

10.3 PP24-004 – Emergency Residential Shelters- An Ordinance Amending Various Sections of Title 20 of the San Jose Municipal Code (Zoning Ordinance or Zoning Code) Related to Emergency Residential Shelters.

Recommendation:

Approve an ordinance amending various sections of Title 20 (Zoning Ordinance or Zoning Code) of the San José Municipal Code to amend the definition of emergency residential shelters, amend the allowed use of emergency residential shelters, through use permit and by right, in the Commercial Pedestrian Zoning District, Commercial Neighborhood Zoning District, Commercial General Zoning District, Public/Quasi Public Zoning District, and Urban Village and Mixed Use Zoning Districts, and amendments to allow a streamlined ministerial approval process for emergency residential shelters.

CEQA: Not a Project, File No. PP17-008, General Procedure and Policy Making resulting in no changes to the physical environment. Planning Commission recommends approval (6-5; Oliverio, Garcia, Casey, Baracio, Bickford opposed) (Item 5.c. on the 5/22/2024 Planning Commission agenda). (Planning, Building and Code Enforcement)



Memorandum

TO: HONORABLE MAYOR
AND CITY COUNCIL

FROM: Planning Commission

SUBJECT: SEE BELOW

DATE: May 29, 2024

COUNCIL DISTRICT: Citywide

SUBJECT: PP24-004 - EMERGENCY RESIDENTIAL SHELTERS. AN ORDINANCE AMENDING VARIOUS SECTIONS OF TITLE 20 OF THE SAN JOSÉ MUNICIPAL CODE (ZONING ORDINANCE OR ZONING CODE) RELATED TO EMERGENCY RESIDENTIAL SHELTERS

RECOMMENDATION

The Planning Commission voted 6-5-0 to recommend the City Council take the following action:

1. Adopt an ordinance amending various sections of Title 20 (Zoning Ordinance or Zoning Code) of the San José Municipal Code to amend the definition of emergency residential shelters, amend the allowed use of emergency residential shelters, through use permit and by right, in the Commercial Pedestrian Zoning District, Commercial Neighborhood Zoning District, Commercial General Zoning District, Public/Quasi Public Zoning District, and Urban Village and Mixed Use Zoning Districts, and amendments to allow a streamlined ministerial approval process for emergency residential shelters.

SUMMARY AND OUTCOME

Approval of the proposed Municipal Code amendments will amend various chapters within Title 20, Zoning Code, as described in the Analysis section below, to address the City's inadequate shelter capacity. The amendments will permit emergency residential shelters with 100 beds or fewer by right through a ministerial approval process in the identified zoning districts.

BACKGROUND

The proposed Zoning Code update would incorporate required Zoning Code modifications to (a) comply with state law, specifically Assembly Bill 2339 (2022), (b) comply with Housing Element recommendations, and (c) ensure that Title 20 of the Zoning Code is consistent with the provisions of Assembly Bill 2176 and the Emergency Shelter Crisis, as outlined in Title 5.

Assembly Bill 2339 requires that emergency residential shelters be permitted by right in at least one zoning district that allows for residential, including mixed use. This ordinance amends the permitted use of “emergency residential shelters” in zoning districts that already allow for them. The identified zoning districts include Commercial Pedestrian, Commercial Neighborhood, Commercial General, Public/Quasi-Public, and Urban Village and Mixed Use. These zoning districts already permit, by right, Low Barrier Navigation Centers, which are defined as emergency residential shelters under Assembly Bill 2339.

ANALYSIS

A complete analysis of the Zoning Ordinance amendments is contained in the Planning Commission staff report dated May 22, 2024 (attached).

EVALUATION AND FOLLOW-UP

If the proposed Zoning Code update changes are approved by City Council, the new Ordinance will be effective 30 days after the second reading.

COORDINATION

The preparation of the proposed ordinance and this memorandum were coordinated with the City Attorney’s Office.

PUBLIC OUTREACH

This memorandum will be posted on the City’s Council Agenda website for the June 11, 2024, City Council meeting.

Staff conducted various outreach meetings with interested stakeholders throughout March and April 2024 and held a community meeting on April 11, 2024. The attached Planning Commission staff report contains a description of stakeholder and community outreach related to this ordinance.

Staff followed Council Policy 6-30: Public Outreach Policy regarding public outreach for this proposal. A notice of the community meeting was posted on the City’s website. A public hearing notice, including the Planning Commission and City Council hearing dates, was published in the San José Post-Record and emailed to a list of interested groups and individuals. Staff posted the hearing notice, staff report, and draft ordinance on the PBCE Department website. Staff has been available to respond to questions from the public.

COMMISSION RECOMMENDATION AND INPUT

On May 22, 2024, the Planning Commission conducted a public hearing on the proposed Zoning Code updates. Staff presented a background and summary of the proposed changes for the Commission. There were no comments from the public.

Commissioner Cantrell inquired how many congregate shelters would be developed as a result of the proposed zoning code updates and how many beds those congregate shelters would represent. Staff explained that capacity calculations were done based on a vacant sites analysis to determine what the additional capacity would be using vacant sites within the identified zoning districts, which is 1,900 beds. Staff clarified that this capacity exercise does not predict where or when these shelters will open. Staff also clarified that while the existing definition of emergency residential shelter states a building, singular, staff intends to further update the definition in the next phase of work to be more inclusive of non-congregate shelter, e.g., including structures, a series of structures or buildings, tiny homes, and prefabricated stacked modular buildings.

Commissioner Bickford inquired about the identified zoning districts, and whether all zoning districts outside of residential would now be available for emergency housing. Staff noted that each of the identified zoning districts already allow for emergency residential shelters through a use permit and Low Barrier Navigation Centers by right. Staff clarified that the allowance of emergency residential shelters is not being added to new zoning districts, the process of how they are being permitted is what is changing.

Commissioner Oliverio inquired about the level of AB 2339 compliance across the state and which other cities in the region are in compliance. Staff responded that compliance across the state varies because some cities may have already been in compliance, did not have a deficit or had a smaller deficit in capacity, or are not in compliance because they do not yet have an adopted or certified Housing Element. Staff noted that within the region, the City of Mountain View is in compliance.

Commissioner Oliverio further inquired on whether staff was going above and beyond in their identification of zoning districts and whether low barrier is a requirement of AB 2339. Staff explained that while the identification of more than one zoning district can be considered going above and beyond, the zoning districts identified already allow for emergency residential shelters through a use permit and Low Barrier Navigation Centers by right through a different state law (AB 101). Since Low Barrier Navigation Centers are now considered emergency residential shelters under AB 2339, staff is proposing updating the permitting process within the zoning districts identified to align both uses (emergency residential shelter and Low Barrier Navigation Center) so there is no conflict or misalignment between the uses. Staff further explained that through AB 2339, with Low Barrier Navigation Centers now being considered emergency residential shelters, low barrier to entry, as a form of interim intervention, is a requirement. Staff would not have discretion to remove the requirement of low barrier and can only evaluate projects on the objective standards prescribed in AB 2339.

Commissioner Oliverio further inquired whether staff had any concerns about the identified zoning districts, noting that there would be no public hearing or input from community members, and requested clarification on existing capacity. Staff responded that they are comfortable with the identified zoning districts because those zoning districts already allow for Low Barrier Navigation Centers by right through existing state law, which meets the definition of emergency residential shelters as codified within AB 2339. Staff clarified that they are not aware of any significant concerns or issues around Low Barrier Navigation Centers within these zoning districts. Staff also clarified for emergency residential shelters with over 100 beds, a use permit would be required which would give the community an opportunity to provide input. Staff noted that since 2010, only two project sites have gone through the use permitting process. Staff clarified that as part of the exercise on capacity, using a vacant sites analysis, there are currently 4,450 beds in CIC. The additional 1,900 beds in the identified zoning districts would provide the capacity required by law, with a total of 6,350, for the 2023 PIT Count of 6,266. Staff further noted that conducting a nonvacant sites analysis would require much more rigor, similar to the process of conducting the sites inventory for the Housing Element, and would require evidence that the existing use could be discontinued and converted into emergency residential shelter.

Commissioner Tordillos inquired whether shelter operators expressed interest in a higher number (150) for maximum occupancy by right, and what additional costs or time would be added onto the operator for a use permit. Staff noted there were several conversations about the number for maximum occupancy by right and wanted to balance the number between shelter operators, community input, and capacity of existing shelters which mostly range around 100. Staff also wanted a number that would balance between both congregate and non-congregate shelters as staff would not have discretion on operations plans. Staff also noted that a Conditional Use Permit could cost approximately \$25,000 and with an approximately seven-month review timeline, although it could be longer.

Commissioner Tordillos noted a recent tour of a San Mateo County navigation center operated by LifeMoves, which also operates in the City of San José, and that the navigation center was clean, orderly, and operated well through a stacked modular design, and would like to see similar development in the City of San José.

Commissioner Ornelas-Wise commented on the importance of providing shelter and housing for the City's unhoused residents as well as preserving neighborhoods. Commissioner Ornelas-Wise noted concerns about overconcentration and inquired whether staff would have the ability to set permit conditions on projects allowed by right. Staff explained that through the ministerial approval process, projects are still subject to staff review and staff can coordinate with development review partners to apply conditions of approval for standard permitting conditions, such as nuisance and noise control.

Commissioner Lardinois expressed appreciation for the next phase of work staff will execute to include non-congregate shelters and wanted to confirm whether staff will be looking into length of stay as part of that next phase of work.

Staff confirmed that extending the length of stay would be part of the next phase of work.

Commissioner Rosario commented on the unanimous passing of Senate Bill (SB) 1395 and commended staff on taking the steps to push the City forward, as SB 1395 revises the definition of Low Barrier Navigation Center to specify that they can be non-congregate and relocatable.

Prior to the vote, Commissioner Oliverio requested to document the reasons for his “no” vote: other cities are not pulling their fair weight in the county or state, by right processes eliminate democracy and the opportunity to provide input in front of elected representatives, overall skepticism of state overreach of local controls, and preference for a narrower adoption of AB 2339.

Commissioner Ornelas-Wise made a motion to recommend approval of the staff recommendation. Commissioner Cantrell seconded this motion. The Planning Commission voted 6-5-0, with Commissioners Barocio, Bickford, Casey, Garcia, and Oliverio voting no, to recommend the City Council approve this item per staff’s recommendation.

CEQA

Not a Project, File No. PP17-008, General Procedure & Policy Making resulting in no changes to the physical environment.

PUBLIC SUBSIDY REPORTING

This item does not include a public subsidy as defined in section 53083 or 53083.1 of the California Government Code or the City’s Open Government Resolution.

/s/

Chris Burton
Secretary, Planning Commission

For questions, please contact Jerad Ferguson, Principal Planner, at email or (669) 223-1160.

ATTACHMENT

Planning Commission Staff Report dated May 22, 2024



Memorandum

TO: PLANNING COMMISSION

FROM: Christopher Burton

SUBJECT: PP24-004

DATE: May 22, 2024

COUNCIL DISTRICT: Citywide

Project	An amendment to Chapter 20.200 of the Zoning Ordinance to amend the definition of emergency residential shelter, amendments the Use Regulations tables in Chapter 20.40 'Commercial Zoning Districts and Public/Quasi-Public Zoning District,' Chapter 20.50, 'Industrial Zoning District,' and Chapter 20.55 'Urban Village and Mixed Use Zoning Districts' to allow emergency residential shelters through use permits and by right, and amendments to Chapter 20.195, 'Ministerial Approvals' to allow a streamlined ministerial approval process for emergency residential shelters.
Project Description	An ordinance of the City of San José amending Title 20 (Zoning Ordinance or Zoning Code) of the San José Municipal Code to amend the definition of emergency residential shelter in Chapter 20.200, amend the emergency residential shelter use within Table 20-90 of Section 20.40.100 of Chapter 20.40, 'Commercial Zoning Districts and Public/Quasi-Public Zoning District,' Table 20-110 of Section 20.50.100 of Chapter 20.50, 'Industrial Zoning Districts,' and Table 20-138 of Section 20.55.203 of Chapter 20.50, 'Urban Village and Mixed Use Zoning Districts,' and amendments to allow a streamlined ministerial approval process for emergency residential shelters in Chapter 20.195, 'Ministerial Approvals.'
CEQA Clearance	Not a Project, File No. PP17-008, General Procedure & Policy Making resulting in no changes to the physical environment.
Project Planner	Kristine Do

RECOMMENDATION

Staff recommends that the Planning Commission recommend that the City Council take all of the following actions:

1. Adopt an ordinance amending various sections of Title 20 (Zoning Ordinance or Zoning Code) of the San José Municipal Code to amend the definition of emergency residential shelters, amend the allowed use of emergency residential shelters, through use permit and by right, in the Commercial Pedestrian Zoning District, Commercial Neighborhood Zoning District, Commercial General Zoning District, Public/Quasi Public Zoning District, and Urban Village and Mixed Use Zoning Districts, and amendments to allow a streamlined ministerial approval process for emergency residential shelters.

PROJECT BACKGROUND

The proposed Zoning Code update would incorporate necessary Zoning Code modifications to (a) comply with state law, specifically Assembly Bill 2339 (2022), (b) comply with Housing Element recommendations, and (c) ensure that Title 20 of the Zoning Code is consistent with the provisions of Assembly Bill 2176 and the Emergency Shelter Crisis, as outlined in Title 5. Assembly Bill 2339 requires that emergency residential shelters be permitted by right in zoning districts that allow for residential, including mixed use. This ordinance amends the permitted use of “emergency residential shelters” in zoning districts that already allow for them. The identified zoning districts include Commercial Pedestrian, Commercial Neighborhood, Commercial General, Public/Quasi-Public, and Urban Village and Mixed Use. These zoning districts already permit, by right, Low Barrier Navigation Centers, which are defined as emergency residential shelters under Assembly Bill 2339.

Housing Element 2023-2031

Housing Element (GOV § 65583) law requires the identification of one or more zoning districts where emergency shelters are allowed without a discretionary permit to provide adequate sites for emergency shelters to meet the capacity needs for the City’s unhoused population. To comply with Housing Element Law, San José modified the Combined Industrial/Commercial (CIC) Zoning District through Ordinance No. 28460 in December 2008, permitting both conditionally and by right, emergency residential shelters in this industrial zoning district. Emergency residential shelters with 50 beds or fewer are permitted by right, while emergency residential shelters with more than 50 beds require a Conditional Use Permit. As analyzed in the Housing Element, [Chapter 4: Constraints on Housing](#), the total theoretical maximum beds possible citywide, permitted by right (for capacity purposes) in CIC zoned sites is 4,450.

Every two years (odd numbered years), during the last 10 days in January, the City conducts an annual Point-In-Time (PIT) Count of unsheltered people experiencing homelessness. Due to the COVID-19 pandemic, the City of San José did not conduct a PIT Count in 2021. Data from the 2019 PIT Count was used in the 6th Cycle Housing Element, which counted 6,097 persons experiencing homelessness. The deficit between the maximum beds permitted by right in CIC zoned sites and the 2019 PIT Count is 1,647. Therefore, the City did not meet its capacity needs for emergency shelter beds. Staff included a program in the Housing Element to address this deficit (*Strategy H-14: Emergency Shelters*). The most recent PIT Count, conducted in 2023, showed an increase of persons experiencing homelessness with a total count of 6,266, bringing the deficit to 1,816 beds.

Strategy H-14 outlines a program to update the zoning code to add additional zoning districts, in addition to CIC, where emergency shelters are permitted by right to meet the capacity needs of the City’s unhoused population. Updates to the zoning code must be completed within one year of Housing Element adoption to ensure compliance with the requirements of Government Code Section 65583 (Assembly Bill 2339, 2022). City Council adopted the 6th Cycle Housing Element on June 20, 2023. To ensure compliance with the requirements of AB 2339, updates to the zoning code must be completed no later than June 20, 2024.

AB 2339 (2022)

On September 28, 2022, the governor signed Assembly Bill (AB) 2339, an act to amend Sections 65583 and 65863 of the Government Code, relating to land use. The bill revises the requirements of the housing element to require the identification of one or more zoning districts that allow residential uses, including mixed uses, where emergency residential shelters are allowed by right. The identified zoning districts must include sites that are suitable for residential use and meet the bill’s prescribed standards, including, but not limited to, vacant sites that are zoned for residential use. Emergency residential shelters are subject only to the written, objective standards identified in Government Code Section 65583(a)(4)(B).

The bill also expands the definition of emergency residential shelters to include other interim interventions, including, but not limited to, navigation centers, bridge housing, and respite or recuperative care.

To comply with state law, staff is proposing an update to the Zoning Code to amend the allowed use of emergency residential shelters, through use permits and by right, to identified zoning districts that allow residential uses, including mixed uses. The identified zoning districts include Commercial Pedestrian, Commercial Neighborhood, Commercial General, Public/Quasi-Public, Urban Village, Mixed Use Commercial, and Mixed Use Neighborhood.

Emergency Shelter Crisis

On September 27, 2016, the governor approved AB 2176 which authorizes political subdivisions to declare a shelter crisis and allow persons unable to obtain housing to occupy designated public facilities, as defined, throughout the duration of the crisis. The law provides that certain state and local laws, regulations, and ordinances are suspended during a crisis if compliance would prevent, hinder, or delay the mitigation of the effects of the crisis. The City has declared a shelter crisis and through this declaration has suspended Zoning Code and General Plan requirements, among others, where applicable, outlined in Title 5 (Housing) of the San José Municipal Code.

The provisions and standards set forth in Title 5 and AB 2176 are applicable to emergency residential shelters established pursuant to the declared shelter crisis under Government Code Section 8698 et seq. and located in new or existing buildings or structures owned, operated, or constructed for or on behalf of the City of San José on land owned or leased by the City of San José. The City currently operates [six interim housing communities](#) in conjunction with shelter operators, including 2078 Evans Lane and Rue Ferrari. Emergency residential shelters that do not fall under the provisions of the shelter crisis are required to follow state and local standards and laws. This includes the specific use regulations outlined for emergency residential shelters in Title 20 that are being updated through the proposed ordinance changes in the staff recommendation.

ANALYSIS

Emergency Residential Shelter Definition

California Government Code Section 65583 specifies that emergency residential shelters are inclusive of other interim interventions. The existing definition in [Section 20.200.360](#) of the San José Municipal Code states that an emergency residential shelter is a building where temporary lodging is provided to persons who are homeless. It does not specify that emergency residential shelters are inclusive of other interim interventions. The proposed expansion of the definition would add a reference to California Government Code Section 65583 to maintain a consistent definition with what is established in state law.

The amendment of the definition also makes a minor text change to rephrase “persons who are homeless” to “individuals and households experiencing homelessness.” Rephrasing this text adheres to best practices for technical language, particularly using people-first language which emphasizes the person before their conditions.

Objective Standards

California Government Code Section 65583 requires that emergency residential shelters permitted by right be subject only to the written, objective standards outlined within Section 65583. The current maximum number of beds permitted to be served nightly by an emergency residential shelter before requiring a Conditional Use Permit in the Combined Industrial/Commercial Zoning District is 50. Staff

proposes increasing the maximum number of beds from 50 to 100 to align with the scale and scope of Emergency Interim Housing communities in San José, half of which have capacities over 50: 5898 Rue Ferrari has 82 units, 6066 Monterey Rd operates 78 units, and 211 Asbury St operates 96 units. The Homeless Response Division of the Housing Department has identified additional projects looking to develop with capacity at or greater than 100. The Boccardo Reception Center (BRC), a homeless service center operated by a local nonprofit, HomeFirst, currently operates at a capacity of 250 beds. Other Bay Area cities, such as San Francisco and Oakland, have maximum capacities of 100.

In addition to aligning with the scale of existing Emergency Interim Housing communities, increasing maximum bed capacities will allow the City to better meet the requirements of AB 2339. Pursuant to AB 2339, the number of people that can be accommodated on any site shall be demonstrated by dividing the square footage of the site by a minimum of 200 square feet per person. There are approximately 19 vacant sites in the identified zoning districts in San José where emergency residential shelters would be permitted by right, for a total of 201,577 square feet. Vacant sites range from approximately 4,100 to 21,025 square feet. Having a diverse range in size for vacant sites provides additional opportunities for the development of shelters.

The average square footage per site is approximately 9,342. Dividing this number by the minimum 200 square feet per person gives us an average capacity of 53 beds per site. If the maximum number of beds permitted to be served nightly remains 50, the City's capacity for emergency shelter beds would decrease. By increasing the maximum number of beds from 50 to 100 for these 19 vacant sites, the City would achieve a capacity of 1,900. A capacity of 1,900 from these 19 vacant sites would address the City's deficit of 1,816 beds.

Based on the City's [Homeless Census and Survey reports](#), the number of individuals experiencing homelessness captured within the PIT count has steadily risen since 2015. A capacity of 1,900 provides the City with a buffer of 84 beds based on the most recent PIT count conducted in 2023. The next PIT count will be conducted next calendar year, 2025. Staff proposes the maximum number of beds permitted to be served nightly increases from 50 to 100 to be inclusive of successful Emergency Interim Housing communities and proposed projects and needs expressed by shelter operators and providers, and to encourage emergency residential shelter development at various scales.

This first phase of zoning code updates is intended to address the City's capacity deficit by the statutory deadline of June 20, 2024. In the second phase of zoning code updates, staff is looking to increase the maximum length of stay and remove the requirement for persons to be enrolled in drug/alcohol recovery programs to extend length of stay to 18 months.

Phase 2 Emergency Shelter Zoning Updates

[Section 20.80.500](#) lays out the specific use regulations for emergency residential shelters, restricting the length of stay to 60 days unless a Conditional Use Permit is issued, which could allow for extended stays not to exceed 18 months. California Health and Safety Code Section 50801 limits emergency residential shelter occupancy to six months (180 days) or less.

Based on the [San José 2023 PIT Report](#), there is a significant number of individuals whose length of time prior to receiving permanent housing is one year or more. Five percent of individuals enduring an episode of homelessness had been homeless for 30 days or less, while 27% had been homeless between one to 11 months and 65% had been homeless for one year or more. During the City Council study session on the homelessness crisis in San José, which took place on March 28, 2024, service providers presented data from Fiscal Year 2021-2023, highlighting that single adults needed longer stays to successfully exit to permanent housing. The slideshow presented by LifeMoves identified that the majority of single adults needed anywhere between 90 and 365+ days to successfully exit to permanent housing. With the average length of stay exceeding 60 days, staff believes the current maximum length of stay results in a barrier for

shelter providers. Additionally, staff believes the requirement for persons to be enrolled in drug/alcohol recovery programs to extend length of stay past 60 days is not considered a “Housing First” or low barrier to entry approach to mitigating homelessness.

Staff will continue to explore this work to address the length of stay objective standard in a second phase of zoning code updates later this year.

Allowed Uses and Permit Requirements

AB 2339 requires the identification of zoning districts that allow for residential, including mixed-use, where emergency shelters are allowed by right. To comply with state law, staff proposes amending the following allowed use tables for the Commercial Zoning Districts, Public/Quasi-Public Zoning District, and Urban Village and Mixed Use Zoning Districts to permit emergency residential shelters, both conditionally and by right:

- Chapter 20.40 – Commercial Zoning Districts and Public/Quasi-Public Zoning Districts (Table 20-90)
- Chapter 20.55 – Urban Village and Mixed Use Zoning Districts (Table 20-138)

In addition to the above zoning districts that allow for residential, including mixed use, staff proposes amending the allowed use table in Chapter 20.50 – Industrial Zoning Districts (Table 20-110) to update the maximum number of beds allowed by right for consistency with the other zoning districts.

Currently, emergency residential shelters may be permitted with a Special Use Permit or Conditional Use Permit in these identified zoning districts. To comply with state law, staff proposes that emergency residential shelters at or below the maximum number of beds or persons (100) permitted to be served nightly by the facility be permitted by right. If an emergency residential shelter has 100 beds or fewer, the project would not be subject to a discretionary review process and would be reviewed through a ministerial process. If an emergency residential shelter has more than 100 beds, the project would require a use permit and follow the existing process for permitting within its respective zoning district.

To meet the statutory deadline for AB 2339 compliance, staff is proposing adding additional line items to the zoning use tables identifying that emergency residential shelters outside the Airport Influence Area with 100 or fewer beds are a permitted use while emergency residential shelters outside the Airport Influence Area with more than 100 beds require a use permit. Staff is not proposing any changes to properties within the Airport Influence Area. Staff will propose subsequent actions in the coming months to modify the zoning use table for sites within the Airport Influence Area and refer these actions to the Airport Land Use Commission, as required by state law. Staff is proposing adding additional line items, as it relates to emergency residential shelters outside the Airport Influence Area, to each of these use tables in the interim for the City to meet its capacity needs and comply with state law by permitting emergency residential shelters by right in zoning districts that allow for residential, including mixed use, by the statutory deadline of June 20, 2024.

In compliance with AB 101, which requires Low Barrier Navigation Centers to be permitted by right in zoning districts that allow for mixed use and nonresidential zones permitting multifamily use, Low Barrier Navigation Centers are already permitted as an allowed use by right in the Commercial Pedestrian, Commercial Neighborhood, Commercial General, Public/Quasi-Public, Urban Village and Mixed Use Zoning Districts. Since then, the state has expanded the definition of emergency residential shelter to account for other interim intervention, specifying that Low Barrier Navigation Centers are now considered emergency residential shelters. Because Low Barrier Navigation Centers are not permitted within Commercial Office, staff proposes removing the allowance of emergency residential shelters within Commercial Office to maintain consistency with state definitions.

General Plan Conformance

The proposed amendments align with the goals of the Envision San José 2040 General Plan, specifically the policies under Goal H-1 Housing – Social Equity and Diversity, which is to provide housing throughout the city in a range of residential densities and to address the needs of an economically, demographically, and culturally diverse population.

1. Policy H-1.2: Facilitate the provision of housing sites and structures across location, type, price and status as rental or ownership that respond to the needs of all economic and demographic segments of the community including seniors, families, the homeless and individuals with special needs.
2. Policy H-1.7: Comply with State and Federal laws prohibiting discrimination in housing and that support fair and equal access to housing.

Compliance with AB 2339 further promotes the policies under Goal H-1 Housing – Social Equity and Diversity. The amendments to the allowed use table align with Policy H-1.2 and H-1.7 to facilitate the provision of housing sites for all segments of the community, including those experiencing homelessness, and continued compliance with state and federal law.

CALIFORNIA ENVIRONMENTAL QUALITY ACT (CEQA)

Not a Project, File No. PP17-008, General Procedure & Policy Making resulting in no changes to the physical environment.

PUBLIC OUTREACH

Outreach meetings were held with shelter service providers and operators to discuss and gather feedback on the proposed zoning code updates. Staff met with two shelter providers that operate both public and private projects, HomeFirst and LifeMoves, on March 25, 2024, and April 4, 2024, respectively. Staff had a follow up meeting with LifeMoves on April 10, 2024. Staff learned that there is a shift toward non-congregate shelters, which are often more trauma-informed and safer than congregate shelters. Non-congregate shelters provide clients with privacy and allows them to better plan for transitioning out of homelessness. However, because they are more expensive to develop and require more space, they are not always financially feasible. Congregate shelters are still a viable shelter type as they can provide temporary lodging for a larger number of people experiencing homelessness. Having a wide range of vacant sites at various sizes would provide opportunities for congregate and non-congregate shelters at various scales.

Staff learned that HomeFirst is considering developing a private shelter near the Boccardo Reception Center, which currently operates at a capacity of 250 beds. HomeFirst envisions this development to operate at a similar capacity (between 100 to 200 beds). Allowing emergency shelters by right would be helpful for their operations and mitigating homelessness. Staff learned that LifeMoves is considering redeveloping some of their sites and would like to increase capacity through stacked modular units, following a non-congregate shelter model at higher density.

Staff also coordinated with Destination: Home on the proposed zoning code updates. Destination: Home was generally supportive of the changes staff are proposing to reduce barriers and suggested staff consider design standards for larger projects and coordinate with Santa Clara County and its Continuum of Care, which have adopted community-wide quality assurance standards. Staff will continue to explore the incorporation of these standards as part of the next phase of zoning code updates.

In discussion with the above stakeholders, staff learned that it is uncommon for emergency residential shelters to have on-site drug or alcohol recovery or treatment programs due to the lack of funding and resources for such implementation. Without these programs, there isn't a need to apply for a Conditional Use Permit for extended stays, which can also be financially infeasible to obtain. Additionally, HomeFirst shared that requiring clients to enroll in drug or alcohol recovery or treatment programs would not be a "Housing First" approach and could be a barrier to housing for some clients.

A community meeting was held on April 11, 2024. Five members of the public attended. One attendee expressed concerns about potential concentration of emergency residential shelters in their neighborhood due to the surrounding allowance of mixed use. Staff informed the attendee that the City is not developing or converting existing uses into emergency residential shelters and applicants will still need to proceed with a ministerial approval process before developing or converting existing uses into emergency residential shelters. Additional factors, such as funding and operations plans, also need to be considered for potential development or conversion. Two attendees expressed general concern about the increasing trend of individuals and households experiencing homelessness seeking shelter in the City, some of whom may be residents of the county or surrounding cities. Staff informed the two attendees that each city is required to comply with AB 2339 and permit emergency residential shelters by right in zoning districts that allow for residential in order to meet their capacity needs based on their homeless reports. If cities fall out of compliance with state law, they would be subject to penalties. The statutory deadline for the City of San José to comply with AB 2339 is June 20, 2024, however the deadlines vary from city to city, which is why other cities may not have yet started work on their required zoning code updates.

Staff was initially considering increasing the maximum number of beds for emergency residential shelters permitted by right from 50 to 150. In response to comments and feedback shared by HomeFirst, LiveMoves, Destination: Home, and community members, staff decided to propose increasing the maximum number of beds for emergency shelters permitted by right from 50 to 100. Many shelter operators and providers voiced that the higher the number, the more financially feasible it would be to develop and operate emergency residential shelters. Due to public concern surrounding operations, staff is proposing to proceed with an increase from 50 to 100 and will continue to explore the maximum number of beds objective standard in phase two of the zoning code updates, taking into consideration the Airport Land Use Commission's feedback and the County's Continuum of Care quality assurance standards around design.

Staff followed Council Policy 6-30: Public Outreach Policy in order to inform the public of the proposed project. A notice of the community meeting was posted on the City website. The staff report is also posted on the City's website. Staff has been available to respond to questions from the public.

Project Manager: Kristine Do

Approved by: /s/ Robert Manford, Deputy Director for Christopher Burton, Planning Director

ATTACHMENTS:
Exhibit A: Draft Ordinance

PP24-004

Links to Attachments

Click on the title to view document.

<u>Exhibit A: Draft Ordinance</u>



Memorandum

TO: HONORABLE CITY COUNCIL

FROM: Mayor Mahan
Vice Mayor Kamei
Councilmember Jimenez

SUBJECT: SEE BELOW

DATE: June 7, 2024

Approved

6/7/2024

SUBJECT: PP24-004 – Emergency Residential Shelters Ordinance Amending Various Sections of Title 20 of the San Jose Municipal Code (Ordinance or Zoning Code) Related to Emergency Residential Shelters

RECOMMENDATION

Approve the staff recommendation with modifications to increase the maximum number of beds to 150 before requiring a Conditional Use Permit.

BACKGROUND

We are grateful to staff for preparing these Zoning Code modifications to comply with state law (AB 2339) and fulfill part of Housing Element program H-14, Emergency Shelters.

As indicated in the staff report, AB 2339 requires that emergency residential shelters be permitted by right in at least one zoning district that allows for residential, including mixed use. The zoning districts proposed to be modified already allow for emergency residential shelters through a use permit and Low Barrier Navigation Centers by right through a different state law (AB 101). Staff appropriately and prudently proposes to align the permitting process for emergency residential shelter and Low Barrier Navigation Center now that state law considers Low Barrier Navigation Centers to be emergency residential shelters.

In the report, staff also clarifies that enough vacant land must be available pursuant to state law to meet the City's deficit of 1,816 shelter beds. There currently is capacity for 4,450 beds in the Combined Industrial Commercial (CIC) Zoning District, but 6,266 unhoused individuals were identified in the 2023 Point in Time Count. The staff recommendation would allow an additional 1,900 beds by right in the zoning districts proposed to be updated, for a total of 6,350 beds.

While the total bed capacity would exceed the number of counted unhoused individuals by 84, in practice it is highly unlikely that this amount of emergency shelter will be constructed. We recommend increasing the maximum number of beds that could be permitted without a Conditional Use Permit (CUP) in one project up to 150. This increase would align with

neighboring cities in Santa Clara County, namely the City of Mountain View. The report indicates that a CUP could cost approximately \$25,000 and require a seven-month review timeline, or longer, significantly hindering the creation of desperately needed emergency shelter. Projects including more than 150 beds would continue to require a CUP.

We appreciate staff's work, look forward to the next phase of work, and urge our colleagues to approve the recommendations in this memo.

The signers of this memorandum have not had, and will not have, any private conversation with any other member of the City Council, or that member's staff, concerning any action discussed in the memorandum, and that each signer's staff members have not had, and have been instructed not to have, any such conversation with any other member of the City Council or that member's staff.

DRAFT

ORDINANCE NO. _____

AN ORDINANCE OF THE CITY OF SAN JOSE AMENDING TITLE 20 (ZONING ORDINANCE OR ZONING CODE) OF THE SAN JOSE MUNICIPAL CODE TO AMEND THE DEFINITION OF EMERGENCY RESIDENTIAL SHELTER IN CHAPTER 20.200, AMEND THE EMERGENCY RESIDENTIAL SHELTER USE WITHIN TABLE 20-90 OF SECTION 20.40.100 OF CHAPTER 20.40, 'COMMERCIAL ZONING DISTRICTS AND PUBLIC/QUASI-PUBLIC ZONING DISTRICTS,' TABLE 20-110 OF SECTION 20.50.100 OF CHAPTER 20.50, 'INDUSTRIAL ZONING DISTRICTS,' AND TABLE 20-138 OF SECTION 20.55.203 OF CHAPTER 20.55, 'URBAN VILLAGE AND MIXED USE ZONING DISTRICTS,' AND AMENDMENTS TO ALLOW A STREAMLINED MINISTERIAL APPROVAL PROCESS FOR EMERGENCY RESIDENTIAL SHELTERS IN CHAPTER 20.195, 'MINISTERIAL APPROVALS'

WHEREAS, pursuant to the provisions and requirements of the California Environmental Quality Act of 1970, together with related State CEQA Guidelines and Title 21 of the San José Municipal Code (collectively, "CEQA"), the Director of Planning, Building and Code Enforcement has determined that the provisions of this Ordinance do not constitute a project, under File No. PP PP17-008 (General Procedure & Policy Making resulting in no changes to the physical environment); and

WHEREAS, the City Council of the City of San José is the decision-making body for this Ordinance; and

WHEREAS, this Council has reviewed and considered the "not a project" determination under CEQA 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 20.200.360 of Chapter 20.200 of Title 20 of the San José Municipal Code is amended to read as follows:

20.200.360 Emergency residential shelter

- A. An "emergency residential shelter" is a building where ~~emergency~~ temporary lodging is provided to ~~persons who are homeless~~ individuals and households experiencing homelessness, and where on-site supervision is provided whenever such shelter is occupied. For statutory provisions on emergency residential shelters generally, see Gov. Code § 65583 et seq.

SECTION 2. Table 20.90 in Section 20.40.100 of Chapter 20.40 of Title 20 of the San José Municipal Code is amended to read as follows:

20.40.100 Allowed uses and permit requirements

- A. "Permitted" land uses are indicated by a "P" on Table 20-90.
- B. "Conditional" uses are indicated by a "C" on Table 20-90. These uses may be allowed in such designated districts, as an independent use, but only upon issuance of and in compliance with a Conditional Use Permit as set forth in Chapter 20.100. "Conditional" uses which may be approved only on parcels designated on the land use/transportation diagram of the General Plan, as amended, with a designation that allows residential use are indicated by a "C GP" on Table 20-90. These uses may be allowed in such designated districts, as

a part of mixed use residential/commercial, but only upon issuance of and in compliance with a Conditional Use Permit as set forth in Chapter 20.100.

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

issuance of and in full compliance with a valid and effective zoning code verification certificate as set forth in Chapter 20.100.

- G. Land uses not permitted are indicated by a "-" on Table 20-90. Land uses not listed on Table 20-90 are not permitted.
- H. When the right column of Table 20-90 includes a reference to a section number or a footnote, the regulations cited in the section number or footnote applies to the use. In addition, all uses are subject to any other applicable provision of this Title 20 and any other title of the San José Municipal Code.

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

Use	Zoning District					Applicable Sections & Notes
	CO	CP	CN	CG	PQP	
General Retail						
Alcohol, off-sale - beer and/or wine only	-	C	C	C	-	Note 21; Section 20.80.900
Alcohol, off-sale - full range of alcoholic beverages	-	C	C	C	-	Note 21; Section 20.80.900
Alcohol, off-sale - as incidental to a winery, brewery, or distillery	-	S	S	S	-	Note 4
Food, beverages, and groceries	-	P	P	P	S	
Nursery, plant	P	P	P	P	P	Note 1
Outdoor vending	-	A	A	A	A	Part 10, Chapter 20.80
Outdoor vending, fresh fruits and vegetables	P	P	P	P	P	Part 10, Chapter 20.80
Pawn shop/broker	-	C	C	C	-	See Title 6
Retail art studio	-	P	P	P	-	Note 21; Section 20.80.1175

Retail bakery	-	P	P	P	-	Note 21
Retail sales, goods, and merchandise	-	P	P	P	-	Note 21
Seasonal sales	P	P	P	P	-	Part 14, Chapter 20.80
Agriculture						
Aquaculture, aquaponics, and hydroponics	S	S	S	S	S	
Certified farmers' market	S	S	S	S	S	Part 3.5, Chapter 20.80
Certified farmers' market, small	P	P	P	P	P	Part 3.5, Chapter 20.80
Neighborhood agriculture	P	P	P	P	P	Note 19; Title 7
Drive-Through Uses						
Drive-through uses in conjunction with any use	-	-	C	C	C	
Education and Training						
Child day care center located on an existing School Site or as an incident to a permitted on-site church/religious assembly use involving no building additions or changes to the site	P	P	P	P	P	Note 21
Day care center	S	S	S	S	S	
Instructional art studios	-	P	P	P	S	
Private instruction, personal enrichment	-	P	P	P	S	
School, elementary and secondary (public or private)	C	C	C	C	S	Note 16, Note 20, and Note 21
School, driving (class C & M license)	-	P	P	P	S	Note 2, Note 20, and Note 21
School, post secondary	-	P	P	P	S	Note 3, Note 20, and Note 21
School, trade and vocational	-	C	C	C	S	Note 16, Note 20, and Note 21
Entertainment and Recreation						
Arcade, amusement game	-	P	P	P	-	Note 21

Health club, gymnasium	-	P	P	P	S	
Performing arts rehearsal space	-	P	P	P	-	
Poolroom/billiards establishment	-	P	P	P	-	Note 21
Private club or lodge	C	C	C	C	-	
Recreation, commercial indoor	-	P	P	P	S	Note 21
Recreation, commercial outdoor	-	C	C	C	C	Note 21
Relocated cardroom	-	-	-	C	-	Section 20.80.1155
Stadium, 2,000 seats or fewer	-	C	C	C	C	Note 17
Stadium, more than 2,000 seats	-	CC	CC	CC	CC	Note 17 and Note 18
Theater, indoor	-	S	S	S	S	Note 21
Theater, outdoor	-	-	-	S	S	Note 21
Food Services						
Banquet facility	-	S	S	S	S	
Caterer	-	P	P	P	S	
Commercial kitchen	-	S	P	P	-	
Drinking establishments	-	C	C	C	-	Note 21
Drinking establishments interior to a full-service hotel or motel that includes 75 or more guest rooms	-	P	P	P	-	Section 20.80.475; Note 21
Public eating establishments	-	P	P	P	-	Note 21
Public eating establishment or retail establishment with incidental outdoor dining	-	P	P	P	-	Note 21; Section 20.40.520
Public eating establishment in conjunction with a winery, brewery, or distillery	-	P	P	P	-	
Taproom or tasting room with off-sale of alcohol	-	A	A	A	-	Part 5.75, Chapter 20.80

General Services						
Bail bond establishment - outside main jail area	-	P/S	P	P	-	Note 5; Part 1.5, Chapter 20.80
Bail bond establishment - within main jail area	-	P/S	P	P	-	Note 5 and Note 14; Part 1.5, Chapter 20.80
Bed and breakfast Inn	-	P	P	P	-	Note 21; Part 2, Chapter 20.80
Dry cleaner	-	P	P	P	-	Note 21
Hotel or motel	-	P	P	P	-	Note 21
Single room occupancy (SRO) hotel	-	C	C	C	-	Part 15, Chapter 20.80
Laundromat	-	P	P	P	-	Note 21
Maintenance and repair, small household appliances	-	P	P	P	-	Note 21
Messenger services	P	P	P	P	-	Note 2 and Note 21
Mortuary and funeral Services	P	P	P	P	-	Note 21
Personal services	-	P	P	P	-	Note 21; Section 20.200.880
Photo processing and developing	-	P	P	P	-	Note 21
Printing and publishing	-	P	P	P	-	Note 21
Social service agency	-	S	S	S	S	
Health and Veterinary						
Animal boarding, indoor	P/-	P	P	P	P/S	Note 8, Section 20.40.120
Animal grooming	P/-	P	P	P	P/S	Note 8 Section 20.40.120
Emergency ambulance service	C	C	C	C	C	
Hospital/in-patient facility	C	C	C	C	C	Note 21
Medical cannabis dispensary	-	R	R	R	-	Part 9.75, Chapter 20.80
Cannabis retail storefront	-	R	R	R	-	Part 9.75, Chapter 20.80
Medical cannabis collective dispensary site only	-	R	R	R	-	Part 9.75, Chapter 20.80
Office, medical	P	P	P	P	S	Note 21
Veterinary clinic	-	P	P	P	C	Note 16
Historic Reuse						

Historic landmark structure reuse	S	S	S	S	S	Part 8.5, Chapter 20.80
Offices and Financial Services						
Automatic teller machine	P	P	P	P	S	Section 20.80.200
Business support	-	P	P	P	-	Note 21
Financial services	P	P	P	P	-	Note 21
Office, general business	P	P	P	P	S	Note 21; Section 20.40.110
Payday lending establishment	-	R/-	R	R	-	Note 24 Part 12.5, Chapter 20.80 Section 20.200.875
Retail bank	P	P	P	P	-	Note 21
Public, Quasi-Public and Assembly Uses						
Cemetery	C	C	C	C	C	
Church/religious assembly	S	S	S	S	S	Note 16, Note 20, and Note 21
Construction/corporation yard associated with public, quasi-public or assembly use or transportation or utility use	-	-	-	-	C	
Museums, libraries, parks, playgrounds, or community centers (publicly operated)	P	P	P	P	P	Note 21
Museums, libraries, parks, playgrounds, or community centers (privately operated)	C	C	C	C	S	Note 20 and Note 21
Recycling Uses						
Reverse vending machine	A	A	A	A	A	Part 13, Chapter 20.80
Small collection facility	A	A	A	A	A	Part 13, Chapter 20.80
Residential						
Emergency residential shelter <u>within Airport Influence Area-</u>	S	S	S	S	S	Section 20.80.500
<u>Emergency residential shelter outside of Airport Influence Area (more than 100 beds)</u>	S	<u>S</u>	<u>S</u>	<u>S</u>	<u>S</u>	<u>Section 20.80.500</u>

<u>Emergency residential shelter outside of Airport Influence Area (100 beds or fewer)</u>	-	P	P	P	P	<u>Section 20.80.500, Chapter 20.195</u>
Hotel supportive housing	C	C	C	C	C	Note 22; Part 22, Chapter 20.80
Live/work uses	-	S	S	S	-	Note 6; Section 20.80.740
Low barrier navigation center	-	P	P	P	P	Chapter 20.195
Mixed use residential/commercial	-	C/S	C	C GP	-	Note 6, -25 and 26
Permanent supportive housing	-	-	-	-	P	Note 27; Chapter 20.195
Residential care facility for seven or more persons	C	C	C	C	C	
Residential service facility for seven or more persons	C	C	C	C	C	
Single room occupancy, living unit	-	C	C	C	-	Note 6; Part 15, Chapter 20.80
Transportation and Utilities						
Data center	-	-	-	C	-	Note 21
Commercial vehicle storage	S	-	-	S	S	
Common carrier depot	S	-	S	S	S	Note 21
Community television antenna systems	C	C	C	C	C	
Off-site, alternating use and alternative parking arrangements	S	S	S	S	S	Section 20.90.200
Parking establishment, off-street	C	-	C	C	-	
Short term parking lot for uses or events other than on-site	-	-	-	C	C	Note 7
Television, radio studios without antenna/dishes	-	-	-	C	C	
Utility facilities, excluding corporation	C	C	C	C	C	

yards, storage or repair yards and warehouses						
Utility facilities including corporation yards, storage or repair yards and warehouses	-	-	-	-	C	
Wireless communication antenna	C	C	C	C	C	Note 23; Sections 20.100.1300, 20.80.1915
Wireless communication antenna, slimline monopole	S	S	S	S	S	Note 23; Sections 20.80.1900, 20.80.1915
Wireless communication antenna, building mounted	P	P	P	P	P	Note 23; Sections 20.80.1910, 20.80.1915
Utilities, Electrical Power Generation						
Co-generation facility	S	S	S	S	S	
Fuel cells	P	P	P	P	P	
Private electrical power generation facility	C	C	C	C	C	Note 2
Solar photovoltaic system	P	P	P	P	P	Section 20.100.610 C.7.
Stand-by/backup facilities that do not exceed noise or air standards	A	A	A	P	A	
Stand-by/backup facilities that do exceed noise or air standards	C	C	C	C	C	
Temporary stand-by/backup	P	P	P	P	P	
Vehicle Related Uses						
Accessory installation, passenger vehicles and pick-up trucks	-	-	C	P	-	
Auto dealer, wholesale - no on-site storage	P	P	P	P	-	
Car wash, detailing	-	-	C	C	-	
Fuel service station or charge station, no	-	C	C	P	C	Note 15

incidental service or repair						
Fuel service station or charge station with incidental service and repair	-	-	C	P	C	Note 9 and Note 13
Glass sales, installation, and tinting	-	-	C	P	-	Note 13
Leasing (rental) passenger vehicles, pick-up trucks not exceeding twenty-five feet in length, and motorcycles	-	-	C	P	-	Note 2
Sale, brokerage, or lease, commercial vehicles	-	-	C	C	-	Note 13
Sale or brokerage, passenger vehicles, pick-up trucks not exceeding 25 feet in length, and motorcycles	-	-	S	P	-	Note 12 and Note 13
Sale, vehicle parts	-	-	P	P	-	Note 11
Tires, batteries, lube, oil change, smog check station, air conditioning servicing of passenger vehicles and pick-up trucks	-	-	C	P	-	Note 10 and Note 13

Notes applicable to all commercial districts:

1. In the CP district, landscaping materials, such as rock, mulch, and sand are limited to prepackaged sales.
2. Classroom use only, no driving courses or onsite storage of vehicles permitted in the CP, CN, and CG Zoning Districts.
3. Includes public and private colleges and universities, as well as extension programs and business schools.
4. Alcohol, off-sales are limited to products manufactured onsite for wineries, breweries, or distilleries.
5. Permitted outside of Urban Village; Special Use Permit in Urban Villages.

6. Mixed use residential/ commercial development may be approved only on parcels designated on the land use/transportation diagram of the General Plan with a designation that allows residential use or through a General Plan or Urban Village Policy that allows mixed-use development on a non-residential parcel.
7. Use must be less than twenty-four hours.
8. Permitted only as incidental to neighborhood agriculture; otherwise prohibited in CO. In PQP the use is permitted only as incidental to neighborhood agriculture; otherwise a Special Use Permit is required
9. Incidental repair includes non-invasive engine service, maintenance, and repair, including but not limited to, air conditioning service, fuel system service, electrical service, coolant system service, tune-up, fluid exchanges, steering and suspension system service, brake system service, transmission adjustment and service, lube, oil change, smog check, diagnostics and vehicle inspections, stock catalytic converters and manifolds, as well as tires, batteries and accessories installation. Does not allow body repair, welding, vehicle restorations, other types of exhaust system repair, the removal of cylinder heads, engines, transmissions/transfer cases and differentials, or painting.
10. Includes non-invasive engine service, maintenance, and repair, including but not limited to, air conditioning service, carburetor and fuel injection system service, electrical service, radiator coolant system service, and tune-up, fluid exchanges, steering and suspension system service, brake system service, transmission adjustment and service, lube, oil change, and smog check, diagnostics and vehicle inspections, stock catalytic converters and manifolds, as well as tires, batteries and accessories installation. Does not allow body repair, welding, vehicle restorations, other types of exhaust system repair, the removal of cylinder heads, engines, transmissions/transfer cases and differentials, or painting.
11. No outdoor sales areas or dismantling allowed.
12. In the CG district, incidental repair of vehicles requires a Special Use Permit. Incidental repair of vehicles is prohibited in all other commercial districts.
13. All vehicle-related repair, service, and accessory or other installation shall be conducted within a fully enclosed building.
14. Bail bond establishments shall not be located and are prohibited uses on the ground floors of structures located within the main jail area, as that area is defined in Section 20.80.070 of Chapter 20.80 of this Title. Bail bond establishments are allowed as shown on Table 20-90 on other, above-ground floors of structures. All bail bond establishments shall meet all distance requirements specified in Section 20.80.075 of Chapter 20.80 of this Title.
15. Charging stations that are incidental to a separate primary use that do not impact on-site or off-site vehicular circulation, and that serve patrons of the primary use on-site are permitted in all commercial zoning districts.
16. Public schools are subject to the regulations of this Title, subject to the provisions of California Government Code Section 53094 for classroom facilities.
17. Primary uses include sporting events, assembly venues, concerts, and entertainment events of similar character and intensity. Incidental support uses include offices, locker rooms, retail, public eating establishments, drinking establishments, outdoor vending facilities, and other commercial uses of similar character and intensity.

18. Use permit applications for stadiums that consist of more than 2,000 seats and that are in airport influence areas shall be referred to the Santa Clara Airport Land Use Commission prior to approval by the City.
19. Neighborhood agriculture in conformance with this Title is a permitted use that may operate on a site without a permanent building on that site.
20. The City Council is the decision-making body for Special Use Permit appeals for this use pursuant to Section 20.100.220 of this Title.
21. In the PQP public/quasi-public zoning district, the following uses may be allowed as a use supporting and incidental to a primary PQP use:
 - a. Offices, retail, public eating establishments, and other commercial uses of similar character and intensity, with approval of a Special Use Permit; and
 - b. Drinking establishments, off-sale of alcoholic beverages, arcade amusement games, poolroom/billiards establishments, wineries, breweries, distilleries, and data centers, with approval of a Conditional Use Permit.
22. Hotel supportive housing may be permitted only with a Conditional Use Permit pursuant to Part 22 of Chapter 20.80 and only until December 31, 2026.
23. Certain modifications of existing wireless facilities may be permitted with an Administrative Permit in accordance with Section 20.80.1915 of Chapter 20.80.
24. Restricted outside of Urban Villages; Prohibited in Urban Villages.
25. Conditional Use Permit required outside of Urban Villages; Special Use Permit in Urban Villages.
26. Permanent supportive housing is allowed as a residential component of mixed use residential/commercial.
27. Permanent supportive housing is only allowed in the PQP district as 100% of the residential use.
28. 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.

SECTION 3. Table 20-110 in Section 20.50.100 of Chapter 20.50 of Title 20 of the San José Municipal Code is amended to read as follows:

20.50.100 Allowed uses and permit requirements

- A. "Permitted" land uses are indicated by a "P" on Table 20-110.

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

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

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

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

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

- E. "Special" uses are indicated by an "S" on Table 20-110. These uses may be allowed in such designated districts, as an independent use, but only upon issuance of and in compliance with a Special Use Permit as set forth in Chapter 20.100.
- F. "Administrative" uses are indicated by an "A" on Table 20-110. These uses may be allowed in such designated districts, as an independent use, but only upon issuance of and in compliance with an Administrative Permit as set forth in Chapter 20.100.
- G. "Restricted" land uses are indicated by an "R GP " on Table 20-110. These uses may occur in such designated districts, as an independent use, but only upon issuance of and in full compliance with a valid and effective Zoning Code Verification Certificate as set forth in Chapter 20.100. "Restricted" uses may only occur on property designated on the Land Use/Transportation Diagram of the General Plan, as amended, with a Combined/Industrial Commercial, Industrial Park, Light Industrial, or Heavy Industrial designation.

- H. Land uses not permitted are indicated by a "-" on Table 20-110. Land uses not listed on Table 20-110 are not permitted.
- I. When the right column of Table 20-110 includes a reference to a section number or a footnote, the regulations cited in the section number or footnote applies to the use. In addition, all uses are subject to any other applicable provision of this Title 20 and any other title of the San José Municipal Code.

Table 20-110
Industrial Zoning District Use Regulations

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

Outdoor uses or storage, industrial	-	-	-	S	P	Section 20.50.210
Research and development	P	P	P	-	-	
Stockyard, including slaughter	-	-	-	-	C	
Warehouse/distribution facility	P	P	P	P	P	Note 2
Wholesale sale establishment	P	S	S	P	P	Note 2
Additional Uses						
Any use not set forth in Tables 20-30, 20-50, 20-90	-	-	-	-	C	
Any use without a permanent fully enclosed building on-site	C	C	C	S	S	
Commercial support	-	P	P/A	-	-	Note 5; Section 20.50.110
Agriculture						
Aquaculture, aquaponics, and hydroponics	S	-	S	S	S	
Certified farmers' market	S	S	S	-	-	Part 3.5, Chapter 20.80
Certified farmers' market - small	P	P	P	-	-	Part 3.5, Chapter 20.80
Neighborhood agriculture	P	-	P	P	P	
Drive-Through Use						
Drive-through in conjunction with any use	C	-	-	-	-	
Education and Training						
Day care center	S	S	S	-	-	Note 20
Instructional art studios	P	P	-	-	-	Note 14
Private instruction, personal enrichment	P	P	-	-	-	Note 14
School, driving (class A & B license)	P/S	-	-	P	P	Note 23
School, driving (class C & M license)	P/S	-	-	S	S	Note 23 and Note 24
School, elementary and secondary (public or private)	C	C	-	-	-	Note 11
School, post secondary	C	C	C	-	-	

School, trade and vocational	S	C	S	S	S	
Food Services						
Caterer	P	P	-	-	-	
Commercial kitchen	P	P	P	P	-	Note 2 and Note 14
Drinking establishments	C	C	-	-	-	
Drinking establishments interior to a full-service hotel or motel that includes 75 or more guest rooms	P	S/P	P GP	-	-	Note 13 and Note 21; Section 20.80.475
Public eating establishments	P	P	-	C	C	Note 5; Sections 20.50.110,20.50.113
Outdoor dining, incidental to a public eating establishment	P	S/P	-	C	C	Note 5 and Note 21; Sections 20.50.110,20.50.113
Taproom or tasting room in conjunction with a winery, brewery, or distillery	A	A	A	A	A	Part 5.75, Chapter 20.80
Winery, brewery, and distillery	P	P	P	P	P	Note 2 and Note 14
General Retail						
Alcohol, off-sale - beer and/or wine only	C	C	-	-	-	Note 5; Section 20.50.110
Alcohol, off-sale - full range of alcoholic beverages	C	C	-	-	-	Note 5; Section 20.50.110
Alcohol, off-sale - as incidental to a winery, brewery, or distillery	A	A	A	A	A	Note 12; Part 5.75, Chapter 20.80
Food, beverages, and groceries	P	P	-	-	-	Note 5 and Note 14; Section 20.50.110
Nursery, plant	P	-	P	C	C	
Outdoor vending	A	A	-	A	A	Part 10, Chapter 20.80
Outdoor vending - fresh fruits and vegetables	P	P	P	P	P	Part 10, Chapter 20.80
Warehouse retail	-	C	C	C	C	Note 2; Section 20.50.130
Retail sales, goods, and merchandise	P	P	-	-	-	Note 5 and Note 14; Section 20.50.110
Retail art studio	P	P	-	-	-	Note 14
Retail bakery	P	P	-	-	-	Note 5 and Note 14; Section 20.50.110

Sales, industrial equipment and machinery	P	P	P	P	-	Note 2
Seasonal sales	P	P	P	P	P	Part 14, Chapter 20.80
General Services						
Crematory	-	-	-	-	C	Note 7
Dry cleaner	P	P	-	-	-	Note 14
Hotel or motel	P	P	C	-	-	Note 13
Laundromat	P	P	-	-	-	Note 14
Mortuary, without funeral services	-	-	-	P	P	
Personal services	P	-	-	-	-	Note 5; Section 20.50.110
Printing and publishing	P	P	P	P	P	
Social service agency	S	-	-	-	-	
Health and Veterinary Services						
Animal boarding	P/S	-	-	-	-	Note 22
Animal grooming	P	-	-	-	-	
Cannabis cultivation business	R GP	-	-	R GP	R GP	Part 9.76, Chapter 20.80
Cannabis delivery only business	R GP	-	R GP	R GP	-	Part 9.76, Chapter 20.80
Cannabis distribution business	R GP	-	R GP	R GP	-	Part 9.76, Chapter 20.80
Cannabis manufacturing (Type 6) business	R GP	-	R GP	R GP	R GP	Part 9.76, Chapter 20.80
Cannabis processing business	R GP	-	-	R GP	R GP	Part 9.76, Chapter 20.80
Cannabis testing business	-	-	R GP	-	-	Part 9.76, Chapter 20.80
Emergency ambulance service	C	-	-	-	-	
Hospital/in-patient facility	C	C	C	-	-	Note 6
Medical cannabis collective	R GP	-	R GP	R GP	R GP	Part 9.76, Chapter 20.80
Medical cannabis collective cultivation site only	R GP	-	R GP	R GP	R GP	Part 9.76, Chapter 20.80
Medical cannabis dispensary	R GP	R GP	-	-	-	Part 9.75, Chapter 20.80
Cannabis retail storefront	R GP	R GP	-	-	-	Part 9.75, Chapter 20.80
Office, medical	P	P	C	-	-	Note 14, Note 5, Section 20.50.110

Veterinary clinic	P	-	-	-	-	
Historic Reuse						
Historic landmark structure reuse	S	S	S	S	S	Part 8.5, Chapter 20.80
Offices and Financial Services						
Automatic teller machine	P	P	P	P	P	Section 20.80.200
Business support use	P	P	P	-	-	
Financial institution	P	P	-	-	-	Note 5; Section 20.50.110
Office, general business	P	P	P	-	-	
Office, research and development	P	P	P	-	-	
Public, Quasi-Public and Assembly Uses						
Church/religious assembly	C	-	-	-	-	
Recycling Uses						
Processing facility	-	-	C	S	S	
Transfer facility, recycling	-	-	C	S	S	
Collection facility, large	-	-	-	-	P	
Reverse vending machine	A	A	A	A	A	
Collection facility, small	A	A	A	A	A	
Residential						
Emergency residential shelter, <u>within Airport Influence Area (more than 50 beds)</u>	C	-	-	-	-	Section 20.80.500
Emergency residential shelter <u>within Airport Influence Area, (50 beds or fewer)</u>	P	-	-	-	-	Section 20.80.500
<u>Emergency residential shelter outside of Airport Influence Area (more than 100 beds)</u>	<u>C</u>	<u>-</u>	<u>-</u>	<u>-</u>	<u>-</u>	<u>Section 20.80.500</u>
<u>Emergency residential shelter outside of Airport Influence Area (100 beds or fewer)</u>	<u>P</u>	<u>-</u>	<u>-</u>	<u>-</u>	<u>-</u>	<u>Section 20.80.500, Chapter 20.195</u>
Hotel supportive housing	C	C	C	C	C	Note 17; Part 22 of Chapter 20.80
Living quarters, custodian, caretakers	-	-	-	-	C	Note 1
Transportation and Utilities						

Commercial vehicle storage	S	-	-	S	S	
Common carrier depot	S	S	S	S	S	
Community television antenna systems	C	C	C	C	C	
Data center	S	S	S	S	S	Note 2
Off-site, alternating and alternative use parking arrangements	S	S	S	S	S	Section 20.90.200
Off-street parking establishment	C	-	C	C	C	
Television, radio studio	C	C	C	C	C	
Utility facilities, excluding corporation yards, storage or repair yards and warehouses	C	C	C	C	C	
Wireless communications antenna	C	C	C	C	C	Note 18; Sections 20.100.1300, 20.80.1915
Wireless communications antenna, slimline monopole	S	S	S	S	S	Note 18; Sections 20.80.1900, 20.80.1915
Wireless communications antenna, building mounted	P	P	P	P	P	Note 18; Sections 20.80.1910, 20.80.1915
Utilities, Power Generation						
Base load power plant	-	-	-	-	C	
Co-generation facility	S	S	S	S	S	
Private electrical power generation facility	C	C	C	C	C	
Solar photovoltaic power system	P	P	P	P	P	Section 20.100.610 C.7.
Stand-by/backup facilities that do not exceed noise and air standards	P	P	P	P	P	
Stand-by/backup facilities that do exceed noise and air standards	C	C	C	C	C	
Stationary peaking power plant	-	-	-	C	C	
Temporary stand-by or backup electrical power generation facility	P	P	P	P	P	

Transportable peaking power plant	-	-	-	C	C	
Vehicle Related Uses						
Auto dealer, wholesale, no on-site storage	P	P	P	-	-	
Car wash, detailing	C	C	-	-	-	
Fuel service station or charge station, no incidental service or repair	P	-	C	-	-	Note 8
Fuel service station or charge station with incidental service and repair	P	-	-	-	-	Note 3
Repair and cleaning of vehicles	C	-	-	P	P	Note 4
Sale, brokerage, or lease (rental) of passenger vehicles, pick-up trucks not exceeding 25 feet in length, and motorcycles	S	-	-	-	-	Note 10
Sale or lease of commercial trucks, buses, trailers, campers, boats, mobilehomes, construction equipment	C	-	-	C	-	
Sale, vehicle parts	P	-	-	P/S	-	Note 9
Vehicle tow yard	-	-	-	C	S	Note 19
Vehicle wrecking, including sales of parts	-	-	-	-	C	
Warehouse retail indoor sale of passenger vehicles, pick-up trucks not exceeding 25 feet in length, and motorcycles	C	C	C	C	C	Note 2; Section 20.50.140

Notes:

1. Site must be seven (7) acres or more.
2. In TEC, only allowed in existing buildings with a valid certificate of occupancy as of (the effective date of this ordinance). Not allowed more than 5% expansion of the existing building floor area ratio for the portion of the building occupied by the use subject to this note.

3. Incidental repair includes air conditioning service, carburetor and fuel injection service, electrical service, radiator service, and tune-up, lube, oil change, and smog check, as well as tires, batteries, and accessories installation. Does not allow body repair or painting.
4. All vehicle-related repair, service, and accessory or other installation, excepting the cleaning of vehicles, shall be conducted within a fully enclosed Building.
5. Commercial support uses are subject to and limited by Section 20.50.110. Commercial support uses subject to Section 20.50.110 A. are permitted (P) uses. Commercial support uses subject to Section 20.50.110 B. in the primary Industrial Park Building(s) require an administrative (A) permit. Commercial support uses subject to Section 20.50.110 C. in a single-use Building require a Development Permit. Public Eating Establishments in the LI or HI districts are limited to a maximum of six hundred fifty (650) gross square feet in size.
6. Refer to the General Plan for criteria to determine if the use is permissible at the proposed location.
7. Crematories shall be separated by at least five hundred (500) linear feet from residential uses, schools, and day care centers, which distance(s) shall be measured from the nearest points of the Parcel boundary on which the crematory is proposed and the Parcel boundary on which the residential, school or day care center use is located.
8. Charge Stations that are incidental to a separate primary use, that do not impact on-site or off-site vehicular circulation, and that serve patrons of the primary use on-site are Permitted in all Industrial Zoning Districts.
9. Vehicle parts sales are permitted in the LI district when the total floor area dedicated to retail display and open to the public occupies no more than fifteen (15%) percent of the gross floor area of the individual tenant space. Vehicle parts sales establishments that exceed fifteen (15%) percent of the gross floor area of the individual tenant space are subject to a Special Use Permit.
10. Any incidental vehicle-related repair, service, and accessory or other installation, excepting the cleaning of vehicles, shall be conducted within a fully enclosed Building.
11. Public schools are subject to the regulations of this Title, subject to the provisions of California Government Code Section 53094 for classroom facilities.
12. Off-sale of alcoholic beverages. The total square footage of alcoholic beverages on display in a retail area and the total square footage of retail floor area in which alcoholic beverages are displayed for sale shall be the lesser of the following:
 - a. Two hundred fifty (250) gross square feet; or
 - b. Five (5%) percent of the winery's, brewery's, or distillery's entire gross floor area; and any and all alcoholic beverages made available for retail sale shall be limited only to those alcoholic beverages manufactured and produced on-site.
13. At least two hundred (200) rooms and four (4) or more stories in height are required for Hotels located in the TEC Transit Employment Center Zoning District.
14. The use is allowed in the TEC district only on the first or second floor of a building containing another permitted, special, or conditional use of the TEC Zoning District that is not subject to this note. Not allowed as a standalone use.
15. Primary uses include sporting events, large assembly, concerts, and entertainment events of similar character and intensity. Incidental support uses include offices, locker rooms, retail,

- Public Eating Establishments, Drinking Establishments, Outdoor Vending Facilities, and other commercial uses of similar character and intensity.
16. Use permit applications for stadiums that consist of more than two thousand (2,000) seats and that are in an airport influence area shall be referred to the Santa Clara Airport Land Use Commission prior to approval by the City.
 17. Hotel Supportive Housing may be Permitted only with a Conditional Use Permit pursuant to Part 22 of Chapter 20.80 and only until December 31, 2026.
 18. Certain modifications of existing Wireless Facilities may be Permitted with an Administrative Permit in accordance with Section 20.80.1915 of Chapter 20.80.
 19. Vehicle auctions are permitted as part of a Vehicle tow yard.
 20. Day care centers are allowed in the IP and TEC Zoning Districts as incidental uses to the primary TEC or IP development, not as a standalone use.
 21. Special use permit required if within 150 feet of residentially used or zoned lot; Permitted if not within 150 feet of residentially used or zoned lot.
 22. Outdoor Animal Boarding is allowed through a Special use permit in the CIC Zoning District.
 23. Permitted in the CIC district for classroom use only, outside vehicle storage requires a Special use permit.
 24. Only schools which offer driving instruction for commercial vehicles are permitted in this zoning district.

SECTION 4. Section 20.55.203 of Chapter 20.55 of Title 20 of the San José Municipal Code is amended to read as follows:

20.55.203 Urban Village and Mixed Use Zoning District Use Regulations

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

Use	Zoning District						Applicable Sections & Notes
	UVC	UV	MUC	MUN	UR	TR	
Residential							
One-family dwelling	-	-	-	P	P	P	Note 6; Note 25
Two-family dwelling	-	-	-	P	P	P	Note 6; Note 25
Accessory dwelling unit	-	P	P	P	P	P	Part 4.5, Chapter 20.30
Mixed use development	-	P	P	P	P	P	Note 20; Note 25 Chapter 20.195

Multiple dwelling	-	P	P	P	P	P	Note 20; Note 25 Chapter 20.195
Co-living community	-	S	C	C	S	S	Part 3.73, Chapter 20.80
Guesthouse	-	S	-	S	S	S	
Emergency residential shelter within Airport Influence Area	-	S	S	S	S	S	Section 20.80.500
Emergency residential shelter outside of Airport Influence Area (more than 100 beds)	-	<u>S</u>	<u>S</u>	<u>S</u>	<u>S</u>	<u>S</u>	<u>Section 20.80.500</u>
Emergency residential shelter outside of Airport Influence Area (100 beds or fewer)	-	<u>P</u>	<u>P</u>	<u>P</u>	<u>P</u>	<u>P</u>	<u>Section 20.80.500, Chapter 20.195</u>
Home Occupation	-	P	P	P	P	P	Part 9, Chapter 20.80
Hotel supportive housing	C	-	C	-	-	-	Note 17; Part 22, Chapter 20.80
Live/work uses	-	S	S	S	S	S	Section 20.80.740
Low barrier navigation center	-	P	P	P	P	P	Chapter 20.195
Permanent supportive housing	-	P	P	P	P	P	Note 20; Chapter 20.195
Residential accessory structures or buildings	-	P	P	P	P	P	Part 5, Chapter 20.30
Residential care facility for six or fewer persons	-	P	P	P	P	P	
Residential care facility for seven or more persons	-	C	C	C	C	C	
Residential service facility for six or fewer persons	-	P	P	P	P	P	

Residential service facility for seven or more persons	-	C	C	C	C	C	
Single room occupancy, living unit	-	-	C	-	-	-	Note 25; Part 15, Chapter 20.80
General Retail							
Alcohol, off-sale - beer and/or wine only	C	C	C	C	C	C	Section 20.80.900
Alcohol, off-sale - full range of alcoholic beverages	C	C	C	C	C	C	Section 20.80.900
Alcohol, off-sale - as incidental to a winery, brewery, or distillery	A	A	A	A	A	A	Note 1; Part 5.75, Chapter 20.80
Food, beverages, and groceries	P	P	P	P	P	P	
Nursery, plant	P	P	P	P	P	P	Note 2
Outdoor vending	A	A	A	A	A	A	Part 10, Chapter 20.80
Outdoor vending, fresh fruits and vegetables	P	P	P	P	P	P	Part 10, Chapter 20.80
Pawnshop/broker	C	-	C	-	-	-	See Title 6
Retail art studio	P	P	P	P	P	P	Section 20.80.1175
Retail bakery	P	P	P	P	P	P	
Retail sales, goods, and merchandise	P	P	P	P	P	P	
Seasonal sales	P	P	P	P	P	P	Part 14, Chapter 20.80
Agriculture & Open Space							
Aquaculture, aquaponics, and hydroponics	S	S	S	S	S	S	
Certified farmers' market	S	S	S	S	S	S	Part 3.5, Chapter 20.80
Certified farmers' market, small	P	P	P	P	P	P	Part 3.5, Chapter 20.80
Community gardens	P	P	P	P	P	P	

Neighborhood agriculture	P	P	P	P	P	P	Note 16; Title 7
Education & Training							
Child day care center located on an existing School Site or as an incident to a permitted on-site church/religious assembly use involving no building additions or changes to the site	P	P	P	P	P	P	Note 5
Day care center	S	S	S	S	S	S	Note 5
Instructional art studios	P	P	P	P	P	P	
Private instruction, personal enrichment	P	P	P	P	P	P	
School, elementary and secondary (public or private)	C	C	C	C	C	C	Note 13
School, driving (class C & M license)	P	P	P	P	P	P	Note 3
School, post secondary	P	P	P	P	P	P	
School, trade and vocational	P/S	P/S	P/S	P/S	P/S	P/S	Note 4 and Note 13
Entertainment and Recreation							
Arcade, amusement game	P	P	P	P	P	P	
Health club, gymnasium	P	P	P	P	P	P	
Performing arts rehearsal space	P	P	P	P	P	P	
Poolroom/billiards establishment	P	P	P	P	P	P	
Private club or	S	S	S	S	S	S	

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

distillery							
Taproom or tasting room with off-sale of alcohol	A	A	A	A	A	A	Part 5.75, Chapter 20.80
General Services							
Bail Bonds Establishment	S	S	S	-	S	S	Note 11; Part 1.5, Chapter 20.80
Bed and breakfast inn	P	P	P	P	P	P	Part 2, Chapter 20.80
Dry cleaner	P	P	P	P	P	P	
Hotel or motel	P	P	P	P	P	P	
Single room occupancy (SRO) hotel	C	C	C	C	C	C	Part 15, Chapter 20.80
Laundromat	P	P	P	P	P	P	
Maintenance and repair, small household appliances	P	P	P	P	P	P	
Messenger services	P	P	P	P	P	P	
Mortuary and funeral services	P	P	P	P	P	P	
Personal services	P	P	P	P	P	P	Section 20.200.880
Bail Bonds Establishment	S	S	S	-	S	S	
Bed and breakfast inn	P	P	P	P	P	P	
Health and Veterinary Services							
Animal boarding, indoor	P	P	P	P	P	P	Note 7
Animal grooming	P	P	P	P	P	P	Note 7
Cannabis retail storefront	R	R	R	-	R	R	Part 9.75, Chapter 20.80
Emergency ambulance service	C	C	C	-	C	C	
Hospital/in-patient facility	C	C	C	-	C	C	
Medical cannabis collective	R	R	R	-	R	R	Part 9.75, Chapter 20.80

dispensary site only							
Medical cannabis dispensary	R	R	R	-	R	R	Part 9.75, Chapter 20.80
Office, medical	P	P	P	P	P	P	
Veterinary clinic	P	P	P	P	P	P	
Historic Reuse							
Historic landmark structure reuse	S	S	S	S	S	S	Part 8.5, Chapter 20.80
Industry and Manufacturing							
Laboratory, processing	P	P	P	-	-	-	
Manufacturing and assembly, light	P	P	P	-	-	-	Note 22
Office, research and development	P	P	P	-	S	S	Note 21
Offices and Financial Services							
Automatic teller machine	P	P	P	P	P	P	Section 20.80.200
Business support	P	P	P	P	P	P	
Office, general business	P	P	P	P	P	P	
Retail bank / Financial services	P	P	P	P	P	P	
Public, Quasi-Public and Assembly Uses							
Cemetery	C	C	C	C	C	C	
Church/religious assembly	S	S	S	S	S	S	
Museums, libraries, parks, playgrounds, or community centers (publicly operated)	P	P	P	P	P	P	
Museums, libraries, parks, playgrounds, or community centers (privately operated)	S	S	S	S	S	S	
Recycling Uses							
Reverse vending machine	A	A	A	A	A	A	Part 13, Chapter 20.80

Small collection facility	A	A	A	A	A	A	Part 13, Chapter 20.80
Transportation and Utilities							
Community television antenna systems	C	C	C	C	C	C	
Off-site, alternating use and alternative parking arrangements	S	S	S	-	S	S	Section 20.90.200
Parking establishment, off-street	S	-	S	-	-	-	Note 23
Television, radio studios without antenna/dishes	C	C	C	-	-	-	
Utility facilities, excluding corporation yards, storage or repair yards and warehouses	C	C	-	-	-	-	
Utility facilities including corporation yards, storage or repair yards and warehouses	-	-	-	-	-	-	
Wireless communication antenna	C	C	C	C	C	C	Note 18; Sections 20.100.1300, 20.80.1915
Wireless communication antenna, slimline monopole	S	S	S	S	S	S	Note 19; Sections 20.80.1900, 20.80.1915
Wireless communication antenna, building mounted	P	P	P	P	P	P	Note 19; Sections 20.80.1910, 20.80.1915
Utilities, Electrical Power Generation							
Co-generation	S	S	S	S	S	S	

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

Notes:

1. Alcohol, off-sales are limited to products manufactured on-site for wineries, breweries, or distilleries.
2. Landscaping materials, such as rock, mulch, and sand are limited to prepackaged sales.
3. Classroom use only, no driving courses or on-site storage of vehicles permitted in UVC, UV, MUC, MUN, UR or TR Zoning Districts.
4. Indoor uses related to trade or vocational schools are Permitted, any outdoor uses will require a Special Use Permit.
5. If the Daycare use exceeds the noise standards, as set forth in Chapter 20.40 in Section 20.40.600, it will require a Special Use Permit.
6. One-family dwellings or two-family dwellings are allowed as part of a larger development which meets the minimum density requirement in the UR and TR zoning districts.
7. Except as an incidental use to neighborhood agriculture, all uses involving any type of care for animals, including but not limited to grooming, boarding, medical care, must be conducted wholly inside a building.

8. Incidental repair includes non-invasive engine service, maintenance, and repair, including but not limited to, air conditioning service, fuel system service, electrical service, coolant system service, tune-up, fluid exchanges, steering and suspension system service, brake system service, transmission adjustment and service, lube, oil change, smog check, diagnostics and vehicle inspections, stock catalytic converters and manifolds, as well as tires, batteries and accessories installation. Does not allow body repair, welding, vehicle restorations, other types of exhaust system repair, the removal of cylinder heads, engines, transmissions/transfer cases and differentials, or painting.
9. No outdoor sales areas or dismantling allowed.
10. All vehicle-related repair, service, and accessory or other installation shall be conducted within a fully enclosed building.
11. Bail bond establishments shall not be located and are prohibited uses on the ground floors of structures located within the main jail area, as that area is defined in Section 20.80.070 of Chapter 20.80 of this Title. Bail bond establishments are allowed as shown on Table 20-138 on other, above-ground floors of structures. All bail bond establishments shall meet all distance requirements specified in Section 20.80.075 of Chapter 20.80 of this Title.
12. Charging stations that are incidental to a separate primary use that do not impact on-site or off-site vehicular circulation, and that serve patrons of the primary use on-site are permitted in all commercial zoning districts.
13. Public schools are subject to the regulations of this Title, subject to the provisions of California Government Code Section 53094 for classroom facilities.
14. Primary uses include sporting events, assembly venues, concerts, and entertainment events of similar character and intensity. Incidental support uses include offices, locker rooms, retail, public eating establishments, drinking establishments, outdoor vending facilities, and other commercial uses of similar character and intensity.
15. Use permit applications for stadiums that consist of more than 2,000 seats and that are in airport influence areas shall be referred to the Santa Clara Airport Land Use Commission prior to approval by the City.
16. Neighborhood agriculture in conformance with this Title is a permitted use that may operate on a site without a permanent building on that site.
17. Hotel supportive housing may be permitted only with a Conditional Use Permit pursuant to Part 22 of Chapter 20.80 and only until December 31, 2026.
18. Certain modifications of existing wireless facilities may be permitted with an Administrative Permit in accordance with Section 20.80.1915 of Chapter 20.80.
19. Conditional Use Permit required outside of Urban Villages; Special Use Permit in Urban Villages.
20. Permanent supportive housing is a permitted use as mixed use or residential-only development. For information regarding the ministerial approval process, refer to Chapter 20.195 for more information.
21. Research and Development is allowed through a Special Use Permit in TR and UR if the use on site does not involve activity that would create noxious sounds, smells, or vibrations.

22. For the purposes of Chapter 20.55, Food and Beverage manufacturing is considered to be permitted under the Manufacturing and Assembly, light use, if it meets all of the following criteria:
 - a. The use must include a retail space which is accessible from and adjacent to the street and open to the public during regular business hours.
 - b. Odors produced on-site shall not have a material negative effect on other businesses or properties in the area.
23. Surface parking which does not serve a use contained on the same site or under the same Development Permit is not permitted. Standalone parking structures are allowed under the following conditions:
 - a. Parking structures shall comply with the Citywide Design Standards and Guidelines.
 - b. In addition, the parking facility must meet one of the following criteria:
 - i. The parking facility shall be designed as a structured aboveground parking facility with ground floor commercial spaces, which are located along public rights-of-way or public open spaces, and which comply with Citywide Design Standards and Guidelines for ground floor commercial spaces.
 - ii. The parking facility shall be designed as an underground parking facility with a POPOS at grade level, which is open to the public 24 hours a day, and which complies with the Citywide Design Standards and Guidelines.
24. In UVC and MUC, sale and leasing of vehicles is permitted in the form of an interior showroom only with no on-site storage of vehicles other than display models in the showroom.
25. May be used as Transitional Housing.
26. 100% deed-restricted affordable housing is a permitted use for residential housing type that meet minimum density requirement in the UR and TR zoning districts, and commercial space requirements shall not apply; subject to conformance with General Plan policies and state law mandates. Refer to Chapter 20.195 for information regarding the ministerial approval process.

SECTION 5. Part 1 of Chapter 20.195 of Title 20 of the San José Municipal Code is amended to read as follows:

Part 1

General

20.195.010 Purpose

The purpose of this Chapter is to:

- A. Specify how the City will implement the review and approval requirements of California Government Code Sections, 65650 et seq. ("State Supportive Housing Law"), 65660 et seq. ("State Low Barrier Navigation Centers Law"), 65913.4 et seq. ("State Streamlined Ministerial Approval Process"), 65912.100 et seq. ("AB 2011"), 65583 et seq. ("State Emergency Residential Shelters Law"), and California Health and Safety Code Section 17021.8 ("Agricultural Employee Housing Law"); and
- B. Specify local ministerial approval process for certain housing applications as set forth in Chapter 20.65, Parts 2, 3 and 4; 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.

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.

9.11. "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.

10.12. "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.

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

SECTION 6. Part 2 of Chapter 20.195 of Title 20 of the San José Municipal Code is amended to read as follows:

Part 2

State Streamlined Ministerial Approvals

20.195.030 Ministerial Approval

- A. Ministerially Approved Developments. The City will Ministerially Approve a housing development, Eligible Agricultural Employee Housing, ~~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 17021.8 et. seq.
- C. Replacement of Pre-Existing Lower Income Units. A housing development seeking Ministerial Approval under the State Supportive Housing Law shall replace any dwelling units on the site of the proposed housing development in the manner required by the State Supportive Housing Law.
 - D. Development Standards. Notwithstanding the State Supportive Housing Law, the State Low Barrier Navigation Centers Law, AB 2011, the State Emergency Residential Shelters Law, and the State Streamlined Ministerial Approval Process, Ministerially Approved housing developments, ~~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.

20.195.040 Application Requirements and Timing

- A. General. Aside from Ministerial Approvals for accessory dwelling units and junior accessory dwelling units as specified in State Law, any Ministerial Approval sought by an Applicant shall be made pursuant to this Chapter.
- B. Application. All applications pursuant to this Chapter 20.195 shall be filed with the Director in a form prescribed by the Director. The application shall be signed by:
 - 1. All owners of the real property included in the housing development, ~~or~~ Low Barrier Navigation Center, or Emergency Residential Shelter; or
 - 2. The person or entity with written authority of the owner(s) to apply for Ministerial Approval for a housing development, Eligible Agricultural Employee Housing, ~~or~~ Low Barrier Navigation Center, or Emergency Residential Shelter.
- C. Application Received. No application for Ministerial Approval shall be deemed received until the following have been provided:

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

D. The application shall include the following information:

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

6. If the Applicant submits an application under the provisions of the State Supportive Housing Law, a plan for providing supportive services, with documentation demonstrating that the onsite supportive services provided meet the requirements of the Supportive Housing Law.
7. If a reduction in Supportive Housing Units is requested due to the termination of project-based rental assistance or operating subsidy through no fault of the project owner, an explanation of good faith efforts by the owner to find other sources of financial support, how any change in the number of Supportive Service Units is restricted to the minimum necessary to maintain the project's financial feasibility, and how any change to the occupancy of the Supportive Housing Units is made in a manner that minimizes tenant disruption and only upon the vacancy of Supportive Housing Units.
8. Level of affordability of any Restricted Affordable Units and proposed method to ensure affordability.
9. If the applicant submits an application under the provisions of the State Streamlined Ministerial Approval Process and it is not entirely a public work, certification that the project will pay prevailing wages.
10. If the applicant submits an application under the provisions of the State Streamlined Ministerial Approval Process and the project meets the conditions specified in the Process, certification that the project will employ a skilled and trained workforce.
11. If the applicant submits an application under the provisions of the Ministerial Employee Housing, as further defined in the Agricultural

Employee Housing Law the proposed project must incorporate the following requirements:

- a. Housing type and description of the total number of units and beds proposed.
- b. Number of agricultural employees occupying the housing and description of whether housing is temporary, seasonal or permanent.
- c. Description of the agricultural workplace and employer.
- d. Entity responsible for housing maintenance.

20.195.50 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 provision of AB 2011, a finding that all the requirements for housing development that are specified in AB 2011 have been or will be met.
- 5.6. 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.
- 6.7. If the Ministerial Approval is based all or in part on the provisions of the Agricultural Employee Housing Law, a finding that all requirements for an Eligible Agricultural Employee Housing development approval that are specified in the Agricultural Employee Housing Law are met.
- 7.8. If the application includes a request for a density bonus, incentive, waiver, or modification under Chapter 20.190, a finding that all the requirements for density bonuses and/or other incentives that are specified in Chapter 20.190 have been or will be met.

C. Conditions for Denial.

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

D. Permit Conditions

1. Term. Unless otherwise required by state law, Ministerial Approvals shall automatically expire three (3) years from the date of the final action establishing that approval, unless otherwise provided in the approval, from and after the date of issuance of the Ministerial Approval if within such three-year period the proposed use of the site or vertical construction of buildings has not commenced, pursuant to and in accordance with the provisions of the Ministerial Approval. The duration of the approval may be extended as provided for in state law.
2. Conditions. Following approval of an application under the Streamlined Ministerial Approval Process, but prior to issuance of a building permit for the development, the Director may require one-time changes to the development that are necessary to comply with the objective uniform construction codes (including, without limitation building, plumbing, electrical, fire, and grading codes), to comply with federal or state laws, or to mitigate a specific, adverse impact upon the public health or safety and there is no feasible method to satisfactorily mitigate or avoid the specific adverse impact without modifying the development. A "specific, adverse

impact" has the meaning defined in Government Code section 65589.5(d)(2).

3. Failure to install public improvements. It shall be a violation of this Title for any person who has signed the acceptance of a permit or approval issued pursuant to this Chapter to fail to secure the completion of the public improvements required by the permit or approval within the time period specified. If no time period is specified, the time period for completion of improvements shall be deemed to be one (1) year from the issuance of a building permit unless an extension has been granted in writing by the Director or, if no building permit is required, one (1) year from the issuance of the permit or approval.
4. Construction clean-up. It shall be a violation of this Title for any person responsible for construction including but not limited to the permit holder and any contractor thereof to fail to keep the public right-of-way free from construction dirt and debris. All on-site construction debris shall be removed at least weekly.
5. Window Glazing. Unless otherwise indicated on an approved plan or in the approved permit, all first-floor, ground floor windows for any commercial use shall consist of transparent glass.
6. Maintenance of Landscape. It shall be a violation of this Title for any property owner or other person in control of any site to fail to install or maintain any landscaping required by a permit or approval issued pursuant to this Chapter or otherwise in a manner that fails to fully comply with the provisions of Chapters 15.10 or 15.11 of Title 15 of this Code. Any vegetation, required by a permit or approval, or otherwise by Chapters

15.10 or 15.11 of Title 15 of this Code, which is dead or dying, shall be replaced within sixty (60) days.

7. Hours of Construction within five hundred (500) feet of a residential unit. No applicant or agent of an applicant shall suffer or allow any construction activity on a site located within five hundred (500) feet of a residential unit before 7:00 a.m. or after 7:00 p.m., Monday through Friday, or at any time on weekends.
8. All projects approved under this Chapter 20.195 shall follow the stormwater management requirements listed in Sections 20.100.470 and 20.100.480, as applicable.
9. Prior to the approval of the Tract or Parcel Map (if applicable) by the Director of Public Works, or the issuance of Building permits, whichever occurs first, all projects approved under this Chapter 20.195 shall satisfy all applicable Public Works clearance and Building Division clearance requirements.
10. All projects approved under this Chapter 20.195 shall, if required by the Zoning Ordinance, satisfy the performance standards of the applicable Zoning Districts.

20.195.060 Regulations

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

SECTION 7. Sections 20.195.070 and 20.195.080 of Part 3 of Chapter 20.195 of Title 20 of the San José Municipal Code are amended to read as follows:

Part 3

Local Ministerial Approvals

20.195.070 Local Ministerial Approvals

Ministerially Approved Developments~~:-~~:

A. The City will Ministerially Approve a housing development, located in the Affordable Housing Overlay, Mixed-Income Housing Overlay, or Housing Element Residential Overlay that meets the requirements specified in Chapter 20.65 when an Applicant submits an application as specified by this Chapter 20.195.

A.B. The City will Ministerially Approve an Emergency Residential Shelter that meets the requirements specified in Chapter 20.80 when an Applicant submits an application as specified by this Chapter 20.195.

20.195.080 Local Ministerial Standards

A. Development Standards. ~~Housing Development in the Affordable Housing Overlay, Mixed-Income Housing Overlay, or Housing Element Residential Overlay~~The following shall meet all objective site, design, and construction standards included in Title 17 (Building and Construction), Title 19 (Subdivisions), and Title 20 (Zoning) of this Code, and shall also comply with all objective design guidelines included in applicable specific plans or otherwise adopted by the City Council, and all administrative regulations adopted pursuant to Section 20.195.060 for the implementation of this Chapter 20.195~~:-~~:

1. Housing Development in the Affordable Housing Overlay, Mixed-Income Housing Overlay, or Housing Element Residential Overlay.
- 4.2. Emergency Residential Shelters that meet the requirements specified in Chapter 20.80.

B. Ministerial approval shall not be issued where any of the following apply:

1. The development would require the demolition of a historic structure that was placed on the National Register of Historic Places, California Register of Historic Resources, or is listed as a City Landmark or Candidate City Landmark on the City's Historic Resources Inventory.
2. The site is designated as either prime farmland or farmland of statewide importance, as defined pursuant to United States Department of Agriculture land inventory and monitoring criteria, as modified for California, and designated on the maps prepared by the Farmland Mapping and Monitoring Program of the Department of Conservation, or land zoned or designated for agricultural protection or preservation by a local ballot measure that was approved by the voters of that jurisdiction.
3. Wetlands, as defined in the United States Fish and Wildlife Service Manual, Part 660 FW 2 (June 21, 1993).
4. Within a very high fire hazard severity zone, as determined by the Department of Forestry and Fire Protection pursuant to Section 51178, or within a high or very high fire hazard severity zone as indicated on maps adopted by the Department of Forestry and Fire Protection pursuant to Section 4202 of the Public Resources Code. This subparagraph does not apply to sites excluded from the specified hazard zones by a local agency, pursuant to subdivision (b) of Section 51179, or sites that have adopted

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

5. A hazardous waste site that is listed pursuant to Section 65962.5 or a hazardous waste site designated by the Department of Toxic Substances Control pursuant to Section 25356 of the Health and Safety Code, unless either of the following apply:
 - a. The site is an underground storage tank site that received a uniform closure letter issued pursuant to subdivision (g) of Section 25296.10 of the Health and Safety Code based on closure criteria established by the State Water Resources Control Board for residential use or residential mixed uses. This section does not alter or change the conditions to remove a site from the list of hazardous waste sites listed pursuant to Section 65962.5.
 - b. The State Department of Public Health, State Water Resources Control Board, Department of Toxic Substances Control, or a local agency making a determination pursuant to subdivision (c) of Section 25296.10 of the Health and Safety Code, has otherwise determined that the site is suitable for residential use or residential mixed uses.
6. Within a delineated earthquake fault zone as determined by the State Geologist in any official maps published by the State Geologist, unless the development complies with applicable seismic protection building code standards adopted by the California Building Standards Commission under the California Building Standards Law (Part 2.5 (commencing with Section 18901) of Division 13 of the Health and Safety Code), and by any

local building department under Chapter 12.2 (commencing with Section 8875) of Division 1 of Title 2.

7. Within a special flood hazard area subject to inundation by the one percent (1%) annual chance flood (100-year flood) as determined by the Federal Emergency Management Agency in any official maps published by the Federal Emergency Management Agency. If a development proponent is able to satisfy all applicable federal qualifying criteria in order to provide that the site satisfies this subparagraph and is otherwise eligible for streamlined approval under this section, a local government shall not deny the application on the basis that the development proponent did not comply with any additional permit requirement, standard, or action adopted by that local government that is applicable to that site. A development may be located on a site described in this subparagraph if either of the following are met:
 - a. The site has been subject to a Letter of Map Revision prepared by the Federal Emergency Management Agency and issued to the local jurisdiction.
 - b. The site meets Federal Emergency Management Agency requirements necessary to meet minimum flood plain management criteria of the National Flood Insurance Program pursuant to Part 59 (commencing with Section 59.1) and Part 60 (commencing with Section 60.1) of Subchapter B of Chapter I of Title 44 of the Code of Federal Regulations.
8. Within a regulatory floodway as determined by the Federal Emergency Management Agency in any official maps published by the Federal Emergency Management Agency, unless the development has received a

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

9. Lands identified for conservation in an adopted natural community conservation plan pursuant to the Natural Community Conservation Planning Act (Chapter 10 (commencing with Section 2800) of Division 3 of the Fish and Game Code), habitat conservation plan pursuant to the federal Endangered Species Act of 1973 (16 U.S.C. Sec. 1531 et seq.), or other adopted natural resource protection plan.
10. Habitat for protected species identified as candidate, sensitive, or species of special status by state or federal agencies, fully protected species, or species protected by the federal Endangered Species Act of 1973 (16 U.S.C. Sec. 1531 et seq.), the California Endangered Species Act (Chapter 1.5 (commencing with Section 2050) of Division 3 of the Fish and Game Code), or the Native Plant Protection Act (Chapter 10 (commencing with Section 1900) of Division 2 of the Fish and Game Code).
11. Lands under conservation easement.
12. The development would have a specific, adverse impact upon the public health or safety, and there is no feasible method to satisfactorily mitigate or avoid the specific adverse impact.

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

AYES:

NOES:

ABSENT:

DISQUALIFIED:

MATT MAHAN
Mayor

ATTEST:

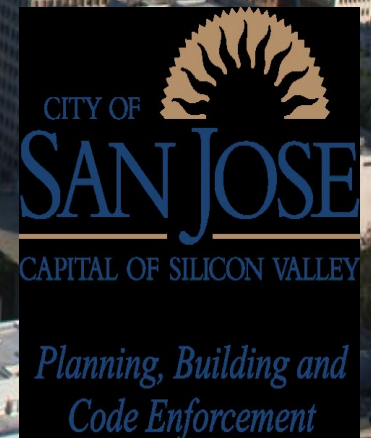
TONI J. TABER, CMC
City Clerk

Emergency Residential Shelters Zoning Code Update

Project File No. PP24-004

June 11, 2024

Presenters: Michelle Flores, Supervising Planner
Jerad Ferguson, Principal Planner



Background

- Housing Element law requires the identification of adequate sites for emergency shelters for persons experiencing homelessness.
- Housing Element identified 89 parcels in Combined Industrial/Commercial zoning district. The number of persons experiencing homelessness in 2019 was 6,097.
- The Combined Industrial/Commercial sites provided a capacity of 4,450 beds. To address deficit of 1,647 shelter beds, Housing Element included program H-14.

AB 2339 (2022)

- Revises Housing Element law to require the identification of one or more zoning districts that *allow residential uses, including mixed use*, where emergency residential shelters are permitted by right.
- Statutory deadline of one-year post Housing Element adoption: June 20, 2024
- The number of people experiencing homelessness in 2023 was 6,266. Deficit of 1,816 shelter beds.

AB 2339 (2022)

- **Definition**

- Specifies that emergency shelters include other interim interventions, including, but not limited to, navigation centers, bridge housing, and respite or recuperative care.

- **Capacity**

- Requires identification of sufficient sites to accommodate the number of persons experiencing homelessness.

- **Permitted Use**

- Only the number of beds permitted without a discretionary permit can be counted towards capacity.

- **Objective Standards**

- Emergency shelters are limited to only the specified objective standards listed in AB 2339.

Proposed Zoning Code Updates

- **Proposed Changes in Recommendation**

- Update definition to reference Gov §65583
- Allow emergency residential shelters with 100 beds or fewer by right, through a ministerial process, in the identified zoning district
 - CP, CN, CG, PQP, UV, MUN, MUC, UR, TR
- Applicable to sites outside of Airport Influence Area

- **Future Changes Planned**

- Expand definition
- Update objective standards
- Add DC to the list of identified zoning districts
- Take all sites within Airport Influence Area to ALUC

Shelter Bed Capacity

- As of 2023, there are 6,266 persons experiencing homelessness.

	Number of Beds Permitted
Current Zoning Code	4,450
Adding CP, CN, CG, PQP, UV, MUN, MUC	1,900
Total	6,350
<i>Requirement</i>	6,266

Recommendation

Adopt an ordinance amending various sections of Title 20 of the San José Municipal Code to amend the definition of emergency residential shelters, amend the allowed use of emergency residential shelters, through use permit and by right, in the Commercial Pedestrian Zoning District, Commercial Neighborhood Zoning District, Commercial General Zoning District, Public/Quasi Public Zoning District, and Urban Village and Mixed Use Zoning Districts, and amendments to allow a streamlined ministerial approval process for emergency residential shelters.

Emergency Residential Shelters Zoning Code Update

Project File No. PP24-004

June 11, 2024

Presenters: Michelle Flores, Supervising Planner
Jerad Ferguson, Principal Planner

