

Memorandum

TO: HONORABLE MAYOR
AND CITY COUNCIL

FROM: Planning Commission

SUBJECT: SEE BELOW

DATE: July 23, 2012

SUBJECT: AN ORDINANCE OF THE CITY OF SAN JOSE AMENDING TITLE 20 (THE ZONING ORDINANCE) OF THE SAN JOSE MUNICIPAL CODE BY AMENDING SECTION 20.30.100 OF CHAPTER 20.30, SECTION 20.40.100 OF CHAPTER 20.40, SECTION 20.50.100 OF CHAPTER 20.50, AND SECTION 20.70.100 OF CHAPTER 20.70, ADDING A NEW PART 3.5 ENTITLED "CERTIFIED FARMERS' MARKETS" TO CHAPTER 20.80, AND ADDING A NEW SECTION 20.200.185 TO CHAPTER 20.200, ALL TO ESTABLISH LAND USE REGULATIONS FOR CERTIFIED FARMERS' MARKETS, TO FACILITATE A MORE STREAMLINED PROCESS FOR CERTAIN CERTIFIED FARMERS' MARKETS AND MAKING OTHER TECHNICAL, NONSUBSTANTIVE, CLARIFYING CHANGES TO SAID TITLE

RECOMMENDATION

The Planning Commission voted 7-0-0 to recommend to the City Council approval of a proposed ordinance to amend Title 20 of the San José Municipal Code to establish land use regulations pertaining to Certified Farmers' Markets as recommended by staff.

OUTCOME

The proposed amendments to the Zoning Ordinance (Title 20) would establish zoning regulations to streamline the approval process for certain types of farmers' markets within San José. The amendment includes a definition and operational requirements for "Small Certified Farmers' Markets" which would be permitted by right within certain zoning districts provided that they meet certain criteria set forth in the Ordinance. These amendments are intended to implement Envision San José 2040 General Plan policies and the City Council Priority Ordinances for FY 2011-2012 (identified on February 28, 2102) by supporting increased access to healthy food through a streamlined permit process for recurring farmers' markets on private property.

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Subject: Proposed Zoning Code Amendment for Certified Farmers' Markets

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BACKGROUND

On July 25, 2012, the Planning Commission conducted a public hearing on the proposed ordinance. See the attached staff report to the Planning Commission for additional background information and analysis of the proposed amendments to Title 20 (the Zoning Ordinance).

ANALYSIS

Staff made a brief presentation summarizing the proposed ordinance. Representatives of three organizations, First 5 Santa Clara County, The Health Trust, and the Pacific Coast Farmers Market Association, spoke in support of the proposed ordinance during the public hearing. As part of their testimony and ensuing discussion with the Planning Commission, speakers expressed their support for the proposed requirement that Farmers' Market operate redemption programs for Electronic Balance Transfer (EBT or "food stamps") benefits. No one spoke in opposition to the proposed ordinance.

Following the Public Hearing, in response to questions from the Commission, staff elaborated on the collaborative process through which the ordinance was drafted with input from farmer's market operators, County Health staff and other stakeholders and emphasized that the ordinance had been developed in order to remove barriers for new farmer's markets. Staff stated that market operators had said simplifying the permit process and reducing the permit costs would help them to open more markets, but that they also recognized the value of continued regulation to address neighborhood concerns. The Commission expressed support for the ordinance and encouraged staff to look for additional opportunities to promote farmer's markets through outreach or other activities.

CEQA

The environmental impacts of the proposed project are within the scope of the project analyzed under a Program Environmental Impact Report (PEIR) "Envision San Jose 2040 General Plan" that was certified on September 28, 2011 (EIR Resolution No.76041).

/s/

JOSEPH HORWEDEL, SECRETARY
Planning Commission

For questions, please contact Laurel Prevetti at 408-535-7901.

Attachments:

Planning Commission Staff Report.



Memorandum

TO: PLANNING COMMISSION

FROM: Joseph Horwedel

SUBJECT: SEE BELOW

DATE: July 18, 2012

COUNCIL DISTRICT: Citywide

SUBJECT: AN ORDINANCE OF THE CITY OF SAN JOSE AMENDING TITLE 20 (THE ZONING ORDINANCE) OF THE SAN JOSE MUNICIPAL CODE BY AMENDING SECTION 20.30.100 OF CHAPTER 20.30, SECTION 20.40.100 OF CHAPTER 20.40, SECTION 20.50.100 OF CHAPTER 20.50, AND SECTION 20.70.100 OF CHAPTER 20.70, ADDING A NEW PART 3.5 ENTITLED "CERTIFIED FARMERS' MARKETS" TO CHAPTER 20.80, AND ADDING A NEW SECTION 20.200.185 TO CHAPTER 20.200, ALL TO ESTABLISH LAND USE REGULATIONS FOR CERTIFIED FARMERS' MARKETS, TO FACILITATE A MORE STREAMLINED PROCESS FOR CERTAIN CERTIFIED FARMERS' MARKETS AND MAKING OTHER TECHNICAL, NONSUBSTANTIVE, CLARIFYING CHANGES TO SAID TITLE 20

RECOMMENDATION

Planning staff recommends that the Planning Commission recommend to the City Council the approval of the ordinance changes (amendments) outlined in this memorandum to amend Title 20 of the San José Municipal Code to establish streamlined land use regulations pertaining to Certified Farmers' Markets.

OUTCOME

The proposed amendments to the Zoning Ordinance (Title 20) would establish zoning and use regulations to streamline the approval process for certain types of farmers' markets within San Jose. The amendment includes a definition and operational requirements for "Small Certified Farmers' Markets" which would be permitted by right within certain zoning districts so long as they met certain criteria set forth in the Ordinance. These amendments are intended to implement Envision San Jose 2040 General Plan policies and the City Council Priority Ordinances for FY 2011-2012 (identified on February 28, 2102) by supporting increased access to healthy food through streamlined permit process for recurring farmers' markets on private property.

BACKGROUND

The Envision San Jose 2040 General Plan, adopted by the City Council on November 1, 2011, established "Design for a Healthful Community" as one of the City's Major Strategies. Encouraging access to healthy foods is identified within the General Plan as a component of this Strategy. In support of this Strategy, the Zoning Ordinance was amended in January 2012 to add "Neighborhood Agriculture" as a permitted Home Occupation use within Residential Zoning Districts.

Each year the City Council formally identifies a prioritized list of ordinance amendments for staff to develop and bring to the Council for consideration. The "Top Ten Priority Policies and Ordinances" list approved by the City Council on February 28, 2012 identified streamlining the permit process for recurring farmers markets on private property and other ordinance amendments that improve "Access to Healthy Food" as a top City Council priority. (see attached memorandum).

The proposed ordinance was also developed in close coordination with a coalition of community and City partners as part of the Campaign for Healthy Food San Jose (see attached brochure). Led by The Health Trust, the coalition received a grant from the Santa Clara County Public Health Department as a component of a federally-funded initiative entitled "Communities Putting Prevention to Work" (CPPW), which seeks to address the leading preventable causes of death and disability by addressing key risk factors through policy, systems and environmental change. The coalition included a representative from the Pacific Coast Farmers' Market Association, a nonprofit organization that operates and promotes farmers' markets around the San Francisco Bay Area.

Current Zoning Ordinance Provisions

Farmers' markets are not currently identified as a specific use in the Zoning Ordinance, but rather are regulated as an "Outdoor Private Property Special Event" within the category of "Temporary Outdoor Use of Private Property" set forth in Part 16 (Specific Use Regulations). The Zoning Ordinance requires a Special Use Permit for farmer's markets and other special event operated less than 30 consecutive days or less than 45 days in a calendar year, or a Conditional Use Permit for farmer's markets and other special events operated for more than 30 consecutive days or more than 45 days in a calendar year.

The Special Use Permit process includes a public hearing before the Director of Planning, Building, and Code Enforcement and an appeal, if needed, to the Planning Commission. Special Use Permits typically take 6 to 12 weeks to process and involve application fees ranging from \$1400 to \$2000. The Conditional Use Permit process includes a public hearing before the Planning Commission and an appeal, if needed, to the City Council. Conditional Use Permits typically take 10 to 16 weeks to process with a processing fee of approximately \$3000. Operators of farmer's markets have indicated that permit processing fees create a barrier to the opening of new markets within San Jose, thus hindering the ability to facilitate access to healthy foods in proximity to neighborhoods.

ANALYSIS

Consistent with the General Plan goal of promoting access to healthy food, the proposed Zoning Ordinance amendments would reduce barriers to the establishment of certified farmers' markets by establishing a new, streamlined permit process for farmer's markets. Specifically, the proposed ordinance amendment would create new land use categories for "Certified Farmer's Markets" and "Small Certified Farmer's Markets." The latter would be "permitted by right" (e.g., not required to obtain a Special Use Permit or Conditional Use Permit) in most Zoning Districts provided that they conform to criteria established within the Zoning Ordinance. The proposed amendment would also provide clarified criteria for the review of larger Certified Farmer's Markets through a discretionary Planning Permit process (Special Use Permit).



Certified Farmers' Markets

The proposed amendments include a definition for Certified Farmer's Markets that aligns with existing State and County regulations. Use of this definition focuses the amendments on improving access to healthy foods while utilizing a regulatory structure already familiar to the operators of farmer's markets.

Per the State and County definition, Certified Farmer's Markets consist of agricultural product vendors that have obtained certification from the County Agricultural Commissioner

and appropriate permits from the County Department of Environmental Health. The proposed ordinance references the definition of Certified Farmer's Markets in State Law as locations where "*California farmers may transport and sell to the public California agricultural products that they produced, that are exempt from the established grade, size, labeling, packaging and other such requirements for fruits, nuts, and vegetables...*". By using this definition, the proposed amendments directly facilitate farmer's markets that consist primarily of the sale of fresh fruits and vegetables, nuts and flowers and processed agricultural products such as dried fruits, juice, and dairy products. Sale of non-agricultural items such as crafts or jewelry would be also be allowed within the facilitated farmer's markets on a limited basis.

The Santa Clara County Agricultural Commissioner and Department of Environmental Health verify and enforce compliance with state law pertaining to Certified Farmer's Markets as contained in the California Food and Agricultural Code and Health and Safety Code. These laws are aimed at ensuring that the agricultural products are handled properly and are of acceptable quality, and that there are adequate sanitation facilities. The County of Santa Clara Agricultural Commissioner's primary role is to verify that the agricultural products being sold are grown by the farmers themselves. The County Department of Environmental Health enforces the regulations regarding health and sanitation including the availability of adequate toilet and hand washing facilities (see attached fact sheet entitled *California Certified Farmers' Markets and Farm Stands, A Closer Look at State Law*).

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In the proposed amendments, "Small Certified Farmers' Markets" are defined as "Certified Farmer's Markets" that meet additional criteria. Small Certified Farmers Markets are proposed to be allowed by right, subject to specific operational requirements in all residential zoning districts (only at school sites, libraries, community centers, and church/religious assembly sites), Commercial Zoning districts, Downtown Districts, and within the IP – Industrial Park district. In order to qualify as a Small Certified Farmers' Market the market must meet the following criteria:

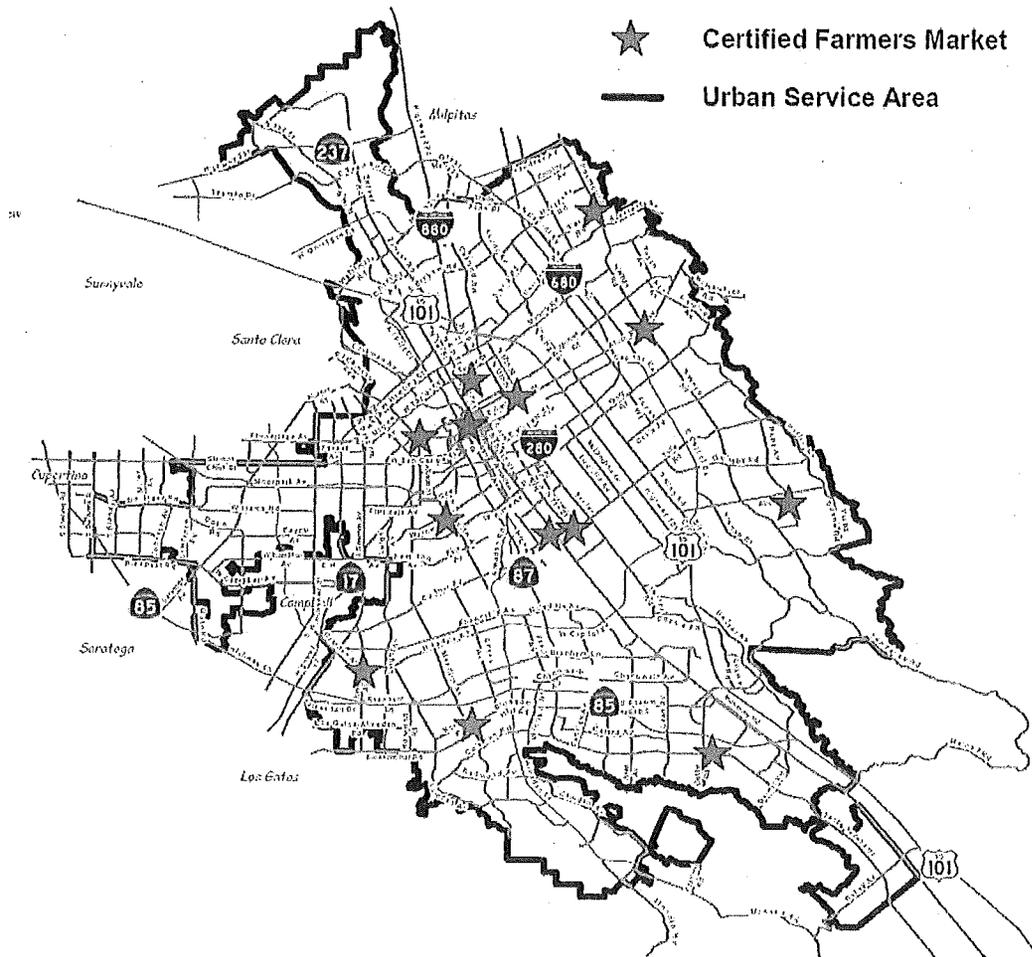
1. Number of Vendors – the market is limited to a maximum of 15 agricultural vendors and up to three non-agricultural vendors. Only one non-agricultural vendor is allowed for every five vendors of agricultural products.
2. Frequency – the market may operate no more than two days per calendar week at the same location.
3. Operating Hours – the market may only operate, including any setup or breakdown activities, a total of six hours per day between the hours of 7:00 a.m. and 9:00 p.m.
4. Maximum Area- the market may not occupy an area larger than 10,000 square feet.
5. Food Assistance – pursuant to feedback received from the Campaign for Healthy Food San Jose coalition, the market must operate a redemption program for, CalFresh Electronic Benefits Transfers, as well as federal Farmers' Market Nutrition Program coupons (both through the Special Supplemental Nutrition Program for Women, Infants and Children as well as the Seniors Farmers' Market Nutrition Program).

The proposed ordinance would maintain a Special Use Permit requirement for Certified Farmer's Markets that do not meet the above operational requirements for Small Certified Farmers' markets, but also streamline the process for larger Certified Farmers' Markets by eliminating in all cases the requirement (noted above) to obtain a Conditional Use Permit. The Special Use Permit process is quicker and less costly as it involves a hearing before the Planning Director instead of the Planning Commission. Other markets (such as flea markets, for example) that don't meet the Certified Farmer's Market definition would continue to be regulated as Outdoor Special Events and may require either a Special Use Permit or Conditional Use Permit as set forth in the Zoning Ordinance.

It is anticipated that these revisions to the Zoning Ordinance would provide additional opportunities for Small Certified Farmers' Markets to locate throughout San Jose, including within areas that may have limited access to full service grocery stores. Farmers' markets' are considered to be an increasingly important means of improving access to healthy food.

According to the County, there are currently 13 Certified Farmers' Markets operating in San Jose (see map below).

City of San Jose Certified Farmers' Markets



Farmers' Markets on City Streets

The proposed ordinance addresses markets operated on private property and would not modify the City's regulation of markets conducted within the public right-of-way. Under the current Zoning Ordinance, farmers' markets operating on a public street or City owned property require an Outdoor Special Event permit that is processed by the City's Office of Cultural Affairs in coordination with the Police, Fire, and Transportation Departments. There is no public hearing conducted as part of the Outdoor Special Event permit process.

Envision General Plan Consistency

The proposed Zoning Ordinance amendments to streamline the process for Certified Farmers' Markets align closely with the Major Strategies of the Envision San Jose 2040 General Plan, and directly implement the Design for a Healthful Community Strategy. Farmers' markets support the physical health of community members by encouraging access to healthful foods as articulated in the Plan's Vibrant Neighborhoods Goal VN-3:



- Goal VN-3 – Access to Healthful Foods
Ensure that all residents have sufficient access to healthful food, as defined by the U.S. Department of Health and Human Services and the U.S. Department of Agriculture.

The proposed amendment is also consistent with General Plan Policies that implement this goal including:

- Policy (VN-3.5) - Encourage the location of healthful food retail, including farmers markets, in neighborhoods with high concentrations of fast food outlets compared to full-service grocery stores and fresh produce markets.
- Policy (VN-3.10) - Identify potential new locations for farmers' markets in low-income and nutrition deficient neighborhoods, including joint use opportunities on publicly owned land.
- Policy (VN-3.3) Support the efforts of the State, County and non-profits to encourage all healthful food retailers to accept public food assistance programs such as the Supplemental Nutrition Assistance Program (Food Stamps) and the Special Supplemental Nutrition Program for Women, Infants, and Children (WIC).

Conclusion

The proposed amendment implements the Design for a Healthful Community Strategy of the Envision San Jose 2040 General Plan and the City Council's direction to improve access to healthy food and to streamline the process for Certified Farmer's market on private property. Under the provisions of the proposed Ordinance, it would no longer be necessary for Small Certified Farmers' Markets that operate in accordance with the proposed operational requirements and existing County and State regulations to obtain a Development Permit from the City. The Special Use Permit process would be retained in order to provide a sufficient level of review for the larger markets that have a greater potential to impact surrounding properties.

PUBLIC OUTREACH

Public outreach for this proposal complies with the City Council's Public Outreach Policy and the Municipal Code. A community meeting was held on June 4, 2012, which was attended by approximately 20 individuals. Staff received input in support of the City's efforts to remove barriers to the establishment of farmers' markets in San Jose.

In addition, Campaign partners conducted over 20 independent outreach events and reached approximately 1,500 San Jose residents to solicit feedback about the proposed changes and garner public support. These events included:

1. **First 5 Grantees Meeting** (March 14, 2012), with representatives from: International Children's Assistance Network (ICAN), Sacred Heart Community Service Agency, Catholic Charities, Somos Mayfair, SJB Child Development Centers, Silicon Valley Education Foundation (SVEF)
2. **Neighborhood community meetings, individual outreach, and flyer distribution** conducted by First 5 grantees with First 5-supported families (March – April 2012), including these venues: McKinley-Bonita Neighborhood Association SNI/NAC Meeting, Olinder and Edenvale Neighborhood Meetings, Luther Burbank and Dahl Community Meetings, Berryessa Cooking Classes, Salud Familiar y Éxito Escolar, Family Resource Centers, Hindi RAR and Gardening Club.
3. **2012 Santa Clara County Certified Farmers' Market Manager Meeting** (March 29, 2012)
4. **Department of Parks, Recreation and Neighborhood Services (PRNS) Community Meeting** (April 28, 2012)
5. **Individual outreach and flyer distribution** conducted by Pacific Coast Farmers' Market at the Berryessa Family/Community Event and other Farmers' Markets (April 29 and Mar-May)

A public hearing notice including the Planning Commission and City Council hearing dates was published in the San Jose Mercury News and 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 Department's website and has been available to discuss the proposal with interested members of the public. Support for the proposed ordinance was received from the Silicon Valley Leadership Group and the Health Officer of the County of Santa Clara Public Health Department. (See attached correspondence)

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COORDINATION

The preparation of the proposed ordinance has been coordinated with the City Attorney's Office, and Office of Cultural Affairs, Department of Parks, Recreation and Neighborhood Services, and County of Santa Clara. Planning staff also worked closely with representatives of The Health Trust and a farmer's market association during the development of the proposed amendments.

CEQA

The environmental impacts of the proposed project are within the scope of the project analyzed under a Program Environmental Impact Report (PEIR) "Envision San Jose 2040 General Plan" that was certified on September 28, 2011 (EIR Resolution No.76041).



JOSEPH HORWEDEL, Director

Department of Planning, Building and Code Enforcement

For more information, please call Richard Buikema at (408) 535-7835.

Attachments:

- Draft Ordinance
- February 12, 2012 Memorandum from Councilmember's Liccardo, Campos, and Kalra
- The Campaign for Healthy Food Brochure
- Fact sheet entitled *California Certified Farmers' Markets and Farm Stands, A Closer Look at State Law* from Public Health Law and Policy
- Correspondence



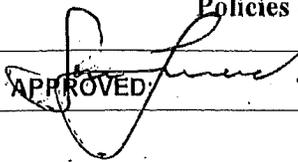
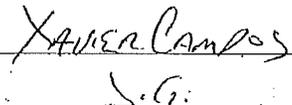
Memorandum

TO: Mayor and City Council

FROM: Councilmember Sam Liccardo
Councilmember Xavier Campos
Councilmember Ash Kalra

SUBJECT: Fiscal Year 2011-2012 Priority
Policies and Ordinances

DATE: February 10, 2012

APPROVED:  Ash Kalra  Xavier Campos
st. S.G.

RECOMMENDATION

Direct staff to add "Access to Healthy Food" as a Top 10 Priority Policy/Ordinance.

BACKGROUND

As part of their effort to improve the lives of the valley's residents, The Health Trust awarded the City a \$50,000 grant--\$25,000 to PRNS and \$25,000 to our Planning Department—to increase access to healthy food for all residents in our City. These funds will enable staff to work on policies that will increase urban agriculture, support certified farmer's markets and mobile produce vendors and make healthier food and beverages more available in public facilities. In addition to this grant, The Health Trust is also supporting Public Health Law & Policy, a non-profit dedicated to building healthy communities, with a \$10,000 to provide additional assistance to our staff to craft these policies.

Not only is it imperative that we promote the well-being of our residents; our recently adopted General Plan encourages us to move the City in this way. One of the major strategies to implement Envision San Jose 2040, *Design for a Healthful Community*, calls for us to encourage access to healthful food. It also encourages us to develop new and innovative partnerships for community gardens and urban agriculture. In these times of scarce resources, we must take advantage of these opportunities to leverage grant dollars to promote the health of our residents.

The Campaign for Healthy Food San Jose

Clearing the Way for Certified Farmers' Markets

The Campaign for Healthy Food San Jose is working to reduce barriers to bringing healthy food into communities. One of the Campaign's primary strategies is to support the development of new Certified Farmers' Markets, particularly in low-income neighborhoods.

MAKE IT FASTER AND EASIER TO ESTABLISH CERTIFIED FARMERS' MARKETS ON PRIVATE PROPERTY

Today, in order to start a new Farmers' Market, applicants must seek the appropriate permit from the appropriate city department, as determined by the proposed market's site and characteristics. Applicants must file with either the Department of Planning, Building and Code Enforcement (Planning) or the Office of Cultural Affairs depending on factors including the proposed site's zoning district and whether the site is on private or public property. In most cases, new Farmers' Markets on outdoor private property require one of two types of temporary use permits:

- Special Use Permit (\$1400) – if less than 30 consecutive days and less than 45 total days per year. This permit requires a public hearing at the Director's level.
- Conditional Use Permit (\$2000) – if more than 30 consecutive days or more than 45 total days per year. This permit requires a hearing at the Planning Commission level, an event for which City staff must dedicate substantial time and resources to prepare.

Permit approval takes six to sixteen weeks. The permitting process can be confusing and costly, potentially discouraging market operators wanting to establish a new Farmers' Market.

The Campaign for Healthy Food San Jose is working with the City of San Jose to simplify the permit application process in the following way:

- **Revise City Land Use regulations to distinguish Certified Farmers' Markets from other temporary outdoor uses of private property.**

Benefits: Clarify the City's requirements for Farmers' Markets and reduce application costs and time.
Planning is developing a clear and specific pathway to simplify the Farmers' Market permitting process. The City is working to establish an expedited, less costly process for smaller Certified Farmers' Markets (e.g., fifteen or fewer producers) that adhere to defined operational requirements. The City is also proposing to modify Use Permit requirements such that larger Certified Farmers' Markets (e.g., sixteen or more producers) would require a Special Use permit but not a Conditional Use permit, regardless of duration. The changes under consideration would streamline the application process and reduce costs and steps in the approval process.

PROMOTE MORE CERTIFIED FARMERS' MARKETS THROUGH EXPANSION OF SITES AT PUBLIC PARKS

Today, there are no Farmers' Markets on San Jose park properties, despite the existence of sites well-suited for markets, such as the parking lots of community centers and regional parks. Under the San Jose Municipal Code, the Director of Parks and Recreation and Neighborhood Services (PRNS) has the authority to approve permits to operate a Farmers' Market on public park property. In the current permitting process, entities wishing to operate a Farmers' Market on park property may apply for a permit with the PRNS Special Permit Unit. The PRNS Director is authorized to review these applications on a case-by-case basis, taking into consideration a proposed site's facilities (e.g., restrooms, parking, and accessibility) and appropriateness.



HEALTH TRUST



FIRST 5
SANTA CLARA COUNTY

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2105 South Bascom Avenue, Suite 220 • Campbell, CA 95008 • (p) 408.879.8434 • (f) 408.559.9515

www.healthtrust.org/campaignforhealthyfoodsanjose

The Campaign for Healthy Food San Jose

Understanding the Implications

Why is this Campaign important?

We all deserve healthy foods, such as fresh fruits and vegetables, for ourselves and our families. Many residents in San Jose's low-income communities don't have access to fresh produce or can't afford it. Some current city policies make it difficult to bring Farmers' Markets and mobile produce vendors into low-income communities. The Campaign for Healthy Food San Jose seeks to change this. The proposed policy changes are needed to ensure that all residents have an equal opportunity to make healthy choices and live healthy lives.

How will these policy changes affect local business?

People support surrounding businesses when they visit Farmers' Markets. Research shows Farmers' Markets:

1. *Attract new customers:* Farmers' Markets attract new shoppers to downtowns and commercial areas and generate spillover economic activity, benefiting surrounding businesses.¹
2. *Attract regular customers:* Farmers' Markets also drive business to boost economic activity on a frequent basis, with hundreds of shoppers visiting markets weekly.²
3. *Generate local economic spillover:* One 2-year study showed that over sixty percent of shoppers spent money (average of \$18.78) at surrounding businesses during their trip to a Farmers' Market.³
4. *Stimulate the regional economy:* Every \$5 spent at a Farmers' Market generates nearly \$8 of economic activity in the region. Furthermore, two full-time jobs created at a Farmers' Market create one job elsewhere in the regional economy.⁴

Why does San Jose need more Farmers' Markets?

Most San Jose residents do not live within walking distance of a Farmers' Market. In fact, 52 percent of low-income families live more than a mile from the nearest Farmers' Market, community garden or other healthy food resource. Bringing Farmers' Markets into more neighborhoods will increase the number of people who can walk to this important resource and buy fresh, affordable fruits and vegetables.⁵

Made possible with funding from the Centers for Disease Control and Prevention

¹ Oregon Small Farms Technical Report. "Farmers' Markets attract new shoppers to downtowns and commercial areas and generate spillover economic activity, benefiting surrounding businesses." 2003. Available at: <http://smallfarms.oregonstate.edu/sites/default/files/publications/techreports/TechReport16.pdf>

² Pacific Coast Farmers Market Association (unpublished data).

³ Pacific Coast Farmers' Market Association. "Two-Year Study Explores Advertising Impacts and Reveals Buying Habits of Farmers' Market Shoppers." Market Thymes. 2009. Available at: <http://www.pcfma.com/pdf/FMPP2009.pdf>.

⁴ Martinez, Steve, et al. Local Food Systems: Concepts, Impacts and Issues. 2010. Available at: <http://www.ers.usda.gov/publications/err97/>

⁵ Health Law & Policy. Healthy Food Resource Assessment for Santa Clara County. 2010. Available at: <http://www.healthtrust.org/foodaccess/>.



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The Campaign for Healthy Food San Jose

Nevertheless, there is little public awareness about the potential to operate a market on city park property, and eligibility is mostly restricted to non-profits. Moreover, the guidelines for a PRNS permit to operate a market on city park property are vague and not well-aligned with those for other city departments.

The Campaign is working to expand the number of possible Farmers' Market sites as follows:

- **Clarify and raise awareness about the process for obtaining permits to operate Farmers' Markets or other healthy food resources on city park property.**

Benefit: Streamline the permitting requirements for the use of city park property as possible Farmers' Market sites. PRNS is exploring modifications to its permitting requirements that will make the process simpler and more consistent with what is required of applicants seeking to operate Farmers' Markets on other types of land. As part of this effort, PRNS is exchanging information with other city departments (such as Planning and the Office of Cultural Affairs and Planning) to better understand the City's various Farmers' Market permitting processes. Based on these discussions, PRNS is developing guidelines for Farmers' Markets on park property, which will be coordinated with other departments and vetted with stakeholders.

MAKE FARMERS' MARKETS ACCESSIBLE TO FAMILIES WHO CANNOT EASILY AFFORD FRESH FRUITS AND VEGETABLES

Today, over 63,000 Santa Clara County residents participate in food assistance programs, such as the CalFresh program (formerly known as SNAP or food stamps). Participants can redeem their benefits with vendors who choose to accept electronic benefit transfer (EBT) payments through CalFresh. However, few Farmers' Markets accept CalFresh EBT payments, reducing both the accessibility of those markets to low-income shoppers and the potential for producers to benefit from additional income.

The Campaign for Healthy Food San Jose is proposing to help families access the fresh produce sold at Farmers' Markets in the following way:

- **Require acceptance of CalFresh at Farmers' Markets.**

Benefit: Enhance low-income families' ability to benefit from and support Farmers' Markets. CalFresh acceptance will also enhance producers' income with additional customers and increased customer buying power. City staff are currently drafting an ordinance that specifies City of San Jose requirements for CalFresh acceptance at Certified Farmers' Markets.

The Campaign's efforts to simplify the process of establishing Farmers' Markets, expand the number of potential sites, and promote CalFresh acceptance will help to bring affordable fruits and vegetables to those who most need them. They are supported by a coalition of partners, including City of San Jose departments, foundations, healthy food providers, and community members, with a shared commitment to increasing access to healthy food for all.



HEALTHTRUST



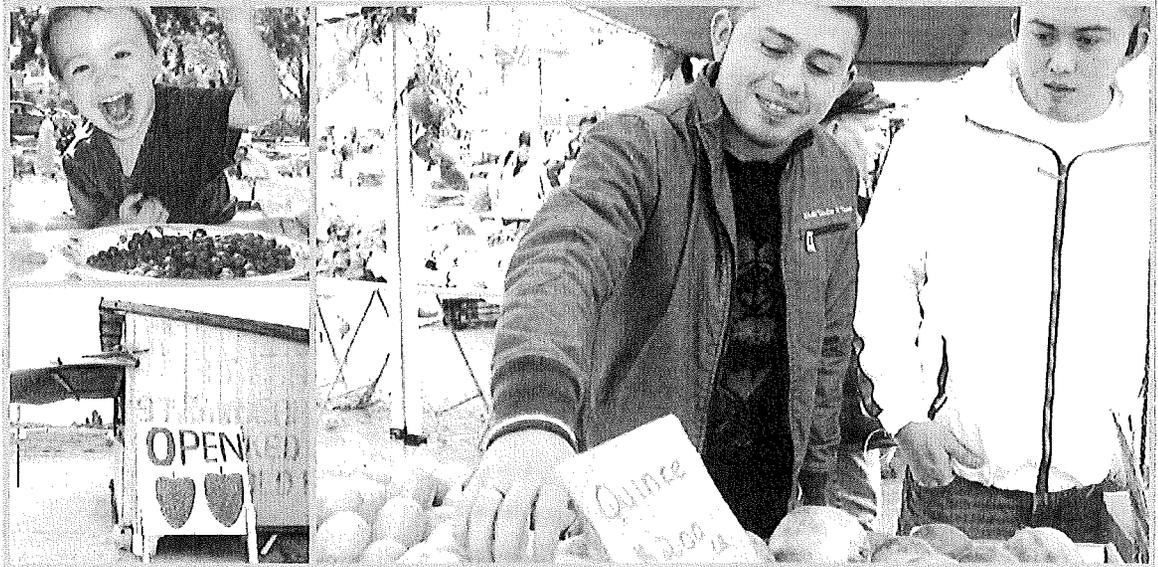
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California Certified Farmers' Markets and Farm Stands

A Closer Look at State Law

California certified farmers' markets and farm stands can help bring fresh fruits and vegetables directly to the communities that need them most. This fact sheet explains how state law works to encourage this type of "direct marketing," which creates a win-win for farmers and consumers alike.

It can be difficult—if not impossible—to find fresh, affordable healthy food in many urban and rural low-income communities. One way to make fresh produce more accessible is to encourage alternative retail outlets, such as farmers' markets and farm stands, where farmers can sell their produce directly to consumers.

Direct marketing, which includes farmers' markets, farm stands, and community supported agriculture (CSA) programs, creates a win-win for farmers and consumers: it provides an opportunity for growers to sell their produce, and supplies underserved consumers with quality fruits and vegetables at reasonable prices.

California promotes direct marketing through a flexible regulatory scheme that makes direct marketing a viable marketing system.¹ This fact sheet explains basic state law regulating California certified farmers' markets, as well as "farm stands."² Understanding how the regulations work can help communities pursue direct marketing options to increase access to healthy fresh produce.



public health
law & policy

California Certified Farmers' Markets

Briefly, a certified farmers' market is a market (1) operated by a local government agency, one or more certified producers, or a nonprofit organization; (2) certified by and operating in a location approved by the county agricultural commissioner; and (3) where farmers (or "producers") sell directly to consumers agricultural products or processed goods made from agricultural products that the farmers grow themselves ("direct marketing").³ State law requires that the agricultural products meet certain health and safety standards; provided that those standards are met, produce sold at a California certified farmers' market is exempt from grade, size, labeling, packaging, and other such requirements for fruits, nuts, and vegetables.⁴

State law allows local communities to determine where within a community a certified farmers' market may operate (through zoning laws), but the county agricultural commissioner must approve the actual location and issue a certificate to permit the certified farmers' market to operate.⁵ The county agricultural commissioner is responsible for enforcing the direct marketing regulations. The commissioner's approval ensures that only directly marketed agricultural products are sold at the certified market; other sales (for instance, crafts) must occur outside the market perimeter. Certified farmers' markets must also adopt written operating rules and procedures.⁶

Health and Safety Regulations for Certified Farmers' Markets

Certified farmers' markets are "food facilities" as defined in the California Uniform Retail Food Facilities Law (CURFFL), but they are subject to specific health and safety standards rather than those that apply to other types of retail food facilities.⁷ They must obtain a valid health permit to operate. The local environmental health agency (usually the county health department) is responsible for regulating the health and sanitation aspects of the markets.⁸ Depending on the laws in the local community, certified farmers' markets may also need to obtain business or other licenses or land use approvals to operate.

Why Operate a "Certified" Farmers' Market?

Communities may host non-certified farmers' markets, flea markets, craft fairs, and other kinds of markets that offer produce or food, depending on local ordinances and land use codes. But operating a certified farmers' market offers several benefits to producers and consumers. Produce is exempted from grade, size, labeling, and packaging requirements for fruits, nuts, and vegetables, allowing farmers to sell produce that may not qualify to be sold at other outlets. Requiring direct sales by producers to consumers also eliminates the "middleman," often lowering prices for consumers.



Briefly, certified farmers' markets must comply with the following sanitation requirements:

Food Storage and Sampling⁹

- Food must be stored at least six inches off the floor or ground or as otherwise approved.
- Food preparation is prohibited, with the exception of food samples.¹⁰
- Food samples may be distributed only if: (1) samples are kept in approved, clean, and covered containers; (2) samples are distributed by the producer in a sanitary manner; (3) food intended for sampling is washed or cleaned by potable water so that it is safe for consumption; (4) potable water is available for hand washing and sanitizing as approved by the local enforcement agency, and the wastewater is disposed of in a facility connected to the public sewer system or in a manner otherwise approved by the local enforcement agency; (5) clean, disposable, plastic gloves are worn when cutting samples; (6) utensils and cutting surfaces are smooth, nonabsorbent, and easily cleanable, or single-use articles are used; and (7) potentially hazardous food samples are maintained at or below 45°F, and disposed of within two hours after cutting.

Other Sanitation Requirements¹¹

- Approved toilet and hand washing facilities must be available within 200 feet of the premises of the market or as approved by the enforcement officer.
- With the exception of service dogs, no live animals may be kept or allowed within 200 feet of any area where food is stored or held for sale.
- All garbage must be stored and disposed of in a manner approved by the enforcement officer.

California Field Retail and Farm Stands

In 2008, to help promote California agriculture, enhance farmers' income, and build local economies, the California Legislature added two new categories of retail outlets: field retail stands and farm stands. A "field retail stand" is retail outlet located at or near the point of production (i.e., the farm), owned and operated by the producer, and established in accordance with local laws and land use codes.¹² A "farm stand" is a field retail stand that sells (1) California agricultural products the producer grows or makes, and (2) prepackaged food products that need no refrigeration from a source approved by health enforcement agencies, or bottled water or soft drinks.¹³ The farm stand must limit the area in which prepackaged food products are stored and sold to no more than 50 square feet.¹⁴ The "farm stand" designation promotes the sale of California produce, but allows the producer to also sell some prepackaged food items to increase sales.

Health and Safety Regulations for Farm Stands

Farm stands are also "food facilities" as defined in CURFFL, but like certified farmers' markets, they are subject to only to certain health and safety requirements.¹⁵ Briefly, farm stands must comply with the following sanitation requirements:

Food Storage and Sampling

- Farm stand operators must store all prepackaged and processed foods in an approved vermin-proof area or container during operating hours and when the farm stand is closed.¹⁶
- Farm stands are subject to the same restrictions on food preparation and food samples as certified farmers' markets, described above.¹⁷

Other Sanitation Requirements

- When farm stands offer food sampling, they must provide cleanly maintained, conveniently located toilet and hand washing facilities for operators and employees.¹⁸
- With the exception of service dogs, no live animals may be kept or allowed within 20 feet of any area where food is stored or held for sale.¹⁹
- All garbage must be stored and disposed of in an appropriate manner.²⁰

For more information on increasing and protecting farmers' markets within a community, including model general plan and zoning language, visit www.nplan.org/nplan/products/establishing-land-use-protections-farmers-markets.

PHLP is a nonprofit organization that provides legal information on matters relating to public health. The legal information provided in this document does not constitute legal advice or legal representation. For legal advice, readers should consult a lawyer in their state.

Support for this fact sheet was provided by grants from the Robert Wood Johnson Foundation and Kaiser Permanente South.

¹ Cal. Food & Agric. Code § 47000 (West 2010). (All citations hereafter are accurate as of August 2010.)

² The laws regulating certified farmers' markets are contained in California's Food and Agriculture Code, the Health and Safety Code, and the California Code of Regulations. There are additional laws regulating the process for becoming a certified farmers' market or certified producer and compliance requirements for both certified market operators and producers that exceed the scope of this fact sheet.

³ Cal. Food & Agric. Code § 47004(b); 3 C.C.R. § 1392.2.

⁴ Cal. Food & Agric. Code § 47004(b); 3 C.C.R. § 1392.4.

⁵ Cal. Food & Agric. Code § 47004(b); 3 C.C.R. § 1392.6(d),(e).

⁶ Cal. Food & Agric. Code § 47004; 3 C.C.R. § 1392.6.

⁷ Cal. Health & Safety Code § 113789(b)(9). For special requirements permitting the storage and display of raw shell eggs without refrigeration, see Cal. Health & Safety Code § 114373.

⁸ Cal. Health & Safety Code § 114381.

⁹ Cal. Health & Safety Code § 114371(a),(b).

¹⁰ A temporary food facility—where food may be prepared—may operate adjacent to and in conjunction with a certified farmers' market that is operating as a "community event," provided that the temporary food facility obtains a separate health permit and conforms to the health and sanitation requirements governing food facilities. Cal. Health & Safety Code § 114371(g). A community event is an event that is of a civic, political, public, or educational nature, including state and county fairs, city festivals, circuses, and other similar events as determined by the local enforcement agency. Cal. Health & Safety Code § 113755.

¹¹ Cal. Health & Safety Code § 14371.

¹² Cal. Food & Agr. Code § 47030.

¹³ Cal. Food & Agr. Code § 47050; Cal. Health & Safety Code §§ 113778.2, 114375(c)(3).

¹⁴ Cal. Health & Safety Code § 114375(c)(3).

¹⁵ Cal. Health & Safety Code § 113789(b)(10).

¹⁶ Cal. Health & Safety Code § 114375(f).

¹⁷ Cal. Health & Safety Code § 114375(a).

¹⁸ Cal. Health & Safety Code § 114375(b).

¹⁹ Cal. Health & Safety Code § 114375(d).

²⁰ Cal. Health & Safety Code § 114375(e).

Buikema, Rich

From: Emily Lam [elam@svlg.org]
Sent: Friday, July 13, 2012 4:20 PM
To: Buikema, Rich
Cc: Patty Fisher
Subject: Support for proposed Farmers' Market Ordinance

San Jose City Planning Commission

Dear Commissioners:

On behalf of the Silicon Valley Leadership Group, I am writing to express our support of the pending San Jose City ordinance regulating certified Farmers' Markets to make it easier for them to open and operate. We have a long history of supporting wellness and prevention policies. We support these particular policies because many residents in San Jose's low-income communities do not have access to fresh produce or cannot afford it, which is one reason they experience higher rates of nutrition-related diseases than residents of more affluent areas.

By way of background, the Leadership Group, founded in 1978 by David Packard of Hewlett-Packard, represents more than 375 of Silicon Valley's most respected employers. Leadership Group members collectively provide nearly 250,000 local jobs, or one of every four private sector jobs in Silicon Valley - with more than \$1 trillion in economic contribution toward the state and national economy.

For the business community, bending the cost curb for skyrocketing health insurance premiums is critical to businesses staying competitive. Healthy eating along with physical activity is the best long term strategy we have to do this. Farmers' Markets increase access to healthy food and with your support they can invigorate the local community by drawing shoppers to business districts, as they provide entrepreneurial opportunities for residents to sell locally grown produce.

The Silicon Valley Leadership Group urges you to vote in favor of the proposed regulations to make it easier for Farmers' Markets to operate. Thank you for your leadership and for giving us the opportunity to share our thoughts with you on this topic. We are happy to work with the city to address any questions or concerns you may have to help you move these policies forward.

Sincerely,

Emily Lam

--
Emily S. Lam
Senior Director, Health Care and Federal Issues
(408) 501-7876
elam@svlg.org

Silicon Valley Leadership Group
<http://www.svlg.org>

Fan us on Facebook
<http://www.facebook.com/#!/pages/Silicon-Valley-Leadership-Group/76148007941?ref=ts>

County of Santa Clara
Public Health Department



Health Officer
976 Lenzen Avenue, 2nd Floor
San José, CA 95126
408.792.3798

July 17, 2012

Richard Bulkema, Project Manager
City of San José
Department of Planning, Building and Code Enforcement
200 East Santa Clara Street
San José, CA 95113

Dear Mr. Bulkema:

As Health Officer for Santa Clara County, I am writing to express my support for the proposed city ordinance regarding Certified Farmers' Markets.

The goal of the Public Health Department's *Active Living, Healthy Eating* initiative is to assure that all County residents have plenty of opportunities to be physically active, and have access to healthy, affordable foods. Certified Farmers' Markets are an important part of this initiative because they make fresh fruits and vegetables available to residents who do not live near supermarkets.

The ordinance under consideration by the San Jose planning commission would streamline the process for approving small farmers' markets. The ordinance was developed as part of Campaign for Healthy Food San Jose, which is funded by the county through a federal CPPW grant. The campaign surveyed more than 1,000 residents and found overwhelming support for additional farmers' markets.

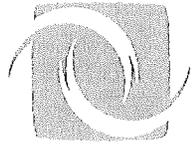
It is my hope that by enacting this ordinance, the City of San José will provide a model that other cities in the county can follow.

I am looking forward to your response.

Sincerely,

A handwritten signature in cursive script that reads "Marty Fenstersheib".

Marty Fenstersheib, MD, MPH
Health Officer



HEALTHTrust

July 18, 2012

San Jose Planning Commissioners

Dear Commissioners:

As CEO of The Health Trust, I am writing to express my full support for the pending changes to policies governing Certified Farmers' Markets in San Jose. The ordinance that you will be considering at your July 25 meeting is the result of a collaboration of community and City partners as part of the Campaign for Healthy Food San Jose, an effort to give all San Jose residents better access to affordable fresh fruits and vegetables. The Campaign is funded by Santa Clara County through a federal CPPW grant. The Health Trust is leading this effort.

Bringing more farmers' markets to San Jose fits perfectly with The Health Trust's mission, which is to make Silicon Valley the healthiest region in America. It is unfortunate that, in what was once the Valley of Heart's Delight, too many families cannot afford to eat fresh fruits and vegetables every day. In some San Jose neighborhoods, residents don't live within walking distance of a supermarket or farmers' market that sells affordable produce.

The ordinance before you would make it easier and less expensive for small farmers' markets to open in the city. I believe these small markets will not only bring fresh healthy food to underserved neighborhoods, but also will serve as gathering places that will foster community.

This ordinance builds on the momentum of the new General Plan's identification of Access to Healthy Food as a top priority.

The Health Trust is honored to be part of this Campaign. I urge you to approve this ordinance, and I look forward to working with you as we continue this effort to make San Jose residents healthier.

Sincerely,

Frederick J. Ferrer

AN ORDINANCE OF THE CITY OF SAN JOSE AMENDING TITLE 20 (THE ZONING CODE) OF THE SAN JOSE MUNICIPAL CODE BY AMENDING SECTION 20.30.100 OF CHAPTER 20.30, SECTION 20.40.100 OF CHAPTER 20.40, SECTION 20.50.100 OF CHAPTER 20.50, AND SECTION 20.70.100 OF CHAPTER 20.70, ADDING A NEW PART 3.5 ENTITLED "CERTIFIED FARMERS' MARKETS" TO CHAPTER 20.80, AND ADDING A NEW SECTION 20.200.185 TO CHAPTER 20.200 AND AMENDING SECTION 20.200.410 OF SAID CHAPTER 20.200, ALL TO ESTABLISH LAND USE REGULATIONS FOR CERTIFIED FARMERS' MARKETS, TO FACILITATE A MORE STREAMLINED PROCESS FOR CERTAIN CERTIFIED FARMERS' MARKETS, AND TO MAKE OTHER TECHNICAL, NONSUBSTANTIVE, CLARIFYING CHANGES TO SAID TITLE 20

WHEREAS, the environmental impacts of this ordinance have been examined and disclosed pursuant to the provisions of the California Environmental Quality Act of 1970, together with related state and local implementation guidelines and regulations, under that certain Final Program Environmental Impact Report prepared for the Envision San José 2040 General Plan and related City Council Resolution No. 76041, adopted by the City Council on November 1, 2011.

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 hereby amended to read in its entirety 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 a "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. Deleted: D
- E. 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 Jose Municipal Code. Deleted: E

Table 20-50 Residential Districts Land 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	P	-	-	-	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	
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	
Servants quarters attached to a one-family dwelling or attached to a garage structure	P	-	-	-	Note 3

Table 20-50 Residential Districts Land Use Regulations					
Use	Zoning District				Applicable Sections & Notes
	R-1	R-2	R-M	R-MH	
Sororities, fraternities and dormitories occupied exclusively (except for administrators thereof) by students attending college or other educational institutions	-	-	C	-	
Single Room Occupancy Living Unit	-	-	C	-	Part 15, Chapter 20.80
Residential Accessory Uses and Improvements					
Accessory buildings and structures	P	P	P	P	Note 4, Section 20.80.200
Home Occupations	P	P	P	P	Part 9, Chapter 20.80
Entertainment and Recreation Related					
Equestrian and riding club	C	-	-	-	
Golf course	C	C	C	-	Note 5
Private club or lodge	-	-	C	-	
Swim and tennis club	C	C	C	C	
Education and Training					
Child daycare center located on an existing school site or as an incident to an on-site Church/Religious Assembly use involving no building additions or changes to the site	P	P	P	P	
Day care center	C	C	C	C	
School- elementary and secondary (Public)	P	P	P	-	
School- elementary and secondary (Private)	C	C	C	-	
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	
Health and Veterinary Services					
Emergency ambulance service	C	C	C	C	
General Services					
Bed & Breakfast	C	C	C	-	
Certified Farmers' Market	<u>S</u>	<u>S</u>	<u>S</u>	<u>S</u>	Part 3.5, Chapter 20.80; Note 7
Certified Farmers' Market – Small	<u>P</u>	<u>P</u>	<u>P</u>	<u>P</u>	Part 3.5, Chapter 20.80; Note 7
Neighborhood Agriculture	P	P	P	P	Part 9, Chapter 20.80

Table 20-50 Residential Districts Land Use Regulations					
Use	Zoning District				Applicable Sections & Notes
	R-1	R-2	R-M	R-MH	
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	Sections 20.30.130, 20.30.140 and 20.100.1300
Wireless communication antenna, slimline pole	S	S	S	S	Sections 20.30.130, 20.30.140, and 20.80.1900
Wireless communication antenna, building mounted	P	P	P	P	Sections 20.30.130, 20.30.140, 20.80.1910
Electrical Power Generation					
Stand-by/Backup					
Facilities that do not exceed noise or air standards	S	S	S	S	Note 6
Facilities that do exceed noise or air standards	-	-	-	-	
Solar Photovoltaic System	P	P	P	P	Sections 20.100.610(C)(7) and 20.100.1030(A)(6)
Historic Reuse					
Historic Landmark Structure Reuse	C	C	C	C	Part 8.5 Chapter 20.80

Notes:

1. Only one one-family dwelling unit per lot in the R-1, R-2, R-M and R-MH Districts.
2. Only one dwelling structure per lot in the R-2 District.
3. Only permitted in the R-1-1 Estate Residential District.
4. No lot may be used solely for an accessory structure or building.
5. No driving ranges or miniature golf facilities.
6. 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.

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7. Allowed on school sites, library sites, community center sites, or church/religious assembly sites only.

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

20.40.100 Allowed Uses and Permit Requirements

- A. "Permitted" land uses are indicated by a "P" on Table 20-90.
- B. "Conditional" uses are indicated by a "C" on Table 20-90. These uses may be allowed in such designated districts, as an independent use, but only upon issuance of and in compliance with a Conditional Use Permit as set forth in Chapter 20.100.
- C. "Special" uses are indicated by a "S" on Table 20-90. These uses may be allowed in such designated districts, as an independent use, but only upon issuance of and in compliance with a Special Use Permit as set forth in Chapter 20.100.
- D. "Administrative" uses are indicated by 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.
- E. "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.
- F. Land uses not Permitted are indicated by a "-" on Table 20-90. Land uses not listed on Table 20-90 are not Permitted.
- G. When the right column of Table 20-90 includes a reference to a Section number or a footnote, the regulations cited in the Section number or footnote apply to the use. In addition, all uses are subject to any other applicable provision of this Title 20 and any other Title of the San Jose Municipal Code.

Table 20-90 Commercial Districts Land Use Regulations					
Use	Zoning District				Notes & Sections
	CO	CP	CN	CG	
General Retail					
Retail sales, goods and merchandise	-	P	P	P	
Alcohol, off-site sales – beer and/or wine only	-	C	C	C	Section 20.80.900
Alcohol, off-site sales, full range of alcoholic beverages	-	C	C	C	Section 20.80.900
Bakery, retail	-	P	P	P	
Certified Farmers' Market	S	S	S	S	Part 3.5, Chapter 20.80
Certified Farmers' Market - Small	P	P	P	P	Part 3.5, Chapter 20.80
Food, beverage, groceries	-	P	P	P	
Nursery, plant	-	P	P	P	Note 1
Outdoor vending	-	A	A	A	Part 10, Chapter 20.80
Pawn shop/broker	-	C	C	C	See Title 6
Seasonal sales					Part 14, Chapter 20.80
Retail Art Studio	-	P	P	P	Section 20.40.140
Education and Training					
Child daycare center located on an existing school site or as an incident to an on-site Church/Religious Assembly use involving no building additions or changes to the site	P	P	P	P	
Day care center	C	C	C	C	
Instructional art studios	-	P	P	P	
Instructional art studios, with live models	-	C	C	C	
Private Instruction, personal enrichment	-	P	P	P	
School- elementary and secondary (Public or Private)	C	C	C	C	Note 16
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					
Arcade, amusement	-	C	C	C	
Dancehall	-	C	C	C	
Poolroom/Billiards Establishment	-	C	C	C	
Private club or lodge	C	C	C	C	
Recreation, Commercial (indoor)	-	P	P	P	
Recreation, Commercial (outdoor)	-	C	C	C	
Relocated Cardroom	-	-	-	C	Section 20.80.1155
Theatre, indoor	-	C	C	C	
Theatre, outdoor	-	-	-	C	
Food Services					
Banquet facility	-	C	C	C	
Caterer	-	P	P	P	Note 4
Drinking establishments	-	C	C	C	

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Table 20-90 Commercial Districts Land Use Regulations					
Use	Zoning District				Notes & Sections
	CO	CP	CN	CG	
Drinking establishment interior to a full-service hotel/motel that includes 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 20.40.520
Wineries, Breweries	-	C	C	C	
Health and Veterinary Services					
Animal boarding, indoor	-	P	P	P	Section 20.40.120
Animal grooming	-	P	P	P	Section 20.40.120
Emergency ambulance service	C	C	C	C	
Hospital/ in-patient facility	C	C	C	C	
Medical Marijuana Collective	-	-	-	R	Part 9.5, Chapter 20.80
Office, medical	P	P	P	P	
Veterinary clinic	-	P	P	P	
General Services					
Bail Bond Establishment – Outside Main Jail Area		P	P	P	Part 1.5, Chapter 20.80
Bail Bond Establishment – Within Main Jail Area		P	P	P	Note 14; Part 1.5, Chapter 20.80
Bed and Breakfast	-	P	P	P	Part 2, Chapter 20.80
Dry cleaner	-	P	P	P	
Hotel/motel	-	P	P	P	
Laundromat	-	P	P	P	
Maintenance and repair, small household appliances	-	P	P	P	
Messenger services	P	P	P	P	Note 2
Mortuary and funeral services	P	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	P	Section 20.80.200
Business Support	-	P	P	P	
Financial Institution	P	P	P	P	
Office, general business	P	P	P	P	Section 20.40.110
Payday Lending Establishment	-	R	R	R	Part 12.5, Chapter 20.80; Section 20.200.875
Public, Quasi-Public and Assembly Uses					
Cemetery	C	C	C	C	
Church/Religious Assembly	C	C	C	C	

Table 20-90 Commercial Districts Land Use Regulations					
Use	Zoning District				Notes & Sections
	CO	CP	CN	CG	
Museums, libraries, parks, playgrounds, or community centers (Publicly operated)	P	P	P	P	
Museums, libraries, parks, playgrounds, or community centers (Privately operated)	C	C	C	C	
Residential					
Emergency residential shelter	C	C	C	C	Section 20.80.500
Live/Work	-	S	S	S	Section 20.40.130
Mixed Use residential/commercial	-	C	C	C	Note 6
Residential Care Facility for seven or more persons	C	C	C	C	
Residential Service Facility for seven or more persons	C	C	C	C	
Single Room Occupancy Hotel	-	C	C	C	Part 15, Chapter 20.80
Single Room Occupancy Living Unit	-	C	C	C	Part 15, Chapter 20.80
Drive-Through Uses					
Drive-through in conjunction with any use	-	-	C	C	
Recycling Uses					
Reverse vending	A	A	A	A	
Small collection facility	A	A	A	A	
Transportation and Utilities					
Data Center	-	-	-	C	
Community television antenna systems	C	C	C	C	
Off-site, alternating use and alternative parking arrangements	S	S	S	S	Section 20.90.200
Parking establishment, off-street	C	C	C	C	
Utility facilities, excluding corporation yards, storage or repair yards and warehouses	C	C	C	C	
Television, radio studios without antenna/dishes	-	-	-	C	
Short term parking lot for uses or events other than on-site	-	-	-	C	Note 7
Wireless communication antenna	C	C	C	C	Section 20.100.1300
Wireless communication antenna, slimline monopole	S	S	S	S	Section 20.80.1900
Wireless communication antenna, building mounted	P	P	P	P	Section 20.80.1910
Electrical Power Generation					
Private Electrical Power Generation Facility	C	C	C	C	Note 2
Co-Generation Facility	S	S	S	S	
Stand-by/Backup					
Facilities that do not exceed noise or air standards	A	A	A	P	
Facilities that do exceed noise or air standards	C	C	C	C	
Temporary Stand-by/Backup	P	P	P	P	
Solar Photovoltaic System	P	P	P	P	Section 20.100.610(C)(7)

Table 20-90 Commercial Districts Land Use Regulations					
Use	Zoning District				Notes & Sections
	CO	CP	CN	CG	
Vehicle Related Uses					
Accessory installation, passenger vehicles and pick-up trucks	-	-	C	P	
Auto broker, wholesale, no on-site storage	P	P	P	P	
Car wash, detailing	-	-	C	C	
Gas or charge station	-	C	C	P	Note 8, Note 15
Gas or charge station with incidental service and repair	-	C	C	P	Note 9, Note 13
Glass sales, installation and tinting	-	-	C	P	Note 13
Sale or lease, commercial vehicles	-	-	C	C	Note 13
Sale passenger vehicles, pick-up trucks not exceeding twenty-five (25) feet in length, and motorcycles	-	C	S	P	Note 12, Note 13
Leasing (rental) passenger vehicles, pick-up trucks not exceeding twenty-five (25) feet in length, and motorcycles	-	C	C	P	Note 2
Sale, vehicle parts	-	C	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, Note 13
Historic Reuse					
Historic Landmark Structure Reuse	S	S	S	S	Part 8.5 Chapter 20.80

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) No on site storage of vehicles permitted in the CP and CN Zoning Districts.
- (3) Includes public and private colleges and universities, as well as extension programs and business schools.
- (4) Not a catering facility.
- (5) No on site storage of vehicles permitted.
- (6) Mixed Use residential/commercial only under approved Village Plan or in Signature Project consistent with the General Plan.
- (7) Use must be less than twenty-four (24) hours.
- (8) No incidental repair or service permitted.
- (9) Incidental repair includes air conditioning service, carburetor & fuel injection service, electrical service, radiator service, and tune-up, lube, oil change, and smog check, as well as tires, batteries and accessories installation. Does not allow body repair or painting.
- (10) Non engine and exhaust related service and repair allowed as incidental.
- (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) Pedestal 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.

SECTION 3. Section 20.50.100 of Chapter 20.50 of Title 20 of the San José Municipal Code is hereby amended to read in its entirety as follows:

20.50.100 Allowed Uses and Permit Requirements

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

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

- D. "Special" uses are indicated by a "S" on Table 20-110. These uses may be allowed in such designated districts, as an independent use, but only upon issuance of and in compliance with a Special Use Permit as set forth in Chapter 20.100.
- E. "Administrative" uses are indicated by an "A" on Table 20-110. These uses may be allowed in such designated districts, as an independent use, but only upon issuance of and in compliance with an Administrative Permit as set forth in Chapter 20.100.
- F. "Restricted" land uses are indicated by an "R" on Table 20-110. These uses may occur in such designated districts, as an independent use, but only upon issuance of and in full compliance with a valid and effective Zoning Code Verification Certificate as set forth in Chapter 20.100.
- G. Land uses not permitted are indicated by a "-" on Table 20-110. Land uses not listed on Table 20-110 are not Permitted.
- H. When the right column of Table 20-110 includes a reference to a Section number or a footnote, the regulations cited in the Section number or footnote 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 Jose Municipal Code.

Table 20-110 Industrial Districts Land Use Regulations					
Use	Zoning District				Applicable Sections & Notes
	CIC	IP	LI	HI	
Industry					
Auction	C	C ^{GP}	C ^{GP}	-	
Industrial Services	-	-	P	P	
Laboratory, processing	P	P	P	P	
Manufacturing and Assembly					
Light	P	P	P	-	
Medium	P	P	P	P	
Heavy	-	-	-	P	
Research and Development	P	P	-	-	
Catalog and mail order	P	P	P	-	
Construction/Corporation yard	-	-	S	S	
Establishment for the repair, cleaning of household, commercial or industrial equipment or products	-	-	P	P	

Table 20-110 Industrial Districts Land Use Regulations					
Use	Zoning District				Applicable Sections & Notes
	CIC	IP	Lt	HI	
Extraction of minerals from the ground, including quarrying	-	-	-	C	
Hazardous materials storage facility	-	-	C	C	
Hazardous waste facility	-	-	-	C	
Junkyard	-	-	-	C	
Miniwarehouse/ministorage	-	-	P	P	
Outdoor uses or storage, industrial	-	-	S	P	Section 20.50.210
Private power generation	C	C	C	C	
Stockyard, including slaughter	-	-	-	C	
Warehouse/Distribution Facility	P	P	P	P	
Wholesale sale establishment	P	S	P	P	
Additional Uses					
Any use not set forth in Tables 20-30, 20-50, 20-90	-	-	-	C	
Any use without a permanent fully enclosed building on-site	C	C	S	S	
Commercial support	-	P	-	-	Note 5, Section 20.50.110
General Retail					
Retail sales, goods and merchandise	P	-	-	-	Note 5, Section 20.50.110
Retail art studio	P	-	-	-	
Alcohol, off-site sales – beer and/or wine only	C	-	-	-	Note 5, Section 20.50.110
Alcohol, off-site sales – full range of alcoholic beverages	C	-	-	-	Note 5, Section 20.50.110
Bakery, retail	P	-	-	-	Note 5, Section 20.50.110
Certified Farmers' Market	-	S	-	-	Part 3.5, Chapter 20.80
Certified Farmers' Market - Small	-	P	-	-	Part 3.5, Chapter 20.80
Food, beverage, groceries	P	-	-	-	Note 5, Section 20.50.110
Nursery, plant	P	-	C	C	
Outdoor vending	A	-	A	A	Part 10, Chapter 20.80
Large format commercial establishment	-	C ^{GP}	C ^{GP}	-	
Large format commercial establishment, associated commercial	-	C ^{GP}	C ^{GP}	-	Section 20.50.115
Warehouse retail	-	C	C	C	Section 20.50.130

Table 20-110 Industrial Districts Land Use Regulations					
Use	Zoning District				Applicable Sections & Notes
	CIC	IP	LI	HI	
Sales, office furniture, industrial equipment, machinery	P	-	C	-	
Seasonal Sales	P	P	P	P	Part 14, Chapter 20.80
Education and Training					
Day care center	C	C ^{GP}	C ^{GP}	-	
School, driving (class A & B license)	-	-	P	P	
Instructional art studios	P	-	-	-	
Instructional art studios, live models	C	-	-	-	
Private instruction, personal enrichment	P	-	-	-	
School- elementary and secondary (Public or Private)	C	-	-	-	Note 11
School, post secondary	C	C	-	-	
School, trade and vocational	C	-	C	C	
Entertainment and Recreation Related					
Recreation, Commercial/Indoor	P	C ^{GP}	C ^{GP}	-	Note 5, Section 20.50.110
Relocated Cardroom	C ^{GP}	C ^{GP}	C ^{GP}	-	Section 20.80.1155
Performing arts production and rehearsal space, excluding performances	P	C	C ^{GP}	-	
Food Services					
Caterer	P	-	-	-	
Drinking establishments	C	-	-	-	
Drinking establishment interior to a full-service hotel/motel that includes 75 or more guest rooms	P	P ^{GP}	-	-	Section 20.80.475
Drinking establishment in conjunction with a winery or brewery	C	C	C	C	
Public eating establishments	P	-	C	C	Note 5, Section 20.50.110 and Section 20.50.113
Outdoor dining, incidental to a public eating establishment	P	-	C	C	Note 5, Section 20.50.110 and Section 20.50.113
Wineries, Breweries	P	P	P	P	
Health and Veterinary Services					
Animal boarding, indoor	P	-	-	-	
Animal grooming	P	-	-	-	
Emergency ambulance service	C	C ^{GP}	C ^{GP}	-	
Hospital/ in-patient facility	C	C			Note 6

Table 20-110 Industrial Districts Land Use Regulations					
Use	Zoning District				Applicable Sections & Notes
	CIC	IP	LI	HI	
Medical Marijuana Collective	R	-	R	-	Part 9.5, Chapter 20.80
Office, medical	P	C	-	-	Note 5, Section 20.50.110
Veterinary clinic	P	-	-	-	
General Services					
Crematory	-	-	C ^{GP}	C	Note 7
Mortuary, without funeral services	-	-	P	P	
Dry cleaner	P	-	-	-	
Hotel/motel	P	C ^{GP}	-	-	
Laundromat	P	-	-	-	
Maintenance and repair, small household appliances	P	-	-	-	
Messenger services	P	-	-	-	
Personal services	P	-	-	-	Note 5, Section 20.50.110
Photo processing and developing	P	P	P	P	
Printing and publishing	P	P	P	P	
Social Service Agency	-	C	C	C	
Offices and Financial Services					
Automatic Teller Machine	P	P	P	P	Section 20.80.200
Business support	P	-	-	-	
Financial institution	P	-	C ^{GP}	-	Note 5, Section 20.50.110
Office, general business	P	P	-	-	
Office, research and development	P	P	-	-	
Public, Quasi-Public and Assembly Uses					
Church/Religious Assembly	C	C ^{GP}	C ^{GP}	-	
Residential					
Emergency residential shelter, more than 50 beds	C	C ^{GP}	C	-	Section 20.80.500
Emergency residential shelter, 50 beds or fewer	P	C ^{GP}	C	-	Section 20.80.500
Living quarters, custodian, caretakers	-	-	-	C	Note 1
Drive-Through Use					
Drive-through in conjunction with any use	C	C ^{GP}	C ^{GP}	-	
Recycling Uses					
Recycling processing facility	-	C	S	S	
Recycling transfer facility	-	C	S	S	
Large collection facility	-	-	-	P	
Reverse vending	A	A	A	A	
Small collection facility	A	A	A	A	

Table 20-110, Industrial Districts Land Use Regulations					
Use	Zoning District				Applicable Sections & Notes
	CIC	IP	LI	HI	
Transportation and Utilities					
Common carrier	-	-	C	P	
Common carrier depot	S	S	S	S	
Community television antenna systems	C	C	C	C	
Data center	S	S	S	S	
Off-site, alternating and alternative use parking arrangements	S	S	S	S	Section 20.90.200
Parking establishment not Permitted in Tables 20.30, 20.50 and 20.90	C	C	C	C	
Parking establishment, off-street	C	C	C	C	
Television, radio studio	C	C	C	C	
Utility facilities, excluding corporation yards, storage or repair yards and warehouses	C	C	C	C	
Wireless communication antenna	C	C	C	C	Section 20.100.1300
Wireless communication antenna	S	S	S	S	Section 20.80.1900
Wireless communication antenna, building mounted	P	P	P	P	Section 20.80.1910
Electrical Power Generation					
Base Load Facility	-	-	-	C	
Stationary Peaking Facility	-	-	C	C	
Transportable Peaking Facility	-	-	C	C	
Private Power Generation Facility	C	C	C	C	
Co-Generation Facility	S	S	S	S	
Stand-by/Backup					
Facilities that do not exceed noise and air standards	P	P	P	P	
Facilities that do exceed noise and air standards	C	C	C	C	
Temporary Stand-by-Backup	P	P	P	P	
Solar Photovoltaic System	P	P	P	P	Section 20.100.610(C)(7)
Vehicle Related Uses					
Auto broker, wholesale, no on-site storage	P	P	-	-	
Car wash, detailing	C	-	-	-	
Gas or charge station, excluding incidental service or repair	P	C ^{GP}	C ^{GP}	-	Note 2, Note 8
Gas or charge station with incidental service and repair	P	C ^{GP}	C ^{GP}	-	Note 3

Table 20-110 Industrial Districts Land Use Regulations					
Use	Zoning District				Applicable Sections & Notes
	CIC	IP	LI	HI	
Sale or lease (rental) of passenger vehicles, pick-up trucks not exceeding twenty-five (25) feet in length, and motorcycles	C	-	C	-	Note 10
Repair and cleaning of vehicles	-	-	P	P	Note 4
Sale or lease of commercial trucks, buses, trailers, campers, boats, mobilehomes, construction equipment	C	-	C	-	
Sale, vehicle parts	P		P/S		Note 9
Vehicle tow yard	-	-	C	S	
Vehicle wrecking, including sales of parts	-	-	-	C	
Historic Reuse					
Historic Landmark Structure Reuse	S	S	S	S	Part 8.5 Chapter 20.80

Notes:

1. Site must be seven (7) acres or more.
2. No incidental repair or service.
3. Incidental repair includes air conditioning service, carburetor & fuel injection service, electrical service, radiator service, and tune-up, lube, oil change, and smog check, as well as tires, batteries and accessories installation. Does not allow body repair or painting.
4. All vehicle-related repair, service, and accessory or other installation, excepting the cleaning of vehicles, shall be conducted within a fully enclosed building.
5. Retail; recreation, commercial/indoor establishments; public eating establishments; outdoor dining, incidental to a public eating establishment; financial institutions; medical clinics; medical offices; and personal service establishments are permitted in the IP district subject to the limitation of the Commercial Support Use, Section 20.50.110. Public eating establishments in the LI or HI districts are limited to a maximum of 650 gross square feet in size.
6. Refer to the General Plan for criteria to determine if the use is permissible at the proposed location.
7. Crematories shall be separated by at least five hundred (500) linear feet from residential uses, schools, and daycare centers, which distance(s) shall be measured from the nearest points of the parcel boundary on which the crematory is proposed and the parcel boundary on which the residential, school or day care center is located.
8. Pedestal 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 industrial zoning districts.
9. Vehicle parts sales are permitted in the LI District when the total floor area dedicated to retail display and open to the public occupies no more than 15% of the gross floor area of the individual tenant space. Vehicle parts sales establishments that exceed 15% of the gross floor area of the individual tenant space are subject to a Special Use Permit.
10. Any incidental vehicle-related repair, service, and accessory or other installation, excepting the cleaning of vehicles, shall be conducted within a fully enclosed building.

11. Public schools are subject to the regulations of this Title, subject to the provisions of California Government Code section 53094 for classroom facilities.

SECTION 4. Section 20.70.100 of Chapter 20.70 of Title 20 of the San José Municipal Code is hereby amended to read in its entirety as follows:

20.70.100 Allowed Uses and Permit Requirements

- A. "Permitted" land uses are indicated by a "P" on Table 20-140.
- B. "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.
- C. "Conditional" uses requiring City Council approval as the initial decision-making body are indicated by a "CC" 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 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 20-140. 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.
- E. "Administrative" uses are indicated by an "A" on Table 20-140. These uses may be allowed in such designated districts, as an independent use, but only upon issuance of and in compliance with an administrative permit as set forth in Chapter 20.100.
- 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 20-140. Land uses not listed on Table 20-140 are not permitted.
- H. The column of Table 20-140, under the heading Additional Use Regulations for the DG Area, identifies further regulations on the uses of ground-floor building space within a portion of the DC Zoning District. The portion of the DC District included in the DG Area is described in Section 20.70.520. These regulations apply to ground-floor building space, defined as Downtown Ground-Floor Space ("DG Area"), in Section 20.70.520 of this Chapter. If there are no additional regulations on properties located in the DG Area noted in this column, the use regulations for the DG Area remain those regulations of the DC Zoning District.
- I. 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.
- J. When the right column of Table 20-140 includes a reference to a section number or a footnote, the regulations cited in the section number or footnote apply to the use. In addition, all uses are subject to any other applicable provision of this Title 20 and any other title of the San José Municipal Code.

Table 20-140 Downtown Districts Land Use Regulations					
Use	Zoning Districts		Applicable Notes & Sections		
	DC	DC-NT1	Additional Use Regulations for the DG Area	Parking	Applicable to All Downtown Districts
Offices and Financial Services					
Automatic Teller Machine	P	P		No parking	Section 20.80.200
Business Support	P	P	S, Notes k and n	No parking	
Financial institution	P	P	S, Note n	2.5 per 1,000 sq. ft.*	
Financial Services	P	P	S, Notes m and n	No parking	
Offices, business and administrative	P	P	S, Notes i and n	2.5 per 1,000 sq. ft.*	Section 20.70.110

Table 20-140 Downtown Districts Land Use Regulations					
Use	Zoning Districts		Applicable Notes & Sections		
	DC	DC-NT1	Additional Use Regulations for the DG Area	Parking	Applicable to All Downtown Districts
Payday Lending Establishment	R	R			Part 12.5, Chapter 20.80, Section 20.200.875
Research and development	P	P	-	2.5 per 1,000 sq. ft.*	Note 1
General Retail					
Alcohol, off-site sales – beer and/or wine only	C	C		No parking	Section 20.80.900
Alcohol, off-site sales – full range of alcoholic beverages	C	C		No parking	Section 20.80.900
Auction	S	-	-	No parking	
Certified Farmers' Market	<u>S</u>	<u>S</u>		No parking	Part 3.5, Chapter 20.80
Certified Farmers' Market – Small	P	P		No parking	Part 3.5, Chapter 20.80
Food, beverage, groceries	P	P		No parking	
Open air sales establishments and areas	S	S		No parking	
Outdoor vending	S	S		No parking	Part 10, Chapter 20.80
Pawn Shop, Pawn Broker	C	C	Note b	No parking	
Retail sales, goods and merchandise	P	P	Note a	No parking	
Seasonal sales	P	P		No parking	Part 14, Chapter 20.80
Education and Training					
Day care center	P	P	S, Notes c and n	No parking	
Post-secondary School	P	P	-	1 per 360 sq. ft.	
Trade School	P	P	-	1 per 360 sq. ft.	
Personal enrichment, Instructional Art	P	P	-, Note d	1 per 360 sq. ft.	
School, elementary (grades K-8)	C	C	-	1 per teacher and employee	

Table 20-140 Downtown Districts Land Use Regulations					
Use	Zoning Districts		Applicable Notes & Sections		
	DC	DC-NT1	Additional Use Regulations for the DG Area	Parking	Applicable to All Downtown Districts
High School (grades 9-12)	C	C	-	.75 per teacher and employee and 1 per each 10 students	
Entertainment and Recreation Related					
Amusement arcade	C	-	Note e	No parking	
Movie Theater	P	P		No parking	
Recreation Commercial/Indoor	P	P		No parking	
Poolroom	S	-		No parking	
Private club or lodge	P	P	-	1 per 360 sq. ft.	
Food Services					
Banquet facility	P	P	Note f	No parking required	
Caterer	P	P	C, Note f	No parking	
Drinking establishments	C	C		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	-		No Parking	Note 7
Drinking establishments interior to a full-service hotel/motel with 75 or more guest rooms	P	P		No parking	Section 20.80.475
Public eating establishments	P	P		No parking	
Wineries, Breweries	C	C		No parking	
Health and Veterinary Services					
Animal grooming	P	P	-	No parking	
Animal Boarding, indoor	P	P	-	No parking	
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	-	1.5 per doctor	
Veterinarian	P	P	-	1.5 per doctor	
General Services					
Bed and breakfast	P	P	S, Note I	.35 per room	Part 2, Chapter 20.80
Hotel/motel	P	P	-, Note I	.35 per room	

Table 20-140 Downtown Districts Land Use Regulations					
Use	Zoning Districts		Applicable Notes & Sections		
	DC	DC-NT1	Additional Use Regulations for the DG Area	Parking	Applicable to All Downtown Districts
Maintenance and repair of household appliances	P	P	-	No parking	
Mortuary and funeral services	C	C	-	.75 per employee and vehicle	
Personal Services	P	P	Note g	No parking	
Printing and Publishing	P	P	Note h	No parking	
Public, Quasi-Public and Assembly Uses					
Auditorium	C	-	-	No parking	
Cemetery	C	C	-	No parking	
Church/religious assembly	P	P		No parking	
Information Center	P	P		No parking	
Museums, libraries	P	-	P	No parking	
Parks, playgrounds, or community centers	P	P	Note j	No parking	
Residential					
Residential Shelter	C	-	-	1 per 4 beds, 2.5 per 1,000 sq. ft.*	
Live/work	P	S		1.5 per unit	Section 20.70.120
Residential multiple dwelling	P	P	-	1 per unit	
Residential Care Facility for 7 or more persons	C	C	-	.75 per employee	
Residential Services Facility for 7 or more persons	C	C	-	.75 per employee	
Single room occupancy living unit	S	S	-	.6 per room	Part 15, Chapter 20.80
Single room occupancy hotel	S	S	-	.6 per room	Part 15, Chapter 20.80
Residential Accessory Uses					
Accessory buildings and structures	P	P	-	No parking	Note 2
Recycling Uses					
Reverse vending	S	S	-	No parking	Note 3
Small collection facility	S	S	-	No parking	Note 3
Transportation and Communication					
Community television antenna systems	C	-	-	No parking	

Table 20-140 Downtown Districts Land Use Regulations					
Use	Zoning Districts		Applicable Notes & Sections		
	DC	DC-NT1	Additional Use Regulations for the DG Area	Parking	Applicable to All Downtown Districts
Off-site and alternating use parking arrangements	P	P	-	N/A	Section 20.90.200
Parking establishment, off-street	P	P	-	N/A	
Private Electrical Power Generation Facility	C	C	-	1 for each vehicle used in the operation of such facility	
Standby Generators that do not exceed noise or air standards	A	A	-	N/A	
Temporary Stand-by/Backup generators	P	P	-	N/A	
Short term parking lot for uses or events other than on-site	S	S	-	N/A	
Radio & Television Studios	P	-	Note n	No parking	
Wireless communication antenna	S	-	-	No parking	Section 20.80.1900
Wireless communication antenna, building mounted	P	-	-	No parking	Section 20.80.1900
Electrical Power Generation					
Solar Photovoltaic System	P	P	-	No parking	Section 20.100.610(C)(7)
Vehicle Related Uses					
Accessory installation for cars and passenger trucks	P	-	-	No parking	
Car wash, detailing	P	-	-	No parking	
Gas or charge station	P	-	-	No parking	Note 3, Note 8
Gas or charge station with incidental service and repair	P	-	-	No parking	Note 3
Sale and lease, vehicles and equipment (less than one ton)	P	-	-	1.5 per employee	Note 4
Tires, batteries, accessories, lube, oil change, smog check station, air conditioning	P	-	-	2 per bay or .75 per employee	Note 5
Sale, vehicle parts, new	P	-	-	No parking required	
Historic Reuse					
Historic Landmark Structure Reuse	S	S	-	Section 20.90.220.E	Part 8.5 Chapter 20.80

Notes:Notes applicable to the DG Area only:

- (a) Excluding second-hand stores not dealing primarily in antiques, artworks, or vintage clothing.
- (b) Only as a use incidental to a retail jewelry store, otherwise, not permitted.
- (c) Only as a use incidental to existing on-site office use, otherwise not permitted.
- (d) Culinary/Art School with public classes and public demonstrations allowed, includes such areas as dance, music, martial arts, and fine arts.
- (e) Allowed only as an incidental use to other allowed recreation uses.
- (f) Only as a use incidental to restaurant, grocery or bakery uses for primarily on site sales, otherwise not permitted.
- (g) Excludes check-cashing services, photography studios, weight loss centers, interior decorating, and bail bond services.
- (h) Only if dedicated primarily to on-site retail customer copy services, otherwise not permitted.
- (i) Exception for travel agencies and real estate agencies which are the only permitted uses.
- (j) Community centers are not allowed.
- (k) Exception for copy shops and mail centers which are the only permitted uses.
- (l) Use of ground floor to be primarily dedicated to customer-related public services.
- (m) Includes financial retail services such as foreign currency exchange, debt card services and related financial services products but excludes check cashing except as an ancillary use.
- (n) In order to be a permitted use, the space to be occupied shall have been vacant on January 1, 2012, the size of the space of such use shall be limited in size to a total maximum area of no greater than 20,000 sq.ft., and the space shall not be located within a corner tenant space that is directly adjacent to the intersection of two public streets. Any use that does not meet all of the criteria specified above in this note may be allowed with a Special Use Permit, and a Special Use Permit is and shall be required.

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

- (1) Excludes manufacturing uses.
- (2) No lot may be used solely for an accessory structure or building.
- (3) Incidental repair includes air conditioning service, carburetor & fuel injection service, electrical service, radiator service, and tune-up, lube, oil change, and smog check, as well as tires, batteries and accessories installation. Does not allow body repair or painting.
- (4) All activity must be conducted indoors.
- (5) Non-engine and exhaust related service and repair allowed as incidental use.
- (6) Limited to instrumental and vocal music and readings. Also, notwithstanding the provisions of Section 20.200.940(2), incidental instrumental and vocal music shall be allowed between the hours of 6:00 a.m. and 12:00 a.m.
- (7) Maximum occupancy load shall be that maximum occupancy load determined by the City Fire Marshall.
- (8) Pedestal 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 downtown zoning districts.

* Under the Parking Management Plan, October 2001, the Code may be changed to reduce the parking allotments for these uses. The reduction would be to 2.5 spaces per 1,000 square feet when BART is opened.

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

SECTION 5. Chapter 20.80 of Title 20 of the San José Municipal Code is hereby amended by adding a new Part to be numbered and entitled and to read as follows:

Part 3.5
Certified Farmers' Markets

20.80.250 Terms

Terms that are defined or described by the provisions of Chapter 10.5 (commencing with Section 47000) of Division 17 of the California Food and Agricultural Code, and related regulations promulgated thereunder, as the same may be amended from time to time, are intended to have their same meaning under the provisions of this Part, unless a different meaning is expressly set forth for that term in this Municipal Code.

20.80.255 Small Certified Farmers' Markets – Development Permit Exemption

- A. Notwithstanding the provisions of Part 16 of Chapter 20.80 of this Title, no event permit or Development Permit shall be required for a Certified Farmers' Market that meets all of the following criteria:
1. Said Certified Farmers' Market comprises fifteen (15) or fewer certified producers or producers of agricultural products allowed to be sold or offered for sale at a Certified Farmers' Market pursuant to state and local laws and regulations, as the same may be amended from time to time, and

2. Said Certified Farmers' Market does not occupy an area greater than ten thousand square feet (10,000 sq. ft.); and
 3. Said Certified Farmers' Market meets all of the requirements set forth in Sections 20.80.270 and 20.80.275 of this Part.
- B. A Certified Farmers' Market that meets all of the criteria set forth above in this Section 20.80.255 is referred to in this Title as a "Small Certified Farmers' Market."
- C. In addition to the maximum of fifteen (15) certified producers or producers of agricultural products allowed to be sold or offered for sale at a Certified Farmers' Market as set forth in Subsection 20.80.255.A.1 above, a Small Certified Farmers' Market may also include up to one (1) vendor of non-agricultural products located near a Small Certified Farmers' Market, in the manner allowed by laws and regulations of the State of California and County of Santa Clara as the same may be amended from time to time, for every five (5) certified producers or producers of agricultural products at the Small Certified Farmers' Market.

20.80.260 General Certified Farmers' Markets – Permit Required

Notwithstanding the provisions of Part 16 of Chapter 20.80 of this Title, any Certified Farmers' Market comprising sixteen (16) or more certified producers or producers of agricultural products allowed to be sold or offered for sale at a Certified Farmers' Market, or a Certified Farmers' Market that does not meet the requirements described in Section 20.80.255 of this Part, shall first obtain a Special Use Permit pursuant to the provisions

of Part 7 of Chapter 20.100 prior to the commencement of any operation of the Certified Farmers' Market.

20.80.265 Residential Zoning Districts - Location Requirements

Certified Farmers' Markets, including Small Certified Farmers' Markets, located in residential zoning districts are allowed to operate only at school sites, library sites, community center sites, or church/religious assembly sites.

20.80.270 Operational Requirements - General

- A. It shall be unlawful for any person or any Certified Farmers' Market, including Small Certified Farmers' Markets, to operate in a manner that does not fully comply with the provisions of this Title, including without limitation the operational requirements set forth in this Part.
- B. Each and every Certified Farmers' Market, including Small Certified Farmers' Markets, and each and every certified producer, producer or other vendor at a Certified Farmers' Market or Small Certified Farmers' Market shall fully and timely comply with all of the following operational requirements:
1. All operations shall fully comply with all federal, state and local laws, regulations and guidelines including without limitation those applicable to the Certified Farmers' Market operations, including without limitation the California Health and Safety Code, the California Food and Agricultural Code, and all regulations and guidelines promulgated by the State of California and the County of Santa Clara thereunder, as the same may be amended from

time to time;

2. All activities, and the duration of those activities, shall first have been approved and authorized by the owner of the real property on which those activities are planned to occur;
3. Any and all permits or approvals from the Building Division or Fire Department of City for any tents or other temporary membranes shall have first been obtained prior to the commencement of use of such tents or temporary membranes;
4. All Certified Farmers' Markets, Including Small Certified Farmers' Markets, and each certified producer or producer of agricultural products shall accept as a form of payment for eligible goods or products sold, or shall allow a legitimate and duly authorized third party to occupy space within the Certified Farmers' Market area to operate a redemption program for, CalFresh Electronic Benefits Transfers, as well as federal Farmers' Market Nutrition Program coupons (both through the Special Supplemental Nutrition Program for Women, Infants and Children as well as the Seniors Farmers' Market Nutrition Program), all in a manner allowed by, and in conformance with, both federal and state laws and regulations, as those laws and regulations may be amended from time to time, and said legitimate and duly authorized third party redemption program operator who is not a certified producer, producer or vendor shall not constitute a certified producer, producer or vendor for purposes of Section 20.80.255.A.1 and/or Section 20.80.255.C above; and
5. All Certified Farmers' Markets, including Small Certified Farmers' Markets, and each certified producer, producer and/or other vendor shall completely

remove all equipment, merchandise and other materials, including without limitation waste materials, from the site upon the conclusion of their respective activities, excepting such interior storage of equipment, merchandise or materials as may be allowed on the site with the permission of the owner or operator of the site.

20.80.275 Small Certified Farmers' Markets – Operational Requirements

In addition to the operational requirements set forth in Section 20.80.270, a Small Certified Farmers' Market, and each certified producer, producer of agricultural products, or other vendor at a Small Certified Farmers' Market, shall at all times conform to and comply with the following additional operational requirements and must so conform and comply in order to qualify as a Small Certified Farmers' Market:

- A. Shall not operate more than two (2) days per calendar week at the same location;
- B. Shall neither operate, including any setup or breakdown activities, more than six (6) hours per day nor between the hours of 9:00 p.m. and 7:00 a.m.;
- C. Shall operate only on paved surfaces and not on landscaped areas nor adversely impact any landscaping or landscaped areas;
- D. Shall not offer for sale or otherwise distribute any alcoholic beverage;
- E. Shall not use amplified sound for any purpose;
- F. Shall operate as a physically cohesive collection of vendors on a site, excepting only those limited physical separations as may be required by state or local law for vendors of non-agricultural products located near a Certified Farmers' Market;

- G. Shall not obstruct the safe flow of vehicular or pedestrian traffic on or around the site;
- H. Shall have secured with the property owner of the site on which the Certified Farmers' Market plans to operate, and prior to the commencement of any operation of the Certified Farmers' Market, provision for all of the following services in a manner that comports with state and local laws and regulations, as the same may be amended from time to time:
1. Refuse disposal and sufficient trash and recycling receptacles within the area of the Certified Farmers' Market;
 2. Litter removal within and within three hundred feet (300 ft) of the boundaries of the Certified Farmers' Market; and
 3. Access to adequate sanitary facilities, including restrooms and/or portable sinks and toilets.

20.80.280 Locational Limitations

- A. It shall be unlawful for any person to allow, in a direct, indirect or passive manner, a Small Certified Farmers' Market to operate at particular site for more than two (2) days per calendar week.
- B. It shall be unlawful for any person to operate, or to allow in a direct, indirect or passive manner the operation of, a Small Certified Farmers' Market on a vacant parcel or lot. Every Small Certified Farmers' Market must operate only on a site with an existing fixed-base host in operation on the site.

SECTION 6. Chapter 20.200 of Title 20 of the San José Municipal Code is hereby amended by adding a new Section to be numbered and entitled and to read as follows:

20.200.185 Certified Farmers' Market

A "Certified Farmers' Market" means a food facility as defined under Section 27521 of the California Health and Safety Code, as the same may be amended from time to time, whose location and operation meet all of the following criteria and standards:

1. Have been certified by the Santa Clara County Agricultural Commissioner through the issuance of a current and valid Certified Farmers' Market Certificate; and
2. Are and remain in full conformance at all times with all state and local laws, and related regulations and guidelines, applicable to a certified farmers' market under Chapter 10.5 (commencing with section 47000) of Division 17 of the California Food and Agricultural Code, as these state and local laws, regulations and guidelines may be amended from time to time.

SECTION 7. Section 20.200.410 of Chapter 20.200 of Title 20 of the San José Municipal Code is hereby amended to read in its entirety as follows:

20.200.410 "Fixed-base host" means any permitted use, other than a residential use, located within a permitted building or structure on the same parcel or lot and which shares parking, sanitary facilities, trash disposal and other support facilities with a vending facility or Certified Farmers' Market.

PASSED FOR PUBLICATION of title this day of , 2012 by the following vote:

AYES:

NOES:

ABSENT:

DISQUALIFIED:

CHUCK REED
Mayor

ATTEST:

DENNIS D. HAWKINS, CMC
City Clerk