Site Overlay, are indicated by a "P GP" on Table 20-110.
- C. "Conditional" uses are indicated by a "C" on Table 20-110. These uses may be allowed in such designated districts, as an independent use, but only upon issuance of and in compliance with a Conditional Use Permit as set forth in Chapter 20.100.

"Conditional" uses which may be approved only on property designated on the Land Use/Transportation Diagram of the General Plan, as amended, with the Combined Industrial/Commercial Designation or, in the case of Hotel or/Motel establishments, may also be approved on property designated on the Land Use/Transportation Diagram of the General Plan, as amended, with the preferred Hotel Site Overlay, are indicated by a "C GP" on Table 20-110. These uses may be allowed in such designated districts, as an independent use, but only upon issuance of and in compliance with a Conditional Use Permit as set forth in Chapter 20.100.

- D. "Conditional" uses requiring City Council approval as the initial decision-making body are indicated by a "CC" on Table 20-110. These uses may be allowed in such designated districts, as an independent use, but only upon issuance of and in compliance with a Conditional Use Permit approved by the City Council as set forth in Chapter 20.100. Applications for these uses shall first be considered by the Planning Commission at a public hearing of the Commission for the Commission's report and recommendation on the application to the City Council pursuant to the processes set forth in Chapter 20.100.

"Conditional" uses which may be approved only on property designated on the Land Use/Transportation Diagram of the General Plan, as amended, with the Combined Industrial/Commercial designation are indicated by a "CC GP" on Table 20-110. These uses may be allowed in such designated districts, as an independent use, but only upon issuance of and in compliance with a Conditional Use Permit as set forth in Chapter 20.100.

- E. "Special" uses are indicated by an "S" on Table 20-110. These uses may be allowed in such designated districts, as an independent use, but only upon issuance of and in compliance with a Special Use Permit as set forth in Chapter 20.100.
- F. "Administrative" uses are indicated by an "A" on Table 20-110. These uses may be allowed in such designated districts, as an independent use, but only upon issuance of and in compliance with an Administrative Permit as set forth in Chapter 20.100.
- G. "Restricted" land uses are indicated by an "R GP" on Table 20-110. These uses may occur in such designated districts, as an independent use, but only upon issuance of and in full compliance with a valid and effective Zoning Code Verification Certificate as set forth in Chapter 20.100. "Restricted" uses may only occur on property designated on the Land Use/Transportation Diagram of the General Plan, as amended, with a Combined/Industrial Commercial, Industrial Park, Light Industrial, or Heavy Industrial designation.
- H. Land uses not permitted are indicated by a "-" on Table 20-110. Land uses not listed on Table 20-110 are not permitted.
- I. When the right column of Table 20-110 includes a reference to a section number or a footnote, the regulations cited in the section number or footnote applies to the use. In addition, all uses are subject to any other applicable provision of this Title 20 and any other title of the San José Municipal Code.

**Table 20-110
Industrial Zoning District Use Regulations**

Use	Zoning District					Applicable Sections & Notes
	CIC	TEC	IP	LI	HI	
Industry						
Construction/corporation yard	S	-	-	P	P	
Establishment for the repair, cleaning of household, commercial or industrial equipment or products	-	-	-	P	P	
Extraction of minerals from the ground, including quarrying	-	-	-	-	C	
Hazardous materials storage facility	-	-	-	C	C	
Hazardous waste facility	-	-	-	-	C	
Junkyard	-	-	-	-	C	
Industrial services	-	-	-	P	P	
Laboratory, processing	P	P	P	P	P	
Manufacturing and assembly, light	P	P	P	P	-	
Manufacturing and assembly, medium	P	P	P	P	P	
Manufacturing and assembly, heavy	-	-	-	-	P	
Miniwarehouse/ ministorage	-	-	-	C	-	
Outdoor uses or storage, industrial	-	-	-	S	P	Section 20.50.210

Research and development	P	P	P	-	-	
Stockyard, including slaughter	-	-	-	-	C	
Warehouse/distribution facility	P	P	P	P	P	Note 2
Wholesale sale establishment	P	S	S	P	P	Note 2
Additional Uses						
Any use not set forth in Tables 20-30, 20-50, 20-90	-	-	-	-	C	
Any use without a permanent fully enclosed building on-site	C	C	C	S	S	
Commercial support	-	P	P/A	-	-	Note 5; Section 20.50.110
Agriculture						
Aquaculture, aquaponics, and hydroponics	S	-	S	S	S	
Certified farmers' market	S	S	S	-	-	Part 3.5, Chapter 20.80
Certified farmers' market - small	P	P	P	-	-	Part 3.5, Chapter 20.80
Neighborhood agriculture	P	-	P	P	P	
Drive-Through Use						
Drive-through in conjunction with any use	C	-	-	-	-	
Education and Training						
Day care center	S	S	S	-	-	Note 20
Instructional art studios	P	P	-	-	-	Note 14

Private instruction, personal enrichment	P	P	-	-	-	Note 14
School, driving (class A & B license)	P/S	-	-	P	P	Note 23
School, driving (class C & M license)	P/S	-	-	S	S	Note 23 and Note 24
School, elementary and secondary (public or private)	C	C	-	-	-	Note 11
School, post secondary	C	C	C	-	-	
<u>Entertainment and Recreation Related</u>						
<u>Recreation, commercial indoor</u>	<u>P</u>	<u>C/ GP</u>	<u>C GP</u>	<u>C GP</u>	=	<u>Note 5; Section 20.50.110</u>
<u>Recreation, commercial outdoor</u>	<u>C</u>	=	=	=	=	
<u>Relocated cardroom</u>	<u>C GP</u>	<u>C GP</u>	<u>C GP</u>	<u>C GP</u>	=	<u>Section 20.80.1155</u>
<u>Performing Arts production and rehearsal space, excluding performances</u>	<u>P</u>	<u>C</u>	<u>C</u>	<u>C GP</u>	=	
<u>Stadium, 2,000 seats or fewer</u>	<u>C GP</u>	<u>C/ GP</u>	=	=	=	<u>Note 15</u>
<u>Stadium, more than 2,000 seats</u>	<u>CC GP</u>	<u>CC</u>	=	=	=	<u>Note 15; Note 16</u>
Food Services						
Caterer	P	P	-	-	-	
Commercial kitchen	P	P	P	P	-	Note 2 and Note 14
Drinking establishments	C	C	-	-	-	

Drinking establishments interior to a full-service hotel or motel that includes 75 or more guest rooms	P	S/P	P GP	-	-	Note 13 and Note 21; Section 20.80.475
Public eating establishments	P	P	-	C	C	Note 5; Sections 20.50.110, 20.50.113
Outdoor dining, incidental to a public eating establishment	P	S/P	-	C	C	Note 5 and Note 21; Sections 20.50.110, 20.50.113
Taproom or tasting room in conjunction with a winery, brewery, or distillery	A	A	A	A	A	Part 5.75, Chapter 20.80
Winery, brewery, and distillery	P	P	P	P	P	Note 2 and Note 14
General Retail						
Alcohol, off-sale - beer and/or wine only	C	C	-	-	-	Note 5; Section 20.50.110
Alcohol, off-sale - full range of alcoholic beverages	C	C	-	-	-	Note 5; Section 20.50.110
Alcohol, off-sale - as incidental to a winery, brewery, or distillery	A	A	A	A	A	Note 12; Part 5.75, Chapter 20.80
Food, beverages, and groceries	P	P	-	-	-	Note 5 and Note 14; Section 20.50.110
Nursery, plant	P	-	P	C	C	
Outdoor vending	A	A	-	A	A	Part 10, Chapter 20.80
Outdoor vending - fresh fruits and vegetables	P	P	P	P	P	Part 10, Chapter 20.80

Warehouse retail	-	C	C	C	C	Note 2; Section 20.50.130
Retail sales, goods, and merchandise	P	P	-	-	-	Note 5 and Note 14; Section 20.50.110
Retail art studio	P	P	-	-	-	Note 14
Retail bakery	P	P	-	-	-	Note 5 and Note 14; Section 20.50.110
Sales, industrial equipment and machinery	P	P	P	P	-	Note 2
Seasonal sales	P	P	P	P	P	Part 14, Chapter 20.80
General Services						
Crematory	-	-	-	-	C	Note 7
Dry cleaner	P	P	-	-	-	Note 14
Hotel or motel	P	P	C	-	-	Note 13
Laundromat	P	P	-	-	-	Note 14
Mortuary, without funeral services	-	-	-	P	P	
Personal services	P	-	-	-	-	Note 5; Section 20.50.110
Printing and publishing	P	P	P	P	P	
Social service agency	S	-	-	-	-	
Health and Veterinary Services						
Animal boarding	P/S	-	-	-	-	Note 22
Animal grooming	P	-	-	-	-	
Cannabis cultivation business	R GP	-	-	R GP	R GP	Part 9.76, Chapter 20.80
Cannabis delivery only business	R GP	-	R GP	R GP	-	Part 9.76, Chapter 20.80

Cannabis distribution business	R GP	-	R GP	R GP	-	Part 9.76, Chapter 20.80
Cannabis manufacturing (Type 6) business	R GP	-	R GP	R GP	R GP	Part 9.76, Chapter 20.80
Cannabis processing business	R GP	-	-	R GP	R GP	Part 9.76, Chapter 20.80
Cannabis testing business	-	-	R GP	-	-	Part 9.76, Chapter 20.80
Emergency ambulance service	C	-	-	-	-	
Hospital/in-patient facility	C	C	C	-	-	Note 6
Medical cannabis collective	R GP	-	R GP	R GP	R GP	Part 9.76, Chapter 20.80
Medical cannabis collective cultivation site only	R GP	-	R GP	R GP	R GP	Part 9.76, Chapter 20.80
Medical cannabis dispensary	R GP	R GP	-	-	-	Part 9.75, Chapter 20.80
Cannabis retail storefront	R GP	R GP	-	-	-	Part 9.75, Chapter 20.80
Office, medical	P	P	C	-	-	Note 14, Note 5, Section 20.50.110
Veterinary clinic	P	-	-	-	-	
Historic Reuse						
Historic landmark structure reuse	S	S	S	S	S	Part 8.5, Chapter 20.80
Offices and Financial Services						
Automatic teller machine	P	P	P	P	P	Section 20.80.200
Business support use	P	P	P	-	-	
Financial institution	P	P	-	-	-	Note 5; Section 20.50.110

Office, general business	P	P	P	-	-	
Office, research and development	P	P	P	-	-	
Public, Quasi-Public and Assembly Uses						
Church/religious assembly	C	-	-	-	-	
Recycling Uses						
Processing facility	-	-	C	S	S	
Transfer facility, recycling	-	-	C	S	S	
Collection facility, large	-	-	-	-	P	
Reverse vending machine	A	A	A	A	A	
Collection facility, small	A	A	A	A	A	
Residential						
Emergency residential shelter, more than 150 beds	C	-	-	-	-	Section 20.80.500
Emergency residential shelter, 150 beds or fewer	P	-	-	-	-	Section 20.80.500, Chapter 20.195
Hotel supportive housing	C	C	C	C	C	Note 17; Part 22 of Chapter 20.80
Living quarters, custodian, caretakers	-	-	-	-	C	Note 1
Transportation and Utilities						
Commercial vehicle storage	S	-	-	S	S	
Common carrier depot	S	S	S	S	S	
Community television antenna systems	C	C	C	C	C	
Data center	S	S	S	S	S	Note 2

Off-street parking establishment	C	-	C	C	C	
Television, radio studio	C	C	C	C	C	
Utility facilities, excluding corporation yards, storage or repair yards and warehouses	C	C	C	C	C	
Wireless communications antenna	C	C	C	C	C	Note 18; Sections 20.100.1300, 20.80.1915
Wireless communications antenna, slimline monopole	S	S	S	S	S	Note 18; Sections 20.80.1900, 20.80.1915
Wireless communications antenna, building mounted	P	P	P	P	P	Note 18; Sections 20.80.1910, 20.80.1915
Utilities, Power Generation						
Base load power plant	-	-	-	-	C	
Co-generation facility	S	S	S	S	S	
Private electrical power generation facility	C	C	C	C	C	
Solar photovoltaic power system	P	P	P	P	P	Section 20.100.610 C.7.
Stand-by/backup facilities that do not exceed noise and air standards	P	P	P	P	P	
Stand-by/backup facilities that do exceed noise and air standards	C	C	C	C	C	
Stationary peaking power plant	-	-	-	C	C	

Temporary stand-by or backup electrical power generation facility	P	P	P	P	P	
Transportable peaking power plant	-	-	-	C	C	
Vehicle Related Uses						
Auto dealer, wholesale, no on-site storage	P	P	P	-	-	
Car wash, detailing	C	C	-	-	-	
Fuel service station or charge station, no incidental service or repair	P	-	C	-	-	Note 8
Fuel service station or charge station with incidental service and repair	P	-	-	-	-	Note 3 <u>and Note 10</u>
Repair and cleaning of vehicles	C	-	-	P	P	Note 4
Sale, brokerage, or lease (rental) of passenger vehicles, pick-up trucks not exceeding 25 feet in length, and motorcycles	S	-	-	-	-	Note 10
Sale or lease of commercial trucks, buses, trailers, campers, boats, mobilehomes, construction equipment	C	-	-	C	-	
Sale, vehicle parts	P	-	-	P/S	-	Note 9
Vehicle tow yard	-	-	-	C	S	Note 19
Vehicle wrecking, including sales of parts	-	-	-	-	C	

Warehouse retail indoor sale of passenger vehicles, pick-up trucks not exceeding 25 feet in length, and motorcycles	C	C	C	C	C	Note 2; Section 20.50.140
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Notes:

1. Site must be seven (7) acres or more.
2. In TEC, only allowed in existing buildings with a valid certificate of occupancy as of (the effective date of this ordinance). Not allowed more than 5% expansion of the existing building floor area ratio for the portion of the building occupied by the use subject to this note.
3. Incidental repair includes air conditioning service, carburetor and fuel injection service, electrical service, radiator service, and tune-up, lube, oil change, and smog check, as well as tires, batteries, and accessories installation. Does not allow body repair or painting.
4. All vehicle-related repair, service, and accessory or other installation, excepting the cleaning of vehicles, shall be conducted within a fully enclosed Building.
5. Commercial support uses are subject to and limited by Section 20.50.110. Commercial support uses subject to Section 20.50.110 A. are permitted (P) uses. Commercial support uses subject to Section 20.50.110 B. in the primary Industrial Park Building(s) require an administrative (A) permit. Commercial support uses subject to Section 20.50.110 C. in a single-use Building require a Development Permit. Public Eating Establishments in the LI or HI districts are limited to a maximum of six hundred fifty (650) gross square feet in size.
6. Refer to the General Plan for criteria to determine if the use is permissible at the proposed location.
7. Crematories shall be separated by at least five hundred (500) linear feet from residential uses, schools, and day care centers, which distance(s) shall be measured from the nearest points of the Parcel boundary on which the crematory is proposed and the Parcel boundary on which the residential, school or day care center use is located.
8. Charge Stations that are incidental to a separate primary use, that do not impact on-site or off-site vehicular circulation, and that serve patrons of the primary use on-site are Permitted in all Industrial Zoning Districts. Hydrogen-fueling stations shall be permitted pursuant to Government Code 65850.7.
9. Vehicle parts sales are permitted in the LI district when the total floor area dedicated to retail display and open to the public occupies no more than fifteen (15%) percent of the gross floor area of the individual tenant space. Vehicle parts sales establishments that exceed fifteen (15%) percent of the gross floor area of the individual tenant space are subject to a Special Use Permit.

10. Any incidental vehicle-related repair, service, and accessory or other installation, excepting the cleaning of vehicles, shall be conducted within a fully enclosed building.
11. Public schools are subject to the regulations of this Title, subject to the provisions of California Government Code Section 53094 for classroom facilities.
12. Off-sale of alcoholic beverages. The total square footage of alcoholic beverages on display in a retail area and the total square footage of retail floor area in which alcoholic beverages are displayed for sale shall be the lesser of the following:
 - a. Two hundred fifty (250) gross square feet; or
 - b. Five (5%) percent of the winery's, brewery's, or distillery's entire gross floor area; and any and all alcoholic beverages made available for retail sale shall be limited only to those alcoholic beverages manufactured and produced on-site.
13. At least two hundred (200) rooms and four (4) or more stories in height are required for hHotels located in the TEC Transit Employment Center Zoning District.
14. The use is allowed in the TEC district only on the first or second floor of a building containing another permitted, special, or conditional use of the TEC Zoning District that is not subject to this note. Not allowed as a standalone use.
15. Primary uses include sporting events, large assembly, concerts, and entertainment events of similar character and intensity. Incidental support uses include offices, locker rooms, retail, Public Eating Establishments, Drinking Establishments, Outdoor Vending Facilities, and other commercial uses of similar character and intensity.
16. Use permit applications for stadiums that consist of more than two thousand (2,000) seats and that are in an airport influence area shall be referred to the Santa Clara Airport Land Use Commission prior to approval by the City.
17. Hotel Supportive Housing may be pPermitted only with a Conditional Use Permit pursuant to Part 22 of Chapter 20.80 and only until December 31, 2026.
18. Certain modifications of existing Wireless Facilities may be Permitted with an Administrative Permit in accordance with Section 20.80.1915 of Chapter 20.80.
19. Vehicle auctions are permitted as part of a Vehicle tow yard.
20. Day care centers are allowed in the IP and TEC Zoning Districts as incidental uses to the primary TEC or IP development, not as a standalone use.
21. Special Use Ppermit required if within 150 feet of residentially used or zoned lot; Permitted if not within 150 feet of residentially used or zoned lot.
22. Outdoor Animal Boarding is allowed through a Special Use Ppermit in the CIC Zoning District.
23. Permitted in the CIC Zoning district for classroom use only, outside vehicle storage requires a Special Use Ppermit.

24. Only schools which offer driving instruction for commercial vehicles are permitted in this zoning district.

SECTION 24. Section 20.55.203 of Chapter 20.55 of Title 20 of the San José Municipal Code is amended to read as follows:

20.55.203 Urban Village and Mixed Use Zoning District Use Regulations

**Table 20-138
Urban Village and Mixed Use Zoning District Use Regulations**

Use	Zoning District						Notes & Sections
	UVC	UV	MUC	MUN	UR	TR	
Residential							
One-family dwelling	-	-	-	P	P	P	Note 6; Note 25
Two-family dwelling	-	-	-	P	P	P	Note 6; Note 25
Accessory dwelling unit	-	P	P	P	P	P	Part 4.5, Chapter 20.30
Mixed use development	-	P	P	P	P	P	Note 20; Note 25; Chapter 20.195
Mixed use development in Neighborhood Business District Overlay	-	-	P	P	-	-	Note 27
Multiple dwelling	-	P	P	P	P	P	Note 20; Note 25; Chapter 20.195
Streamlined Infill Housing Development (outside of the Airport Influence Area)	-	P ^{GP}	P ^{GP}	-	P ^{GP}	P ^{GP}	Note 27; Section 20.200.1225; Chapter 20.195, Part 4

Co-living community	-	S	C	C	S	S	Part 3.73, Chapter 20.80
Guesthouse	-	S	-	S	S	S	
Emergency residential shelter within Airport Influence Area	-	S	S	S	S	S	Section 20.80.500
Emergency residential shelter outside of Airport Influence Area (more than 150 beds)	-	S	S	S	S	S	Section 20.80.500
Emergency residential shelter outside of Airport Influence Area (150 beds or fewer)	-	P	P	P	P	P	Section 20.80.500; Chapter 20.195
Home Occupation	-	P	P	P	P	P	Part 9, Chapter 20.80
Hotel supportive housing	C	-	C	-	-	-	Note 17; Part 22, Chapter 20.80
Live/work uses	-	S	S	S	S	S	Section 20.80.740
Low barrier navigation center	-	P	P	P	P	P	Chapter 20.195
Permanent supportive housing	-	P	P	P	P	P	Note 20; Chapter 20.195
Residential accessory structures or buildings	-	P	P	P	P	P	Part 5, Chapter 20.30
Residential care facility for six or fewer persons	-	P	P	P	P	P	

Residential care facility for seven or more persons	-	C	C	C	C	C	
Residential service facility for six or fewer persons	-	P	P	P	P	P	
Residential service facility for seven or more persons	-	C <u>P</u>	C <u>P</u>	C <u>P</u>	C <u>P</u>	C <u>P</u>	
Single room occupancy, living unit	-	-	C	-	-	-	Note 25; Part 15, Chapter 20.80
General Retail							
Alcohol, off-sale - beer and/or wine only	C	C	C	C	C	C	Section 20.80.900
Alcohol, off-sale - full range of alcoholic beverages	C	C	C	C	C	C	Section 20.80.900
Alcohol, off-sale - as incidental to a winery, brewery, or distillery	A	A	A	A	A	A	Note 1; Part 5.75, Chapter 20.80
Food, beverages, and groceries	P	P	P	P	P	P	
Nursery, plant	P	P	P	P	P	P	Note 2
Outdoor vending	A	A	A	A	A	A	Part 10, Chapter 20.80
Outdoor vending, fresh fruits and vegetables	P	P	P	P	P	P	Part 10, Chapter 20.80
Pawnshop/broker	C	-	C	-	-	-	See Title 6
Retail art studio	P	P	P	P	P	P	Section 20.80.1175

Retail bakery	P	P	P	P	P	P	
Retail sales, goods, and merchandise	P	P	P	P	P	P	
Seasonal sales	P	P	P	P	P	P	Part 14, Chapter 20.80
Agriculture & Open Space							
Aquaculture, aquaponics, and hydroponics	S	S	S	S	S	S	
Certified farmers' market	S	S	S	S	S	S	Part 3.5, Chapter 20.80
Certified farmers' market, small	P	P	P	P	P	P	Part 3.5, Chapter 20.80
Community gardens	P	P	P	P	P	P	
Neighborhood agriculture	P	P	P	P	P	P	Note 16; Title 7
Education & Training							
Child day care center located on an existing School Site or as an incident to a permitted on-site church/religious assembly use involving no building additions or changes to the site	P	P	P	P	P	P	Note 5
Day care center	S	S	S	S	S	S	Note 5
Instructional art studios	P	P	P	P	P	P	

Private instruction, personal enrichment	P	P	P	P	P	P	
School, elementary and secondary (public or private)	C	C	C	C	C	C	Note 13
School, driving (class C & M license)	P	P	P	P	P	P	Note 3
School, post secondary	P	P	P	P	P	P	
School, trade and vocational	P/S	P/S	P/S	P/S	P/S	P/S	Note 4 and Note 13
Entertainment and Recreation							
Arcade, amusement game	P	P	P	P	P	P	
Health club, gymnasium	P	P	P	P	P	P	
Performing arts rehearsal space	P	P	P	P	P	P	
Poolroom/billiards establishment	P	P	P	P	P	P	
Private club or lodge	S	S	S	S	S	S	
Recreation, commercial indoor	P	P	P	P	P	P	
Recreation, commercial outdoor	-	S	-	-	-	-	
Stadium, 2,000 seats or fewer	C	C	-	-	-	-	

Stadium, more than 2,000 seats	CC	CC	-	-	-	-	Note 14 and Note 15
Theater, indoor	S	S	S	-	S	S	
Theater, outdoor	S	S	S	-	S	S	
Food Services							
Banquet facility	S	S	S	S	S	S	
Caterer	P	P	P	P	P	P	
Commercial kitchen	P	P	P	-	S	S	
Drinking establishments	S	S	S	-	S	S	
Drinking establishments interior to a full-service hotel or motel that includes 75 or more guest rooms	P	P	P	P	P	P	Section 20.80.475
Public eating establishments	P	P	P	P	P	P	
Public eating establishment or retail establishment with incidental outdoor dining	P	P	P	P	P	P	Section 20.40.520
Public eating establishment in conjunction with a winery, brewery, or distillery	P	P	P	P	P	P	Part 5.75, Chapter 20.80

Taproom or tasting room in conjunction with a winery, brewery, or distillery	A	A	A	A	A	A	Part 5.75, Chapter 20.80
Taproom or tasting room with off-sale of alcohol	A	A	A	A	A	A	Part 5.75, Chapter 20.80
General Services							
Bail Bonds Establishment	S	S	S	-	S	S	Note 11; Part 1.5, Chapter 20.80
Bed and breakfast inn	P	P	P	P	P	P	Part 2, Chapter 20.80
Dry cleaner	P	P	P	P	P	P	
Hotel or motel	P	P	P	P	P	P	
Single room occupancy (SRO) hotel	C	C	C	C	C	C	Part 15, Chapter 20.80
Laundromat	P	P	P	P	P	P	
Maintenance and repair, small household appliances	P	P	P	P	P	P	
Messenger services	P	P	P	P	P	P	
Mortuary and funeral services	P	P	P	P	P	P	
Personal services	P	P	P	P	P	P	Section 20.200.880
Bail Bonds Establishment	S	S	S	-	S	S	
Bed and breakfast inn	P	P	P	P	P	P	

Health and Veterinary Services							
Animal boarding, indoor	P	P	P	P	P	P	Note 7
Animal grooming	P	P	P	P	P	P	Note 7
Cannabis retail storefront	R	R	R	-	R	R	Part 9.75, Chapter 20.80
Emergency ambulance service	C	C	C	-	C	C	
Hospital/in-patient facility	C	C	C	-	C	C	
Medical cannabis collective dispensary site only	R	R	R	-	R	R	Part 9.75, Chapter 20.80
Medical cannabis dispensary	R	R	R	-	R	R	Part 9.75, Chapter 20.80
Office, medical	P	P	P	P	P	P	
Veterinary clinic	P	P	P	P	P	P	
Historic Reuse							
Historic landmark structure reuse	S	S	S	S	S	S	Part 8.5, Chapter 20.80
Industry and Manufacturing							
Laboratory, processing	P	P	P	-	-	-	
Manufacturing and assembly, light	P	P	P	-	-	-	Note 22
Office, research and development	P	P	P	-	S	S	Note 21
Offices and Financial Services							
Automatic teller machine	P	P	P	P	P	P	Section 20.80.200

Business support	P	P	P	P	P	P	
Office, general business	P	P	P	P	P	P	
Retail bank / Financial services	P	P	P	P	P	P	
Public, Quasi-Public and Assembly Uses							
Cemetery	C	C	C	C	C	C	
Church/religious assembly	S	S	S	S	S	S	
Museums, libraries, parks, playgrounds, or community centers (publicly operated)	P	P	P	P	P	P	
Museums, libraries, parks, playgrounds, or community centers (privately operated)	S	S	S	S	S	S	
Recycling Uses							
Reverse vending machine	A	A	A	A	A	A	Part 13, Chapter 20.80
Small collection facility	A	A	A	A	A	A	Part 13, Chapter 20.80
Transportation and Utilities							
Community television antenna systems	C	C	C	C	C	C	
<u>Off-site, alternating use and alternative parking arrangements</u>	<u>S</u>	<u>S</u>	<u>S</u>	=	<u>S</u>	<u>S</u>	<u>Section 20.90.200</u>

Parking establishment, off-street	S	-	S	-	-	-	Note 23
Television, radio studios without antenna/dishes	C	C	C	-	-	-	
Utility facilities, excluding corporation yards, storage or repair yards and warehouses	C	C	-	-	-	-	
Utility facilities including corporation yards, storage or repair yards and warehouses	-	-	-	-	-	-	
Wireless communication antenna	C	C	C	C	C	C	Note 18; Sections 20.100.1300, 20.80.1915
Wireless communication antenna, slimline monopole	S	S	S	S	S	S	Note 19; Sections 20.80.1900, 20.80.1915
Wireless communication antenna, building mounted	P	P	P	P	P	P	Note 19; Sections 20.80.1910, 20.80.1915
Utilities, Electrical Power Generation							
Co-generation facility	S	S	S	S	S	S	
Fuel cells	P	P	P	P	P	P	

Private electrical power generation facility	C	C	C	C	C	C	
Solar photovoltaic system	P	P	P	P	P	P	Section 20.100.610 C.7.
Stand-by/backup facilities that do not exceed noise or air standards	A	A	A	A	A	A	
Stand-by/backup facilities that do exceed noise or air standards	C	C	C	-	-	-	
Temporary stand-by/backup	P	P	P	P	P	P	
Vehicle Related Uses							
Sale or leasing of vehicles, showroom only	P	P	P	-	-	-	Note 24
Sale, vehicle parts	S	S	S	-	S	S	Note 9
For all other vehicle related uses refer to the General Use Regulations as described in section 20.55.201 (K)							

Notes:

1. Alcohol, off-sales are limited to products manufactured on-site for wineries, breweries, or distilleries.
2. Landscaping materials, such as rock, mulch, and sand are limited to prepackaged sales.
3. Classroom use only, no driving courses or on-site storage of vehicles permitted in UVC, UV, MUC, MUN, UR or TR Zoning Districts.
4. Indoor uses related to trade or vocational schools are Permitted, any outdoor uses will require a Special Use Permit.
5. If the Daycare use exceeds the noise standards, as set forth in Chapter 20.40 in Section 20.40.600, it will require a Special Use Permit.

6. One-family dwellings or two-family dwellings are allowed as part of a larger development which meets the minimum density requirement in the UR and TR zoning districts.
7. Except as an incidental use to neighborhood agriculture, all uses involving any type of care for animals, including but not limited to grooming, boarding, medical care, must be conducted wholly inside a building.
8. Incidental repair includes non-invasive engine service, maintenance, and repair, including but not limited to, air conditioning service, fuel system service, electrical service, coolant system service, tune-up, fluid exchanges, steering and suspension system service, brake system service, transmission adjustment and service, lube, oil change, smog check, diagnostics and vehicle inspections, stock catalytic converters and manifolds, as well as tires, batteries and accessories installation. Does not allow body repair, welding, vehicle restorations, other types of exhaust system repair, the removal of cylinder heads, engines, transmissions/transfer cases and differentials, or painting.
9. No outdoor sales areas or dismantling allowed.
10. All vehicle-related repair, service, and accessory or other installation shall be conducted within a fully enclosed building.
11. Bail bond establishments shall not be located and are prohibited uses on the ground floors of structures located within the main jail area, as that area is defined in Section 20.80.070 of Chapter 20.80 of this Title. Bail bond establishments are allowed as shown on Table 20-138 on other, above-ground floors of structures. All bail bond establishments shall meet all distance requirements specified in Section 20.80.075 of Chapter 20.80 of this Title.
12. Charging stations that are incidental to a separate primary use that do not impact on-site or off-site vehicular circulation, and that serve patrons of the primary use on-site are permitted in all commercial zoning districts. Hydrogen-fueling stations shall be permitted pursuant to Government Code Section 65850.7.
13. Public schools are subject to the regulations of this Title, subject to the provisions of California Government Code Section 53094 for classroom facilities.
14. Primary uses include sporting events, assembly venues, concerts, and entertainment events of similar character and intensity. Incidental support uses include offices, locker rooms, retail, public eating establishments, drinking establishments, outdoor vending facilities, and other commercial uses of similar character and intensity.
15. Use permit applications for stadiums that consist of more than 2,000 seats and that are in airport influence areas shall be referred to the Santa Clara Airport Land Use Commission prior to approval by the City.
16. Neighborhood agriculture in conformance with this Title is a permitted use that may operate on a site without a permanent building on that site.

17. Hotel supportive housing may be permitted only with a Conditional Use Permit pursuant to Part 22 of Chapter 20.80 and only until December 31, 2026.
18. Certain modifications of existing wireless facilities may be permitted with an Administrative Permit in accordance with Section 20.80.1915 of Chapter 20.80.
19. Conditional Use Permit required outside of Urban Villages; Special Use Permit in Urban Villages.
20. Permanent supportive housing is a permitted use as mixed use or residential-only development. For information regarding the Ministerial Approval process, refer to Chapter 20.195 for more information.
21. Research and Development is allowed through a Special Use Permit in TR and UR if the use on site does not involve activity that would create noxious sounds, smells, or vibrations.
22. For the purposes of Chapter 20.55, Food and Beverage manufacturing is considered to be permitted under the Manufacturing and Assembly, light use, if it meets all of the following criteria:
 - a. The use must include a retail space which is accessible from and adjacent to the street and open to the public during regular business hours.
 - b. Odors produced on-site shall not have a material negative effect on other businesses or properties in the area.
23. Surface parking which does not serve a use contained on the same site or under the same Development Permit is not permitted. Standalone parking structures are allowed under the following conditions:
 - a. Parking structures shall comply with the Citywide Design Standards and Guidelines.
 - b. In addition, the parking facility must meet one of the following criteria:
 - i. The parking facility shall be designed as a structured aboveground parking facility with ground floor commercial spaces, which are located along public rights-of-way or public open spaces, and which comply with Citywide Design Standards and Guidelines for ground floor commercial spaces.
 - ii. The parking facility shall be designed as an underground parking facility with a POPOS at grade level, which is open to the public 24 hours a day, and which complies with the Citywide Design Standards and Guidelines.
24. In UVC and MUC, sale and leasing of vehicles is permitted in the form of an interior showroom only with no on-site storage of vehicles other than display models in the showroom.
25. May be used as Transitional Housing.
26. 100% deed-restricted affordable housing is a permitted use for residential housing type that meet minimum density requirement in the UR and TR zoning districts, and commercial space requirements shall not apply; subject to conformance with General Plan policies and state law mandates. Refer to Chapter 20.195 for information regarding the ministerial approval process.

27.—The Neighborhood Business District Overlay includes North 13th Street/Luna Park, Japantown (Taylor Street only), and the Willow Glen Neighborhood Business District.

28.—Ministerial streamlined review process for housing development projects. See Section 20.200.1225 and Chapter 20.195 for projects that qualify.

SECTION 25. Section 20.70.100 of Chapter 20.70 of Title 20 of the San José Municipal Code is amended to read as follows:

20.70.100 Allowed Uses and Permit Requirements

- A. "Permitted" land uses are indicated by a "P" on Table 20-140.
- B. "Permitted" uses which may be approved only on parcels within the downtown zoning districts which are designated on the land use/transportation diagram of the General Plan, as amended, with a land use designation that allows some residential use, are indicated by a "PGP" on Table 20-140. These uses may be allowed on such downtown zoning district parcels, but only in compliance with the General Plan land use restrictions related to residential use.
- C. "Conditional" uses requiring Planning Commission approval as the initial decision-making body are indicated by a "C" on Table 20-140. These uses may be allowed in such designated districts, as an independent use, but only upon issuance of and in compliance with a Conditional Use Permit approved by the Planning Commission, or City Council on appeal, as set forth in Chapter 20.100.
- D. "Conditional" uses which may be approved only on parcels within the downtown zoning districts which are designated on the land use/transportation diagram of the General Plan, as amended, with a land use designation that allows some residential use, are indicated by a "CGP" on Table 20-140. These uses may be allowed on such downtown zoning district parcels, but only upon issuance of and in compliance with a Conditional Use Permit as set forth in Chapter 20.100; and in compliance with the General Plan land use restrictions related to residential use.
- E. "Special" uses are indicated by an "S" on Table 20-140. These uses may be allowed in such designated districts, as an independent use, but only upon issuance of and in compliance with a Special Use Permit as set forth in Chapter 20.100.
- F. "Special" uses which may be approved only on parcels within the downtown zoning districts which are designated on the land use/transportation diagram of the General Plan, as amended, with a land use designation that allows some

residential use, are indicated by an "SGP" on Table 20-140. These uses may be allowed on such downtown zoning district parcels, but only upon issuance of and in compliance with a Special Use Permit as set forth in Chapter 20.100; and in compliance with the General Plan land use restrictions related to residential use.

- G. "Administrative" uses are indicated by an "A" on Table 20-140. These uses may be allowed in such designated districts, as an independent use, but only upon issuance of and in compliance with an Administrative Permit as set forth in Chapter 20.100.
- H. "Restricted" land uses are indicated by an "R" on Table 20-140. 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.
- I. Land uses not permitted are indicated by a "-" on Table 20-140. Land uses not listed on Table 20-140 are not permitted.
- J. The column of Table 20-140, under the heading "Additional Use Regulations for the Ground Floor Active Use Area Overlay", identifies further regulations on the uses of ground-floor building space within a portion of the DC zoning district. The portion of the DC downtown primary commercial district included in the Active Use Area Overlay is described in Section 20.70.520.
- K. When the right column of Table 20-140 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 20-140
Downtown Zoning Districts Use Regulations**

Use	Zoning District		Applicable Notes & Regulations	
	DC	DC-NT1	Additional Use Regulations for the AUA Overlay	Applicable to All Downtown Districts
Offices and Financial Services				
Automatic teller machine	P	P	P	Note a; Section 20.80.200
Business support use	P	P	P	
Financial services	P	P	P	Note b
Retail bank	P	P	P	Note b
Offices, business and administrative	P	P	S	Section 20.70.110
Payday lending establishment	R	R	-	Part 12.5, Chapter 20.80; Section 20.80.875
Research and development	P	P	-	
General Retail				
Alcohol, off-sale - beer and/or wine only	C	C	C	Section 20.80.900
Alcohol, off-sale - full range of alcoholic beverages	C	C	C	Section 20.80.900
Alcohol, off-sale - as incidental to a winery, brewery, or distillery	A	A	A	Note 11; Part 5.75, Chapter 20.80

Food, beverages, and groceries	P	P	P	
Outdoor vending	A	A	A	Note b; Part 10, Chapter 20.80
Outdoor vending - fresh fruits and vegetables	P	P	P	Note b; Part 10, Chapter 20.80
Pawn shop or pawn broker, incidental to a retail jewelry store	C	C	C	Note b; Chapter 6.52
Retail bakery	P	P	P	
Retail art studio	P	P	P	
Retail sales, goods, and merchandise	P	P	P	Note c
Seasonal sales	P	P	P	Part 14, Chapter 20.80
Agriculture				
Certified farmers' market	P	P	P	Part 3.5, Chapter 20.80
Certified farmers' market, small	P	P	P	Part 3.5, Chapter 20.80
Neighborhood agriculture	P	P	P	
Education and Training				
Day care center	P	P	P	Note b
Instructional art studios	P	P	P	
Private instruction, personal enrichment	P	P	P	Note b
School, elementary - grades K-8 (public or private)	C	C	C	Note b

School, secondary - grades 9-12 (public or private)	C	C	C	Note b
School, post-secondary	P	P	-	
School, trade and vocational	P	P	P	Note b
Entertainment and Recreation Related				
Arcade, amusement game	P	-	P	Note b
Health club, gymnasium	P	P	P	
Lighting display	A/S	A/S	A/S	Section 20.70.150
Theater, indoor	P	P	P	
Poolroom/billiards establishment	P	-	P	
Private club or lodge	P	P	-	
Recreation commercial/indoor	P	P	P	
Food Services				
Banquet - facility	P	P	P	
Caterer	P	P	P	Note b
Drinking establishments	S	C	S	
Drinking establishments with an approved maximum occupancy load of over 250 persons and that operate between 12:00 midnight and 6:00 a.m.	CC	-	CC	Note 5
Drinking establishments interior to a full-service hotel or motel with 75 or more guest rooms	P	P	-	Section 20.80.475
Public eating establishments	P	P	P	Note 7

Public eating establishment in conjunction with a winery, brewery, or distillery	P	P	P	
Taproom or tasting room in conjunction with a winery, brewery, or distillery	A	S	A	Part 5.75, Chapter 20.80
Taproom or tasting room with off-sale of alcohol	A	A	A	Part 5.75, Chapter 20.80
General Services				
Bed and breakfast inn	P	P	P	Note b; Part 2, Chapter 20.80
Hotel or motel	P	P	P	
Laundromat	P	P	P	Note b
Maintenance and repair of small household appliances	P	P	P	Note b
Personal services	P	P	P	Note d
Printing and publishing	P	P	P	Note b and Note f
Health and Veterinary Services				
Animal grooming	P	P	P	Note b
Animal boarding, indoor	P	P	P	Note b
Cannabis retail storefront	R	R	R	Part 9.75, Chapter 20.80
Emergency ambulance service	C	-	-	
Hospital/in-patient facility	C	-	-	
Medical cannabis dispensary	R	R	R	Part 9.75, Chapter 20.80

Office, medical	P	P	P	Note b
Veterinarian	P	P	P	Note b
Historic Reuse				
Historic landmark structure reuse	S	S	S	Part 8.5, Chapter 20.80
Public, Quasi-Public and Assembly Uses				
Auditorium	C	-	C	
Church/religious assembly	P	P	-	
Information center	P	P	P	
Museums and libraries	P	-	P	
Parks, playgrounds, or community centers	P	P	S	
Recycling Uses				
Reverse vending machine	S	S	-	Part 13, Chapter 20.80
Small collection facility	S	S	-	Part 13, Chapter 20.80
Residential GP				
Emergency residential shelter, more than 150 beds	CGP	-	-	Note e; Section 20.80.500
Emergency residential shelter, 150 beds or fewer	PGP	-		Note e; Section 20.80.500, Chapter 20.195
Live/work uses	PGP	SGP		Note e; Section 20.70.120
Low barrier navigation center	PGP	PGP	-	Chapter 20.195

Permanent supportive housing	PGP	PGP	-	Chapter 20.195
Residential, multiple dwelling	PGP	PGP	-	Note 12, Note 13, and Note e
Co-living community	S	S	-	Note e; Part 3.75, Chapter 20.80
Residential care facility for seven or more persons	CGP	CGP	-	Note e
Residential services facility, for seven or more persons	CGP	CGP	-	Note e
Hotel supportive housing	CGP	CGP	-	Note 9 and Note e; Part 22 of Chapter 20.80
Single room occupancy (SRO) living unit facility	SGP	SGP	-	Note 12 and Note e; Part 15, Chapter 20.80
Single room occupancy (SRO) residential hotel	S	S	-	Note 12 and Note e; Part 15, Chapter 20.80
Residential Accessory Uses GP				
Accessory buildings and accessory structures	PGP	PGP	-	Note 1
Transportation and Communication				
Community television antenna systems	C	-	-	
Off-street parking establishment	P	P	-	

Short term parking lot for uses or events other than on-site	S	S	-	
Radio and television studios	P	-	-	
Wireless communications antenna	S	-	-	Note 8; Sections 20.80.1900, 20.80.1915
Wireless communications antenna, building mounted	P	-	-	Note 8; Sections 20.80.1900, 20.80.1915
Utilities, Power Generation				
Private electrical power generation facility	C	C	-	
Solar photovoltaic power system	P	P	-	Section 20.100.160 C.7.
Stand-by/backup facilities that do not exceed noise or air standards	A	A	-	
Temporary stand-by/backup generators	P	P	-	
Vehicle Related Uses				
Car wash, detailing	P	-	-	
Fuel service station or charge station, no incidental service or repair	P	-	-	Note 6
Fuel service station or charge station, with incidental service or repair	P	-	-	Note 2
Sale and lease, vehicles and equipment (less than one ton)	P	-	-	Note 3

Sale and lease, Zero Emission Vehicles and equipment	P	-	-	Note 10 Zero Emission Vehicles and Equipment Defined by California Code of Regulations, Title 13, Section 1962.2(i)(18)
Tires, batteries, accessories, lube, oil change, smog check station, air conditioning	P	-	-	Note 4
Sale, vehicle parts, new	P	-	-	

Notes applicable to the Downtown Primary Commercial (DC) Zoning District, including the Active Use Area Overlay:

1. No Lot may be used solely for an Accessory Structure or Accessory Building.
2. Incidental repair includes air conditioning service, carburetor and fuel injection service, electrical service, radiator service, and tune-up, lube, oil change, and smog check, as well as tires, batteries, and accessories installation. Does not allow body repair or painting.
3. Outdoor vehicle display, storage, sales, or service is not permitted.
4. Non-engine and exhaust-related service and repair allowed as incidental use.
5. Maximum occupancy load shall be that maximum occupancy load determined by the City fire marshal.
6. Pedestal Charge Stations that are incidental to a separate primary use, that do not impact on-site or off-site vehicular circulation, and that serve patrons of the primary use on-site are permitted in all Downtown Zoning Districts. Hydrogen-fueling stations shall be permitted pursuant to Government Code 65850.7.
7. Includes on-site outdoor dining area(s).
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. Hotel Supportive Housing may be Permitted only with a Conditional Use Permit pursuant to Part 22 of Chapter 20.80 and only until December 31, 2026.1
10. Outdoor storage of inventory vehicles is permitted only if the parking spaces are fully screened and located at a minimum setback of one hundred fifty (150) feet from the front property lines. The maximum number of parking spaces is limited

to fifteen percent (15%) of all parking and paved areas or a maximum outdoor storage area of five thousand (5,000) square feet, whichever is more restrictive. Any other outdoor vehicle display, storage, sales, or service is not permitted. Notwithstanding this provision, one new vehicle may be displayed on a paved area outside of any on-site parking area, provided the display vehicle is not located within the public right-of-way and does not extend past the front of any on-site buildings.

11. Off-sale limited to items produced on-site otherwise a Conditional Use Permit is required.
12. Transitional Housing may be allowed as any residential housing type using the permit process for such housing type.
13. 100% deed-restricted affordable housing is a permitted use for residential housing type, and commercial space requirements shall not apply; subject to conformance with General Plan policies and state law mandates. Refer to Chapter 20.195 for information regarding the ministerial approval process.

Notes applicable to the Active Use Overlay only:

- a. Automatic Teller Machines must be a secondary use and must be architecturally integrated into the building on which they are placed. Automatic Teller Machines may not be standalone structures. Use may not be an ATM vestibule lobby.
- b. Not permitted in corner tenant spaces. Corner tenant spaces are defined as storefronts that extend up to or beyond 30 feet along the street in either direction from the intersection.
- c. ~~Second-hand stores not dealing primarily in antiques, artworks, or vintage clothing require a Special Use Permit. Includes secondhand stores that deal with antiques, artworks, or vintage clothing. Secondhand stores shall accept donated goods only indoors and during regular business hours.~~
- d. Excludes check-cashing services and bail bond services.
- e. A residential pedestrian entry portal not exceeding 25 feet in length is permitted in the Ground Floor Active Use Area.
- f. Only if dedicated primarily to on-site retail customer copy services, otherwise not Permitted.

SECTION 26. Part 8 of Chapter 20.80 of Title 20 of the San José Municipal Code is amended to read as follows:

Part 8

Fuel Gasoline Service Station Conversions

20.80.600 Special Use Permit Required

- A. No person, firm or corporation shall convert, in whole or in part, a fuel service station dispensing gasoline ~~service station~~ to any other use without a Special

Use Permit in the case of conversion to a permitted or special use in the District, or a Conditional Use Permit in the case of conversion to a conditional use in the District.

B. The following requirements shall be applied by the Director, or the Planning Commission on appeal, in granting a Special Use Permit under this Part:

1. Tank Safeguarding or Removal. All flammable or combustible liquid storage tanks shall be safeguarded or removed in compliance with the provisions of Chapter 17.68 of Title 17 of the San José Municipal Code, and the area shall be resurfaced and landscaped in a manner appropriate to the proposed converted use.
2. Equipment. Pumps, pump island, mechanical equipment, wells, offices, accessory structures, insignias, trademarks, billboards, signs, kiosks and the supporting structures, mounting, and foundations of the listed items, and any and all other improvements situated on the site, and formerly utilized for the gasoline service station use, shall be removed or found to be compatible with the proposed conversion.
3. Soil Testing and Clean-up. The lot may be tested for soil contamination. If such contamination is found, the soil shall be rendered free of such contamination through clean-up procedures which are in accordance with applicable federal, state and local regulations.
4. Driveway Closure. Existing driveways shall be closed as determined by the director to minimize ingress and egress to the site to reduce potential hazards to pedestrian and vehicular circulation.
5. Landscaping. Landscaping shall be included in the site design to enhance the overall aesthetics of the converted site.

C. Notwithstanding the above conditions, hydrogen-fueling stations shall be permitted on parcels zoned for industrial or commercial development or were previously developed as gas stations pursuant to Government Code Section 65850.7. The following specific requirements for hydrogen fueling stations shall apply.

1. A hydrogen-fueling station shall meet all of the following, as applicable:
 - a. Safety and performance standards established by the Society of Automotive Engineers and accredited nationally recognized testing laboratories.

- b. Any rules established by the state Air Resources Board, Energy Commission, or Department of Food and Agriculture regarding safety, reliability, weights, and measures.
 - c. Guidance established by the Governor's Office of Business and Economic Development, as outlined in the Hydrogen Station Permitting Guidebook.
2. Applicants shall submit the required permit application and documents to the Building Division of the Planning, Building, and Code Enforcement Department. An application for a hydrogen-fueling station permit may be denied if the Building Official finds that: (1) the proposed installation would have a specific, adverse impact upon public health or safety; and (2) there is no feasible method to satisfactorily mitigate or avoid the adverse impact.

SECTION 27. Section 20.80.900 of Chapter 20.80 of Title 20 of the San José Municipal Code is amended to read as follows:

20.80.900 Off-Sale of Alcoholic Beverages

- A. A conditional use permit may be issued pursuant to the applicable provisions of this title for the off-sale of any alcoholic beverages only if the decision-making body first makes the following additional findings, where applicable:
- 1. For such use at a location closer than five hundred (500) feet from any other such use involving the off-sale of alcoholic beverages, situated either within or outside the city, that the proposed location of the off-sale alcohol use would not result in a total of more than four (4) establishments that provide alcoholic beverages for off-site consumption within a one thousand (1,000) foot radius from the proposed location.
 - 2. For such use at a location closer than five hundred (500) feet from any other use involving the off-sale of alcoholic beverages, situated either within or outside the city, where the proposed location of the off-sale of alcoholic beverages use would result in a total of more than four (4) establishments that provide alcoholic beverages for off-site consumption within a one thousand (1,000) foot radius from the proposed location, that the resulting excess concentration of such uses will not:
 - a. Adversely affect the peace, health, safety, morals, or welfare of persons residing or working in the surrounding area; or

- b. Impair the utility or value of property of other persons located in the vicinity of the area; or
 - c. Be detrimental to public health, safety or general welfare.
- 3. For such use at a location closer than five hundred (500) feet from any child care center, public park, social service agency, residential care facility, residential service facility, elementary school, secondary school, college or university, or one hundred fifty (150) feet from any residentially zoned property, that the building in which the proposed use is to be located is situated and oriented in such a manner that would not adversely affect such residential, child care center, public park, social service agency, residential care facility, residential service facility and/or school use.
- B. The off-sale of alcohol as incidental sales in conjunction with the sale of gift baskets, balloons and flowers is exempt from the requirement of a conditional use permit.
- C. Where a conditional use permit application requesting the off-premises sale of alcoholic beverages also would require a determination of public convenience and necessity under the provisions of Chapter 6.84 of Title 6 of this Code, and the planning commission cannot make the required findings under Section 6.84.030 of Chapter 6.84 of Title 6 of this Code, the planning commission shall make a report and recommendation to the eCity eCouncil on said conditional use permit application. In this instance, the eCity eCouncil shall be the initial and final decision-making body on said conditional use permit application.
- D. In the Downtown Primary Commercial Zoning District (DC), an Administrative Permit or a Special Use Permit may be issued for a taproom or tasting room with off-sale of alcohol either as a standalone use or in conjunction with an alcohol manufacturing site such as a winery, brewery, or distillery, pursuant to the regulations set forth in Part 5.75 of Chapter 20.80, and are not subject to the above conditional use permit requirements.
- E. In Commercial Zoning Districts (CP, CN, and CG), Urban Village (UV and UVC), Mixed Use (MUC, MUN, UR, and TR), and Industrial Zoning Districts (CIC, TEC, IP, HI, and LI), an Administrative Permit or a Special Use Permit may be issued for a taproom or tasting room with off-sale of alcohol in conjunction with a winery, brewery, or distillery, pursuant to the regulations set forth in Part 5.75 of Chapter 20.80, and are not subject to the above conditional use permit requirements.

F. Notwithstanding any other requirement in Title 20 to the contrary, the off-sale and consumption of alcoholic beverages is permitted within an Entertainment Zone Boundary without a Conditional Use Permit, subject to all requirements as specified in Chapter 13.16 of Title 13.

SECTION 28. Section 20.30.400 of Chapter 20.30 of Title 20 of the San José Municipal Code is amended to read as follows:

20.30.400 Setback Areas - Setback Area to be Kept Open, Unobstructed, and Unoccupied

Except as otherwise expressly and specifically provided in other sections of this Title, every part of every setback area shall be kept open, unobstructed, and unoccupied on the surface of the ground, above the surface of the ground, and below the surface of the ground by all buildings or structures except as follows:

- A. Sills, eaves, belt courses, cornices, canopies, and other similar architectural features may project horizontally for a distance of not more than two feet into the air space above the surface of the ground in any setback area;
- B. In the R-1-2, R-1-1 and R-1-RR districts only, sills, eaves, belt courses, cornices, canopies, and other similar architectural features may project horizontally for a distance of not more than four feet into the air space above the surface of the ground in any setback area;
- C. Any portion of a building including but not limited to bay windows, chimneys, or architectural elements that project out from the primary surface of the building facade, whether on a foundation or cantilevered, not occupying in the aggregate more than twenty percent of the length of the side of the building, may project horizontally for a distance of not more than two feet into any setback area, provided that such extensions maintain a minimum side setback of at least three feet and a minimum rear setback of at least ten feet;
- D. Tankless water heaters, heat pumps, and power inverters may project horizontally for a distance of not more than two feet into any setback area, provided such extensions maintain a minimum side setback of three feet;
- E. Wells for basement windows or stairs of up to ten feet in length each, not occupying in the aggregate more than twenty percent of the length of the side of the building on which they are located, may project horizontally for a distance of not more than two feet into the side and rear setback areas, provided that such extensions maintain a minimum side setback of three feet and a rear setback of fifteen feet;

- F. Overhead wires necessary for utility service to a building on the lot;
- G. Underground lines necessary for the sewerage, drainage, plumbing, water, gas, and electrical and other utility needs of the lot or of a building on the lot;
- H. Walks and driveways for vehicular or pedestrian access to the lot that are situated in any setback area shall not be higher than two feet above grade; and
- I. Mechanical equipment, including but not limited to, pool equipment and HVAC equipment, may be placed in the rear setback and shall maintain a five-foot setback from the rear property line, maintain a setback from the side property line a distance equal to that of the side setback requirements of the respective zoning district, and adhere to the required front setback of the respective zoning district.

SECTION 29. Section 20.40.400 of Chapter 20.40 of Title 20 of the San José Municipal Code is amended to read as follows:

20.40.400 Setback Areas - Open, Unobstructed, and Unoccupied

Except as otherwise expressly and specifically provided in other sections of this Title, every part of every Setback Area shall be kept open, unobstructed, and unoccupied on the surface of the ground, above the surface of the ground, and below the surface of the ground by all Buildings or Structures except as follows:

- A. Sills, eaves, belt courses, cornices, canopies, and other similar architectural features may project horizontally for a distance of not more than two (2) feet into the air space above the surface of the ground in any Setback Area;
- B. Any portion of a building (including but not limited to bay windows, chimneys, or architectural elements that project out from the primary surface of the Building Facade, whether on a foundation or cantilevered) not occupying in the aggregate more than twenty ~~(20)~~ percent (20%) of the length of the side of the Building, may project horizontally for a distance of not more than two (2) feet into any Setback ~~a~~Area, provided that such extensions maintain a minimum Setback of at least three (3) feet;
- C. In addition to projection into the Setback Area allowed under Subsection B., wells for Basement windows or stairs of up to ten (10) feet in length each, not occupying in the aggregate more than twenty ~~(20)~~ percent (20%) of the length of the side of the Building on which they are located, may project horizontally for a distance of not more than two (2) feet into the Side and Rear Setback Area, provided that such extensions maintain a minimum Setback of three (3) feet;

- D. Tankless water heaters, heat pumps, and power inverters may project horizontally for a distance of not more than two (2) feet into any Setback ~~a~~Area provided such extensions maintain a minimum side setback of three feet;
- E. Overhead wires necessary for electrical and telephone service to a Building on the Lot;
- F. Underground lines necessary for the sewerage, drainage, plumbing, water, gas, and electrical needs of the Lot or of a Building on the Lot; and
- G. Walks and driveways for vehicular or pedestrian access to the Lot; and
- H. Short-term Bicycle Parking Facilities that meet the following requirements:
 - 1. Compliance with the provisions of Chapter 20.90 and all applicable local, State, and Federal standards including but not limited to Building and Fire regulations; and
 - 2. Adequate screening with landscaping or architectural elements from public view; and
 - 3. Maintenance of a minimum of a five (5) foot Front Setback Area that is open, unobstructed, and unoccupied; and
 - 4. Design that ensures adequate circulation of vehicles, bicycles, and people.

SECTION 30. Section 20.50.270 of Chapter 20.50 of Title 20 of the San José Municipal Code is amended to read as follows:

20.50.270 Setback Areas - Open, Unobstructed, and Unoccupied

Except as otherwise expressly and specifically provided in other sections of this Title, every part of every Setback Area shall be kept open, unobstructed, and unoccupied on the surface of the ground, above the surface of the ground, and below the surface of the ground by all Buildings or Structures, except as follows:

- A. Sills, eaves, belt courses, cornices, canopies, and other similar architectural features may project horizontally for a distance of not more than two (2) feet into the air space above the surface of the ground in any Setback Area;

- B. Any portion of a Building (including but not limited to bay windows, chimneys, and architectural elements that project out from the primary surface of the Building façade, whether on a foundation or cantilevered) not occupying in the aggregate more than twenty ~~(20)~~-percent (20%) of the length of the side of the Building, may project horizontally for a distance of not more than two (2) feet into any Setback Area, provided that such extensions maintain a minimum setback of at least three (3) feet;
- C. In addition to projection into the Setback Area allowed under Subsection B., wells for basement windows or stairs of up to ten (10) feet in length each, not occupying in the aggregate more than twenty ~~(20)~~-percent (20%) of the length of the side of the Building on which they are located, may project horizontally for a distance of not more than two (2) feet into the Side and Rear Setback Area, provided that such extensions maintain a minimum Setback of three (3) feet;
- D. Tankless water heaters, heat pumps, and power inverters may project horizontally for a distance of not more than two (2) feet into any Setback Area, provided such extensions maintain a minimum side setback of three (3) feet;
- E. Overhead wires necessary for electrical and telephone service to a Building on the Lot;
- F. Underground lines necessary for the sewerage, drainage, plumbing, water, gas, and electrical needs of the Lot or of a Building on the Lot; and
- G. Walks and driveways for vehicular or pedestrian access to the Lot.

SECTION 31. Section 20.55.101 of Chapter 20.55 of Title 20 of the San José Municipal Code is amended to read as follows:

20.55.101 Exceptions to Setback Regulations

Except as otherwise specifically provided in other sections of this ~~t~~Title, every part of every setback area shall be kept open, unobstructed, and unoccupied by all buildings or structures above, below, and on the surface of the ground. The following setback exceptions apply to properties located in the UVC, UV, MUC, MUN, UR, and TR districts as follows:

Minor architectural projections such as: sills, eaves, belt courses, cornices, canopies, awnings, bay windows, chimneys, stoops, stairs, landscape retaining walls, porches, decks, balconies, minor building faces, and wells for basement windows may project into required setback areas as follows:

1. Canopies and awnings may project into setback areas by a maximum of three (3) feet;
 2. Stoops, stairs, and landscape retaining walls may project up to a maximum of six (6) feet into the required setback areas;
 3. Balconies, covered or uncovered, may project into required setback areas if they conform to the Citywide Design Standards and Guidelines; in MUN balconies shall not project within five (5) ft-feet of property lines facing public right-of-way or public open space.
 4. Ground floor porches or decks, covered or uncovered, may project up to ten (10) feet into the required setback areas, subject to compliance with building code; in MUN, ground floor porches or decks shall not project within five (5) feetft of property lines facing public right-of-way or public open space.
 5. All other minor architectural projections may project up to a maximum of two (2) feet into the setback area, by no more than ten (10) feet in width, for no more than twenty percent (20%) of the building elevation length.
 6. Air space above public open space shall remain unobstructed and unoccupied.
- B. Short term parking facilities for bicycles or micro mobility devices, as defined by Title 11, may be placed in side or rear setbacks as long as they are in compliance with the provisions of Chapter 20.90. For additional standards on placement and design, refer to the Citywide Design Standards and Guidelines.
- C. Mechanical equipment in setback area:
1. Tankless water heaters, heat pumps, energy storage units, and power inverters may project horizontally for no more than two (2) feet into either the side or rear setback area, provided such extensions maintain a minimum side setback of three (3) feet, and are not permitted in front setback areas.
 2. Mechanical equipment, including but not limited to pool equipment or HVAC equipment, may be placed in rear setbacks at a minimum of five (5) feetft. from rear property line and must conform to minimum side setbacks requirements; not permitted in front setbacks or any portion of the front yard which is visible from a public right-of-way or public open space.

- D. A building side setback shall be required for the portion of a building, located on an interior lot, which abuts a lot with a Residential Neighborhood General Plan land use designation and which is developed with a residential use, as follows:
1. Development built at ~~2.5 stories thirty-five (35) feet~~ or less shall have a minimum side setback of 5 ft.
 2. For development built at more than ~~2.5 stories thirty-five (35) feet~~, no portion of the building may be developed with less than a ~~ten (10) footft.~~ side setback.
- E. Side setbacks greater than ~~ten (10) footft.~~ shall be permitted as required by Building or Fire code for public health and safety reasons.
- F. There shall be no rear setback required whenever the entire rear property line abuts property located in any commercial district or less restrictive district where the zoning designation of the site is in conformance with the General Plan land use designation of the site as determined by Table 20-270. Rear setbacks may be required by Building or Fire ~~e~~Code.
- G. Setbacks abutting a public alley, one-half of such alley as measured from the alley centerline, may be assumed to be a portion of the rear setback area.
- H. The following projections may be placed within required setback areas as long as they comply with the Citywide Design Standards and Guidelines, and Building and Fire codes:
1. Walkways and driveways for pedestrian or vehicular access to the site;
 2. Overhead wires necessary for electrical and telephone service to a building on the lot;
 3. Underground lines and equipment necessary for the sewerage, drainage, plumbing, water, gas, and electrical needs of the lot or of a building on the lot;
 4. Underground parking facilities, subject to building code requirements.
- I. For information regarding Major or Minor Encroachments in the public right-of-way refer to Chapter 13.37 Encroachment Permits, in Title 13 of the San José Municipal Code.

SECTION 32. Section 20.55.104 of Chapter 20.55 of Title 20 of the San José Municipal Code is amended to read as follows:

20.55.104 MUN mMixed uUse nNeighborhood dDevelopment sStandards

The MUN Mixed Use Neighborhood district provides conventional development standards and alternate development standards in order to accommodate a mix of housing product types.

- A. Conventional standards: Applicable to developments where all lots have frontage on and direct access to a public street, and where all buildings provide a setback to property lines.
- B. Alternate standards: Applicable to small-lot development characterized by access to lots provided off courts, driveways, and private streets, and/or with buildings without setbacks to property lines. Development using the Alternate standards require that site development permits and subdivisions must be reviewed and acted upon concurrently.

Table 20-137
Mixed Use Neighborhood Development Standards

Regulations	MUN	
	Conventional	Alternate
Minimum Lot Area (excluding Accessory Dwelling Units)	1,452 square feet per unit	No Minimum. Entire project must be covered by a single development permit. Cannot exceed 30 dwelling units/acre
Lot Frontage Requirements to Public Right-of-Way	Requires at least 30 ft. of contiguous frontage on a public right-of-way, with vehicular and/or pedestrian access to the right-of-way	None required, provided all lots have access from a public right-of-way provided by easement
	Floor Area Ratio	
100% Commercial FAR	0.25 - 2.0	100% Commercial development must follow Conventional Standards

Mixed use	Additional regulations for the Neighborhood Business District Overlay	Alternative maximum height and residential density restrictions established in the Neighborhood Business District Overlay as described in Part 5 of Chapter 20.65, that regulation described in Part 5 of Chapter 20.65 shall govern and control over the provisions of this section.		
	FAR	0.25 - 2.0		
	du/ac	Max. 30		
100% Residential du/ac		Max. 30		
FAR for Single-family Detached Residences, not including ADUs		3,000 sq. ft. or less	0.6 Max FAR	Max. 2.0 FAR across the entire development site
		3,000 - 6,000 sq. ft.	0.5 Max FAR	
		6,000 sq. ft. or greater	0.45 Max FAR	
FAR for single-family homes and duplexes in floodplain areas		For the purposes of this Chapter, development in the Mixed Use Neighborhood zoning district, which is located on a site within a flood zone with a one hundred-year flood depth, where City policy requires elevation of the first finished floor of the proposed house to a height of at least five feet above grade, shall comply with the following provisions 1. Where the finished first story is elevated by at least five feet above grade: a. The at grade, unoccupied space shall not constitute a story or floor and shall not count toward the overall FAR calculation or the maximum number of stories as described in this section. b. The at grade unoccupied space shall not constitute a floor or story as it relates to the Conventional or Alternate Setbacks regulations within this section. c. The overall maximum building height, including at grade space that is not occupiable, is set at a maximum of 40 feet.		

	Conventional Setback Regulations
Front Setback	Minimum 10 ft.
Interior Side Setback	<u>For development up to 35 ft. in height:</u> Minimum 3 ft. <u>for development more than 2.5 stories setback</u> Minimum 5 ft. setback <u>for development more than 2.5 stories</u> <u>for</u> properties adjacent to property designated as Residential Neighborhood <u>For development more than 35 ft. in height:</u> Minimum 8 ft. <u>for development more than 2.5 stories setback</u> Minimum 10 ft. setback <u>for development more than 2.5 stories setback</u> for properties adjacent to property designated as Residential Neighborhood
Street Side Setback	<u>For development up to 35 ft. in height:</u> Minimum 5 ft. <u>for development up to 2.5 stories setback</u> <u>For development more than 35 ft. in height:</u> Minimum 10 ft. <u>for development more than 2.5 stories setback</u>
Rear Setback	<u>For development up to 35 ft. in height:</u> Minimum 10 ft. <u>for development up to 2.5 stories setback;</u> <u>For development more than 35 ft. in height:</u> Minimum 15 ft. <u>for development more than 2.5 stories setback</u>
Distance between structures	Garage door to garage door must have a minimum of 20 ft min. The front of structures must be at least 15 ft. distance.
Exceptions to Setback Regulations	Refer to Section 20.55.101

	Alternate Setback Regulations
Setback to Public Right-of-Way	Minimum 10 ft. Minimum 20 ft. to face of garage door to face of garage door
Setback to adjoining property line of property not covered by same development permit	<u>For development up to 35 ft. in height:</u> Minimum 5 ft. side <u>and rear</u> setback <u>for development up to 2.5 stories</u> Minimum 10 ft. <u>side-rear</u> setback <u>for development up to 2.5 stories</u> for properties adjacent to property designated as Residential Neighborhood. <u>For development more than 35 ft. in height:</u> Minimum 10 ft. <u>side and</u> rear setback <u>for development more than 2.5 stories</u> Minimum 15 ft. <u>side and</u> rear setback <u>for development more than 2.5 stories</u> for properties adjacent to property designated as Residential Neighborhood.
Setback to property line within project boundary covered by same development permit	Front to front setbacks shall be no less than 15 ft. Dwelling units shall be setback a minimum of 6 ft. from accessory structures. No side setbacks are required; subject to compliance with Building and Fire Codes
Distance between structures	Face of garage door to face of garage door shall have a minimum distance of 20 ft. from each other. The front of structures shall be developed at a minimum of 15 ft. distance from each other.
Exceptions to Setback Regulations	Refer to Section 20.55.101

	Additional Development Regulations for Conventional and Alternate			
	Single-Family dwelling unit (Detached)	Two-family dwelling unit (Duplex)	Townhouse or Rowhouse	Multiple Dwelling, Mixed use, or 100% Commercial
Max. Building Height	35 ft.	35 ft.	40 ft.	45 ft.
Max. Number of Stories	2.5	2.5	3	4
Private Open Space Requirements for 100% Residential or Mixed use Development	400 sq. ft. per unit	300 sq. ft. per unit	300 sq. ft. per unit	60 sq. ft. per unit
	Minimum width for Private open space shall be 15 ft.			
Common Open Space Requirements	Mixed use Development which includes 15 or more units shall provide common open space at a minimum of 75 square feet per residential unit			
	100% Residential Development which includes 15 or more units shall provide common open space at a minimum of 100 square feet per residential unit			
Ground-Floor Commercial Regulations for 100% Commercial or Mixed use	Refer to the Citywide Design Standards and Guidelines for additional information regarding minimum frontage, height, depth, and other requirements for ground-floor commercial spaces.			
Regulations for development in Urban Villages	For development in approved Urban Village areas, refer to the Urban Village Plan for additional regulations and requirements for development standards.			
Regulations for development in the Neighborhood Business District Overlay	For development in the Neighborhood Business Districts, refer to Part 5 of Chapter 20.65 for additional regulations and requirements for development standards.			
Lighting	Refer to Section 20.55.103			
Fence Regulations	Refer to Table 20-80 in Chapter 20.30 for fence regulations.			
Parking	For general parking regulations, refer to Chapter 20.90			

	No unmounted camper or vehicle, other than those vehicles expressly specified and allowed under Title 17 of this Code, shall be kept, stored or parked for a period of time in excess of forty-eight consecutive hours in the front setback area of any lot or parcel containing a residential use. Such parking or storage is limited to paved surfaces.
	Front Setback and Façade Regulations for Single-family Homes
Floor level of ground floor	The finished floor level of the ground floor (1 st floor) must be within four vertical feet of the closest sidewalk. Finished floor is defined as the uppermost surface of a floor once construction has been completed and all floor finishes have been applied.
Residential Frontages facing a public right of way	Every dwelling that fronts a public street must have a door, other than a garage door, which is accessible to the street and enters a living space that is not a garage or bedroom.
	Minimum 20% clear glazing per individual ground floor of a dwelling unit
	No more than 50% of the required front setback shall be paved with asphalt, cement or any other impervious or pervious surface.
Setback to garage	Minimum 20 ft. from front property line
	No more than one curb cut per 30 ft of frontage shall be permitted.
Setback to front porch, balconies, bay windows, awnings, open patios, and stoops	Minimum 5 ft. from front property line

Setbacks from adjoining property to balconies and unenclosed stairs	Dwelling units which share property lines with property containing a single-family residence or two-family residence, that is designated as Residential Neighborhood, shall ensure that balconies, porches, or unenclosed stairs maintain a minimum setback of 15 ft. from the rear and side property line measured from the projecting face of the balcony, porch, or stairs; and shall not be located along building walls parallel to side or rear property lines.
Variation in architectural styles for development of 5 units or more under a single development permit	Architectural variation shall be achieved through the following criteria: <u>Front Setbacks and Porches</u> 1. No more than 3 adjacent dwelling structures may be constructed with the same front setback; front setbacks must vary by at least 5 ft. 2. No more than 3 adjacent units shall have the same porch dimensions or orientation <u>Roof Lines</u> 1. No more than 3 adjacent dwelling unit structures may have the same angles of roof pitch, styles, or roofing materials 2. Development of 5-10 units shall have at least 3 different angles of roof pitch, styles, or roofing materials 3. Development of 11-20 units shall have at least 5 different angles of roof pitch, styles, or roofing materials 4. Development of more than 20 units shall have at least 7 different angles of roof pitch, styles, or roofing materials <u>Building Materials and Colors</u> 1. At least 20% of dwelling unit façades shall be composed of different building materials or colors 2. At least 50% of dwelling units shall introduce a different building material for 20% of the exterior façade.

SECTION 33. Part 7 of Chapter 20.100 of Title 20 of the San José Municipal Code is amended to read as follows:

**Part 7
Special Use Permits**

20.100.800 Applicability

The provisions of this Part apply to and govern the issuance of all permits made subject to the provisions of this Part. All permits governed under this Part shall hereinafter be referred to as Special Use Permits, and shall be issued by the Director or by the Planning Commission on appeal from a decision of the Director, except that the City Council shall issue certain Special Use Permits as identified in Section 20.100.220, Table 20-260 and for any project that requires certification of an environmental impact report for environmental clearance unless the project as proposed includes all mitigation measures identified in the draft environmental impact report for the project as necessary to reduce the impacts of the project to a less than significant level.

20.100.810 Action By Director

Upon finding of an application for a Special Use Permit completed pursuant to this Chapter, the Director shall review the application and shall set a public hearing on the application.

20.100.820 Findings

- A. In addition to any findings required by any other section of this ~~t~~Title, the ~~d~~Director, ~~p~~Planning ~~e~~Commission or ~~e~~City ~~e~~Council as appropriate, may issue a ~~s~~Special ~~u~~Use ~~p~~Permit only if all the following findings are made:
1. The ~~s~~Special ~~u~~Use ~~p~~Permit, as approved, is consistent with and will further the policies of the ~~g~~General ~~P~~Plan and applicable specific plans and area development policies; and
 2. The ~~s~~Special ~~u~~Use ~~p~~Permit, as approved, conforms with the zoning code and all other provisions of the San José Municipal Code applicable to the project; and
 3. The ~~s~~Special ~~u~~Use permit, as approved, is consistent with applicable ~~e~~City ~~e~~Council policies, or counterbalancing considerations justify the inconsistency; and
 4. The proposed use at the location requested will not:
 - a. Adversely affect the peace, health, safety, morals or welfare of persons residing or working in the surrounding area; or
 - b. Impair the utility or value of property of other persons located in the vicinity of the site; or

- c. Be detrimental to public health, safety, or general welfare; and
 - 5. The proposed site is adequate in size and shape to accommodate the yards, walls, fences, loading facilities, landscaping and other development features prescribed in this title, or as is otherwise required in order to integrate the use with existing and planned uses in the surrounding area; and
 - 6. The proposed site is adequately served:
 - a. By highways or streets of sufficient width and improved as necessary to carry the kind and quantity of traffic such use would generate; or by other forms of transit adequate to carry the kind and quantity of individuals such use would generate; and
 - b. By other public or private service facilities as are required.
 - 7. The environmental impacts of the project, including but not limited to noise, vibration, dust, drainage, erosion, storm water runoff, and odor which, even if insignificant for purposes of the California Environmental Quality Act (CEQA), will not have an unacceptable negative affect on adjacent property or properties.
 - 8. Project must be in conformance with the relevant Airport Comprehensive Land Use Plan, where applicable.
- B. The ~~d~~Director, ~~p~~Planning ~~C~~ommission, or ~~e~~City ~~e~~Council as appropriate, shall deny the application where the information submitted by the applicant and/or presented at the public hearing fails to satisfactorily substantiate such findings.

20.100.830 Term

- A. A Special Use Permit may be time-conditioned, as appropriate, by the Director of Planning, Building and Code Enforcement, the Planning Commission or City Council, as appropriate.
- B. If the use authorized by the Special Use Permit is discontinued for a period of twelve (12) months, the Special Use Permit will expire and the Special Use Permit will no longer be in effect.

20.100.840 Renewal

- A. The permit holder may seek renewal of a time-conditioned Special Use Permit by filing a timely renewal application on the form provided by the Director.
- B. An application for renewal must be filed more than ninety (90) calendar days but less than one hundred eighty (180) calendar days prior to the expiration of the Special Use Permit.
- C. Once a renewal application has been filed in a timely manner, the expiration date of the Special Use Permit is automatically extended until either the issuance or denial of the application for renewal has become final.
- D. Any application filed after the renewal filing period has expired shall be deemed to be an application for a new Special Use Permit. If a new Special Use Permit is not issued prior to the expiration of the Special Use Permit, the continuation of any use which requires such permit shall be in violation of this Code.
- E. The procedures set forth in this Chapter for the processing of an application for a Special Use Permit shall equally apply to a renewal application except as hereinafter expressly set forth.

20.100.850 Renewal Findings

- A. Consideration of a renewal application shall be based on a rebuttable presumption that the use as permitted by the Special Use Permit meets the findings of this Part.
- B. The presumption shall be rebutted by any evidence of noncompliance with any condition of any prior permit or law or ordinance, or by evidence of any changed condition in the neighborhood, or by evidence that the continued use creates a nuisance as defined by this title, or an impairment of public peace, health, safety, morals or welfare.
- C. Once the presumption has been rebutted, the Special Use Permit shall not be renewed unless the findings required by this part have been made and the Director, or Planning Commission, is satisfied that full compliance with all conditions, laws and ordinances is assured.

20.100.860 Amendment Findings

- A. An amendment may be granted by the Director, upon a finding that the amendment does not negate any findings required by this Part.

B. Nothing in this Section shall preclude the Commission or the City Council from modifying, adding, or deleting any condition in order to protect the public peace, health, safety, morals or welfare.

20.100.8670 Appeal

The appeal of any action taken under this Part shall be governed by the procedures set forth in Sections 20.100.220 through 20.100.280.

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

AYES:

NOES:

ABSENT:

DISQUALIFIED:

MATT MAHAN
Mayor

ATTEST:

TONI J. TABER, MMC
City Clerk