



CITY CLERK

CITY OF SAN JOSÉ, CALIFORNIA

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STATE OF CALIFORNIA)
COUNTY OF SANTA CLARA)
CITY OF SAN JOSE)

I, Patricia L. O'Hearn, City Clerk and Ex-Officio Clerk of the Council of and for the City of San Jose, in said County of Santa Clara, and State of California, do hereby certify that "**Ordinance No. 26277**" the original copy of which is attached hereto, was adopted on the **19th day of December, 2000**, by the following vote:

AYES: CHAVEZ, DANDO, DIQUISTO, FISCALINI, LeZOTTE,
POWERS, REED, SHIRKAWA; GONZALES

NOES: NONE

ABSENT: WOODY

DISQ: NONE

VACANT: DISTRICT 5

Said ordinance is effective on **December 19, 2000**.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed the corporate seal of the City of San Jose, this **3rd day of January, 2001**.

(SEAL) Patricia L. O'Hearn
PATRICIA L. O'HEARN
CITY CLERK AND EX-OFFICIO
CLERK OF THE CITY COUNCIL

ORDINANCE NO. 26277

AN URGENCY ORDINANCE OF THE CITY OF SAN JOSÉ IMPOSING A MORATORIUM ON CERTAIN GROUND FLOOR USES IN BUILDINGS WITHIN A PORTION OF THE DOWNTOWN CORE BOUNDED BY SAINT JOHN STREET, FOURTH STREET, SAN SALVADOR STREET, AND THE EAST SIDE OF ALMADEN BOULEVARD AND SETTING FORTH THE FACTS CONSTITUTING SUCH URGENCY AND REFERRING THIS ORDINANCE TO THE PLANNING COMMISSION FOR STUDY AND CONSIDERATION PURSUANT TO SECTION 20.40.120 OF THE ZONING CODE, AS AMENDED.

WHEREAS, the City of San Jose currently has no process for discretionary review of many uses for ground floor space in buildings in the Downtown Core; and

WHEREAS, the staff of the Redevelopment Agency of the City of San Jose have proposed an ordinance in response to community and City Council concerns, and recommendations by the Urban Land Institute regarding the need to protect the character and quality of the Downtown Core; and

WHEREAS, the Redevelopment Agency, through the work of the Greater Downtown Task Force, is in the process of developing a comprehensive Strategy Plan for the Downtown; and

WHEREAS, the Greater Downtown Strategy Task Force has identified the need to move forward with an ordinance to preserve the ground floor commercial space in a portion of the Downtown Core primarily for customer oriented retail, services, restaurant, and entertainment uses; and

WHEREAS, the current supply of ground floor space in buildings in the Downtown Core is very limited and subject to an extremely active marketplace with a number of existing retailers being forced out of business; and

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WHEREAS, people are aware that the Task Force is encouraging the City to take action to preserve the active, street-level uses in the Downtown Core and are aware that the Council is poised to act; and

WHEREAS, fairness to all citizens of San Jose dictates that a moratorium be placed on ground floor uses of downtown space as set forth below until the Council has made a decision on the proposed ordinance changes and they are in effect.

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

SECTION 1.

This Ordinance is declared by the City Council to be an urgency measure necessary for the immediate preservation of the public peace, health or safety. The facts constituting such urgency are:

- A. The City of San Jose currently has no process for discretionary review of many uses in the Downtown Core.
- B. Available space in the Downtown Core is limited and is rapidly being used up and there is concern that no space will be left for active street-level uses to support a vibrant and healthy downtown.
- C. The Redevelopment Agency has proposed an ordinance in response to community and City Council concerns to protect the quality and character of the Downtown Core.
- D. This urgency ordinance is necessary to ensure that all uses of ground floor space in the Designated Area of Downtown are reviewed under the same standards and notify the community that certain uses may be prohibited or restricted when

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new permitted uses and review procedures are established under the Zoning Code.

- E. Fairness to all citizens dictates that a moratorium be placed on new ground floor uses of buildings within the Designated Area of the Downtown Core until Council has made a decision on the proposed ordinance changes and the changes are in effect.

SECTION 2.

For the purpose of this Ordinance, "Designated Area" means that portion of the Downtown Core bounded by Saint John Street, Fourth Street, San Salvador/Viola Streets, and the east side of Almaden Boulevard/Notre Dame Street as outlined on the map attached hereto as Exhibit A and incorporated herein by this reference.

SECTION 3.

For the purpose of this Ordinance, "Ground Floor Space" means street level building space.

SECTION 4.

The provisions of this Ordinance shall apply only to properties in the Designated Area that are zoned as C-3 commercial property.

SECTION 5.

Beginning on the effective date of this Ordinance, the establishment of the following new uses of Ground Floor Space in buildings in the Designated Area shall be prohibited for ninety days:

- A. Financial institutions; except for financial institutions dedicated primarily to on-site retail customer services;
- B. Business offices and agencies; and

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C. Professional offices.

SECTION 6.

This Ordinance shall not apply in the following circumstances:

- A. Uses specifically authorized by a valid Conditional Use Permit issued pursuant to Part 3 of Section 20.44 of the San Jose Zoning Code prior to the effective date of this Ordinance.
- B. Uses specifically authorized by a valid Special Use permit issued pursuant to Part 5 of Section 20.44 of the San Jose Zoning Code prior to the effective date of this Ordinance.
- C. Specific uses approved as set forth in a Building Permit issued by the City's Chief Building Official prior to the effective date of this Ordinance.
- D. Uses authorized by a valid Certificate of Occupancy issued by the City's Chief Building Official prior to the effective date of this Ordinance.
- E. Properties in the Designated Area that are in a Planned Development zone.

SECTION 7.

The establishment of any use in violation of this Ordinance is illegal and not permitted under the Zoning Code. The enforcement measures applicable to violations of the City of San José Zoning Code shall apply to violations of this Ordinance.

SECTION 8.

It is acknowledged that a revised Zoning Code may become effective in February 2000. Nonetheless, this moratorium shall remain in effect according to its terms.

SECTION 8.

This Ordinance shall become effective immediately upon its adoption pursuant to Section 605 of the Charter of the City of San Jose and shall remain effective for a period of ninety days from the adoption of this Ordinance or until the effective date of an ordinance addressing ground floor uses in the Designated Area or the final determination not to adopt such an ordinance, whichever comes first.

ADOPTED this 19th day of December, 2000, by the following vote:

AYES: CHAVEZ, DANDO, DIQUISTO, FISCALINI, LeZOTTE,
POWERS, REED, SHIRAKAWA; GONZALES

NOES: NONE

ABSENT: WOODY

VACANT: DISTRICT 5



RON GONZALES
Mayor

ATTEST:



PATRICIA L. O'HEARN
City Clerk

