

ORDINANCE NO. 28828

AN ORDINANCE OF THE CITY OF SAN JOSE AMENDING TITLE 20 OF THE SAN JOSE MUNICIPAL CODE TO AMEND CHAPTER 20.50 TO ADD A NEW PART 4 CLARIFYING SETBACK REGULATIONS FOR THE INDUSTRIAL DISTRICTS, TO AMEND SECTIONS 20.100.110 AND 20.100.1210 OF CHAPTER 20.100 TO ALLOW UTILITY PROVIDERS TO SIGN DEVELOPMENT PERMIT APPLICATIONS FOR UTILITY WORK OCCURRING ENTIRELY WITHIN PUBLIC SERVICES EASEMENTS OR PUBLIC UTILITY EASEMENTS, TO AMEND SECTION 20.200.700 OF CHAPTER 20.200 TO CLARIFY THE DEFINITION OF FRONT LOT LINE AND MAKING OTHER RELATED, TECHNICAL AND NONSUBSTANTIVE CONFORMING AMENDMENTS TO SAID TITLE 20

WHEREAS, pursuant to the provisions of Title 21 of the San José Municipal Code, the Director of Planning, Building and Code Enforcement has found the provisions of this Ordinance to be categorically exempt from environmental review per the provisions of Section 15061(b)(3) of the California Environmental Quality Act of 1970, together with regulatory guidelines implemented thereunder, all as amended (collectively, "CEQA"), under File No. PP10-150;

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

WHEREAS, this City Council has considered and approves the exemption determination made under CEQA for this Ordinance.

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

SECTION 1. Chapter 20.50 of Title 20 of the San Jose Municipal Code is amended to add a new part to be numbered, entitled and to read as follows:

**Part 4
Setback Regulations**

20.50.270 Setback Areas - Open, Unobstructed, and Unoccupied

Except as otherwise expressly and specifically provided in other sections of this Title, every part of every setback area shall be kept open, unobstructed, and unoccupied on the surface of the ground, above the surface of the ground, and below the surface of the ground by all buildings or structures except as follows:

1. Sills, eaves, belt courses, cornices, canopies, and other similar architectural features may project horizontally for a distance of not more than two (2) feet into the air space above the surface of the ground in any setback area;
2. Bay windows, on a foundation or cantilevered, or chimneys of up to ten (10) feet in length each, not occupying in the aggregate more than twenty percent (20%) of the length of the side of the building on which they are located, may project horizontally for a distance of not more than two (2) feet into any setback area, provided that such extensions maintain a minimum setback of three (3) feet;
3. Wells for basement windows or stairs of up to ten (10) feet in length each, not occupying in the aggregate more than twenty percent (20%) of the length of the side of the building on which they are located, may project horizontally for a distance of not more than two (2) feet into the side and rear setback area, provided that such extensions maintain a minimum setback of three (3) feet;
4. Overhead wires necessary for electrical and telephone service to a building on the lot;
5. Underground lines necessary for the sewerage, drainage, plumbing, water, gas, and electrical needs of the lot or of a building on the lot; and
6. Walks and driveways for vehicular or pedestrian access to the lot.

SECTION 2. Part 4 of Chapter 20.50 of Title 20 of the San José Municipal Code is hereby renumbered as follows:

**Part 5
Performance Standards**

20.50.300 Performance Standards

- A. In the IP, LI and HI Industrial Districts no primary, secondary, incidental or conditional use or activity related thereto shall be conducted or permitted:
1. In a manner that causes or results in the harmful discharge of any waste materials into or upon the ground, into or within any sanitary or storm sewer system, into or within any water system or water, or into the atmosphere; or
 2. In a manner that constitutes a menace to persons or property or in a manner that is dangerous, obnoxious, or offensive by reason of the creation of a fire, explosion, or other physical hazard, or by reason of air pollution, odor, smoke, noise, dust, vibration, radiation, or fumes; or
 3. In a manner that creates a public or private nuisance.
- B. Without limiting the generality of the preceding subsection, the following specific standards shall apply in the Industrial Zoning Districts:
1. Incineration

There shall be no incineration on any site of any waste material.
 2. Vibration

There shall be no activity on any site that causes ground vibration which is perceptible without instruments at the property line of the site.
 3. Air Pollution

Total emissions from any use or combination of uses on a site shall not exceed the emissions and health risk thresholds as established by the Director of Planning.

4. Noise

- a. The sound pressure level generated by any use or combination of uses shall not exceed the decibel level at any property line as shown in Table 20-135, except upon issuance and in compliance with a Conditional Use Permit as provided in Chapter 20.100.

Table 20-135 Noise Standards	
	Maximum Noise Level in Decibels at Property Line
Industrial use adjacent to a property used or zoned for residential purposes	55
Industrial use adjacent to a property used or zoned for commercial purposes	60
Industrial use adjacent to a property used or zoned for industrial or use other than commercial or residential purposes	70

SECTION 3. Section 20.100.110 of Chapter 20.100 of Title 20 of the San José Municipal Code is hereby amended to read in its entirety as follows:

20.100.110 Application

- A. All applications pursuant to this Chapter 20.100 shall be filed with the Director in a form prescribed by the Director.
- B. Except as provided in Subsection C below, a separate application shall be filed for each site and each application shall be signed by:
1. All owners of the real property included in the site or sites; or
 2. Such person or persons having the lawful power of attorney of the property owner or a qualified tenant to apply for development permits; or
 3. By a qualified tenant. A "qualified tenant" for purpose of this Section shall mean the exclusive tenant of the entire site and parcel subject to the application, under a recorded lease which has a remaining term of five or more years at the time of application; or
 4. An agent of a Utility Provider, with actual or apparent authority to apply for development permits on behalf of the Utility Provider, when the Utility

Provider's development activity will occur entirely within the scope and location of a currently existing public services easement or public utility easement; or

5. The City Manager of the City of San Jose or the Executive Director of the San Jose Redevelopment Agency for property owned or controlled by that respective entity.
- C. The following provisions shall govern Development Permit applications for the removal and relocation of a building from one parcel to another parcel in the City:
1. A single application pertaining to both parcels shall be required; and
 2. The application shall be signed by all of the owners of each parcel or by such person or persons having the lawful power of attorney therefore.

SECTION 4. Section 20.100.1210 of Chapter 20.100 of Title 20 of the San José Municipal Code is hereby amended to read in its entirety as follows:

20.100.1210 Application - Utility Structure

In addition to the requirements of Section 20.100.110, an application which includes a Utility Structure shall be signed by the Utility Provider. The Utility Provider shall submit the following with the application:

1. Evidence that the Utility Provider has provided at least ten (10) days' prior to application submittal to the City written notice to the owner(s) and occupant(s) of the underlying residential real property for which the application is submitted, and all owners and occupants of residential real property abutting that residential real property, which notice includes of all of the following information:
 - a. The location for the placement of the Utility Structure; and
 - b. The physical dimensions of that Utility Structure; and
 - c. The anticipated dates that work will be occurring on the real property, together with the nature and length of any service interruptions that may affect the residential real properties receiving the notice required pursuant to this section; and
 - d. A current and valid phone number of a contact person for the Utility Provider who will be available during specified reasonable hours and

- can be contacted if issues arise in connection with the Utility Structure;
and
- e. Notice that the Utility Provider is first required to obtain an Administrative Permit from the City for the Utility Structure prior to commencement of construction.
 2. Evidence of the private, public utility or public service easement; and
 3. A comprehensive network plan showing the locations of each Utility Structure planned by the Provider.

SECTION 5. Section 20.200.700 of Chapter 20.200 of Title 20 of the San José Municipal Code is hereby amended to read in its entirety as follows:

20.200.700 Lot Line

"Lot line" is defined to include:

1. "Front lot line" is the boundary line of a lot which abuts the closest edge of a public street, whether that street is owned in fee title or through an easement.
2. "Front lot line of a residentially zoned corner lot" is the narrower lot line abutting a public street.
3. "Side lot line" is the boundary line of a lot which intersects the front lot line, the rear lot line, and any other side lot line.
4. "Side corner lot line of a residentially zoned corner lot" is the longer of the two boundary lines abutting a public street.

"Rear lot line" is the boundary line of a lot which is opposite, and does not intersect, the front lot line.

SECTION 6. Section 20.200.910 of Chapter 20.200 of Title 20 of the San José Municipal Code is hereby amended to read in its entirety as follows:

20.200.910 Provider, Utility

“Provider” or “Utility Provider” shall mean the furnisher of gas, water, telephone, electricity or telecommunications services to inhabitants of the City through a franchise or other legal authority. Telecommunications services includes, but is not limited to, the transmission of voice, data, video or other information by wire, radio, light and other electronic or electromagnetic systems.

PASSED FOR PUBLICATION of title this 5th day of October, 2010, by the following vote:

AYES: CAMPOS, CHIRCO, CHU, CONSTANT, HERRERA, KALRA, LICCARDO, NGUYEN, OLIVERIO, PYLE; REED.

NOES: NONE.

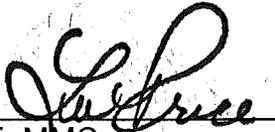
ABSENT: NONE.

DISQUALIFIED: NONE.



CHUCK REED
Mayor

ATTEST:



LEE PRICE, MMC
City Clerk