



CITY CLERK

# CITY OF SAN JOSÉ, CALIFORNIA

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

I, Deanna J. Santana, Acting City Clerk & 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. 27091**", the original copy of which is attached hereto, was passed for publication of title on the **16<sup>th</sup> day of March, 2004**, 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 **30<sup>th</sup> day of March, 2004**, by the following vote:

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

NOES:                   NONE

ABSENT:                NONE

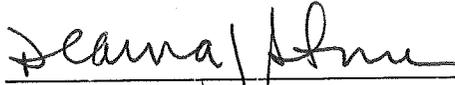
DISQUALIFIED:        NONE

VACANT:                NONE

Said ordinance is effective as of **April 30, 2004**.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed the corporate seal of the City of San Jose, this **2<sup>nd</sup> day of April, 2004**.

(SEAL)

  
\_\_\_\_\_  
DEANNA J. SANTANA  
ACTING CITY CLERK & EX-OFFICIO  
CLERK OF THE CITY COUNCIL

ORDINANCE NO. 27091

**AN ORDINANCE OF THE CITY OF SAN JOSE AMENDING SECTION 20.10.060 OF CHAPTER 20.10 OF TITLE 20 OF THE SAN JOSE MUNICIPAL CODE, AMENDING SECTION 20.40.100 OF CHAPTER 20.40, AMENDING CHAPTER 20.70 IN ITS ENTIRETY, REPEALING SECTION 20.90.520 OF CHAPTER 20.90, AMENDING AND RENUMBERING PARTS 6 AND 7 OF CHAPTER 20.90 TO BE INCLUDED IN CHAPTER 20.70, AMENDING SECTIONS 20.100.220 AND 20.100.610 OF CHAPTER 20.100, RENUMBERING SECTION 20.200.295, AND ADDING SECTION 20.200.575 OF CHAPTER 20.200 TO REVISE THE PROVISIONS RELATING TO THE DOWNTOWN ZONING DISTRICTS**

**WHEREAS**, on May 15, 2003, the impacts of this Ordinance were found to have been addressed under the General Plan EIR, Resolution No. 65459, File No. PP-03-05-169;

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

**SECTION 1.** Section 20.10.060 of Chapter 20.10 of Title 20 of the San José Municipal Code is hereby amended to read in its entirety as follows:

**20.10.060 Zoning Districts Established**

- A. In order to regulate and restrict the location of residences, professions, businesses, trades, and industries, to regulate and restrict the location, height, and size of buildings and structures hereafter erected, enlarged or altered, and to regulate and determine the area, depth, and width of yards, setback areas, and other open spaces, the following classes of City zoning districts are hereby established, as set forth in Table 20-10:

Table 20-10 City Zoning Districts		
Zoning District	Zoning Map Symbol	Alternative Zoning Map Symbol
OS Open Space	OS	OS
A Agricultural	A	A
Rural Residential Residence District (1 DU/5 Acres)	R-1-RR	None
R-1-1 Residence District (1 DU/Acre)	R-1-1	R-1-B-3
R-1-2 Residence District (2 DU/Acre)	R-1-2	R-1-B-2
R-1-5 Residence District (5 DU/Acre)	R-1-5	R-1-B-8, R-1-B-1
R-1-8 Residence District (8 DU/Acre)	R-1-8	R-1, R-1-B-6
R-2 Residence District (2 DU/Lot)	R-2	R-2
R-M Residence District (Multiple Unit/Lot)	R-M	R-3, R-3-F, R-3-A, R-3-B, R-3-C, R-4
R-MH District (mobilehome parks, travel trailer parks)	R-MH	T-M
CO Office Commercial District	CO	C-L, C
CP Pedestrian Commercial District	CP	C-1
CN Neighborhood Commercial District	CN	C-2
CG General Commercial District	CG	C-3
IP Industrial Park District	IP	L-R, IP-a, IP-b, IP-c, IP-d, I
LI Light Industrial District	LI	M-1
HI Heavy Industrial District	HI	M-4

The foregoing zoning districts are listed in descending order of restrictiveness, that is, with the most restrictive district listed first and the least restrictive district listed last.

- B. In addition, the following special zoning districts are established as set forth in Table 20-20. The application of these districts is limited to specific geographic areas of the City as set forth in Section 20.70.010.

Table 20-20 Special Zoning District	
Zoning District	Zoning Map Symbol
DC Downtown Primary Commercial	DC
DC-NT1 Downtown Commercial Neighborhood Transition 1	DC-NT1

**SECTION 2.** Section 20.40.100 of Chapter 20.40 of Title 20 of the San José Municipal Code is hereby amended to read in its entirety 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.
- C. "Special" uses are indicated by a "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.
- D. "Administrative" uses are indicated by a "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.
- E. Land uses not permitted are indicated by a "-" on Table 20-90. Land uses not listed on Table 20-90 are not permitted.
- F. 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 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.

<b>Table 20-90: Commercial Districts Land Use Regulations</b>					
Use	Zoning District				Notes & Sections
	CO	CP	CN	CG	
<b>General Retail</b>					
Retail sales, goods and merchandise	-	P	P	P	
Alcohol, off-site sales	-	C	C	C	§ 20.80.900
Bakery, retail	-	P	P	P	
Food, beverage, groceries	-	P	P	P	
Nursery, plant	-	P	P	P	Note 1
Outdoor vending	-	A	A	A	Part 10, Chapter 20.80
Pawn shop/broker	-	C	C	C	See Title 6
Seasonal sales					Part 14, Chapter 20.80
<b>Education and Training</b>					
Child daycare center located on an existing school site or as an incident to an on-site church/religious assembly use involving no building additions or changes to the site	P	P	P	P	
Day care center	C	C	C	C	
Instructional art studios	-	P	P	P	Note 2
Instructional art studios, with live models	-	C	C	C	Note 2
Private instruction, personal enrichment	-	P	P	P	Note 3
School - elementary and secondary (public)	P	P	P	P	
School - elementary and secondary (private)	-	C	C	C	
School, driving (class C & M license)	-	P	P	P	Note 4
School, post secondary	-	P	P	P	Note 5
School, trade and vocational	-	C	C	C	

<b>Table 20-90: Commercial Districts Land Use Regulations</b>					
Use	Zoning District				Notes & Sections
	CO	CP	CN	CG	
<b>Entertainment and Recreation Related</b>					
Arcade, amusement	-	C	C	C	
Dancehall	-	C	C	C	
Entertainment	-	C	C	C	
Poolroom/Billiards Establishment	-	C	C	C	
Private club or lodge	C	C	C	C	
Recreation, commercial/indoor	-	P	P	P	
Recreation, commercial/outdoor	-	C	C	C	
Theatre, indoor	-	C	C	C	
Theatre, outdoor	-	-	-	C	
<b>Food Services</b>					
Banquet facility	-	C	C	C	
Caterer	-	P	P	P	Note 6
Drinking establishments	-	C	C	C	
Public eating establishments	-	P	P	P	
<b>Health and Veterinary Services</b>					
Animal boarding, indoor	-	P	P	P	§ 20.40.120
Animal grooming	-	P	P	P	§ 20.40.120
Emergency ambulance service	C	C	C	C	
Hospital/in-patient facility	C	C	C	C	
Medical clinic/out-patient facility	P	P	P	P	
Medical, dental and health practitioner	P	P	P	P	
Veterinary clinic	-	P	P	P	
<b>General Services</b>					
Bed and Breakfast	-	P	P	P	Part 2, Chapter 20.80
Dry cleaner	-	P	P	P	
Hotel/motel	-	P	P	P	

<b>Table 20-90: Commercial Districts Land Use Regulations</b>					
Use	Zoning District				Notes & Sections
	CO	CP	CN	CG	
Laundromat	-	P	P	P	
Maintenance and repair, small household appliances	-	P	P	P	
Messenger services	P	P	P	P	Note 8
Mortuary and funeral services	P	P	P	P	
Personal services	-	P	P	P	§ 20.200.880
Photo processing and developing	-	P	P	P	
Printing and publishing	-	P	P	P	
<b>Office and Financial Services</b>					
Automatic teller machine	P	P	P	P	§ 20.80.200
Business support	-	P	P	P	
Financial institution	P	P	P	P	
Offices, business and administrative	P	P	P	P	§ 20.40.110
<b>Public, Quasi-Public and Assembly Uses</b>					
Cemetery	C	C	C	C	
Church/religious assembly	C	C	C	C	
Museums, libraries, parks, playgrounds, or community centers (publicly operated)	P	P	P	P	
Museums, libraries, parks, playgrounds, or community centers (privately operated)	-	C	C	C	
<b>Residential</b>					
Emergency residential shelter	C	C	C	C	§ 20.80.500
Live/work	-	S	S	S	§ 20.40.130
Mixed use/ground floor commercial with residential above	-	C	C	C	Note 9
Residential care facility for seven or more persons	C	C	C	C	

<b>Table 20-90: Commercial Districts Land Use Regulations</b>					
<b>Use</b>	Zoning District				Notes & Sections
	CO	CP	CN	CG	
Residential service facility for seven or more persons	C	C	C	C	
Single room occupancy hotel	-	C	C	C	Part 15, Chapter 20.80
Single room occupancy living unit	-	C	C	C	Part 15, Chapter 20.80

<b>Table 20-90: Commercial Districts Land Use Regulations</b>					
Use	Zoning District				Notes & Sections
	CO	CP	CN	CG	
<b>Drive-Through Uses</b>					
Drive-through in conjunction with any use	-	-	C	C	
<b>Recycling Uses</b>					
Reverse vending	A	A	A	A	
Small collection facility	A	A	A	A	
<b>Transportation and Utilities</b>					
Communications service exchange	-	-	-	C	
Community television antenna systems	C	C	C	C	
Off-site, alternating use and alternative parking arrangements	S	S	S	S	§ 20.90.200
Parking establishment, off-street	C	C	C	C	
Utility facilities, excluding corporation yards, storage or repair yards and warehouses	C	C	C	C	
Television, radio studios without antenna/dishes	-	-	-	C	
Short term parking lot for uses or events other than on-site	-	-	-	C	Note 10
Wireless communication antenna	C	C	C	C	§ 20.80.1900
Wireless communication antenna, building mounted	P	P	P	P	§ 20.80.1900
<b>Electrical Power Generation</b>					
Private electrical power generation facility	C	C	C	C	
Co-generation facility	S	S	S	S	
<b>Stand-By/Backup</b>					
Facilities that do not exceed noise or air standards	S	S	S	S	

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<b>Table 20-90: Commercial Districts Land Use Regulations</b>					
Use	Zoning District				Notes & Sections
	CO	CP	CN	CG	
Facilities that do exceed noise or air standards	C	C	C	C	
Temporary Stand-by/backup	A	A	A	A	
Photovoltaic	P	P	P	P	Note 15
<b>Vehicle Related Uses</b>					
Accessory installation, passenger vehicles and pick-up trucks	-	-	C	P	Note 18
Auto broker, wholesale, no on-site storage	P	P	P	P	
Car wash, detailing	-	-	C	C	
Gas or charge station	-	C	C	P	Note 11
Gas or charge station with incidental service and repair	-	C	C	P	Note 12, Note 18
Glass sales, installation and tinting	-	-	C	P	Note 18
Sale or lease, commercial vehicles	-	-	C	C	Note 18
Sale passenger vehicle, pick-up trucks not exceeding twenty-five feet in length, and motorcycles	-	C	C	P	Note 17, Note 18
Leasing passenger vehicles, pick-up trucks not exceeding twenty-five feet in length, and motorcycles	-	C	C	C	Note 16
Sale, vehicle parts	-	C	P	P	Note 14
Tires, batteries, lube, oil change, smog check station, air conditioning servicing of passenger vehicles and pick-up trucks	-	-	C	P	Note 13, Note 18

**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. Includes, but is not limited to such areas as dance, music, martial arts and fine arts.
3. Includes, but is not limited to such areas as driving, language, and academics.
4. No on site storage of vehicles permitted.

5. Includes public and private colleges and universities, as well as extension programs and business schools.
6. Not a catering facility.
7. Intentionally omitted.
8. No on site storage of vehicles permitted.
9. Make sure general plan supports mixed use or residential.
10. Use must be less than twenty-four hours.
11. No incidental repair or service permitted. No retail sale of food, grocery items or alcoholic beverages may be approved. See Section 20.80.550.
12. Incidental repair includes air conditioning service, carburetor & 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. No retail food, grocery items or alcohol. See Section 20.80.550.
13. No engine and exhaust related service and repair allowed as incidental.
14. No outdoor sales areas or dismantling allowed.
15. Photovoltaic (PV) systems may be processed through a permit adjustment.
16. No on-site storage of vehicles permitted.
17. In the CG district, incidental storage of vehicles, and incidental repair of vehicles in addition to what otherwise would be permitted, requires a conditional use permit. Incidental storage and repair of vehicles is prohibited in all other commercial districts.
18. All vehicle-related repair, service, and accessory or other installation shall be conducted within a fully enclosed building.

**SECTION 3.** Chapter 20.70 of Title 20 of the San José Municipal Code is hereby amended in its entirety, to be numbered, entitled and to read as follows:

**CHAPTER 20.70  
DOWNTOWN ZONING REGULATIONS**

**Part 1  
General**

**20.70.010 Applicability**

This Chapter shall only apply to properties with a zoning designation consistent with this Chapter and located within the area bounded by Route 87, Julian Street, Fourth Street and Interstate 280, and the area bounded by Julian Street, Route 87, the Union Pacific Railroad line, and Market Street.

**20.70.020 Downtown Zoning Districts**

- A. This Chapter sets forth the land use and development regulations applicable to the Downtown Zoning Districts established by Section 20.10.060.
- B. No building, structure, or land shall be used, and no building or structure shall be erected, enlarged, or structurally altered, in the DC and DC-NT1 zoning districts except as set forth in this Chapter.

## Part 2 Uses Allowed

### **20.70.100 Allowed Uses and Permit Requirements**

- A. "Permitted" land uses are indicated by a "P" on Table 20-140.
- B. "Conditional" uses 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 as set forth in Chapter 20.100.
- C. "Special" uses are indicated by a "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.
- D. "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.
- E. Land uses not permitted are indicated by a "-" on Table 20-140. Land uses not listed on Table 20-140 are not permitted.
- F. The column of Table 20-140, under the heading Additional Use Regulations for the DG Area, identifies further regulations on the uses of ground-floor building space within a portion of the DC Zoning District. The portion of the DC District included in the DG Area is described in Section 20.70.520. These regulations apply to ground-floor building space, defined as Downtown Ground-Floor Space ("DG Area"), in Section 20.70.520 of this Chapter. If there are no additional regulations on properties located in the DG Area noted in this column, the use regulations for the DG Area remain those regulations of the DC Zoning District.
- G. The "Parking" column of Table 20-140 establishes the required parking. The amount of parking may not be increased or decreased unless modified by the Director as set forth in Sections 20.70.320 and 20.70.330 of this Chapter.
- H. 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 Districts Land Use Regulations					
Use	Zoning Districts		Applicable Notes & Sections		
	DC	DC-NT1	Additional Use Regulations for the DG Area	Parking	Applicable to All Downtown Districts
<b>Offices and Financial Services</b>					
Automatic Teller Machine	P	P		No parking	§ 20.80.200
Business Support	P	P	-, Note l	No parking	-
Financial institution	P	P	S, Note i	1 per 360 sq. ft.*	
Financial Services	P	P	S, Note n	No parking	
Offices, business and administrative	P	P	-, Note j	1 per 360 sq. ft.*	§ 20.70.110
Research and development	P	P	-	1 per 360 sq. ft.*	Note 1
<b>General Retail</b>					
Alcohol, off-site sales	C	C		No parking	§ 20.80.900
Auction	S	-	-	No parking	
Food, beverage, groceries	P	P		No parking	
Open air sales establishments and areas	S	S		No parking	
Outdoor vending	S	S		No parking	Part 10, Chapter 20.80
Pawn Shop, Pawn Broker	C	C	Note b	No parking	
Retail sales, goods and merchandise	P	P	Note a	No parking	
Seasonal sales	P	P		No parking	Part 14, Chapter 20.80
<b>Education and Training</b>					
Day care center	P	P	S, Note c	No parking	
Post-secondary School	P	P	-	1 per 360 sq. ft.	
Trade School	P	P	-	1 per 360 sq. ft.	

Table 20-140 Downtown Districts Land Use Regulations					
Use	Zoning Districts		Applicable Notes & Sections		
	DC	DC-NT1	Additional Use Regulations for the DG Area	Parking	Applicable to All Downtown Districts
Personal enrichment, Instructional Art	P	P	-, Note d	1 per 360 sq. ft.	
School, elementary (grades K-8)	C	C	-	1 per teacher and employee	
High School (grades 9-12)	C	C	-	.75 per teacher and employee and 1 per each 10 students	
<b>Entertainment and Recreation Related</b>					
Amusement arcade	C	-	Note e	No parking	
Entertainment establishment	C	-		No parking	
Movie Theater	P	P		No parking	
Recreation Commercial/Indoor	P	P		No parking	
Poolroom	S	-		No parking	
Private club or lodge	P	P	-	1 per 360 sq. ft.	
<b>Food Services</b>					
Banquet facility	P	P	Note f	No parking required	
Caterer	P	P	C, Note f	No parking	
Drinking establishments	C	C		No parking	
Entertainment as an incidental use to any General Retail or Food Services Use permitted in the Downtown Zoning Districts	P	P		No parking	Note 7
Public eating establishments	P	P		No parking	
<b>Health and Veterinary Services</b>					
Animal grooming	S	S	-	No parking	Note 2
Animal Boarding, indoor	P	P	-	No parking	
Emergency ambulance service	C	-	-	No parking	

Table 20-140 Downtown Districts Land Use Regulations					
Use	Zoning Districts		Applicable Notes & Sections		
	DC	DC-NT1	Additional Use Regulations for the DG Area	Parking	Applicable to All Downtown Districts
Hospital/ in-patient medical facility	C	-	-	1.5 per doctor	
Medical or Dental Clinic/Out-patient facility	P	P	-	1.5 per doctor	
Veterinarian	P	P	-	1.5 per doctor	
<b>General Services</b>					
Bed and breakfast	P	P	S, Note m	.35 per room	Part 2, Chapter 20.80
Hotel/motel	P	P	-, Note m	.35 per room	
Maintenance and repair of household appliances	P	P	-	No parking	
Mortuary and funeral services	C	C	-	.75 per employee and vehicle	
Personal Services	P	P	Note g	No parking	-
Printing and Publishing	P	P	Note h	No parking	
<b>Public, Quasi-Public and Assembly Uses</b>					
Auditorium	C	-	-	No parking	
Cemetery	C	C	-	No parking	
Church/religious assembly	P	P		No parking	
Information Center	P	P		No parking	
Museums, libraries	P	-	P	No parking	
Parks, playgrounds, or community centers	P	P	Note k	No parking	
<b>Residential</b>					
Residential Shelter	C	-	-	1 per 4 beds, 1 per 360 sq.ft.*	
Live/work	S	S		1 per unit	§ 20.70.120
Residential multiple dwelling	P	P	-	1 per unit	

<b>Table 20-140 Downtown Districts Land Use Regulations</b>					
<b>Use</b>	<b>Zoning Districts</b>		<b>Applicable Notes &amp; Sections</b>		
	<b>DC</b>	<b>DC-NT1</b>	<b>Additional Use Regulations for the DG Area</b>	<b>Parking</b>	<b>Applicable to All Downtown Districts</b>
Residential Care Facility for 7 or more persons	C	C	-	.75 per employee	
Residential Services Facility for 7 or more persons	C	C	-	.75 per employee	
Single room occupancy living unit	S	S	-	.6 per room	Part 15, Chapter 20.80
Single room occupancy hotel	S	S	-	.6 per room	Park 15, Chapter 20.80
<b>Residential Accessory Uses</b>					
Accessory buildings and structures	P	P	-	No parking	
<b>Recycling Uses</b>					
Reverse vending	S	S	-	No parking	Note 4
Small collection facility	S	S	-	No parking	Note 4
<b>Transportation and Communication</b>					
Community television antenna systems	C	-	-	No parking	
Off-site and alternating use parking arrangements	P	P	-	N/A	§ 20.90.200
Parking establishment, off-street	P	P	-	N/A	
Private Electrical Power Generation Facility	C	C	-	1 for each vehicle used in the operation of such facility	
Standby Generators that do not exceed noise or air standards	S	S	-	N/A	
Short term parking lot for uses or events other than on-site	S	S	-	N/A	
Radio & Television Studios	S	-	C	No parking	
Wireless communication antenna	S	-	-	No parking	§ 20.80.1900

Table 20-140 Downtown Districts Land Use Regulations					
Use	Zoning Districts		Applicable Notes & Sections		
	DC	DC-NT1	Additional Use Regulations for the DG Area	Parking	Applicable to All Downtown Districts
Wireless communication antenna, building mounted	P	-	-	No parking	§ 20.80.1900
<b>Vehicle Related Uses</b>					
Accessory installation for cars and passenger trucks	P	-	-	No parking	
Car wash, detailing	P	-	-	No parking	
Gas or charge station	P	-	-	No parking	Note 4
Gas or charge station with incidental service and repair	P	-	-	No parking	Note 4
Sale and lease, vehicles and equipment (less than one ton)	P	-	-	1.5 per employee	Note 5
Tires, batteries, accessories, lube, oil change, smog check station, air conditioning	P	-	-	2 per bay or .75 per employee	Note 6
Sale, vehicle parts, new	P	-	-	No parking required	

Notes:

Notes applicable to the DG Area only:

- (a) Excluding second-hand stores not dealing primarily in antiques, artworks, or vintage clothing.
- (b) Only as a use incidental to a retail jewelry store, otherwise, not permitted.
- (c) Only as a use incidental to existing on-site office use, otherwise not permitted.
- (d) Culinary/Art School with public classes and public demonstrations allowed, includes such areas as dance, music, martial arts, and fine arts.
- (e) Allowed only as an incidental use to other allowed recreation uses.
- (f) Only as a use incidental to restaurant, grocery or bakery uses for primarily on site sales, otherwise not permitted.
- (g) Excludes check-cashing services, photography studios, weight loss centers, interior decorating, and bail bond services.
- (h) Only if dedicated primarily to on-site retail customer copy services, otherwise not permitted.
- (i) Only if dedicated primarily to on-site retail customer services, otherwise not permitted.
- (j) Exception for travel agencies and real estate agencies which are the only permitted uses.
- (k) Community centers are not allowed.
- (l) Exception for copy shops and mail centers which are the only permitted uses.
- (m) Use of ground floor to be primarily dedicated to customer-related public services.
- (n) Includes financial retail services such as payroll advances, foreign currency exchange, debt card services and related financial services products but excludes check cashing except as an ancillary use.

Notes applicable to Downtown Core (DC) Zoning District, including DG Area:

- (1) Excludes manufacturing uses.
- (2) Boarding not permitted.
- (3) No lot may be used solely for an accessory structure or building.
- (4) Incidental repair includes air conditioning service, carburetor & 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. No retail sale of food, grocery items or alcoholic beverages may be approved. See Section 20.80.550.
- (5) All activity must be conducted indoors.
- (6) Non-engine and exhaust related service and repair allowed as incidental use.
- (7) Limited to instrumental and vocal music and readings. Also, notwithstanding the provisions of Section 20.200.940(2), incidental instrumental and vocal music shall be allowed between the hours of 6:00 a.m. and 12:00 a.m.

\* Under the Parking Management Plan, October 2001, the Code may be changed to reduce the parking allotments for these uses. The reduction would be to 2.6 spaces per 1,000 square feet when the Downtown East Valley Light Rail Line is opened, and would be further reduced to 2.5 spaces per 1,000 square feet when BART is opened.

Fifteen percent (15%) of total parking requirement must be provided off-site.

**20.70.110 Development Within or Adjacent to Historic Landmarks or Districts**

- A. Any project within a Historic District shall conform to applicable guidelines adopted, and as amended, by the City Council.
- B. For purposes of this Section, historic district and historic landmark refer to any site, building, structure, or area that has received city, state or federal landmark status.
- C. New structures exceeding 150 feet and an FAR of 6:1 which are constructed within one hundred (100) feet of a City Landmark or Contributing Structure in a designated landmark district shall be reviewed by the Historic Landmarks Commission prior to consideration or approval of a development permit for new construction. The comments of the Historic Landmarks Commission shall be included in any development permit staff report subsequently presented to the Executive Director of the Redevelopment Agency, Director of Planning, Planning Commission or City Council.

**20.70.120 Live/work Units**

Any special use permit issued for live-work uses shall be subject to the following criteria:

- A. Live/work uses shall be consistent with Section 20.200.630 of this Title. No live/work uses shall operate in the Downtown Zoning Districts except pursuant to

and in compliance with a Special Use Permit and in accordance with the following Standards and Conditions specified in sub-section B, below.

B. Standards and Conditions:

1. General Conditions:

- Work activities shall be limited to the Permitted Uses of the Downtown Zoning Districts, specified in Table 20-140, unless otherwise noted in this Chapter.
- All work activities and storage shall take place in fully enclosed areas.

2. Prohibited Uses:

- Any use not permitted within the Downtown Zoning Districts, as specified in table 20-140 or under Section 20.80.720 for home occupation uses.
- Entertainment, Drinking and Public Eating Establishments.
- The sale of food and/or beverages.
- Veterinary services, including grooming and boarding, and the breeding or care of animals for hire or for sale.
- Storage or recycling, except in support of uses permitted in the Downtown Zoning Districts.
- Activities involving biological or chemical substances that require a controlled environment or may pose a health hazard.
- Work activities that involve hazardous material or generate odors, vibration, glare, fumes, dust, electrical interference outside the dwelling or through vertical separation between living units, greater than those generated by routine household activities.

3. Only occupants of the dwelling may be employees or unpaid volunteers of the business or commercial activity.

4. The live/work unit must comply with the Uniform Building Code requirements.

### **Part 3 Development Regulations**

#### **20.70.200 Height, DC Districts**

- A. Except as otherwise specified in this Chapter, properties located in the Downtown Zoning districts shall only be subject to the height limitations necessary for the safe operation of San José International Airport.
- B. No building or structure, together with any equipment or objects attached to such building or structure, shall be permitted of a height that exceeds the elevation restrictions prescribed under Federal Aviation Regulations Part 77 (14 C.F.R. Part 77), as amended, unless the proposed height is specifically reviewed in an aeronautical study prepared by the Federal Aviation Administration in accordance with such federal regulations and the study concludes that the proposed building or structure does not constitute an obstruction or hazard to air operations.

#### **20.70.210 Setback Requirements, DC Districts**

Except as otherwise specified in this Chapter, properties located in the DC districts shall not be subject to any minimum setback requirements.

#### **20.70.220 Development Regulations – DC-NT1 District**

All development regulations in the DC-NT1 District shall conform to the development regulations set forth below in Table 20-150.

Table 20-150				
Location	Height Limit*	Setback*	Special Conditions*	Supplemental Standards*
<b>Balbach</b> (South side, between Almaden Avenue and Almaden Boulevard)		10 feet	50 foot setback required for portions of buildings above 70 feet	
<b>Almaden Avenue</b> (West side between Balbach and Reed Streets)	35 feet or 2 ½ stories			
<b>Almaden Boulevard</b> (East side between Almaden Blvd. and Almaden Avenue between Balbach Street and I-280)	70 feet (to a maximum depth of 100 feet)		Planning Commission may allow heights up to 100 feet to a maximum depth of 100 feet from Almaden Blvd and at a minimum distance of 50 feet from Balbach, if Design Guidelines are met	Portions of buildings higher than 70 feet shall be: <ul style="list-style-type: none"> <li>Limited to 100 feet in length and a diagonal no greater than 125 feet. Shorter side to be generally parallel to Almaden Blvd</li> <li>Set back one foot from common property lines for each two feet in excess of 70 feet</li> </ul>
<b>Market Street</b> (west side, Balbach to Pierce)	60 feet	Front and side setbacks not permitted		Setbacks allowed for recessed entries
<b>Market Street</b> (west side, Pierce to Hwy 280)	120 feet	Minimum 10 feet to residential property line		Height may not exceed a slope of 3:2, as measured from ground level at the adjacent residentially zoned property line

\*Where no standard is specified, the development standards of the DC District shall prevail

## Part 4 Downtown Off-Street Parking Requirements

### **20.70.300 Downtown Parking Management Zone – Creation**

A Downtown Parking Management Zone is hereby established, being those properties in the Downtown Zoning Districts.

### **20.70.310 Definitions**

All references to “Off-street parking space” in this Chapter shall have the definition set forth in 20.90.050 of this Title.

### **20.70.320 Downtown Parking Management Zone – Minimum Off-Street Parking Requirements**

The minimum number of off-street parking spaces required for uses conducted in the Downtown Parking Management Zone is shown on Table 20-140 under the column titled “Parking”. Whenever the minimum number of off-street parking spaces required for use is not specified in Table 20-140, the Director shall determine which of the specified uses is most similar to the unspecified use, and the minimum requirement for that specified use shall apply. All references to building square footage shall be based on “floor area” in Section 20.90.050.

### **20.70.330 Reduction of Requirement**

In addition to exceptions provided for under Section 20.90.200, the following reductions in parking requirements may be made by the Director:

- A. The Director may grant up to a fifteen percent (15%) reduction in the number of spaces required as part of the issuance of a development permit where the reduced number of spaces will be adequate to meet the parking demand generated by the project when the following findings are made:
  - 1. The project has developed a Travel Demand Management (TDM) program that provides evidence that a TDM program will reduce parking demand and identifies the percentage of parking demand that will be reduced through the TDM program. The TDM program will incorporate one (1) or more elements of TDM including, but not limited to measures such as Ecopass, parking cash-out, alternate work schedules, ride sharing, Transit Support, Carpool/Vanpools, shared parking, or any other reasonable measures; and
  - 2. The project demonstrates that it can maintain the TDM program for the life of the project and it is reasonably certain that the parking shall continue to be

provided and maintained at the same location for the services of the building or use for which such parking is required, during the life of the building or use.

- B. For mixed use projects, the Director may reduce the required parking spaces by up to fifty percent (50%), including any other exceptions or reductions as allowed under Title 20, upon making the following findings:
1. That the reduction in parking will not adversely affect surrounding projects;
  2. That the reduction in parking will not be dependent upon public parking supply; or reduce the surrounding public parking supply; and
  3. The project demonstrates that it can maintain the TDM program for the life of the project and it is reasonably certain that the parking shall continue to be provided and maintained at the same location for the services of the building or use for which such parking is required, during the life of the building or use.
- C. The total parking required for a project may be reduced by up to one hundred percent (100%) as part of a development permit where public parking is provided on-site as part of a public or private development project. Public parking spaces may be applied toward the parking requirements for the use applying no more than a one-for-one standard. The finding shall be made in the development permit by the Director and be based on an alternate peak use, shared parking or parking demand analysis.
- D. The project will provide replacement parking either on site, off-site within reasonable walking distance or pay the current in-lieu fee for the parking required if the project fails to maintain a TDM program.

#### **20.70.340 Increase in Allowed Parking**

The Director may increase the number of parking spaces allowed for a particular use as part of issuing a development permit where the allowed number of spaces will be inadequate to meet the parking demand when the following findings are made:

- A. The number of parking spaces allowed is inadequate to meet the parking requirements of the individual buildings and uses;
- B. The available off-site facilities are not accessible to the building or adequate for uses to be served.

#### **20.70.350 Tandem Parking**

- A. The Director may issue a development permit to allow tandem parking spaces to satisfy up to fifty (50%) percent of the required off-street parking.

- B. This permit shall be issued only upon a finding, based on an adequate parking management plan, that the reconfiguration of spaces will be adequate to meet the parking demand generated by the project.
- C. This finding shall be based upon a parking demand analysis which may include, without limitation, alternate peak use of parking spaces, shared parking, proximity to public transit.

#### **20.70.360 Nonconforming Prior Uses**

Any structure in the Downtown Parking Management Zone legally instituted prior to April 30, 2004 shall be a legal nonconforming use for purposes of this Part.

#### **20.70.370 Enlargement, Intensification or Change in Use**

- A. Any structure which is a legal nonconforming use pursuant to Chapter 20.150 is exempted from the application of this Part, except to the extent of the construction of any additional structure or enlargement of the existing structure.
- B. New structures on parcels that are ten thousand (10,000) square feet or less with up to thirty thousand (30,000) square feet of building area do not need to provide parking.
- C. Additions to structures totaling less than twenty percent (20%) of the existing structure are exempt from providing parking.
- D. Additions to a historic landmark, structures in a historic district, or contributing structures to a historic district, do not need to provide parking if the addition conforms to the Secretary of Interior Historic Design ("Guidelines").

#### **20.70.380 Amount of In-Lieu Fees**

The amount of the in-lieu off-street parking fee shall be set forth in the schedule of fees established by resolution of the City Council.

#### **20.70.385 In-Lieu Fee Fund**

A special fund exists entitled, "The Downtown Parking Management Zone Off-Street Parking In-Lieu Fee Fund". Any in-lieu off-street parking fee collected shall be deposited in said special fund. Moneys deposited in the Downtown Parking Management Zone Off-Street Parking In-Lieu Fee Fund shall be expended only to acquire sites for, and/or pay costs of the construction of, public off-street parking facilities in or near the Downtown Parking Management Zone.

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### **20.70.390 Preferred Parking**

- A. When payment of the in-lieu off-street parking fee has been made, the owners of the subject property may be given preference in the leasing of monthly parking spaces in City off-street parking facilities which are located within reasonable walking distance of the subject property, if such spaces are available. Such spaces may be made available on a monthly basis.
- B. The number of preferential parking spaces shall not exceed the number of required off-street parking spaces for which the in-lieu fee was paid. The preferences under this Section shall remain in effect for a period not to exceed twenty (20) years from date of the issuance of the building permit or the acceptance of the conditional use permit. The granting of these preferences, in any case, shall be at the sole discretion of the City and may be withdrawn at any time once granted.

### **20.70.395 Inconsistent Provisions**

- A. This Part shall control over any inconsistent provisions of this Title. All other requirements set forth in this Chapter, not inconsistent with this Part, shall control over any other inconsistent provisions of this Title.
- B. No variance or exception pursuant to Part 11 of Chapter 20.100 shall apply to any requirement specified in this part.

## **Part 5**

### **Downtown Off-Street Loading Requirements**

#### **20.70.400 General**

Properties in the Downtown Zoning Districts shall be subject to the off-street loading requirements of this Part.

#### **20.70.410 Definitions**

All references to "Off-Street Loading" in this Chapter shall have the definition set forth in 20.90.400 of this Title.

#### **20.70.415 Exemption for Additions to Historic Buildings**

Notwithstanding any other provision of this Title, an addition to a city landmark that increases the original net square feet of the building by up to one hundred (100%) percent shall be exempt from all off-street loading requirements.

**20.70.420 Professional Offices**

Offices with one hundred thousand to one hundred seventy five thousand (100,000 - 175,000) square feet of total gross floor area shall provide one (1) loading space. One additional loading space shall be included for each one hundred thousand (100,000) square feet of total gross floor area in excess of one hundred seventy five thousand (175,000) square feet.

**20.70.430 Retail and Commercial Uses**

- A. Retail and commercial stores and shops, restaurants, bars and drug stores greater than ten thousand (10,000) GFA and less than thirty thousand one (30,001) GFA shall provide one (1) loading space.
- B. Retail and commercial stores and shops, restaurants, bars and drug stores greater than 30,000 GFA and less than 50,001 GFA shall provide two (2) loading spaces.
- C. Retail and commercial stores and shops, restaurants, bars and drug stores greater than 50,000 GFA shall provide two loading spaces plus one (1) loading space for each 25,000 GFA over 50,000 GFA.

**20.70.440 Hotel, Residential and Other Uses**

- A. Hotels, multiple residential dwelling units and all other uses greater than one hundred thousand (100,000) GFA and less than two hundred thousand one (200,001) shall provide one (1) loading space.
- B. Hotels, multiple residential dwelling units and all other uses greater than two hundred thousand (200,000 GFA) and less than five hundred thousand one (500,001) shall provide two (2) loading spaces.
- C. Hotels, multiple residential dwelling units and all other uses greater than five hundred thousand one (500,001) GFA shall provide two (2) loading spaces plus one (1) loading space for each four hundred thousand (400,000) GFA greater than five hundred thousand (500,000) GFA.

**20.70.450 Reduction of Requirement**

- A. The Director may authorize the reduction of two (2) on-site loading spaces to one (1) on-site loading space in connection with the issuance of development permit if the Director finds that sufficient on-street loading space exists to accommodate circulation and manipulation of freight.
- B. The Director may reduce the number of off-street loading spaces based on the available loading space within the public right-of-way.

**20.70.460 Standards**

Loading spaces, driveways and maneuvering space in on-site loading areas shall comply with Sections 20.90.420 through 20.90.430.

**20.70.470 Recycling**

Any new structure approved pursuant to this Title shall provide facilities, circulation and maneuvering space to accommodate participation in the City's recycling program.

**20.70.480 Garbage Enclosure**

Any use that generates garbage, as defined in Section 9.10.120 of this Code, shall provide an enclosed and ventilated space with drain and wash systems adequate to accommodate anticipated waste.

**Part 6  
General Regulations**

**20.70.500 Design Guidelines**

For any project in the Downtown Zoning districts that are subject to a development permit, that project shall be subject to design guidelines adopted by the City Council for the applicable area.

**20.70.510 Late Night Uses and Activity**

- A. No retail commercial establishment, entertainment establishment (without alcohol) shall be open between the hours of 12:00 midnight and 6:00 A.M. in the DC and DC-NT1 districts except with a special use permit as provided in Chapter 20.180 of this Title.
- B. No drinking establishment shall be open between the hours of 12:00 midnight and 6:00 A.M. in the DC or DC-NT1 districts except with a conditional use permit as provided in Chapter 20.100 of this Title.

**20.70.520 Definitions of DG Overlay Area**

- A. "Downtown ground-floor space" ("DG") means ground-floor, street frontage, building space that is located within the areas described as follows:
  - Both sides of Santa Clara Street, between Notre Dame Avenue and Fourth Street;

- Both sides of Fountain Alley, between First Street and Second Street;
- Both sides of Post Street, between Almaden Avenue and Fourth Street;
- Both sides of San Fernando Street, between Almaden Avenue and Fourth Street;
- North side of San Fernando Street, between Fourth and Fifth Streets;
- Both sides of Park Avenue from Market Street, continuing westerly for 540 feet;
- Both sides of Paseo de San Antonio, between Market Street and Fourth Street;
- Both sides of San Carlos Street, between Market Street and Fourth Street;
- Both sides of Almaden Avenue, between Santa Clara Street and San Fernando Street;
- Both sides of San Pedro Street, between St. John Street and San Fernando Street;
- Both sides of Market Street, between St. John Street and San Carlos Street;
- Both sides of First Street, between St. John Street and San Salvador Street;
- Both sides of Second Street, between Santa Clara Street and San Carlos Street;
- Both sides of Third Street, between Paseo de San Antonio and Santa Clara Street;
- East side of Third Street, between San Fernando Street and Santa Clara Street;
- West side of Third Street, from 463 feet north of San Fernando Street to 270 feet south of San Fernando Street;
- Both sides of Fourth Street, from 463 feet north of San Fernando Street to the north side of San Fernando Street; and
- West side of Fourth Street, from the south side of San Fernando Street to 270 feet south of San Fernando Street.

B. DG shall not include ground-floor space that can be segregated from the street frontage portion of the space, in a manner consistent with all applicable codes (as is required by existing law and practice) and that leaves a viable store front space. The clear-height for the ground-floor uses and the available depth of such space should be adequate to accommodate retail uses consistent with the predominant character of retail uses in the immediate vicinity, or to promote a theme or identity of the larger area in which it is located.

## **Part 7 Permit Review Procedures**

### **20.70.600 General**

Except as otherwise provided in this Chapter:

- A. Issuance of any development permits required by this Chapter shall be governed by Chapters 20.100 of this Code.
- B. Issuance of permits or approvals relating to nonconforming uses in the DC and DC-NT1 downtown districts shall be governed by Chapter 20.150 of this Code.
- C. Issuance of any variances for properties in the DC and DC-NT1 district shall be governed by Part 11 of Chapter 20.100 of this Code.

**SECTION 4.** Section 20.90.020 of Chapter 20.90 of Title 20 of the San José Municipal Code is hereby amended to read in its entirety as follows:

### **20.90.020 Applicability**

- A. Every use, including a change or expansion of a use, shall provide, on site, the required off-street parking in compliance with the provisions of this Chapter except for uses in the Downtown Zoning Districts which are governed by Part 2 of Chapter 20.70.
- B. Any building erected, constructed, or moved shall provide, on site, the minimum number of off-street parking spaces set forth in Table 20-190. No building or moving permit shall be issued for any building unless the application specifies the proposed use of the building and the Building Official is satisfied that adequate provision has been or will be made for the parking spaces as are required by the provisions of this Title.

**SECTION 5.** Section 20.90.520 of Chapter 20.90 of Title 20 of the San José Municipal Code is hereby repealed in its entirety.

**SECTION 6.** Part 6 of Chapter 20.90 of Title 20 of the San José Municipal Code is hereby renumbered and amended, to be incorporated in Chapter 20.70 as set forth in Section 3 of this Ordinance.

**SECTION 7.** Part 7 of Chapter 20.90 of Title 20 of the San José Municipal Code is hereby renumbered and amended, to be incorporated in Chapter 20.70 as set forth in Section 3 of this Ordinance.

**SECTION 8.** Section 20.100.220 of Chapter 20.100 of Title 20 of the San José Municipal Code is hereby amended to read in its entirety as follows:

**20.100.220 Appeal - Hearing Body**

Decisions on permits or approvals pursuant to this Chapter are subject to appeal as set forth in Table 20-260 which lists the initial decision maker and the decision making body which will hear any appeal.

<b>Table 20-260 Appeal Hearing Body</b>		
<b>Application</b>	<b>Initial Decision Making Body</b>	<b>Appeal Decision Making Body</b>
Administrative Permit	Director of Planning	No Appeal
Site Development Permit	Director of Planning	Planning Commission
Site Development Permit – Projects within Downtown Districts and exceeding 150 feet and FAR of 6:1	Director of Planning	City Council
Single-Family House Permit Administrative Decision Director's Hearing City Council Public Hearing	Director of Planning Director of Planning City Council	No Appeal Planning Commission No Appeal
Planned Development Permit	Director of Planning	Planning Commission
Special Use Permit	Director of Planning	Planning Commission
Conditional Use Permit	Planning Commission	City Council
Variance	Director of Planning	Planning Commission
Exception	Director of Planning	Planning Commission
Sidewalk Café Permit I	Director of Planning	City Council
Tree Removal Permit	Director of Planning	Planning Commission

**SECTION 9.** 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 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 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, 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 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 one-family house, unless a Permit is otherwise required by this Title.

#### **20.100.630 Findings.**

A. The director, or the planning commission or City Council on appeal, as set forth in Table 20-260, shall grant the site development permit after review of project design, 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, the planning commission, or the City Council, as set forth in Table 20-260, shall deny the application where the information submitted by the applicant and/or presented at the public hearing fails to satisfactorily substantiate such findings.

(Ords. 26248, 26995.)

**SECTION 10.** Section 20.200.295 of Chapter 20.200 of Title 20 of the San José Municipal Code is hereby renumbered to be incorporated into Chapter 20.70, as set forth in Section 3 of this Ordinance.

**SECTION 11.** Section 20.200.575 of Chapter 20.200 of Title 20 of the San José Municipal Code is hereby added to read as follows:

**20.200.575 Information Center**

"Information Center" is a building or portion thereof or place where the primary purpose is providing information to the general public. Information may be communicated through a variety of means, including, but not limited to books, papers, audio, video, three dimensional models, etc for use either on or off the premises. The information may be offered free of charge or for sale. An information center is distinguished from a retail business in that the primary use is the dissemination of information, rather than the sale of retail items or services.

**SECTION 12.** Project shall be subject to the revisions in the Code set forth in this Ordinance according to the following procedures:

**Projects in Process Prior to April 30, 2004**

The following provisions determine how the requirements of this Ordinance shall apply to projects in the development review process at the time this Ordinance becomes **effective on April 30, 2004.**

1. Project with pending applications.
  - a. Development Permit applications that have been accepted as complete by the permitting authority for that application before the effective date of this Ordinance shall be processed according to the requirements in effect when the application was accepted as complete. Applications for time extensions shall be consistent with the requirements of Title 20 that are in

effect when the time extension applications is accepted as complete by the Director of Planning, Building and Code Enforcement or the permitting authority for that application.

- b. Building Permit applications, for projects that do not require a Development Permit, that have been filed with the Building Division before the effective date of this Ordinance shall be processed according to the requirements in effect when the application was accepted as complete by the Building Official.
2. Approved projects not yet under construction. Any approved development project for which construction has not begun as of the effective date of this Ordinance may still be construed as approved, so long as the required Building Permits have been obtained before the expiration of any applicable permit issued pursuant to Title 20 or, where applicable, before the expiration of any approved time extension.
3. Approved projects not requiring construction. Any approved land use not requiring construction that has not been established as of the effective date of this Ordinance may still be established in compliance with its approved permit, so long as establishment occurs before the expiration of the permit or, where applicable, before the expiration of any approved time extension.
4. Projects under construction. A structure that is under construction on the effective date of this Ordinance need not be changed to satisfy any new or different requirements of this Ordinance, so long as construction is completed prior to the expiration of the applicable building permit(s), including any applicable time extensions.

PASSED FOR PUBLICATION of title this 16<sup>th</sup> day of March, 2004, by the following vote:

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

NOES: NONE

ABSENT: CHIRCO; GONZALES

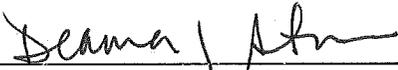
DISQUALIFIED: NONE



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PAT DANDO  
Vice Mayor

ATTEST:



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DEANNA J. SANTANA  
Acting City Clerk