

AN ORDINANCE OF THE CITY OF SAN JOSE AMENDING VARIOUS SECTIONS OF TITLE 20 (ZONING ORDINANCE OR ZONING CODE) OF THE SAN JOSE MUNICIPAL CODE TO: (1) AMEND CHAPTER 20.30 TO INCLUDE AMENDMENTS TO (A) SECTION 20.30.400, TO CLARIFY PEDESTRIAN ACCESS; (B) SECTION 20.30.500, TABLE 20-70, NOTE 2, TO EXCLUDE RETAINING WALLS FROM ACCESSORY STRUCTURES ALONG CORNER LOT SETBACK; AND (C) SECTION 20.30.510 TO CLARIFY REAR YARD COVERAGE; (2) AMEND CHAPTER 20.70, SECTION 20.70.100, TABLE 20-140 TO ALLOW INDOOR SALES OF ZERO EMISSION VEHICLES, AND ADD SECTIONS 20.70.110, 20.70.120, AND 20.70.130 WHICH HAD BEEN INADVERTENTLY DELETED; (3) AMEND SECTION 20.80.175 AND ADD A NEW PART 2.76 OF CHAPTER 20.80 TO ALLOW THE SALE AND CONVEYANCE OF ACCESSORY DWELLING UNIT CONDOMINIUMS; (4) AMEND CHAPTER 20.90, SECTION 20.90.060 TO INCLUDE PREVIOUSLY APPROVED RATIOS FOR LONG-TERM AND SHORT-TERM BICYCLE SPACES, AND ADD SECTION 20.90.150 WHICH HAD BEEN INADVERTENTLY DELETED; (5) AMEND SECTIONS 20.195.010, 20.195.020, 20.195.030 AND 20.195.050 OF CHAPTER 20.195 TO INCLUDE RECENT REFERENCES TO GOVERNMENT CODE SECTIONS FOR HOUSING; AND (6) AMEND SECTION 20.200.1265 OF CHAPTER 20.200 TO CHANGE EXISTING DEFINITION OF 'PERMANENT SUPPORTIVE HOUSING'; 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. 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 and power inverters may project horizontally for a distance of not more than two feet into any setback area;
- 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 ~~which abuts upon a public street shall be not more be higher~~ than two feet above grade ~~nor more than one foot below 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 2. Section 20.30.500 of Chapter 20.30 of Title 20 of the San José Municipal Code is amended to read as follows:

20.30.500 Development Standards

- A. All accessory buildings and accessory structures in the residential zoning districts shall conform to the development regulations set forth below in Table 20-70.
- B. When the right column of Table 20-70 includes a reference to a section number or a footnote, the regulations cited in the section number or footnote apply.

**Table 20-70
Accessory Buildings and Structures Development Regulations**

Front Setback (feet)		
Retaining walls	None	
Swimming pool, built-in	30	
Detached garage on a lot with two intersecting front property lines	25	Note 1

Detached garage with a maximum length of twenty feet that maintains a minimum side setback of five feet	45	
All other accessory buildings and structures	60	
Side Setback (feet)		
Swimming pool, built-in		
Interior lot	5	
Corner lot	9	
All other accessory buildings and structures	None	Notes 2, 3, 8
Rear Setback (feet)		
Swimming pool, built-in	5	
All other accessory buildings and structures	None	Notes 2, 3, 8
Height (feet)		
Retaining wall	2	Note 4
All other accessory buildings and structures	12	
Maximum number of stories	1	
Area (square feet)		
Maximum size (cumulative square feet)	650	Notes 5, 6, 7

Notes:

1. Measured from front property line which is opposite the designated side property line.
2. On a corner lot, no accessory buildings, or accessory structures, excluding fences and retaining walls, shall be built within ten feet of the side property line of adjacent to the street-side.
3. With respect to accessory buildings or accessory structures, where any such building or structure is proposed to be constructed on a corner lot which abuts upon a key lot which is for residential use, such building or structure shall be set back not less than four feet from the rear lot line of such lot, provided that the setback for swimming pools shall not, in any event, be reduced to less than five feet.
4. Maximum height of two feet measured from existing grade, unless a greater height is otherwise approved with a Special Use Permit, pursuant to Chapter 20.100, Part 7 development permit.
5. The size of an individual accessory building or accessory structure or the total aggregate square footage of all accessory buildings and accessory structures built on any property may be increased to exceed six hundred fifty square feet only pursuant to a special use permit, as provided for in Chapter 20.100 of this ~~§~~ Title.
6. For purposes of this ~~s~~ Section, the calculation of square footage shall not include any square footage of an accessory building or accessory structure that is entirely below grade.
7. Per Section 20.200.020, an accessory building shall not contain living space or sleeping quarters, and shall be limited to two plumbing connections to serve an appliance or fixture, and unconditioned space as defined in Title 24 of the San José Municipal Code.
8. Increased setbacks may be required based upon fire and life safety requirements in this Code.

SECTION 3. Section 20.30.510 of Chapter 20.30 of Title 20 of the San José Municipal Code is amended to read as follows:

20.30.510 Rear Yard Coverage

- A. The cumulative total of the rear yard covered by any part of accessory buildings and accessory structures (not including built-in swimming pools) built in the rear yard shall not exceed 40% (forty percent), of which accessory buildings cannot exceed 30% (thirty percent). For the purposes of this Section, eave projections of up to two feet will not be counted towards rear yard coverage for an accessory building and accessory structure.
- B. The cumulative total of the rear yard covered by any part of a built-in swimming pool shall not exceed 60% (sixty percent). In calculating the maximum allowable rear yard coverage for a built-in swimming pool, the cumulative total of any part of any accessory building(s) and structure(s) shall be added to the area of the built-in swimming pool.

SECTION 4. 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 20.200.875
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	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	
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				
Residential shelter	CGP	-	-	Note e
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-site and alternating use parking arrangements	P	P	P	Section 20.90.200
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 20.100.610 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 and repair	P	-	-	Note 2
Sale and lease, vehicles and equipment (less than one ton)	P	-	-	Note 3
<u>Sale and lease, Zero Emission Vehicles and equipment</u>	<u>P</u>	<u>=</u>	<u>=</u>	<u>Note 310</u> <u>Zero Emission Vehicles and Equipment Defined by California Vehicle Code Title 75</u>
Tires, batteries, accessories, lube, oil change, smog check station, air conditioning	P	-	-	Note 4

Sale, vehicle parts, new	P	-	-		
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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. ~~All activity must be conducted indoors.~~ 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.
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.
10. Repealed. 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 Area 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.
- 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 5. Section 20.70.110 is added to Chapter 20.70 of Title 20 of the San José Municipal Code, to be numbered, entitled, and to read as follows:

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 one hundred fifty (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 Director of Planning, Building and Code Enforcement, Planning Commission or City Council.

SECTION 6. Section 20.70.120 is added to Chapter 20.70 of Title 20 of the San José Municipal Code, to be numbered, entitled, and to read as follows:

20.70.120 Live/Work Units

All live-work uses in the Downtown Zoning Districts shall be subject to all of the following criteria:

A. All work activities shall be limited to the permitted uses of the Downtown Zoning Districts adopted, and as amended by the City Council.

B. All work activities and storage shall take place in fully enclosed areas.

C. Prohibited Uses:

1. 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.

2. Entertainment, drinking and public eating establishments.

3. The sale of food and/or beverages.

4. Veterinary services, including grooming and boarding, and the breeding or care of animals for hire or for sale.

5. Storage or recycling, except as incidental to and in support of a permitted use in the Downtown Zoning Districts.

6. Activities involving biological or chemical substances that require a controlled environment or may pose a health hazard.

7. Work activities that involve hazardous material or generate odors, vibration, glare, fumes, dust, electrical interference outside the dwelling or through

vertical separation between the living units, greater than those generated by routine household activities.

D. The living unit must be occupied by an owner, employee, or volunteer of the business associated with the live/work unit.

E. All live/work units must fully comply with any and all Uniform Building Code requirements applicable to the collocation of uses at the particular site.

SECTION 7. Section 20.70.130 is added to Chapter 20.70 of Title 20 of the San José Municipal Code, to be numbered, entitled, and to read as follows:

20.70.130 Incidental Use, Residential

Incidental Transient Occupancy in compliance with Part 2.5 of Chapter 20.80 of a Live/Work Unit or Multiple Dwelling is a permitted incidental use of the dwelling.

SECTION 8. Section 20.80.175 of Chapter 20.80 of Title 20 of the San José Municipal Code is amended to read as follows:

20.80.175 General

Pursuant to Section ~~65852.2 (a)~~ 66314 of the Government Code, this Section provides for the creation of Accessory Dwelling Units in areas zoned to allow single-family or multifamily dwelling residential use. An Accessory Dwelling Unit that conforms to all applicable requirements shall not be considered to exceed the allowable density for the lot upon which it is located and is deemed to be a residential use that is consistent with the existing General Plan and Zoning designations for the lot.

Pursuant to Section ~~65852.2(e)~~ 66321 of the Government Code and notwithstanding any provisions stated in the streamline approval process or any other provision of this Title to the contrary, Accessory Dwelling Units shall be allowed pursuant to the provisions of this Part:

- A. Zoning District. An Accessory Dwelling Unit that is attached to or detached from a one-family dwelling shall be permitted on a lot, consisting of an existing single-family and multi-family dwelling unit.
- B. Number of Units Allowed.
 - 1. Single-Family.

On lots that contain an existing or proposed single-family dwelling, one (1) attached or one (1) detached Accessory Dwelling Unit, and one (1) Junior Accessory Dwelling Unit may be created in any order totaling two (2) units.

2. Multifamily.

On lots that contain an existing or proposed multifamily dwelling structure, one (1) attached or one (1) detached Accessory Dwelling Unit is allowed per lot.

C. Density. An Accessory Dwelling shall not be included in calculation of residential density for the purpose of determining General Plan conformance.

D. Development Standards.

1. Maximum Floor Area. The Accessory Dwelling Units shall comply with all of the following:

- a. If there is an existing primary dwelling, the total floor area of an attached Accessory Dwelling Unit shall not exceed fifty percent (50%) of the existing primary dwelling.
- b. One thousand (1,000) square feet for an Accessory Dwelling on a lot with an area of up to nine thousand (9,000) square feet.
- c. One thousand two hundred (1,200) square feet for an Accessory Dwelling on a lot with an area greater than nine thousand (9,000) square feet.
- d. No maximum for conversion of an existing detached Accessory structure into an Accessory Dwelling Unit.

Table 20-55

<u>Lot size</u>	<u>Maximum floor area</u>
Up to 9,000 square feet	1,000 square feet
Greater than 9,000 square feet	1,200 square feet

2. Height.

- a. A detached one-story Accessory Dwelling shall be limited to a maximum height of eighteen (18) feet.
- b. A detached two-story Accessory Dwelling shall be limited to a maximum roof height of twenty-five (25) feet above grade.
- c. A detached Accessory Dwelling shall not exceed two (2) stories.
- d. An attached Accessory Dwelling shall be limited to a maximum roof height of twenty-five (25) feet above grade and not exceed two (2) stories.

3. Setbacks.

- a. Front setback: Front setback of the zoning district, unless such setback prohibits an eight hundred (800) square foot Accessory Dwelling Unit.
- b. Side setback: 0 feet
- c. Rear setback: 0 feet
- d. Existing structures converted into an Accessory Dwelling Unit may maintain existing setbacks.
- e. Second Story Accessory Unit - A minimum setback of four (4) feet from the side and rear lot lines, with an overhang of one (1) foot or less, shall be required for any second story of a detached Accessory Dwelling.
- f. 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.

4. Required Facilities.

An Accessory Dwelling shall include all of the following facilities:

- a. A kitchen (including a sink, food preparation counter, storage cabinets, and permanent cooking facilities such as a range or cooktop that meet Building Code standards); and

- b. A full bathroom (including sink, toilet, and shower and/or bath facilities).
5. Siting.
- a. An attached Accessory Dwelling shall share a common wall with the One-Family or multiple family Dwelling or shall share an integral roof structure having the same framing system and roof covering as the One-Family or multiple family Dwelling and shall be separated from the One-Family or multiple family Dwelling by no more than ten (10) feet at any given point.
 - b. A detached Accessory Dwelling shall be located in the rear yard of the lot of the One-Family Dwelling or shall be required to meet minimum setback requirements for an Accessory Building in accordance with Section 20.30.500, except that a new detached Accessory Dwelling Unit that maintains a minimum interior side setback of four (4) feet may be located at a distance of forty-five (45) feet from the front property line.
 - c. A detached Accessory Dwelling shall be located at least six (6) feet away from the One-Family or multiple family Dwelling.
 - d. A detached Accessory Dwelling may be attached to an existing or proposed accessory building, including a garage so long as current Building Code requirements and requirements to address fire or safety hazards are met. A detached Accessory Dwelling that is attached to an existing or proposed accessory building, including a detached Accessory Dwelling constructed above an existing or proposed Accessory Building or basement, shall not have any connecting opening between the Accessory Building and Accessory Dwelling, unless all connected areas meet current Building Code and Fire Code requirements, and the maximum gross square footage for all connected areas does not exceed the limits set forth in Section 20.80.175 C and/or Section 20.80.175 G above. Notwithstanding the provisions above, a detached Accessory Dwelling that is attached to an existing or proposed garage may have a connecting opening, provided the garage does not have a connecting opening to any other Accessory Building not used as a garage, and such garage area shall not be included in the maximum Accessory Dwelling floor area tabulation. All Accessory Buildings and Structures shall meet

the requirements in accordance with Section 20.30.500, and all connected areas shall meet current Building Code and Fire Code requirements.

- e. The cumulative total of the rear yard covered by the Accessory Dwelling, Accessory Buildings, and Accessory Structures, except pools, shall not exceed forty percent (40%) of the rear yard except that such ratio shall not prohibit an eight hundred (800) square foot Accessory Dwelling Unit with minimum four (4) foot side and rear yard setbacks.
 - f. If situated on a lot that is equal to or greater than one-half (½) an acre in size, an Accessory Dwelling shall be located more than one hundred (100) feet from a riparian corridor as measured from top of bank or vegetative edge, whichever is greater.
6. Roof. Roof height shall be determined in accordance with San José Municipal Code Section 20.200.510.
- E. Design Standards. Accessory Dwellings shall comply with the following design standards:
- 1. Any new addition for an attached Accessory Dwelling Unit, on a property listed on the San José Historic Resources Inventory, shall be located along the rear wall of an existing primary dwelling, unless the Accessory Dwelling Unit is fully enclosed within the existing building walls.
 - a. The attached Accessory Dwelling Unit shall not result in the enclosure of or net loss of any existing porch, unless such porch is located along the rear façade, and the enclosure of or net loss does not exceed ten percent (10%) or more of an existing porch.
 - b. The roofline and materials of the attached Accessory Dwelling Unit shall be differentiated from the primary dwelling.
 - c. A detached Accessory Dwelling Unit may be constructed on any property listed on the City's Historic Resources Inventory, provided the Accessory Dwelling Unit is set back at least forty-five (45) feet from the front property line.
 - 2. The front door of any attached Accessory Dwelling shall not be located on the same facade as the front door of the One-Family Dwelling if that facade

fronts onto a street, unless all other locations for placement of the Accessory Dwelling front door would require a passageway as defined in Government Code Section 66314(d)(6)-65852.2(i)(5).

3. Any portion of balconies and landings with areas greater than fifty percent (50%) enclosed with walls and covered shall be included in the total unit floor area, measured to exterior framing, except that the floor area of an internal stairwell will be counted once.
4. Any porches or balconies that project beyond the footprint of the Accessory Dwelling Unit shall be included in the cumulative total of the rear yard coverage tabulation.

- F. Application-Owner Certification. ~~As part of the building permit application process for an Accessory Dwelling, the owner of record shall submit a declaration, under penalty of perjury, stating that the Accessory Dwelling is not intended for sale separate from the primary residence, but may be rented.~~ Nothing in this Section shall be deemed to affect the legal status of an Accessory Dwelling built with a lawfully issued permit if the property is subsequently transferred or sold, or if the one-family dwelling or Accessory Dwelling is subsequently rented or leased.

The requirements of Subsection F shall not apply to an Accessory Dwelling Unit constructed on a property developed by a Qualified Non-profit Corporation and there is an enforceable restriction on the use of the land pursuant to a recorded contract between the qualified buyer and the qualified nonprofit corporation that satisfies all of the requirements specified in paragraph (10) of subdivision (a) of Section 402.1 of the Revenue and Taxation Code. Accessory Dwelling Units meeting these requirements may be sold or conveyed separately from the primary residence to a qualified buyer in conformance with Government Code Section 65852.25 or that has been reviewed and approved by the process stated in Section 20.80.177 of this Municipal Code.

- G. Compliance with Building and Zoning Codes. An Accessory Dwelling shall be built in accordance with the building code set forth in Title 24 of the San José Municipal Code and in conformance with Title 20 of the San José Municipal Code.
- H. Located on One Lot. An Accessory Dwelling shall be located within the same subdivision unit and on the same legal parcel as the One-Family Dwelling or multiple dwelling to which it is ancillary.
- I. Parking. No off-street parking spaces are required for an Accessory Dwelling Unit, and the applicant shall not be required to replace any covered parking spaces that

are removed or demolished as a result of the construction of the Accessory Dwelling Unit.

- J. Other Legal Requirements. Accessory Dwelling Units shall comply with all other applicable legal requirements that are not inconsistent with this Chapter.

SECTION 9. A new Part is added to Chapter 20.80 of Title 20 of the San José Municipal Code, to be numbered, entitled, and to read as follows:

Part 2.76

Accessory Dwelling Unit Condominium

20.80.181 Purpose and Applicability

This Part implements Government Code Section 66342, herein referred to as Assembly Bill 1033 (AB 1033). The purpose of this Part is to apply objective local development standards for subdivisions covered by AB 1033. This Part is applicable only so long as AB 1033 is operative.

Where this Part or AB 1033 conflict with any other provisions of this Code, this Part and AB 1033 shall control. Any development standard or requirement not specifically addressed by this Part or AB 1033 must conform to all other provisions of this Code and all other objective policies and requirements governing subdivisions.

20.80.183 Permit Required

Pursuant to Government Code Section 66342, this Section provides for the streamlined approval for conversion of existing or new Accessory Dwelling Units (ADU) into condominiums. These condominiums shall be sold or otherwise conveyed separate from the primary residence only under the conditions outlined in this Part or pursuant to Government Code Section 66341. No condominium conversion to a project shall be permitted in any district unless permitted in such district and without obtaining approval of a Parcel Map pursuant to the provisions of this Title and Title 19 of the San José Municipal Code.

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 section may also include the subdivision of up to two 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.
- 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 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 10. Section 20.90.060 of Chapter 20.90 of Title 20 of the San José Municipal Code is amended to read as follows:

20.90.060 Parking Spaces

A. Off-Street Vehicle Spaces.

- ~~1.~~ All vehicle parking spaces may be any combination of sizes as set forth in Section 20.90.100, with the exception that no more than 40% of the spaces may be designated as small car spaces.

B. Number of Bicycle Parking Spaces Required.

1. The minimum number of bicycle parking spaces required for uses permitted under this ~~title~~ is set forth in Table 20-190.
2. Except as otherwise expressly permitted in this ~~Chapter~~, the minimum number of bicycle parking spaces required under this ~~title~~ shall be provided on private property on a parcel or development site in an area, other than a public street, public way, or other public property, permanently reserved or set aside for bicycle parking spaces.
3. A minimum of two short-term bicycle parking spaces and one long-term bicycle parking space shall be provided for each site that has a nonresidential use set forth in Table 20-190.
4. If the number of bicycle parking spaces hereinafter required contains a fraction, such number shall be rounded to the nearest higher whole number.
5. When part or all of the bicycle parking spaces required for a land use is based on the number of full-time employees, that portion shall be provided in long-term bicycle parking facilities. When part or all of the bicycle parking spaces required for a land use is based on classrooms, that portion shall be provided in short-term bicycle parking facilities. When the bicycle parking required for a land use is based solely on square footage or other criteria in the table, at least eighty percent of the bicycle parking spaces shall be provided in short-term bicycle parking facilities and at most twenty percent shall be provided in long-term bicycle facilities.
6. For bicycle parking spaces for multiple-dwelling residential use, at least sixty percent (60%) of the bicycle parking spaces shall be provided in long-term bicycle parking facilities, and at most forty percent (40%) shall be provided in short-term bicycle facilities.

Table 20-190
Bicycle Parking Spaces Required by Land Use and TDM Land Use
Categorization

Use			Bicycle Parking Required	TDM Use Category
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Agriculture and Resource Uses				
Agriculture and Resource Uses			1 per 10 full-time employees	OTH
Education and Training				
Day care center			1 per 10 full-time employees and children	CEU
Instructional studios			1 per 3,000 sq. ft. of floor area	VEU
Private instruction, personal enrichment			1 per 10 students and full-time employees	VEU
School-elementary (K - 8)			1 per 10 full-time employees plus 6 per classroom	CEU
School- secondary (9 - 12)			1 per 10 full-time employees plus 10 per classroom	CEU
School, post-secondary			1 per 10 full-time employees plus 10 per classroom	CEU
School, trade and vocational			1 per 10 full-time employees plus 10 per classroom	CEU
Entertainment and Recreation				
Arcade, amusement game			1 per 3,000 sq. ft. of floor area	VEU
Batting cages			1 per 10 full-time employees plus one per 6 stations	VEU
Bowling establishment			1 per 2 lanes	VEU
Driving range			1 per 10 full-time employees plus 1 per 10 tees	OTH
Golf course			1 per 10 full-time employees plus 1 per 2 golf holes	OTH
Health club, gymnasium			1 per 1,600 sq. ft. of recreational space	VEU
Miniature golf			1 per 10 full-time employees plus 1 per 6 tees	VEU

Performing arts rehearsal space			1 per 4,000 sq. ft. of floor area	VEU
Poolroom/billiards establishment			1 per 3,000 sq. ft. of floor area	VEU
Private club or lodge			1 per 60 fixed seats on the premises, or 1 per 90 linear feet of seating, plus 1 per 3,000 sq. ft. of area without seating but designed for meeting or assembly by guests, plus 1 per 5,000 sq. ft. of outdoor area developed for recreational purposes	VEU
Recreation, commercial (indoor)			1 per 1,600 sq. ft. of recreational area; for uses requiring reservation, appointments, or classes with limited attendance, 1 per 10 guests;	VEU
Recreation, commercial (outdoor)			2 per acre of site	VEU
Relocated cardroom			1 per 800 sq. ft. area devoted to card games	VEU
Skating rink			1 per 1,000 sq. ft. of floor area	VEU
Swim and tennis club			1 per 5,000 sq. ft. of recreation area	VEU
Motion picture theatre, indoor			1 per 45 seats in theaters with 1-3 screens; 1 per 50 seats with 4+ screens	VEU
Motion picture theatre, outdoor			1 per 3,000 sq. ft.	VEU

Theaters, auditoriums, sports arenas, and stadiums- with or without fixed seats			1 per 60 fixed seats on the premises, plus 1 per 100 linear feet of fixed benches, or 1 per 450 sq. ft. of area used for assembly	VEU
Food Services				
Banquet facility			1 per 50 seats or 1 per 800 square feet of dining area, whichever requires the greater number of parking spaces	VEU
Caterer			1 per 50 seats or 1 per 800 sq. ft. of dining area, whichever requires the greater number of parking spaces	OTH
Commercial kitchen			1 per 3,000 sq. ft. of floor area	OTH
Drinking establishments			1 per 50 seats or 1 per 800 sq. ft. of dining area, whichever requires the greater number of parking spaces	VEU
Entertainment (with any food or alcohol service)			1 per 800 sq. ft. of area open to the public	VEU
Outdoor dining incidental to a public eating establishment or a retail establishment			1 space per 50 seats	VEU
Public eating establishments			1 per 50 seats or 1 per 800 sq. ft. of dining area, whichever requires the greater number of parking spaces	VEU
Take-out only establishment (including but not limited to pizza delivery, ice cream shops, doughnut shops)			1 per 750 sq. ft. of area open to the public	VEU

Taproom or tasting room			1 per 50 seats or 1 per 800 sq. ft. of drinking area, whichever requires the greater number of parking spaces	VEU
Winery, brewery, or distillery with a taproom or tasting room			1 per 300 sq. ft. of floor area and 1 per 10 full-time employees	OTH
General Retail				
Alcohol, off-site sales			1 per 4,000 sq. ft. of floor area	VEU
Food, beverages, and groceries			1 per 3,000 sq. ft. of floor area	VEU
Nursery, plant			1 per 3,000 sq. ft. of floor area	VEU
Open air sales establishments and areas			1 per 3,000 sq. ft. of floor area	VEU
Outdoor vending			2 parking spaces	VEU
Pawn shop/broker			1 per 3,000 sq. ft. of floor area	VEU
Retail sales, goods and merchandise			1 per 3,000 sq. ft. of floor area	VEU
Retail sales of furniture			1 per 4,000 sq. ft. of floor area	OTH
Retail art studio			1 per 3,000 sq. ft. of floor area	VEU
Sales, appliances, industrial equipment, and machinery			1 per 10,000 sq. ft. of floor area	OTH
Neighborhood shopping center (minimum 100,000 sq. ft. in size), includes a mix of permitted, special, and conditional uses			1 per 3,000 sq. ft. of floor area at publicly accessible entrances with locations to be determined through a development permit	VEU
Neighborhood shopping center (minimum 20,000 sq. ft. in size), includes a mix of permitted, special, and conditional uses			1 per 3,000 sq. ft. of floor area at publicly accessible entrances with locations to be determined through a development permit	VEU

General Services				
Bed and breakfast inn			1 per space plus 1 per 10 guest rooms	CEU
Crematory			1 per 10 full-time employees	OTH
Dry cleaner			1 per 3,000 sq. ft. of floor area	VEU
Hotel or motel			1 space plus 1 per 10 guest rooms	CEU
Laundromat			1 per 3,000 sq. ft. of floor area	VEU
Maintenance and repair, small consumer goods			1 per 3,000 sq. ft. of floor area	VEU
Messenger services			1 per 3,000 sq. ft. of floor area	OTH
Mortuary and funeral services			1 per 10 full-time employees	VEU
Mortuary, excluding funeral services			1 per 10 full-time employees	OTH
Personal services			1 per 3,000 sq. ft. of floor area	VEU
Photo processing and developing			1 per 3,000 sq. ft. of floor area	VEU
Printing and publishing			1 per 5,000 sq. ft. of floor area	OTH
Social service agency			1 per 4,000 sq. ft. of floor area	VEU
Health and Veterinary Services				
Animal boarding, indoor			1 per 10 full-time employees	VEU
Animal grooming			1 per 3,000 sq. ft. of floor area	VEU
Emergency ambulance station			1 per 10 full-time employees	OTH
Hospital/in-patient facility			1 per 25 beds	CEU
Office, medical			1 per 4,000 sq. ft. of floor area	VEU
Veterinary clinic			1 per 4,000 sq. ft. of floor area	VEU

Industry				
Commercial support			1 per 5,000 sq. ft. of floor area	VEU
Establishment for the repair, cleaning of household, commercial or industrial equipment or products			1 per 5,000 sq. ft. of floor area	OTH
Hazardous materials storage facility			1 per 10 full-time employees	OTH
Hazardous waste facility			1 per 10 full-time employees	OTH
Industrial services			1 per 5,000 sq. ft. of floor area	OTH
Junkyard			1 per 10 full-time employees	OTH
Laboratory			1 per 5,000 sq. ft. of floor area	CEU
Manufacturing and assembly, light, medium, heavy			1 per 5,000 sq. ft. of floor area	OTH
Miniwarehouse/ministorage			1 per 10 full-time employees	VEU
Outdoor storage			1 per 10 full-time employees	OTH
Private power generation			1 per 10 full-time employees	OTH
Research and development			1 per 5,000 sq. ft.	CEU
Stockyard, including slaughter			1 per 10 full-time employees	OTH
Warehouse			1 per 10 full-time employees	OTH
Warehouse retail			1 per 10 full-time employees	VEU
Wholesale sale establishment			1 per 20,000 sq. ft. of floor area	OTH
Offices and Financial Services				
Automatic teller machine (free standing)			1 per 10 machines	VEU

Business support			1 per 3,000 sq. ft. of floor area	VEU
Financial institution			1 per 4,000 sq. ft. of floor area	VEU
Offices, general business			1 per 4,000 sq. ft. of floor area	CEU
Offices, research and development			1 per 4,000 sq. ft. of floor area	CEU
Private security			1 per 4,000 sq. ft. of floor area	CEU
Public, Quasi-Public and Assembly Uses				
Cemetery			1 per 10 full-time employees	OTH
Church/religious assembly			1 per 60 fixed seats, or 1 per 90 linear feet of seating, or 1 per 450 sq. ft. of area designed for assembly, used together or separately for worship	VEU
Community television antenna systems			1 per 10 full-time employees	OTH
Museums and libraries			1 per 4,000 sq. ft. of floor area open to the public	VEU
Parks and playgrounds			1 per 5,000 sq. ft. of outdoor recreation space	VEU
Community centers			1 per 60 fixed seats, or 1 per 90 linear feet of seating, plus 1 per 3,000 sq. ft. of area without seating but designed for meeting or assembly by guests, plus 1 per 5,000 sq. ft. of outdoor area developed for recreational purposes	VEU
Utility facilities, excluding corporation yards, storage or repair yards and warehouses			1 per 10 full-time employees	OTH

Recycling Uses				
Processing facility			1 per 10 full-time employees	OTH
Transfer facility			1 per 10 full-time employees	OTH
Small collection facility			1 per 10 full-time employees	VEU
Residential				
Co-living community with shared full kitchen facilities			Long-term - .25 spaces per bedroom. Except for buildings containing over 100 bedrooms, 25 long-term spaces plus .20 long-term spaces for every bedroom over 100. Short-term 2 spaces for every 100 bedrooms	HEU
Emergency residential shelter			1 per 5,000 sq. ft. of floor area	HEU
Guesthouse			1 per 10 guest rooms plus 1 per 10 full-time employees	HEU
Live/work			1 per 5,000 sq. ft. of floor area	HEU
Living quarters, custodian, caretakers			1 per 10 living units	HEU
Multiple dwelling			1 per 4 living units	HEU
One family dwelling			None	HEU
Residential care or service facility			1 per 10 full-time employees	CEU
SRO facilities within 2,000 ft. of public transportation			1 per SRO unit	HEU
SRO residential hotels				CEU
SRO living unit facilities with shared kitchen and bathroom facilities				HEU
SRO living unit facilities with partial or full kitchen and bathroom facilities				HEU

SRO facilities not within 2,000 ft. of public transportation			1 per SRO unit	HEU
Sororities, fraternities, and dormitories occupied exclusively (except for administrators thereof) by students attending college or other educational institutions			1 per guest room plus 1 per 10 full-time employees	HEU
Temporary farm labor camp necessary to the gathering of crops grown on the site			None	OTH
Travel trailer parks			1 per 10 full-time employees	OTH
Two family dwelling			None	HEU
Transportation and Utilities				
Common carrier depot			1 per 10 full-time employees	OTH
Data center			1 per 5,000 sq. ft. of office/meeting/technician work space, plus 1 for each 50,000 sq. ft. of floor area, or fraction thereof devoted to computer equipment space	OTH
Television and radio studio			1 per 5,000 sq. ft. of space devoted to office use	OTH
Wireless communication antenna			1 per site	OTH
Accessory installation, passenger vehicles and pick-up trucks			1 per 10 full-time employees	VEU
Auto broker, w/on-site storage			1 per 10 full-time employees	CEU
Auto dealer, wholesale, no on-site storage			1 per 10 full-time employees	CEU

Car wash			1 per 10 full-time employees	VEU
Fuel service station or charge station, no incidental service or repair			1 per 10 full-time employees	VEU
Fuel service station or charge station with incidental service and repair			1 per 10 full-time employees	VEU
Glass sales, installation and tinting			1 per 10 full-time employees	VEU
Repair and cleaning per detailing of vehicles			1 per 10 full-time employees	VEU
Sale or lease of vehicles			1 plus 1 per 10 full-time employees	VEU
Exclusively indoors sales			1 plus 1 per 10 full-time employees	VEU
Auto rental agency			1 plus 1 per 10 full-time employees	VEU
Sale, vehicle parts			1 plus 1 per 10 full-time employees	VEU
Tires, batteries, accessories, lube, oil change, smog check station, air conditioning			1 plus 1 per 10 full-time employees	VEU
Tow yard			1 per 10 full-time employees	OTH
Vehicle wrecking, including sales of parts			1 per 10 full-time employees	OTH

**Table 20-211
Multiple Dwellings in the Pedestrian Oriented Zoning Districts**

	Vehicle Parking Spaces	Bicycle Parking Spaces
Minimum required spaces	N/A	1 per living unit
Maximum required spaces	2.0 per living unit	None

SECTION 11. Section 20.90.150 is added to Chapter 20.90 of Title 20 of the San José Municipal Code, to be numbered, entitled, and to read as follows:

20.90.150 Vehicle Parking Facilities in Residence Districts - Restrictions

In a residential district, no conditional use permit shall be issued for a parking facility intended to serve non-residential uses, unless all of the following conditions are met:

1. The residential district is immediately adjacent to the non-residentially zoned land where the business or other use to be served by such parking is located.
2. Use of the parking is limited to passenger vehicles belonging to the users of the adjacent business or use being served by the parking.
3. Use of the parking is limited to the hours of operation of the adjacent business or use being served.
4. The following criteria and standards are met:

The minimum lot area and front and corner lot side setbacks of the Residence District are met.

- a. The minimum rear and interior lot side setbacks are ten (10) feet
- b. All setback areas and all other areas not required for parking spaces or circulation are landscaped.
- c. No part of any parking space, parking aisle or driveway shall be more than one hundred (100) feet from such nonresidential site.
- d. No driveway access is permitted from a public street unless either the public street is one that is designated an arterial or major collector by the General Plan of the City of San José, or the driveway is located within one hundred and fifty (150) feet of such a designated street.

SECTION 12. Section 20.195.010 of Chapter 20.195 of Title 20 of the San José Municipal Code is amended to read as follows:

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; and
- C. 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.

SECTION 13. Section 20.195.020 of Chapter 20.195 of Title 20 of the San José Municipal Code is amended to read as follows:

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. "Ministerial Approval" means:
 - a. Any approval related to a housing development, Agricultural Employee Housing, ~~or a~~ 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.
 4. "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.

5. "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.
6. "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.
7. "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.
8. "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.
9. "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.
10. "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.
119. "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.
120. "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.

131. "Housing Development Project" has the same meaning as defined in Government Code Section 65589.5, or as later amended.

SECTION 14. Section 20.195.030 of Chapter 20.195 of Title 20 of the San José Municipal Code is amended to read as follows:

20.195.030- Ministerial Approval

- A. Ministerially Approved Developments. The City will Ministerially Approve a housing development, Eligible Agricultural Employee Housing, ~~or~~ 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 171021.8 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 and 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 QAHO'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.

SECTION 15. Section 20.195.050 of Chapter 20.195 of Title 20 of the San José Municipal Code is amended to read as follows:

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, or 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 provisions 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.

75. 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.
86. 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.

SECTION 16. 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 (f) 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~~ Title as a residential use and shall be allowed in residential, commercial, public/quasi-public, and the downtown zoning districts. Pursuant to 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.

PASSED FOR PUBLICATION of title this _____ day of _____, 2024, by the following vote:

AYES:

NOES:

ABSENT:

DISQUALIFIED:

MATT MAHAN
Mayor

ATTEST:

TONI J. TABER, CMC
City Clerk