



CITY CLERK

CITY OF SAN JOSE, 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. 26995**", the original copy of which is attached hereto, was passed for publication of title on the **7th day of October, 2003**, was published in accordance with the provisions of the Charter of the City of San Jose, and was given final reading and adopted on the **14th day of October, 2003**, by the following vote:

AYES: CAMPOS, CHAVEZ, CHIRCO, CORTESE, DANDO, GREGORY,
LeZOTTE, REED, WILLIAMS, YEAGER; GONZALES

NOES: NONE

ABSENT: NONE

DISQUALIFIED: NONE

VACANT: NONE

Said ordinance is effective as of **November 14, 2003**.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed the corporate seal of the City of San Jose, this **22nd day of October, 2003**.

(SEAL)

PATRICIA L. O'HEARN
CITY CLERK AND EX-OFFICIO
CLERK OF THE CITY COUNCIL

10/22/03csd

ORDINANCE NO. 26995

AN ORDINANCE OF THE CITY OF SAN JOSE AMENDING SECTION 20.50.260 OF CHAPTER 20.50; AMENDING SECTIONS 20.100.480, 20.100.500, 20.100.610, 20.100.630, 20.100.910, AND 20.100.940 OF CHAPTER 20.100; AMENDING SECTION 20.110.030 OF CHAPTER 20.110; ADDING A NEW CHAPTER 20.95, AND ADDING NEW SECTIONS 20.200.555 AND 20.200.825 TO CHAPTER 20.200, ALL OF TITLE 20 OF THE SAN JOSE MUNICIPAL CODE RELATED TO STORM WATER RUNOFF MANAGEMENT AND POST-CONSTRUCTION STORM WATER QUALITY CONTROL

WHEREAS, the environmental impacts related to the adoption of this ordinance were reviewed under an Addendum to that certain Final Environmental Impact Report entitled "San José 2020 General Plan," which Final EIR previously was certified by the City Council on August 16, 1994 under Resolution No. 65459, and which Addendum was prepared under the Department of Planning, Building and Code Enforcement's Public Project File No. PP03-07-224 and adopted on July 3, 2003;

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

SECTION 1. Section 20.50.260 of Chapter 20.50 of Title 20 of the San José Municipal Code is hereby amended to read in its entirety as follows:

20.50.260 **Landscaping**

- A. The following landscaping requirements shall apply for all sites in the Industrial Districts:
1. All setback areas, exclusive of Permitted off-street parking areas and private egress, or circulation, shall be landscaped.
 2. All landscaped areas shall be maintained in perpetuity, and all dead plant materials replaced with viable plant materials in conformance with an approved Permit.

3. A ten (10) foot wide landscape **buffer** and a seven (7) foot high property line masonry wall is required **when** a driveway, service yard, loading area or parking lot is adjacent to residential uses.
4. Tree wells in a parking lot shall be a minimum of forty (40) square feet, with a minimum five (5) foot **net dimension**.
5. A four (4) foot high parking **screen** is required **when** residential uses are located across the street. **Attractive walls, dense landscaping or depressed parking are acceptable** screening solutions.
6. All landscaped areas shall be **designed** and maintained in conformance with City Council Policy No. **6-29**, entitled "City Council Policy on Post Construction Urban Runoff **Management**," as the same may be amended from time to time.

B. Landscape guidelines are contained **in the Landscape and Irrigation Guidelines**, adopted by the City Council, **October 1989**, Revised March 1993, the San Jose 2020 General Plan, as amended, **the Riparian Corridor Policy Study**, approved by the City Council, May 17, 1997, **the current Guidance Manual on Selection of Stormwater Quality Control Measures**, prepared for the Department of Planning, Building, and Code Enforcement, and **the current Post-Construction Urban Runoff Management Policy** approved by the City Council.

SECTION 2. Title 20 of the San José Municipal Code is hereby amended by adding a new Chapter to be numbered and entitled **and to read as follows:**

**CHAPTER 20.95
STORM WATER MANAGEMENT**

**Part 1
General Provisions**

20.95.010 Purpose

The purpose of this Chapter is to achieve **all of the following:**

- A. Promote adequate storm water management; and
- B. Promote proper siting of storm water runoff treatment to mitigate potential adverse impacts on adjacent land uses; and

- C. Encourage the use of alternative modes of storm water runoff treatment; and
- D. Ensure access to storm water treatment measures; and
- E. Enable the permitting of Off-Site Storm Water Runoff Treatment facilities without creating adverse conditions or impacts on the subject or neighboring properties.

20.95.020 Applicability

The provisions of this Chapter shall apply whenever the creation, on or above ground through installation, construction, or replacement, of one (1) gross acre or more of impervious surface will occur through a proposed development of real property.

Part 2
Storm Water Runoff Treatment Requirements

20.95.110 Conformance

Whenever the creation, on or above ground through installation, construction, or replacement, of one (1) gross acre or more of impervious surface will occur as a part of a proposed development of real property, that development shall be designed in conformance with City Council Policy No. 6-29, entitled "City Council Policy on Post Construction Urban Runoff Management," and in conformance with the provisions of this Chapter and Chapter 20.100 of this Title, all as the same may be amended from time to time.

20.95.120 Maintenance

All storm water runoff treatment measures installed on property shall be permanently maintained by the property owner in good repair and free of litter and debris, obstructions, and stored materials.

Part 3
Off-Site Storm Water Treatment

20.95.210 Permit red

No person shall place, construct or operate, or permit the placement, construction, or operation, of any Off-Site Storm Water Runoff Treatment facility on a site without first obtaining a Special Use Permit issued in accordance with the provisions set forth in Chapter 20.100 of this Title.

20.95.220 Special Use Permit for Off-Site Storm Water Runoff Treatment

- A. An applicant for a Special Use Permit to allow the placement, construction or operation of Off-Site Storm Water Runoff Treatment facilities shall, in addition to all other Special Use Permit requirements, declare under penalty of perjury that the Off-Site Storm Water Runoff Treatment facilities sought for placement, construction or operation under the Special Use Permit will at all times be maintained in full conformance with each and every one of the criteria and standards set forth in this Part.
- B. A Special Use Permit to allow an Off-Site Storm Water Runoff Treatment facility shall not be issued unless the Director first determines that all of the applicable criteria and standards set forth in this Part are or can be met at the time of issuance of the Permit.

20.95.230 Criteria and Standards

- A. Any Off-Site Storm Water Runoff Treatment facility that may be permitted with a Special Use Permit shall meet the standards and criteria set forth below; provided, however, that the Director, or Planning Commission on appeal, may modify such standards and criteria or impose stricter standards or criteria upon a finding that such modifications are reasonably necessary in the Director's or Commission's determination in order to implement the purposes of this Title and, more specifically, the purposes of this Part set forth in Section 20.95.010 above.
- B. The standards and criteria for Off-Site Storm Water Runoff Treatment facilities are as follows:
 - 1. The Off-Site Storm Water Runoff Treatment facilities shall be designed in conformance with City Council Policy No. 6-29, entitled "City Council Policy on Post Construction Urban Runoff Management," and in conformance with the provisions of Chapter 20.100 of this Title.
 - 2. Prior to the issuance of any Public Works Clearance, a covenant of easement for ingress/egress and operation and maintenance purposes to be maintained in perpetuity shall be recorded by the applicant and the property owner on the subject property on which the Off-Site Storm Water Runoff Treatment facility is located with all necessary subordinations to the satisfaction of the Director of Planning and the Director of Public Works.
 - 3. The applicant shall be responsible for operating and maintaining the Off-Site Storm Water Runoff Treatment in accordance with the conditions of the Special Use Permit.

SECTION 3. Section 20.100.480 of Chapter 20.100 of Title 20 of the San José Municipal Code is hereby amended to read in its entirety as follows:

20.100.480 Storm Water Management - Projects Disturbing 1 Acre or More

- A. All development projects with an approved Development Permit that result in a land disturbance of one (1) acre or more shall, prior to the commencement of any clearing, grading or excavation, comply with the City of San José National Pollutant Discharge Elimination System (NPDES) General Construction Activities Permit as follows:
 - 1. The applicant shall develop, implement and maintain a Storm Water Pollution Prevention Plan (SWPPP) to control the discharge of storm water pollutants including sediments associated with construction activities.
 - 2. The applicant shall file a Notice of Intent (NOI) with the State Water Resources Control Board (SWRCB).
- B. Along with these documents, the applicant may also be required to prepare an Erosion Control Plan. The Erosion Control may include BMPs as specified in the California Storm Water Best Management Practice Handbook for reducing impacts on the City's storm drainage system from construction activities.
- C. Prior to the issuance of a grading permit, the applicant shall submit copies of the NOI and Erosion Control Plan (if required) to the City Project Engineer, Department of Public Works.
- D. The applicant shall maintain a copy of the most current SWPPP on site and shall provide a copy to any City representative or inspector on demand.
- E. The applicant shall implement and maintain all best management practices (BMPs) or control measures identified in the SWPPP and/ or Erosion Control Plan.
- F. Any proposed development of real property that will create, on or above ground through installation, construction, or replacement, one (1) gross acre or more of impervious surface shall be designed in conformance with City Council Policy No. 6-29, entitled "City Council Policy on Post Construction Urban Runoff Management," and the provisions of this Chapter.

SECTION 4. Section 20.100.500 of Chapter 20.100 of Title 20 of the San José Municipal Code is hereby amended to read in its entirety as follows:

20.100.500 Adjustments

- A. The Director may, at the Director's sole discretion, approve an adjustment for the following:
1. An extension of the term of an approved Development Permit for a period of up to but not exceeding one (1) year; provided, however, that no more than two (2) such term extensions may be approved.
 2. Changes to an approved Development Permit but only for minor modification of architectural elements or landscape details, (including but not limited to minor storefront alterations, relocation of doors, equipment screening, minor landscape furniture and structures, benches, small trellises, and planters) which do not affect the use, intensity, general character, architectural style, circulation or other site function of the project.
 3. Signs that conform to Title 23, minor changes to approved sign programs, and sign programs that are a condition of a Development Permit.
 4. Additions, accessory buildings and minor structures such as trellises, patio covers, swimming pools and decks for one-family residences which were approved and are subject to an existing Planned Development Permit.
 5. Building Mounted Wireless Communications Antenna.
 6. Tract sales, model home sales, or leasing offices associated with an approved housing development.
 7. Temporary construction or storage yards in connection with the construction of houses or other buildings in an adjacent subdivision or lot or parcel.
 8. Solar Photovoltaic Electrical Power Generation Systems.
 9. The creation, on or above ground through installation, construction, or replacement, of less than one (1) gross acre of impervious surface.
 10. The replacement, repaving, reconfiguration, or re-striping of parking spaces on existing surfaces.
- B. An application for an adjustment 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 adjustment 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 adjustment is an administrative determination and requires no hearing or notice. The action of the Director shall be final. If the Director denies an adjustment, nothing herein shall preclude the applicant from thereafter filing an application for a Development Permit.
- D. Where property was developed prior to the requirement of a Site Development Permit, adjustments for projects as set forth in Section 20.100.610(A) may be approved without the necessity of the issuance of a full Site Development Permit.

SECTION 5. Section 20.100.610 of Chapter 20.100 of Title 20 of the San José Municipal Code is hereby amended to read in its entirety as follows:

20.100.610 Site Development Permit Required

- A. A valid Site Development Permit, issued under this 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, one-family dwelling on a single lot or parcel that would not be subject to Part 9 of Chapter 20.100 regarding requirements for a Single Family House Permit; 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, structure, landscaped area, or other site amenity; or
 - 4. Use of a lot for storage purposes; or
 - 5. Installation, replacement, reconfiguration or restriping of pavement on any portion of a lot; or
 - 6. The creation, replacement, alteration, or reconfiguration of any impervious surface on any portion of a site; or
 - 7. Underground installation.
- B. No single Site Development 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 City requires a single application pertaining to both parcels pursuant to Section 20.100.650.

- C. The provisions of this Part shall not apply:
1. If a Permit is expressly not required by Section 20.100.1030 of this Title or a Permit is issued under other provisions of this Chapter unless procurement of a Site Development 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 or CG Commercial 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 Title, and remain on the site only for the temporary period specified for such uses in this 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 (4) 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 Director of Planning; and
 - b. Meets or exceeds all applicable Fire and Building Code requirements.
 6. Accessory structures on lots with a one-family house, unless a Permit is otherwise required by this Title.

SECTION 6. Section 20.100.630 of Chapter 20.100 of Title 20 of the San José Municipal Code is hereby amended to read in its entirety as follows:

20.100.630 Findings

- A. The Director, or the Planning Commission on appeal, shall grant the Site Development Permit only if all of the following findings are made:
1. The interrelationship between the orientation, location, and elevations of proposed buildings and structures and other uses on-site are mutually compatible and aesthetically harmonious.
 2. The orientation, location and elevation of the proposed buildings and structures and other uses on the site are compatible with and are aesthetically harmonious with adjacent development or the character of the neighborhood.
 3. 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.
 4. Landscaping, irrigation systems, walls and fences, features to conceal outdoor activities, exterior heating, ventilating, plumbing, utility and trash facilities are sufficient to maintain or upgrade the appearance of the neighborhood.
 5. Traffic access, pedestrian access and parking are adequate.
 6. The application is either consistent with the General Plan or counterbalancing considerations justify the inconsistency.
- B. The Director, or the Planning Commission, shall deny the application where the information submitted by the applicant and/or presented at the public hearing fails to satisfactorily substantiate such findings.

SECTION 7. Section 20.100.910 of Chapter 20.100 of Title 20 of the San José Municipal Code is hereby amended to read in its entirety as follows:

20.100.910 Planned Development Permit Required

Unless the base zone is being utilized:

- A. No building or structure shall be erected, constructed, enlarged, placed or installed or moved onto any site nor shall there be any exterior alteration of any structure which is in a planned development district, and no building permit or

installation permit shall be issued for such work, except pursuant to and in accordance with a Planned Development Permit.

- B. No use shall be added, changed, modified, enlarged or altered on any site which is in a planned development district except pursuant to and in accordance with a Planned Development Permit.
- C. A Planned Development Permit may be issued for all or any part of the property situate in a Planned Development District.
- D. A Planned Development Permit or amendment to a Planned Development Permit may be issued for:
 - 1. The use of new dwelling units, which are not yet occupied for residential purposes, as model homes or sales offices in connection with the sale of dwelling units in a planned development district.
 - 2. The use of structures, such as mobilehomes, as sales offices in connection with the sale of dwelling units in a planned development district.
 - 3. The use of land in the Planned Development District for off-street parking or other uses incidental to the sales office or model home operation. Such use shall be limited to the duration of the sales office or model home operation.
- E. A Planned Development Permit is not required for building additions, exterior alterations, and accessory structures on parcels six thousand (6,000) square feet or less which are used for single-family detached residential use if the additions, alterations, or structures:
 - 1. Meet the development regulations of the R-1-8 residence district; and
 - 2. The construction would not require the issuance of a Single Family House Permit, pursuant to Part 9 of this Chapter 20.100, if the property were not situated in a Planned Development Zoning District; and
 - 3. The addition, alterations or accessory structures otherwise conform to the requirements of the Planned Development Zoning District.
- F. A Planned Development Permit is not required for mechanical equipment in Planned Development Districts consisting solely of detached, one family dwelling uses. The setbacks for all mechanical equipment in these Planned Development Districts must meet the setback requirements set forth in the particular Planned Development District. If no setback standards have been set forth for a particular

Planned Development District, the setbacks requirements shall be those standards set forth in Section 20.60.080.

- G. A valid Planned Development Permit, issued under this Part, is required prior to the issuance of any building permit or installation permit for the creation, replacement, alteration or reconfiguration of impervious surface on any portion of a site not used solely for one (1) single family residence within a Planned Development District.

SECTION 8. Section 20.100.940 of Chapter 20.100 of Title 20 of the San Jose Municipal Code is hereby amended to read in its entirety as follows:

20.100.940 Findings

- A. The Director or the Planning Commission on appeal, may issue a Planned Development Permit only if all of the following findings are made:
1. The Planned Development Permit, as issued, furthers the policies of the General Plan;
 2. The Planned Development Permit, as issued, conforms in all respects to the Planned Development zoning of the property;
 3. The interrelationship between the orientation, location, mass and scale of building volumes, and elevations of proposed buildings, structures and other uses on-site are appropriate, compatible and aesthetically harmonious;
 4. 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 effect on adjacent property or properties.
- B. The Director or the Planning Commission on appeal shall deny the application where the information submitted by the applicant and/or presented at the public hearing fails to satisfactorily substantiate such findings.

SECTION 9. Section 20.110.030 of Chapter 20.110 of Title 20 of the San José Municipal Code is hereby amended to read in its entirety as follows:

20.110.030 Purposes of Easement

An easement created pursuant to this Part may be for one or more of the following purposes:

- A. Parking;
- B. Ingress and egress;
- C. Emergency access;
- D. Light and air access;
- E. Landscaping;
- F. Open space;
- G. Access to and/or operation and maintenance of a storm water treatment measure.

SECTION 10. Chapter 20.200 of Title 20 of the San José Municipal Code is hereby amended by adding a new section to be numbered and entitled and to read in its entirety as follows:

20.200.555 Impervious Surface

An "impervious surface" is any surface, on or above ground, that prevents the infiltration or passage of water into the soil. Impervious surfaces include, but are not limited to, non-absorbent rooftops, paved or covered patios, driveways, parking lots, paved walkways, compacted soil or rock, and streets.

SECTION 11. Chapter 20.200 of Title 20 of the San José Municipal Code is hereby amended by adding a new section to be numbered and entitled and to read in its entirety as follows:

20.200.825 Off-Site Storm Water Runoff Treatment Facility

"Off-Site Storm Water Runoff Treatment Facility" is a storm water runoff treatment facility that is provided on a lot other than the lot occupied by the building or use for which the treatment is required.

RD:RG
10/7/03

Ord. No. 26995

PASSED FOR PUBLICATION of title this 7th day of October, 2003, by the following vote:

AYES: CAMPOS, CHAVEZ, CHIRCO, CORTESE, GREGORY,
LeZOTTE, REED, WILLIAMS, YEAGER; GONZALES

NOES: DANDO

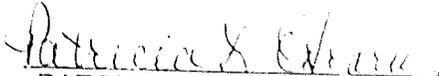
ABSENT: NONE

DISQUALIFIED: NONE



RON GONZALES
Mayor

ATTEST:



PATRICIA L. O' HEARN
City Clerk