



Memorandum

TO: PLANNING COMMISSION

FROM: Rosalynn Hughey

SUBJECT: SEE BELOW

DATE: 03-25-2020

SUBJECT: PP20-009: AN ORDINANCE OF THE CITY OF SAN JOSE AMENDING CHAPTER 20.190 OF TITLE 20 OF THE SAN JOSE MUNICIPAL CODE TO EXTEND THE APPLICABILITY OF CITY DENSITY DEVELOPMENT INCENTIVES; AMENDING CHAPTER 20.30, CHAPTER 20.40, CHAPTER 20.70, CHAPTER 20.75, AND CHAPTER 20.200, AND ADDING CHAPTER 20.195 TO IMPLEMENT CALIFORNIA GOVERNMENT CODE SECTIONS 65650 ET SEQ, 65660 ET SEQ, AND 65913.4; AND MAKING NONSUBSTANTIVE CODE CHANGES

RECOMMENDATION

Recommend the Planning Commission recommend that the City Council approve an ordinance amending Chapter 20.190 of Title 20 of the San Jose Municipal Code to extend the applicability of city density development incentives and address modifications to state density bonus law made after adoption of the chapter; and amending Chapters 20.30, 20.40, 20.70, 20.75, and 20.200, and adding Chapter 20.195 to implement California Government Code Section 65650 et seq. (State Supportive Housing Law), 65660 et seq. (Low Barrier Navigation Centers Law), and 65913.4 (State Streamlined Ministerial Approval Process), and encourage affordable housing consistent with the San Jose General Plan.

OUTCOME

If adopted by City Council, the amended Chapters 20.30, 20.40, 20.70, 20.75, and 20.190, and new Chapter 20.195 of Title 20 of the San Jose Municipal Code will bring the density bonus and incentives provisions into compliance with current state law, and help the City implement California Government Code Section 65650 et seq. (State Supportive Housing Law), 65660 et seq. (Low Barrier Navigation Centers Law), and 65913.4 (State Streamlined Ministerial Approval Process) by establishing procedures for reviewing ministerial approval applications. Failure to adopt this ordinance or a similar ordinance does not relieve the City from complying with State Law.

BACKGROUND

State Legislative Summary

Since 2016, the State Legislature, then-Governor Brown, and now-Governor Newsom have taken increased interest in reforming state housing policy and local control over development to facilitate housing production. In 2017 Governor Brown signed, SB 35 and AB 2162. In 2019, Governor Newsom signed AB 101, AB 1485, and AB 1763.

SB 35 creates a State Streamlined Ministerial Approval Process for certain urban multifamily projects. Among other requirements, projects must meet the following criteria

- Have at least 2/3 of the floor area be dedicated to residential uses;
- Set aside a share of proposed residential units as affordable to households earning below 80% AMI;
- Meet objective local development standards;
- Not demolish any deed restricted or rent controlled rental housing that has been occupied in the last 10 years;
- Pay prevailing wages if it is not entirely a public work; and
- Use a skilled and trained workforce if the project has at least 75 units and is not 100% subsidized affordable housing.

Local governments must determine if a project is eligible for the streamlined process within 60 or 90 days depending on project size. Review of eligible projects must be complete within 90 or 180 days, depending on project size. This law was amended by AB 1485, which expands the ministerial approval process to include projects that include higher income levels, clarifies the 2/3 residential floor area requirement, and extends the effective period of ministerial approvals, among other smaller adjustments. The expanded eligibility under AB 1485 does not currently apply to San Jose, as San Jose has made sufficient progress in construction of above moderate income RHNA.

AB 2162 establishes supportive housing – housing for formerly homeless residents that is linked to housing and health-related services – as a use by right in multifamily and mixed use zones, including nonresidential zones where multifamily uses are permitted. To qualify, projects must meet the following criteria:

- Be 100% subsidized and affordable to lower income households;
- 25% -- or 12 units, whichever is greater -- of units must be supportive housing (projects with less than 12 units must be entirely supportive housing), provide onsite supportive services;
- Set aside 3% of nonresidential floor area (or 90 square feet for projects with 20 or fewer units) for that purpose;
- Units must include at least one bathroom and kitchen; and
- Comply with objective development standards that apply to other multifamily development within the same zone.

Local governments must notify applicants if the application is complete within 30 days of receiving the application and complete review in 60 or 120 days, depending on project size.

AB 101 establishes low barrier navigation centers – shelters focused on moving formerly homeless occupants into permanent housing while case managers connect them to services – as a use by right in multifamily and mixed use zones, including nonresidential zones where multifamily uses are permitted. Qualifying navigation centers must be housing first, oriented around moving people into permanent housing, be equipped with information systems, and have reduced barriers to entry. Local governments must notify applicants if the application is complete within 30 days of receiving the application and complete review in 60 days.

AB 1763 expands the State Density Bonus to provide an additional incentive and an 80% density bonus (and no density restrictions and a 3-story height limit increase within ½ mile of a major transit stop) to projects where all units are for lower income households. Up to 20% of the units may be for moderate income households, who are considered a subset of lower income households for State law purposes. The bill also adjusts affordable rent requirements for these projects, and it exempts 100% special needs rentals and supportive housing rentals from parking requirements.

Adopting the recommended Ordinance will facilitate the implementation of state law. The recommended ordinance conforms with state law requirements, and as analyzed below, it integrates the ministerial approval process into the City’s development review framework.

ANALYSIS

Amended Chapters 20.30, 20.40, 20.70, 20.75, and 20.200 of the San Jose Municipal Code

Additional Permitted Uses

In compliance with state law, supportive housing and low barrier navigation centers are added as permitted uses in the Residential, Commercial, Public/Quasi-Public, Downtown, and Pedestrian Oriented Zoning Districts where mixed use or multifamily uses are allowed and consistent with the General Plan. (Supportive housing is only allowed in the Public/Quasi-Public Zoning District as 100% of the residential use.)

Amended Chapter 20.190 of Title 20 of the San Jose Municipal Code

Expanded Density Bonus Provisions

In compliance with state law, amended Chapter 20.190 increases the maximum number of incentives eligible projects can take advantage of, and it recognizes the new height incentive given to eligible projects near major transit stops. To ensure that mixed use developments in non-residential zones can take advantage of the density bonus and other incentives, amended Chapter 20.190 expands the front, rear, and rear corner setback incentives to include the Commercial, Public/Quasi-Public, and Pedestrian Oriented Zoning Districts. To bring San Jose closer in line with other cities’ practices, the ordinance also provides an alternative timing for recordation of a Regulatory Agreement ensuring that the project will provide the affordable units that made it eligible for the density bonus law to between Planning approval and Building approval through a separate compliance plan application. Finally, amended Chapter 20.190 recognizes new Chapter

20.195 by allowing density bonus applications to be sought and processed with SB 35, AB 2162, and AB 101 applications in the same way as discretionary approvals.

New Chapter 20.195 of Title 20 of the San Jose Municipal Code

Ministerial Approval Provisions

Chapter 20.195 codifies the City's process for granting ministerial approvals as required by State law. To avoid discrepancies between State law requirements and the municipal ordinance from occurring in the future, Chapter 20.195, like the current density bonus provisions, ties municipal requirements to State law and future amendments.

Development Standards

New Chapter 20.195 requires that ministerially approved housing developments and navigation centers meet all objective standards site, design, and construction standards from the Municipal Code, and projects must also comply with all objective design standards included in applicable specific plans or otherwise adopted by the City Council.

Application

New Chapter 20.195 empowers the PBCE Director to create a ministerial approval application form. The form will gather the following information needed from developers to determine eligibility for ministerial approval:

1. A brief description of the proposed project, including a breakdown of units.
2. The current zoning district(s) and general plan land use designation(s) and assessor's 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 pursuant to the same Chapter. While density bonuses are not required to determine eligibility, a project that is eligible for ministerial approval is also likely eligible for a density bonus. Including this information on the ministerial approval application will facilitate review by staff.
5. A site plan showing the location of different types of units within the project.
6. If the applicant applies 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 under the State Supportive Housing Law, documentation in accordance with the Law's requirements.
8. Level of affordability of any deed-restricted affordable units and proposed method to ensure affordability.
9. If the applicant applies under the provisions of the State Streamlined Ministerial Approval Process and the project is not entirely a public project, certification that the project will pay prevailing wages.

10. If the applicant applies 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.

Application Review and Approval

New Chapter 20.195 confirms that, per State law, the responsible City decision maker must make the following findings, based on evidence in the record, before making a ministerial approval:

1. The housing development or navigation center is eligible for ministerial approval.
2. If applicable, 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 applicable, 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 applicable, 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 applicable, 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.

Chapter 20.195 confirms that the City will only deny an application for ministerial approval as allowed by State law and only upon making the findings required by State law for denial. It also specifies requirements and a 3-year time limit for construction, unless otherwise required by state law or adjusted at the discretion of the PBCE Director.

General Plan Conformance: Housing Element Objectives

HCD certified the City's Housing Element for the 2014-2023 planning period on April 30, 2015. Part of the Housing Element's objective is to provide housing throughout the City in a range of residential densities and types to address the needs of an economically diverse population. Goal H-2 states that the General Plan's goal is to increase the affordable housing supply such that 15% or more of the new housing stock developed is affordable to low, very low, and extremely low income households. Policy IP-5.1 also establishes an Urban Village goal that, with full build out of the planned housing capacity of any given Village, 25% or more of the units built would be deed restricted affordable housing, with 15% of the units targeting households with income below 30% of the Area Median Income. This ordinance will help the city achieve Goal H-2 and implement Policy IP-5.1.

The General Plan aims to create vibrant, complete communities with a mix of commercial, retail, civic, and residential uses. A major challenge to maximizing this type of environment is ensuring that there are housing options for a range of household incomes. This ordinance will expedite the development of affordable units, supportive housing units, and shelter beds so that future and existing communities will accommodate all levels of income.

Conclusion

Approval of this ordinance will help facilitate the City's implementation of recent state housing reforms and further implement the General Plan by incentivizing affordable housing projects. As more affordable units are built, the City will be able to maintain its status as an economically diverse place to live.

CLIMATE SMART SAN JOSE

The recommendation in this memorandum aligns with Climate Smart San José energy, water, or mobility goals. It expedites the approval of high-density infill developments.

PUBLIC OUTREACH/INTEREST

Public outreach for this proposal complies with the City Council's Public Outreach Policy and the Municipal Code. 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 has posted the hearing notice, staff report and draft ordinance on the PBCE Department's website and has been available to discuss the proposal with interested members of the public.


City staff presented the highlights of the proposed ordinance at a Developer's Roundtable meeting on December 6, 2019.

COORDINATION

The preparation of the proposed ordinance and this staff report were coordinated with the Housing Department and the City Attorney's Office.

CEQA

Determination of Consistency with the Final program Environmental Impact Report (FPEIR) entitled, "Final Program Environmental Impact Report for the Envision San José 2040 General Plan (SCH# 2009072096)" and Addenda thereto. The FPEIR was adopted by City Council Resolution No. 76041 on November 1, 2011 and Supplemental EIR Resolution No. 77617 on December 15, 2015, for the San José General Plan.


ROSALYNN HUGHEY, DIRECTOR
Planning, Building and Code Enforcement

For questions, please contact Martina Davis, Supervising Planner, at 408-535-7888 or David Ying, Planner, at 408-535-7819.

Attachments: Draft Ordinance
Determination of Consistency

ORDINANCE NO.

AN ORDINANCE OF THE CITY OF SAN JOSE AMENDING TITLE 20 OF THE SAN JOSE MUNICIPAL CODE SECTION 20.30.100 OF CHAPTER 20.30, SECTION 20.40.100 OF CHAPTER 20.40, SECTION 20.70.200 OF CHAPTER 20.70, SECTION 20.75.200 OF CHAPTER 20.75, CHAPTER 20.190, AND SECTION 20.200.1265 OF CHAPTER 20.200 TO INCLUDE PERMANENT SUPPORTIVE HOUSING, LOW BARRIER NAVIGATION CENTER, AND MINISTERIAL APPROVALS TO THE MUNICIPAL CODE; AND ADDING A NEW CHAPTER 20.195 MINISTERIAL APPROVALS AND A NEW SECTION 20.200.705 LOW BARRIER NAVIGATION CENTER TO CHAPTER 20.200 OF TITLE 20 OF THE SAN JOSE MUNICIPAL CODE

WHEREAS, pursuant to Section 15168 of the CEQA Guidelines, the City of San José has determined that the proposed Ordinance is pursuant to, in furtherance of and within the scope of the previously approved program evaluated in the Final Program Environmental Impact Report for the Envision San José 2040 General Plan (the "FEIR"), for which findings were adopted by City Council through its Resolution No. 76041 on November 1, 2011, and Supplemental EIR Resolution No. 77617, adopted by City Council on December 15, 2015, and Addenda thereto and does not involve new significant impacts beyond those analyzed in the FEIR or the Supplemental EIR;

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

SECTION 1. Section 20.30.100 of Chapter 20.30 of Title 20 of the San José Municipal Code is amended to read as follows:

20.30.100 Allowed uses and permit requirements.

- A. Permitted" land uses are indicated by a "P" on Table 20-50.
- B. "Conditional" uses are indicated by a "C" on Table 20-50. These uses may be allowed in such designated districts, as an independent use, but only upon issuance of and in compliance with a conditional use permit as set forth in Chapter 20.100.
- C. "Special" uses are indicated by an "S" on Table 20-50. These uses may be allowed in such designated districts, as an independent use, but only upon issuance of and in compliance with a special use permit as set forth in Chapter 20.100.
- D. "Restricted" land uses are indicated by an "R" on Table 20-50. 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.
- E. Land uses not permitted are indicated by a "-" on Table 20-50. Land uses not listed on Table 20-50 are not permitted.
- F. When the right column of Table 20-50 includes a reference to a section number or a footnote, the regulations cited in the section number or footnote apply to the use. In addition, all uses are subject to any other applicable provision of this Title 20 and any other title of the San José Municipal Code.

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**Table 20-50
Residential Zoning Districts Use Regulations**

Use	Zoning District				Applicable Sections & Notes
	R-1	R-2	R-M	R-MH	
Residential Uses					
One-family dwelling	P	P	P	C	Note 1; Section 20.30.110
Secondary dwelling unit/accessory dwelling unit (ADU)	P	P	P	-	Note 2 and Note 3; Section 20.30.150
Two-family dwelling	-	P	P	-	Note 2; Section 20.30.110
Multiple dwelling	-	-	P	-	
Guesthouse	-	-	C	-	Section 20.30.120
Mobilehome parks	-	-	-	P	
<u>Permanent supportive housing</u>	-	-	<u>P</u>	-	<u>Chapter 20.195</u>
Travel trailer parks	-	-	-	C	
Residential care facility, six or fewer persons	P	P	P	P	
Residential care facility, seven or more persons	-	-	C	C	
Residential service facility, six or fewer persons	P	P	P	P	
Residential service facility, seven or more persons	-	-	C	C	
Single room occupancy living unit facility	-	-	C	-	Part 15, Chapter 20.80
Sororities, fraternities, and dormitories occupied exclusively (except for administrators thereof) by students attending college or other educational institutions	-	-	C	-	

Residential Accessory Uses and Improvements					
Accessory buildings and structures	P	P	P	P	Note 3; Section 20.80.200
Home occupations	P	P	P	P	Part 9, Chapter 20.80
Mixed use, residential/commercial	-	-	S	-	Note 9
Agriculture					
Certified farmers' market	S	S	S	S	Note 6
Certified farmers' market, small	P	P	P	P	Part 3.5, Chapter 20.80; Note 6
Neighborhood agriculture	P	P	P	P	Part 9, Chapter 20.80
Education and Training					
Child day care center located on an existing school site or as an incident to an on-site church/religious assembly use involving no building additions or changes to the site	P	P	P	P	
Day care center	C	C	C	C	
School, elementary and secondary (public)	P	P	P	-	
School, elementary and secondary (private)	C	C	C	-	
Entertainment and Recreation					
Equestrian and riding club	C	-	-	-	
Golf course	C	-	-	-	Note 4
Private club or lodge	-	-	C	-	
Swim or tennis club	C	C	C	C	
General Services					
Bed and breakfast inn	C	C	C	-	Section 20.80.110
Outdoor vending, fresh fruits and vegetables	P	P	P	P	Note 6 and Note 7; Part 10, Chapter 20.80
Health and Veterinary Services					
Emergency ambulance service	C	C	C	C	
Historic Reuse					
Historic landmark structure reuse	C	C	C	C	Part 8.5, Chapter 20.80
Public, Quasi-Public and Assembly Uses					

Cemetery	C	C	C	C	
Church/religious assembly	C	C	C	C	
Museums, libraries, parks, playgrounds, or community centers (privately operated)	C	C	C	C	
Museums, libraries, parks, playgrounds, or community centers (publicly operated)	P	P	P	P	
Transportation and Utilities					
Community television antenna systems	C	C	C	C	
Off-site, alternating use and alternative use parking arrangements	S	S	S	S	Section 20.90.200
Parking establishment, off-street	C	C	C	C	Section 20.90.150
Utility facilities, excluding corporation yards, storage or repair yards and warehouses	C	C	C	C	
Wireless communication antenna	C	C	C	C	Note 8; Sections 20.30.130, 20.30.140, 20.80.1900, 20.100.1300 and 20.80.1915
Wireless communication antenna, slimline monopole	S	S	S	S	Note 8; Sections 20.30.130, 20.30.140, 20.80.1900, 20.100.1300 and 20.80.1915
Wireless communication antenna, building mounted	P	P	P	P	Note 8; Sections 20.30.130, 20.30.140, 20.80.1910, 20.100.1300 and 20.80.1915
Utilities, Electrical Power Generation					
Solar photovoltaic system	P	P	P	P	Sections 20.100.610.C.7 and 20.100.1030.A.6
Stand-by/backup facilities that do not exceed noise or air standards	S	S	S	S	Note 5
Stand-by/backup facilities that do exceed noise or air standards	-	-	-	-	

Notes:

1. Only one one-family dwelling unit per lot in the R-1, R-2, R-M and R-MH districts.

2. A maximum of two living units per lot are permitted in the R-2 district. A secondary dwelling on a lot in the R-2 district may be permitted without a development permit in accordance with the provisions of Section 20.30.150 if there is only one primary living unit on the lot and that primary living unit is a one-family dwelling.
3. No lot may be used solely for an accessory structure or an accessory building.
4. No driving ranges or miniature golf facilities.
5. Stand-by or backup generators that would not otherwise require some permit from the city (including but not limited to building, electrical, or mechanical), and do meet the applicable noise and air standards are not subject to the special use permit requirement.
6. Allowed on school sites, library sites, community center sites, church/religious assembly sites, and other publicly accessible sites that contain government operations including but not limited to United States Post Offices or State of California Department of Motor Vehicles offices.
7. The activity must conform with the location and operational requirements in Section 20.80.820 of Part 10, Chapter 20.80. Allowed for up to eight hours per day for each vending facility, but not to exceed eight hours per day per lot.
8. Certain modifications of existing wireless facilities may be permitted with an administrative permit in accordance with Section 20.80.1915 of Chapter 20.80.
9. Permitted or special uses allowed in the CP commercial pedestrian zoning district may be allowed with a special use permit for a residential-commercial mixed use project, except that twenty-four-hour non-residential uses or conditional uses allowed in the CP commercial pedestrian zoning district require a conditional use permit.

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

A.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 a "S" on Table 20-90. These uses may be allowed in such designated districts, as an independent use, but only upon issuance of and in compliance with a special use permit as set forth in Chapter 20.100. "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 a "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					Notes & Section
	CO	CP	CN	CG	PQP	
General Retail						
Alcohol, off-sales - beer and/or wine only	-	C	C	C	-	Note 21; Section 20.80.900
Alcohol, off-sales - full range of alcoholic beverages	-	C	C	C	-	Note 21; Section 20.80.900
Alcohol, off-sales - 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	C	C	C	C	C	
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
Drinking establishment in conjunction with a winery, brewery, or distillery	-	S	S	S	-	
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 or drinking establishment with incidental dancing	-	P	P	P	-	Note 21
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 Services						
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
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	S	S	S	S	S	Section 20.80.500

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
<u>Low barrier navigation center</u>	=	<u>P</u>	<u>P</u>	<u>P</u>	=	<u>Chapter 20.195</u>
Mixed use residential/commercial	-	C/S	C	C _{GP}	-	Note 6 and Note 25s 6, 25, and 26
<u>Permanent supportive housing</u>	=	=	=	=	<u>P</u>	<u>Note 27; Chapter 20.195</u>
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 yards, storage or repair yards and warehouses	C	C	C	C	C	
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 incidental service or repair	-	C	C	P	C	Note 15
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	-	-	S	P	-	Note 12 and Note 13

length, and motorcycles						
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 on site 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. In an urban village, mixed-use residential/commercial only if the residential portion of the use is 100% deed restricted and affordable to persons of low, very low, and/or extremely low income as defined in California Government Code Section 65915 et seq. and in conformance with all criteria in the general plan for such use. Live/work in an area with an urban village designation or urban village overlay in the general plan shall be consistent with applicable approved urban village plans.~~
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.

SECTION 3. Section 20.70.200 of Chapter 20.70 of Title 20 of the San José Municipal Code is amended to read as follows:

20.70.100 Allowed uses and permit requirements.

- A. "Permitted" land uses are indicated by a "P" on Table 20-140.
- B. "Permitted" uses which may be approved only on parcels within the downtown zoning districts which are designated on the land use/transportation diagram of the general plan, as amended, with a land use designation that allows some residential use, are indicated by a "P^{GP}" on Table 20-140. These uses may be

allowed on such downtown zoning district parcels, but only in compliance with the general plan land use restrictions related to residential use.

- C. "Conditional" uses requiring planning commission approval as the initial decision-making body are indicated by a "C" on Table 20-140. These uses may be allowed in such designated districts, as an independent use, but only upon issuance of and in compliance with a conditional use permit approved by the planning commission, or city council on appeal, as set forth in Chapter 20.100.
- D. "Conditional" uses which may be approved only on parcels within the downtown zoning districts which are designated on the land use/transportation diagram of the general plan, as amended, with a land use designation that allows some residential use, are indicated by a "C^{GP}" on Table 20-140. These uses may be allowed on such downtown zoning district parcels, but only upon issuance of and in compliance with a conditional use permit as set forth in Chapter 20.100; and in compliance with the general plan land use restrictions related to residential use.
- E. "Special" uses are indicated by a "S" on Table 20-140. These uses may be allowed in such designated districts, as an independent use, but only upon issuance of and in compliance with a special use permit as set forth in Chapter 20.100.
- F. "Special" uses which may be approved only on parcels within the downtown zoning districts which are designated on the land use/transportation diagram of the general plan, as amended, with a land use designation that allows some residential use, are indicated by an "S^{GP}" on Table 20-140. These uses may be allowed on such downtown zoning district parcels, but only upon issuance of and in compliance with a special use permit as set forth in Chapter 20.100; and in compliance with the general plan land use restrictions related to residential use.

- G. "Administrative" uses are indicated by an "A" on Table 20-140. These uses may be allowed in such designated districts, as an independent use, but only upon issuance of and in compliance with an administrative use permit as set forth in Chapter 20.100.
- H. "Restricted" land uses are indicated by an "R" on Table 20-140. These uses may occur in such designated districts, as an independent use, but only upon issuance of and in full compliance with a valid and effective zoning code verification certificate as set forth in Chapter 20.100.
- I. Land uses not permitted are indicated by a "-" on Table 20-140. Land uses not listed on Table 20-140 are not permitted.
- J. The column of Table 20-140, under the heading "Additional Use Regulations for the Ground Floor Active Use Area Overlay", identifies further regulations on the uses of ground-floor building space within a portion of the DC zoning district. The portion of the DC downtown primary commercial district included in the Active Use Area Overlay is described in Section 20.70.520.
- K. The "Parking" column of Table 20-140 establishes the required parking. The amount of parking may not be increased or decreased unless modified by the director as set forth in Sections 20.70.320 and 20.70.330 of this chapter.
- L. When the right column of Table 20-140 includes a reference to a section number or a footnote, the regulations cited in the section number or footnote apply to the use. In addition, all uses are subject to any other applicable provision of this Title 20 and any other title of the San José Municipal Code.

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**Table 20-140
Downtown Zoning Districts Use Regulations**

Use	Zoning District		Applicable Notes & Regulations		
	DC	DC-NT1	Additional Use Regulations for the AUA Overlay	Parking	Applicable to All Downtown Districts
Offices and Financial Services					
Automatic teller machine	P	P	P	No parking	Note a; Section 20.80.200
Business support use	P	P	P	No parking	
Financial services	P	P	P	2.5 per 1,000 sq. ft.	Note b
Retail bank	P	P	P	No parking	Note b
Offices, business and administrative	P	P	S	2.5 per 1,000 sq. ft.	Section 20.70.110
Payday lending establishment	R	R	-	No parking	Part 12.5, Chapter 20.80; Section 20.200.875
Research and development	P	P	-	2.5 per 1,000 sq. ft.	
General Retail					
Alcohol, off-sales - beer and/or wine only	C	C	C	No parking	Section 20.80.900
Alcohol, off-sales - full range	C	C	C	No parking	Section

of alcoholic beverages					20.80.900
Alcohol, off-sales - as incidental to a winery, brewery, or distillery	S	C	S	No parking	Note 11
Food, beverages, and groceries	P	P	P	No parking	
Outdoor vending	A	A	A	No parking	Note b; Part 10, Chapter 20.80
Outdoor vending - fresh fruits and vegetables	P	P	P	No parking	Note b; Part 10, Chapter 20.80
Pawn shop or pawn broker, incidental to a retail jewelry store	C	C	C pawn	No parking	Note b; Chapter 6.52
Retail bakery	P	P	P	No parking	
Retail art studio	P	P	P	No parking	
Retail sales, goods, and merchandise	P	P	P	No parking	Note c
Seasonal sales	P	P	P	No parking	Part 14, Chapter 20.80
Agriculture					
Certified farmers' market	S	S	S	No parking	Part 3.5, Chapter 20.80
Certified farmers' market, small	P	P	P	No parking	Part 3.5, Chapter 20.80
Neighborhood agriculture	P	P	P		
Education and Training					
Day care center	P	P	P	No parking	Note b
Instructional art studios	P	P	P	No parking	
Private instruction, personal enrichment	P	P	P	1 per 360 sq. ft.	Note b
School, elementary - grades K - 8 (public or private -)	C	C	C	1 per teacher and employee	Note b

School, secondary - grades 9 - 12 (-public or private)	C	C	C	.75 per teacher and employee and 1 per each 10 students	Note b
School, post-secondary	P	P	-	1 per 360 sq. ft.	
School, trade and vocational	P	P	P	1 per 360 sq. ft.	Note b
Entertainment and Recreation Related					
Arcade, amusement game	P	-	P	No parking	Note b
Health club, gymnasium	P	P	P	No parking	
Lighting display	A/S	A/S	A/S	No parking	Section 20.70.150
Movie theater	P	P	P	No parking	
Poolroom/billiards establishment	P	-	P	No parking	
Private club or lodge	P	P	-	1 per 360 sq. ft.	
Recreation commercial/indoor	P	P	P	No parking	
Food Services					
Banquet - facility	P	P	P	No parking	
Caterer	P	P	P	No parking	Note b
Drinking establishments	S	C	S	No parking	
Drinking establishment in conjunction with a winery, brewery, or distillery	S	C	S	No parking	
Drinking establishments with an approved maximum occupancy load of over 250 persons and that operate between 12:00 midnight and 6:00 a.m.	CC	-	CC	No parking	Note 5
Drinking establishments interior to a full-service hotel or	P	P	-	No parking	Section 20.80.475

motel with 75 or more guest rooms					
Public eating establishments	P	P	P	No parking	Note 7
Public eating establishment in conjunction with a winery, brewery, or distillery	P	P	P	No parking	
General Services					
Bed and breakfast inn	P	P	P	.35 per room	Note b; Part 2, Chapter 20.80
Hotel or motel	P	P	P	.35 per room	
Laundromat	P	P	P	No parking	Note b
Maintenance and repair of small household appliances	P	P	P	No parking	Note b
Personal services	P	P	P	No parking	Note d
Printing and publishing	P	P	P	No parking	Note b and Note f
Health and Veterinary Services					
Animal grooming	P	P	P	No parking	Note b
Animal boarding, indoor	P	P	P	No parking	Note b
Emergency ambulance service	C	-	-	No parking	
Hospital/in-patient medical facility	C	-	-	1.5 per doctor	
Medical or dental clinic/out-patient facility	P	P	P	1.5 per doctor	Note b
Medical cannabis collective	R	-	-	No parking	Part 9.75, Chapter 20.80
Medical cannabis collective dispensary site only	R	-	-	No parking	Part 9.75, Chapter 20.80
Medical cannabis business	R	-	-	No parking	Part 9.75, Chapter 20.80
Non-medical cannabis business	R	-	-	No parking	Part 9.75, Chapter 20.80
Veterinarian	P	P	P	1.5 per doctor	Note b

Historic Reuse					
Historic landmark structure reuse	S	S	S	Section 20.90.220 E.	Part 8.5, Chapter 20.80
Public, Quasi-Public and Assembly Uses					
Auditorium	C	-	C	No parking	
Church/religious assembly	P	P	-	No parking	
Information center	P	P	P	No parking	
Museums and libraries	P	-	P	No parking	
Parks, playgrounds, or community centers	P	P	S	No parking	
Recycling Uses					
Reverse vending machine	S	S	-	No parking	Part 13, Chapter 20.80
Small collection facility	S	S	-	No parking	Part 13, Chapter 20.80
Residential^{GP}					
Residential shelter	C _{GP}	-	-	1 per 4 beds, 2.5 per 1,000 sq. ft.	Note e
Live/work uses	P _{GP}	S _{GP}		1.5 per unit	Note e; Section 20.70.120
<u>Low barrier navigation center</u>	<u>P_{GP}</u>	<u>P_{GP}</u>	<u>:</u>	<u>No parking</u>	<u>Chapter 20.195</u>
<u>Permanent supportive housing</u>	<u>P_{GP}</u>	<u>P_{GP}</u>	<u>:</u>	<u>No parking</u>	<u>Chapter 20.195</u>
Residential, multiple dwelling	P _{GP}	P _{GP}	-	1 per unit	Note e
Co-living community	S	S	-	.25 per bedroom	Note 10 and Note e; Part 3.75, Chapter 20.80
Residential care facility for seven or more persons	C _{GP}	C _{GP}	-	.75 per employee	Note e

Residential services facility, for seven or more persons	C _{GP}	C _{GP}	-	.75 per employee	Note e
Hotel supportive housing	C _{GP}	C _{GP}	-	.35 per room	Note 9 and Note e; Part 22 of Chapter 20.80
Single room occupancy (SRO) living unit facility	S _{GP}	S _{GP}	-	.6 per unit	Note e; Part 15, Chapter 20.80
Single room occupancy (SRO) residential hotel	S	S	-	.6 per unit	Note e; Part 15, Chapter 20.80
Residential Accessory Uses ^{GP}					
Accessory buildings and accessory structures	P _{GP}	P _{GP}	-	No parking	Note 1
Transportation and Communication					
Community television antenna systems	C	-	-	No parking	
Off-site and alternating use parking arrangements	P	P	P	N/A	Section 20.90.200
Off-street parking establishment	P	P	-	N/A	
Short term parking lot for uses or events other than on-site	S	S	-	N/A	
Radio and television studios	P	-	-	No parking	
Wireless communications antenna	S	-	-	No parking	Note 8; Sections 20.80.1900, 20.80.1915
Wireless communications antenna, building mounted	P	-	-	No parking	Note 8; Sections 20.80.1900, 20.80.1915
Utilities, Power Generation					
Private electrical power generation facility	C	C	-	1 for each vehicle used	

				in the operation of such facility	
Solar photovoltaic power system	P	P	-	No parking	Section 20.100.610 C.7.
Stand-by/backup facilities that do not exceed noise or air standards	A	A	-	N/A	
Temporary stand-by/backup generators	P	P	-	N/A	
Vehicle Related Uses					
Car wash, detailing	P	-	-	No parking	
Fuel service station or charge station, no incidental service or repair	P	-	-	No parking	Note 6
Fuel service station or charge station, with incidental service and repair	P	-	-	No parking	Note 2
Sale and lease, vehicles and equipment (less than one ton)	P	-	-	1.5 per employee	Note 3
Tires, batteries, accessories, lube, oil change, smog check station, air conditioning	P	-	-	2 per bay or .75 per employee	Note 4
Sale, vehicle parts, new	P	-	-	No parking required	

Notes applicable to the Active Use Area Overlay only:

- a. Automatic Teller Machines must be a secondary use and must be architecturally integrated into the building on which they are placed. Automatic Teller Machines may not be standalone structures. Use may not be an ATM vestibule lobby.
- b. Not permitted in corner tenant spaces. Corner tenant spaces are defined as storefronts that extend up to or beyond 30 feet along the street in either direction from the intersection.
- c. Second-hand stores not dealing primarily in antiques, artworks, or vintage clothing require a Special Use Permit.

- d. Excludes check-cashing services and bail bond services.
- e. A residential pedestrian entry portal not exceeding 25 feet in length is permitted in the Ground Floor Active Use Area.
- f. Only if dedicated primarily to on-site retail customer copy services, otherwise not Permitted.

Notes applicable to the Downtown Primary Commercial (DC) Zoning District, including the Active Use Area Overlay:

1. No Lot may be used solely for an Accessory Structure or Accessory Building.
2. Incidental repair includes air conditioning service, carburetor and fuel injection service, electrical service, radiator service, and tune-up, lube, oil change, and smog check, as well as tires, batteries, and accessories installation. Does not allow body repair or painting.
3. All activity must be conducted indoors.
4. Non-engine and exhaust-related service and repair allowed as incidental use.
5. Maximum occupancy load shall be that maximum occupancy load determined by the City fire marshal.
6. Pedestal Charge Stations that are incidental to a separate primary use, that do not impact on-site or off-site vehicular circulation, and that serve patrons of the primary use on-site are permitted in all Downtown Zoning Districts.
7. Includes on-site outdoor dining area(s).
8. Certain modifications of existing Wireless Facilities may be Permitted with an Administrative Permit in accordance with Section 20.80.1915 of Chapter 20.80.
9. Hotel Supportive Housing may be Permitted only with a Conditional Use Permit pursuant to Part 22 of Chapter 20.80 and only until December 31, 2026.
10. A Co-Living Community with 600 or more units located adjacent, across or within 500 feet of a property line with Residential Neighborhood (RN) designation on the land use/transportation diagram of the General Plan, as amended, shall require 0.6 parking spaces per bedroom.
11. Off-sale limited to items produced on-site otherwise a Conditional Use Permit is required.

SECTION 4. Section 20.75.200 of Chapter 20.75 of Title 20 of the San José Municipal Code is amended to read as follows:

20.75.200 Allowed Uses and Permit Requirements.

- A. "Permitted" land uses are indicated by a "P" on Table 20-156.
- B. "Conditional" uses are indicated by a "C" on Table 20-156. These uses may be allowed in such designated districts, as an independent use, but only upon issuance of and in compliance with a conditional use permit as set forth in Chapter 20.100.
- C. "Special" uses are indicated by a "S" on Table 20-156. These uses may be allowed in such designated districts, as an independent use, but only upon issuance of and in compliance with a special use permit as set forth in Chapter 20.100.
- D. "Administrative" uses are indicated by an "A" on Table 20-156. These uses may be allowed in such designated districts, as an independent use, but only upon issuance of and in compliance with an administrative use permit as set forth in Chapter 20.100.
- E. Land uses not permitted are indicated by a "-" on Table 20-156. Land uses not listed on Table 20-156 are not permitted.
- F. When the right column of Table 20-156 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.

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**Table 20-156
Pedestrian Oriented Districts
Land Use Regulations**

Use	Main Street Zoning Districts				Applicable Sections & Notes
	MS-G			MS-C	
	Ground Floor Commercial Frontage	Residential Street Frontage	All Other		
General Retail					
Retail sales, goods and merchandise	P	-	P	P	
Off-sale Alcoholic Beverages - beer and/or wine only	C	-	C	C	Section 20.80.900
Off-sale Alcoholic Beverages - full range of Alcoholic Beverages	C	-	C	C	Section 20.80.900
Bakery, retail	P	-	P	P	
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
Food, beverage, groceries	P	-	P	P	
Neighborhood Agriculture	-	P	-	-	Part 9, Chapter 20.80
Nursery, Plant	-	-	P	P	Note 1
Outdoor Vending	A	-	A	A	Part 10, Chapter 20.80
Outdoor Vending - fresh fruits	P	-	P	P	Part 10, Chapter

and vegetables					20.80
Pawn shop/broker	C	-	C	C	See Title 6
Seasonal sales	P	-	P	P	Part 14, Chapter 20.80
Art Studio, Retail	P	-	P	P	Part 13.7, Chapter 20.80
Education and Training					
Child Day Care Center located on an existing School Site or as an incident to an on-site church/religious assembly use involving no Building additions or changes to the site	-	-	P	P	
Day care center	C	-	C	C	
Art Studio, Instructional	P	-	P	P	
Art Studio, Instructional, with live models	C	-	C	C	
Private Instruction, personal enrichment	P	-	P	P	
School-elementary and secondary (public)	P	-	P	P	
School-elementary and secondary (private)	C	-	C	C	
School, driving (class C & M license)	P	-	P	P	Note 2
School, Post - Secondary	P	-	P	P	Note 3
School, Trade and Vocational	C	-	C	C	
Entertainment and Recreation Related					
Amusement Game Arcade	C	-	C	C	
Dancehall	C	-	C	C	
Poolroom/Billiard-Room	C	-	C	C	
Private club or lodge	C	-	C	C	
Recreation, Commercial/Indoor	P	-	P	P	

Recreation, Commercial/Outdoor	-	-	C	C	
Relocated Cardroom	-	-	-	-	
Theatre, indoor	C	-	C	C	
Theatre, outdoor	-	-	C	C	
Assembly	C	-	C	C	
Food Services					
Banquet - Facility	C	-	C	C	
Caterer	P	-	P	P	Note 4
Drinking Establishments	C	-	C	C	
Drinking Establishment interior to a full-service Hotel/Motel with 75 or more guest rooms	P	-	P	P	Section 20.80.475
Public Eating Establishments	P	-	P	P	
Outdoor dining, incidental to a Public Eating Establishment or a retail establishment	P	-	P	P	Section 20.75.320
Wineries, breweries	C	-	C	C	
Health and veterinary services					
Animal boarding, indoor	-	-	P	P	Note 5
Animal grooming	P	-	P	P	Note 5
Emergency ambulance service	-	-	C	C	
Hospital/in-patient facility	C	-	C	C	
Medical clinic/out-patient facility	P	-	P	P	
Office, Medical	P	-	P	P	
Veterinary clinic	P	-	P	P	
General Services					
Bed and Breakfast Inn	-	-	P	P	Part 2, Chapter 20.80
Dry cleaner	P	-	P	P	
Hotel/Motel	-	-	P	P	

Laundromat	P	-	P	P	
Maintenance and repair, Small Household Appliances	P	-	P	P	
Messenger services	P	-	P	P	Note 2
Mortuary and Funeral Services	P	-	P	P	
Personal Services	P	-	P	P	Section 20.200.880
Photo processing and developing	P	-	P	P	
Printing and publishing	P	-	P	P	
Offices and Financial Services					
Automatic teller machine	P	-	P	P	Section 20.80.200
Business Support Use	P	-	P	P	
Financial institution	P	-	P	P	
Office, General Business	P	-	P	P	
Public, Quasi-Public and Assembly Uses					
Cemetery	-	-	-	-	
Church/religious assembly	C	-	C	C	
Museums, libraries, parks, playgrounds, or community centers (publicly operated)	P	-	P	P	
Museums, libraries, parks, playgrounds, or community centers (privately operated)	C	-	C	C	
Residential/Mixed Use					
Multiple dwellings	-	C	C	C	Section 20.75.210
Residential accessory uses, including, recreation facilities, mail rooms, laundry facilities, storage and other similar facilities	-	P	P	P	Section 20.75.210
Home Occupation	-	P	P	P	Part 9, Chapter

					20.80
Mixed Use/ground floor commercial with residential above	C	-	C	C	<u>Note 13</u> ; Section 20.75.210
Emergency Residential Shelter	-	-	-	-	Section 20.80.500
Live/Work Uses	C	-	S	-	Part 9.5, Chapter 20.80 & Section 20.75.210
<u>Low barrier navigation center</u>	<u>P</u>	<u>P</u>	<u>P</u>	<u>P</u>	<u>Chapter 20.195</u>
<u>Permanent supportive housing</u>	<u>-</u>	<u>C</u>	<u>C</u>	<u>-</u>	<u>Chapter 20.195</u>
Residential Care Facility, six or fewer persons	-	P	P	P	Section 20.75.210
Residential Service Facility, six or fewer persons	-	P	P	P	Section 20.75.210
Residential Care Facility for seven or more persons	-	C	C	C	Section 20.75.210
Residential Service Facility for seven or more persons	-	C	C	C	Section 20.75.210
Single Room Occupancy (SRO) Residential Hotel	-	-	C	C	Part 15, Chapter 20.80
Single Room Occupancy (SRO) Living Unit Facility	-	-	C	C	Part 15, Chapter 20.80; Section 20.75.210
Drive-Through Uses					
Drive Through Uses in conjunction with any use	-	-	C	C	Section 20.75.330
Recycling Uses					
Reverse Vending Machine	A	P	A	A	Part 13, Chapter 20.80
Small Collection Facility	A	-	A	A	Part 13, Chapter 20.80
Transportation and Utilities					
Data Center	-	-	-	-	

Community television antenna systems	-	-	C	C	
Off-site, Alternating Use and Alternative Parking Arrangements	S	S	S	S	Section 20.90.200
Off-street Parking Establishment	C	-	C	C	Section 20.75.130.B.3
Utility Structures	A	A	A	A	Part 19, Chapter 20.80 and Section 20.75.120.A.4
Utility Facilities, excluding corporation yards, storage or repair yards and warehouses	C	C	C	C	
Television, radio studios without antenna/dishes	-	-	-	-	
Short term parking lot for uses or events other than on-site	-	-	C	C	Note 6
Wireless Communications Antenna	-	-	C	C	Note 12, Sections 20.100.1300, 20.80.1915
Wireless Communications Antenna, Slimline Monopole	-	-	S	S	Note 12, Sections 20.80.1900, 20.80.1915
Wireless Communications Antenna, Building Mounted	P	P	P	P	Note 12, Sections 20.80.1910, 20.80.1915
Electrical Power Generation					
Private Electrical Power Generation Facility	-	-	C	C	Note 2
Co-generation Facility	S	-	S	S	
Stand-by or Backup Electrical Power Generation Facility					

Facilities that do not exceed noise or air standards	A	S	A	A	
Facilities that do exceed noise or air standards	C	-	C	C	
Temporary Stand-by or Backup Electrical Power Generation Facility	P	-	P	P	
Solar Photovoltaic Power system	P	P	P	P	Section 20.100.610C.7
Vehicle Related Uses					
Accessory installation, passenger vehicles and pick-up trucks, indoors	P	-	P	P	
Auto broker, wholesale, no on-site storage	P	-	P	P	
Car wash, detailing	-	-	-	-	
Gasoline Service Station or Charge Station	-	-	-	-	
Gasoline Service Station or Charge Station with incidental service and repair	-	-	-	-	
Glass sales, installation and tinting	P	-	P	P	Note 10
Sale or lease, commercial vehicles	-	-	-	-	Note 10
Sale or lease passenger vehicles, pick-up trucks not exceeding 25 feet in length, and motorcycles, indoors	S	-	S	S	Note 9, Note 10
Rental passenger vehicles, pick-up trucks not exceeding 25 feet in length, and motorcycles	S	-	S	S	Note 2
Sale, vehicle parts	S	-	S	S	Note 8
Tires, batteries, lube, oil change, smog check station,	S	-	S	S	Note 7, Note 10

air conditioning servicing of passenger vehicles and pick-up trucks					
Historic Reuse					
Historic Landmark Structure reuse	S	C	S	S	Part 8.5 Chapter 20.80

Notes:

1. Landscaping materials, such as rock, mulch, and sand are limited to prepackaged sales.
2. No on-site storage of vehicles permitted.
3. Includes public and private colleges and universities, as well as extension programs and business schools.
4. Not a catering facility.
5. All uses involving any type of care for animals, including but not limited to grooming, boarding, or medical care must be conducted wholly inside a building.
6. Use must be less than twenty-four hours.
7. Non-engine and exhaust related service and repair allowed as incidental.
8. No outdoor sales areas or dismantling allowed.
9. Incidental repair of vehicles is prohibited.
10. All vehicle-related repair, service, and accessory or other installation shall be conducted within a fully enclosed building.
11. Pedestal charge stations that are incidental to a separate primary use, that do not impact on-site or off-site vehicular circulation, and that serve patrons or residents of the primary use on-site are permitted in all pedestrian oriented zoning districts.
12. Certain modifications of existing wireless facilities may be permitted with an administrative permit in accordance with Section 20.80.1915 of Chapter 20.80.
13. Permanent Supportive Housing is allowed as a residential component of Mixed Use/ground floor commercial with residential above.

SECTION 5. Chapter 20.190 of Title 20 of the San José Municipal Code is amended to read as follows:

Chapter 20.190
Affordable Housing Density Bonuses and Incentives 20.190.010 – Purpose.

The purpose of this Chapter is to:

- A. Specify how the City will implement the requirements of California Government Code Section 65915 et seq. ("State Housing Density Bonuses and Incentives Law"); and
- B. 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.

20.190.020 Definitions.

- A. All terms used in this Chapter that are defined in the State Housing Density Bonuses and Incentives Law shall have meaning established by the State Housing Density Bonuses and Incentives Law, as the same may be amended from time to time. As of date of publication of the ordinance adopting this Chapter 20.190, the following terms are defined in the State Housing Density Bonuses and Incentives Law: Affordable Rent; Affordable Housing Cost; Child Care Facility; Density Bonus; Housing Development; Development Standard; Incentive; Low, Very Low, or Moderate Income; Maximum Residential Density; Qualifying Mobilehome Park; and Senior Citizen Housing Development.
- 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 any person, firm, partnership, association, joint venture, corporation, or any entity or combination of entities who seeks a Discretionary Approval or a Ministerial Approval from the City for a Housing Development and also includes the owner of the property if the Applicant does not own the property on which the Housing Development is proposed.
2. "Approval Authority" means the person or body within the City that is authorized to provide initial Discretionary Approval or Ministerial Approval of a Housing Development.
3. "Density Bonus Units" means those dwelling units granted pursuant to the provisions of this Chapter that exceed the otherwise Maximum Residential Density for a Housing Development Site that are established in the City's General Plan.
4. "Director" means the Director of Planning, Building and Code Enforcement.
5. "Discretionary Approval" means any approval related to a Housing Development that requires the exercise of judgment or deliberation by the Approval Authority including, but not limited to, development exceptions, variances, Development Permits, general plan and specific plan approvals and amendments, zoning ordinances and amendments, and tentative maps.
6. "Ministerial Approval" means any approval related to a Housing Development that does not require the exercise of judgement or deliberation by the Approval Authority.

7. ~~6.~~ "Non-Restricted Unit" means any dwelling unit within a Housing Development excluding the Restricted Affordable Units.
8. ~~7.~~ "Regulatory Agreement" means a recorded and legally binding agreement on a form approved by the City, executed by the Applicant and ensuring that the requirements of this Chapter are satisfied. A Regulatory Agreement, among other things, shall establish: the number of Density Bonus Units and Restricted Affordable Units, their size, location, terms and conditions of affordability or age restrictions for Senior Citizen Housing Development units, the identity of any Incentives and the development production schedule, and provision for the payment of the City's cost of monitoring compliance with the Regulatory Agreement and this Chapter.
9. ~~8.~~ "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 Housing Density Bonuses and Incentives Law.
10. ~~9.~~ "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.
11. ~~10.~~ "Unobstructed Access" means having a path of travel that is always publicly accessible.

20.190.030 Density Bonuses.

- A. Density Bonus Units. The City will grant Density Bonus(es) if required by the State Housing Density Bonuses and Incentives Law when an Applicant timely requests such a Density Bonus for a Housing Development and agrees to

execute and record a Regulatory Agreement providing for the construction and maintenance of Restricted Affordable Units or Senior Citizen Housing Development units as specified by the State Housing Density Bonuses and Incentives Law.

B. Density Bonus Calculations. The number of required Restricted Affordable Units, Senior Citizen Housing Development units and permitted Density Bonus Units shall be calculated in accordance with the State Housing Density Bonuses and Incentives Law.

C. Replacement of Pre-Existing Very Low or Low Income Units.

1. An Applicant shall be ineligible for a Density Bonus or any other Incentives or waiver or modification of Development Standards under this Chapter if the Housing Development is proposed on any property that includes a parcel or parcels on which rental dwelling units are or, if the dwelling units have been vacated or demolished in the five (5) year period preceding the application, have been subject to a recorded covenant, ordinance, or law that restricts rents to levels affordable to persons and families of Low or Very Low Income; or subject to any other form of rent or price control through a public entity's valid exercise of its police power; or occupied by Low or Very Low Income households, unless the proposed Housing Development replaces those units, and either of the following applies:

a. The proposed Housing Development, inclusive of the units replaced pursuant to this paragraph, contains Restricted Affordable Units at the percentages specified in the State Housing Density Bonuses and Incentives Law.

- b. Each unit in the Housing Development, exclusive of a manager's unit or units, is affordable to, and occupied by, either a Low or Very Low Income household.
2. For the purposes of Subsection C.1, "replace" shall mean either of the following:
 - a. If any dwelling units described in Subsection C.1. are occupied on the date of submission of the application for a Housing Development, the proposed Housing Development shall provide at least the same number of units of equivalent size or type, or both, to be made available at Affordable Rent or Affordable Housing Cost to, and occupied by, persons and families in the same or lower income category as those households in occupancy. For unoccupied dwelling units described in Subsection C.1, in a development with occupied units, the proposed Housing Development shall provide units of equivalent size or type, or both, to be made available at Affordable Rent or Affordable Housing Cost to, and occupied by, persons and families in the same or lower income category in the same proportion of affordability as the occupied units. All replacement calculations resulting in fractional units shall be rounded up to the next whole number. If the replacement units will be rental dwelling units, these units shall be subject to a recorded affordability restriction for at least fifty-five (55) years. If the proposed development is for-sale units, the units replaced shall be subject to Section 20.190.100.C.5.
 - b. If all dwelling units described in Subsection C.1 have been vacated or demolished within the five (5) year period preceding the Application, the proposed Housing Development shall provide Restricted Affordable Units equal to or greater than the maximum number of Units of equivalent size or type, or both, as existed at any point in time in the five (5) year period

preceding the Application, to be made available at Affordable Rent or Affordable Housing Cost to, and occupied by, persons and families in the same or lower income category as those persons and families in occupancy at that time, if known. If the incomes of the persons and families in occupancy at that time is not known, then one-half of the required units shall be made available at Affordable Rent or Affordable Housing Cost to, and occupied by, Very Low Income persons and families and one-half of the required units shall be made available for rent at Affordable Housing Cost to, and occupied by, Low Income persons and families. All replacement calculations resulting in fractional units shall be rounded up to the next whole number. If the replacement units will be rental dwelling units, these units shall be subject to a recorded affordability restriction for at least fifty-five (55) years. If the proposed development is for-sale units, the units replaced shall be subject to 20.190.100.C.5.

20.190.040 Additional Density Bonuses and State Incentives.

- A. Land Donation and Transfer for Very Low Income Units. The City will grant additional Density Bonuses if required by the State Housing Density Bonuses and Incentives Law for land donation and transfer for Very Low Income Restricted Affordable Units, when an Applicant requests an additional Density Bonus, the Applicant donates and transfers to the City, or a housing developer approved by the City, land that is acceptable to the City for the development of Very Low Income Restricted Affordable Units in accordance with the requirements of the State Housing Density Bonuses and Incentives Law.
- B. Condominium Conversion. If required by the State Housing Density Bonuses and Incentives Law, the City will grant a Density Bonus, or at the City's option, provide other Incentives of equivalent financial value, for the conversion of apartments to condominiums, if no prior Density Bonus was awarded for the

apartments, the Applicant agrees to pay for the reasonably necessary administrative costs incurred by the City pursuant to this Subsection B, and the Applicant: 1) is seeking approval to convert apartments to a condominium project; 2) requests an additional Density Bonus; and 3) agrees to provide Restricted Affordable Units as specified by the State Housing Density Bonuses and Incentives Law and this Chapter 20.190. Nothing contained in this Section shall be construed to require the City to approve a proposal to convert apartments to condominiums.

- C. Child Care Facility. The City will grant an additional Density Bonus, if required by the State Housing Density Bonuses and Incentives Law, when an Applicant provides a Child Care Facility as specified in the State Housing Density Bonuses and Incentives Law, or at the City's option, provide an additional Incentive that contributes significantly to the economic feasibility of the construction of the Child Care Facility, unless the City finds, based upon substantial evidence, that the community has adequate Child Care Facilities. The Child Care Facility shall be required to remain in operation for a period of time that is as long as, or longer than, the period of time during which the Density Bonus Units are required to remain affordable and the Child Care Facility shall meet or exceed the attendance percentages for children of Very Low, Low and Moderate Income as specified in the State Housing Density Bonuses and Incentives Law.
- D. Maximum Parking Ratios. Upon the request of the Applicant, the City will apply the maximum parking ratios set forth in the State Housing Density Bonuses and Incentives Law for vehicular parking, inclusive of parking for people with disabilities and guest parking, in a Housing Development that qualifies for a Density Bonus, except where the City is allowed to impose a higher parking ratio under the State Housing Density Bonuses and Incentives Law, based on either

an area-wide, or jurisdiction-wide, parking study conducted within the seven (7) years prior to the date of the request.

- E. Height Limit Increases. Upon the request of the Applicant, the City will grant the height increase set forth in the State Housing Density Bonuses and Incentives Law.

20.190.050 Development Standards for Restricted Affordable Units.

- A. Concurrent Construction. Restricted Affordable Units shall be constructed concurrently with Non-Restricted Units unless both the City and the Applicant agree within the Regulatory Agreement to an alternative schedule for construction.
- B. Design Standards. Restricted Affordable Units shall be built on-Site and be dispersed within the Housing Development, except as approved by the City and expressly permitted in the Regulatory Agreement. The design, square footage, appearance and general quality of the Restricted Affordable Units shall be compatible with the design of the Non-Restricted Units in the Housing Development. In order to achieve compatibility, Restricted Affordable Units shall be located so as not to create a geographic concentration of Restricted Affordable Units within the Housing Development; the quality of exterior design and overall quality of construction of the Restricted Affordable Units shall be consistent with the exterior design of all Non-Restricted Units in the Housing Development; the design, square footage, appearance, finishes, features and general quality of the Restricted Affordable Units shall be functionally equivalent to the Non-Restricted Units; Restricted Affordable Units shall have functionally equivalent parking to Non-Restricted Units; and except as may be modified pursuant to a Regulatory Agreement, shall meet all 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 design guidelines included in applicable specific plans or otherwise adopted by the City Council, and all administrative regulations adopted pursuant to Section 20.190.110 for the implementation of this Chapter 20.190.

20.190.060 City Density Development Incentives.

- A. General. In addition to the parking and/or height Incentive required by the State Housing Density Bonuses and Incentives Law, the City will provide up to ~~three~~ (3) four (4) Incentives as specified in this Section 20.190.060 to an Applicant for a Housing Development that qualifies for a Density Bonus based on the provision of Affordable Restricted Units, if required by the State Housing Density Bonuses and Incentives Law.
- C. Parking and Setback Incentives. If an Applicant for a Housing Development that qualifies for a Density Bonus based on the provision of Restricted Affordable Units requests one of the following Incentives, the grant of the Incentive will be deemed to be required in order to provide the Affordable Restricted Units and, in the absence of substantial evidence to the contrary, will be deemed not to have a specific adverse impact upon public health and safety or the physical environment or on any real property that is listed in the California Register of Historical Resources and not to be contrary to state or federal law:
1. The ~~following reduction in the~~ number of parking spaces required under Chapter 20.90 of this Code, ~~if over and above the reduction that is required under~~ shall be reduced as required under the State Housing Density Bonuses and Incentives Law or as specified in Table 20-290, which ever results in the greater parking reduction:

TABLE 20-290

Restricted Affordable Units or Category	Reduced No. of Parking Spaces Required (if a reduction results in a negative number then the required number of parking spaces will be zero.)	
Very Low Income	0 to 1 bedroom unit	0
	2 to 3 bedroom unit	0.25
	4 or more bedroom unit	0.5
Low Income	0 to 1 bedroom unit	0.25
	2 to 3 bedroom unit	0.5
	4 or more bedroom unit	0.75
Moderate Income	0 to 1 bedroom unit	0.5
	2 to 3 bedroom unit	0.75
	4 or more bedroom unit	1

2. The following reduction in the Setback Area, Front that would otherwise be required under Chapters 20.30, 20.40, and 20.75 of this Code:

TABLE 20-300

Housing Type	
Very Low Income	A 1 foot reduction in the otherwise applicable setback for a Housing Development with 5% Restricted Affordable Units; 1 additional foot reduction for each additional 2% increase in the number of Restricted Affordable Units; to a maximum 5 foot reduction.
Low Income	A 1 foot reduction in the otherwise applicable setback for a Housing Development with 10% Restricted Affordable Units; 0.5 additional foot reduction for each additional 2.5% increase in the number of Restricted Affordable Units; up to a maximum 5 foot reduction.
Moderate Income	A 1 foot reduction in the otherwise applicable setback for a Housing Development with 10% Restricted Affordable Units; 0.5 additional foot reduction for each additional 7% increase in the number of Restricted Affordable Units; up to a maximum 5 foot reduction.

3. The following reduction in the Setback Area, Rear Interior that would otherwise be required under Chapters 20.30, 20.40, and 20.75 of this Code:

TABLE 20-310

Housing Type	
Very Low Income	A 1 foot reduction in the otherwise applicable setback for a Housing Development with 5% Restricted Affordable Units; 1 additional foot reduction for each additional 2% increase in the number of Restricted Affordable Units; to a maximum 5 foot reduction.
Low Income	A 1 foot reduction in the otherwise applicable setback for a Housing Development with 10% Restricted Affordable Units; 0.5 additional foot reduction for each additional 2.5% increase in the number of Restricted Affordable Units; to a maximum 5 foot reduction.
Moderate Income	A 1 foot reduction in the otherwise applicable setback for a Housing Development with 10% Restricted Affordable Units; 0.5 additional foot reduction for each additional 7% increase in the number of Restricted Affordable Units; to a maximum 5 foot reduction.

4. The following reduction in the Setback Area, Rear Corner that would otherwise be required under Chapters 20.30, 20.40, and 20.75 of this Code:

TABLE 20-320

Housing Type			
Zone	R-1-8, R-1-5, R-1-2, R-1-1, R-1-1-RR, R-2	R-M	R-MH, <u>CO, CP, CN, CG, PQP, MS-G, MS-C</u>
Very Low Income	A 1 foot reduction in the otherwise applicable setback for a Housing Development with 5% Restricted Affordable Units; additional 1 foot	A 1 foot reduction in the otherwise applicable setback for a Housing Development with 5% Restricted Affordable Units; additional 1 foot	A 1 foot reduction in the otherwise applicable setback for a Housing Development with 5% Restricted Affordable Units; additional 1 foot

	reduction for each additional 2% increase in the number of Restricted Affordable Units; to a maximum 5 foot reduction.	reduction for each additional 1% increase in the number of Restricted Affordable Units; to a maximum 5 foot reduction.	reduction for each additional two percent 2% increase in the number of Restricted Affordable Units; to a maximum 3 foot reduction.
Low Income	A 1 foot reduction in the otherwise applicable setback for a Housing Development with 10% Restricted Affordable Units; additional 0.5 foot reduction for each additional 2.5% increase in the number of Restricted Affordable Units; to a maximum 5 foot reduction.	A 1 foot reduction in the otherwise applicable setback for a Housing Development with 10% Restricted Affordable Units; additional 1 foot reduction for each additional 2% increase in the number of Restricted Affordable Units; to a maximum 5 foot reduction.	A 1 foot reduction in the otherwise applicable setback for a Housing Development with 10% Restricted Affordable Units; additional 1 foot reduction for each additional 5% increase in the number of Restricted Affordable Units; to a maximum 3 foot reduction.
Moderate Income	A 1 foot reduction in the otherwise applicable setback for a Housing Development with 10% Restricted Affordable Units; additional 0.5 foot reduction for each additional 7% increase in the number of Restricted Affordable Units; to a maximum 5 foot reduction.	A 1 foot reduction in the otherwise applicable setback for a Housing Development with 10% Restricted Affordable Units; additional 1 foot reduction for each additional 3% increase in the number of Restricted Affordable Units; to a maximum 5 foot reduction.	A 1 foot reduction in the otherwise applicable setback for a Housing Development with 10% Restricted Affordable Units; additional 0.5 foot reduction for each additional 15% increase in the number of Restricted Affordable Units; to a maximum 3 foot reduction.

- Reduction in the number of vehicle parking spaces required under Chapter 20.90 of this Code, over and above the reduction that is required under the State Housing Density Bonuses and Incentives Law, as follows:

TABLE 20-330

	Vehicle
--	----------------

	Parking Required
SRO facilities within ½ mile of an existing major transit stop as defined in the California Public Resources Code Section 21064.3 as may be amended or an existing stop along a high-quality transit corridor as defined in the California Public Resources Code Section 21155 as may be amended - for each Very Low and Low Income Unit	0
SRO facilities not within ½ mile of existing transit stop - for each Very Low and Low Income Unit	.25 per unit

C. Other Incentives. If an Applicant requests any Incentive(s) other than those specified in Subsection B above and provides the Incentive information required in Section 20.190.080.B.3 below, the Incentive will be granted unless the Approval Authority makes a written finding, based upon substantial evidence, of any of the following:

1. The Incentive would not result in identifiable and actual cost reductions to provide for Affordable Housing Costs or Affordable Rents for the Restricted Affordable Restricted Units; or
2. The Incentive would have a specific adverse impact, as defined in paragraph (2) of subdivision (d) of Government Code Section 65589.5, upon public health and safety or the physical environment or on any real property that is listed in the California Register of Historical Resources and for which there is no feasible method to satisfactorily mitigate or avoid the specific adverse impact without rendering the Housing Development unaffordable to Low- and Moderate-Income households.
3. The Incentive would be contrary to state or federal law.

- D. Limitation on Total Number of Incentives Allowed. If any type of incentive has been granted for Restricted Affordable Units under any other provision of this Code, including but not limited to incentives for Inclusionary Units under Chapter 5.08 of this Code, such other incentives shall be counted toward the number of Incentives required under this Chapter 20.190.

20.190.070 Waiver or Modification of Development Standards.

An Applicant may apply for a waiver or modification of Development Standards that will have the effect of physically precluding the construction of a Housing Development at the densities or with the Incentives permitted by this Chapter. The Applicant bears the burden of proving that the Development Standard(s) that is/are requested to be waived or modified will have the effect of physically precluding the construction of a Housing Development with the Density Bonus or Incentive requested under this Chapter.

20.190.080 Application Requirements and Timing.

- A. General. Any Density Bonus, Incentive, waiver, or modification sought by an Applicant shall be made pursuant to this Chapter.
- B. Timing of Application and Information to be Submitted.
1. An application for a Density Bonus, Incentive, waiver or modification of Development Standard shall be submitted to the Approval Authority and processed by the Approval Authority concurrently with the earliest date after the effective date of the ordinance adopting this Chapter 20.190 of the following requests for Discretionary Approval or Ministerial Approval:
 - ~~a. A request for an increase in general plan maximum housing density or approval of a change in use to allow residential development;~~
 - ~~b. An application for zoning change or zoning amendment that would affect maximum housing density;~~

- a. ~~e.~~—The first application for a Development Permit for a Housing Development; ~~or~~
 - b. ~~d.~~—An application for subdivision map approval for a Housing Development; or
 - c. An application for Ministerial Approval pursuant to Section 20.195.040.
2. No application or Density Bonus, Incentive, waiver, or modification of Development Standard shall be deemed received until the following have been provided:
- a. 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.
 - b. All documents specified in this Chapter or on the application form have been filed.
3. The application shall be on a form prescribed by the Director and shall include the following information:
- a. A brief description of the proposed Housing Development, including the total number of dwelling units, Restricted Affordable Units, and Density Bonus Units proposed.
 - b. The current zoning district(s) and general plan land use designation(s) and assessor's parcel number(s) of the project Site, and a description of any Density Bonus, Incentive, or waiver/modification requested.
 - c. A vicinity map and preliminary Site plan, drawn to scale, including building footprints, driveway, and parking layout.

- d. If an Incentive is requested, a brief explanation as to the actual cost reduction achieved through the Incentive and how the cost reduction would result in identifiable and actual cost reductions to provide for Affordable Housing Costs or Affordable Rents for the Restricted Affordable Units.
- e. If modification or waiver of a Development Standard is requested, an explanation of how the Development Standard would have the effect of physically precluding the construction of a Housing Development at the densities or with the Incentives permitted by this Chapter.
- f. A Site plan showing location of Non-Restricted Units, Restricted Affordable Units, and Density Bonus Units within the proposed Housing Development.
- g. Level of affordability of the Restricted Affordable Units and proposed method to ensure affordability.
- h. For Incentives that are not included within Subsection B. of Section 20.190.060, the Application must include:
 - i. Reasonable documentation that each requested Incentive will result in identifiable and actual reductions to provide the Restricted Affordable Units. Such evidence may include the submittal of the project pro forma to the Approving Authority, providing evidence that the requested Incentives would result in identifiable, financially sufficient, and actual cost reductions.

- ii. The cost documentation shall include all of the following items:
- a) The actual cost reduction achieved through the Incentive;
 - b) Evidence that the cost reduction will result in identifiable and actual reductions to provide the Restricted Affordable Units; and
 - c) Such other information as may be requested by the Director of the Planning, Building and Code Enforcement Department or the Director of the Housing Department, or their designee(s), which additional financial information may include, but is not limited to, information regarding capital costs, equity investment, debt service, projected revenues, operating expenses, and such other information as either Director deems necessary to allow the Approving Authority to evaluate the financial information submitted by the Applicant.
 - d) If the application is for approval of Mixed Use where Mixed Use would not otherwise be allowable, evidence that the proposed non-residential use will reduce the cost of the Housing Development, and that the non-residential use is compatible with the proposed Housing Development and other existing or planned development in the area where the proposed Housing Development will be located.

4. If an Incentive, or waiver or modification of Development Standard is requested, submittal of information sufficient to allow the Approving Authority to assess whether any requested Incentive, or waiver or modification of Development Standard will have a specific adverse impact, or on any real property that is listed in the California Register of Historical Resources, or if there is such an impact, an analysis of potential methods to satisfactorily mitigate or avoid the specific adverse impact without rendering the Housing Development unaffordable to Low-and Moderate-Income households, and the feasibility of such methods.
5. If an Incentive, or waiver or modification of Development Standard is requested, submittal of environmental information sufficient to allow the Approving Authority to assess whether any requested Incentive, or waiver or modification of Development Standard would have a specific adverse impact, as defined in paragraph (2) of subdivision (d) of Government Code Section 65589.5, and to analyze whether there are feasible potential methods to satisfactorily mitigate or avoid the specific adverse impact without rendering the Housing Development unaffordable to Low- and Moderate-Income households. Submittal of such environmental information as is required for a project subject to the California Environmental Quality Act ("CEQA"), Public Resources Code Section 21000 et seq., and the CEQA Guidelines shall be submitted in satisfaction of this requirement, even if the Housing Development would otherwise be exempt from CEQA.
6. If a waiver or modification of a Development Standard is requested, submittal of evidence that the Development Standard for which the waiver is requested will have the effect of physically precluding the construction of the Housing Development with the Density Bonus and Incentives requested.

7. If a Density Bonus or Incentive is requested for a land donation, the application shall identify the location of the land to be dedicated and shall include proof of Site control and evidence that all of the conditions for a land transfer Density Bonus that are specified in the State Housing Density Bonuses and Incentives Law will be met.
8. If a Density Bonus or Incentive is requested for a Child Care Facility, the application shall identify the location and square footage of the Child Care Facility and include evidence that all of the conditions for a Child Care Facility Density Bonus or Incentive that are specified in the State Housing Density Bonuses and Incentives Law will be met.
9. If a Density Bonus or Incentive is requested for a condominium conversion, the Applicant shall provide evidence that all of the conditions for a condominium conversion Density Bonus that are specified in the State Housing Density Bonuses and Incentives Law will be met.

20.190.090 Application Review and Approval Process.

- A. General. An application for a Density Bonus, Incentive, waiver or modification of Development Standards shall be acted upon by the Approval Authority. The granting of a Density Bonus or Incentive shall not be deemed approval of the entire project, nor to affect or constrain the exercise of discretion for any subsequent approval that may be required for the project. No application shall be accepted for a Density Bonus for a Site on which a prior Density Bonus has been approved, unless the Applicant waives any right to proceed with the project as approved with the prior Density Bonus.
- B. Conditions of Approval. Before approving an application for a Density Bonus, Incentive, waiver or modification of Development Standards the Approval

Authority must make the following findings based on evidence in the record, as applicable, that:

1. The Housing Development is eligible for a Density Bonus and any Incentives, waivers or modifications requested.
2. If the Density Bonus is based all or in part on:
 - a. Donation of land;
 - b. Inclusion of a Child Care Facility;
 - c. A Mixed-Use development; or
 - d. A condominium conversion;

A finding that the requirements for the applicable characteristics that are specified in the State Housing Density Bonuses and Incentives Law have been or will be met.

~~a finding that all of the requirements for a land transfer Density Bonus that are specified in the State Housing Density Bonuses and Incentives Law have been or will be met.~~

- ~~3. If the Density Bonus or Incentive request is based all or in part on the inclusion of a Child Care Facility, a finding that all of the requirements for a Child Care Facility Density Bonus that are specified in the State Housing Density Bonuses and Incentives Law have been or will be met.~~
- ~~4. If the Incentive request is for a Mixed-Use development, a finding that all the requirements for a Mixed-Use Incentive development approval that are specified in the State Housing Density Bonuses and Incentives Law have been or will be met.~~
- ~~5. If the Incentive includes a request for approval of condominium conversion, a finding that all the requirements for a condominium conversion Incentive that are specified in the State Housing Density Bonuses and Incentives Law have been or will be met.~~

C. Conditions for Denial.

1. The Approval Authority may deny an application for a Density Bonus if the findings required by Subsection B.1 above, as applicable, cannot be made.

2. The Approval Authority may deny an application for an Incentive other than the Incentives specified in Section 20.190.060 based on a written finding based on substantial evidence that the Incentive will not result in identifiable and actual cost reductions to provide for Affordable Rent or Affordable Housing Cost.
3. The Approval Authority may deny an application for a waiver or modification of a Development Standard based on a written finding based on substantial evidence that application of the Development Standard will not have the effect of physically precluding the construction of the Housing Development at the densities or with the Incentives permitted by the State Housing Density Bonuses and Incentives Law.
4. The Approval Authority may deny an application for Incentive, waiver or modification if one of the following written findings is made, supported by substantial evidence:
 - a. The Incentive, waiver or modification of Development Standard would have a specific, adverse impact, as defined in Government Code Section 65589.5(d)(2), upon public health or safety or the physical environment or on real property listed in the California Register of Historic Resources, and there is no feasible method to satisfactorily mitigate or avoid the specific adverse impact without rendering the Housing Development unaffordable to households of Low and Moderate Income. For the purpose of this Subsection, "specific adverse impact" means a significant, quantifiable, direct, and unavoidable impact, based on objective, identified, written public health or safety standards, policies, or conditions as they existed on the date that the application for the Housing Development was deemed complete; or

- b. The Incentive, waiver or modification of Development Standard is contrary to state or federal law.
5. Nothing in this Chapter 20.190 limits the City's right to deny an affordable housing project under Government Code Section 65589.5.
6. Nothing in this Chapter 20.190 shall be construed to require the City to grant a Density Bonus or Incentive or any Site or portion of a Site that is designated in the General Plan Land Use/Transportation Diagram for non-residential use.

20.190.100 Regulatory Agreement.

- A. General. Applicants for a Density Bonus, Incentive, waiver or modification of Development Standards shall enter into a Regulatory Agreement with the City. The terms of the draft Regulatory Agreement shall be reviewed and revised as appropriate by the Director and the City Attorney. The final Regulatory Agreement, as approved by the City Attorney, shall be executed by the Applicant and forwarded to the Approval Authority for final approval.
- B. Timing of Agreement Approval. Approval of the Regulatory Agreement by the Approval Authority shall take place either concurrently with the Discretionary Approval or Ministerial Approval that is being processed with the Density Bonus application; or under an application for a compliance plan submitted between the Discretionary Approval and Ministerial Approval, and Building Approval or Grading Approval, whichever comes first.
- C. Agreement Terms and Conditions. The Regulatory Agreement shall include at a minimum all of the following:

1. The total number of dwelling units approved for the Housing Development, including the number of Restricted Affordable Units and/or Senior Citizen Housing Development units;
2. A description of the household income group to be accommodated by the Restricted Affordable Units, and the standards for determining the corresponding Affordable Rent or Affordable Housing Cost;
3. The location, dwelling unit sizes (square feet), and number of bedrooms of the Restricted Affordable Units and/or Senior Citizen Housing Development units;
4. Term of use restrictions for Restricted Affordable Units and/or Senior Citizen Housing Development units for the minimum period(s) of time, and age restrictions if applicable, specified in the State Housing Density Bonuses and Incentives Law;
5. Requirements to ensure that the initial occupants of all for-sale units that qualified the Applicant for the award of the Density Bonus are persons and families of Very Low, Low, or Moderate Income, as required, and that the units are offered at an Affordable Housing Cost, as that cost is defined in Section 50052.5 of the Health and Safety Code and/or meet the requirements for Senior Citizen Housing Development units as specified in the State Housing and Density Bonuses and Incentives Law. The Regulatory Agreement for for-sale Restricted Affordable Units shall include the following equity sharing provisions, unless it is in conflict with the requirements of another public funding source or law:

- a. Upon resale, the seller of the unit shall retain the value of any improvements, the down payment, and the seller's proportionate share of appreciation. The City shall recapture any initial subsidy, as defined in Subsection 5.d., and its proportionate share of appreciation, as defined in Subsection 5.c., which amount shall be used within five (5) years for any of the purposes described in subdivision (e) of Section 33334.2 of the Health and Safety Code that promote home ownership.
 - b. For purposes of this Section 20.190.100, the City's initial subsidy shall be equal to the fair market value of the home at the time of initial sale minus the initial sale price to the moderate-income household, plus the amount of any down payment assistance or mortgage assistance. If upon resale the market value is lower than the initial market value, then the value at the time of the resale shall be used as the initial market value.
 - c. For purposes of this Section 20.190.100, the City 's proportionate share of appreciation shall be equal to the ratio of the City's initial subsidy to the fair market value of the home at the time of initial sale.
6. A schedule for completion and occupancy of the Restricted Affordable Units;
 7. A description of any Incentive, waiver or modification of Development Standards, if any, being provided by the City;
 8. A description of remedies for breach of the Regulatory Agreement, including at the City's option, the identification of tenants or qualified purchasers as third party beneficiaries under the Regulatory Agreement;

9. A termination provision stating that any granted Density Bonus and Incentive(s) shall terminate with the demolition, destruction or other removal of the structure receiving the Density Bonus and/or Incentive(s);
 10. A provision stating that the Regulatory Agreement shall be binding to all future owners and successors in interest; and
 11. Other provisions to ensure implementation and compliance with this Chapter.
- D. Recordation. Following execution of the Regulatory Agreement, the Regulatory Agreement shall be recorded on the property subject to the Regulatory Agreement.

20.190.110 – Regulations.

The Director is hereby authorized to promulgate forms, policies and regulations for the implementation of this Chapter, including but not limited to, applications for additional Incentives, waiver or modification of Development Standards, terms and conditions for the Regulatory Agreement as approved by the City Attorney, and applications for modification of the Regulatory Agreement.

SECTION 6. Chapter 20.195 is added to Title 20 of the San José Municipal Code, to be numbered, entitled, and to read as follows:

Chapter 20.195 **Ministerial Approvals**

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”), and 65913.4 (“State Streamlined Ministerial Approval Process”); and
- B. 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, and the State Streamlined Ministerial Approval Process shall have 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:
 - i. Supportive Housing;
 - ii. Supportive Services;
 - iii. Target Population;
 - iv. Use by Right; and
 - v. 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:

- i. Low Barrier Navigation Center;
 - ii. Use by Right;
 - iii. 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:
 - i. Objective Zoning Standards;
 - ii. Objective Subdivision Standards;
 - iii. Objective Design Review Standards;
 - iv. Project Labor Agreement;
 - v. Skilled and Trained Workforce;
 - vi. Affordable Housing Cost;
 - vii. Affordable Rent;
 - viii. Development Proponent;
 - ix. Completed Entitlements;
 - x. Moderate Income Housing Units;
 - xi. Production Report;
 - xii. State Agency;
 - xiii. Subsidized;
 - xiv. Reporting Period; and
 - xv. 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 and application for Ministerial Approval.
2. "Director" means the Director of Planning, Building and Code Enforcement.
3. "Ministerial Approval" means any approval related to a housing development or a Low Barrier Navigation Center that meet the requirements of the State Supportive Housing Law, the State Low Barrier Navigation Centers Law, and/or the State Streamlined Ministerial Approval Process 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 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 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.

20.195.030 Ministerial Approval.

- A. Ministerially Approved Developments. The City will Ministerially Approve a housing development or Low Barrier Navigation Center that meets the requirements specified in the State Supportive Housing Law, the State Low Barrier Navigation Centers Law, 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.

- 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. Parking Ratios. The City shall not require parking beyond the maximum ratios specified in the State Streamlined Ministerial Approval Process if the project is Ministerially Approved under that section of state law.
- E. Development Standards. Notwithstanding the State Supportive Housing Law, the State Low Barrier Navigation Centers Law, and the State Streamlined Ministerial Approval Process, Ministerially Approved housing developments and Low Barrier Navigation Centers 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.

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
 2. The person or entity with written authority of the owner(s) to apply for Ministerial Approval for a housing development or Low Barrier Navigation Center.
- 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 or Low Barrier Navigation Center, including, as applicable, the total number of dwelling units, Restricted Affordable Units, Supportive Housing Units, and Low Barrier Navigation Center beds proposed.
 2. The current zoning district(s) and general plan land use designation(s) and assessor's 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, and all other dwelling units within the proposed housing development or Low Barrier Navigation Center.
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.

20.195.050 Application Review and Approval Process.

- A. General. An application for Ministerial Approval shall be acted upon by the Director.
- B. Conditions for Approval. Before approving an application for Ministerial Approval, the Director must make the following findings based on evidence in the record, as applicable, that:
1. The housing development or Low Barrier Navigation Center 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 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 years from the date of the final action establishing that approval, unless otherwise provided in the permit, from and after the date of issuance of the development permit if within such three-year period, 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 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 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 days.

7. Hours of Construction within 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 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. Section 20.200.705 is added to Chapter 20.200 of Title 20 of the San José Municipal Code to be numbered, entitled, and to read as follows:

20.200.705 Low Barrier Navigation Center.

"Low barrier navigation center" means a Housing First, low-barrier, service-enriched shelter focused on moving people into permanent housing as defined in subdivision (a) of Section 65660 of the California Government Code, as the same may be renumbered or amended from time to time, and provides temporary living facilities while case managers connect individuals experiencing homelessness to income, public benefits, health services, shelter, and housing. Low barrier navigation centers shall be treated under this title as a residential use and shall be allowed in commercial, public/quasi-public, and the downtown zoning districts.

SECTION 8. Section 20.200.1265 of Chapter 20.200 of Title 20 of the San José Municipal Code is amended to read as follows:

20.200.1265 Permanent Supportive Housing.

"Permanent Supportive housing" means housing with no limit on length of stay and that is occupied by a target population as defined in subdivision (f) of Section 65582 of the California Government Code, as the same may be renumbered or amended from time to time, and that is linked to onsite or offsite services that assist supportive housing residents in retaining housing, improving their health status, and maximizing their ability to live and, when possible, work in the residents' community. Supportive housing shall be treated under this title as a residential use and shall be allowed in residential, commercial, public/quasi-public, and the downtown zoning districts ~~in the same fashion as a residential care facility or a residential service facility~~

DRAFT

PASSED FOR PUBLICATION of title this _____ day of _____, 2020, by the following vote:

AYES:

NOES:

ABSENT:

DISQUALIFIED:

SAM LICCARDO
Mayor

ATTEST:

TONI J. TABER, CMC
City Clerk

DRAFT

**DETERMINATION OF CONSISTENCY WITH THE
ENVISION SAN JOSÉ 2040 GENERAL PLAN FINAL ENVIRONMENTAL IMPACT
REPORT AND SUPPLEMENTAL PROGRAM ENVIRONMENTAL IMPACT REPORT
(SCH# 2009072096)**

Pursuant to Section 15168(c)(2) of the CEQA Guidelines, the City of San José has determined that the project described below is pursuant to or in furtherance of the Envision San José 2040 General Plan Final EIR (General Plan FEIR), Supplemental EIR to Envision San José General Plan EIR, and Addenda thereto. The City of San José has determined that this activity is within the scope of the earlier approved programs and the Final EIRs adequately describe the activity for purposes of CEQA.

File No. PP20-009 Density Bonus Ordinance Update and Ministerial Approval Ordinance.

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: Extend the applicability of city density development incentives; amending Chapter 20.30, Chapter 20.40, Chapter 20.70, Chapter 20.75, and Chapter 20.200, and adding Chapter 20.195 to implement California Government Code Sections 65650 et seq., 65660 et seq., 65913.4; and making nonsubstantive code changes.

Specifically, the proposed changes amending Title 20 (the Zoning Code) of the San José Municipal Code are to amend Section 20.30.100 to add permanent supportive housing as a permitted use in the R-M Zoning District, amend Sections 20.40.100, Section 20.70.100, and 20.75.100 to add low barrier navigation centers and permanent supportive housing as permitted uses as required by state law and consistent with the General Plan, amend Section 20.190.040 to acknowledge the height increase established by state law, amend Section 20.190.060 to increase the maximum number of incentives consistent with state law and expand the front, rear, and rear corner setback incentives to include the Commercial, Public/Quasi-Public, and Pedestrian Oriented Zoning Districts, amend Section 20.190.100 to provide alternative timing for regulatory agreements, add Chapter 20.195 to codify the ministerial approval process required by state law, add Section 20.200.705 to add a definition of low barrier navigation center, amend Section 20.1265 to adjust the definition of permanent supportive housing, and make other technical, non-substantive, or formatting changes within those sections of title 20 of the San José Municipal Code.

Location: Citywide **Council District** Citywide **County Assessor's Parcel Number** - Various

The environmental impacts of this project were addressed by the Final EIRs as described above. The environmental impacts of this project were addressed by a Final Program EIR entitled, "Envision San José 2040 General Plan," adopted by City Council Resolution No. 76041 on November 1, 2011 supplemented by the Supplemental EIR entitled, "Envision San José 2040 General Plan Supplemental EIR," adopted by City Council Resolution No. 77617 on December 15, 2015, and addenda thereto. The Program EIR and Supplemental Program EIR were prepared for the comprehensive update and revision of all elements of the City of San José General Plan, including an extension of the planning timeframe to the year 2035. The following impacts were reviewed and found to be adequately considered by the EIRs:

- | | | |
|---|---|--|
| <input checked="" type="checkbox"/> Transportation | <input checked="" type="checkbox"/> Land Use | <input checked="" type="checkbox"/> Noise and Vibration |
| <input checked="" type="checkbox"/> Air Quality | <input checked="" type="checkbox"/> Biological Resources | <input checked="" type="checkbox"/> Geology and Soils |
| <input checked="" type="checkbox"/> Hydrology & Water Quality | <input checked="" type="checkbox"/> Hazardous Materials and Hazards | <input checked="" type="checkbox"/> Public Facilities & Services |
| <input checked="" type="checkbox"/> Cultural Resources | <input checked="" type="checkbox"/> Aesthetics | <input checked="" type="checkbox"/> Energy |
| <input checked="" type="checkbox"/> Population and Housing | <input checked="" type="checkbox"/> Greenhouse Gas Emissions | <input checked="" type="checkbox"/> Public Facilities & Services |

- General Land Use Policy H-2.1: Facilitate the production of extremely low-, very low-, low-, and moderate-income housing by maximizing use of appropriate policies and financial resources at the federal, state, and local levels; and various other programs.
- General Housing Policy H-2.4: Allow affordable residential development at densities beyond the maximum density allowed under an existing Land Use/Transportation Diagram designation, consistent with the minimum requirements of the State Density Bonus Law (Government Code Section 65915) and local ordinances.
- General Land Use Policy LU-1.10: Review criteria in the Zoning Ordinance and update it as appropriate to reflect Land Use goals, policies, and implementation actions in this Plan.
- General Land Use Policy LU-1.5: Maintain a Zoning Ordinance and Subdivision Ordinance that aligns with and supports the Land Use/Transportation Diagram and Envision General Plan goals and policies. Develop new Zoning Districts which enumerate uses and establish development standards, including heights, to achieve vital missed-use complete communities and facilitate their implementation.

These amendments propose to incentivize affordable housing and streamline approval of affordable housing, supportive housing, and navigation centers, which are key components of the General Plan. Given the increasing costs associated with development, the ability to maximize the utility of any given property must be facilitated.

The project will consist of amending Title 20 (Zoning Ordinance or Zoning Code) of the San José Municipal Code to reflect the goals and policies of the General Plan. The proposed changes to the Municipal Code would further the General Plan policies and goals such as Policies H-2.1, H-2.4, LU-1.10, and LU-1.5, and would provide updated codes that to which future redevelopment shall adhere.

No specific development proposal is part of the amendment to Title 20. Future proposals will be subject to further project specific review by the applicable department. The proposed project is to amend the existing Municipal Code to align with goals and policies of the General Plan. For the reasons discussed above, the project is within the scope of the General Plan FEIR, General Plan Supplemental EIR, and addenda thereto pursuant to CEQA, and CEQA Guidelines Section 15168(c)(2), and adoption of the Guidelines does not result in new significant impacts beyond those identified in the General Plan Final and Supplemental EIRs. Any further actions, such as actions to approve individual development projects based on the amended Zoning Code, will require additional environmental review at the time such actions are proposed.

Rosalynn Hughey, Director
Planning, Building and Code Enforcement



Deputy

3/2/2020

Date

Project Manager
David Ying