

1 FRANK C. GILMORE, ESQ., SBN 283859
2 ROBISON, SHARP, SULLIVAN & LOW
3 71 Washington Street
4 Reno, NV 89503
5 Telephone: (775) 329-3151
6 Facsimile: (775) 329-7941
7 Attorneys for Plaintiffs

8 RICHARD DOYLE, City Attorney (88625)
9 NORA FRIMANN, Assistant City Attorney (93249)
10 MARGO LASKOWSKA, Sr. Deputy City Attorney (187252)
11 WESLEY KLIMCZAK, Sr. Deputy City Attorney (294314)
12 Office of the City Attorney
13 200 East Santa Clara Street, 16th Floor
14 San José, California 95113-1905
15 Telephone Number: (408) 535-1900
16 Facsimile Number: (408) 998-3131
17 E-Mail Address: cao.main@sanjoseca.gov
18 Attorneys for CITY OF SAN JOSE

11 **UNITED STATES DISTRICT COURT**
12 **FOR THE NORTHERN DISTRICT OF CALIFORNIA**
13 **SAN JOSE DIVISION**

15 CITIZENS FOR FREE SPEECH AND EQUAL
16 JUSTICE, LLC; GTL ENTERPRISES, LLC;

17 Plaintiffs,

18 vs.

19 CITY OF SAN JOSE,

20 Defendant.

21 AND RELATED COUNTERCLAIM

Case No.: 5:18-cv-01919-BLF

**JOINT STATEMENT OF
UNDISPUTED FACTS IN
SUPPORT OF THE PARTIES'
CROSS-MOTIONS FOR
SUMMARY JUDGMENT AS TO
PLAINTIFFS' FIRST AMENDED
COMPLAINT**

(Civil L.R. 56-2)

22 Pursuant to this Court's Order Approving Jointly Submitted Case Status Report
23 and Proposed Briefing Schedule of April 23, 2019 (ECF 53), the parties hereby provide
24 the Court their Joint Statement of Undisputed Facts in support of the parties' cross-
25 motions for summary judgment as to Plaintiffs' First Amended Complaint:

26 1. Plaintiff CITIZENS FOR FREE SPEECH AND EQUAL JUSTICE, LLC
27 ("Citizens") is a California limited liability corporation doing business in the City of San

1 Jose.

2 2. Plaintiff GTL ENTERPRISES, LLC (“GTL”) is a California Limited Liability
3 Company doing business in the City of San Jose.

4 3. Defendant CITY OF SAN JOSE (“City”) is a charter city organized and
5 existing pursuant to the laws of the State of California and is a “person” subject to suit
6 within the meaning of 42 U.S.C. § 1983.

7 4. Citizens has entered into an agreement with GTL. A copy of this
8 agreement is attached hereto as **EXHIBIT 1**.

9 5. Citizens displays signs on property located at 300 E. Gish Road in San
10 Jose, California (“Parcel 1”). Photographs of the signs on Parcel 1 taken and produced
11 by the City are attached hereto as **EXHIBIT 2**.

12 6. The signs on Parcel 1 were constructed and displayed without a permit
13 from the City. Citizens did not attempt to obtain a permit to construct and display the
14 signs.

15 7. Lotus Glass, Inc. (“Lotus”) owns the real property and improvements
16 located at 1120 North 10th Street in San Jose, California (“Parcel 2”).

17 8. Citizens has entered into an agreement with Lotus. A copy of this
18 agreement is attached hereto as **EXHIBIT 3**.

19 9. On or about March 27, 2018, GTL received correspondence from the
20 City’s Code Enforcement Inspector Manuel Duarte. The correspondence is attached
21 hereto as **EXHIBIT 4**.

22 10. On April 17, 2018, Grace and Atour Amirkhas received a “Warning Notice”
23 from the City’s Code Enforcement Inspector Manuel Duarte. A copy of the Warning
24 Notice is attached hereto as **EXHIBIT 5**.

25 11. On January 22, 2019, GTL received a “Compliance Order” from the City. A
26 copy of the Compliance Order is attached hereto as **EXHIBIT 6**.

27 12. A certified copy of Title 23 of the San Jose Municipal Code as of the filing
28

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

date of the First Amended Complaint is attached hereto as **EXHIBIT 7**.

13. A certified copy of Title 20, Chapter 20.10, and Chapter 20.80 Parts 10, 13, and 18, of the San Jose Municipal Code as of the filing date of the First Amended Complaint is attached hereto as **EXHIBIT 8**.

14. A certified copy of Council Policy 6-4, effective November 9, 2018, is attached hereto as **EXHIBIT 9**.

Dated: May 31, 2019

ROBISON, SHARP, SULLIVAN & BRUST
71 Washington Street
Reno, Nevada 89503

/s/ Frank C. Gilmore
FRANK C. GILMORE, SBN 283859
Attorneys for Plaintiffs

Dated: May 31, 2019

RICHARD DOYLE, City Attorney

/s/ Margo Laskowska
MARGO LASKOWSKA, SBN 187252
Senior Deputy City Attorney
Attorneys for Defendant CITY OF SAN JOSE

PROOF OF SERVICE

CASE NAME: Citizens for Free Speech and Equal Justice, LLC, et al., v. People of the State of California, ex rel, et al.

CASE NO.: 5:18-cv-01919-BLF

I, the undersigned declare as follows:

I am over 18 years of age and not a party to this action. My business address is 200 East Santa Clara Street, San Jose, California 95113-1905, and is located in the county where the service described below occurred.

On May 31, 2019, I caused to be served the within:

JOINT STATEMENT OF UNDISPUTED FACTS IN SUPPORT OF THE PARTIES' CROSS-MOTIONS FOR SUMMARY JUDGMENT AS TO PLAINTIFFS' FIRST AMENDED COMPLAINT

by ELECTRONIC TRANSMISSION, with a copy of this declaration, to an electronic address listed below.

I further declare that the electronic transmission was sent on May 31, 2019 and that the City of San Jose, City Attorney's electronic address is CAO.Main@sanjoseca.gov.

The above-described transmission was reported as sent by a transmission report available for printing from the computer.

Addressed as follows:

Frank C. Gilmore
Robison, Sharp, Sullivan & Brust
71 Washington Street
Reno Nevada 89503
Phone Number: (775) 329-3151
Fax Number: (775) 329-7941
Email: FGilmore@rssblaw.com

Attorneys for plaintiffs/counter defendants Citizens
for Free and Equal Justice, LLC and GTL
Enterprises, LLC

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct. Executed on May 31, 2019, at San Jose, California.

/s/ Tracy Duarte
Tracy Duarte

EXHIBIT 1

ADDENDUM/AMENDMENT NO. 1 LEASE AGREEMENT

This Addendum/Amendment No. 1 to that certain Lease Agreement dated August 10th, 2017 ("Prime Lease"), is made and entered into this 18th day of May, 2018 ("Addendum No. 1"), by and between GTL ENTERPRISES, L.L.C. a California Limited Liability Company, with its principal place of business located at 390 E. Gish Road, San Jose, California ("GTL"), on the one hand, and CITIZENS FOR FREE SPEECH, L.L.C. a Nevada Limited Liability Company, with its principal place of business located at 487 Missoula Court, Reno, Nevada ("CFFS"), on the other hand. In this Agreement, GTL and CFFS may be referred to collectively as the "Parties", or individually as a "Party".

RECITALS

By this Addendum No. 1, GTL and CFFS desire to clarify the Prime Lease in regard to the ownership of those certain Leased Premises as more fully defined in the Prime Lease, and upon such terms and conditions as are set forth herein.

NOW, THEREFORE, pursuant to the terms and conditions hereinafter set forth, GTL and CFFS agree as follows:

1. The Parties acknowledge and agree that due to a clerical oversight, on or about the date the Prime Lease was executed by the Parties, ownership of the Leased Premises (as more fully defined in the Prime Lease), had not been formally transferred to and recorded in the name of GTL from prior owners Atour Amirkhas and Grace Amirkhas, a married couple (collectively, "AMIRKHAS"), holding title as community property. As of the effective date of this Amendment No. 1, title to the Leased Premises, and the Subject Property (as more fully defined in the Prime Lease) has been lawfully transferred from AMIRKHAS to GTL, said recording of the ownership transfer having been effectuated on or about May 18th, 2018, as reflected via Grant Deed attached as "Exhibit A" hereto.

Having confirmed the lawful transfer of ownership from AMIRKHAS to GTL, the Parties do now hereby agree that all rights, responsibilities and obligations in the Lease Agreement shall remain in full force and effect between GTL and CFFS, as Lessor and Lessee, respectively, and that AMIRKHAS was never intended to be, and shall not going forward be considered a party to the Prime Lease. To the fullest extent permitted by law, CFFS hereby agrees to protect, indemnify, defend and hold AMIRKHAS, and their agents harmless from and against any and all costs, expenses, losses, damages, claims, or liability for any damage to any property or injury, illness or death of any person: (a) occurring in, on, or about the Leased Premises, or any part thereof, arising at any time and from any cause whatsoever other than solely by reason of the gross negligence or willful misconduct of Lessor, its employees or property managers; and (b) occurring in, on, or about any part of the Subject Property other than the Premises, when such cost, expense, loss, damage, injury, illness, death, claim, or liability

shall be caused in whole or in part by the negligence or willful misconduct of Lessee, its agents, contractors, servants, partners, officers, employees, customers, guests, invitees or licensees (including, without limitation, when such cost, expense, claim, loss, damage, injury, illness or death shall have been caused in part by the negligence of Lessor, its employees, other tenants or property managers). CFFS additionally agrees to protect, indemnify, defend and hold AMIRKHAS, and their agents harmless from and against any and all costs, expenses, losses, damages, claims and liability resulting from CFFS' breach of any of its obligations under the Prime Lease and any damage to the Subject Property or it's systems caused by CFFS, its contractors, servants, agents, partners, officers, employees, customers, guests, invitees or licensees, to the extent any third party attempts to include or implicate AMIRKHAS in any claim as the result of the delay in legal transfer of the Subject Property and the Leased Premises to GTL. The provisions of this Section shall not be limited by the insurance coverage carried or required to be carried by CFFS pursuant to the Prime Lease and shall survive the expiration or termination of the Prime Lease with respect to any accident, event, damage, injury, claim, illness or death occurring prior to such termination. CFFS' indemnity and defense obligations under this provision shall be fulfilled by counsel approved in writing by GTL, and no settlement of any threatened or pending arising from a breach of this provision shall be settled or compromised without GTL's prior written consent.

2. Complete Integration. This Addendum No. 1, along with all terms and conditions of the Prime Lease incorporated herein is a complete integration of every agreement and representation made by or on behalf of GTL and CFFS with respect to the subject matter hereof, and no implied covenant or prior oral or written agreement shall be held to vary the provisions hereof, any law or custom to the contrary notwithstanding. No amendment, waiver or modification of this Addendum No. 1 or the Prime Lease or any term hereof shall be effective unless in accordance with the terms and conditions herein.

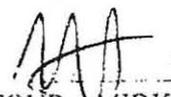
IN WITNESS WHEREOF, we have hereunto set our hands, the day and year first mentioned.

LESSOR

LESSEE

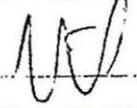
GTL ENTERPRISES, LLC

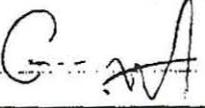
CITIZENS FOR FREE SPEECH, LLC

By 
ATOUR AMIRKHAS

By
JEFFREY HERSON

APPROVED AS TO FORM ONLY:



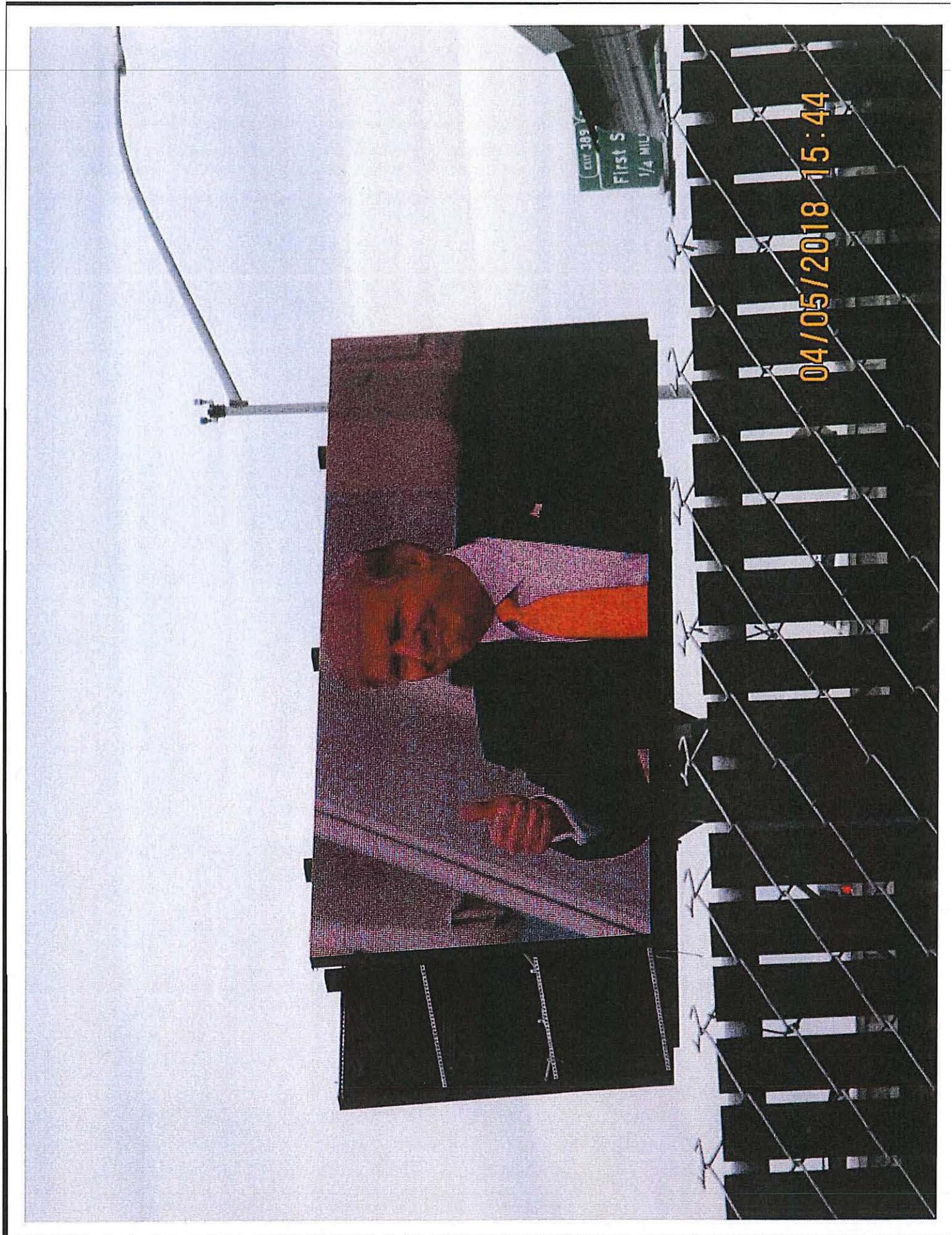


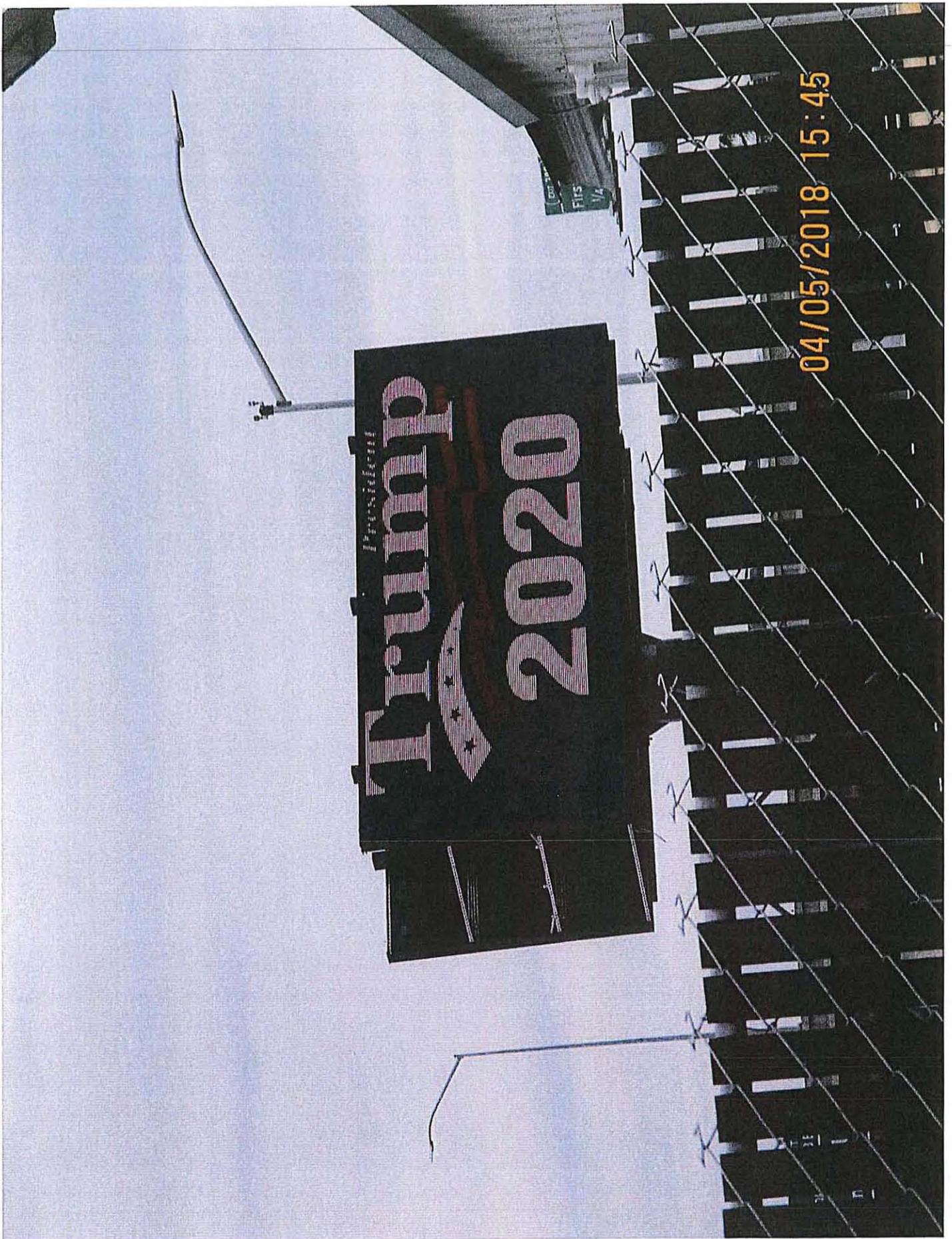
ATOOR AMIRKHAS

GRACE AMIRKHAS

EXHIBIT 2

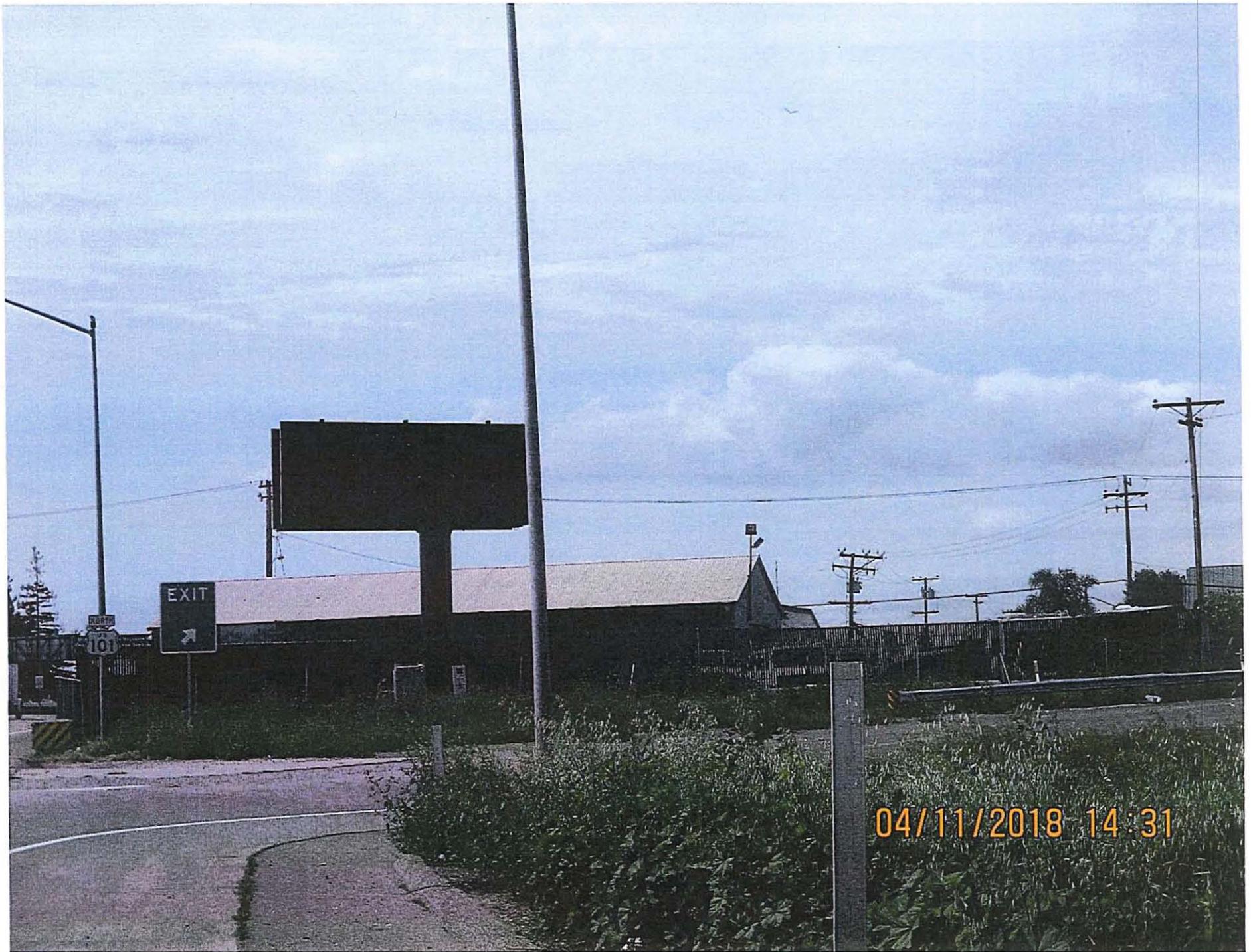








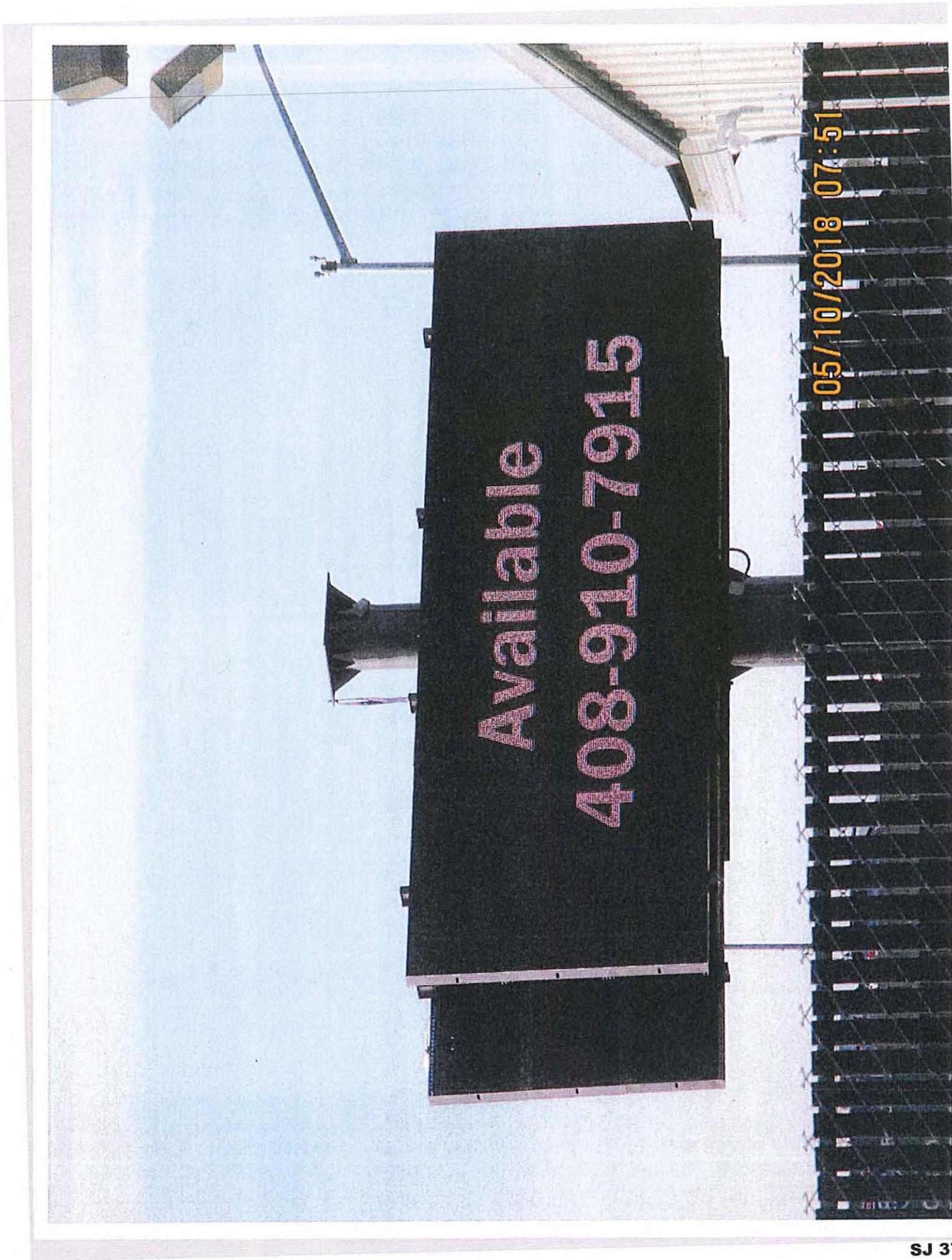




SJ 34









05/10/2018 07:52

MORRIS & SONS

- PRIVATE PROPERTY TOWING
- VEHICLE IMPOUND
- PARKING ENFORCEMENT
- 24/7/365

408-995-6900









EXHIBIT 3

STANDARD LEASE AGREEMENT

This agreement dated this _____ day of ~~December~~, 2018 by and between Lotus Glass Inc. ("Landlord"), and Citizens For Free Speech and Equal Justice LLC. hereinafter referred as Lessee.

1. Property Landlord is the owner (or authorized lessor) of the real property located (Describe Location) 1120 North 10th Street San Jose California.

Sign Size 14', x 48' Power Yes Back to Back sign

2. Term. Landlord hereby grants and leases to Lessee and Lessee accepts the grant and leases from landlord the property to have and to hold the terms and conditions contained in this lease. The principal Term, as extended, and year to year term are collectively the "Term" of this lease.

Principal Term. The Principal term of this lease shall be for 15 years and shall commence upon execution of this agreement and shall continue at Lessee's discretion for an additional 15 years.

Year to Year Term. Upon expiration of the principal term as extended, this lease will continue on the then existing terms and conditions on a year to year bases.

3. Rent. In consideration of the foregoing and mutual promises herein contained, and other valuable consideration, Lessee agrees to pay the landlord at the rate of 4,000 per month paid in monthly installments minus any deposits for such periods as the display (s) are in place, (Displays is defined as Offsite commercial speech) and will continue until the termination of this contract. Rent shall be deemed to be paid on the date scheduled unless the landlord notifies Lessee of non-receipt of payment. Lessee shall be permitted (30) days from receipt of notice on non-receipt to make such payment without being in default.

4. Leased Property. Lessee shall be entitled to use the property to erect, maintain, service, remove and reposition (if subsequently necessary) an advertising structure including necessary structures footings devices power poles and connections on the property for such use as permitted by law. The leased portion of the property includes all necessary areas over, across and under the property to provide for the construction and maintenance, service of advertising copy.

5. Lease provisions. This lease contains additional provisions on page two hereof landlord has read and understands all such provisions.

6. Access. Landlord covenants and warrants that Lessee shall have a reasonable means of access over across, and under the property.

7. Termination right. If at any time the normal highway view of Lessee's advertising structure is obscured or obstructed the use or the installation of such advertising structure is prevented by law or by Lessee ability to obtain or secure the necessary permits or licenses, Lessee may at its option terminate this lease.

8. Improvements. All the outdoor advertising structures, power poles materials and equipment are and shall remain the property of Lessee, and may only be removed by Lessee or one of its sub contractors (60) days after the termination of this lease. All State City or other required permits will remain the property of Lessee

9. Entire agreement. This lease contains the entire agreement between the parties and may not be changed or altered except by written addendum signed by the parties. Oral representations or agreements have no effect.

10. Notice. All notices are effective upon dispatch and must be in writing and delivered by certified mail to 487 Missoula Court Reno Nevada 89511.

11. Landlord agrees and understands that Lessee will construct an Outdoor advertising display with out the necessary permit including but not limited to Building and sign permit.

12. Landlord agrees, to be co-plaintiffs along with lessee against the city of San Jose to obtain approval from the court for the advertising displays. Lessee agrees to fully pay for all legal cost and attorney's fees and agrees to hold harmless and indemnify lessee. If any dispute arises between Landlord and Lessee both party's agree to arbitrate. Land lord has been advised to seek independent council concerning this agreement

William Sham

Print Name

[Signature]
4/27/2017

Signed Landlord

1120 North 10th Street San Jose Ca 408-277-0248

Address and Phone Number

77-0357446

Tax ID Number

Jeffrey Herson

Print Lessee

*Member Citizen for
Free Speech & Equal Justice*

[Signature]

Signed Lessee

EXHIBIT 4



Department of Planning, Building and Code Enforcement

March 27, 2018

AMIRKHAS ATOUR AND GRACE
390 E GISH RD
SAN JOSE, CA 95112-4801

SUBJECT: 300 E GISH RD
CASE NO: 201811931

Our office is in receipt of a complaint alleging "installing a digital display that is 3x the size of a billboard w/o permits" at the above referenced address.

Please contact our office promptly at (408) 535-7889 to arrange for a property inspection. Failure to do so may require the City of San Jose to take further enforcement action as appropriate.

Thank you for your cooperation.

Manuel Duarte 140E
Code Enforcement Inspector

EXHIBIT 5



Department of Planning, Building and Code Enforcement

April 17, 2018

ATOUR AMIRKHAS AND GRACE AMIRKHAS
 390 E GISH RD
 SAN JOSE, CA 95112-4801

WARNING NOTICE

SUBJECT: Municipal Code Violation – Pending Administrative Citation
LOCATION: 300 E GISH RD
CASE NUMBER: 201811931

The Code Enforcement Division of the City of San Jose has received and confirmed a report of the following violation(s) of the San Jose Municipal Code at the above referenced location:

<u>Code Section</u>	<u>Violation/Corrective Action</u>	<u>Fine if not Corrected</u>
23.02.820	Conformity required. No person shall erect, maintain or suffer, or cause to be erected, maintained or suffered, any sign except in strict conformity with this title.	\$250.00
23.02.1300 A	Permit Required A. No person shall erect or alter, or cause to be erected or altered, any sign except pursuant to a development permit issued in accordance with Chapter 20.100 or pursuant to approval in accordance with Section 23.02.1300.C. below, unless exempted from such requirement by Section 23.02.1310.	
24.01.130	Compliance with Title Provisions Required It shall be unlawful for any person to erect, construct, enlarge, alter, repair, move, improve, remove, convert, demolish, equip, use, occupy or maintain any building or structure in the city, or cause or permit or suffer the same to be done, in violation of this title or in violation of any of the provisions of the Codes adopted hereunder.	

24.02.100 Permits Required

Except as specified in this part, no building, structure or building service equipment regulated by this title and the technical codes shall be erected, constructed, enlarged, altered, repaired, moved, improved, removed, converted or demolished unless a separate, appropriate permit for each building, structure or building service equipment has first been obtained from the building official.

Corrective Actions Required:

Remove electronic sign or obtain permit for electronic sign constructed without Planning/Building approvals. City of San Jose Planning/Building Depts. may be contacted at (408) 535-3555.

The above listed violation(s) must be corrected no later than **May 18, 2018**, or you will be subject to an Administrative Citation. If future site inspections reveal another violation of these code sections within one year of this letter, additional citations may be issued **without further notice**. Fines escalate for repeat violations.

If the re-inspection of the property reveals non-compliance with any of the required corrections in this warning and a subsequent re-inspection is required to determine compliance, a re-inspection fee of **\$203.00** will be assessed for each subsequent re-inspection.

Your prompt attention to this matter is appreciated. Should you have any questions or information that indicates corrective action has been taken, please contact me at (408) 535-7889.

Manuel Duarte 140E
Code Enforcement Inspector

THIS IS NOT A BILL



Department of Planning, Building and Code Enforcement

April 17, 2018

ATOUR AMIRKHAS AND GRACE AMIRKHAS
 390 E GISH RD
 SAN JOSE, CA 95112-4801

WARNING NOTICE

SUBJECT: Municipal Code Violation – Pending Administrative Citation
LOCATION: 300 E GISH RD
CASE NUMBER: 201811931

The Code Enforcement Division of the City of San Jose has received and confirmed a report of the following violation(s) of the San Jose Municipal Code at the above referenced location:

<u>Code Section</u>	<u>Violation/Corrective Action</u>	<u>Fine if not Corrected</u>
23.02.820	Conformity required. No person shall erect, maintain or suffer, or cause to be erected, maintained or suffered, any sign except in strict conformity with this title.	\$250.00
23.02.1300 A	Permit Required A. No person shall erect or alter, or cause to be erected or altered, any sign except pursuant to a development permit issued in accordance with Chapter 20.100 or pursuant to approval in accordance with Section 23.02.1300.C. below, unless exempted from such requirement by Section 23.02.1310.	
24.01.130	Compliance with Title Provisions Required It shall be unlawful for any person to erect, construct, enlarge, alter, repair, move, improve, remove, convert, demolish, equip, use, occupy or maintain any building or structure in the city, or cause or permit or suffer the same to be done, in violation of this title or in violation of any of the provisions of the Codes adopted hereunder.	

24.02.100 Permits Required

Except as specified in this part, no building, structure or building service equipment regulated by this title and the technical codes shall be erected, constructed, enlarged, altered, repaired, moved, improved, removed, converted or demolished unless a separate, appropriate permit for each building, structure or building service equipment has first been obtained from the building official.

Corrective Actions Required:

Remove electronic sign or obtain permit for electronic sign constructed without Planning/Building approvals. City of San Jose Planning/Building Depts. may be contacted at (408) 535-3555.

The above listed violation(s) must be corrected no later than **May 18, 2018**, or you will be subject to an Administrative Citation. If future site inspections reveal another violation of these code sections within one year of this letter, additional citations may be issued **without further notice**. Fines escalate for repeat violations.

If the re-inspection of the property reveals non-compliance with any of the required corrections in this warning and a subsequent re-inspection is required to determine compliance, a re-inspection fee of \$203.00 will be assessed for each subsequent re-inspection.

Your prompt attention to this matter is appreciated. Should you have any questions or information that indicates corrective action has been taken, please contact me at (408) 535-7889.



Manuel Duarte 140E
Code Enforcement Inspector

THIS IS NOT A BILL

EXHIBIT 6

CITY OF SAN JOSE – COMPLIANCE ORDER

Department of Planning, Building and Code Enforcement
200 E. Santa Clara Street, San Jose, CA 95113

Page 1 of 5

Case No:	201811931	Owner:	GTL ENTERPRISES LLC
Permit No:	N/A	Mailing Address:	390 E GISH RD SAN JOSE, CA 95112
Violation Address(es):	300 E GISH RD SAN JOSE, CA 95112	Agent of Service:	ATOUR AMIRKHAS
		Agent for Service of Process Address:	390 E GISH RD SAN JOSE, CA 95112
Inspection Date:	JANUARY 10, 2019	Occupant:	UNKNOWN

AN INSPECTION OF THE PROPERTY FOR WHICH YOU ARE RESPONSIBLE HAS IDENTIFIED THE FOLLOWING VIOLATIONS OF THE SAN JOSE MUNICIPAL CODE:

Code Section	Violations and Corrections Required	Compliance Confirmed
20.100.010 B	<p>Overview.</p> <p>As a general rule, unless otherwise exempt, any use which involves new construction, erection, placement, paving, or installation or exterior alteration or enlargement of an existing use requires a development permit as defined in Section 20.200.270</p>	
20.11.610 A1	<p>Site development permit required.</p> <p>A. A valid site development permit, issued under this part, is required prior to the issuance of any building permit or installation permit for the following activities:</p> <p style="margin-left: 40px;">1. Erection, construction, enlargement, placement or installation of a building or structure on any site, except for on one-family dwelling on a single lot of parcel that would not be subject of Part 9 of Chapter 20.100 regarding requirements for a single-family house permit.</p>	
23.02.820 A	<p>Conformity required.</p> <p>No person shall erect, maintain or suffer, or cause to be erected, maintained or suffered, any sign except in strict conformity with this title.</p>	
23.02.1300	<p>Permit Required</p> <p>No person shall erect or alter, or cause to be erected or altered, any sign except to a development permit issued in accordance with Chapter 20.100 of the San Jose Municipal Code or pursuant to approval in accordance with Section 23.02.1300.C. below, unless exempted from such requirement by Section 23.02.1310.</p>	

WARNING

FAILURE TO CORRECT ALL VIOLATIONS LISTED IN THIS ORDER, BEFORE THE COMPLIANCE DATE ABOVE, MAY RESULT IN ADMINISTRATIVE PENALTIES UP TO \$2,500 PER DAY FOR EACH VIOLATION UNTIL COMPLIANCE IS ACHIEVED AS WELL AS THE ASSESSMENT OF ALL ADMINISTRATIVE COSTS. THIS ACTION IS IN ADDITION TO ALL OTHER LEGAL REMEDIES, CRIMINAL OR CIVIL, WHICH MAY BE PURSUED BY THE CITY IN RESPONSE TO ANY VIOLATION.

CITY OF SAN JOSE – COMPLIANCE ORDER

Department of Planning, Building and Code Enforcement
200 E. Santa Clara Street, San Jose, CA 95113

Page 2 of 5

24.01.130 Compliance with Title Provisions Required (Building Code)

It shall be unlawful for any person to erect, construct, enlarge, alter, repair, move, improve, remove, convert, demolish, equip, use, occupy or maintain any building or structure in the City, or cause or permit or suffer the same to be done, in violation of this title or in violation of any of the provisions of the Codes adopted hereunder.

24.02.100 Permits Required

No building, structure or building service equipment regulated by this Title 24 of the Municipal Code and the technical codes shall be erected, constructed, enlarged, altered, repaired, moved, improved, removed, converted, or demolished unless a separate, appropriate permit for each building, structure or building service equipment has first been obtained from the Building Official.

WARNING

FAILURE TO CORRECT ALL VIOLATIONS LISTED IN THIS ORDER, BEFORE THE COMPLIANCE DATE ABOVE, MAY RESULT IN ADMINISTRATIVE PENALTIES UP TO \$2,500 PER DAY FOR EACH VIOLATION UNTIL COMPLIANCE IS ACHIEVED AS WELL AS THE ASSESSMENT OF ALL ADMINISTRATIVE COSTS. THIS ACTION IS IN ADDITION TO ALL OTHER LEGAL REMEDIES, CRIMINAL OR CIVIL, WHICH MAY BE PURSUED BY THE CITY IN RESPONSE TO ANY VIOLATION.

CITY OF SAN JOSE – COMPLIANCE ORDER

Department of Planning, Building and Code Enforcement
200 E. Santa Clara Street, San Jose, CA 95113

Page 3 of 5

VIOLATIONS

Subject property is zoned Light Industrial. Two electronic billboards were installed on the site without Planning permits or Building permits.

CORRECTIONS REQUIRED

On or before February 25, 2019, remove both electronic signs. Cap off all electrical at its source. Call Code Enforcement Inspector Manuel Duarte to schedule compliance inspection. Inspection shall be scheduled and completed prior to above listed due date.

Or, if attempting to legalize:

1. **On or before February 5, 2019**, contact Planner Edward Schreiner at Edward.schreiner@sanjoseca.gov to schedule a meeting to discuss the Planning violations. "CC" Inspector Manuel Duarte (manuel.duarte@sanjoseca.gov) on all correspondences.
2. **On or before February 25, 2019**, submit a completed Planning application to the City of San Jose Planning Division to approve the unpermitted billboards. The application is not considered complete until all required documents are submitted and associated fees are paid.
3. **On or before March 25, 2019**, obtain Planning approval for the unpermitted billboards.
4. **On or before April 8, 2019**, submit five sets of plans to the Building Code Compliance Inspector. The plans shall reflect an attempt to legalize the violations noted above. Plans will not be reviewed until the unpermitted billboards obtain Planning approval. These plans must be approved by Code Enforcement prior to submittal to the City of San Jose Building Department. Contact the Building Code Compliance Inspector by email at BuildingCodeCompliance@sanjoseca.gov to schedule a plan check appointment or for any questions pertaining to plan requirements. "CC" Inspector Manuel Duarte (manuel.duarte@sanjoseca.gov) on all correspondences.
5. **On or before April 15, 2019**, submit the approved plans to City of San Jose Building Department to obtain the required Building permit. "CC" Inspector Manuel Duarte (manuel.duarte@sanjoseca.gov) on all correspondences
6. **On or before May 6, 2019**, obtain the required permits issued by the City of San Jose Building Department. Building permits will be issued after plans are approved, any/all clearances are obtained and all associated fees are paid.
7. **On or before July 8, 2019**, complete all work associated with the obtained building permit and obtain a final clearance inspection. The property will be in compliance once Planning approval is obtained and the Building permit is finalized.

NOTE: If any permit that was applied for with Planning or Building and is not obtained/approved (denied, withdrawn, expired or otherwise), you must immediately remove the unpermitted billboards.

WARNING

FAILURE TO CORRECT ALL VIOLATIONS LISTED IN THIS ORDER, BEFORE THE COMPLIANCE DATE ABOVE, MAY RESULT IN ADMINISTRATIVE PENALTIES UP TO \$2,500 PER DAY FOR EACH VIOLATION UNTIL COMPLIANCE IS ACHIEVED AS WELL AS THE ASSESSMENT OF ALL ADMINISTRATIVE COSTS. THIS ACTION IS IN ADDITION TO ALL OTHER LEGAL REMEDIES, CRIMINAL OR CIVIL, WHICH MAY BE PURSUED BY THE CITY IN RESPONSE TO ANY VIOLATION.

CITY OF SAN JOSE – COMPLIANCE ORDER

Department of Planning, Building and Code Enforcement
200 E. Santa Clara Street, San Jose, CA 95113

Page 4 of 5

- See the enclosed Building and Planning” Permit Center Service Delivery” document for additional Development/Permit Center Information.
- Additional property and permit information may be found on the City’s website at www.sjpermits.org/permits/ or by calling our information hotline at (408) 535-3555.

NOTE: PERMITS FROM THE BUILDING DIVISION ARE REQUIRED FOR STRUCTURAL, PLUMBING, MECHANICAL AND ELECTRICAL WORK. WORK DONE WITHOUT THE REQUIRED PERMITS IS A MISDEMEANOR AND WILL NOT QUALIFY AS COMPLIANCE.

If compliance has not been achieved by the date as reflected in this inspection notice, the City of San Jose will assess a re-inspection fee of \$206.00 for each re-inspection.

January 22, 2019
Date of Notice

Manuel Duarte 140E
Code Enforcement Inspector



(408) 535-7889
Phone #

WARNING

FAILURE TO CORRECT ALL VIOLATIONS LISTED IN THIS ORDER, BEFORE THE COMPLIANCE DATE ABOVE, MAY RESULT IN ADMINISTRATIVE PENALTIES UP TO \$2,500 PER DAY FOR EACH VIOLATION UNTIL COMPLIANCE IS ACHIEVED AS WELL AS THE ASSESSMENT OF ALL ADMINISTRATIVE COSTS. THIS ACTION IS IN ADDITION TO ALL OTHER LEGAL REMEDIES, CRIMINAL OR CIVIL, WHICH MAY BE PURSUED BY THE CITY IN RESPONSE TO ANY VIOLATION.

CITY OF SAN JOSE – COMPLIANCE ORDER

Department of Planning, Building and Code Enforcement
200 E. Santa Clara Street, San Jose, CA 95113

Page 5 of 5

The Department of Planning, Building and Code Enforcement (Code Enforcement) has issued a Compliance Order (Compliance Order) alleging that the subject property is in violation with the San Jose Municipal Code. Failure to correct all violations listed in the order, before the compliance date may result in administrative penalties up to \$2,500 per day for each violation until compliance is achieved as well as the assessment of all administrative costs. This action is in addition to all other legal remedies, criminal or civil, which may be pursued by the city in response to any violation.

If you believe that your property is not in violation with the San Jose Municipal Code and you dispute the basis for Compliance Order, you MUST file a request for a Director's hearing within fourteen (14) calendar days of the date of the Compliance Order was mailed or personally delivered to the responsible person(s).

Your request for hearing must be mailed or personally delivered to:

City of San Jose
Code Enforcement Division
200 East Santa Clara Street 4th flr.
San Jose Ca, 95113-1905

Your request for an appeal must be received by the City within the timeline above. If you do not file a request for hearing, the Compliance Order will become final. If a timely appeal is filed, then a hearing will be scheduled. You will receive at least seven (7) days notice that a hearing on your appeal will take place.

The Director's hearing is informal and provides you with an opportunity to present your evidence and testimony in dispute of the Compliance Order. After the close of the hearing, the Director will make a decision. The written decision will be mailed to the person subject to the Compliance Order. If you dispute the Director's decision, you may appeal to the San Jose Appeals Hearing Board within ten (10) days of the date of the written decision of the Director. That Board is described at:

<http://www.sanjoseca.gov/index.aspx?NID=341>

Your rights when a Compliance Order is issued are contained in the San Jose Municipal Code Section 1.14.030 and the following sections. It is available on line at www.sanjoseca.gov by clicking on the link at the right of the page, "Municipal Code."

WARNING

FAILURE TO CORRECT ALL VIOLATIONS LISTED IN THIS ORDER, BEFORE THE COMPLIANCE DATE ABOVE, MAY RESULT IN ADMINISTRATIVE PENALTIES UP TO \$2,500 PER DAY FOR EACH VIOLATION UNTIL COMPLIANCE IS ACHIEVED AS WELL AS THE ASSESSMENT OF ALL ADMINISTRATIVE COSTS. THIS ACTION IS IN ADDITION TO ALL OTHER LEGAL REMEDIES, CRIMINAL OR CIVIL, WHICH MAY BE PURSUED BY THE CITY IN RESPONSE TO ANY VIOLATION.

PERMIT CENTER SERVICE DELIVERY

July 2011

Building Counter Services:

- Walk-in Customer inquiries
 - Monday - Thursday 1:00 p.m. to 4:00 p.m. only
 - No availability on Fridays
- Over-The-Counter Permit issuance
 - Monday - Friday 9:00 a.m. to 12:00 p.m. and 1:00 p.m. to 4:00 p.m.
(Minor counter plan review offered)
- Building Plan submittal without appointment
 - Monday - Friday 9:00 a.m. to 11:00 p.m. and 1:00 p.m. to 3:00 p.m.
 - Customers served as staffing allows
- Building Plan submittal by appointment
 - Monday - Friday at 9:00 a.m. to 12:00 p.m. and 1:00 p.m. to 4 p.m.
 - All customers with appointments will be served
- Residential and Commercial Express Appointments: Approximately 5 appointments per day from 8:00 a.m. to 4:00 p.m. Monday - Friday

Planning Counter Services:

- Monday-Friday 9:00 to 11:00 a.m. and 1:00 p.m. to 3:00 p.m. as staffing allows (for appointments, walk-in applications and general inquiries).
- Due to staffing levels we are only able to handle one project inquiry per ticket.
- All customers with appointments will be served

Planning Phone Service:

- Call (408) 535-3555
- Monday 1:00 p.m. to 3:00 p.m.
- Tuesday and Wednesday 10:00 a.m. to 12:00 p.m. and 1:00 p.m. to 3:00 p.m.
- Thursday 1:00 p.m. to 3:00 p.m.
- Friday 10:00 a.m. to 12:00 p.m.

Public Works Counter Services:

- Walk-in Customer inquiries/general information, Over-The-Counter Permits, and submittal appointments
 - Monday - Friday: 9:00 a.m. to 12:00 p.m. and 1:00 p.m. to 4:00 p.m.

Website addresses:

Building: <http://www.sanjoseca.gov/building/>

Public Works: <http://www.sanjoseca.gov/publicWorks/>

Planning: <http://www.sanjoseca.gov/planning/>

EXHIBIT 7

Title 23

SIGNS

Chapters:

23.02 General Provisions

23.04 Sign Regulations

SAN JOSE CODE

[THIS PAGE INTENTIONALLY LEFT BLANK]

GENERAL PROVISIONS

Chapter 23.02

GENERAL PROVISIONS

Parts:

- 1 Definitions
- 2 General Provisions
- 3 Legal Nonconforming Signs
- 4 Permits and Procedures

Part 1

DEFINITIONS

Sections:

- 23.02.010 Definitions govern.
- 23.02.015 Airport influence area.
- 23.02.020 Airport parcel.
- 23.02.030 Alteration of a sign.
- 23.02.040 Animated sign.
- 23.02.043 Arcade sign.
- 23.02.045 Architectural sign.
- 23.02.047 Architectural sign cluster.
- 23.02.050 Area of sign.
- 23.02.053 Assembly space.
- 23.02.060 Attached sign.
- 23.02.070 Awning sign.
- 23.02.080 Banner sign; banner.
- 23.02.090 Billboard.
- 23.02.094 Business Center Site.
- 23.02.096 Business Center Sign.
- 23.02.100 Cable-hung banner.
- 23.02.102 Commercial speech.
- 23.02.104 Commercial speech, off-site.
- 23.02.106 Commercial speech, on-site.
- 23.02.110 Construction sign.
- 23.02.120 Continuous lighting.
- 23.02.125 Corner building, shopping center site.
- 23.02.130 Corner parcel.
- 23.02.140 Corner triangle.
- 23.02.145 Destination Entertainment Facility.
- 23.02.150 Driveway triangle.
- 23.02.155 Entryway sign.
- 23.02.160 Erection of a sign.
- 23.02.170 Expansion of a sign.
- 23.02.180 External lighting.
- 23.02.190 Fin sign.
- 23.02.200 Flag.
- 23.02.210 Flat-mounted sign.
- 23.02.215 Flat roof-top sign.
- 23.02.220 Footprint.
- 23.02.230 Freestanding sign.
- 23.02.231 Freeway.
- 23.02.232 Freeway frontage.
- 23.02.233 Freeway travel lane.
- 23.02.236 Freeway sign.
- 23.02.238 Garage, public parking.
- 23.02.240 Grade.
- 23.02.250 Halolit; halolighting.
- 23.02.253 Historic landmark building.
- 23.02.255 Historic sign.
- 23.02.260 Illegal sign.
- 23.02.265 Inflatable or balloon sign.
- 23.02.270 Internal lighting.
- 23.02.276 Large downtown convention.
- 23.02.277 Large downtown special event.
- 23.02.278 Large event.
- 23.02.280 Light source.
- 23.02.290 Lightbox; lightbox sign.
- 23.02.300 Marquee.
- 23.02.310 Master sign program.
- 23.02.320 Mechanical movement sign.
- 23.02.330 Message surface.
- 23.02.340 Monument sign.
- 23.02.350 Neon tube lighting.

- 23.02.355 Non-commercial speech; non-commercial message.
- 23.02.360 Occupancy frontage.
- 23.02.365 Outdoor retail display frontage.
- 23.02.367 Outdoor stadium space, large.
- 23.02.370 Parapet.
- 23.02.380 Parcel.
- 23.02.382 Parking garage.
- 23.02.383 Peak room nights.
- 23.02.385 Pedestrian wayfinding sign.
- 23.02.390 Portable sign.
- 23.02.400 Porte-cochere.
- 23.02.410 Programmable electronic sign.
- 23.02.415 Programmable display kiosk sign.
- 23.02.417 Projected light sign.
- 23.02.420 Projecting sign.
- 23.02.424 Public entryway; public entryway width.
- 23.02.430 Public information sign.
- 23.02.440 Public right-of-way.
- 23.02.445 Public property.
- 23.02.450 Reconstruction of a sign.
- 23.02.460 Relocation of a sign.
- 23.02.465 Reserved.
- 23.02.470 Roof sign.
- 23.02.480 Safety or directional sign.
- 23.02.485 Scoreboard sign.
- 23.02.490 Segmented sign; segment.
- 23.02.493 Service station canopy; canopy sign.
- 23.02.494 Shopping center corner sign.
- 23.02.495 Shopping center site.
- 23.02.500 Sign.
- 23.02.502 Sign area.
- 23.02.505 Sign ordinance.
- 23.02.510 Skyline sign.
- 23.02.517 Special sign zone.
- 23.02.520 Street frontage.
- 23.02.525 Sponsorship marketing plan.
- 23.02.527 Supergraphic sign.
- 23.02.530 Supporting structure.
- 23.02.540 Temporary sign.
- 23.02.550 Time and temperature sign.
- 23.02.560 Traffic control device.
- 23.02.570 Unimproved parcel.
- 23.02.580 Vertical banners.
- 23.02.590 Vertical projecting sign.
- 23.02.600 Window sign.
- 23.02.010 Definitions govern.**
- A. Except where the context otherwise requires, the definitions set forth in this part shall govern the construction of the provisions of this Title 23.
- B. Where a word or phrase is not defined in this part, but is defined in Chapter 20.200 of Title 20 of this Code, the definitions set forth in Chapter 20.200 shall govern the construction of the provisions of this title, except where the context otherwise requires.
- (Ords. 24201, 29558.)
- 23.02.015 Airport influence area.**
- "Airport influence area" means an area designated as an airport influence area in the Envision San José General Plan 2040 or subsequent equivalent document.
- (Ord. 29529.)
- 23.02.020 Airport parcel.**
- "Airport parcel" means a unit of land located in the airport sign zone and leased to a tenant on an exclusive basis. All other land within the airport sign zone is considered to be one parcel for purposes of this title only.
- (Ord. 24201.)
- 23.02.030 Alteration of a sign.**
- "Alteration of a sign" means any change in the sign other than a change in the message.
- (Ord. 24201.)

23.02.040 Animated sign.

"Animated sign" means a sign having action, motion, movement, changeable copy, or flashing color changes that are activated by electrical energy, electronic energy or other manufactured sources of energy supply, but not including wind-activated movement such as in flags, banners or pennants, or mechanical movement signs. Animated signs include grids of flashing lights or mechanical elements in patterns that give the perception of movement, as in chasing lights or programmable displays. For purposes of this title, an animated sign shall not be considered a mechanical movement sign if the only mechanical movement in the sign relates to the movement of grids to produce programmable displays.

(Ord. 24201.)

23.02.043 Arcade sign.

"Arcade sign" means a sign that is: (A) suspended from the ceiling of a covered pedestrian walkway, which covered walkway must be of at least six feet in width and attached to the building, and (B) oriented perpendicular to the building face to which the covered walkway is attached.

(Ord. 28022.)

23.02.045 Architectural sign.

"Architectural sign" means a permanent sign that is integral to the design of a doorway, column, cornice, or parapet and the materials of which are integral to the surface of the building facade.

(Ord. 27375.)

23.02.047 Architectural sign cluster.

"Architectural sign cluster" means one or more signs attached to or integrated with one or more landscape elements, such as a wall or fountain, to form a unified entry feature.

(Ord. 28754.)

23.02.050 Area of sign.

"Area of sign" or "sign area" means the total area of the message surfaces of a sign computed as provided in Section 23.02.910.

(Ord. 24201.)

23.02.053 Assembly space.

A. "Assembly space" means a space where persons gather to participate in a group or common activity or observe a presentation, performance or exhibition.

B. These assembly spaces are categorized into two groups: 1) small assembly spaces, which are assembly spaces with an occupancy load of five hundred to fifteen thousand persons if indoors or with five hundred to fifteen thousand permanent, fixed seats if outdoors; and 2) large assembly spaces, which are assembly spaces with an occupancy load of over fifteen thousand persons if indoors or with over fifteen thousand permanent fixed seats if outdoors.

(Ord. 29097.)

23.02.060 Attached sign.

"Attached sign" means a sign which is either a part of a building or other improvement, or is attached to a building or other improvement. A sign shall be considered to be attached to a building or other improvement only if the sign would fall without support from the building or improvement. Attached signs include without limitation flat-mounted signs and projecting signs.

23.02.070 Awning sign.

"Awning sign" means a sign on an awning. Awnings include canvas coverings as well as permanent, projecting canopies.

(Ord. 24201.)

23.02.080 Banner sign; banner.

"Banner sign" or "banner" means a sign on cloth or other flexible material which projects from or hangs from a building, pole or wire that is twelve hundred square feet or less in area. Banners include without limitation pennants, flags, cable-hung banners and vertical banners. Depending upon its method of attachment, a banner sign may be a flat-mounted sign, a projecting sign, or a freestanding sign.

(Ords. 24201, 29850.)

23.02.090 Billboard.

"Billboard" means any sign that is either a poster panel or a painted bulletin. A "poster panel" is a sign whose sign area is approximately twelve feet by twenty-five feet. A "painted bulletin" is a sign whose sign area is approximately fourteen feet by forty-eight feet.

(Ord. 24201.)

23.02.094 Business Center Site.

Business Center Site means a Site consisting of two (2) or more contiguous parcels, located on only one (1) side of any public right-of-way, in an individual development project, as defined in Section 65928 of the Government Code; approved for use for commercial, industrial, or mixed commercial industrial purposes, as shown on a subdivision map or site map approved by the City; and which includes shared facilities such as parking and pedestrian connections.

(Ord. 30189.)

23.02.096 Business Center Sign.

Business Center Sign means an Attached Sign, Monument Sign or Roof Sign located on a Business Center Site and oriented to and designed to be viewed from a Freeway.

(Ord. 30189.)

23.02.100 Cable-hung banner.

"Cable-hung banner" means a single banner, or several individual banners, or individual cutout letters, suspended by cable over a public right-of-way from poles designated for such use by the department of streets and traffic.

(Ord. 24201.)

23.02.102 Commercial speech.

"Commercial speech" means an expression or expressive activity that in any way promotes a commercial transaction.

(Ord. 28754.)

23.02.104 Commercial speech, off-site.

"Off-site commercial speech" means commercial speech that identifies or promotes any commer-

cial activity, product, good or service that is conducted, manufactured or offered on a site that is not the site on which the commercial speech is displayed and that is not conducted, manufactured or offered on the same parcel of land on which the commercial speech is displayed.

(Ord. 28754.)

23.02.106 Commercial speech, on-site.

"On-site Commercial Speech" means Commercial Speech to identify and promote the presence of the commercial activities, products, goods or services conducted, manufactured or offered: (a) on the same parcel of land on which the Commercial Speech is displayed; or (b) on the same Business Center Site on which the Commercial Speech is displayed.

(Ord. 28754, 30189.)

23.02.110 Construction sign.

"Construction sign" means a temporary sign related to construction or remodeling which lists the type of construction or remodeling and the owners, contractors, lenders, architects, engineers or other information related to the project.

(Ord. 24201.)

23.02.120 Continuous lighting.

"Continuous lighting" means the illumination of a sign by artificial light or lights which are maintained in a stationary condition and remain constant in intensity and color at all times when the sign is illuminated.

(Ord. 24201.)

23.02.125 Corner building, shopping center site.

"Corner building" means a building with a building footprint of at least fourteen thousand two hundred fifty square feet that is located in an area adjacent to and within two hundred fifty feet from the intersection of two public streets, which distance is measured from the intersection of the parcel lines abutting those streets, and is part of a shopping center site with a total building floor area of at least five hundred thousand square feet and

that is not located within a special sign zone as set forth in Section 23.02.860. Each of the two intersecting streets must be either a city connector street, local connector street, main street, grand boulevard, expressway or freeway, as defined in the city's general plan.

(Ord. 29324.)

23.02.130 Corner parcel.

"Corner parcel" means a parcel which abuts two intersecting streets that form an interior angle not greater than one hundred thirty-five degrees.

(Ord. 24201.)

23.02.140 Corner triangle.

"Corner triangle" means a triangle of land formed by two intersecting streets, where two sides of the triangle consist of the curblines of the intersecting streets and the third side of the triangle is a straight line drawn between points on each curbline located forty-five feet from the intersection.

(Ord. 24201.)

23.02.145 Destination Entertainment Facility.

Destination Entertainment Facility means a Building with a Footprint of at least fifty thousand (50,000) square feet and which contains either a Relocated Cardroom or an indoor theater with an occupancy load of at least one thousand (1,000) people.

(Ord. 30189.)

23.02.150 Driveway triangle.

"Driveway triangle" means a triangle of land formed by the intersection of a street and a driveway, where two sides of the triangle consist of the

GENERAL PROVISIONS

§ 23.02.232

curbline of the street and the abutting edge of the driveway and the third side of the triangle is a straight line drawn between points on the curbline and driveway edge located ten feet from the intersection point.

(Ord. 24201.)

23.02.155 Entryway sign.

"Entryway sign" means an attached sign displayed above a public entryway.

(Ord. 29246.)

23.02.160 Erection of a sign.

"Erection of a sign" means the construction, placement, installation, relocation, enlargement, mounting, alteration, posting or display of a sign.

(Ords. 24201, 29324.)

23.02.170 Expansion of a sign.

"Expansion of a sign" means any increase in any dimension of the sign, the supporting structure or the message surface.

(Ord. 24201.)

23.02.180 External lighting.

"External lighting" means the illumination of a sign by a light source that is not a component of the sign itself.

(Ord. 24201.)

23.02.190 Fin sign.

"Fin sign" means a two-sided projecting sign intended to be viewed from the side.

(Ord. 24201.)

23.02.200 Flag.

"Flag" means a banner that is the emblem of a governmental entity.

(Ord. 24201.)

23.02.210 Flat-mounted sign.

"Flat-mounted sign" means an attached sign mounted flush against or parallel to the surface of a building facade. Flat-mounted signs typically consist of either signage on a background board, signage

enclosed within a cabinet or box, or individual letters. Symbols, displays, devices or graphics painted directly onto a building surface are also included in this category. Plaques are flat-mounted signs which are typically one-piece construction made out of material such as bronze, terra cotta or stone.

(Ord. 24201.)

23.02.215 Flat roof-top sign.

"Flat roof-top sign" means a flat-mounted sign attached to the roof of a building that is oriented for viewing from places located above the building. Flat roof-top signs shall not be animated signs nor mechanical movement signs.

(Ord. 26282.)

23.02.220 Footprint.

"Footprint" means the area of the vertical projection of a building on the ground plane and includes open space with at least one building story over such open space but excludes covered walkways without at least one building story over them, eaves and roof overhangs.

(Ord. 24201.)

23.02.230 Freestanding sign.

"Freestanding sign" means a sign not attached to a building or other improvement but instead permanently erected upon or standing in the ground and usually supported from the ground by one or more poles, columns, uprights, braces or cement anchors. Freestanding signs include monument signs but do not include portable signs.

(Ord. 24201.)

23.02.231 Freeway.

"Freeway" means a restricted access highway with no at-grade intersections.

(Ord. 28754.)

23.02.232 Freeway frontage.

"Freeway frontage" means the property line of a parcel abutting a freeway.

(Ord. 29558.)

23.02.233 Freeway travel lane.

"Freeway travel lane" means a freeway lane that is a through lane, any lane providing direct connection from that freeway to another freeway, and any other freeway lane or portion thereof, such as an off-ramp, that is parallel to and within thirty feet of a through lane of that freeway.

(Ord. 28754.)

23.02.236 Freeway sign.

"Freeway sign" means a large freestanding sign oriented to and designed to be viewed from a freeway.

(Ord. 28754.)

23.02.238 Garage, public parking.

A "public parking garage sign" is a sign that is limited to the phrase "public parking" and/or any authorized city public parking symbol(s) to help identify those public parking garages that are open to the public and available for public parking during the hours of operation of the business.

(Ord. 29097.)

23.02.240 Grade.

"Grade" with regard to attached signs and freeway signs means that element as defined in Section 20.200.510 of Title 20 of this Code and, for other signs, means the top of the curb closest to a sign or, if there is no curb, the centerline of the street closest to the sign.

(Ords. 24201, 28754.)

23.02.250 Halolit; halolighting.

"Halolit" or "halolighting" means illumination of individual letters, numbers or graphics having an opaque surface by the use of internal, reverse illumination where the light source is not directly visible.

(Ord. 24201.)

23.02.253 Historic landmark building.

"Historic landmark building" means a historic landmark structure or a structure that is identified on the historic resources inventory as a candidate

city landmark, a contributing structure to a city landmark district or national register district, or as eligible for the California Register of Historic Resources (individually) or for the National Register of Historic Places (individually).

(Ord. 29850.)

23.02.255 Historic sign.

"Historic sign" means a sign that is listed as a historic resource on the historic resources inventory of city or is a contributing feature to a building or structure that is listed as an historic resource on the historic resources inventory of city pursuant to Chapter 13.48 of Title 13 of this Code.

(Ord. 28144.)

23.02.260 Illegal sign.

"Illegal sign" means any sign not in strict conformity with this title and not a legal nonconforming sign.

(Ord. 24201.)

23.02.265 Inflatable or balloon sign.

"Inflatable sign" or "balloon" sign means a sign consisting of a flexible envelope of nonporous materials that gains its shape from inserted air or other gas.

(Ord. 27864.)

23.02.270 Internal lighting.

"Internal lighting" means the illumination of a sign by a light source that is fully incorporated into the sign itself.

(Ord. 24201.)

23.02.276 Large downtown convention.

"Large downtown convention" means a convention or event held in the downtown core area with seven hundred or greater peak room nights booked in the City of San José by the San José Convention and Visitor's Bureau or by the convention or event sponsor.

(Ord. 29850.)

23.02.277 Large downtown special event.

"Large downtown special event" means a downtown special event, as defined in Section 6.55.050 of this Code, for which a special event permit has been issued pursuant to Chapter 13.14 of this Code, which has a projected attendance of ten thousand or greater, as determined by the director as defined in Chapter 6.55 of this Code.
(Ord. 29850.)

23.02.278 Large event.

"Large event" means a large downtown special event as defined in Section 23.02.277 of this title, or a large downtown convention as defined in Section 23.02.276 of this title.
(Ord. 29850.)

23.02.280 Light source.

"Light source" means a device which, when activated (electronically or otherwise), emits light. Light sources include, but are not limited to, incandescent filament bulb, electric discharge bulb, neon tube and fluorescent tube.
(Ord. 24201.)

23.02.290 Lightbox; lightbox sign.

"Lightbox" means an internally illuminated, cabinet-type fixture at a service station that is usually located above the gasoline pumps and below a canopy structure that is above the pumps. "Lightbox sign" means a sign located on a lightbox.
(Ords. 24201, 29153.)

23.02.300 Marquee.

"Marquee" means a projecting sign that is part of a permanent entryway or entry canopy and traditionally associated with theatres. For purposes of this title, any sign fulfilling the same function as a theatre sign shall be considered a marquee. A marquee sometimes includes a projecting vertical sign which may extend above the cornice line of a building. Marquees may be animated and may include internally illuminated display surfaces for changeable lettering as well as externally mounted lighting. A marquee is not a porte-cochere or a fin sign.
(Ord. 24201.)

23.02.310 Master sign program.

"Master sign program" means a sign plan which identifies the placement, construction, size, materials, colors, method of lighting and other related requirements for those signs that are subject to the plan.
(Ord. 24201.)

23.02.320 Mechanical movement sign.

"Mechanical movement sign" means a sign having parts which physically move, rather than merely appearing to move as might be found in an animated sign. This physical movement may be activated electrically or from another power source but shall not include wind-activated movement such as occurs with flags or banners. For purposes of this title, mechanical movement signs shall not include any animated sign where the only mechanical movement in the animated sign relates to grids used to produce programmable displays.
(Ord. 24201.)

23.02.330 Message surface.

"Message surface" means the surface on a sign from which the message of the sign is visually communicated.
(Ord. 24201.)

23.02.340 Monument sign.

"Monument sign" means a freestanding sign not erected on one or more poles or similar supports but erected to rest on the ground or to rest on a monument base designed as an architectural unit with the sign.
(Ord. 24201.)

23.02.350 Neon tube lighting.

"Neon tube lighting" means any sign that includes one or more directly visible neon tube light sources or lighting sources of a similar nature, such as light emitting diodes (commonly known as LED displays), or a sign that includes lighting that creates a similar visual effect as neon tube light sources.
(Ords. 24201, 27375.)

§ 23.02.355

SAN JOSÉ CODE

**23.02.355 Non-commercial speech;
non-commercial message.**

"Non-commercial speech" or "non-commercial message" means expression on a topic of public concern and debate, not including commercial speech. By way of example and not limitation, non-commercial speech means expression on debatable topics such as religion, political views, commentary on arts, and philosophical expression. (Ord. 29529.)

23.02.360 Occupancy frontage.

"Occupancy frontage" means the length of that portion of a building occupied exclusively by an individual tenant or owner and abutting a parking lot or a public right-of-way including, but not limited to, a freeway, expressway, street, plaza or alley. Occupancy frontage is measured parallel to the property line and at grade. (Ords. 24201, 28754.)

23.02.365 Outdoor retail display frontage.

"Outdoor retail display frontage" means the street frontage of a parcel that includes an outdoor area used for the display of items for retail sale where the outdoor display area is at least three thousand square feet in area and is located within ten feet of the nearest adjacent street for a distance of no less than fifty linear feet along that street. (Ord. 28569.)

23.02.367 Outdoor stadium space, large.

"Large outdoor stadium space" means an outdoor space, capable of providing a venue for professional sports that has a single permanent fixed seating arrangement for an occupancy load equal to or greater than sixteen thousand persons. Such outdoor venue must be located on a site that is at least eleven gross acres in size with at least five hundred linear feet of street frontage along one public right-of-way, located in a zoning district where a large outdoor stadium space is an allowable use, and located in an area where the general plan designation supports such use. (Ord. 29529.)

23.02.370 Parapet.

"Parapet" means the vertical portion of a wall above the roof line abutting the wall. (Ord. 24201.)

23.02.380 Parcel.

"Parcel" is defined in Section 20.200.850 of Title 20 of this Code. (Ord. 24201.)

23.02.382 Parking garage.

"Parking garage" is a building that is primarily used for storage of vehicles and that contains at least sixty thousand square feet of floor area and does not contain any residential space. (Ord. 29850.)

23.02.383 Peak room nights.

"Peak room nights" means the number of hotel rooms booked for a convention or event on the night during the convention or event on which the most rooms are booked. (Ord. 29850.)

23.02.385 Pedestrian wayfinding sign.

"Pedestrian wayfinding sign" means a free-standing sign oriented to and designed to be viewed primarily by persons presently on site. (Ord. 29246.)

23.02.390 Portable sign.

"Portable sign" means a sign not firmly affixed to the ground or to a building and includes, without limitation, "A-frame" or sandwich board signs. (Ord. 24201.)

23.02.400 Porte-cochere.

"Porte-cochere" means a porch roof or canopy projecting over a driveway, street or sidewalk and providing shelter at the entrance to a building. Flat-mounted signs are sometimes affixed to a porte-cochere. (Ord. 24201.)

GENERAL PROVISIONS

§ 23.02.460

23.02.410 Programmable electronic sign.

"Programmable electronic sign" means a type of animated sign capable of displaying words, symbols, figures, or images that can be electronically or mechanically changed by remote or automatic means. The elements may be internally illuminated or may be illuminated by reflected light. The sign may be part of a permanent sign that is not a programmable electronic sign. "Programmable electronic sign" includes sign display screens commonly known as liquid crystal display (LCD), plasma and digital displays, and their functional equivalents. This definition applies whether the display is used to produce a series of still images, or images that appear to move on the display screen. (Ords. 24201, 28641, 28754, 29324.)

23.02.415 Programmable display kiosk sign.

"Programmable display kiosk sign" means any programmable electronic sign mounted on a kiosk or kiosk-like structure that has a footprint of no more than twenty-five square feet, has a maximum side length of five feet, and is located on a private sidewalk or plaza. (Ords. 27375, 29097.)

23.02.417 Projected light sign.

"Projected light sign" means a sign created from light that is projected from an external light source onto a message surface. Such external light source may consist of a high intensity beam. (Ord. 28144.)

23.02.420 Projecting sign.

"Projecting sign" means an attached sign (other than a flat-mounted sign) which projects out from a building or structure and usually has two message surfaces. Projecting signs include without limitation fin signs and vertical projecting signs. (Ord. 24201.)

23.02.424 Public entryway; public entryway width.

"Public entryway" means a building opening that is framed and comprised of door(s) and window(s) that open or look into a common public area within a building.

"Public entryway width" means the linear distance of a public entryway. (Ord. 29246.)

23.02.430 Public information sign.

"Public information sign" means a sign which communicates information from the city about public events, events at public facilities or other city information of general interest to the community. (Ord. 24201.)

23.02.440 Public right-of-way.

"Public right-of-way" for purposes of this title means a public street, alley, or other public outdoor area such as a plaza or a park. (Ord. 24201.)

23.02.445 Public property.

"Public property" for purposes of this title means any property owned or controlled by a public entity, including but not limited to:

- A. Recreational areas such as public parks, playgrounds, and gardens;
- B. Public buildings such as libraries, fire stations, auditoriums, theaters and City Hall; and
- C. Public rights-of-way and structures on public rights-of-way, including but not limited to lampposts, utility poles, utility wires, street signs, traffic signs, benches, hydrants, fountains, trees, bushes, public bridges, sidewalks, park strips and curbstones.

(Ord. 24835.)

23.02.450 Reconstruction of a sign.

"Reconstruction of a sign" means the rebuilding or making over of the sign or supporting structure from remaining parts. (Ord. 24201.)

23.02.460 Relocation of a sign.

"Relocation of a sign" means the movement of the sign to a new or changed location and includes without limitation any movement of the sign to a

§ 23.02.460

SAN JOSÉ CODE

new location on the same structure, on the same parcel or elsewhere. Any movement of a sign, including but not limited to the structure on which the sign is placed, no matter how slight, is a relocation.

(Ords. 24201, 29324.)

23.02.465 Reserved.

Editor's note—Ord. No. 29785, § 15, adopted Sept. 13, 2016, repealed § 23.02.465, which pertained to riparian corridor and derived from Ord. 29558.

23.02.470 Roof sign.

"Roof sign" means a sign which projects above the wall of a building, including a ground-level structure attached to a building, or is located above the lowest point of a sloped roof, or is attached to a structure located on a roof. As used in this definition, "wall" includes a cornice and/or parapet.

(Ords. 24201, 28754.)

23.02.480 Safety or directional sign.

"Safety or directional sign" means:

- A. A sign used by a public agency or public utility and necessary for the safety or welfare of the public, such as but not limited to, "Danger", "No Entry", "Condemned", "Public Telephone" or "Underground Cable";
- B. A sign displayed for safety purposes, such as but not limited to, "Beware of Dog" or "Danger"; or
- C. A sign which solely directs vehicular and/or pedestrian traffic.

(Ords. 24201, 29223.)

23.02.485 Scoreboard sign.

"Scoreboard sign" means signage on a scoreboard that is part of a large outdoor stadium space, where the scoreboard is a structure that is primarily used for score-keeping and the back panel of the scoreboard directly faces or is visible from a public right-of-way. Such scoreboard sign includes all signage located along the entire back panel of a

scoreboard that faces away from the permanent fixed seating arrangement and/or any sign that may be permanently attached to the top or bottom of the scoreboard, provided such sign is permanently and architecturally integrated with the stadium site.

(Ord. 29529.)

23.02.490 Segmented sign; segment.

"Segmented sign" means a sign where the message surface contains deliberate visual demarcations used to divide the message area of the sign into separate message compartments. "Segment" shall mean a separate message compartment in a segmented sign.

(Ord. 24201.)

23.02.493 Service station canopy; canopy sign.

"Service station canopy" means a roof, typically consisting of supporting columns, at a service station that covers the fuel pump islands and surrounding fueling area.

"Canopy sign" means an attached sign located on a service station canopy that is not a roof sign.

(Ord. 29153.)

23.02.494 Shopping center corner sign.

"Shopping center corner sign" means an attached sign located on a wall, cornice or parapet of a corner building of a shopping center site. A "shopping center corner sign" is not a skyline sign and is not a roof sign.

(Ord. 29324.)

23.02.495 Shopping center site.

"Shopping center site" means a cluster of commercial uses that are predominantly retail in nature occupying one or more buildings located on a single parcel, or on contiguous parcels developed under a single planning process, and that include shared facilities such as parking and pedestrian connections. A shopping center site shall not include parcels separated by a public street.

(Ord. 28754.)

GENERAL PROVISIONS

§ 23.02.560

23.02.500 Sign.

"Sign" means any structure, display, device, balloon or graphic on or attached to any land, building or structure, which is used to communicate any message, or which advertises or promotes any business, product, activity, person or interest. Signs include, but are not limited to, letters, numbers, words, illustrations, decorations, decals, emblems, trademarks, logos and lights. Signs do not include noncommercial murals otherwise allowed under this Code.

(Ord. 24201.)

23.02.502 Sign area.

"Sign area" has the same meaning as area of sign, as defined in Section 23.02.050 of this Code.

(Ord. 29324.)

23.02.505 Sign ordinance.

"Sign ordinance" means Title 23 of the San José Municipal Code as amended from time to time.

(Ord. 29324.)

23.02.510 Skyline sign.

"Skyline sign" means a flat-mounted sign located at the top floor of a building which does not project above the higher of the cornice or parapet of the building.

(Ord. 24201.)

23.02.517 Special sign zone.

"Special sign zone" is a unique geographic area as defined in Section 23.02.860 that is subject to specific sign regulations.

(Ord. 29558.)

23.02.520 Street frontage.

"Street frontage" means the property line of a parcel abutting the public right-of-way to which such parcel has a legal right of access.

(Ord. 24201.)

23.02.525 Sponsorship marketing plan.

"Sponsorship marketing plan" means an agreement between a property owner, facility owner, fa-

cility operator, or occupant of the premises of a large outdoor stadium space and a sponsor, pursuant to which the sponsor is entitled to include its logo, slogan, or advertising on advertising displays and both of the following conditions are met:

- A. The sponsorship marketing plan is for a period of not less than one year; and
- B. The sponsorship marketing plan grants the sponsor the opportunity to display its logo, slogan, or advertising in the interior of the structures of the premises of the large outdoor stadium space, or conduct promotions, public relations, or marketing activities on the premises of the large outdoor stadium space.

(Ord. 29529.)

23.02.527 Supergraphic sign.

"Supergraphic sign" means a sign, other than a banner sign, which consists of flexible material attached flush to a building facade.

(Ord. 29850.)

23.02.530 Supporting structure.

"Supporting structure" means the supports, uprights, braces and/or framework on which any freestanding sign is mounted, and any guys or anchors used to attach the sign.

(Ord. 24201.)

23.02.540 Temporary sign.

"Temporary sign" means a sign placed for a limited duration of time.

(Ord. 24201.)

23.02.550 Time and temperature sign.

"Time and temperature sign" means a programmable display sign programmed to show time and temperature only.

(Ord. 24201.)

23.02.560 Traffic control device.

"Traffic control device" means any device or system installed by a government agency for the purpose of controlling vehicle traffic on public roads,

§ 23.02.560

SAN JOSÉ CODE

including but not limited to those signs or other devices which provide notice of the applicable rules and regulations, such as a stop sign or a speed limit sign.

(Ords. 24201, 29324.)

23.02.570 Unimproved parcel.

"Unimproved parcel" means:

- A. A parcel without any permanent structures or other permanent improvements; or
- B. A portion of a parcel without any permanent structures or other permanent improvements which is at least five acres in size.

(Ord. 24201.)

23.02.580 Vertical banners.

"Vertical banner" means a banner hung or projecting from a banner pole in the public right-of-way designated for such use by the department of streets and traffic.

(Ord. 24201.)

23.02.590 Vertical projecting sign.

"Vertical projecting sign" means a projecting sign located vertically along several floors on the facade of a building. Such signs may be comprised of one continuous vertical sign or several signs that are aligned vertically. Such signs are often intended to be read vertically. For purposes of this title, vertical projecting signs shall not include vertical projections of marquees.

(Ord. 24201.)

23.02.600 Window sign.

"Window sign" means a sign applied directly onto a window or internal to the window within twelve inches of the window and visible from the public right-of-way. Window signs include without limitation the application of words and logos onto window glass, the use of hanging signs and paper signs, and displays of merchandise in windows.

(Ord. 24201.)

Part 2

GENERAL PROVISIONS

Sections:

- 23.02.800 Policy.
- 23.02.805 Authority.
- 23.02.810 Application.
- 23.02.820 Conformity required.
- 23.02.830 Injunctive relief.
- 23.02.840 Private right of action.
- 23.02.850 Applicable regulations.
- 23.02.860 Special sign zones.
- 23.02.870 Administrative authority; appeals.
- 23.02.880 Authority to remove illegal signs in public right-of-way.
- 23.02.890 Design approval.
- 23.02.900 Construction and maintenance of signs.
- 23.02.905 Limitations on programmable electronic signs.
- 23.02.910 Computation of area of sign.
- 23.02.920 Signs that do not reduce allowable signage.
- 23.02.930 Computation of sign height.
- 23.02.940 Location of attached signs.
- 23.02.950 Projection of attached signs.
- 23.02.960 Backgrounds; materials.
- 23.02.970 Illuminated signs - Light source.
- 23.02.980 Illuminated signs - Awnings.
- 23.02.990 Number of signs on supporting structure.
- 23.02.1000 Mixed uses.
- 23.02.1010 Prohibited signs; prohibited displays.
- 23.02.1020 Street numbers.
- 23.02.1030 Signs required by law.
- 23.02.1040 Safety or directional signs.
- 23.02.1045 Pedestrian wayfinding signs.

GENERAL PROVISIONS

§ 23.02.805

- 23.02.1050 Flags.
- 23.02.1060 Window signs.
- 23.02.1070 Stock-in-trade.
- 23.02.1080 Planned development permits.
- 23.02.1090 Historic signs.
- 23.02.1100 Barber poles.
- 23.02.1110 Signage at service stations.
- 23.02.1120 Portable signs at vehicle parking lots.
- 23.02.1130 Reserved.
- 23.02.1140 Placement of temporary signs.
- 23.02.1150 Signs on unimproved parcels.
- 23.02.1160 Corner triangles and driveway triangles.
- 23.02.1170 Banner signs.
- 23.02.1180 Other applicable laws.
- 23.02.1190 Message substitution.

23.02.805 Authority.

This title is adopted pursuant to the city's general and police powers, including without limitation, California Constitution, Article XI, Section 7 and the City Charter. (Ord. 29324.)

23.02.800 Policy.

Signs are an important and necessary means of communication. When properly regulated, signs can serve as a great economic and aesthetic asset. They can be lively, colorful and exciting. In enacting this title, it is the intent of the City of San José to promote attractive signage and streetscapes, facilitate way-finding and traffic safety, promote commerce, and to comprehensively address community aesthetic concerns about visual clutter and visual blight in the environment. The regulation of signs in the City of San José is intended to promote an aesthetically pleasing environment with these concerns in mind. Sign regulation shall be consistent with land use patterns, and signs shall add to rather than detract from the architecture of the buildings where they are located. Signs shall be well maintained and, in addition, shall not create traffic safety hazards. The regulation of signs in the City of San José also is intended to be content neutral wherever required and to provide adequate opportunity for the presentation of messages of many varieties. (Ords. 24201, 26273, 27375, 28569, 28754, 29013, 29097, 29223.)

GENERAL PROVISIONS

§ 23.02.860

23.02.810 Application.

Unless otherwise expressly provided in this title, this title shall apply only to signs visible from off-site or from any outdoor parking lot or outdoor pedestrian walkway accessible for use by the public. (Ord. 24201.)

23.02.820 Conformity required.

A. No person shall erect, maintain or suffer, or cause to be erected, maintained or suffered, any sign except in strict conformity with this title.

B. Violation of any condition of a permit issued pursuant to this title shall be a violation of this title.

(Ord. 24201.)

23.02.830 Injunctive relief.

A. The erection of any sign in violation of this title shall be, and is hereby declared to be, unlawful and a public nuisance.

B. In any action with regard to such use, any court of competent jurisdiction may award any relief as will abate or remove such use and restrain any person from using any property contrary to the provisions of this title.

C. An injunction may be issued by any court of competent jurisdiction for any violation of this title upon suit by the city or upon any private suit pursuant to Section 23.02.840.

(Ord. 24201.)

23.02.840 Private right of action.

A. In addition to the relief set forth in Section 23.02.830, in the event that an owner or occupant of real property located within six hundred feet of a permanent sign in violation of this title brings a civil action and is the prevailing party in that action against a person found to have erected, maintained or suffered the sign in a manner in violation of this title, such owner or occupant, in addition to other damages as determined by the court, may, in the

discretion of the court, be awarded court costs, attorneys' fees, and an amount not to exceed one thousand dollars.

B. Remedies provided by this section and Section 23.02.830 are in addition to any other legal or equitable remedies and are not intended to be exclusive.

C. For purposes of this section, a "permanent sign" shall be a sign for which a permit is required under this title.

(Ord. 24201.)

23.02.850 Applicable regulations.

A. The regulations for signs shall be set in accordance with the zoning district where a parcel is located, except for:

1. Parcels located in special sign zones, as set forth in Section 23.02.860;
2. Residential uses, regardless of where located, which shall be governed by Part 4 of Chapter 23.04;
3. Signs in the public right-of-way which shall be governed by Part 9 of Chapter 23.04; and
4. Signage allowed pursuant to a planned development permit as provided in Section 23.02.1080.

B. All signs shall also conform to the provisions of this Chapter 23.02.

(Ord. 24201.)

23.02.860 Special sign zones.

The following are the special sign zones:

A. The downtown sign zone as defined in Section 23.04.100.D. The downtown sign zone, as defined in Section 23.04.100.D, has been formed in recognition of the need for more signage and for a greater variety of types of signs in the urban center of the city where densely packed commercial uses compete for attention. It is the city's intent, in its regulations, to strike a fair balance between commercial

- needs, traffic safety, and community concerns about visual clutter and visual blight.
- B. Urban mixed-use development area sign zone as defined in Section 23.04.152. Large, urban mixed-use areas of the city, as defined in Section 23.04.152, are areas of the city that warrant more flexible types of signage in order to reinforce active and vital nodes of the community that function in many ways in a similar manner to the downtown sign zone.
- C. Neighborhood business districts as defined in Section 23.04.010.E. Neighborhood business districts, as defined in Section 23.04.010.E, are existing business areas designated by the city for intensive rehabilitation. Because of extensive design analysis and city oversight in neighborhood business districts, such districts shall be treated in this title as special sign zones with sign regulations adapted to coordinate with and enhance city rehabilitation programs.
- D. Capitol Expressway Auto Mall signage area as defined in Section 23.04.010.F. The Capitol Expressway Auto Mall signage area, as defined in Section 23.04.010.F, reflects the desire of the city and the auto dealers of the Capitol Expressway Auto Mall to present a unified signage program between all the contiguous auto dealers on Capitol Expressway.
- E. The airport sign zone as defined in Section 23.04.200.B. The airport sign zone, as defined in Section 23.04.200.B, has unique land use characteristics that support specially tailored sign regulations. The airport sign zone is an area of approximately one thousand acres and consists of land subject to the city's airport master plan. The airport sign zone is characterized by large expanses of open space and outdoor uses, including parking lots, runways/taxiways, and low-intensity development consistent with aviation uses. This sign zone, because of its unique land use character, is less subject to visual clutter than other areas of the city.
- F. The San Pedro Square signage area as defined in Section 23.04.100.E. The San Pedro Square signage area, as defined in Section 23.04.100.E, reflects the desire of the city to provide signage regulations specifically tailored to the unique land use pattern in this area which is typified by small-scale historic and new buildings set within open plazas and surrounded by the dense, tall urban landscape of the downtown area of the city.
- G. The Stevens Creek Boulevard signage area as defined in Section 23.04.010.G. The Stevens Creek Boulevard signage area, as defined in Section 23.04.010.G, reflects the desire of the city to provide a signage program for properties fronting on the south side of Stevens Creek Boulevard that is consistent with signage allowances applicable to those real properties fronting on the north side of Stevens Creek Boulevard located in the City of Santa Clara, as well as signage regulations, as part of a temporary, three-year pilot program, for programmable electronic signs for a subarea of this signage area between Henry Avenue and Richfield Drive (excluding parcels with Kiely Boulevard or Saratoga Avenue frontages).
- H. The Oakridge/Blossom Hill Urban Village signage areas as defined in Section 23.04.010.H. The Oakridge/Blossom Hill Urban Village signage area, as defined in Section 23.04.010.H, reflects the desire of the city to provide signage regulations as part of a temporary three-year pilot program, for programmable electronic signs in this area that is currently developed with intensive commercial uses and

GENERAL PROVISIONS

§ 23.02.880

planned over the long-term to redevelop into an urban village in accordance with the city's general plan.

- I. The North San José signage area as defined in Section 23.04.010.I. The North San José signage area, as defined in Section 23.04.010.I, has been formed in recognition of the need for more signage and for a greater variety of types of signs in this area of the city targeted for dense development of employment and residential uses. It is the city's intent, in its regulations, to strike a fair balance between commercial needs, traffic safety, and community concerns about visual clutter and visual blight.

(Ords. 24201, 27375, 28754, 29013, 29097, 29223, 29558.)

23.02.870 Administrative authority; appeals.

- A. Administrative authority for the implementation of the Sign regulations set forth in this Title and for the issuance of permits, if required under Part 4 of this Chapter, shall be as follows:

District or Type of Sign	Administrative Authority
CO, CP, CN, CG, IP, LI, HI, OS, A, R-1-RR, R-1-1, R-1-2, R-1-5, R-1-8, R-2, R-M and R-MH Zoning Districts; Neighborhood Business Districts; Downtown Sign Zone; Urban Mixed-Use Development Area Sign Zone; Capitol Expressway Auto Mall Signage Area, Billboard Relocation; Rotation Message Billboards; Temporary Signs	Department of Planning, Building and Code Enforcement
Public Right-of-Way Signs	Department of Transportation
Signs on Public Property other than Public Right-of-Way	Department of Public Works for Signs at City facilities, provided that signs approved pursuant to Council Policy 6-4 require City Council authorization; Department of Parks, Recreation and Neighborhood Services for Signs in parks.
Signs within Airport Sign Zone	Airport Department, provided that signs approved pursuant to Council Policy 6-4 require City Council authorization.

"Director" as used in this Title and not otherwise identified shall refer to the Director of the applicable administrative authority.

- B. Enforcement authority for this Title shall be in the Code Enforcement Division of the Department of Planning, Building and Code Enforcement,

except that the Department of Transportation shall have enforcement authority for Signs in Public Right-of-Way, the Department of Parks, Recreation and Neighborhood Services shall have enforcement authority for Signs in parks, the Department of Public Works shall have enforcement authority for Signs at City facilities, and the Director of Aviation shall have enforcement authority for Signs in the Airport Sign Zone.

(Ords. 24201, 27375, 29324, 29747, 30162.)

23.02.880 Authority to remove illegal signs in public right-of-way.

- A. Any illegal signs in the public right-of-way may be removed by the city.

GENERAL PROVISIONS

§ 23.02.905

- B. Any illegal sign of de minimus value in the public right-of-way may also be removed by volunteers on behalf of the city.
- C. No notice shall be required prior to removal of illegal signs, including without limitation elections signs, in the public right-of-way.
- D. Any sign removed by the city, except any sign of de minimus value, shall be held in storage and the owner or other person in control of such sign, if known, shall be given written notice and ten days to reclaim such sign.
- E. Any sign held in storage by the city may be destroyed by the city if not reclaimed:
 - 1. In the time period set forth in subsection D. above; or
 - 2. Within ten days after removal if the owner or other person in control of such sign is not known.
- F. In order to reclaim a sign removed by the city, the owner or other person in control of such sign shall first pay to the city a fee as set forth in the schedule of fees adopted by resolution of the city council.
- G. Any illegal sign in the public right-of-way of de minimus value shall be deemed to be abandoned and may be destroyed by the city after removal. No opportunity to reclaim such sign shall be given by the city.
- H. For purposes of this section, any sign made of cardboard or other nondurable material shall be deemed to be of de minimus value.

(Ords. 24201, 24835.)

23.02.890 Design approval.

Signs and supporting structures shall be subject to design approval by the director. The director shall not approve a sign permit application unless the director finds that the proposed sign is consistent with the intent of this title based upon the factors set forth in Section 23.02.1340.C.

(Ord. 24201.)

23.02.900 Construction and maintenance of signs.

- A. All signs and supporting structures shall be securely built and erected in conformance with the requirements of this title and any other applicable code requirements.

- B. All signs, together with all supporting structures, shall be well maintained and kept in a good state of repair. Without limiting the foregoing, the following maintenance shall be required for all signs and supporting structures:
 - 1. They shall be kept free from rust, dirt and chipped, cracked or peeling paint.
 - 2. Hanging, dangling, torn or frayed parts shall be repaired.
 - 3. Burned-out bulbs shall be replaced.
 - 4. Graffiti and unauthorized stickers shall be removed.
- C. If the message surface of a freestanding sign is removed from the supporting structure, except for a temporary period of time while the message is being changed or the surface replaced, the supporting structure shall be removed. Such temporary period shall not exceed ninety days. (Ord. 24201.)

23.02.905 Limitations on programmable electronic signs.

Programmable electronic signs and programmable electronic kiosks shall conform to the following, unless otherwise allowed in this title:

- A. No sign shall display animated messages, including flashing, blinking, fading, rolling, shading, dissolving, or any other effect that gives the appearance of movement.
- B. No sign shall include any audio message.
- C. No sign message shall be displayed for a period of time less than:
 - 1. Eight seconds on any sign located within four hundred feet of a freeway travel lane or on any sign the illuminated face of which is visible from a freeway travel lane; or
 - 2. Four seconds on any other sign.
- D. Transitions from one message to another message shall appear instantaneous as perceived by the human eye.
- E. Each sign message shall be complete in and of itself and shall not continue on a subsequent sign message.

- F. Signs shall utilize automatic dimming technology to adjust the brightness of the sign relative to ambient light so that at no time shall a sign exceed a brightness level of three-tenths (0.3) foot candle (lux) above ambient light, as measured using a foot candle meter and in conformance with the following process:
1. Light measurements shall be taken with the meter aimed directly at the sign message face, or at the area of the sign emitting the brightest light if that area is not the sign message face, at the following distances:
 - a. A sign that is zero to one hundred square feet in area shall be measured at a distance of one hundred feet from the sign area being measured;
 - b. A sign that is one hundred one to three hundred fifty square feet in area shall be measured at a distance of one hundred fifty feet from the sign area being measured;
 - c. A sign that is three hundred fifty-one to six hundred fifty square feet in area shall be measured at a distance of two hundred feet from the sign area being measured;
 - d. A sign that is six hundred fifty-one to one thousand square feet in area shall be measured at a distance of two hundred fifty feet from the sign area being measured; and
 - e. A sign that is over one thousand square feet in area shall be measured at a distance of three hundred fifty feet from the sign area being measured.
 2. An ambient light measurement shall be taken using a foot candle meter at some point between the period of time between thirty minutes past sunset and thirty minutes before sunrise with the sign turned off to a black screen.
 3. Immediately following the ambient light measurement taken in the manner required by this subsection, an operating sign light measurement shall be taken with the sign turned on to full white copy.
 4. The brightness of a sign conforms with the brightness requirements of this subsection if the difference between the ambient light measurement and the operating sign light measurement is three-tenths (0.3) foot candle or less.
- G. All signs shall contain a default mechanism that will cause the sign to revert immediately to a black screen if the sign malfunctions.
- H. Programmable electronic signs shall be located in a manner that the director determines based on reasonable evidence will not adversely interfere with the visibility or functioning of traffic signals and traffic signage, taking into consideration the physical elements of the sign and the surrounding area, such as information analyzing physical obstruction issues, line of sight issues, brightness issues and visual obstruction or impairment issues, but not including the message content on the sign.
- I. Programmable electronic signs may display only on-site commercial or non-commercial messages.
- J. Programmable electronic signs subject to the provisions of Part 4 of Chapter 23.04 of this title shall not be illuminated between the hours of 10:00 p.m. and 6:00 a.m.

GENERAL PROVISIONS

§ 23.02.910

- K. Signs attached to an historic building or structure shall not negatively impact the historic resource and shall conform to the following standards:
1. Signs shall be attached in a manner that does not irreversibly damage the building surface in a visible location.
 2. Signs shall not cover or obscure from view a character-defining architectural feature of the historic building.
- C. If a sign has more than one message surface, the area of the sign shall be the sum of the areas of all the message surfaces except as specified below:
1. Parallel sign surfaces. If two surfaces on the same sign are back to back so that they face in opposite directions (i.e., the relative angle between the directions they face is one hundred eighty degrees) and the distance between the two surfaces is not more than five feet for a freeway sign and a free-standing programmable electronic sign for a large outdoor stadium space and two feet for all other signs, then the area of only one of the two surfaces (the largest if they are not equal) shall be included in the computation; or
 2. V-shaped sign surfaces. If a sign has two message surfaces connected in a manner that forms an angle between the two sign surfaces of no greater than thirty degrees, then only the area of one of the two surfaces (the largest if they are not equal) shall be included in the computation.

(Ords. 28754, 29097, 29529.)

23.02.910 Computation of area of sign.

- A. Unless otherwise expressly provided in this title, the area of the message surface of a sign shall be computed as provided in this section.
- B. Message surface.
1. If the message surface of a sign consists of an integral surface and has a regularly shaped perimeter, the area of the sign shall be the area within such perimeter, including the face of any frame.
 2. If the message surface consists of noncontiguous segments or has an irregularly shaped perimeter, then the area of the sign shall be all of the area encompassed within a single continuous rectangular-perimeter of not more than ten straight lines, enclosing the extreme limits of the message surface (and in no case passing through or between any segments of the message surface) and including any color, material or graphic which is integrated therein which differentiates the message from the background against which it is placed, and the face of any frame.
 3. If a roof sign consists of noncontiguous segments silhouetted against an open air background or against an open lattice framework that is at least seventy-five percent open area, the area of the message surface shall be the sum of the area of the noncontiguous segments.
- D. Three-dimensional signs.
1. With three-dimensional signs, if the sign does not extend more than two feet from the point of sign attachment, for attached signs, or if the sign does not exceed two feet in depth for free-standing signs, the area of the sign shall be measured as if the sign had a flat surface, in accordance with subsection B. of this section.
 2. If a three-dimensional sign is greater than two feet in depth, the area of the sign shall be the sum of three areas of the sign measured from each side and the front, in each case measured as if each perspective was a flat surface, except that the sign depth shall first be multiplied by five-tenths (0.5) in calculating the sign area pursuant to this subsection.

§ 23.02.910

SAN JOSÉ CODE

E. In the case of a form of message surface not specifically mentioned herein, the formula for the most nearly similar type of message surface which is mentioned shall apply. The decision of the director as to the most nearly similar type of message surface shall control. (Ords. 24201, 27375, 28754, 29529.)

23.02.920 Signs that do not reduce allowable signage.

The following signs shall not reduce signage otherwise allowable under this title:

- A. Temporary signs expressly allowed by this title.
- B. Safety or directional signs allowed by Section 23.02.1040.
- C. Window signs allowed by Section 23.02.1060.
- D. Street numbers required by Section 23.02.1020.
- E. Signs required by law as described in Section 23.02.1030.
- F. Flags allowed by Section 23.02.1050.
- G. Signs allowed pursuant to Section 23.04.020F.
- H. Signs on outdoor vending facilities allowed by Part 10 of Chapter 20.80 of Title 20 of this Code.
- I. Signs on recycling facilities allowed by Section 20.80.1130 of Part 13 of Chapter 20.80 of Title 20 of this Code.
- J. Signs on temporary trailers allowed by Section 20.80.1740 of Part 18 of Chapter 20.80 of Title 20 of this Code.
- K. Reserved.
- L. Skyline signs allowed pursuant to Sections 23.02.1210, 23.04.020, or 23.04.120.
- M. Public benefit gateway signs allowed pursuant to Part 10 of Chapter 23.04.
- N. Flat roof-top signs allowed pursuant to Section 23.04.120.
- O. On-site noticing signs erected in conformance with and pursuant to city council Public Outreach Policy No. 6-30, as the same may be amended from time to time.

P. Pedestrian wayfinding signs allowed by Section 23.02.1045.

(Ords. 24201, 25032, 26282, 27375, 29223, 29246, 29324.)

23.02.930 Computation of sign height.

Unless otherwise expressly provided herein, the height of a sign shall be determined by measuring the vertical distance to grade from the highest point of the message surface of the sign, including the face of any frame.

(Ord. 24201.)

23.02.940 Location of attached signs.

- A. Subject to Subsection D. below, attached signs on walls, windows or other structures shall be located a minimum of six inches from the edge of the wall, window or structure to which attached, unless the sign continues around such edge and onto another contiguous surface.
- B. In determining the top edge of a wall, the parapet and cornice, if any, of such wall shall be included and shall be deemed part of the wall.
- C. Signs suspended from the ceiling of an arcade or other roof overhang and oriented parallel to the building wall shall be located a minimum of two feet from the building wall and a minimum of eight feet above grade.
- D. Signs located on a service station canopy shall be exempt from the requirements of Subsection A. above.

(Ords. 24201, 28754, 29153.)

23.02.950 Projection of attached signs.

Subject to Section 17.48.290 with regard to projection into airspace over a public right-of-way, whenever attached signs are permitted in this title:

- A. Except as provided in subsection B. of this section, and notwithstanding the provisions of Section 20.40.400 of this Code related to setback areas, an attached sign may project up to two feet from the wall to which attached.

GENERAL PROVISIONS

§ 23.02.1010

- B. Within the downtown sign zone, urban mixed-use development area sign zone, or any neighborhood business district, except as provided in Section 23.04.120.C. and Section 23.04.020.E.4., an attached sign may project more than two feet from the wall to which it is attached if every part of the sign is at least eight feet above grade.
- C. No sign shall project into any public right-of-way unless the director of public works shall have first issued an encroachment permit therefor.
- D. For the purposes of this section, if a sign is recessed into a wall, the distance for maximum allowable projection for the sign shall be measured from the plane of the exterior wall surface surrounding and directly abutting the edges of the sign.

(Ords. 24201, 27375.)

23.02.960 Backgrounds; materials.

- A. All supporting structures and background materials for signs shall be opaque and nonreflective.
- B. For purposes of this section, the "background" of a sign shall mean all parts of the message surface of the sign except those parts (whether letters, numbers, words or otherwise) actually communicating the sign message.
- C. The use of styrofoam in signs is prohibited.

(Ord. 24201.)

23.02.970 Illuminated signs - Light source.

- A. Every part of the light source of any illuminated sign allowed by this title shall be concealed from view from vehicular traffic in the public right-of-way, and the light shall not travel from the light source directly to vehicular traffic in the public right-of-way but instead shall be visible only from a reflecting or diffusing surface.
- B. This provision shall not apply to neon tube lighting expressly permitted by another provision of this title.

(Ord. 24201.)

23.02.980 Illuminated signs - Awnings.

Unless expressly provided otherwise in this title, awning signs may be illuminated, including without limitation by backlighting; however, the entire awning may not be illuminated or backlit. (Ord. 24201.)

23.02.990 Number of signs on supporting structure.

More than one sign may be mounted on a supporting structure. (Ord. 24201.)

23.02.1000 Mixed uses.

In the case of residential and nonresidential uses occurring on one parcel, the sign regulations governing the nonresidential use shall apply to the parcel, with the exception of regulations pertaining to roof signs and skyline signs. For roof signs and skyline signs, the sign regulations governing the residential use shall apply to the parcel.

(Ords. 24201, 27375.)

23.02.1010 Prohibited signs; prohibited displays.

- A. Unless otherwise expressly allowed in this title, the following signs are prohibited:
 1. Animated signs.
 2. Billboards.
 3. Inflatable or balloon signs.
 4. Mechanical movement signs.
 5. Programmable electronic signs.
 6. Portable signs.
 7. Roof signs.
 8. Flat roof-top signs.
 9. Any sign other than an attached sign facing and visible from a freeway unless the parcel on which the sign is located is within the urban service area as indicated on the general plan land use/transportation diagram, and:
 - a. Separated from the freeway by another public right-of-way; or
 - b. Has direct access to the freeway.

§ 23.02.1010

SAN JOSÉ CODE

10. Signs placed on trees, rocks or other natural formations, except signs which identify the name of the natural formation.
 11. Signs placed on trucks, buses, cars or other motorized vehicles:
 - a. Unless all of the following conditions exist:
 - i. The vehicle is in operating condition, currently registered and licensed to operate on public streets;
 - ii. The sign is painted upon or otherwise permanently attached to the vehicle; and
 - iii. The primary purpose for which the vehicle is used is not for the stationary display of the sign.
 - b. This restriction shall not apply to temporary signs in vehicle windows.
 12. Signs displaying off-site commercial speech.
- B. Unless otherwise expressly allowed in this title, the following displays used in conjunction with signs are prohibited:
1. Balloons;
 2. High intensity beam lights; or
 3. Strings of ribbons, tinsel, small flags, pennants, streamers, spinners, metallic disks, pinwheels, or other similar devices designed to move in the wind.

(Ords. 24201, 26282, 27034, 28022, 28144, 28754, 29529.)

23.02.1020 Street numbers.

- A. Street numbers, whether written in words or in numerals, shall not be considered a sign and shall not reduce otherwise allowed signage if the street numbers do not exceed an aggregate area of four square feet.
- B. A street number shall be displayed on the primary building on each parcel.

- C. Except in the case of temporary signs or signs in the downtown sign zone or the airport sign zone, a street number shall be displayed on each freestanding sign on a parcel.
 - D. Street numbers shall be visible day and night from the nearest street, either by means of illumination or by the use of reflective materials.
- (Ord. 24201.)

23.02.1030 Signs required by law.

Any sign required by federal, state or other law shall not reduce otherwise allowed signage.

(Ord. 24201.)

23.02.1040 Safety or directional signs.

Safety or directional signs may be displayed as necessary for safety or directional purposes, may be illuminated or reflective if necessary for public safety, and shall not reduce otherwise allowed signage.

(Ord. 24201.)

23.02.1045 Pedestrian wayfinding signs.

- A. Pedestrian wayfinding signs may be displayed only on improved parcels with no residential uses.
- B. Each such sign:
 1. Shall be set back at least sixty feet from a public street.
 2. Shall not exceed four square feet in sign area for each sign face except that:
 - a. The sign area shall not exceed twenty square feet when the sign is set back at least one hundred and fifty feet from a public street and is at least three linear feet from the drive aisle adjacent to a building.
 3. Shall be at least twenty linear feet from any other pedestrian wayfinding sign.
 4. Shall be placed on a base of no less than eighteen inches and no greater than eight feet in height, and no greater than five feet in width.

(Ord. 29246.)

GENERAL PROVISIONS

§ 23.02.1100

23.02.1050 Flags.

- A. U.S. flags may be displayed in accordance with applicable federal laws and regulations; such display of U.S. flags shall not reduce otherwise allowed signage.
- B. Two additional flags may be displayed on non-residential parcels and one additional flag may be displayed on residential parcels; such flag display shall not reduce the otherwise allowed signage if:
 - 1. Flags are displayed on flagpoles erected in conformance with all applicable laws; and
 - 2. Flags are no larger than twenty-four square feet each.
- C. More than one flag may be displayed on a flagpole. Subject to all applicable laws and regulations, banners may be displayed on flagpoles with flags.
- D. Any flag not meeting the requirements of subsection A. or subsection B. above:
 - 1. Shall be considered a banner, subject to all regulations related to banners; and
 - 2. Shall reduce the signage otherwise allowed.

(Ord. 24201.)

23.02.1060 Window signs.

- A. Window signs, including both permanent and temporary signs, shall not exceed in aggregate sign area twenty-five percent of the window frame area.
- B. Window signs shall not be animated signs.
- C. Window signs in conformance with this title shall not reduce otherwise allowed signage.
- D. Window signs include internal displays of stock-in-trade if the display is located within twelve inches of a window and is visible from a public right-of-way.

(Ord. 24201.)

23.02.1070 Stock-in-trade.

Even though visible from a public right-of-way, stock-in-trade which is stocked in the ordinary course of business on any parcel shall not be con-

sidered a sign unless it is located indoors within twelve inches of a window and is visible from a public right-of-way.

(Ord. 24201.)

23.02.1080 Planned development permits.

As part of any planned development permit, the director may allow signage which conforms to signage allowed under this Code in any zoning district or in a special sign zone, subject to design approval as specified in Section 23.02.890.

(Ord. 24201.)

23.02.1090 Historic signs.

- A. Attached sign. The director may approve the reconstruction and/or erection of historic signs not otherwise allowed under this code upon any building or other structure based upon a finding by the director that the relocation preserves an important historic resource and that the relocation of the historic sign is consistent with the Secretary of the Interior standards. Such historic sign shall not reduce the otherwise allowed signage area for the receiving site.
- B. Detached sign. The director may approve the relocation of an historic sign that is listed as an historic resource on city's historic resources inventory or is a contributing feature to a building or structure listed as an historic resource on city's historic resources inventory, but not attached to an historic structure and not otherwise allowed under this code, either on the site of the historic structure or to another site in a manner that preserves the historic sign. Such sign shall not reduce the otherwise allowed signage area for the receiving site.

(Ords. 24201, 28144, 29097.)

23.02.1100 Barber poles.

Because of their historical and cultural value to the community, barber poles located at barber shops or similar establishments shall not be considered signs under this title and shall not be regulated by this title.

(Ord. 24201.)

§ 23.02.1110

SAN JOSÉ CODE

23.02.1110 Signage at service stations.

- A. Service stations have unique requirements for signage. The quantity of signs and types of signs at a service station shall be subject to design approval by the director, as limited by Subsections B., C. and D. below.
- B. The total amount of all signage for the parcel shall not exceed:
 - 1. In the downtown sign zone, one square foot for each linear foot of street frontage.
 - 2. In all other areas, the maximum signage allowed on the parcel.
- C. Required signs as described in Section 23.02.1030 shall not reduce the signage allowed by Subsection B. Signs required by California Business and Professions Code section 13531, as amended, may be programmable electronic signs that comply with the provisions of this title, including Section 23.02.905, that are designed as a component of an allowed free-standing sign.
- D. Unless otherwise expressly prohibited in this title, lightbox signs shall be allowed.
(Ords. 24201, 29153, 29223.)

23.02.1120 Portable signs at vehicle parking lots.

- A. Operators of off-street parking facilities may display up to two portable safety or directional signs per lot entrance during hours of business operation. The director may authorize additional safety or directional signs per entrance if necessary for direction of vehicular traffic.
- B. Each such sign:
 - 1. Shall not exceed nine square feet in sign area for each sign face.
 - 2. Shall be clearly legible to parking lot vehicular traffic; letters shall be at least four inches in height.
 - 3. Shall be located so as not to block or interfere with pedestrian or vehicular traffic.

- 4. Shall be displayed only on the parking lot property and shall not be located in the public right-of-way.

(Ords. 24201, 24757, 27375.)

23.02.1130 Reserved.

Editor's note—Section 23.02.1130, pertaining to Master Sign Program, was repealed by Ordinance 29324, passed October 22, 2013.

23.02.1140 Placement of temporary signs.

Unless expressly otherwise allowed in this title, temporary signs allowed by this title may only be displayed where a permanent sign would be allowed to be displayed under this title.

(Ord. 24201.)

23.02.1150 Signs on unimproved parcels.

- A. Permanent signs shall not be displayed on unimproved parcels.
- B. Temporary signs allowed in the zoning district or special sign zone where the parcel is located may be displayed on unimproved parcels.
- C. Temporary signs displayed on unimproved parcels:
 - 1. Shall conform to all requirements for temporary signs in the zoning district or special sign zone where the parcel is located.
 - 2. Shall conform to all placement requirements for permanent signs in the zoning district or special sign zone where the parcel is located.

(Ord. 24201.)

23.02.1160 Corner triangles and driveway triangles.

- A. Subject to subsection B. below, freestanding signs located within a corner triangle or driveway triangle shall not exceed three feet in height.
- B. The director may allow a height greater than three feet for such signs upon a finding that safety is not impaired.

(Ord. 24201.)

GENERAL PROVISIONS

§ 23.02.1200

23.02.1170 Banner signs.

Unless otherwise expressly provided in this title, banner signs shall be allowed. A banner sign shall be a flat-mounted sign, a projecting sign or a freestanding sign, depending upon method of attachment, and shall conform to all regulations for flat-mounted, projecting or freestanding signs, as appropriate.

(Ord. 24201.)

23.02.1180 Other applicable laws.

Nothing in this title shall be deemed or construed to permit the erection or maintenance of a sign in violation of any other applicable provision of this municipal code, other applicable ordinance of the city, or any applicable statute or regulation of the state of California or of the United States.

(Ords. 24201, 26282.)

23.02.1190 Message substitution.

A. A protected non-commercial message of any type may be substituted, in whole or in part, for the message displayed on any sign which is already legal or legal nonconforming without consideration of message content. Such substitution of message may be made without any additional approval or permitting, provided that the message substitution makes no changes to the physical structure of the sign. The purpose of this provision is to prevent any inadvertent favoring of commercial speech over protected non-commercial speech, or favoring of any particular protected non-commercial speech over any other protected non-commercial speech. Message substitution is a continuing right and may be exercised any number of times, in whole or in part. Message substitution applies only to speech which is within the protection of the First Amendment to the U.S. Constitution and corresponding provisions of the California Constitution.

- B. This message substitution provision does not:
1. Create a right to increase the total amount of signage on a parcel, lot or land use, beyond that otherwise allowed; or

2. Affect the requirement that a sign structure or mounting device be properly permitted, when any permit requirement applies; or
3. Allow a change in the physical structure of a sign or its mounting device; or
4. Authorize the substitution of off-site commercial speech in place of an on-site commercial speech or in place of a non-commercial message.

(Ords. 24201, 29529.)

Part 3**LEGAL NONCONFORMING SIGNS****Sections:**

23.02.1200 Legal nonconforming signs.

23.02.1210 Skyline signs in downtown sign zone.

23.02.1220 Capitol Expressway Auto Mall Signage Area and Stevens Creek Boulevard Signage Area.

23.02.1200 Legal nonconforming signs.

- A. A legal nonconforming sign is a sign which does not conform to each and every applicable provision of this title but was:
1. Lawfully in existence and in use in the city prior to and at the time the provisions of this title with which it does not conform became effective; or
 2. Lawfully in existence and in use on property outside the city at the time of annexation of such property to the city.
- B. Except as provided in subsections C., D. and E. below, no person shall replace, alter, relocate or expand in any way, no matter how minor, any legal nonconforming sign, including its supporting structure, unless such action is in accordance with a permit or permit adjustment issued pursuant to this title and the resulting sign is fully in conformance with the provisions of this title.

§ 23.02.1200

SAN JOSÉ CODE

- C. Subsection B. above does not and shall not be construed to prohibit any maintenance of a legal nonconforming sign that is necessary for public safety and/or required by this title.
- D. 1. Although the resulting sign will not be in conformance in all respects with the provisions of this title, a sign permit adjustment may be issued to allow replacement, alteration or relocation on the same parcel of a legal nonconforming sign provided that:
- The resulting sign is no larger in square footage than the original legal nonconforming sign;
 - The resulting sign has received design approval from the director; and
 - The director has determined that the resulting sign will reduce visual clutter or visual blight.
2. The resulting sign shall be a legal nonconforming sign.
- E. 1. Changing only the message on a legal nonconforming sign shall not be considered an alteration of the sign requiring a permit. However, any design change to the message surface of the sign including, but not limited to, illumination or color changes, shall be considered an alteration of the sign and shall require a sign permit adjustment.
2. The review of a permit application for design changes to a legal nonconforming sign shall be limited to consideration of the proposed design changes.
3. The resulting sign shall be a legal nonconforming sign.
- F. A legal nonconforming sign may not be reestablished:
- Except in the case of any sign that is a historic sign as provided in Section 23.02.1090:
 - If the building or parcel where the sign is displayed has been vacant for six continuous months or more; or
 - If the sign has displayed no message for six continuous months or more; or
 - After damage or destruction where the repair or restoration of the sign and supporting structure will cost more than fifty percent of the cost to replace the sign and supporting structure in its entirety.
- G. The owner of any property where a legal nonconforming sign is located which may not be reestablished pursuant to subsection F. above shall remove the sign and its supporting structure, or any remaining portion thereof, from the property.
(Ord. 24201.)

23.02.1210 Skyline signs in downtown sign zone.

- A. Notwithstanding Section 23.02.1200.D. above, a sign permit may be issued to allow the enlargement of a legal nonconforming skyline sign on buildings taller than seventy-five feet in height in the downtown sign zone provided that:
- On any building one hundred fifty feet or more in height, up to two hundred feet in height, the total amount of square footage of sign area for all skyline signs shall not exceed five hundred fifty square feet per building, and any one skyline sign shall not exceed three hundred seventy-five square feet in sign area.
 - On any building more than seventy-five feet and less than one hundred fifty feet in height, the total amount of square footage of sign area for all skyline signs shall not exceed two hundred seventy-five square feet per building, and any one skyline sign shall not exceed one hundred eighty-five square feet in sign area.
- B. Legal nonconforming skyline signs in the downtown sign zone located on buildings taller than seventy-five feet in height shall not reduce otherwise allowable signage for the building.

GENERAL PROVISIONS

§ 23.02.1310

- C. Any skyline sign enlarged pursuant to this section shall comply with all other provisions of this part.

(Ord. 24645.)

23.02.1220 Capitol Expressway Auto Mall Signage Area and Stevens Creek Boulevard Signage Area.

Any legal nonconforming sign located on a parcel within the Capitol Expressway Auto Mall Signage Area or the Stevens Creek Boulevard Signage Area, which signage areas are described in Section 23.04.010 of this title, shall be brought into conformance with the applicable provisions of this title prior to the erection or placement of any other sign on that parcel that comports with the signage allowed under the Capitol Expressway Auto Mall Signage Area regulations or the Stevens Creek Boulevard Signage Area regulations, whichever regulations apply to the particular site; provided, however, that such signs are not required to be brought into conformance with the signage regulations applicable to commercial and industrial zoning districts generally.

(Ords. 26942, 28569.)

Part 4

PERMITS AND PROCEDURES

Sections:

- 23.02.1300 Permit required.**
- 23.02.1310 Exemption from permit.**
- 23.02.1320 Applications for permit.**
- 23.02.1325 Permit for public benefit gateway signs.**
- 23.02.1327 Permit for interim temporary sign; findings.**
- 23.02.1330 Issuance of permit.**
- 23.02.1340 Findings for permit.**
- 23.02.1350 Investigation fee for signs erected without a permit.**
- 23.02.1360 Appeals.**
- 23.02.1370 Sign variances.**

23.02.1300 Permit required.

- A. No person shall erect or alter, or cause to be erected or altered, any sign except pursuant to a development permit issued in accordance with Chapter 20.100 or pursuant to approval in accordance with Section 23.02.1300.C. below, unless exempted from such requirement by Section 23.02.1310.
- B. A sign may be approved in conjunction with any development permit issued pursuant to Chapter 20.100. No separate application required by the requirements of this title shall apply.
- C. Signs not approved in conjunction with a development permit issued pursuant to Chapter 20.100, and the alteration of existing signs may be approved by:
 1. An adjustment to a development permit pursuant to Section 20.100.500; or
 2. An amendment to a development permit issued pursuant to Chapter 20.100; or
 3. A sign permit or sign permit adjustment issued pursuant to Section 23.02.1330; or
 4. A historic preservation permit or historic preservation permit adjustment issued pursuant to Chapter 13.48 when the sign, or the site on which the sign is located, is designated on the City of San José's Historic Resources Inventory pursuant to Chapter 13.48 of Title 13 of this Code as a city landmark structure and/or the sign is located on a site that is within a city landmark historic district.
- D. No permit shall be required for changing the message within an existing sign.
(Ords. 24201, 28282.)

23.02.1310 Exemption from permit.

- A. The following Signs shall comply with all other requirements of this Title but are exempted from the permit requirements of Section 23.02.1300, unless otherwise expressly required elsewhere:
 1. Temporary Signs.

§ 23.02.1310

SAN JOSÉ CODE

2. Safety or Directional Signs of four (4) square feet or less that are not Programmable Electronic Signs.
 3. Safety or Directional Signs regardless of size if erected by a public entity or public utility.
 4. Election Signs.
 5. Window Signs.
 6. U.S. Flags; any other Flags displayed on flagpoles erected in conformance with all applicable laws.
 7. Required Signs as described in Section 23.02.1030.
 8. Signage for residential uses where there are four (4) or fewer residential occupancy units on the parcel.
 9. Signs allowed on outdoor vending facilities under Section 20.80.870 of Part 10 of Chapter 20.80 of Title 20 of this Code.
 10. Signs allowed on recycling facilities by Sections 20.80.1130.B.5. and C.11. of Part 13 of Chapter 20.80 of Title 20 of this Code.
 11. Signs allowed on temporary trailers by Section 20.80.1740.6. of Part 18 of Chapter 20.80 of Title 20 of this Code.
- B. Signs erected by the City are exempt from permit requirements but shall comply with all other requirements of this Title, provided, however that signs erected on City owned land pursuant to Council Policy 6-4, shall comply with Council Policy 6-4, in lieu of the requirements of this Title.

(Ords. 24201, 29223, 30162.)

23.02.1320 Applications for permit.

- A. An application for a sign permit or sign permit adjustment must be filed on a form provided by the director.
- B. Each application shall be accompanied by the fee as set forth in the schedule of fees adopted by resolution of the city council.

- C. In addition to the completed application form and fee, the applicant shall submit the following information:

1. Plans, drawn to scale with dimensions, including the following:
 - a. Details indicating proposed sign area, dimensions, colors, materials, graphic illustration and methods of illumination and attachment.
 - b. A site plan indicating the location of all existing and proposed signs.
 - c. Building elevations with the proposed sign depicted.
 - d. Photographs of the proposed sign location and the existing signs.
 - e. Any other information deemed necessary by the director for review of the proposal.
2. An application for, or verification of, environmental clearance for the project in accordance with Title 21 of this Code.

(Ord. 24201.)

23.02.1325 Permit for public benefit gateway signs.

- A. An application for a permit for a public benefit gateway sign may be filed in accordance with Section 23.04.1010.
- B. All requirements of this title shall apply to permits for public benefit gateway signs except as otherwise specified in Part 10 of Chapter 23.04.
- C. In addition to other requirements in this part with regard to a permit, the permit application for a public benefit gateway sign shall include detailed information about the proposed sign which demonstrates that the sign constitutes a public benefit gateway sign in accordance with Part 10 of Chapter 23.04.
- D. Notwithstanding Section 23.02.1300.D., a public benefit gateway sign is limited in message to identification of the traditional name of an established business area.

(Ord. 25032.)

GENERAL PROVISIONS

§ 23.02.1360

23.02.1327 Permit for interim temporary sign; findings.

- A. An application for an interim temporary sign that does not meet the provisions of this title applicable to temporary signs that do not require a permit may be filed in accordance with the provisions of this part when the applicant has filed a permit application for an attached sign in accordance with the provisions of this part and that attached sign is anticipated to replace the interim temporary sign.
- B. The director may grant an interim temporary sign permit pursuant to the provisions of this part only if the director finds that all of the following conditions are met:
 - 1. The permit for the attached sign associated with the proposed interim temporary sign has been granted;
 - 2. The location and design of the proposed interim temporary sign do not create any safety hazard; and
 - 3. The proposed interim temporary sign complies with all of the requirements of this section and all of the location and size requirements of this title applicable to the attached sign with which it is associated.
- C. Any interim temporary sign that is granted a permit pursuant to this section shall meet all of the following criteria:
 - 1. The proposed interim temporary sign will be placed in the same location and will be of the same or smaller size and appearance as the permitted attached sign with which it is associated; and
 - 2. The proposed interim temporary sign will not be erected or maintained for a period of time in excess of ninety consecutive days.

(Ord. 26187.)

23.02.1330 Issuance of permit.

- A. Upon receipt of a completed application, the director shall review the application and approve, conditionally approve or deny the sign permit or sign permit adjustment.

- B. The director's decision is an administrative determination and does not require a hearing or notice.
- C. Except as provided in Section 23.02.1360 below, the decision of the director shall be final. (Ord. 24201.)

23.02.1340 Findings for permit.

The director may grant a sign permit or sign permit adjustment only after:

- A. Finding that the proposed sign complies with the requirements of this title.
- B. Finding that the location and design of the proposed sign do not create any safety hazard.
- C. Finding that the proposed sign is consistent with the intent of this title based upon the following factors:
 - 1. Location, material, color and scale;
 - 2. Compatibility with architectural and landscape features; and
 - 3. Compatibility with signs on the same parcel and on adjoining parcels.

(Ord. 24201.)

23.02.1350 Investigation fee for signs erected without a permit.

- A. Whenever any sign for which a permit is required is erected without first obtaining such permit, a special investigation shall be made before a permit may be issued for such sign.
- B. An investigation fee, in addition to the permit fee, shall be collected whether or not a permit is then or subsequently issued. The investigation fee shall be set forth in the schedule of fees adopted by resolution of the city council. The payment of such investigation fee shall not exempt any person from compliance with all other provisions of this title nor from any penalty prescribed by law.

(Ord. 24201.)

23.02.1360 Appeals.

- A. Permit adjustments are not subject to appeal. However, an applicant may file an application

§ 23.02.1360

SAN JOSÉ CODE

for a development permit or an amendment to a development permit pursuant to Chapter 20.100 of Title 20 of this Code.

- B. A decision of the director rendered pursuant to an application for a development permit or an amendment to a development permit may be appealed pursuant to Part 2 of Chapter 20.100 and Section 20.100.490 of Title 20 of this Code.
 - C. Unless expressly provided elsewhere in this Code, no appeal is available from a decision of the director except as provided in subsection B. above.
- (Ord. 24201.)

23.02.1370 Sign variances.

- A. Nothing herein shall preclude an applicant from requesting a variance from the provisions of this title.
- B. The director, and the planning commission on appeal from a decision of the director, may, but shall not under any circumstances be required to, grant variances from the provisions of this title.
- C. Such variances shall be referred to as sign variances and may be granted only pursuant to and in accordance with the procedure set forth in Chapter 20.100, Part 11 of Title 20, except that the findings required for issuance of a sign variance shall be as set forth in this section.
- D. Neither the director nor the planning commission on appeal shall grant a sign variance unless it is found that:
 - 1. Special circumstances uniquely applicable to the subject property deprive such property of the ability to display signs enjoyed by other property in the vicinity of the subject property and in the same zoning district or special sign zone or signage area. Such special circumstances shall include without limitation the size, shape, location or surroundings of the subject property, and the orientation of the buildings thereon, but shall expressly exclude any consideration of:
 - a. The personal circumstances of the applicant for variance; or
 - b. Any changes in the size or shape of the subject property made by the owner of the property and/or the applicant for variance, or made or occurring while the subject property was situated in the zoning district where it is now located, regardless of whether such changes were caused by the requirements and regulations of this Code; and
 - 2. The sign variance, subject to such conditions as may be imposed thereon by the director or the commission:
 - a. Will not impair the utility or value of adjacent properties or the general welfare of the neighborhood;
 - b. Will not impair the integrity and character of the zoning district or special sign zone in which the subject property is located;
 - c. Will not materially add to visual clutter; and
 - d. Will not create visual blight.
- E. With regard to freestanding signs, if a sign variance is issued granting a variance from a height or setback requirement, it shall not be necessary to also secure a development variance therefor.
- F. With regard to attached signs:
 - 1. A sign variance shall not be construed to allow a variance from any of the provisions of Chapters 20.20 through 20.60 of Title 20, and nothing contained in this section shall be construed as authorizing the issuance of sign variances effecting variances from such provisions; and
 - 2. It shall be necessary to secure a development variance in order to obtain a variance from any of such provisions.

SIGN REGULATIONS

- G. With regard to signs on historic buildings:
1. Because the ability of historic buildings to display signs is uniquely limited by virtue of the need to protect the structure's historical significance, a sign variance will allow flexibility in the placement of signs on historic buildings that are listed or eligible to be listed on the historic resources inventory of the city pursuant to Chapter 13.48 of Title 13 of this Code.
 2. Notwithstanding the provisions of Subsection D. of this section, neither the director nor the planning commission on appeal shall grant a sign variance for signs on historic buildings listed or eligible to be listed on the historic resources inventory of the city pursuant to Chapter 13.48 of Title 13 of this Code, unless it is found that the sign variance, subject to such conditions as may be imposed thereon by the director or the commission:
 - a. Will not impair the integrity and character of the historic building;
 - b. Will not impair the utility or value of adjacent properties or the general welfare of the neighborhood;
 - c. Will not impair the integrity and character of the zoning district or special sign zone in which the subject property is located;
 - d. Will not materially add to visual clutter; and
 - e. Will not create visual blight.

(Ords. 24201, 27375, 29223, 29324.)

Chapter 23.04

SIGN REGULATIONS

Parts:

- 1 **CO, CP, CN, CG, PQP, CIC, TEC, IP, LI, and HI Commercial and Industrial Zoning Districts, Neighborhood Business**

Districts, Capitol Expressway Auto Mall Signage Area, Stevens Creek Boulevard Signage Area, Oakridge/Blossom Hill Urban Village Signage Area, and North San José Signage Area

- 2 **Downtown Sign Zone**
- 2.5 **Urban Mixed-Use Development Area Sign Zone**
- 3 **Airport Sign Zone**
- 4 **OS, A, R-1-RR, R-1-1, R-1-2, R-1-5, R-1-8, R-2, R-M, R-MH, Open Space, Agricultural, and Residential Zoning Districts**
- 5 **Billboard Relocation**
- 6 **Rotating Message Billboards**
- 7 **Temporary Signs**
- 8 **Election Signs**
- 9 **Public Right-of-Way Signs**
- 10 **Public Benefit Gateway Signs**

Part 1

CO, CP, CN, CG, PQP, CIC, TEC, IP, LI, AND HI COMMERCIAL AND INDUSTRIAL ZONING DISTRICTS, NEIGHBORHOOD BUSINESS DISTRICTS, CAPITOL EXPRESSWAY AUTO MALL SIGNAGE AREA, STEVENS CREEK BOULEVARD SIGNAGE AREA, OAKRIDGE/BLOSSOM HILL URBAN VILLAGE SIGNAGE AREA, AND NORTH SAN JOSÉ SIGNAGE AREA

Sections:

- 23.04.010 **Application.**
- 23.04.020 **Attached signs.**
- 23.04.030 **Freestanding signs.**
- 23.04.032 **Large outdoor stadium spaces.**
- 23.04.035 **Freeway signs.**
- 23.04.036 **Business Center Signs.**
- 23.04.038 **Supergraphic signs.**
- 23.04.040 **Illumination.**

23.04.010 Application.

- A. In addition to the provisions set forth in Chapter 23.02, this part shall govern standards for signage for all nonresidential uses in the CO, CP, CN, CG, and PQP commercial zoning districts; the CIC, TEC, IP, LI, and HI industrial zoning districts; the neighborhood business districts; the Capitol Expressway Auto Mall signage area; the Stevens Creek Boulevard signage area; the Oakridge/Blossom Hill Urban Village signage area; and the North San José signage area.
- B. Signage for residential uses shall be governed by Part 4 of this chapter, subject to the provisions of Section 23.02.1000 regarding mixed uses.
- C. Standards for temporary signs shall be governed by Parts 7 and 8 of this chapter.
- D. Legal nonconforming signs located within the Capitol Expressway Auto Mall signage area shall be governed by Section 23.02.1220 of Part 3 of Chapter 23.02 of this title.
- E. For purposes of this title, "neighborhood business district" shall mean any area so designated in the city general plan.
- F. For purposes of this title, "Capitol Expressway Auto Mall signage area" shall mean that certain area encompassing those real property parcels adjacent to and fronting along Capitol Expressway within the city between Almaden Expressway and the private parcel boundary immediately adjacent to and to the west of State Highway 87 on the south side of Capitol Expressway and between the Guadalupe River and approximately one thousand three hundred feet east of the centerline of Pearl Avenue on the north side of Capitol Expressway.
- G. For purposes of this title, "Stevens Creek Boulevard signage area" shall mean that certain area encompassing those real property parcels adjacent to and fronting along Stevens Creek Boulevard within the city between Winchester Boulevard and the City of San José limit line located approximate eight hundred fifty feet east of State Route 280 and those real proper-

ties located entirely within the area bounded by Stevens Creek Boulevard, Kiely Avenue and Saratoga Avenue.

- H. For purposes of this title, "Oakridge/Blossom Hill Urban Village signage area" shall mean that certain area encompassing those real property parcels adjacent to and fronting along Blossom Hill Road and immediately adjacent parcels that are part of a contiguous shopping center functioning as a single unit fronting on Blossom Hill Road within the city and located within an urban village boundary area as indicated on the city general plan land use/transportation diagram and between Blossom River Drive and Thornwood Drive/Briar Ridge Drive.
 - I. For purposes of this title, "North San José signage area" shall mean that certain area addressed in the North San José area development policy as defined in the city's general plan.
 - J. For purposes of this chapter, where more than one parcel is subject to a single development permit issued pursuant to Chapter 20.100 of Title 20 of this Code, the term "parcel" as used in this chapter shall mean the entire site that is covered by that single development permit.
- (Ords. 24201, 26942, 27375, 28569, 29013, 29223, 29558.)

23.04.020 Attached signs.

- A. Quantity.
 - 1. No more than one attached sign shall be permitted for each separate ground-level occupancy frontage, except that:
 - a. Any ground-level occupancy with more than one occupancy frontage may have one attached sign on each occupancy frontage, not to exceed four frontages.
 - b. Any ground-level occupancy exceeding twenty thousand square feet but not exceeding fifty thousand square feet may have up to three attached signs on one of its occupancy front-

SIGN REGULATIONS

§ 23.04.020

- ages; any ground-level occupancy exceeding fifty thousand square feet may have up to five attached signs on one of its occupancy frontages.
- c. Any building with a building footprint greater than one hundred thousand square feet which has interior tenant spaces with no occupancy frontages may have up to five addi-

SIGN REGULATIONS

§ 23.04.020

- tional signs in addition to those set forth in Subsections a. and b. above.
- d. A building with a building footprint of at least three hundred thousand square feet which has interior tenant spaces with no occupancy frontages and which is located in a shopping center site with a total building floor area of at least five hundred thousand square feet and that is not within a special sign zone as set forth in Section 23.02.860, may have up to eight additional signs in addition to those set forth in Subsections a. and b. above.
 - e. Parcels located entirely within the Capitol Expressway Auto Mall Signage Area may have an unlimited number of attached signs; provided, however, that the attached signs shall otherwise meet all of the other size, height and setback requirements of this section, including, without limitation, that the aggregate sign area of all attached signs shall not exceed the size limitations set forth in this section.
 - f. A large assembly space may have up to two programmable electronic signs and those signs may be placed on the same occupancy frontage as set forth in Subsection E. below.
 - g. Any building with a single tenant ground level occupancy in a building footprint of at least one hundred thousand square feet which is located in a shopping center site that is at least twenty-five acres in size, has a general plan land use designation of regional commercial and is not situated within a special sign zone may have up to sixteen attached signs in addition to those allowed under Subsection a. above. Where attached signs are allowed under this Subsection g., all attached signs, including attached signs allowed under Subsection a. above shall be subject to the following regulations:
 - i. The number of attached signs shall not exceed seven attached signs per occupancy frontage for up to three occupancy frontages.
 - ii. The number of attached signs shall not exceed a total of nineteen attached signs on the total of the three occupancy frontages listed in Subsection 23.04.020.A.1.g.i. above.
 - iii. Additional signs shall only be under this Subsection g. in lieu of the attached signs allowed under Subsections b. through d. above.
2. One attached sign shall be allowed for each second-story occupancy frontage with direct exterior access to the ground from the second story.
 3. Each second-story retail tenant space with at least sixty-five thousand square feet of contiguous retail space within a building having a building footprint of at least three hundred thousand square feet and interior tenant spaces with no occupancy frontages, which building is located in a shopping center site with a total building floor area of at least five hundred thousand square feet and that is not within a special sign zone as set forth in Section 23.02.860, shall be allowed to have up to one attached sign per occupancy frontage not to exceed two occupancy frontages.
 4. A maximum of four canopy signs shall be allowed on a service station canopy with a maximum of two canopy signs allowed on any side of the service station canopy.

B. Size.

1. The aggregate sign area of all attached signs on a ground-level occupancy frontage shall not exceed one square foot for each linear foot of such occupancy frontage, except that:

a. For an individual retail tenant with a minimum of twenty thousand square feet of contiguous, occupied retail space with at least ten thousand square feet of ground-level occupancy frontage, the aggregate allowed sign area may be calculated based upon a combination of the area allowed for the ground-level occupancy frontage plus the second floor occupancy frontage, all to a maximum of three hundred square feet per occupancy frontage.

b. The aggregate sign area of the additional attached signs allowed pursuant to Subsection 23.04.020.A.1.c. shall be no greater than two hundred square feet per building and no single such sign shall exceed eighty square feet in sign area.

c. The aggregate sign area of the additional attached sign allowed pursuant to Subsection 23.04.020.A.1.d. shall be no greater than three hundred twenty square feet per building and no single such sign shall exceed eighty square feet in sign area.

d. Where signs are allowed pursuant to Subsection 23.04.020.A.1.g, the following size limits shall apply to all attached signs, including attached signs allowed under Subsection 23.04.020.A.1.a. above:

i. The aggregate sign area of all attached signs shall not exceed one and three-quarters square feet for each one linear foot of occupancy frontage; and

ii. The maximum sign area of all attached signs on an occupancy frontage shall not exceed one thousand square feet; and

iii. The maximum sign area of any one attached sign shall not exceed three hundred eighty square feet; and

iv. Size limitations shall apply to all attached signs, including pre-existing attached signs.

2. Second- or third-story attached sign(s) shall be limited to one-half the first-floor sign area allowances, except:

a. For an individual retail tenant with a minimum of twenty thousand square feet of contiguous, occupied retail space with at least ten thousand square feet of ground-level occupancy frontage, the second- or third-story attached sign(s) shall be limited to one square foot for each linear foot of occupancy frontage on the second floor.

b. For a second-story retail tenant space as described in Subsection 23.04.020.A.3. above, the sign area of such sign shall not exceed one square foot for each two linear feet of occupancy frontage on the second floor. The maximum sign area of any one such sign shall not exceed one hundred twenty square feet. The maximum sign area of all such signs combined shall not exceed two hundred square feet.

3. The sum of the sign area of the attached signs on any building frontage shall not exceed one square foot for each linear foot of building frontage, except as allowed in Subsections 23.04.020.B.1. and 23.04.020.B.2.b. above.

4. On a service station canopy, signage shall not exceed the following square footages:

a. One of the canopy signs shall have an aggregate sign area that does not

SIGN REGULATIONS

§ 23.04.020

exceed one square foot for each linear foot of the length of the side of the canopy on which the sign is placed, and the length of that canopy sign shall not exceed a maximum of forty percent of the length of that canopy side. The larger canopy sign shall be one contiguous sign.

- b. The remaining canopy signs shall not exceed the following square footages:
 - i. For signs approved prior to November 9, 2012, the maximum square footage allowed for each remaining canopy sign shall be six and one-half square feet per sign; and
 - ii. For signs approved on or after November 9, 2012, the maximum square footage allowed for each remaining canopy sign shall be four square feet per sign.
 5. The signage allowed for lightbox signs at service stations shall be limited to twenty percent of the surface area of the lightbox up to a maximum of eight square feet.
 6. All signage at service stations shall conform to Section 23.02.1110.
- C. Height.
1. Subject to the provisions of Subsection C.2. and Subsections C.4. through C.7. hereinbelow, no attached sign shall be displayed higher than the finished floor elevation of the fourth floor of a building.
 2. For buildings less than eighty feet in height, no attached sign shall be displayed higher than the finished floor elevation of the building's third floor when that building has a skyline sign pursuant to other provisions of this part.
 3. In neighborhood business districts for buildings constructed prior to May 1,

1992, upward extensions of building facades that are sloped from the vertical plane at an angle no greater than sixty degrees shall be treated as extensions of the wall of the building and not as roofs for purposes of signage regulation. A sign placed on such an upward extension may not extend in height to within six inches of the highest point of the upward extension. Only permanent signs may be placed on such upward extensions.

4. An attached programmable electronic sign shall not be displayed higher than thirty feet from grade for small assembly spaces.
5. An attached programmable electronic sign shall not be more than fifty feet above grade for large assembly spaces.
6. A service station canopy sign shall not exceed two and one-half feet in height.
7. For buildings located in an employment growth area as designated in the general plan's planned growth areas diagram, attached signs (except for permitted skyline signs) shall be displayed no higher than the finished floor elevation of the building's ninth floor when such building and the attached sign meets all of the following criteria:
 - a. The building has a total building floor area of one hundred thousand square feet or greater; and
 - b. The building is one hundred feet or greater in height above grade; and
 - c. The highest point of the attached sign shall be at least thirty feet lower in height than the lowest point of any skyline or roof sign permitted pursuant to other provisions of this part.

D. Setbacks.

1. Signs facing an abutting residential parcel shall be at least thirty feet from the property line of such residential parcel, unless it includes a programmable elec-

- tronic sign, in which case the sign shall be at least one hundred fifty feet from the property line of such residential parcel.
2. Signs facing an abutting nonresidential parcel shall be at least ten feet from the property line of such nonresidential parcel, unless the abutting nonresidential parcel contains a parking lot or driveway at its nearest point to the sign, in which case, no setback is required.
- E. Programmable electronic sign.
1. The attached sign allowed for a small assembly in accordance with Section 23.04.020.A. above may have a programmable electronic sign not to exceed seventy-five percent of the allowable sign area. No more than one sign (attached or detached) shall be a programmable electronic sign.
 2. The attached sign allowed for a large assembly space in accordance with Section 23.04.020.A. above may have a programmable electronic sign not to exceed seventy-five percent of the allowable sign area.
 3. Safety or directional signs for public parking garages.
 - a. A safety or directional sign that is an attached sign with a programmable electronic sign component is allowed subject to and so long as the sign fully meets the criteria set forth below in this Subsection 23.04.020.E., and such sign shall not reduce otherwise allowable signage for a public parking garage:
 - i. The programmable electronic sign component of the sign shall be integrated with the allowed attached sign; and
 - ii. The programmable electronic sign component of the sign shall not be greater than ten square feet in sign area.
- b. A safety or directional sign that is a free-standing sign with a programmable electronic sign component is allowed subject to and so long as the sign fully meets the criteria set forth below in this Subsection 23.04.020.E., and such sign shall not reduce otherwise allowable signage for a public parking garage or for the parcel, as parcel is defined in Section 23.04.010, on which such sign is located:
- i. A maximum of three such signs are allowed per parcel, as parcel is defined in Section 23.04.010; and
 - ii. Each such sign shall be no more than ten square feet in sign area.
4. Operation of a programmable electronic sign shall conform to the provisions of Section 23.02.905.
- F. Additional allowed signage.
1. The following additional signs shall be allowed and shall not reduce the types and quantity of signage that are otherwise allowed under this title.
 - a. Fin signs.
 - i. Fin signs shall be allowed that:
 1. Do not exceed twenty square feet in sign area per side;
 2. Project no more than four feet from the wall to which a fin sign is attached;
 3. Are located at least seven feet but not more than twenty feet above grade; and
 4. Are not illuminated or are illuminated by external or neon tube lighting.

SIGN REGULATIONS

§ 23.04.020

- ii. Each ground-level occupancy frontage may have one such fin sign.
- iii. Exception.
 - 1. In neighborhood business districts, fin signs may project more than three feet from the wall to which they are attached.
- b. Awning signs.
 - i. A maximum of two awning signs of no greater than ten square feet in sign area may be placed upon each discrete surface of an awning.
 - ii. Awning signs shall be located at least seven feet but not more than twelve feet above grade.
 - iii. Awning signs shall not be illuminated.
 - iv. Awning signs shall maintain a minimum three-inch clearance from the edge of the discrete surface of the awning on which the sign is placed.
- c. Window signs.
 - i. Window signs consistent with Section 23.02.1060 of this title are allowed.
 - ii. Window signs shall not be allowed above the first floor, except as follows:
 - 1. Window signs may be displayed by second-story occupancy frontages with no separate ground-level frontage.
 - 2. In neighborhood business districts, window signs may be displayed on first- and second-story occupancy frontages.
- d. Arcade signs.
 - i. Arcade signs shall be allowed [provided] that:
 - 1. Do not exceed ten square feet in area per side; and
 - 2. Are located at least seven feet above grade.
 - ii. Each ground-level occupancy frontage may display one such sign.
- e. Vertical projecting signs are allowed when all of the following criteria are met.
 - i. The sign does not exceed twenty square feet in sign area; and
 - ii. The building to which the sign is attached is at least fifty feet in height; and
 - iii. The sign shall be located at least fifteen feet above grade; and
 - iv. The sign shall project no more than six feet from the building surface to which the sign is attached; and
 - v. The sign may project above the cornice or parapet of a building to which it is attached for a distance no greater than ten feet; and
 - vi. Each building occupancy frontage may display no more than one such sign.
- f. Public parking garage signs.
 - i. Notwithstanding any other provisions of this title, one public parking garage sign per street frontage shall be allowed on any building containing a garage with two hundred or more parking spaces that are open and available for parking to the general public.

- ii. Such a public parking garage sign shall meet all of the following criteria:
 1. Shall be flat-mounted and limited to a maximum of one hundred square feet in sign area; and
 2. Shall be located at least thirty feet but no higher than seventy feet above grade and shall not project above the cornice or parapet of the building.
- g. Entryway signs.
 - i. Entryway signs are allowed on a building that has a building footprint of at least three hundred thousand square feet, and has interior tenant spaces with no occupancy frontages, and is located within a shopping center site that has a total building floor area of five hundred thousand square feet and that is not located within a special sign zone as set forth in Section 23.02.860. There are two types of entryway signs - primary entryway signs and secondary entryway signs.
 - ii. Primary entryway sign. A primary entryway sign is a sign located above a primary publicly-used entrance to the building and subject to the criteria below:
 1. A building shall have no more than two primary entryway signs.
 2. Each primary entryway sign shall be located above a public entryway and shall be no more than twenty feet in height above grade.
- 3. Each primary entryway sign shall not exceed five square feet for each linear foot of public entryway width, to a maximum square footage of one hundred eighty square feet.
- 4. A public entryway shall have no more than one entryway sign located above it.
- iii. Secondary entryway sign. A secondary entryway sign is a sign located above a primary or secondary publicly-used entrance to the building and subject to the criteria below:
 1. One secondary entryway sign is allowed over each public entryway, except that a secondary entryway sign shall not be placed above a public entryway with a primary entryway sign; and
 2. Each secondary entryway sign shall not exceed three square feet for each linear foot of public entryway width, to a maximum square footage of eighty square feet.
 3. Each secondary entryway sign shall be located above a public entryway and shall be no more than twenty feet in height above grade.
 4. A public entryway shall have no more than one entryway sign located above it.

SIGN REGULATIONS

§ 23.04.020

- h. Shopping center corner signs. Shopping center corner signs are allowed on corner buildings subject to all of the following criteria.
- i. Notwithstanding the provisions of Subsection 23.02.1300.C., a shopping center corner sign shall require approval of a development permit.
 - ii. A maximum of two shopping center corner signs are allowed on a corner building, with no more than one shopping center corner sign on a single building facade.
 - iii. The sign area for each shopping center corner sign shall not exceed one and one-half square feet for each linear foot of occupancy frontage and shall not exceed two hundred square feet per sign. For purposes of determining the sign area only that portion of the occupancy frontage located within two hundred fifty feet of the intersection of two public streets as specified in Section 23.02.125 shall be included in calculating the size of the occupancy frontage.
 - iv. The top of each shopping center corner sign shall be located no higher than twice the height of the corner building, up to a maximum height of fifty feet above grade, and further shall not project above the top of the cornice of the corner building if the sign is on a cornice, above the top of the parapet of the corner building if the sign is on a parapet, or more than twenty feet in height from the top of the roof plane of the corner building if the sign is not on a cornice or parapet. For a corner building with a sloped roof, the "top of the roof plane" as used herein means the midpoint of the slope of a pitched, gable or hip roof.
 - v. Each shopping center corner sign shall be integrated with the architecture of the corner building on which it is located to form a cohesive design and shall not have visible support structures such as poles that project the shopping center corner sign from the roof or walls of the building.
 - vi. The shopping center corner sign shall not be a programmable electronic sign.
 - vii. There shall not be both a skyline sign and a shopping center corner sign on the same corner building.
- G. Marquees.
1. The maximum sign area of marquees and the maximum amount of other signage on an occupancy frontage with a marquee shall be subject to design approval and shall not be subject to other size and quantity restrictions in this part.
 2. Exception. Marquees shall not be allowed in the CO commercial district or in the IP, LI, and HI industrial districts.
- H. Skyline signs; roof signs.
1. General provisions and applicability.
 - a. Non-residential buildings may have skyline signs on buildings less than eighty feet in height, and skyline or roof signs on buildings eighty feet or greater in height citywide.
 - b. Unless otherwise specified in Section 23.01.020.H.b., the skyline sign

- area for non-residential buildings less than eighty feet in height shall not exceed five hundred square feet total per building and any one such skyline sign shall not be larger than half of the ground floor sign allowance up to two hundred fifty square feet.
- c. Unless otherwise specified in Section 23.01.020.H.b., the skyline sign or roof sign area for non-residential buildings greater than eighty feet in height shall not exceed five hundred square feet total per building and any one such skyline sign or roof sign shall not be larger than two hundred fifty square feet.
 - d. Non-garage uses on the top floor of parking garages may have skyline signs.
 - e. Illuminated skyline or roof signs located on buildings within one thousand feet of a river or creek shall not directly face that river or creek.
 - f. Each skyline sign or roof sign shall be designed as an integral part of the building design and placed on a permanent architectural element which has been designed to accommodate it.
 - g. Skyline signs and roof signs may be illuminated with external lighting; halolighting; and internal lighting if only the letters or symbols are illuminated. Such signs shall be illuminated only with continuous lighting except that gradual color changes shall be allowed if there is no perception of flashing lights created.
 - h. Skyline signs and roof signs on buildings eighty feet or greater in height above grade shall not reduce otherwise allowable signage for the building.
2. Dimensions.
 - a. In the area bounded by State Highway 87, US 101 and Interstate 880:
 - i. The total amount of square footage of sign area for all skyline signs or roof signs on buildings eighty feet or greater in height above grade shall not exceed five hundred square feet per building and any one such skyline sign or roof sign shall not be larger than two hundred fifty square feet.
 - ii. The total amount of square footage of sign area for skyline signs for non-garage uses on the top floor of parking garages shall not exceed five hundred square feet per building and any one such skyline sign shall not be larger than two hundred fifty square feet.
 - b. In the area of the city north of US 101 and west of Interstate Highway 880:
 - i. The total amount of square footage of sign area for all skyline signs on buildings less than eighty feet in height shall be limited in size to an area equal to one-half of the first floor sign area allowances, except that the total amount of square footage of sign area for all skyline signs on buildings:
 1. Of less than eighty feet in height above grade, and
 2. With a building frontage on a public street of less than one hundred fifty linear feet,

SIGN REGULATIONS

§ 23.04.030

- shall not exceed one square foot for each linear foot of occupancy frontage, notwithstanding the provisions of Sections 23.040.020.B. and 23.04.020.H.1.h.
- ii. The total amount of square footage of sign area for all skyline signs or roof signs on buildings eighty feet or greater in height above grade shall not exceed five hundred square feet per building and any one such skyline sign or roof sign shall not be larger than two hundred fifty square feet.
 - iii. The total amount of square footage of sign area for skyline signs for non-garage uses on the top floor of parking garages shall not exceed five hundred square feet per building and any one such skyline sign shall not be larger than two hundred fifty square feet.
- c. In the area located in the Edenvale Industrial Redevelopment Area:
- i. The total amount of square footage of sign area for all skyline signs on buildings less than eighty feet shall be limited in size to an area equal to one-half of the first floor sign area allowances.
 - ii. The total amount of square footage of sign area for all skyline signs or roof signs on buildings eighty feet or greater in height above grade shall not exceed five hundred square feet per building and any one such skyline sign or roof sign shall not be larger than two hundred fifty square feet.
 - iii. The total amount of square footage of sign area for skyline signs for non-garage uses on the top floor of parking garages shall not exceed five hundred square feet per building and any one such skyline sign shall not be larger than two hundred fifty square feet.
3. Quantity. A total of either two skyline signs or two roof signs are allowed per building; provided, however, that in the Edenvale Industrial Redevelopment Area a combination of skyline and roof signs are allowed not to exceed two signs in the aggregate per building.
 4. There shall not be both a skyline sign and a roof sign on the same building or on connected buildings, subject to the provisions of Subsection 23.04.020.H.3. above.
- (Ords. 24201, 25458, 26014, 26187, 26597, 26709, 26762, 26942, 27018, 27034, 27375, 27910, 28022, 29013, 29097, 29153, 29223, 29246, 29324, 29380, 29843.)
- 23.04.030 Freestanding signs.**
- A. Quantity.
1. One freestanding sign shall be allowed on a parcel for each street frontage of the parcel which measures one hundred linear feet or more in length.
 2. Exceptions.
 - a. Capitol Expressway auto mall signage area. Parcels located entirely within the Capitol Expressway auto mall signage area may have one freestanding sign per parcel, plus one additional freestanding sign for each automobile manufacturer sold on that parcel up to a maximum of two such additional freestanding signs, such that the total number of freestanding signs allowed on the parcel shall not exceed a total maximum of three freestanding signs.

§ 23.04.030

SAN JOSÉ CODE

- b. Stevens Creek Boulevard signage area. In addition to the signs allowed in Section 23.04.030A.1., parcels located entirely within the Stevens Creek Boulevard signage area may have:
 - i. One additional freestanding sign for each one hundred linear feet of outdoor retail display frontage of that parcel up to a maximum of two additional freestanding signs, provided that the total number of freestanding signs allowed on any parcel shall not exceed a total maximum of three freestanding signs.
- c. Stevens Creek Boulevard signage area. Only until March 16, 2015, parcels fronting onto the portion of Stevens Creek Boulevard between Henry Avenue and Richfield Drive (excluding parcels with Kiely Boulevard or Saratoga Avenue frontages), that either have a minimum of three hundred linear feet of street frontage along Stevens Creek Boulevard or are at least

SIGN REGULATIONS

§ 23.04.030

- five acres in size, may have one free-standing programmable electronic sign that fully conforms to the following conditions and criteria at all times as part of a temporary pilot program to evaluate the safety and land use impacts of such signs:
- i. The programmable electronic sign is a part of an otherwise permitted free-standing sign and constitutes no more than seventy-five percent of the area of that sign.
 - ii. The maximum area for the programmable electronic sign shall be ninety square feet.
 - iii. The maximum height for the programmable electronic sign shall be the lesser of forty feet or the area of the sign divided by 3.75.
 - vi. Operation of the programmable electronic sign shall conform to the provisions of Section 23.02.905.
 - v. Programmable electronic signs shall be located at a distance of at least one hundred feet from another programmable electronic sign, at least two hundred feet from residentially zoned parcels, and no more than one hundred fifty feet from Stevens Creek Boulevard.
 - vi. Programmable electronic signs shall be located in a manner that the director determines will not adversely interfere with the visibility or functioning of traffic signals and traffic signage, taking into consideration physical elements of the sign and the surrounding area, such as information analyzing physical obstruction issues, line of sight issues, brightness issues and visual obstruction or impairment issues.
 - vii. The programmable electronic signs may display only on-site commercial or noncommercial messages.
- d. Oakridge/Blossom Hill urban village signage area.
- i. Only until March 16, 2015, parcels fronting onto Blossom Hill Road, as described below, may have one free-standing programmable electronic sign that fully conforms to all of the conditions and criteria set forth in this Subsection d. at all times as part of a temporary pilot program to evaluate the safety and land use impacts of such signs:
 1. A parcel fronting onto Blossom Hill Road that has a minimum of three hundred linear feet of street frontage along Blossom Hill Road; or
 2. A parcel fronting onto Blossom Hill Road that is at least five acres in size; or
 3. One or more parcels that are part of a contiguous shopping center functioning as a single unit with a minimum of three hundred linear feet of street frontage along Blossom Hill Road.
 - ii. Only until March 16, 2015, one or more parcels that are part of a contiguous shopping center functioning as a single unit with a minimum of three hundred linear feet of street frontage along Blossom Hill Road and a minimum of three hundred linear feet of street frontage along Santa Teresa Boulevard, and that are a minimum of five acres in size in the aggregate, may have a maximum of one free-standing programmable electronic sign on Blossom Hill Road and one free-standing programmable electronic sign on Santa Teresa Boulevard, provided that those signs fully conform with all of the conditions and criteria set forth in this Subsection d. at all times as part of a temporary pilot program to evaluate the safety and land use impacts of such signs.
 - iii. The programmable electronic sign is a part of an otherwise permitted

§ 23.04.030

SAN JOSE CODE

- free-standing sign and constitutes no more than seventy-five percent of the area of that sign.
- vi. The maximum area for the programmable electronic sign shall be ninety square feet.
 - v. The maximum height for the programmable electronic sign shall be the lesser of forty feet or the area of the sign divided by 3.75.
 - vi. Operation of the programmable electronic sign shall conform to the provisions of Section 23.02.905.
 - vii. Programmable electronic signs shall be located at a distance of at least one hundred feet from another programmable electronic sign on the same street, at least two hundred feet from residentially zoned parcels, and no more than one hundred fifty feet from Blossom Hill Road.
 - viii. Programmable electronic signs shall be located in a manner that the director determines will not adversely interfere with the visibility or functioning of traffic signals and traffic signage, taking into consideration physical elements of the sign and the surrounding area, such as information analyzing physical obstruction issues, line of sight issues, brightness issues and visual obstruction or impairment issues.
 - ix. The programmable electronic sign may display only on-site commercial or noncommercial messages.
 - e. Parcels with more than five hundred linear feet of street frontage along one single public right-of-way and zoned CG General Commercial District, IP Industrial Park District, LI Light Industrial District, HI Heavy Industrial District, or Planned Development (PD) Overlay District (allowing for uses similar to the CG General Commercial District, IP Industrial Park District, LI Light Industrial District, or HI Heavy Industrial District) may have one additional free-standing sign for each four hundred linear feet of street frontage along that particular public right-of-way that is beyond the initial five hundred linear feet of street frontage on that particular public right-of-way, subject to those size limitations set forth in Section 23.04.030B.
3. Architectural sign cluster. Parcels that are fifteen acres or more in size may have, in lieu of a free-standing sign that would otherwise be allowed under this title, an architectural sign cluster that conforms to all of the following criteria:
 - a. The architectural sign cluster does not display more than a total of three separate attached or free-standing signs; and
 - b. All of the signs are integrated with landscape structures on the site to form a single cohesive design unit; and
 - c. No sign in the architectural sign cluster is located more than thirty feet from any other sign in the architectural sign cluster; and
 - d. The total area of all signs within the architectural sign cluster does not exceed the maximum sign area allowed for the free-standing sign that otherwise would have been allowed pursuant to Section 23.04.030B.1.; and
 - e. No sign free-standing or attached sign is displayed at a height greater than twenty feet; and
 - f. All free-standing signs conform to the setback requirements of Section 23.04.030C.1., and all landscape structures conform to the setback requirements of Title 20 of this code.
 - g. Notwithstanding the requirements of Section 23.02.910B.1., if the message surface of a sign in an architectural sign cluster is integral to the surface of a wall or landscape feature, the area of the sign shall consist of the area of the message only and not include the area of the wall or other landscape feature that does not display a message.
 - h. The total number of architectural sign clusters that may be allowed on any one parcel shall not exceed three.

SIGN REGULATIONS

§ 23.04.030

4. For corner parcels, no more than one free-standing sign shall be located within one hundred feet of the corner intersection.

B. Size.

1. The aggregate sign area of all free-standing signs on a parcel shall not exceed a total area equal to one square foot per each five linear feet of street frontage of the parcel, and the aggregate sign area of all free-standing signs along one single public right-of-way shall not exceed a total area equal to one square foot per each five linear feet of street frontage along that one public right-of-way.
2. No free-standing sign shall have an area in excess of one hundred twenty square feet.
3. A free-standing sign shall have a maximum sign area of forty square feet when facing streets with residential uses or zoning districts across the street.
4. Exceptions.
 - a. Capitol Expressway Auto Mall signage area. For parcels located entirely within the Capitol Expressway Auto Mall signage area, one allowed free-standing sign on a parcel shall not exceed a maximum sign area of one hundred twenty square feet, and any remaining allowed free-standing sign on a parcel shall not exceed a maximum sign area of fifty square feet.
 - b. Stevens Creek Boulevard signage area. For parcels located entirely within the Stevens Creek Boulevard signage area:
 - i. The aggregate sign area of all free-standing signs allowed on a parcel pursuant to the provisions of this section shall not exceed a total area equal to three and thirty-five hundredths (3.35) square feet per

each five linear feet of street frontage of the parcel, and the aggregate sign area of all free-standing signs along one single public right-of-way shall not exceed a total area equal to three and thirty-five hundredths (3.35) square feet per each five linear feet of street frontage along that one public right-of-way, except that any free-standing sign allowed for an outdoor retail display frontage shall not exceed a maximum sign area of seventy-five square feet and shall not be included in the calculation of aggregate sign area.

- ii. No free-standing sign shall have an area in excess of one hundred and fifty square feet in any event.

- c. Programmable electronic signs. For all assembly spaces, the sign area of a programmable electronic free-standing signs along one single public right-of-way shall not exceed a total area equal to one square foot per each two and one-half linear feet of street frontage along that one public right-of-way.

C. Height.

1. The maximum height of a free-standing sign shall be the square footage of the sign area divided by four. However, in no event shall the height of any sign exceed twenty feet.
2. Exceptions.
 - a. For parcels located entirely within the Capitol Expressway Auto Mall signage area, the maximum height of one free-standing sign on a parcel shall not exceed twenty-five feet and the maximum height of any

§ 23.04.030

SAN JOSÉ CODE

other allowed free-standing sign on the parcel shall not exceed nine feet.

- b. For parcels located entirely within the Stevens Creek Boulevard signage area, the maximum height of any one free-standing sign on a parcel shall not exceed the square footage of the sign area divided by three and seventy-five hundredths (3.75) and in no event shall the height of the sign exceed forty feet.
- c. The height of a free-standing sign with a programmable electronic sign component shall not be more than fifty feet above grade for large assembly spaces.

D. Setbacks.

1. The required front setback of a free-standing sign on a parcel shall be a minimum of four feet for any sign that is six feet or less in height, six feet for any sign greater than six feet in height but less than ten feet in height, and ten feet for any sign that is ten feet or greater in height.
2. Exceptions.
 - a. For parcels located entirely within the Capitol Expressway Auto Mall signage area, the required front setback of any free-standing sign on the parcel shall be a minimum of four feet.
 - b. For assembly spaces, programmable electronic signs shall be at least one hundred and fifty feet from a residential zoned parcel.
3. Each free-standing sign shall be located at least twenty-five feet from the side and rear property lines of the parcel.

E. Programmable electronic signs.

1. The free-standing sign allowed for a small assembly space in accordance with Section 23.04.030A. above may have a programmable electronic sign component not to exceed seventy-five percent of the al-

lowable sign area. No more than one sign (attached or free-standing) shall include a programmable electronic sign component.

2. The free standing sign allowed for a large assembly space in accordance with Section 23.04.030A. above may have a programmable electronic sign component not to exceed seventy-five percent of the allowable sign area. No more than two sign (attached or free-standing) shall include a programmable electronic sign component.
3. Safety or directional signs for public parking garages.
 - a. A safety or directional sign that is a free-standing sign with a programmable electronic sign component is allowed subject to and so long as the sign fully meets the criteria set forth below in this Section 23.04.030E., and such sign shall not reduce otherwise allowable signage for a public parking garage or for the parcel, as parcel is defined in Section 23.04.010, on which such sign is located:
 - i. A maximum of three such signs are allowed per parcel, as parcel is defined in Section 23.04.010; and
 - ii. Each such sign shall be no more than ten square feet in sign area.
4. Operation of the programmable electronic sign shall conform to the provisions of Section 23.02.905.

F. Other provisions.

1. Sign base. All free-standing signs shall be placed on a base of at least eighteen inches in height that is architecturally consistent with the main building of the parcel and the free-standing sign it supports.

SIGN REGULATIONS

§ 23.04.032

The base shall be constructed of durable materials to reduce the likelihood of unsightly signs and blighted conditions.

2. Landscaping. All free-standing signs shall be located fully within a landscaped area extending from the supporting structure of the sign to a point on all sides that is at least four feet from vertical lines drawn from the outer edges of the sign. For purposes of this provision, "landscaped area" shall mean an area containing live plant material including, but not limited to, ground cover, shrubs, grass and trees.
3. Time and temperature signs.
 - a. Any otherwise allowed free-standing sign may include a time and temperature sign not exceeding fifteen square feet in sign area.
 - b. A time and temperature sign not exceeding fifteen square feet in sign area, excluding any frame, may be located on the primary building on a parcel.
 - c. Any time and temperature sign meeting the requirements of Subsection a. or b. above shall not reduce otherwise allowable signage.

(Ords. 24201, 24331, 24332, 26942, 27034, 27375, 28022, 28569, 28582, 28754, 29013, 29097, 29153, 29223.)

23.04.032 Large outdoor stadium spaces.

A. Allowable signs. In lieu of all other signs that may be allowed under this title, except for parking garage signs allowed under Section 23.04.020.F, a large outdoor stadium space may be permitted to have the following signs displaying on-site commercial speech or commercial speech displayed in accordance with a sponsorship marketing plan:

1. Attached signs.
 - a. Quantity. A large outdoor stadium space may be permitted to have up

to four attached signs with no more than two signs per occupancy frontage.

- b. Size.
 - i. The sign area for each attached sign shall not exceed one and one-half (1.5) square feet for each linear foot of occupancy frontage; and
 - ii. Any one such attached sign shall not exceed five hundred forty square feet in sign area; and
 - iii. The aggregate sign area of all such attached signs shall be no greater than seven hundred fifty square feet per occupancy frontage.
- c. Height.
 - i. No attached sign shall be placed above the finished roofline of the stadium structure.
 - ii. An attached sign may be displayed over, under or on a permanent projecting canopy that is architecturally integrated with the design of the stadium, and subject to the following criteria:
 1. If such attached sign is designed and constructed to be located over a permanent projecting canopy, then such sign shall not project more than seven feet above the structure.
 2. If such attached sign is designed and constructed to be located under a permanent projecting canopy, such sign shall be displayed at least seven feet above grade.

3. Not more than one attached sign shall be placed on the same permanent projecting canopy.
 - d. Setbacks. All attached signs shall conform to setback requirements in accordance with Section 23.04.020.D.
 - e. Other. Attached programmable electronic signs are not allowed.
2. Free-standing signs.
 - a. Quantity. One free-standing sign may be permitted on a parcel for each street frontage of the parcel which measures one hundred linear feet or more in length; provided, however that only two free-standing signs may be permitted per street frontage.
 - b. Size.
 - i. The aggregate sign area of all free-standing signs allowed pursuant to the provisions of this section along one single public right-of-way shall not exceed a total sign area of one and fifteen one-hundredth (1.15) square feet per linear foot of street frontage along that one public right-of-way; and
 - ii. The maximum sign area of any one such free-standing sign shall not exceed one thousand two hundred square feet; and
 - iii. The aggregate sign area of all free-standing signs on a parcel(s) shall not exceed two thousand square feet.
 - c. Height. The height of a free-standing sign shall not exceed the maximum allowable height for the zoning district where the sign is located or a maximum height of sixty feet above grade, whichever is less.
 - d. Sign base.
 - i. All free-standing signs shall have a base of at least eighteen inches in height. The height to the top of the base shall not be more than twenty feet above grade.
 - ii. The base shall be architecturally consistent with the main building of the parcel and the free-standing sign it supports. The base shall be constructed of durable materials to reduce the likelihood of unsightly signs and blighted conditions.
 - iii. Landscaping shall be in accordance with Section 23.04.030.F.
 - iv. Setback, general. Front, side and rear setbacks shall be in accordance with Section 23.04.030.D.1.
 - e. Other. One free-standing sign allowed in accordance with this section may be permitted to have a programmable electronic sign component, subject to all of the following criteria:
 - i. The programmable electronic sign component shall constitute no more than seventy-five percent of the sign area of that free-standing sign up to a maximum of nine hundred square feet; and
 - ii. The free-standing programmable electronic sign shall be set back at least one hundred fifty feet from a residentially zoned parcel.

SIGN REGULATIONS

§ 23.04.032

3. Scoreboard sign.
 - a. Quantity. One scoreboard sign may be permitted for each large outdoor stadium space.
 - b. Size. The aggregate sign area of a scoreboard sign shall not exceed four thousand three hundred fifty square feet.
 - c. Height. The height of the scoreboard sign shall not exceed the height limit in the zoning district in which the sign is located, or a maximum of sixty feet in height above grade, whichever is less.
 - d. Setback. The scoreboard sign shall be set back at least one hundred seventy-five feet from the public right-of-way and shall be set back at least five hundred feet from a residentially zoned parcel.
 - e. Other. A scoreboard sign may have a programmable electronic sign component, subject to all of the following criteria:
 - i. The programmable electronic sign component may be permitted only along the back panel of a scoreboard that faces away from the permanent fixed seating arrangement.
 - ii. The sign area of the programmable component shall not exceed seventy-five percent of the scoreboard sign area up to a maximum of three thousand square feet.
4. Banner signs.
 - a. Quantity.
 - i. A maximum of twenty banner signs may be permitted per parcel.
 - ii. A maximum of two such banner signs may be permitted per free-standing pole.
 - b. Size. The sign area of any such banner shall not exceed thirty square feet.
 - c. Height. The overall height of the pole, including all supporting structures and banner signs, shall not exceed sixty feet in height above grade.
 - d. Setback. Banner signs attached to free-standing poles may be allowed along the plaza or perimeter of the stadium parcel, and may be located at the parcel line.
5. Flat roof-top sign.
 - a. Quantity. A maximum of two flat roof-top signs may be permitted on the stadium structure.
 - b. Size. Each flat roof-top sign shall not exceed a maximum of eight thousand two hundred square feet in sign area.
 - c. Height. The flat roof-top signs shall be installed flat on the roof with no stations to elevate or tilt the signs in either direction.
 - d. Illumination. A flat roof-top sign may be externally or internally illuminated with continuous lighting between the hours of 6:00 a.m. and 12:00 a.m., but shall not be illuminated by any means after 12:00 a.m. and before 6:00 a.m.
- B. Illumination standards.
 1. Large outdoor stadium signs may be illuminated only with continuous external or internal lighting, unless otherwise specifically allowed in this section.
 2. All large outdoor stadium signs that have a programmable electronic sign component shall also conform to the requirements of Section 23.02.905, except that a scoreboard sign with a programmable electronic sign component may be allowed to display animation video between the hours of 6:00 a.m. and 12:00

§ 23.04.032

SAN JOSÉ CODE

a.m., but the display must be changed to a static illumination between 12:01 a.m. and 5:59 a.m.

3. All signs located within the airport influence area or larger than three hundred square feet shall utilize automatic dimming technology as specified in Section 23.02.905.F.
- C. Other provisions - Programmable electronic signs.
1. No more than one sign with a programmable electronic sign component shall be in use except during events that are open to the general public, including sports events, and private events with an attendance of one hundred or more persons.
 2. Where multiple signs with a programmable electronic sign component are visible to motorists, the signs shall be changed at the same refresh rate to limit driver distraction.
- D. Other provisions - General.
1. Notwithstanding the provisions of Section 23.02.1300.C, a development permit, or development permit amendment, shall be required for the following types of large outdoor stadium space signs:
 - a. Programmable electronic signs;
 - b. Flat roof-top signs; and
 - c. Any large outdoor stadium sign larger than three hundred square feet within an airport influence area.
 2. Any application for large outdoor stadium sign shall include the following information in addition to any other information that the director may require: evidence of Federal Aviation Administration (FAA) "no hazard" determination where the sign is subject to Title 49 Code of Federal Regulations Part 77; a lighting study to determine appropriate lighting standards for signs within an airport influence area, signs larger than three hundred square feet and programmable electronic signs; and a copy of a draft sponsorship marketing plan agreement for display of commercial speech pursuant to a sponsorship marketing plan.
- E. Additional provisions - Signage subject to the California Outdoor Advertising Act. To the extent allowed by law, the following additional requirements shall apply to any signage that may be allowable pursuant to this Section 23.04.032, if such signage is also subject to the permitting requirements of the California Outdoor Advertising Act (the "Act"; Business and Professions Code Section 5200):
1. Such signage shall not advertise products, goods or services related to tobacco, firearms, or sexually explicit material.
3. Any permit authorizing a sign located at a large outdoor stadium space shall be subject to the following conditions, in addition to any other conditions which may otherwise be imposed:
 - a. All permits. If notice is received by the city, the permittee or property owner that a large outdoor stadium sign is not in compliance with any law or regulation of the United States or the State of California, the sign shall be removed or modified to eliminate the cited noncompliance within thirty days of the date of such notice.
 - b. Permit for signs within airport influence area. Either a ceilograph machine (a mechanism which tracks cloud bases, measures fog and can be tied into the sign dimming system) shall be provided to activate automatic dimming based on cloud cover or fog level, or a contact person shall be available by telephone at all times and able to respond onsite to activate automatic dimming technology as directed by the airport control tower responsible for air traffic control in the airspace above the airport influence area in which the sign is located.

GENERAL PROVISIONS

§ 23.04.035

2. If such signage is a message center display as defined in the Act, space shall be made available as required by the Act for public service messages.
3. The application for a permit for such signage shall be accompanied by the certification of the California Department of Transportation that the ordinance(s) or proposed ordinance(s) authorizing the proposed signage meet(s) the minimum requirements set forth in the Act.

(Ord. 29529.)

23.04.035 Freeway signs.**A. Quantity.**

1. One freeway sign may be allowed on a parcel located not more than two hundred fifty feet from a freeway travel lane:
 - a. That is a shopping center site of at least fifteen acres in size, or
 - b. That is a parcel located in the North San José signage area that also meets the following criteria:
 - i. Is at least ten acres in size; and
 - ii. Has at least eight hundred linear feet of freeway frontage; and
 - iii. Is developed for research and development as defined in Section 20.200.1000 or office, research and development as defined in Section 20.200.818, and has a zoning and general plan land use designation that supports such uses.

B. Size.

1. No freeway sign shall have a total sign area in excess of five hundred square feet.

C. Height.

1. No freeway sign shall exceed sixty feet in height above surrounding grade.

2. Exception:

- a. The height of a freeway sign may exceed sixty feet above grade if the director determines that all of the following conditions exist:
 - i. The elevation of existing grade immediately adjacent to the freeway sign is more than ten feet below the elevation of a freeway travel lane located no greater than five hundred feet from the freeway sign; and
 - ii. The difference in grade pursuant to Section 23.04.040.C.2 cannot be resolved by moving the sign and that difference in grade obscures visibility of the sign from the freeway; and
 - iii. The height of the freeway sign above surrounding grade does not exceed one hundred feet; and
 - iv. The height of a freeway sign located closer than four hundred feet from any residential dwelling unit does not exceed eighty feet in height above grade; and
 - v. The freeway sign conforms to all other provisions of this title.

D. Location.

1. A freeway sign shall be located as close as possible to the nearest freeway travel lane.
2. A freeway sign that includes a programmable electronic sign shall be located no closer than one hundred fifty feet from any residential dwelling unit.
3. Any location requirements applicable under state or federal law, including but not limited to separation requirements.

E. Other provisions.

1. A freeway sign may include a programmable electronic sign that does not exceed seventy-five percent of the total sign

area and is integrated with the total sign to form a cohesive design unit. In no case shall a programmable electronic sign exceed three hundred seventy-five square feet in area.

2. The illuminated face of any freeway sign shall be oriented towards the freeway and shall be oriented away from nearby residential dwelling units to the maximum extent feasible.
3. Any programmable electronic sign shall conform to the requirements of Section 23.02.905.
4. For the North San José signage area freeway signs allowed in accordance with Section 23.04.035.A above, the following additional regulations shall apply:
 - a. No freeway sign shall be allowed within one hundred feet of the edge of a riparian corridor.
 - b. No freeway sign that is visible from a riparian corridor shall be illuminated between 12:01 a.m. and 5:59 a.m.
 - c. A freeway sign located within the airport influence area:
 - i. Shall utilize automatic dimming technology as specified in Section 23.02.905.F.
 - ii. Any application for a freeway sign shall include the following information in addition to any other information that the director may require: evidence of Federal Aviation Administration (FAA) "no hazard" determination where the sign is subject to Title 49 Code of Federal Regulations Part 77, and a lighting study to determine appropriate lighting standards for signs within an airport influence area.
 - iii. Either a ceilograph machine (a mechanism which tracks

cloud bases, measures fog and can be tied into the sign dimming system) shall be provided to activate automatic dimming based on cloud cover or fog level, or a contact person shall be available by telephone at all times and able to respond on-site to activate automatic dimming technology as directed by the airport control tower.

5. Notwithstanding the provisions of Section 23.02.1300.C, a freeway sign shall require approval of a development permit.
6. Notwithstanding the provisions of Section 23.02.1010.A.9, a freeway sign may face and be visible from a freeway.
7. Sign base:
 - a. All freeway signs shall have a base of at least eighteen inches in height. The height to the top of the base shall not be more than twenty feet above grade.
 - b. The base shall be architecturally consistent with the main building of the parcel and the freeway sign it supports. The base shall be constructed of durable materials to reduce the likelihood of unsightly signs and blighted conditions.
 - c. Landscaping shall be in accordance with Section 23.04.030.F.

(Ords. 28754, 29013, 29153, 29558.)

23.04.036 Business Center Signs.

A. Quantity.

1. One (1) Business Center Sign may be allowed on a Business Center Site located within the North San José Signage Area and not more than three hundred (300) feet from a Freeway Travel Lane, if the Business Center Site also meets the following criteria:
 - a. Is at least six (6) acres in size; and

GENERAL PROVISIONS

§ 23.04.036

- b. Has at least six hundred (600) continuous linear feet of Freeway Frontage or six hundred (600) continuous linear feet of Street Frontage that parallels and is visible to a Freeway Travel Lane; and
 - c. Is developed as a Destination Entertainment Facility and has a Zoning and General Plan Land Use Designation that supports such uses.
2. One (1) Business Center Sign may be allowed on a Business Center Site located within the North San José Signage Area and not more than three hundred (300) feet from a Freeway Travel Lane, if the Business Center Site also meets the following criteria:
- a. Is at least ten (10) acres in size; and
 - b. Has at least six hundred (600) continuous linear feet of Freeway Frontage or six hundred (600) continuous linear feet of Street Frontage that parallels and is visible to a Freeway Travel Lane; and
 - c. Is developed for research and development as defined in Section 20.200.1000 or for office, research, and development as defined in Section 20.200.818 and has a Zoning and General Plan Land Use Designation that supports such uses.
- B. Size. No Business Center Sign shall have a total Sign Area in excess of five hundred (500) square feet.
- C. Height.
- 1. No Business Center Sign shall exceed sixty (60) feet in height above surrounding Grade.
 - 2. Exception:
 - a. The height of a Business Center Sign may exceed sixty (60) feet above Grade if the Director determines that all of the following conditions exist:
 - i. The elevation of existing Grade immediately adjacent to the Business Center Sign is more than ten (10) feet below the elevation of a Freeway Travel Lane located no greater than five hundred (500) feet from the Business Center Sign; and
 - ii. The difference in Grade pursuant to Section 23.04.036.C.2 cannot be resolved by moving the Business Center Sign and that difference in Grade obscures visibility of the Business Center Sign from the Freeway; and
 - iii. The height of the Business Center Sign above Grade does not exceed one hundred (100) feet; and
 - iv. The height of a Business Center Sign located within four hundred (400) feet from any residential dwelling unit does not exceed eighty (80) feet in height above Grade; and
 - v. The Business Center Sign conforms to all other provisions of this Title.
- D. Location.
- 1. A Business Center Sign shall be located as close as possible to the nearest Freeway Travel Lane.
 - 2. A Business Center Sign that includes a Programmable Electronic Sign shall be located no closer than one hundred fifty (150) feet from any residential dwelling unit.
 - 3. A Business Center Sign shall conform to any location requirements applicable under State or federal law, including but not limited to requirements related to separation between signs.
- E. Other Provisions.
- 1. A Business Center Sign may include a Programmable Electronic Sign that does not exceed seventy-five percent (75%) of

§ 23.04.036

SAN JOSÉ CODE

- the total Sign Area and is integrated with the total Sign to form a cohesive design unit. In no case shall a Programmable Electronic Sign exceed three hundred and seventy-five (375) square feet in area.
2. The illuminated face of any Business Center Sign shall be oriented towards the Freeway and shall be oriented away from nearby residential dwelling units to the maximum extent feasible.
 3. Any Programmable Electronic Sign shall conform to the requirements of Section 23.02.905.
 4. No Business Center Sign shall be allowed within one hundred (100) feet of the edge of a Riparian Corridor.
 5. No Business Center Sign that is visible from a Riparian Corridor shall be illuminated between 12:01 a.m. and 5:59 a.m.
 6. A Business Center Sign located within the Airport Influence Area:
 - a. Shall utilize automatic dimming technology as specified in Section 23.02.905.F.
 - b. Any application for a Business Center Sign shall include the following information in addition to any other information that the Director may require: evidence of Federal Aviation Administration (FAA) "no hazard" determination where the Sign is subject to Title 49 Code of Federal Regulations Part 77, and a lighting study to determine appropriate lighting standards for Signs within an Airport Influence Area.
 - c. Either a ceilograph machine (a mechanism which tracks cloud bases, measures fog and can be tied into the Sign dimming system) shall be provided to activate automatic dimming based on cloud cover or fog level, or a contact person shall be available by telephone at all times and able to respond onsite to activate automatic dimming technology as directed by the airport control tower.
 7. Notwithstanding the provisions of Section 23.02.1300.C, a Business Center Sign shall require approval of a development permit.
 8. Notwithstanding the provisions of Section 23.02.1010.A.9, a Business Center Sign may face and be visible from a Freeway.
 9. Sign Base:
 - a. All Business Center Signs that are Freestanding Monument Signs shall have a base of at least eighteen (18) inches in height. The height of the base measured from Grade to the top of the base shall not be more than twenty (20) feet above Grade.
 - b. The base shall be architecturally consistent with the main building of the Parcel and the Business Center Sign it supports. The base shall be constructed of durable materials to reduce the likelihood of unsightly Signs and blighted conditions.
 - c. Landscaping surrounding the Business Center Sign shall be in accordance with Section 23.04.030.F.
 10. A Business Center Sign shall display the name of the Business Center, if named.
 11. Placement of the Business Center Sign must result in the consolidation of Signs within the Business Center Site, such that fewer Signs will be displayed on the Site than would otherwise be allowed.

(Ord. 30189.)

23.04.038 Supergraphic signs.

- A. One supergraphic sign may be allowed on a building that has no residential use and a building height, as defined in Section 17.82.210 of this Code, of at least one hundred feet or on a parking garage with three or more parking levels above grade, subject to the following:
 1. No supergraphic sign shall cover any portion of a window or door; and

SIGN REGULATIONS

§ 23.04.040

2. Any supergraphic sign shall be displayed for no more than one hundred twenty consecutive days and no more than one hundred twenty days in a calendar year.
 - B. One supergraphic sign may be allowed on a building with no residential use and a building height of at least one hundred twenty-five feet in connection with no more than forty large events per calendar year, subject to all of the following:
 1. A supergraphic sign shall be displayed only during a large event and for a period of fourteen additional days before and/or after the large event but no more than a total of fourteen days plus the period of the large event, shall be promptly removed at the end of the large event plus fourteen-day period, and no building shall be allowed to display a supergraphic sign under this Subsection B. for more than thirty days total in a calendar year.
 2. No supergraphic sign shall cover any portion of a window or door that is located less than seventy-five feet above grade.
 - C. All supergraphic signs shall conform to all of the following:
 1. No supergraphic sign shall be located on a historic landmark building;
 2. A supergraphic sign shall be located on no more than one building facade and the sign area shall not exceed the area of the building facade on which it is located, except that such sign may be located on two building facades provided the total sign area is not greater than would otherwise be allowed on the larger of the two building facades;
 3. A supergraphic sign may consist of non-contiguous segments;
 4. No supergraphic sign shall be externally illuminated;
 5. No supergraphic sign shall be a roof sign;
 6. A supergraphic sign shall comply with all life safety requirements, including but not limited to all requirements of Titles 17 and 24 of this Code;
 7. A supergraphic sign shall be maintained in good condition at all times and the sign surface shall be free of dirt, rips and tears;
 8. A supergraphic sign shall not reduce otherwise allowable sign area for a building or parcel;
 9. A supergraphic sign shall be in conformance with any requirements applicable under state or federal law or regulations including but not limited to height, separation, or other location requirements;
 10. A supergraphic sign authorized by Subsection A. shall not be displayed on a building concurrent with the display of a supergraphic sign authorized by Subsection B;
 11. In lieu of the requirements of Section 23.02.960, supergraphic signs are encouraged to have a translucent background, but may have an opaque background.
 - D. Notwithstanding the provisions of Section 23.02.1300.C. of this Code, a supergraphic sign shall require approval of a development permit.
 - E. This Section 23.04.038 shall expire and be of no force or effect on or after January 1, 2020, unless otherwise extended, shortened, or revised by the city council.
(Ord. 29850.)
- 23.04.040 Illumination.**
- A. Unless otherwise expressly provided herein, signs may be illuminated only with continuous lighting.
 - B. Signs may be illuminated with:
 1. Neon tube lighting.
 2. External lighting.
 3. Internal lighting.
 4. Halolighting.
 - C. Lighting of programmable electronic signs shall conform to the requirements of Section 23.02.905.
(Ords. 24201, 27034, 28754.)

Part 2

DOWNTOWN SIGN ZONE

Sections:

23.04.100 Application.**23.04.110 Amount of signage.****23.04.120 Types of signs.****23.04.124 Supergraphic signs.****23.04.130 Illumination.****23.04.100 Application.**

- A. This part shall govern standards for signage for all nonresidential uses in the downtown sign zone.
- B. The standards for signage for wholly residential uses within the downtown sign zone and for uses located in the OS Open Space or A Agricultural zoning district or in a residentially zoned district within the downtown sign zone shall be governed by Part 4 of this chapter.
- C. Standards for temporary signs shall be governed by Parts 7 and 8 of this chapter.
- D. For purposes of this title, "downtown sign zone" shall mean the downtown growth area as defined in the planned growth areas diagram of the general plan.
- E. For purposes of this title, "San Pedro Square signage area" shall mean that certain area encompassing those real property parcels located entirely within the area bounded by West Santa Clara Street, North San Pedro Street, West Saint John Street and Almaden Avenue. (Ords. 24201, 27375, 28754, 29097, 29223.)

23.04.110 Amount of signage.

- A. Except as provided in Subsection B. below:
 1. The aggregate sign area of all signs on an occupancy frontage shall not exceed two and five-tenths square feet for each linear foot of occupancy frontage.
 2. Except as otherwise specifically allowed in this part, the maximum sign area for

any one sign shall not exceed one and five-tenths square feet for each linear foot of occupancy frontage where the sign is displayed except that in the San Pedro Square signage area the maximum area for any one sign on a single-story building shall be two and twenty-five hundredths (2.25) square feet for each linear foot of building frontage where the sign is displayed.

3. Signs may be displayed on more than one occupancy frontage, subject to the maximum amount of signage allowed for each occupancy frontage.
- B. Instead of the signage amount permitted by Subsection A. above, an applicant, at applicant's option, may select any of the following methods, as applicable, for determining maximum amount of signage:
 1. Maximum signage for a parcel may be based on street frontage instead of occupancy frontage. In such case, the total amount of signage on each street frontage shall not exceed one square foot for each linear foot of street frontage.
 2. For an occupancy frontage including a marquee, maximum sign area of the marquee, maximum amount of other signage on the occupancy frontage and placement of signs may be determined by the director, subject to design approval.
 3. For a single building with a footprint of one hundred twenty-five thousand square feet or more, maximum signage may be determined as follows:
 - a. A building with a footprint of one hundred twenty-five thousand square feet or more but less than one hundred seventy-five thousand square feet may have one programmable electronic sign plus other signage as allowed in Subsection c. below.
 - b. A building with a footprint of one hundred seventy-five thousand

SIGN REGULATIONS

§ 23.04.120

square feet or more may have up to two programmable electronic signs plus other signage as allowed in Subsection c. below.

- c. The total signage for the building, including programmable electronic sign(s) and other signage, shall not exceed seventy-five percent of the signage allowance computed as in Section 23.04.110A. above; however, the signage allowance computed as in Section 23.04.110A. above for all occupancy frontages of such building may be aggregated for the purpose of determining the maximum allowable size of the programmable electronic sign(s).

C. Inflatable signs expressly allowed under Section 23.04.120Q. below shall not reduce the allowable signage permitted under Sections 23.04.110A. and 23.04.110B.

D. Small assembly spaces may have as part of allowed signage one programmable electronic sign; and large assembly spaces may have as part of allowed signage up to two programmable electronic signs, all as described in Section 23.04.120J.4. below.

(Ords. 24201, 27864, 28754, 29097.)

23.04.120 Types of signs.

A. Any combination of signs.

1. Signage allowed by Section 23.04.110 may consist of any combination of allowed freestanding signs, flat-mounted signs, projecting signs, awning signs, banners, inflatable or balloon signs, arcade signs, programmable electronic signs for assembly spaces, skyline signs and roof signs. Segmented signs are allowed.
2. Each occupancy frontage may also display window signs, temporary signs, safety or directional signs, and any other signs expressly authorized by this code.

B. Freestanding signs.

1. Except as provided in this subsection, freestanding signs shall not exceed eight feet in height above grade.
2. Freestanding signs that are less than six feet wide may be up to twenty-five feet in height above grade.
3. The height of construction signs shall be as set forth in Section 23.04.610B.6.
4. Freestanding roof signs in accordance with Subsection G below and freestanding programmable electronic signs in accordance with Subsection J below shall not be subject to the foregoing height restrictions.

C. Flat-mounted signs.

1. Flat-mounted signs (except for permitted skyline signs, flat roof-top signs and banner signs) shall be displayed no higher than thirty feet above grade, except as otherwise specifically allowed in this section and in Section 23.04.120J.4. for assembly spaces.
2. Flat-mounted signs on buildings located within two hundred feet of the travel lane of a freeway may be located at a height of up to sixty feet above grade. Such signs may orient towards a freeway regardless of whether there is an intervening street.
3. Flat-mounted signs on buildings containing wholly non-residential uses and which buildings are one hundred forty feet or greater in height above grade may be located up to a height of sixty feet above grade.
4. Flat-mounted signs (except for permitted skyline signs, flat roof-top signs and banner signs) shall be displayed no higher than eighty feet above grade when the building meets all of the following criteria:
 - a. The building is eighty feet or greater in height above grade; and

§ 23.04.120

SAN JOSÉ CODE

- b. The building has a building footprint of one hundred fifty thousand square feet or greater.
- 5. Flat-mounted signs shall not project more than two inches from the face of the building, except for:
 - a. Flat-mounted signs consisting of individual letters or letters attached to raceways; or
 - b. Flat roof-top signs that may project no more than sixty inches from the face of the roof.
- D. Vertical projecting signs, fin signs and arcade signs.
 - 1. Vertical projecting signs:
 - a. Shall be located at least twenty feet but no higher than seventy feet above grade, except that any vertical projecting sign with a total area that is one hundred square feet or less shall be located fifteen or more feet above grade; and
 - b. Shall project no more than five feet six inches from the building surface to which the sign is attached; and
 - c. May project above the cornice or parapet of a building a distance no greater than ten feet.
 - 2. Fin signs.
 - a. Shall be located at least eight feet but no higher than thirty feet above grade, except that in the San Pedro Square signage area a fin sign on a single-story building may be located no higher than forty feet above grade;
 - b. Shall project no more than seven feet six inches from the building surface to which the sign is attached; and
 - c. May project above the cornice or parapet of a building a distance no greater than the vertical dimension of the sign divided by four, except that a fin sign located in the San Pedro Square signage area on a single-story building may project above the cornice or parapet a distance greater than the vertical dimension of the sign divided by four.
- 3. Arcade signs.
 - a. Shall be located at least eight feet above grade.
- E. Awning signs; porte-cochere signs.
 - 1. Awning signs shall be located no higher than thirty feet above grade.
 - 2. Signage on awnings shall be limited to twenty-five percent of the exterior surface area of the awning.
 - 3. Signage on porte-cocheres shall be allowed only on vertical surfaces of the porte-cochere and shall be limited to twenty-five percent of the exterior surface area of the vertical surfaces of the porte-cochere.
- F. Banner signs.
 - 1. Freestanding banners shall comply with the provisions of Section 23.04.120B. above.
 - 2. Projecting banners shall comply with the provisions of Section 23.04.120D. above.
 - 3. Flat-mounted banners:
 - a. Shall not exceed twenty feet in width; and
 - b. Shall be located no higher than fifty feet above grade, provided that banners located higher than thirty feet above grade shall be mounted within building recesses or portals.
 - 4. Notwithstanding any provision of this chapter to the contrary, buildings with a footprint of seventy-five thousand square feet or greater may erect banners only in compliance with all of the following criteria:
 - a. A total maximum of five banners shall be allowed at any time;
 - b. One banner may be up to a maximum of one thousand two hundred square feet in total sign area and

SIGN REGULATIONS

§ 23.04.120

any and all remaining banners may be up to a maximum of six hundred square feet in total sign area; and

- c. All banners shall be placed no higher than eighty feet above finished grade; and
- d. All banners shall contain and display noncommercial messages only.

G. Skyline signs; roof signs.

1. Applicability.

- a. Buildings one hundred forty feet or greater in height above grade may have either skyline signs or roof signs; and
- b. Buildings greater than eighty feet and less than one hundred forty feet in height above grade may have skyline signs; and
- c. Non-garage uses on the top floor of parking garages may have skyline signs; and
- d. Buildings that are no more than one story in height and located within the San Pedro Square signage area may have one roof sign.

2. Dimensions.

- a. The total amount of square footage of sign area for all skyline signs or roof signs on buildings two hundred twenty-five feet or greater in height above grade shall not exceed two thousand square feet per building. Any one such skyline sign or roof sign shall not be larger than one thousand square feet.
- b. The total amount of square footage of sign area for all skyline signs or roof signs on buildings one hundred ninety feet or greater in height above grade and less than two hundred twenty-five feet in height above grade shall not exceed one thousand four hundred square feet per

building. Any one such skyline sign or roof sign shall not be larger than seven hundred square feet.

- c. The total amount of square footage of sign area for all skyline signs or roof signs on buildings one hundred forty feet or greater in height above grade and less than one hundred ninety feet in height above grade shall not exceed one thousand one hundred square feet per building. Any one such skyline sign or roof sign shall not be larger than five hundred fifty square feet.
- d. The total amount of square footage of sign area for all skyline signs on buildings greater than eighty feet and less than one hundred forty feet in height above grade shall not exceed five hundred square feet per building. Any one such skyline sign shall not be larger than two hundred fifty square feet.
- e. The total amount of square footage of sign area for skyline signs for non-garage uses on the top floor of parking garages shall not exceed seven hundred fifty square feet per building. Any one such skyline sign shall not be larger than five hundred square feet.
- f. Notwithstanding the provisions of Section 23.04.110A.2., the total amount of square footage of sign area for a roof sign on a building that is no more than one story in height and located in the San Pedro Square signage area shall not exceed two and twenty-five hundredths (2.25) square feet for each linear foot of building frontage. Such roof sign shall not extend more than ten feet above the cornice or parapet of a building.

3. Each skyline sign or roof sign shall be designed as an integral part of the building design and placed on a permanent architectural element which has been designed to accommodate it.
 4. There shall not be both a skyline sign and a roof sign on the same building or on connected buildings.
 5. Skyline signs and roof signs may be illuminated with external lighting; halolighting; and internal lighting if only the letters or symbols are illuminated. Such signs shall be illuminated only with continuous lighting, except that gradual color changes shall be allowed if there is no perception of flashing lights created.
 6. Skyline signs and roof signs on buildings greater than eighty feet in height above grade shall not reduce otherwise allowable signage for the building or parcel.
 7. Unless otherwise set forth in this section, a total of two skyline or roof signs are allowed per building.
- H. Window signs. Window signs consistent with Section 23.02.1060 of this title shall be allowed on first- and second-story windows.
- I. Marquees.
1. Marquees are allowed for theatres and movie houses and on buildings containing marquees that historically were theatres or movie houses.
 2. A marquee, including any vertical projection, is a single sign and an architectural element. The vertical projection of a marquee may project above the cornice line of a building.
 3. Marquees may be animated signs or have animated sections.
 4. Marquee signage shall not be subject to the size and placement limitations elsewhere in this part, but instead shall be subject to the provisions of Section 23.04.110B.2.
- J. Programmable electronic signs.
1. For a single building with a footprint of at least one hundred twenty-five thousand square feet, a maximum of two, attached programmable electronic signs are allowed, subject to the approval of the director, whose approval shall be issued when the sign or signs meet all of the following criteria:
 - a. The sign(s) shall be located no higher than twelve feet from grade unless the director finds that a greater height achieves a pedestrian-level orientation; and
 - b. The sign(s) shall not reduce or obscure glazing; and
 - c. Each sign does not exceed a maximum size of eighteen square feet in sign area; and
 - d. No sign is displayed on the exterior of that portion of a building containing residential uses.
 2. For a building with one or more single ground-floor occupancy frontages of at least one hundred linear feet, a maximum of one attached programmable electronic sign is allowed per single ground-floor occupancy frontage, or one attached sign for any ground floor occupancy with a total frontage of at least one hundred fifty feet on two streets, subject to approval of the director, whose approval shall be issued when the sign meets all of the following criteria:
 - a. The sign shall be mounted to the building and located no higher than twenty-five feet above grade; and
 - b. The sign shall not reduce or obscure glazing; and
 - c. The sign shall not exceed a maximum size of thirty-five square feet in sign area and shall not exceed seventy five percent of the total sign area; and

SIGN REGULATIONS

§ 23.04.120

- d. The sign shall not be mounted on the exterior of or illuminate that portion of a building facade or wall containing residential living units on the other side.
3. Programmable electronic kiosk signs. Programmable electronic kiosk signs are allowed subject to the following criteria and conditions:
 - a. The total sign area on kiosks shall not exceed eighteen square feet per kiosk face in the aggregate, and no programmable electronic kiosk sign shall be located higher than eight feet in height above grade.
 - b. Programmable electronic kiosk signs may be animated and/or may be illuminated with continuous external or internal lighting.
 - c. Programmable electronic kiosk signs shall not be displayed on kiosks located within two hundred feet of another kiosk displaying a programmable display kiosk sign.
 - d. A minimum width of unobstructed sidewalk clearance of four feet shall be maintained around a kiosk for pedestrian traffic.
 4. Assembly spaces.
 - a. An attached or freestanding sign allowed for a small assembly space in accordance with Section 23.04.120 may have a programmable electronic sign component not to exceed seventy-five percent of the allowable sign area. No more than one sign (attached or freestanding) shall include a programmable electronic sign.
 - i. The maximum height for a freestanding programmable electronic sign shall be twenty-five feet above grade.
 - ii. The maximum height for an attached programmable electronic sign shall be thirty feet from grade.
 - b. An attached or freestanding sign allowed for a large assembly space in accordance with Section 23.04.120 may have a programmable electronic sign component not to exceed seventy-five percent of the allowable sign area.
 - i. The maximum height for a freestanding or attached programmable electronic sign shall be fifty feet from grade.
 - c. Other criteria.
 - i. The maximum area for a programmable electronic sign component shall be limited to fifty square feet if the sign is located one hundred feet from a residentially zoned parcel and to two hundred and fifty square feet for signs set back more than one hundred feet from a residentially zoned parcel.
 5. Safety or directional signs for public parking garages.
 - a. A safety or directional sign that is an attached sign with a programmable electronic sign component is allowed, subject to and so long as the sign fully meets the criteria set forth below in this Section 23.04.120J.5., and such sign shall not reduce otherwise allowable signage for a public parking garage:
 - i. The programmable electronic sign component of the sign shall be integrated with the allowed attached sign; and
 - ii. The programmable electronic sign component of the sign shall not be greater than ten square feet in sign area.

- b. A safety or directional sign that is a freestanding sign with a programmable electronic sign component is allowed subject to and so long as the sign fully meets the criteria set forth below in this Section 23.04.020J., and such sign shall not reduce otherwise allowable signage for a public parking garage or for the parcel, as parcel is defined in Section 23.04.010, on which such sign is located:
 - i. A maximum of three such signs are allowed per parcel, as parcel is defined in Section 23.04.010; and
 - ii. Each such sign shall be no more than ten square feet in sign area.
- 6. All programmable electronic signs and all programmable display kiosk signs shall conform to the provisions and requirements of Section 23.02.905 of this title.
- K. Reserved.
- L. Lightbox signs for service stations.
 - 1. Lightbox signs at service stations shall not exceed twenty percent of the surface area of the lightbox up to a maximum of eight square feet.
 - 2. Signage at service stations shall conform to Section 23.02.1110.
- M. Architectural signs.
 - 1. The total amount of architectural signs allowed on any one building shall not exceed a total maximum area of two hundred square feet per building, in the aggregate.
 - 2. Each architectural sign shall be limited in area to a maximum of thirty-two square feet, except that one architectural sign of up to one hundred square feet in area may be located on one building frontage, all subject to the total maximum area allowed under Subsection 23.04.120M.1. above.
- 3. Architectural signs may be allowed on the exterior of that portion of a building containing residential uses.
- N. Public parking garage signs.
 - 1. Notwithstanding any other provisions of this code, one public parking garage sign per street frontage shall be allowed on any building containing a garage with two hundred or more parking spaces that are open and available for parking to the general public.
 - 2. Such sign:
 - a. Shall be flat-mounted.
 - b. Shall be a maximum of one hundred square feet in sign area.
 - c. Shall be located at least thirty feet but no higher than seventy feet above grade and shall not project above the cornice or parapet of the building.
 - 3. Such sign shall not reduce otherwise allowable signage for the parcel or building.
- O. Freeway or highway off-ramp signs.
 - 1. Subject to the provisions of Section 23.02.1180, a building greater than eighty feet in height above grade located on a parcel of real property that is directly adjacent to a freeway off-ramp or highway off-ramp may have only the following skyline or roof signs:
 - a. A maximum of two skyline or roof signs that conform to all of the applicable requirements set forth in Section 23.04.120G.; or
 - b. A maximum of one skyline or roof sign that conforms to all of the applicable requirements set forth in Section 23.04.120G. and one flat-mounted sign that meets all of the following criteria:
 - i. The size of the sign shall not exceed a maximum of one hundred square feet in sign area;

SIGN REGULATIONS

§ 23.04.120

- ii. The sign shall be mounted to the building with an orientation that is perpendicular to, and is not directly facing, the centerline of the freeway or highway off-ramp; and
- iii. The sign shall not be visible from the main freeway or highway to which the off ramp is attached.

P. Flat roof-top signs.

- 1. Buildings with a footprint of one hundred fifty thousand square feet or greater may install a maximum of two flat roof-top signs that meet all of the following criteria:
 - a. Each flat roof-top shall not exceed a maximum of sixteen thousand square feet in sign area, and the total sign area of two flat roof-top signs shall not exceed a maximum of thirty-two thousand square feet; and
 - b. A flat roof-top sign may be externally or internally illuminated with continuous lighting between the hours of 7:00 a.m. and 12:00 a.m., but shall not be illuminated by any means after 12:00 a.m. and before 7:00 a.m.; and
 - c. Any illumination of a flat roof-top sign shall fully conform with the city's lighting policies, unless an exception is granted therefor or applicable thereto; and
 - d. Any illumination of a flat roof-top sign shall not produce light that is visible with the naked eye from public areas located within one hundred feet of the building on which the sign is installed.

Q. Inflatable or balloon signs.

- 1. Inflatable or balloon signs may be allowed on sites and in a manner meeting all of the following criteria:
 - a. The size of the parcel on which the inflatable or balloon sign would be located shall be a minimum of seven acres; and
 - b. A maximum of one inflatable or balloon sign may be installed on a building on each such parcel; and
 - c. The sign must be safely and securely mounted to the roof of a building with a minimum floor area of fifty thousand square feet and a maximum height of fifty feet.
- 2. The inflatable or balloon sign allowed under this section must meet the additional following criteria:
 - a. The inflatable or balloon sign shall be no greater than three thousand six hundred cubic feet in size; and
 - b. The inflatable or balloon sign shall extend no higher than the lesser of the following heights:
 - i. Thirty feet above the building parapet or building roof surface if there is no parapet; or
 - ii. The height set forth in a no hazard determination by the Federal Aviation Administration; and
 - c. The inflatable or balloon sign shall extend no more than ten feet below the building parapet or building roof surface if there is no parapet.

R. Projected light signs.

- 1. A building with a footprint of one hundred thousand square feet or greater may be allowed one projected light sign on the building per calendar year that meets all of the following criteria:
 - a. A projected light sign shall be no greater than twelve thousand square feet in area; and

§ 23.04.120

SAN JOSÉ CODE

- b. A projected light sign shall be located no higher than sixty feet above grade; and
 - c. A projected light sign shall not be of an illumination intensity or character that creates a safety hazard or undue disturbance for vehicles, pedestrian or occupants in the area, and shall conform to all applicable Federal Aviation Administration requirements; and
 - d. A projected light sign and associated projection equipment may be allowed only during such time period as specified in a permit issued by the director, finding that all the criteria specified in this section are met for a proposed projected light sign, and which time period in all instances shall not exceed a maximum period of sixty days per calendar year; and
2. A permit application for a projected light sign shall be signed by all private property owners upon whose real property a projected light sign is projected, upon whose property associated projection equipment is located, and upon whose property the associated projected light directly traverses.
 3. A projected light sign may be animated.
 4. A projected light sign shall not reduce otherwise allowed signage area for the building upon which it is projected nor for any other affected property.

(Ords. 24201, 24757, 25032, 25263, 25668, 26014, 26187, 26273, 26282, 27375, 27864, 28022, 28144, 28641, 28754, 29097, 29153, 29223, 29324.)

23.04.124 Supergraphic signs.

- A. One supergraphic sign may be allowed on a building with no residential use and one hundred feet or more in height or for on a parking garage with three or more parking levels above grade, subject to the following:
 1. No supergraphic sign shall cover any portion of a window or door; and
 2. Any supergraphic sign shall be displayed for no more than one hundred twenty consecutive days and no more than one hundred twenty days in a calendar year.
- B. One supergraphic sign may be allowed on a building that has no residential use and is one hundred twenty-five feet or more in height above grade in connection with no more than forty large events per calendar year, subject to all of the following:
 1. A supergraphic sign may be displayed only during a large event and for a period of fourteen additional days before and/or after the large event but no more than a total of fourteen days plus the period of the large event, shall be removed promptly at the end of the large event plus fourteen-day period, and no building shall be allowed to display a supergraphic sign under this Subsection B. for more than thirty days total in a calendar year.
 2. No supergraphic sign shall cover a window located less than seventy-five feet above grade.
- C. All supergraphic signs shall conform to all of the following:
 1. No supergraphic sign shall be located on a historic landmark building;
 2. A supergraphic sign shall be located on no more than one building facade and the sign area shall not exceed the area of the building facade on which it is located, except that such sign may be located on two building facades provided the total sign area is not greater than would otherwise be allowed on the larger of the two building facades;
 3. A supergraphic sign may consist of non-contiguous segments;
 4. No supergraphic sign shall be externally illuminated;
 5. No supergraphic sign shall be a roof sign;
 6. A supergraphic sign shall with comply with all life safety requirements, including but not limited to all requirements of Titles 17 and 24 of this Code;

7. A supergraphic sign shall be maintained in good condition at all times and the sign surface shall be free of dirt, rips and tears;
 8. A supergraphic sign shall not reduce otherwise allowable sign area for a building or parcel;
 9. A supergraphic sign shall be in conformance with any requirements applicable under state or federal law or regulations including but not limited to height, separation, or other location requirements;
 10. A supergraphic sign authorized by Subsection A. shall not be displayed on a building concurrent with the display of a supergraphic sign authorized by Subsection B;
 11. In lieu of the requirements of Section 23.02.960, supergraphic signs are encouraged to have a translucent background, but may have an opaque background.
- D. Notwithstanding the provisions of Section 23.02.300.C. of this Code, a supergraphic sign shall require approval of a development permit.
- E. This Section 23.04.124 shall expire and be of no force or effect on or after January 1, 2020. (Ord. 29850.)

23.04.130 Illumination.

- A. Unless otherwise expressly provided herein, external lighting, internal lighting, neon tube lighting, halolighting and any similar lighting technology is permitted.
- B. Unless otherwise expressly provided herein, signs may be illuminated only with continuous lighting.
- C. Lighting of programmable electronic signs and programmable electronic kiosk signs shall conform to the requirements of Section 23.02.905. (Ord. 24201, 28754.)

Part 2.5

URBAN MIXED-USE DEVELOPMENT AREA SIGN ZONE

Sections:

23.04.150 Application.

23.04.152 Definitions.

23.04.154 Amount of signage.

23.04.156 Types of signs.

23.04.158 Illumination.

23.04.150 Application.

- A. This part shall govern standards for signage in urban mixed-use development area sign zones.
- B. The standards for signage for wholly residential uses within urban mixed-use development area sign zones shall be governed by Part 4 of this chapter, subject to the provisions for mixed-use residential facades contained in this part.
- C. The standards for signage for nonresidential uses and vertically mixed uses within urban mixed-use development area sign zones shall be as set forth in this part.
- D. The standards for temporary signs in urban mixed-use development area sign zones shall be governed by Parts 7 and 8 of this chapter. (Ord. 26598.)

23.04.152 Definitions.

For purposes of this part, the following terms shall have the following meanings:

- A. An "urban mixed-use development area sign zone" means an area comprising a group of contiguous parcels of land that meets all of the following criteria:
 1. Was developed or is being developed under a single planning process and coordinated implementation, such as a single planned development zoning and permit, that addresses uses and development on the entirety of the contiguous parcels within the area; and

2. Was developed or is being developed as an urban center with dense retail and commercial uses; and
 3. Is a minimum of forty acres in size; and
 4. At least fifty percent of the ground-level parcels are developed with buildings:
 - a. That are greater than three stories in height; and
 - b. Whose ground levels are not separated from pedestrian-oriented streets by parking areas; and
 5. At least thirty-five percent of commercial development is contained within vertically mixed-use buildings served by structure parking.
- B. "Vertically mixed-uses" means a combination of commercial and residential uses contained within and occupying a single building of at least four stories where a minimum of forty percent of the ground-floor area is commercial or a minimum of forty percent of the ground-floor building frontage is commercial.
- C. A "vertically mixed-use building" means a single building containing vertically mixed uses.
- D. A "mixed-use commercial facade" means the exterior of that portion of a vertically mixed use building occupied by nonresidential uses.
- E. A "mixed use residential facade" means the exterior of that portion of a vertically mixed-use building occupied by residential uses.
- F. "Architectural signs" mean permanent signs that are integral to the design of a doorway, column, cornice or parapet and the materials of which are integral to the surface of the building facade.
- G. "Vending cart signs" mean signs mounted on portable vending carts, which carts have been approved for location on the private property.
- H. "Retail pavilion signs" mean signs mounted on single-story, stand-alone retail buildings that have a building footprint of five hundred square feet or less.
- I. "Programmable display kiosk signs" mean programmable electronic signs mounted on a kiosk or kiosk-like structure that has a footprint of no more than twenty-five square feet, has a maximum side length of five feet, and is located on a private sidewalk or plaza.

(Ords. 26598, 29097.)

23.04.154 Amount of signage.

- A. Except as specifically allowed otherwise in this part, signage for non-residential uses and for any vertically mixed use building shall be based on commercial occupancy frontage.
- B. Signage for vertically mixed use buildings shall be allowed on both the mixed use commercial facades and the mixed use residential facades, except as limited in this part.
- C. Except as provided in Subsections 23.04.154D. and E. below:
 1. The aggregate sign area of all signs allowed for a commercial occupancy frontage shall not exceed two and five-tenths square feet for each linear foot of occupancy frontage.
 2. The maximum sign area for any one sign shall not exceed one and five-tenths square feet for each linear foot of commercial occupancy frontage where the sign is to be displayed.
 3. Signs may be displayed for more than one occupancy frontage, subject to the maximum amount of signage allowed for each occupancy frontage.
- D. Instead of the signage amount permitted by Subsection 23.04.154C. above, an applicant, at applicant's option, may select any of the following methods, as applicable, for determining maximum amount of signage:
 1. Maximum signage for a parcel may be based on street frontage, instead of occu-

SIGN REGULATIONS

§ 23.04.156

- pancy frontage. In such case, the total amount of signage on each street frontage shall not exceed two and five tenths square feet for each linear foot of street frontage.
2. For an occupancy frontage including a marquee, maximum sign area of the marquee, maximum amount of other signage on the occupancy frontage and placement of signs may be determined by the director subject to design approval.
- E. The amount of allowable signage permitted under Subsection 23.04.154C. above shall not be reduced by the following signage:
1. Signage for vending carts expressly allowed under Section 23.04.156L.; and
 2. Signage for retail pavilions expressly allowed under Section 23.04.156M.; and
 3. Architectural signs expressly allowed under Section 23.04.156K.; and
 4. Programmable electronic signs and programmable display kiosk signs expressly allowed under Section 23.04.156N.
- (Ords. 26598, 29097, 29153.)

23.04.156 Types of signs.

- A. Any combination of signs.
1. Signage allowed by Section 23.04.154 may consist of any combination of allowed freestanding signs, flat-mounted signs, projecting signs, awning signs, and banners. Segmented signs are allowed.
 2. Each occupancy frontage may also display window signs, temporary signs, safety or directional signs, and any other signs expressly authorized by this code.
 3. Small assembly spaces may have one attached or freestanding programmable electronic sign as part of the allowed signage pursuant to the provisions of Subsection 23.04.156J.2. below.
- B. Freestanding signs.
1. Except as provided in this subsection, freestanding signs shall not exceed eight feet in height above grade.
 2. Freestanding signs that are less than six feet wide may be up to twenty-five feet in height above grade.
 3. The height of construction signs shall be as set forth in Section 23.04.610B.6.
- C. Flat-mounted signs.
1. Flat-mounted signs (except for architectural signs allowed under Section 23.04.156K.) shall be displayed no higher than the finished floor elevation of the fourth floor, except as otherwise specifically allowed in this section, and in any event shall be displayed at a height no greater than forty-five feet.
 2. Flat-mounted signs shall not project more than two inches from the face of the building, except for flat-mounted signs consisting of individual letters or letters attached to raceways.
 3. Flat-mounted signs shall not be displayed on mixed use residential facades.
- D. Vertical projecting signs.
1. Vertical projecting signs located adjacent to a street of less than one hundred twenty feet in width shall be located at least twenty feet above grade but may project no higher than sixty feet above grade. Vertical projecting signs located adjacent to a street of one hundred twenty feet or greater in width shall be located at least fourteen feet above grade, but may project no higher than seventy feet above grade.
 2. Vertical projecting signs located adjacent to a street of less than one hundred twenty feet in width shall project out from a building face no more than five feet six inches. Vertical projecting signs located adjacent to a street of one hundred twenty feet or greater in width shall project out from a building face no more than ten feet.
 3. Vertical projecting signs located adjacent to a street of less than one hundred twenty feet in width shall not project above the

- cornice or parapet of a building. Vertical projecting signs located adjacent to a street of one hundred twenty feet or greater in width may project a maximum of ten feet above the cornice or parapet of a building.
4. Vertical projecting signs shall be permitted on mixed use residential facades.
- E. Fin signs and arcade signs.
1. Fin signs.
 - a. Fin signs shall be located no higher than the height of the finished floor elevation of the fourth floor of the building; and
 - b. Shall project no more than one-half the width of the sidewalk over which the sign projects or seven feet six inches, whichever is less.
 - c. Fin signs shall be permitted on mixed use residential facades.
 2. Arcade signs.
 - a. Arcade signs shall be located at least seven feet above grade; and
 - b. Do not exceed ten square feet in area per side.
- F. Awning signs; porte-cochere signs.
1. Awning signs shall be located no higher than the finished floor elevation of the fourth floor above grade; provided, however, that awning signs on mixed use residential facades shall be located no higher than the finished floor elevation of the second residential floor above grade.
 2. Signage on awnings shall be limited to thirty-five percent of the exterior surface area of the awning.
 3. Signage on porte-cocheres shall be allowed only on vertical surfaces of the porte-cochere and shall be limited to thirty-five percent of the exterior surface area of the vertical surfaces of the porte-cochere.
4. Signage on awnings and porte-cocheres shall be permitted on mixed use residential facades, subject to the limitations in Subsection 23.04.156F.1. above.
- G. Banner signs.
1. Freestanding banners shall comply with the provisions of Section 23.04.156B. above.
 2. Projecting banners shall comply with the provisions of Section 23.04.156D. above.
 3. Flat-mounted banners are not allowed.
- H. Window signs. Window signs consistent with Section 23.02.1060 of this title shall be allowed on first- and second-story windows.
- I. Marquees.
1. Marquees are allowed for theatres and movie houses and on buildings containing marquees that historically were theatres or movie houses.
 2. A marquee, including any vertical projection, is a single sign and an architectural element. The vertical projection of a marquee may project above the cornice line of a building.
 3. Marquees may be animated signs or have animated sections.
 4. Marquee signage shall not be subject to the size and placement limitations elsewhere in this part, but instead shall be subject to the provisions of Section 23.04.154C.2. above.
- J. Programmable electronic signs.
1. For a single building with a footprint of at least one hundred twenty-five thousand square feet, a maximum of two attached programmable electronic signs shall be allowed, subject to the approval of the director, whose approval shall be issued when the sign or signs meet all of the following criteria:
 - a. The sign(s) shall be located no higher than twelve feet from grade unless the director finds that a greater height achieves a pedestrian-level orientation; and

SIGN REGULATIONS

§ 23.04.156

- b. The sign(s) shall not reduce or obscure glazing; and
 - c. Each sign does not exceed a maximum size of eighteen square feet in sign area; and
 - d. No sign is displayed on a mixed use residential facade.
2. An attached or freestanding sign allowed for a small assembly space in accordance with Section 23.04.154 may have a programmable electronic sign component not to exceed seventy-five percent of the allowable sign area. No more than one sign (attached or freestanding) shall include a programmable electronic sign component.
- a. The maximum area for a programmable electronic sign component shall be limited to fifty square feet if the sign is one hundred feet or less from a residentially zoned parcel and limited to a maximum of one hundred square feet for a sign setback more than one hundred feet from a residentially zoned parcel.
 - b. The maximum height for the freestanding sign with a programmable electronic sign component shall be twenty-five feet, and the maximum height for an attached sign with a programmable electronic sign component shall be thirty feet above grade.
 - c. Operation of the programmable electronic sign shall conform to the provisions of Section 23.02.905.
3. Safety or directional signs for public parking garages.
- a. A safety or directional sign that is an attached sign with a programmable electronic sign component is allowed, subject to and so long as the sign fully meets the criteria set forth below in this Section 23.04.156J.3., and such sign shall not reduce otherwise allowable signage for a public parking garage:
 - i. The programmable electronic sign component of the sign shall be integrated with the allowed attached sign; and
 - ii. The programmable electronic sign component of the sign shall not be greater than ten square feet in sign area.
 - b. A safety or directional sign that is a freestanding sign with a programmable electronic sign component is allowed, subject to and so long as the sign fully meets the criteria set forth below in this Section 23.04.156J.3., and such sign shall not reduce otherwise allowable signage for a public parking garage or for the parcel, as parcel is defined in Section 23.04.010, on which such sign is located:
 - i. A maximum of three such signs are allowed per parcel, as parcel is defined in Section 23.04.010; and
 - ii. Each such sign shall be no more than ten square feet in sign area.
4. Operation of all programmable electronic signs shall conform to the provisions of Section 23.02.905.
- K. Architectural signs.
- 1. The total amount of architectural signs allowed on any one building shall not exceed a total maximum area of two hundred square feet per building in the aggregate.
 - 2. Each architectural sign shall be limited in area to a maximum of thirty-two square feet, except that one architectural sign of up to one hundred square feet in area may be located on one building frontage,

- all subject to the total maximum area allowed under Subsection 23.04.156N.1. below.
3. Architectural signs shall be allowed on mixed use residential facades.
- L. Vending cart signs. The total amount of vending cart signs allowed on any one vending cart shall be limited by a maximum of sixteen square feet of total signage allowed in the aggregate per vending cart and a maximum area of four square feet per vending cart sign.
- M. Retail pavilion signs.
1. The aggregate sign area of all retail pavilion signs allowed on an occupancy frontage shall not exceed one and five-tenths square feet for each linear foot of occupancy frontage, except as provided in this subsection.
 2. The maximum sign area for any one retail pavilion sign shall not exceed one square foot for each linear foot of occupancy frontage where the retail pavilion sign is displayed.
 3. Retail pavilion signs may be displayed for more than one occupancy frontage, subject to the maximum amount of signage allowed for each occupancy frontage.
 4. Retail pavilion signage allowed by Subsection M.1. may consist of any combination of allowed flat-mounted signs, projecting signs, and awning signs.
 5. Each occupancy frontage also may display window signs, temporary signs, safety or directional signs, and any other signs expressly authorized by this code.
 6. No retail pavilion sign shall extend above the retail pavilion building parapet or eave.
 7. Instead of the signage permitted by Subsection M.1. above, an applicant, at the applicant's option, may for one occupancy frontage per pavilion, substitute a programmable electronic sign that conforms with all of the following criteria:
 - a. The size of the programmable electronic sign shall not exceed a maximum area of eighteen square feet.
 - b. The programmable electronic sign shall be flat mounted to the wall of the retail pavilion and shall not extend above the retail pavilion building parapet or eave.
- N. Programmable display kiosk signs. Programmable display kiosk signs are allowed subject to the following criteria and conditions:
1. The total sign area on kiosks shall not exceed eighteen square feet per kiosk face in the aggregate, and no programmable display kiosk sign shall be located higher than eight feet in height above grade.
 2. Programmable display kiosk signs may be animated and/or may be illuminated with continuous external or internal lighting.
 3. Programmable display kiosk signs shall not be displayed on kiosks located within forty feet of another kiosk displaying a programmable display kiosk sign.
 4. A minimum width of unobstructed sidewalk clearance of at least four feet shall be maintained around a kiosk for pedestrian traffic.
 5. The maximum number of kiosks on which a programmable display kiosk sign may be displayed shall be the number equivalent to

SIGN REGULATIONS

§ 23.04.210

one kiosk per every five acres of development within the urban mixed use development area sign zone.

(Ords. 26598, 28582, 29097, 29153, 29223.)

23.04.158 Illumination.

- A. Unless otherwise expressly provided herein, external lighting, internal lighting, neon tube lighting, halolighting and any similar lighting technology is permitted.
- B. Unless otherwise expressly provided herein, signs may be illuminated only with continuous lighting.
- C. Any illumination of a programmable electronic sign shall conform to the requirements of Section 23.02.905.

(Ords. 26598, 29097.)

Part 3**AIRPORT SIGN ZONE****Sections:****23.04.200 Application.****23.04.210 Basic sign allowance.****23.04.215 Additional freestanding signs.****23.04.220 Additional signs.****23.04.230 Monument signs.****23.04.240 Temporary signs.****23.04.250 Illumination.****23.04.260 Other provisions.****23.04.200 Application.**

- A. This part shall govern standards for signage in the airport sign zone.
- B. For purposes of this title, "airport sign zone" shall mean property located at the City of San José International Airport and visible from public right-of-way not located within the airport boundaries. Public right-of-way not located within the airport boundaries include without limitation Guadalupe Parkway, Highway 101, Interstate 880, Coleman Avenue, Martin Avenue and De La Cruz Boulevard.

- C. All signs located within the airport sign zone, including signs subject to Subsection B above, shall be subject to approval and enforcement authority of the director of aviation.
- D. Nothing contained herein shall be construed to require the director of aviation to approve a sign on airport parcels where such sign is prohibited or not allowed by the lease agreement between the tenant and the city.

(Ords. 24201, 29747.)

23.04.210 Basic sign allowance.

Buildings with occupancy frontage on external public rights-of-way, as identified in Section 23.04.200.B, shall be allowed either one flat-mounted sign or one freestanding sign in accordance with the following requirements:

- A. Flat-mounted sign.
 - 1. Each building may display one flat-mounted sign.
 - 2. Such sign shall be attached to the occupancy frontage which is the major entryway for the building and shall not exceed one square foot in area for each linear foot of such occupancy frontage.
 - 3. Signs shall be mounted to the facade of the building to coordinate with building architecture. Signs shall not:
 - a. Protrude more than six inches from the facade of the building; or
 - b. Hang from a canopy or eaves; or
 - c. Project above the roof line of the building.
 - 4. Signs, including street and/or building numbers, shall not be painted directly onto building surfaces.
 - 5. No signs, except safety or directional signs, shall be placed on hangar doors or on fences.

§ 23.04.210

SAN JOSÉ CODE

- B. Freestanding sign.
1. In the event a flat-mounted sign is not feasible on a building, one freestanding sign shall be permitted.
 2. The height of the sign, including supporting structure, shall not exceed five feet above grade, and the maximum width shall be ten feet.
 3. The sign shall be placed within ten feet of the building occupancy frontage which is the major entryway for the building, and shall be installed parallel to the curb.

(Ords. 24201, 29747.)

23.04.215 Additional freestanding signs.

- A. One additional freestanding sign shall be allowed at each of the following vehicular entrances to the airport:
1. Northeast quadrant of Coleman Avenue at Airport Boulevard;
 2. West side of Airport Boulevard at Skyport Drive; and
 3. West side of Airport Boulevard at Airport Parkway.
- B. Each such sign allowed pursuant to Subsection A above shall be subject to the following regulations:
1. The sign area of each sign shall not exceed three hundred fifty square feet.
 2. Each freestanding sign may include a programmable electronic sign that does not exceed seventy square feet and that is integrated with the total sign to form a cohesive design unit. All programmable electronic signs shall conform to the requirements of Section 23.02.905.
 3. Each such sign, including the sign base, shall not exceed a maximum height of ten feet above grade.
 4. Each sign shall be set back at least one hundred feet from the edge of a riparian corridor.

5. Sign base.
 - a. Each freestanding sign shall have a base of at least eighteen inches in height. The height to the top of the base shall not be more than three feet above grade.
 - b. The base shall be architecturally consistent with the freestanding sign it supports.
 - c. Signage shall not be allowed in the base area.

(Ord. 29747.)

23.04.220 Additional signs.

In addition to other allowed signage, each airport parcel with street frontage on an external public right-of-way, as identified in Section 23.04.200, shall be allowed the following signs:

- A. One freestanding sign, as follows:
1. The height of the sign, including supporting structure, shall not exceed eight feet above grade, and the maximum width shall be ten feet.
 2. The sign shall be located within fifteen feet of the curb and shall be installed perpendicular to the face of the curb.
 3. The sign shall be double-faced, with matte black background and white letters (reflective or nonreflective).
- B. Window signs consistent with Section 23.02.1060 of this title shall be allowed on first-story windows.
- C. Signage on a porte-cochere, as follows:
1. Signage shall be limited to one porte-cochere per building located at the primary entryway for the building.
 2. Signage shall be allowed only on vertical surfaces of the porte-cochere and shall be limited to twenty-five percent of the exterior surface area of the vertical surfaces of the porte-cochere.

(Ords. 24201, 29747.)

SIGN REGULATIONS

§ 23.04.260

23.04.230 Monument signs.

In addition to other allowed signage, an airport parcel which contains buildings whose aggregate footprints exceed two hundred fifty thousand square feet shall be permitted one monument sign, which may be a programmable electronic sign, as follows:

- A. The height of the sign shall not exceed twenty feet above grade, and the maximum width shall be twenty-five feet.
- B. The sign may be double-faced. Each face shall not exceed two hundred square feet in sign area.

(Ords. 24201, 29747.)

23.04.240 Temporary signs.

Each airport parcel may display up to two temporary signs at any time. The following temporary signs are allowed:

- A. Real estate signs. One temporary sign, not larger than forty square feet, may be displayed that is related to the lease or sale of the real property on which the sign is placed, while such property is for sale or lease and for a period of thirty days after such property is sold.
- B. Construction signs.
 1. Construction signs related to construction on the property on which the sign is placed may be displayed one hundred eighty days prior to the commencement of construction, during construction and for a period not longer than thirty days after completion of construction.
 2. Construction signs attached to fences that enclose construction sites and no higher than ten feet above grade shall have no size limitation.
 3. Construction signs not attached to such fences may not exceed one hundred fifty square feet in sign area and shall be limited to one such sign per street frontage.

4. Construction signs shall not be illuminated.

- C. Other temporary signs. One other temporary sign not larger than ten square feet may be displayed for no more than a total of three months in any calendar year.

(Ords. 24201, 29747.)

23.04.250 Illumination.

- A. Unless otherwise expressly provided in this part, signs may be illuminated only with continuous external or internal lighting.
- B. Uniform lighting is required in translucent graphics or backlighted signs.
- C. Floodlighting is permitted if there is no glare and the lighting is architecturally coordinated.
- D. Neon letters are prohibited.
- E. Lighting of programmable electric signs shall conform to the requirements of Section 23.02.905.

(Ords. 24201, 29747.)

23.04.260 Other provisions.

- A. Segmented signs are allowed.
- B. Banner signs are allowed only as temporary signs.

(Ords. 24201, 29747.)

Part 4

OS, A, R-1-RR, R-1-1, R-1-2, R-1-5, R-1-8, R-2, R-M, R-MH, OPEN SPACE, AGRICULTURAL, AND RESIDENTIAL ZONING DISTRICTS

Sections:**23.04.300 Application.****23.04.310 Signs in OS open space zoning districts.****23.04.320 Signs on residential parcels.****23.04.330 Signs on nonresidential parcels.****23.04.340 Temporary signs.****23.04.360 Illumination.**

23.04.300 Application.

In addition to the provisions set forth in Chapter 23.02, this part shall govern signage standards in the OS, A, R-1-RR, R-1-1, R-1-2, R-1-5, R-1-8, R-2, R-M, R-MH, open space, agricultural, and residential zoning districts and for all residential uses in other zoning districts and in special sign zones.

(Ords. 24201, 29558.)

23.04.310 Signs in OS open space zoning districts.

No signage whatsoever shall be erected or maintained in OS open space zoning districts except upon issuance of and in compliance with a conditional use permit issued as provided in Part 6 of Chapter 20.100 of Title 20 of this Code.

(Ord. 24201.)

23.04.320 Signs on residential parcels.**A. Quantity.**

1. Subject to Subsections 23.04.320.A.2 and A.3 below, one attached or freestanding sign shall be allowed on each residential parcel.
2. For residential developments consisting of at least one building with one hundred residential units or more, two attached signs or two freestanding signs or a combination of one attached sign and one freestanding sign shall be allowed for each frontage on a public street.
3. For each residential development consisting of more than two thousand residential units and located on fifty or more acres, one additional freestanding sign shall be allowed for each frontage of the single residential development on a public street consisting of at least four moving travel lanes and identified on the general plan transportation diagram at the time the sign was approved.

B. Size.

1. The aggregate sign area of all attached and freestanding signs allowed under this

section shall not exceed one square foot of sign area for each occupancy unit on the parcel, except as otherwise allowed in this part.

2. Each individual sign shall not exceed a maximum of thirty-two square feet in size, except as otherwise allowed in this part.
3. Unless otherwise specified in this part, signage for residential developments consisting of at least one building with one hundred residential units or more shall be subject to the following:
 - a. The sign area for each attached sign shall not exceed thirty-two square feet; and
 - b. Freestanding signs shall not exceed one square foot of sign area for each eight linear feet of street frontage, up to a maximum of thirty-two square feet in sign area.

C. Height.

1. Attached signs shall not be displayed higher than twelve feet above grade, except for skyline signs, residential developments consisting of at least one building one hundred units or more, and awning signs as indicated in this part.
2. Subject to Section 23.04.320.C.3 below, freestanding signs shall not be more than three feet in height and shall not be located more than five feet from the primary residential building.
3. For residential developments consisting of at least one building with one hundred residential units or more:
 - a. Attached signs shall be displayed no greater than thirty feet in height above grade.
 - b. An attached sign may be displayed over, under or on a permanent projecting canopy that is architectur-

SIGN REGULATIONS

§ 23.04.320

ally integrated with the design of the building, subject to the following:

- i. Both an attached sign and an awning sign shall not be placed on the same permanent projecting canopy.
- ii. If the attached sign is located under a permanent projecting canopy, such sign shall be displayed at least seven feet above grade.
- c. Freestanding signs shall be allowed up to five feet in height for each fifty units located on the subject site. The maximum height of a freestanding sign shall be no greater than fifteen feet above grade, except in the North San José signage area where the maximum height of a freestanding sign shall be no greater than twenty feet above grade.

D. Setbacks.

1. Freestanding signs shall be located at least twenty-five feet from the side and rear property lines of the parcel.
2. In the case of parcels less than fifty feet wide, signs shall be located as far from the side property lines of the parcel as possible.
3. Freestanding signs shall be set back a minimum of ten feet from the front property line of the parcel, except:
 - a. For residential developments consisting of at least one building with one hundred residential units or more, freestanding signs shall be set back a minimum of seven feet from the front property line of the parcel.
4. Freestanding signs shall be separated by a distance of at least ten feet from each other unless otherwise provided in this section.

E. Other types of signs. The following types of signage shall be allowed and shall not reduce the types and quantity of signage that are otherwise allowed under this part.

1. Skyline signs. Residential or mixed-use residential buildings one hundred forty feet to one hundred ninety feet in height above grade may have one skyline sign in

SIGN REGULATIONS

§ 23.04.330

addition to other allowable signage for the building or the parcel, subject to the following provisions:

- a. The total sign area for the skyline sign shall not exceed two hundred fifty square feet of signage.
 - b. Each skyline sign shall be designed and constructed as an integral part of the building and placed on a permanent architectural element that has been designed and constructed to accommodate such signage.
 - c. The skyline sign shall not illuminate or be mounted on the exterior of that portion of the building façade containing residential living units.
2. Awning signs. Residential developments consisting of at least one building with one hundred residential units or more may have awning signs subject to the following provisions:
 - a. A maximum of two awning signs per building frontage may be placed upon each discrete surface of an awning.
 - b. Each awning sign shall be no greater than ten square feet in sign area.
 - c. Awning signs shall be located at least seven feet but no greater than twelve feet in height above grade.
 - d. Awning signs shall maintain a minimum three-inch clearance from each edge of the discrete surface of the awning on which the sign is placed.
 3. Window signs. Window signs in conformance with Section 23.02.1060 of this title shall be allowed.
- F. Other provisions.
1. Window, awning, projecting and segmented signs shall not be allowed unless otherwise specified in this part.
 2. Signs shall not be displayed on accessory structures.
3. Illumination:
 - a. Signs shall not be illuminated, except for required safety or directional signs, or as otherwise allowed in this part.
 - b. Signs located within one hundred feet of a riparian corridor shall not be illuminated.
 - c. Signs on residential developments consisting of at least one building with one hundred residential units or more may be illuminated with external lighting, halolighting, and internal lighting if only the letters or symbols are illuminated. Such signs shall be illuminated only with continuous lighting.
 - d. Subject to Subsection E.1.c of this Section 23.04.320, skyline signs may be illuminated with external lighting, halolighting, and internal lighting if only the sign area is illuminated. Such signs shall be illuminated only with continuous lighting, except that gradual color changes shall be allowed if there is no perception of flashing lights created.

(Ords. 24201, 26273, 29097, 29380, 29558.)

23.04.330 Signs on nonresidential parcels.

A. Quantity.

1. One attached or free-standing sign shall be allowed on each nonresidential parcel that has a street frontage of less than two hundred feet.
2. One attached and one free-standing sign shall be allowed on a parcel that has a street frontage of two hundred linear feet or more.

- B. Size.** Each sign shall not exceed one square foot of sign area for each eight linear feet of street frontage, up to a maximum of thirty-two square feet.

§ 23.04.330

SAN JOSÉ CODE

- C. Height.
1. Attached signs shall not be displayed higher than twelve feet above grade.
 2. Free-standing signs shall not be more than four feet in height.
 3. Free-standing signs may be up to ten feet in height if located behind the required front setback of the zoning district.
- D. Setbacks.
1. Signs shall be located at least twenty-five feet from the side and rear property lines of the parcel.
 2. In the case of parcels less than fifty feet wide, signs shall be located as far from the side property lines of the parcel as possible.
 3. Free-standing signs shall be set back a minimum of ten feet from the front property line of the parcel.
 4. Programmable electronic signs shall be at least one hundred fifty feet from a residentially zoned parcel.
- E. Other provisions.
1. Window, awning, projecting and segmented signs shall not be allowed unless otherwise specified in this part.
 2. Signs shall not be displayed on accessory buildings.
 3. Illumination:
 - a. Signs shall not be illuminated, except for required safety or directional signs or as otherwise allowed in this part.
 - b. Where allowed under this part, signs may be illuminated with external lighting, halolighting, and internal lighting if only the sign area is illuminated and with continuous lighting.
 - c. Signs located within one hundred feet of a riparian area, river or creek shall not be illuminated.
- F. Programmable electronic signs.
1. Signage allowed in accordance with Section 23.04.330 B. above, for a small assembly space, may have one programmable electronic sign component not to exceed seventy-five percent of the allowable sign area. No more than one sign (attached or free-standing) shall include a programmable electronic sign component. Operation of a programmable electronic sign shall conform to the provisions of Section 23.02.905.
- G. Other types of signs. The following types of signage do not reduce the types and quantity of signage that are otherwise allowable under this part:
1. Awning signs. Awning signs shall be allowed on a parcel that has a street frontage of at least two hundred linear feet or more subject to the following criteria:
 - a. A maximum of two awning signs may be placed upon each discrete surface of an awning.
 - b. Each awning sign shall be no greater than ten square feet in area.
 - c. Awning signs shall be located at least seven feet but no greater than twelve feet in height above grade.
 - d. Awning signs may be illuminated.
 - e. Awning signs shall maintain a minimum three-inch clearance from each edge of the discrete surface of the awning on which each awning sign is placed.
 2. Window signs.
 - a. Window signs consistent with Section 23.02.1060 of this title are allowed on the first floor.
 - b. Window signs shall not be allowed above the first floor, except window signs may be displayed on second-story occupancy frontages with no separate ground-level frontages.
- (Ords. 24201, 29097, 29380.)
- 23.04.340 Temporary signs.**
- A. Unless expressly provided otherwise elsewhere, each parcel may display up to two temporary signs at any time.

SIGN REGULATIONS

§ 23.04.340

- B. The following temporary signs are permitted:
1. Real estate signs. One temporary sign related to the lease or sale of the real property on which the sign is placed, as follows:
 - a. Such sign shall not exceed thirty-two square feet in sign area on any nonresidential parcel.
 - b. Such sign shall not exceed eight square feet in sign area on any residential parcel.
 - c. Such sign shall be removed within ten days after the property to which it refers is no longer for sale or lease.
 2. Construction signs.
 - a. Construction signs related to construction on the property on which the sign is placed may be displayed fourteen days prior to the commencement of construction, during construction and for a period of no longer than seven days after completion of construction.
 - b. Construction signs on or attached to fences that enclose construction sites and no higher than ten feet above finished grade shall have no size limitation, subject to a maximum aggregate sign area of sixty-four square feet per frontage.
 - c. Construction signs not on or attached to fences shall not exceed thirty-two square feet in size and shall be limited to one such sign per street frontage.
 3. Other temporary signs. One other temporary sign may be displayed for no more than a total of two months in any calendar year, as follows:
 - a. Such sign shall not exceed ten square feet in sign area on any nonresidential parcel.
 - b. Such sign shall not exceed five square feet in sign area on any residential parcel.
- C. In addition to the signs described in subsections A. and B. above, unimproved parcels may display the following temporary signs:
1. One temporary sign related to the lease or sale of any real property as follows:
 - a. Such sign shall not exceed thirty-two square feet in sign area on any nonresidential parcel.
 - b. Such sign shall not exceed eight square feet in sign area on any residential parcel.
 - c. Such sign shall be removed within ten days after the property to which it refers is no longer for sale or lease.
 2. For each two hundred feet of street frontage, one additional temporary sign related to the lease or sale of any real property, subject to the same requirements as set forth in subsection C.1. above.
- D. Freestanding temporary signs may be up to ten feet in height. No greater setback than ten feet shall be required.
- E. Any temporary sign allowed on a residential parcel may be an A-frame sign.
- F. In addition to the signs described in subsections A. and B. above, corner parcels in residential zoning districts may display one temporary portable A-frame sign in the adjacent public right-of-way, subject to the following conditions and all other applicable provisions of this Code:
1. Such sign shall be displayed on the parkstrip adjacent to the parcel, as follows:
 - a. Sign shall be placed in the area between the end of the curb return and that point along the curblines that is fifteen feet distant from the end of the curb return.
 - b. Sign shall not be placed:
 - i. In any curb return.
 - ii. In any bus stop zone.
 - iii. Within two feet of any driveway or curbcut access ramp.

§ 23.04.340

SAN JOSÉ CODE

- iv. Within eighteen inches of any curb where parking is allowed.
- v. Attached in any manner to any other structure on the parkstrip, such as, but not limited to, trees, lampposts, utility poles, utility cabinets, street or traffic signs, benches, hydrants and mailboxes.

- 2. Such sign shall not exceed five square feet in sign area per side.
- 3. Such sign shall not exceed three feet in height.
- 4. Such sign may be displayed up to six hours during daylight hours.
- 5. Such sign shall not be illuminated.
- 6. If the parkstrip adjacent to the residential parcel is not wide enough to display the sign, or if there is no parkstrip, such sign may be displayed on the residential parcel, adjacent to the sidewalk, subject to all other requirements but not subject to setback requirements.

(Ords. 24201, 24757.)

23.04.360 Illumination.

Any illumination of a programmable electronic sign shall conform to the requirements of Section 23.02.905.

(Ord. 29097.)

Part 5**BILLBOARD RELOCATION****Sections:**

- 23.04.400 Billboard relocation.**
- 23.04.410 Applicability.**
- 23.04.420 Potential relocation sites.**
- 23.04.430 Candidate billboards for relocation.**
- 23.04.440 Request for billboard identification.**
- 23.04.450 Relocation billboard standards.**

23.04.460 Owners agreements.**23.04.470 On-site relocation.****23.04.480 Relocation.****23.04.490 Removal.****23.04.495 Billboard height alteration agreements.****23.04.400 Billboard relocation.**

The purpose of billboard relocation approval is to enable the removal of billboards from overimpacted areas by allowing the use of alternative sites and to enable the substitution of billboards meeting modern standards for nonconforming billboards.

Relocation approval is part of the demonstrated commitment of the city council to the aesthetic enhancement of the city.

(Ord. 24201.)

23.04.410 Applicability.

Any legal nonconforming billboard may be considered as a candidate for billboard relocation approval. Such billboards may be relocated to a new site or relocated on the present site only in accordance with this part.

(Ord. 24201.)

23.04.420 Potential relocation sites.

A. The applicant for a billboard relocation approval shall propose a relocation site based on the following considerations:

- 1. The area does not have excessive visual clutter;
- 2. The proposed relocated billboard would be compatible with uses and structures on the site and in the surrounding area;
- 3. The proposed site is not within six hundred linear feet of residential uses, residential zones or an area which has a general plan designation of residential;
- 4. The proposed site is not within six hundred linear feet of an existing billboard;

SIGN REGULATIONS

§ 23.04.440

5. The proposed site is not in an area which is actively contemplated for or actively being upgraded. Indications of such upgrading are:
 - a. A specific program for beautification or undergrounding of utilities;
 - b. A neighborhood business district revitalization program;
 - c. A redevelopment area;
 6. The proposed billboard would not create a traffic or safety problem with regard to on-site access, circulation or visibility; and
 7. The proposed billboard would not interfere with on-site parking or landscaping required by city ordinance or permit.
- B. These considerations are to serve only as general guidelines for use by the applicant in the identification of potential relocation sites.
(Ord. 24201.)

23.04.430 Candidate billboards for relocation.

The following considerations shall serve as general guidelines in identifying candidate billboards for relocation:

- A. Areas of general priority for removal and relocation:
 1. Downtown core area, as defined in the general plan;
 2. Major thoroughfares leading into the downtown core area;
 3. Streets upon which billboards are heavily concentrated and contribute to existing visual clutter;
- B. Nonconformance with the standards and requirements set forth in Section 23.04.450, including:
 1. Minimum spacing;
 2. Maximum height;
 3. Maximum surface area; or
 4. Setback from property line;
- C. Proximity to residential zoning districts or residential housing;

- D. Degree of compaction or concentration:
 1. Physical proximity to other billboards;
 2. Field of vision shared with other billboards;
- E. Physical condition:
 1. Maintenance quality (i.e., apparent aging, paint condition, general repair, etc.);
 2. Appearance of structure (i.e., number of support poles, projecting components, complexity of structure);
- F. Appearance in context:
 1. Compatibility with nearby buildings:
 - a. The billboard shares an immediate field of vision (from a public street) with an architecturally unusual or meritorious building or with a historic building;
 - b. The bottom edge of the billboard is higher than the roof line of an adjacent small building, particularly a one-story building; or
 - c. The plane of the billboard is substantially skewed relative to adjacent building;
 2. Billboard in conjunction with other billboards in the field of vision creates visual clutter;
 3. The billboard contributes to existing general visual clutter and/or competes with nearby business signs and/or buildings.

(Ord. 24201.)

23.04.440 Request for billboard identification.

- A. Prior to filing an application for a planned development zoning pursuant to Section 23.04.480, applicant shall file a request for the identification of potential candidate billboards pursuant to Section 23.04.430. The request

§ 23.04.440

SAN JOSÉ CODE

shall contain the name of the billboard company wishing to effectuate a relocation and the location of proposed relocation site.

- B. Within thirty days of receipt of the request, the director shall provide the applicant with a list of three billboards owned by the company identified in the request which are candidates for relocation.
- C. The applicant shall have absolute discretion in choosing the candidate billboard for relocation from the list provided by the director.

(Ord. 24201.)

23.04.450 Relocation billboard standards.

Any billboard relocated pursuant to this part shall conform to the following standards:

- A. Height. The height of any portion of the billboard or any of its appendages, excluding temporary extensions, shall not exceed thirty-six linear feet above the natural grade of the site. The natural grade shall be the average of the natural surface elevations measured within a twenty-five foot

SIGN REGULATIONS

§ 23.04.450

- radius of the center of the billboard surface. A "temporary extension" is an extension of the message surface of a billboard in conjunction with a particular message display. A temporary extension shall not exceed the height limitation of a billboard by more than four linear feet.
- B. *Width.* The billboard, excluding temporary extensions, shall not at any point exceed a width of fifty linear feet. Temporary extensions shall not exceed the width limitations by more than four linear feet.
- C. *Area.* The area of the message surface of the billboard, together with its framing, excluding temporary extensions, shall not exceed seven hundred square feet. Temporary extensions to the sides and/or tops of the display shall not exceed twenty-two percent of the area of the message surface together with its framing.
- D. *Street frontage.*
1. A billboard may be placed only on a parcel which has frontage on at least one public street; and
 2. Billboards which are situate on common frontage sites shall be no closer to each other than three hundred linear feet, unless such billboards face in opposite directions. As used in this subsection:
 - a. "Common frontage sites" means parcels which have frontage on the same side of the same street;
 - b. Billboards shall be deemed to be facing in "opposite directions" only if their message surfaces are facing in different directions with external angles between these directions of not less than two hundred twenty degrees measured from the plane of the surfaces;
 - c. The distance between billboards shall be the distance, measured linearly along the centerline of the street on which the common frontage sites each have frontage, between perpendicular lines drawn to the centerline of the street from such billboards at the points of the billboards closest to each other.
- E. *Location away from highways or freeways.*
1. No billboard shall be located less than six hundred sixty linear feet from the existing or proposed right-of-way (including interchanges and ingress and egress ramps) of any existing or proposed landscaped freeway, if the message surface of such billboard could be read by persons traveling on such landscaped freeway. Such existing and proposed freeways include, but are not limited to, the following:
 - a. State Routes 85, 87, 280 and 237;
 - b. U.S. Route 101 (bypass), southerly of Ford Road.
 2. No billboard shall be placed within five hundred linear feet from another billboard on the same side of any interstate highway or freeway.
- F. *Illumination.* Billboards may be illuminated by continuous lighting. Their light source shall not have appendages which protrude more than eight linear feet from the wall on which the billboard is mounted or from the message surface of a freestanding billboard.
- G. *Setback.* Freestanding billboards shall be set back from abutting streets in accordance with the most stringent of the following requirements:
 1. The setback requirements of Chapter 20.80;
 2. The setback requirements of Sections 20.40.200 to 20.40.300 of Title 20; or
 3. The setback from preexisting buildings on abutting sites specified hereinafter:
 - a. If the closest preexisting building on each of the abutting sites is within two hundred linear feet of a proposed freestanding billboard, the billboard shall be set back from the abutting street behind the shortest line which can be drawn between those preexisting buildings from the exterior wall (including the edge or corner) of each which is closest to and exposed toward the streetline; or
 - b. If only one abutting site has any preexisting building within two hundred linear feet of the proposed billboard, then setback from the abutting street shall be at least equal to the distance between the streetline and the closest preexisting building on the abutting street.
 - c. An "abutting site" for purposes of Section 23.04.450.G.3. is a parcel which abuts both the parcel on which the proposed billboard will be situated and the street from which the billboard is to be set back.

(Ord. 24201.)

§ 23.04.460

SAN JOSE CODE

23.04.460 Owners agreements.

As part of the application for billboard relocation the applicant shall submit to the city a recorded agreement between the owner of the property from which the billboard is proposed to be removed and the applicant, which expresses the concurrence or acquiescence of said owner to the relocation. (Ord. 24201.)

23.04.470 On-site relocation.

An applicant may propose on-site relocation approval. Any billboard so relocated shall conform to the standards set forth in Section 23.04.450. This provision shall not be construed to permit continuation of a billboard on a vacant lot being developed. (Ord. 24201.)

23.04.480 Relocation.

- A. Billboard relocation shall be permitted only pursuant to a planned development combined district rezoning in accordance with the provisions of Chapter 20.120 of Title 20.
- B. The application for planned development zoning for billboard relocation shall specify the location of the billboard which is the candidate for relocation selected by the applicant, pursuant to Section 23.04.430.C.
- C. In addition to the billboard, the planned development district shall incorporate all of the uses, rights and limitations of the existing base zoning district or special sign zone as those may be amended from time to time in this Code. (Ord. 24201.)

23.04.490 Removal.

The billboard which is approved for relocation must be removed from the original site prior to construction or installation of the billboard pursuant to the planned development zoning. (Ord. 24201.)

23.04.495 Billboard height alteration agreements.

- A. Notwithstanding the foregoing provisions of this part, nothing in this part shall prohibit the city, a billboard owner, and the owner of the real property upon which the billboard is located from all entering into a contractual arrangement to allow for an alteration in the height of an existing, legal nonconforming billboard in exchange for the removal of other legal nonconforming billboards in the city when the

contract meets all of the following minimum criteria:

1. The contract does not permit nor allow for the erection, defined in Section 23.02.160, of any new billboard nor increase the number of billboard panels located in the city; and
 2. Fulfillment of the contractual obligations shall result in a net reduction of the number of billboards located in the city that are not otherwise already scheduled for removal by the real property owner or billboard owner or through final order of condemnation other order of a court of competent jurisdiction; and
 3. The contract provides for the removal of any and all billboards to be removed under the contract prior to or concurrently with effecting any change in the height of the existing legal nonconforming billboard; and
 4. The contract does not allow the height of any billboard, or any of its appendages, to exceed fifty feet, measured from the natural grade of the site; and
 5. The contract contains language satisfactory to the city attorney under which the billboard owner and/or real property owner agree to release and indemnify the city from any and all potential liability and damages resulting from work performed and services rendered under the contract and language satisfactory to the risk manager under which the billboard owner and/or real property owner agree to acquire and maintain appropriate insurance policies related to the work to be performed and services provided under the contract.
- B. The city council shall not approve a proposed contract unless the city council makes all of the following findings regarding the contract:
 1. The proposed contract meets all of the criteria set forth in subsection A.; and
 2. The contractual provisions are consistent with the city's general plan and the purposes of this part and this title; and
 3. Fulfillment of the provisions of the contract would result in an overall reduction of visual clutter and visual blight in the city; and
 4. Fulfillment of the provisions of the contract will preserve or further the public health, safety or welfare.

SIGN REGULATIONS

§ 23.04.520

- C. Any alteration to the height of an existing billboard shall be processed and permitted only through a sign adjustment permit issued in accordance with the provisions of this title, including without limitation the provisions regarding the alteration of a legal nonconforming sign set forth in Part 3 and Part 4 of Chapter 23.02; provided, however, that the director may issue a sign adjustment permit only after making the findings required by Section 23.02.1340 and also finding that the sign adjustment permit application is consistent with the applicable billboard height alteration contract approved by the city council.
- D. The resulting billboard shall remain a legal nonconforming billboard for so long as the erection and maintenance of the resulting billboard is in full compliance with the terms and conditions of the contract and sign adjustment permit issued therefor.
- E. Any billboard removed pursuant to the provisions of this section shall be processed and permitted only through an adjustment permit issued in accordance with the provisions of Section 20.100.500.
- F. The city council may approve such a contract and the director may issue the required permit(s), all in accordance with its normal and existing practices, policies and procedures. Under no circumstance shall any person have the right to have a contract executed to allow for an alteration in the height of an existing legal nonconforming billboard in exchange for the removal of other billboards in the city under the provisions of this section. Nothing contained in this section shall, in any event or under any circumstances, be deemed or construed to confer upon any person the right to have such a contract executed by the city.
- G. Notwithstanding the provisions of Section 23.02.870, the director of planning, building and code enforcement, or other person designated by the city manager, shall administer the provisions of this section and, for each proposed contract, provide a report to the city council on the criteria set forth in subsection A. above and on the facts and analyses pertaining to the findings required under subsection B. above, as well as a recommendation to the city council on each proposed contract.
- H. The billboard owner or real property owner shall pay to the city the applicable fees to administer

and process the provisions of this section. The fees required to be paid under this section shall be as set forth in the schedule of fees established by resolution of the city council. Such fees shall be charged to cover the cost of preparing maps, publishing and distributing of notices, performing environmental review, and other administrative expenses necessarily incurred to administer the provisions of this section. No part of such fees shall be returned because of the disapproval or denial of any contract or permit.

(Ord. 26393.)

Part 6

ROTATING MESSAGE BILLBOARDS

Sections:

23.04.500 Purpose.**23.04.510 Definition of rotating message billboard.****23.04.520 Pilot program.****23.04.530 General requirements.****23.04.540 Removal and reduction.****23.04.500 Purpose.**

The purpose of this part is to establish a pilot program enabling the city council, at its discretion, to permit a limited number of existing billboards to be converted to three panel rotating message billboards compatible with the aesthetic goals of the city, to ensure that such rotating message billboards do not create visual clutter, visual blight or adversely impact traffic or pedestrian safety, and at the same time to reduce the total number of billboards in the city. This pilot program is part of the demonstrated commitment of the city council to the aesthetic enhancement of the city.

(Ord. 24201.)

23.04.510 Definition of rotating message billboard.

A rotating message billboard is a poster panel billboard of approximately three hundred square feet in sign area which has rotating panels with a maximum of three message faces.

(Ord. 24201.)

23.04.520 Pilot program.

A. This part is intended to be a pilot program. This part shall remain in effect until August 1, 1994,

§ 23.04.520

SAN JOSE CODE

or until the number of billboards specified in subsections B. and C. below have been permitted, whichever first occurs.

- B. A maximum of twenty existing billboards will be permitted to convert in accordance with this part, provided that for each existing billboard so converted, one other billboard is first removed.
- C. In addition to the twenty conversions to rotating message billboards pursuant to subsection B., a maximum of ten additional existing billboards will be permitted to convert, provided that for each existing billboard so converted, one other billboard is first removed and three additional existing billboards are improved in a manner satisfactory to the city council so that the sign area of each of the three improved billboards is reduced by approximately twenty percent.
- D. The termination of this pilot program shall not terminate any permit issued for any rotating message billboard prior to the termination of the pilot program. Such rotating message billboards shall become legal nonconforming signs upon termination of the pilot program.

(Ord. 24201.)

23.04.530 General requirements.

- A. No billboard may be converted to a rotating message billboard except as expressly permitted by a planned development (PD) rezoning adopted at the discretion of the city council, in accordance with Chapter 20.60.
- B. Each such PD rezoning application shall be accompanied by:
 1. A city-wide map identifying the location of all existing billboards owned and/or maintained by the applicant;
 2. The location of the billboard proposed for removal;
 3. If applicable, the location of the three additional billboards proposed for sign area reduction; and
 4. A release and indemnification agreement holding the city harmless from any claim or action brought by a property owner of a parcel where the applicant is removing an existing billboard pursuant to this part.
- C. Rotating message billboards located on the same street shall not be closer to each other than two thousand linear feet. Such distance shall be measured linearly along the centerline of the street on which the billboards are located, between perpendicular lines drawn to the

centerline of the street from such billboards at the points of the billboards closest to each other.

- D. No PD rezoning which approves a rotating message billboard shall result in a net increase of more than one message surface in the city.
- E. No rotating message billboard shall have a sign area larger than three hundred square feet.
- F. The PD permit for a rotating message billboard shall set forth conditions minimizing sign movement and distraction for vehicular traffic.
- G. No PD rezoning for conversion of a billboard to a rotating message billboard shall be approved unless the city council concurrently approves the billboard proposed for removal and, if applicable, the three additional billboards proposed for sign area reduction.

(Ord. 24201.)

23.04.540 Removal and reduction.

- A. No PD permit for a rotating message billboard shall be effective until the removal of the designated billboard and, if applicable, the sign area reduction of all three billboards is completed.
- B. In approving the proposed billboard for removal, the city council shall determine, based on assurances by the applicant, that the billboard proposed for removal is not likely to be subject to removal for reasons other than the pilot program established by this part, for example, that the billboard is not proposed to be converted in lieu of just compensation in connection with an eminent domain proceeding.
- C. Although this pilot program is intended to be for a three-year period, it will be subject to review one year after its adoption and may be repealed, amended or extended if the council so desires.

(Ord. 24201.)

Part 7**TEMPORARY SIGNS****Sections:****23.04.600 Temporary signs.****23.04.610 Temporary sign standards.****23.04.600 Temporary signs.**

- A. In addition to permanent signage allowed elsewhere in this title, temporary signs may be

SIGN REGULATIONS

§ 23.04.610

- displayed in accordance with the provisions set forth in this part.
- B. Temporary signs in the public right-of-way are governed by Part 9 of this chapter.
 - C. Temporary signs in the airport sign zone are governed by Section 23.04.240 of this title.
 - D. Temporary signs in the OS, A, R-1, R-1-B-1, R-1-B-2, R-1-B-3, R-1-B-6, R-1-B-8, R-2, R-3, R-3-F, R-3-A, R-3-B, R-3-C, R-4 and T-M zoning districts and for residential uses in other zoning districts and in special zones are governed by Section 23.04.340 of this title.
 - E. Temporary signs that are election signs are governed by Part 8 of this chapter.
- (Ord. 24201.)
- 23.04.610 Temporary sign standards.**
- A. Unless expressly provided otherwise elsewhere, no more than two temporary signs may be on display at any one time for each occupancy frontage.
 - B. Permissible temporary signs include:
 1. One temporary sign not larger than twenty square feet in sign area may be displayed in those locations allowed under Sections 23.04.610.D., E., F. and G. for up to thirty consecutive days for each occupancy frontage. No more than three such signs shall be displayed in any calendar year. Each such sign shall include the date(s) such sign is intended to be posted, and whether that sign is the first, second or third such temporary sign displayed in that calendar year for that occupancy frontage. Such sign may be displayed only during that period of time stated on such sign.
 2. Any building with a building footprint of five thousand square feet or more may display one temporary sign larger than twenty square feet in sign area. Such signs may be displayed in those locations allowed under Sections 23.04.610 D., E., F. and G. for up to thirty consecutive days in any calendar year, as follows:
 - a. Such sign shall not be larger than sixty-five square feet.
 - b. Such sign may consist of noncontiguous segments placed on more than one frontage of the building but the aggregate sign area of all segments may not exceed sixty-five square feet.
 3. Any building with a building footprint of twenty thousand square feet or more may display one temporary sign larger than twenty square feet in sign area. Such sign may be displayed in those locations allowed under Section 23.04.610 D., E., F. and G. for up to thirty consecutive days in any calendar year, as follows:
 - a. Such sign shall contain only noncommercial messages.
 - b. Such sign may consist of noncontiguous segments placed on more than one frontage of the building.
 - c. No sign or sign segment on any frontage shall be larger than one hundred twenty-five square feet in sign area.
 - d. Such sign may be an animated sign.
 - e. Each such sign, including all noncontiguous segments, shall include the date(s) such sign is intended to be posted, and shall identify the total number of sign segments displayed for that building. Such sign, including all sign segments, may be displayed only during that period of time stated on such sign.
 4. One temporary sign related to the lease or sale of the real property on which the sign is placed and not larger than forty square feet in sign area may be displayed. Such sign shall be removed within ten days after the property is no longer for lease or sale.
 5. One or more construction signs related to construction on the property on which the sign is placed may be displayed as follows:
 - a. Construction signs may be displayed one hundred eighty days prior to the commencement of construction, during construction and for a period no longer than thirty days after completion of construction; and

§ 23.04.610

SAN JOSE CODE

- b. Construction signs attached to fences that enclose the construction site and no higher than ten feet above finished grade may be of any size; and
 - c. In the downtown sign zone, construction signs, whether or not the signs are attached to fences that enclose the construction site, shall not exceed three hundred square feet each in sign area, may be up to twenty-four feet in height and shall be limited to one such sign per street frontage, except that two allowed signs may be joined together at the corner of a corner parcel to form one larger sign which shall not exceed six hundred square feet in sign area; and
 - d. In CO, CP, CN, CG, IP, LI, and HI zoning districts and neighborhood business districts, construction signs not attached to fences that enclose the construction site shall not exceed one hundred twenty-eight square feet each in sign area and shall be limited to one such sign per street frontage; and
 - e. In CO, CP, CN, CG, IP, LI, and HI zoning districts and neighborhood business districts, construction signs attached to fences that enclose the construction site that are located higher than ten feet above finished grade shall meet all of the following criteria:
 - i. Shall not exceed a size equal to one hundred square feet of sign area; and
 - ii. Shall be limited in number to one such sign per street frontage for every two hundred linear feet of perimeter construction fence along a street frontage; and
 - iii. Shall be located no higher than twenty-five feet above finished grade; and
 - f. Construction signs shall not be illuminated.
- C. In addition to the signs described in subsections A. and B. above, unimproved parcels may display the following temporary signs:
- 1. One temporary sign related to the lease or sale of any real property, as follows:
 - a. Such sign shall not exceed forty square feet in sign area.
 - b. Such sign shall be removed within ten days after the property to which it refers is no longer for sale or lease.
 - 2. For each three hundred feet of street frontage, one additional temporary sign related to the lease or sale of any real property, subject to the same requirements as set forth in subsection C.1. above.
 - 3. By permit in accordance with all requirements of Part 4 of Chapter 23.02 of this title, one temporary sign larger than forty square feet and related to the sale or lease of any real property may be approved as follows:
 - a. Such sign shall be permitted for the shorter period of three years or ten days after the property to which it refers is no longer for lease or sale.
 - b. Maximum size shall conform to the size allowable in the zoning district for a permanent sign on a parcel of that size.
 - 4. The provisions of this subsection C. shall not apply in the downtown sign zone.
- D. Temporary signs may be free-standing or attached and, except with regard to construction signs or unless otherwise stated, shall also conform to any requirements for permanent signs in the zoning district or sign zone where located.
- E. Unless expressly provided otherwise elsewhere, free-standing temporary signs may be up to ten feet in height. No greater setback than ten feet shall be required.
- F. Temporary signs may not be affixed to the outside surface of a window.
- G. Temporary signs posted at events within the downtown core for which city permits have been issued for both the exclusive use of a specified location in the public right-of-way and a permit for temporary outdoor use of private property that is contiguous or adjacent to the public right-of-way permit area shall not be subject to these regulations to the extent such temporary signs are posted during the event and within the approved boundaries of the event. This provision also applies to signage on temporary structures at such events, regardless of whether the temporary structure is in the public right-of-way or on private property.
- (Ords. 24201, 24757, 26273, 27458, 28022.)

SIGN REGULATIONS

§ 23.04.750

Part 8

ELECTION SIGNS

Sections:

- 23.04.700 Election signs.
- 23.04.710 Definition of election signs.
- 23.04.720 Quantity, size and placement of election signs.
- 23.04.730 Prohibited on public property.
- 23.04.740 Private property - Authorization by owner.
- 23.04.750 Election signs in residential districts and for residential uses.
- 23.04.760 Time limit for display of election signs.
- 23.04.770 Removal of election signs from public property.
- 23.04.780 Liability for election signs.

23.04.700 Election signs.

- A. This part shall govern standards for temporary signs that are election signs.
- B. In its regulation of election signs, it is the intent of the city to achieve a fair and reasonable accommodation between the public's interest in the full and vigorous debate of election issues and the community's interest in public order, cleanliness and community aesthetics. Election signs, which are unreinforced paper products, are relatively inexpensive. As a result, without reasonable regulation, the community could be inundated by their profusion prior to elections and by their litter after elections. Election signs also are particularly susceptible to the effects of the elements. It is the city's intent in regulating election signs to control the proliferation of urban clutter but to be no more restrictive than necessary and not to unduly restrict the public's right to communicate about election issues.
- C. Nothing herein precludes the use of other signs allowed in accordance with the provisions of this title to convey political and/or election messages. (Ord. 24201.)

23.04.710 Definition of election signs.

- A. As used in this title, "election sign" is a sign:
 - 1. Designed, used or intended to induce voters to vote for either the passage or defeat of a measure appearing on the ballot of any election, or for either the election or defeat

- of a candidate for nomination or election to any public office in any election; and
- 2. Constructed of unreinforced cardboard, paper or similar product; and
- 3. Includes without limitation banners, campaign signs, posted handbills and notices of any kind.

- B. Any sign not meeting the definition set forth in subsection A. above shall not be deemed an election sign for purposes of this title, regardless of message.

(Ord. 24201.)

23.04.720 Quantity, size and placement of election signs.

- A. Unless otherwise expressly provided in this part, the quantity, size and location of election signs shall be governed by the requirements for temporary signs in the zoning district or sign zone where located.
- B. Election signs of ten square feet or less that are displayed in accordance with this part may be displayed during the time periods set forth in Section 23.04.760 of this part and shall not be counted toward any time limits for temporary signs in the zoning district or sign zone where located.

(Ord. 24201.)

23.04.730 Prohibited on public property.

- A. No person shall erect or display, or cause or authorize any person to erect or display, any election sign on public property.
- B. The provisions of Sections 23.04.840, 23.04.850, and 23.04.860 shall apply to election signs posted on public property.

(Ords. 24201, 24835.)

23.04.740 Private property - Authorization by owner.

No person shall erect or display, or cause or authorize any person to erect or display, any election sign on any property not owned or controlled by such person, unless authorized to do so by the owner or other person in control of such property.

(Ord. 24201.)

23.04.750 Election signs in residential districts and for residential uses.

Election signs in residential districts and for residential uses in other zoning districts and in special sign zones:

§ 23.04.750

SAN JOSE CODE

- A. Shall not be illuminated.
 - B. If an attached sign, shall not extend above the eaves of the building or structure where located.
 - C. If a freestanding sign:
 1. Shall not exceed six feet in height; and
 2. No setback shall be required.
- (Ord. 24201.)

23.04.760 Time limit for display of election signs.

- A. Election signs may be displayed in connection with an election beginning on the first day after the opening of the nomination period for the election and continuing up to ten days after the date of the election.
 - B. All election signs shall be removed from the parcel where erected or displayed within ten days after the date of the election to which they pertain.
 - C. Notwithstanding subsections A. and B. above, if election signs pertain not only to a primary election but also to a succeeding general election, they may be displayed until the general election and shall be removed within ten days after the date of general election.
 - D. The timely removal of election signs shall be a joint and several obligation of:
 1. Each person who erects or displays an election sign;
 2. Each person who causes or authorizes the erection or display of such sign; and
 3. The owner or other person in control of the property where such sign is erected or displayed.
- (Ord. 24201.)

23.04.770 Removal of election signs from public property.

- A. Election signs on public property may be removed without notice pursuant to Section 23.02.880 of this title.
 - B. The director shall cause a list of election signs removed from public property to be filed with the city clerk, for public information.
- (Ords. 24201, 24835.)

23.04.780 Liability for election signs.

Every person who undertakes an election campaign shall be responsible to ensure that all signs posted in furtherance of that campaign are posted in full accordance with this title and shall be presumed responsible, as set forth in Section 23.04.840, for any

illegal election signs posted in furtherance of the campaign.
(Ord. 24835.)

Part 9

PUBLIC RIGHT-OF-WAY SIGNS

Sections:

- 23.04.800 Application.**
- 23.04.810 Only city may post.**
- 23.04.820 General provisions.**
- 23.04.830 Types of signs allowed.**
- 23.04.835 Transit bus shelter signs.**
- 23.04.840 Presumption of responsible party.**
- 23.04.850 Charges for removal of illegal signs on public property.**
- 23.04.860 Hearing on removal costs.**

23.04.800 Application.

- A. This part shall govern standards for signage in public rights-of-way.
 - B. Signs in parks and plazas shall only be subject to these regulations if such signs are visible from an abutting street or alley.
- (Ord. 24201.)

23.04.810 Only city may post.

- A. Unless otherwise expressly allowed in this part, no one may post public right-of-way signs except the city.
 - B. The redevelopment agency may post signs in public rights-of-way in the downtown sign zone, but only after the review required by Section 23.04.820.A.
 - C. Nothing in this part shall prohibit the painting or applying of street address numbers on curbs otherwise expressly allowed in this Code.
- (Ord. 24201.)

23.04.820 General provisions.

- A. Unless otherwise expressly provided in this title, all public right-of-way signs shall be reviewed in advance by the director. To the extent applicable, encroachment permits may be required.
- B. All traffic control devices in the public right-of-way shall be approved in advance by the director.
- C. All signs in public streets or public alleyways must comply with state traffic guidelines.
- D. Public right-of-way signs which create traffic or pedestrian safety hazards are prohibited.

SIGN REGULATIONS

§ 23.04.830

- E. Unless expressly allowed in this part, public right-of-way signs may be illuminated only with continuous external or internal lighting.
- F. Permanent architectural elements installed by the city or the redevelopment agency in the public right-of-way, such as, but not limited to, architectural gateways, monument gateway signs or other street furniture, shall not be subject to these regulations.
- G. Temporary signs posted at events for which a city permit has been issued for the exclusive use of a specified location in the public right-of-way shall not be subject to these regulations, to the extent posted during the event and within the approved boundaries of the event.

(Ords. 24201; 24757.)

23.04.830 Types of signs allowed.

- A. *Safety or directional signs.* Safety or directional signs may be posted by public entities or public utilities as necessary for public safety or welfare. Such signs may be animated.
- B. *Automobile parking lot signs.*
 - 1. Operators of automobile parking lots may apply to the director of the department of planning and building for a permit to place up to two safety or directional signs in the public right-of-way per lot entrance. The director may authorize such signs, and additional safety or directional signs, if the director determines they are necessary for direction of vehicular traffic.
 - 2. Each such sign:
 - a. Shall not exceed nine square feet in sign area for each sign face.
 - b. Shall be clearly legible to parking lot vehicular traffic; letters shall be at least four inches in height.
 - c. Shall be located so as not to block or interfere with pedestrian or vehicular traffic, or parking or loading areas. A minimum width of unobstructed sidewalk clearance of four feet must be maintained for pedestrian traffic.
 - d. Shall be located only in the public right-of-way abutting the automobile parking lot.
- C. *Public information signs.* Public information signs may be displayed in the public right-of-way by the city or redevelopment agency subject to the following:
 - 1. *Freestanding public information signs.*
 - a. Freestanding public information signs:
 - i. Shall not exceed sixteen feet in maximum height of sign face.
 - ii. Shall not exceed thirty-two square feet in sign area for each sign face.
 - b. Freestanding public information signs shall not be located within twenty-five feet of another freestanding public information sign. However, multiple freestanding public information signs may be located on the same supporting structure.
 - 2. *Banner public information signs.*
 - a. Banner public information signs shall be either cable-hung banners or vertical banners.
 - b. Banner public information signs shall not be located within forty feet of another banner public information sign; however, multiple banner public information signs may be located on the same supporting structure.
 - c. No vertical banner public information sign shall exceed twenty-eight square feet in size.
 - d. No cable-hung banner public information sign shall be less than sixteen feet in height at mid-span or at its lowest point.
 - e. All cable-hung and vertical banner public information signs shall be attached to supporting structures capable of withstanding sixty miles per hour continuous wind loads without deflections or rotations that would cause deformation, failure or other damage to such structures.
- D. *Parks.* In addition to signs allowed by subsection C. above, public parks also shall be allowed the following signs:
 - 1. Flat-mounted public information signs that do not exceed thirty-two square feet in sign area.
 - 2. Portable public information signs that do not exceed thirty-six square feet in sign area for each sign face.
 - 3. Educational displays shall not be subject to these regulations.
- E. *Kiosks.* Public information signs also may be displayed by the city or redevelopment agency on kiosks or kiosk-like structures located in the public right-of-way, subject to the following regulations:

§ 23.04.830

SAN JOSE CODE

1. Sign area on kiosks shall not exceed thirty-six square feet per kiosk face and shall not be located more than seven feet in height above grade.
 2. Signage may be animated and/or may be illuminated with continuous external or internal lighting.
 3. Signs shall not be displayed on kiosks located within forty feet of another kiosk upon which signs are displayed.
 4. A minimum width of unobstructed sidewalk clearance of four feet shall be maintained for pedestrian traffic.
- F. *Flags.* Flags may be displayed in the public right-of-way by the city or redevelopment agency subject to the following regulations:
1. Flags, other than U.S. flags, shall be displayed on flagpoles or attached securely to lampposts.
 2. U.S. flags shall be displayed in accordance with all applicable federal laws and regulations.
 3. Location of flags shall not create visual clutter or visual blight in combination with other permanent signage within a thirty foot radius of such flags.
 4. More than one flag may be displayed on a flagpole.
- G. *Construction signs.*
1. Temporary construction signs may be posted in connection with construction projects in the public right-of-way.
 2. Such signs may be displayed up to sixty days prior to the commencement of construction and during construction and shall be removed within thirty days after completion of construction.
 3. Such signs shall not be illuminated unless required for public safety and shall be limited in size and number to those required for public safety and information.
- H. *Temporary A-frame signs in residential zoning districts.*
1. Temporary portable A-frame signs may be displayed in public rights-of-way in residential zoning districts as provided in Section 23.04.340 of this Code.
 2. Such temporary A-frame signs shall not require review and advance approval.
- I. *Temporary A-frame signs.* In the downtown sign zone and in the Willow Glen and Alameda neighborhood business districts, as defined by the San José 2020 general plan as amended from time to time, adjacent property owners may allow temporary portable A-frame signs in public rights-of-way, subject to the following conditions and all other applicable provisions of this Code:
1. One temporary A-frame sign may be allowed per each separate nonresidential occupancy frontage having an entryway on the public right-of-way.
 2. Each such sign:
 - a. Shall not exceed eight square feet in sign area per side.
 - b. Shall have a minimum height of three feet and a maximum height of any part of the sign of four feet, subject to the provisions of Section 23.02.1160 of this Code.
 - c. Shall have a maximum width of any part of the sign of two feet.
 - d. Shall be displayed only during the daylight business hours of the adjacent occupancy frontage.
 - e. Shall not be illuminated.
 - f. Shall be constructed of durable materials that are weather- and rust-resistant and shall have a neat and professional appearance.
 - g. Shall be located as follows:
 - i. Subject to all other requirements of this Code, a temporary A-frame sign shall be located only in that area between eighteen inches and four feet from the curb face, except that on any sidewalk area where light rail transit mall tracks are located, a temporary A-frame sign shall be located only in that area between four feet six inches and seven feet from the light rail track nearest the buildings.
 - ii. No temporary A-frame sign shall be located:
 1. Within fifteen feet of any bus stop zone or light rail stop zone, or within fifteen feet, of any bus stop furniture or light rail stop furniture, whichever distance is greater;
 2. Between light rail tracks and curb;
 3. Within two feet of any driveway or curb cut access ramp;

SIGN REGULATIONS

§ 23.04.830

4. Adjacent to or within four feet of any disabled parking zone;
 5. Attached in any manner to any other structure on the sidewalk, such as, but not limited to, trees, lampposts, utility poles, street or traffic signs, benches, hydrants, utility cabinets, and/or mailboxes;
 6. On streets where light rail transit mall is located, within three feet of any other structure on the sidewalk, such as, but not limited to, trees, lampposts, utility poles, street or traffic signs, benches, hydrants, utility cabinets, and/or mailboxes; or
 7. On any median strip.
- iii. In the case of a temporary A-frame sign on a sidewalk that is adjacent to a street parking space (other than a disabled parking zone), the sign may be located only in that area on the sidewalk that is within five feet of the beginning or end of the parking space, as indicated by the lines on the street that mark the parking space.
 - iv. Sign shall not obstruct the normal flow of pedestrian traffic.
 - v. Anything in this subsection I. to the contrary notwithstanding, if the sidewalk adjacent to the occupancy frontage is not wide enough to display the temporary A-frame sign and there is a parkstrip, such sign may be displayed on the parkstrip, subject to all other conditions in this subsection I.
3. Temporary A-frame signs which conform to this subsection I. shall not require advance review and approval.
- J. *Temporary directional signs in parkstrips by permit.*
1. A transitory use may apply to the director of the department of planning and building for a permit to place temporary directional signs in parkstrips.
 2. For purposes of this subsection J., a "transitory use" shall mean a use that is not a permanent or regular use at a location and is distinct and different from the continuing use at the location.
 3. Each sign permit:
 - a. May be for up to fifty signs directing traffic to the transitory use.
 - b. May be issued either (1) in conjunction with a development permit issued pursuant to Chapter 20.100, or (2) as a separate sign permit issued pursuant to Section 23.02.1330 for one year and renewable upon application for renewal within thirty days prior to expiration and payment of a new permit fee.
 - c. Shall require insurance naming the city as an additional insured, in coverage amounts and types as required by the city risk manager.
 - d. Shall require indemnification of the city by the permittee.
 - e. Shall provide that any sign may be removed by city if necessary for maintenance activities or safety considerations.
 - f. Shall provide (1) that any sign may be placed on a parkstrip only with the consent of the property owner and/or occupant of the parcel adjacent to the parkstrip where the sign is placed, and (2) that the property owner and/or occupant of the parcel adjacent to the parkstrip where the sign is placed may remove such sign.
 - g. Shall be revocable by the city upon ninety days notice, or at any time for safety considerations.
 4. Each sign:
 - a. Shall consist of a sign area no larger than four square feet per side.
 - b. Shall be constructed of flexible and weatherproof plastic or reinforced paper material that is firmly affixed to a plastic or wooden stake. The top end of the stake shall be flat or rounded and shall not be pointed.
 5. Signs may be displayed in the period from 5:00 p.m. on Friday to 8:00 a.m. on Monday, and on holidays from 5:00 p.m. on

§ 23.04.830

SAN JOSE CODE

the day prior to the holiday to 8:00 a.m. on the day following the holiday. Stakes must be removed when signs are removed.

6. Signs shall be securely positioned and shall be either:
 - a. Staked into the ground; or
 - b. Attached to poles or posts by means of at least two plastic strips that are a minimum of one-quarter inch wide (commonly known as "cable ties"), provided however that no sign may be attached to any traffic signal light post or to any pole or post displaying a traffic sign.
7. Signs shall not be located:
 - a. Within one hundred feet, on the same public right-of-way and facing in the same direction, of another sign directing traffic to the same transitory use, except that two signs may be located on the same public right-of-way and facing in the same direction within fifty feet of an intersection if the signs are directing traffic to turn at the intersection.
 - b. Within eighteen inches of curb along any curb where parking is allowed.
 - c. In any bus stop zone.
 - d. So that any part of sign extends into any bus stop zone or sidewalk area.
 - e. Within two feet of a driveway or curbcut access ramp.
 - f. On medians.
 - g. Along state or county rights-of-way without state or county approval.
 - h. In the downtown sign zone or airport sign zone.
 - i. Attached in any manner to any other structure on the parkstrip, such as, but not limited to, trees, lampposts, utility poles, utility cabinets, street or traffic signs, benches, hydrants, and mailboxes, except as expressly allowed in subsection 5. above.
8. Other regulations:
 - a. Maximum height of any part of sign while displayed shall be four feet.
 - b. Signs may contain only messages directing vehicular or pedestrian traffic to the transitory use.
 - c. Signs shall not be illuminated.

(Ords. 24201, 24757, 25997.)

23.04.835 Transit bus shelter signs.

- A. Signage may be displayed on bus shelters installed at bus stops by the Santa Clara county transit district, as follows:
 1. Signage as necessary to convey transit information; and
 2. Other signage of up to forty-eight square feet in sign area per bus shelter.
- B. Such signage:
 1. May be displayed only in accordance with terms and conditions set forth in a contractual agreement between the city and the transit district; and
 2. Shall not otherwise be subject to this title.

(Ord. 24973.)

23.04.840 Presumption of responsible party.

- A. Each of the following persons is presumed to be responsible for the posting of an illegal sign, including without limitation an election sign, on public property:
 1. Any person whose name appears on the sign; and
 2. Any person retained to post or distribute such signs.
- B. More than one person may be deemed responsible for the placement of the same sign.

(Ord. 24835.)

23.04.850 Charges for removal of illegal signs on public property.

- A. All persons responsible for an illegal sign posted on public property, as well as any person who actually posted the sign, shall be jointly and severally liable for the costs of the city for the removal of such sign from public property, plus late payment penalties and interest, as set forth in the schedule of fees adopted by resolution of the city council. Such charges shall be in addition to all other legal remedies, criminal, civil, and administrative, which may be pursued by the city to address any violation of this Code.
- B. A bill of charges shall be served upon a responsible party by the director of the city department which removed the sign in accordance with Sections 1.04.140 of this Code within thirty days after the removal of the sign(s) from the public property.
- C. Payment shall be due as provided in the bill of charges.
- D. The total amount of the bill of charges, plus late payment penalties and interest, if any, shall be

SAN JOSE CODE

**The foregoing instrument is
a correct copy of the original
on file in this office.**

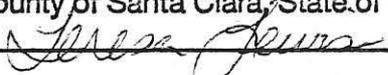
Attest:

TONI J. TABER

City Clerk

City Clerk of the City of San Jose

County of Santa Clara, State of California

By , Deputy

2010 S-16

1962.r

EXHIBIT 8

Chapter 20.10**GENERAL PROVISIONS AND ZONING DISTRICTS****Sections:**

- 20.10.010 Title.**
- 20.10.020 Purpose.**
- 20.10.030 Compliance required.**
- 20.10.040 Interpretation.**
- 20.10.050 Injunctive relief.**
- 20.10.060 Zoning districts established.**
- 20.10.070 Planned development district.**
- 20.10.080 City divided into zones.**
- 20.10.090 District boundaries.**
- 20.10.100 Fees.**

20.10.010 Title.

This title may be cited as the San José Zoning Code or the San José Zoning Ordinance. (Ord. 26248.)

20.10.020 Purpose.

The purpose of this title is to promote and protect the public peace, health, safety, and general welfare, and in furtherance of the foregoing to do the following:

1. To guide, control, and regulate future growth and development in the city in a sound and orderly manner, and to promote achievement of the goals and purposes of the San José General Plan;
2. To protect the character and economic and social stability of agricultural, residential, commercial, industrial, and other areas in the city;
3. To provide light, air, and privacy to property;
4. To preserve and provide open space and prevent overcrowding of the land;
5. To appropriately regulate the concentration of population;

6. To provide access to property and prevent undue interference with and hazards to traffic on public rights-of-way; and
7. To prevent unwarranted deterioration of the environment and to promote a balanced ecology.

(Ord. 26248.)

20.10.030 Compliance required.

No person shall use, allow or suffer the use of any land, building or structure except in strict compliance with the provisions of this Title 20, including the development and performance standards herein, and any permit issued pursuant hereto. The temporary or transitory nature of a use does not exempt it from this requirement.

(Ord. 26248.)

20.10.040 Interpretation.

- A. In interpreting and applying the provisions of this Title, they shall be held to be for the purpose of promoting the public safety, health, convenience, comfort, prosperity, or general welfare of the community. It is not intended by this Title to interfere with or abrogate or annul any easements, covenants, or other agreements between parties; provided, however, that where this Title imposes a greater restriction upon the use of Buildings or premises or upon Height of Buildings, or requires larger open spaces than are imposed or required by other ordinances, rules, regulations or by easements, covenants, or agreements, the provisions of this Title shall govern.
- B. No provision of this Title is intended to nor shall be interpreted or applied to allow or authorize a use or Structure that violates federal, state or local law, provided, however that a Medical Cannabis Collective, Medical Cannabis Collective Cultivation Site Only, Medical Cannabis Collective Dispensary Site Only, Medical Cannabis Business, Non-medical Cannabis Business, Cannabis Manufacturing (Type 6) Business, Cannabis Distribution Business,

or Cannabis Testing Business that is in full compliance with all applicable state and local laws and regulations may assert an affirmative defense to criminal or civil enforcement of this Code where such enforcement action is based solely upon those operations by a Medical Cannabis Collective, Medical Cannabis Collective Cultivation Site Only, Medical Cannabis Collective Dispensary Site Only, Medical Cannabis Business, Non-medical Cannabis Business, Cannabis Manufacturing (Type 6) Business, Cannabis Distribution Business, or Cannabis Testing Business that are expressly recognized in and fully conform to the provisions of this Code.

(Ords. 26248, 28958, 29011, 29420, 30029, 30209.)

20.10.050 Injunctive relief.

- A. Any use of property contrary to the provisions of this title or any condition of a permit imposed pursuant to this title shall be, and is hereby declared to be, unlawful and a public nuisance. In any action with regard to such use, the city may apply to any court having jurisdiction for any relief as will abate or remove such use and restrain any person, firm or corporation from using any property contrary to the provisions of this title.

GENERAL PROVISIONS AND ZONING DISTRICTS

§ 20.10.060

- B. This title may be enforced by an injunction issued out of the Superior Court upon suit by the city or the owner or occupant of any real property affected by such violation or prospective violation.
(Ord. 26248.)

20.10.060 Zoning districts established.

- A. In order to regulate and restrict the location of residences, professions, businesses, trades, and industries, to regulate and restrict the location, height, and size of buildings and structures hereafter erected, enlarged or altered, and to regulate and determine the area, depth, and width of yards, setback areas, and other open spaces, the following classes of city zoning districts are hereby established, as set forth in Table 20-10:

Table 20-10 City Zoning Districts		
Zoning District	Zoning Map Symbol	Alternative Zoning Map Symbol
OS Open Space	OS	OS
A Agricultural	A	A
Rural Residential Residence District (1DU/5 Acres)	R-1-RR	None
R-1-1 Residence District (1DU/Acre)	R-1-1	R-1-B-3
R-1-2 Residence District (2DU/Acre)	R-1-2	R-1-B-2
R-1-5 Residence District (5DU/Acre)	R-1-5	R-1-B-8, R-1-B-1
R-1-8 Residence District (8DU/Acre)	R-1-8	R-1, R-1-B-6
R-2 Residence District (2DU/Lot)	R-2	R-2
R-M Residence District (Multiple Unit/Lot)	R-M	R-3, R-3-F, R-3-A, R-3-B, R-3-C, R-4
R-MH District (mobilehome parks, travel trailer parks)	R-MH	T-M
CO Commercial Office District	CO	C-L, C
PQP Public/Quasi-Public District	PQP	None
CP Commercial Pedestrian District	CP	C-1
CN Commercial Neighborhood District	CN	C-2
CG Commercial General District	CG	C-3
TEC Transit Employment District	TEC	None
IP Industrial Park District	IP	L-R, IP-a, IP-b, IP-c, IP-d, I
CIC Combined Industrial/Commercial	CIC	None
LI Light Industrial District	LI	M-1
HI Heavy Industrial District	HI	M-4

The foregoing zoning districts are listed in descending order of restrictiveness, that is, with the most restrictive district listed first and the least restrictive district listed last.

- B. In addition, the following special zoning districts are established as set forth in Table 20-20. The application of these districts is limited to specific geographic areas of the city as set forth in Section 20.70.010 and Section 20.75.020.

§ 20.10.060

SAN JOSE CODE

Table 20-20 Special Zoning Districts	
Zoning District	Zoning Map Symbol
DC Downtown Primary Commercial District	DC
DC-NT1 Downtown Commercial Neighborhood Transition 1 District	DC-NT1
MS-G Main Street Ground-Floor Commercial District	MS-G
MS-C Main Street Commercial District	MS-C

(Ords. 26248, 26455, 27091, 28858, 29218, 29364.)

20.10.070 Planned development district.

- A. The planned development district is hereby established as a city zoning district classification. It may be referred to as planned development zone, planned development district or as PD district or PD zone.
- B. Every PD district shall be combined with an alternative base zoning district or districts. Any zoning district set forth in Section 20.10.060 may be utilized as a base district. The zone shall be referred to by the symbol for its base district followed by its planned district designation (e.g., A(PD)).
- C. The PD district shall be individually designed to meet the needs of the territory so zoned. It shall be adopted by a zoning ordinance which incorporates by reference a general development plan for the entirety of the subject property. The general development plan shall include drawings and text as specified in Section 20.120.510.
- D. Development of the subject property can hereafter occur only pursuant to an effective PD permit issued in strict conformity with the adopted general development plan or alternatively, in accordance with requirements for the base district if one exists.
- E. Under no circumstances shall the city ever be required to issue a PD permit. The discretion to grant or deny such permit is untrammelled and nothing contained in this title shall be deemed or construed to limit this discretion in any way whatsoever. Unless and until a PD permit has been issued and becomes effective, the subject territory may be used only as if it were situate in the base district alone.

(Ords. 26248, 26455.)

20.10.080 City divided into zones.

- A. All territory in the city has been divided into zoning districts shown on the official zoning maps maintained in the office of the director as modified and supplemented by individual zoning district maps and ordinances.
- B. Amendments to the existing zones shall be made by ordinances adopted as provided in Chapter 20.120 of this title. Such amendments shall not be included in the codified San José Municipal Code but such ordinances shall amend the zoning districts and shall be deemed incorporated into the official maps as if fully set forth therein.
- C. Any property located in the city that has not been specifically designated with a particular zoning district is hereby deemed to be zoned A-Agriculture.

(Ords. 26248, 26712.)

20.10.090 District boundaries.

Where the boundaries of a district are not clearly identifiable, the following rules of interpretation shall apply:

1. The boundary of a district is the center line of the street unless otherwise clearly delineated.
2. The boundaries shall be deemed to be on the property line wherever it appears to be on the line.

(Ord. 26248.)

20.10.100 Fees.

Unless specifically otherwise indicated or prohibited by ordinance of the city council or by applicable law, the director of planning shall be authorized to charge a fee as set forth in and in the manner described in a resolution adopted by the city

OPEN SPACE & AGRICULTURAL ZONING DISTRICTS

§ 20.20.100

council for each and every permit, accommodation, process or other authorization to be administered by the director under this title, which fee shall not exceed the costs incurred by the city in processing and providing the permit, accommodation, process or other authorization. (Ord. 26896.)

Chapter 20.20

OPEN SPACE & AGRICULTURAL ZONING DISTRICTS

Parts:

- 1 General
- 2 Use Regulations
- 3 Development Regulations
- 4 Performance Standards

Part 1

GENERAL

Sections:

20.20.010 Open space and agricultural zoning districts.

20.20.010 Open space and agricultural zoning districts.

- A. This chapter sets forth the land use and development regulations applicable to the open space and agricultural zoning districts established by Section 20.10.060.
- B. No building, structure, or land shall be used, and no building or structure shall be erected, enlarged, or structurally altered, in the OS Open Space and A Agricultural Districts except as set forth in this chapter.
- C. The purposes of the open space and agriculture zoning districts are as follows:
 - 1. OS Open Space District. The purpose of the OS Open Space District is to provide for the public peace, health, safety, and welfare by conserving open space to ensure the continued availability of land for

the preservation of natural resources, for the managed production of resources, for outdoor recreation, and for the enjoyment of scenic resources; and by protecting the people and property in the City of San José against physical environmental hazards. The regulations contained in the OS District are designed to enhance the scenic a visual qualities of the land as well as to implement the open space and hillside policies of the general plan.

- 2. A Agricultural District. The purpose of the A Agricultural District is to provide for areas where agricultural uses are desirable. The regulations contained in this district are intended to provide for a wide range of agricultural uses as well as implementing the goals and policies of the general plan.

(Ords. 26248, 29012.)

Part 2

USE REGULATIONS

Sections:

20.20.100 Allowed uses and permit requirements.

20.20.100 Allowed uses and permit requirements.

- A. "Permitted" land uses are indicated by a "P" on Table 20-30.
- B. "Conditional" uses are indicated by a "C" on Table 20-30. 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. Land uses not permitted are indicated by a "-" on Table 20-30. Land uses not listed on Table 20-30 are not permitted.
- D. When the right column of Table 20-30 includes a reference to a section number or a footnote, the regulations cited in the section number or footnote applies to the use. In ad-

The foregoing instrument is a correct copy of the original on file in this office.
 Attest:
TONI J. TABER
 City Clerk
 City Clerk of the City of San Jose
 County of Santa Clara, State of California

indoors or outdoors, shall continue to be prohibited in all zoning districts of the City of San José.

(Ord. 29813.)

Part 10

OUTDOOR VENDING FACILITIES

Sections:

20.80.800 Purpose.

20.80.810 Administrative permit required.

20.80.820 Exception - Administrative permit.

20.80.830 Restriction on type of vending.

20.80.840 Fixed-base host required.

20.80.850 Minimum standards for vending facilities.

20.80.860 Displays of wares.

20.80.870 Signage standards.

20.80.880 Findings.

20.80.890 Conditions of issuance.

20.80.800 Purpose.

This part regulates vending facilities established on private properties, typically in parking lots or on private pedestrian walkways. Such uses may, when properly integrated with surrounding uses, become a valued component of the urban environment. The specific purposes of this part are to safeguard the urban environment by permitting such uses in a manner consistent with safe and efficient circulation of pedestrian and vehicles and by protecting the integrity and character of the surrounding neighborhood, properties and uses.

(Ord. 26248.)

20.80.810 Administrative permit required.

A. No person shall place or operate or allow or suffer the placement or operation of any stationary vending facility which serves members of the public outdoors on any privately owned parcel or lot except in compliance with an administrative permit issued pursuant to this

title. The application for such administrative permit may be filed by the operator of the vending facility and shall be countersigned by the owner of the subject lot or parcel, or by the authorized agent of the owner, pursuant to the requirements of Chapter 20.100.

B. A stationary vending facility is a vending facility which remains or operates on any single parcel or lot for more than a total of two hours in any twenty-four-hour period.

C. An administrative permit is required for each individual stationary vending facility.

(Ords. 26248, 29254, 29678.)

20.80.820 Exception - Administrative permit.

A. Nothing in this part shall regulate or prohibit the following uses:

1. The seasonal sale of Halloween pumpkins and Christmas trees and associated greenery pursuant to this title.
2. The peddling of any product from an approved location within the sidewalk portion of a public street pursuant to Chapter 6.54 of Title 6.
3. The placement or maintenance of a newsrack within the public right-of-way pursuant to Chapter 13.18 of Title 13.
4. The vending of beverages, goods, wares, merchandise or services for the use of an on-site business when covered by other provisions in this title.

B. Notwithstanding the provisions of this part, no administrative permit shall be required for the placement or operation of a vending facility which solely involves the vending of whole, uncut, fresh fruits and vegetables and that meets and remains in full compliance with all of the following location and operational requirements:

1. The vendor shall attend the vending facility at all times.
2. The vending facility shall operate only on a site with an existing fixed-base host in operation on the site.

SPECIFIC USE REGULATIONS

3. All operations shall fully comply with all federal, state and local laws, regulations and guidelines including without limitation those applicable to the vending of fresh fruits and vegetables, 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.
4. All activities, and the duration of those activities, shall first have been approved and authorized in writing by the owner of the real property on which those activities are planned to occur. The vendor shall have this written authorization available on-site and shall present it to the city upon the city's request.
5. The vendor shall completely remove all equipment, merchandise and other materials, including, without limitation, waste materials, from the site upon the conclusion of the vending 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.
6. The hours of operation of a vending facility shall be limited to the hours of operation of the fixed-base businesses on the fixed-base host site; however, the vending facility shall not operate, including any setup or breakdown activities, between the hours of 9:00 p.m. and 7:00 a.m. During hours in which the fixed-base host businesses are closed, the vending facility shall be removed from the parcel or lot on which it operates, or shall be stored indoors.
7. The vending facility shall be placed or operated only on paved surfaces and not on landscaped areas, nor shall the vending facility adversely impact any landscaping or landscaped areas.
8. The vendor shall not offer for sale or otherwise distribute any products other than whole, uncut, fresh fruit and vegetables.
9. Each vendor shall not use amplified sound for any purpose.
10. The vending facility or activities shall not obstruct the safe flow of vehicular or pedestrian traffic on or around the site.
11. The vending facility shall not occupy or obstruct more than two parking spaces required by this title for the operation of any other concurrent use.
12. The maximum dimensions of the vending facility shall be as follows:
 - a. The maximum height of any portion of each vending facility, including any folding or collapsible appendage, shall not exceed ten feet.
 - b. The maximum width of each vending facility or cart, including any folding or collapsible appendage, shall not exceed ten feet.
 - c. The maximum length of each vending facility or cart, including any folding or collapsible appendage, shall not exceed twenty-four feet.
13. The vending facility shall not be placed on or operate within the boundaries of a hypothetical triangular area described by the point of intersection of the curb-line extensions of perpendicular or nearly perpendicular streets, and a line joining two points thirty feet from that point of intersection, measured along those curb-lines.
14. The vending facility shall not be placed or operate less than one hundred feet from a freeway on or off ramp.
15. The vending facility shall not be placed or operate less than twenty feet from a driveway curb cut.
16. The vending facility shall not be placed or operate within fifty feet of an exclusively residentially used lot as measured

from nearest point of vending facility to nearest point of the exclusively residentially used lot.

17. No vending facility shall be placed within or operate from a structure or stand which is attached to or bears directly upon or is supported by the surface of the site. Vending facilities shall operate exclusively from vehicles or carts or other conveyances which are fully mobile and have operational wheels in place at all times. Vending facilities shall not connect to temporary or permanent on-site water, gas, electricity, telephone or cable sources.
18. Vending facilities shall not be located less than fifteen feet from a parcel or lot line or a public right-of-way.
19. The vendor shall not place or utilize displays of fruits or vegetables that are detached from the vending facility or visible off-site.
20. All signs used in conjunction with any vending facility shall comply with the requirements of Title 23 of this Code and with the following requirements:
 - a. Free-standing signs shall not be allowed. All signs shall be mounted or attached to the exterior surfaces of the vending facility and shall not extend beyond the top, bottom, or side lines of the exterior surface to which it is mounted or attached. The dimensions of mounted or attached signs shall be included in measuring and calculating the maximum height, width, and length of a vending facility under Section 20.80.870.
 - b. No sign shall revolve, rotate, move or create the illusion of movement, rotation, or revolution, or have any visible moving, revolving, or rotating surface parts.
 - c. No sign shall be illuminated, directly or indirectly; but this restric-

tion does not preclude the incidental illumination of such signs by service lighting needed in the conduct of nighttime operations.

- d. No signs shall emit or broadcast any sound, outcry, or noise.
21. The vendor shall maintain the vending facility and the area around the vending facility in a clean and orderly manner that does not create a public or private nuisance. For purposes of this part, a "nuisance" shall mean any act or omission which obstructs or causes substantial inconvenience or damage to the public or any member thereof, in the course of, or by the manner of, the exercise of rights created by this title.
22. Each vending facility shall display in a manner legible and visible to its clientele:
 - a. The name and phone number of the vendor operating the vending facility;
 - b. The number of the city business license issued to the vending facility; and
 - c. The property owner's name and phone number.
23. Each vendor shall have secured with the property owner of the site on which the vendor plans to operate, and prior to the commencement of any operation of the vendor, 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:
 - a. Refuse disposal and sufficient trash and recycling receptacles within the area of the vending;
 - b. Litter removal within three hundred feet of the boundaries of the vending facility; and
 - c. Access to adequate sanitary facilities, including restrooms and/or portable sinks and toilets.

(Ords. 26248, 29254, 29678.)

SPECIFIC USE REGULATIONS

§ 20.80.850

20.80.830 Restriction on type of vending.

An outdoor vending facility shall be used only for purposes that are permitted in a fixed-base use in the district in which the vending facility is located.

(Ord. 26248.)

20.80.840 Fixed-base host required.

Vending facilities shall not be permitted on vacant parcels or lots. Each vending facility shall be located on the same site as, and shall share support facilities, including parking, sanitary and trash disposal facilities, with a fixed-base host.

(Ord. 26248.)

20.80.850 Minimum standards for vending facilities.

The following standards shall be applied by the director, or by the planning commission on appeal, in granting an administrative permit for a vending facility. The director or planning commission may impose stricter standards as an exercise of discretion, upon a finding that stricter standards are reasonably necessary in order to implement the general intent of this part and the purposes of this title. The standards for vending facilities are set forth in Table 20-170:

**Table 20-170
Minimum Standards**

Height	The maximum height of any portion of a vending facility, including any folding or collapsible appendage, shall not exceed ten (10) feet.
Width	The maximum width of a vending facility or cart, including any folding or collapsible appendage, shall not exceed ten (10) feet.
Length	The maximum length of a vending facility or cart, including any folding or collapsible appendage, shall not exceed twenty-four (24) feet.
Distance from Intersections	No vending facility shall be placed on or operate within the boundaries of a hypothetical triangular area described by the point of intersection of the curb-line extensions of perpendicular or nearly perpendicular streets, and a line joining two points thirty (30) feet from that point of intersection, measured along those curb-lines.
Distance from Streets	No vending facility shall be placed or operate at a location less than fifteen (15) feet from any street right-of-way.
Distance from Freeway Ingress and Egress Ramps	No vending facility shall be placed or operate less than one hundred (100) feet from a freeway on or off ramp.
Distance from Driveways	No vending facility shall be placed or operate less than twenty (20) feet from a driveway curb cut.
Distance from Other Vending Facilities	No vending facility shall be placed or operate within five hundred (500) feet of another vending facility operating on private property.
Distance from Residences	No vending facility shall be placed or operate within one-hundred fifty (150) feet of a residence.
Paved Locations	No vending facility shall be placed or operate on a parcel or lot unless the surface is paved with asphalt, macadam or concrete.

§ 20.80.850

SAN JOSÉ CODE

Mobility of Operations	No vending facility shall be placed within or operate from a structure or stand which is attached to or bears directly upon or is supported by the surface of the site. Vending facilities shall operate exclusively from vehicles or carts or other conveyances which are fully mobile and have operational wheels in place at all times. Vending facilities shall not connect to temporary or permanent on-site water, gas, electricity, telephone or cable sources.
------------------------	--

SPECIFIC USE REGULATIONS

§ 20.80.880

Table 20-170 Minimum Standards	
Sanitary Facilities	Persons operating vending facilities shall have unrestrained right of access to toilet and handwashing facilities located on site within reasonable distance of the vending facility's approved location.
Setback	Vending facilities shall be located not less than fifteen (15) feet from a parcel or lot line or a public right-of-way.
Parking	<ol style="list-style-type: none"> 1. Vending facilities shall not be located in or obstruct parking spaces required by this title for the operation of any other concurrent use. 2. Vending facilities shall provide a minimum of three (3) parking spaces, located on the host site and within two hundred (200) feet of the vending facility's approved location.

(Ord. 26248.)

20.80.860 Displays of wares.

Detached displays of food, beverage, goods, wares, and merchandise and displays of such articles visible off-site shall not be allowed.

(Ord. 26248.)

20.80.870 Signage standards.

All signs used in conjunction with any vending facility shall comply with the requirements of Title 23 and with the following requirements:

1. Free-standing signs shall not be allowed. All signs shall be mounted or attached to the exterior surfaces of the vending facility and shall not extend beyond the top, bottom, or side lines of the exterior surface to which it is mounted or attached. The dimensions of mounted or attached signs shall be included in measuring and calculating the maximum height, width and length of a vending facility under Section 20.80.750.
2. No sign shall revolve, rotate, move or create the illusion of movement, rotation or revolution, or have any visible moving, revolving or rotating surface parts.
3. No sign shall be illuminated, directly or indirectly; but this restriction does not preclude the incidental illumination of such signs by service lighting needed in the conduct of nighttime operations.
4. No signs shall emit or broadcast any sound, outcry, or noise.

(Ord. 26248.)

20.80.880 Findings.

A. The administrative permit shall be granted only if the director makes the following findings:

1. The vending facility, as designed and at the location requested, will not create a potentially adverse impact on pedestrian or vehicular safety or interfere with or in any way impede on-site traffic circulation; and
2. The proposed vending facility, and at the location requested, will be compatible with the design of buildings or structures on site or in the vicinity. Compatibility is based on factors such as harmony with the architecture, color, style and design of structures on the host site and the surrounding neighborhood; and
3. The location of a proposed vending facility is not in such close proximity to another such facility or facilities as to create or contribute to a blighted condition of the area which can result from compaction of such facilities; and
4. The proposed vending facility will not impair the landscaping required for any concurrent use by this title or any permit issued pursuant thereto; and
5. The proposed vending facility will not obstruct any parking space required by this title or any permit issued pursuant thereto for any concurrent use.

B. The director shall deny the application where the information submitted by the applicant and/or

§ 20.80.880

SAN JOSE CODE

presented at the public hearing fails to satisfactorily substantiate such findings. (Ord. 26248.)

20.80.890 Conditions of issuance.

All outdoor vending facilities must comply with the following conditions:

- A. Vending facilities coming within the definition of "mobile food preparation unit", "vehicle", or "temporary food facility" as set forth in the Health and Safety Code of the State of California, Division 22, Chapter 4, Article 2, Sections 27526, 27538, and 27540, or their successors, shall, as a condition of approval for issuance of a special use permit under this part evidence and display at all times a current health permit issued to the vendor for the vending facility by the health officer of the County of Santa Clara.
- B. As a condition of approval of a administrative permit for a vending facility, the operator of such facility shall provide to the director of planning an agreement signed by the owner of the lot or parcel, or the owner or operator of the fixed base use, if different from the owner of the lot or parcel, to provide the support facilities required by this part.
- C. A vendor shall attend the vending facility at all times.
- D. The vendor shall maintain the area around the vending facility in a clean and orderly fashion.
- E. The vending facility shall be maintained in a manner which does not create a public or private nuisance. For purposes of this part, a nuisance shall mean any act or omission which obstructs or causes substantial inconvenience or damage to the public or any member thereof, in the course of, or by the manner of, the exercise of rights created by the grant of the administrative permit.
- F. Vending facilities shall be kept in a good state of repair and shall be maintained with surfaces which are clean and not cracked, peeling, or faded.
- G. Each vending facility shall display in a manner legible and visible to its clientele:
 1. The name and phone number of the vendor operating the vending facility;
 2. The administrative permit number and date of issuance issued to the vending facility; and
 3. The number of the city business license issued to the vending facility.

- H. The hours of operation of a vending facility shall be limited to the hours of operation of the fixed-base businesses on the fixed-base host site, however no vending facility shall operate during the hours from 10:00 p.m. through 6:00 a.m. During hours in which the fixed-base host site businesses are closed, the vending facility shall be removed from the parcel or lot on which it operates, or shall be stored indoors.

(Ords. 26248, 26455.)

Part 11**OFF-SALES OF ALCOHOLIC BEVERAGES****Sections:****20.80.900 Off-sale of alcoholic beverages.****20.80.900 Off-sale of alcoholic beverages.**

- A. A conditional use permit may be issued pursuant to the applicable provisions of this title for the off-sale of any alcoholic beverages only if the decision-making body first makes the following additional findings, where applicable:
 1. For such use at a location closer than five hundred feet from any other such use involving the off-sale of alcoholic beverages, situated either within or outside the city, that the proposed location of the off-sale alcohol use would not result in a total of more than four establishments that provide alcoholic beverages for off-site consumption within a one thousand foot radius from the proposed location.
 2. For such use at a location closer than five hundred feet from any other use involving the off-sale of alcoholic beverages, situated either within or outside the city, where the proposed location of the off-sale of alcoholic beverages use would result in a total of more than four establishments that provide alcoholic beverages for off-site consumption within a one thousand foot radius from the proposed location, that the resulting excess concentration of such uses will not:
 - a. Adversely affect the peace, health, safety, or general welfare of persons residing or working in the surrounding area or profile in this office.

Attest:

TONI J. TABER

City Clerk

City Clerk of the City of San Jose
County of Santa Clara, State of California

Rv

Deputy

1738

2012 S-20

SPECIFIC USE REGULATIONS

§ 20.80.1130

20.80.1060 Maximum number.

No more than a maximum of thirty-nine payday lending establishments shall be sited in the city. (Ord. 29089.)

Part 13**RECYCLING FACILITIES****Sections:**

- 20.80.1100 Permits required.**
- 20.80.1110 Permits for multiple reverse vending machines or multiple small collection facilities on multiple sites.**
- 20.80.1115 Maximum number of administrative permits for unattended collection containers.**
- 20.80.1120 Approval of administrative permit.**
- 20.80.1130 Criteria and standards.**
- 20.80.1140 Adhering to criteria.**
- 20.80.1150 Site clean-up required.**

20.80.1100 Permits required.

- A. No person shall place or permit the placement, construction, or operation of any recycling facility, including a reverse vending machine, small collection facility, transfer facility, processing facility, or composting facility, without first obtaining a permit pursuant to the provisions set forth in this title.
- B. A PD zoning may expressly permit or prohibit recycling facilities. Where a PD zone does not specifically address such facilities but allows uses permitted in the CO, CP, CN, CG, LI, and/or HI zoning districts, a small collection facility may be permitted with an administrative permit in accordance with Chapter 20.100.

(Ord. 26248.)

20.80.1110 Permits for multiple reverse vending machines or multiple small collection facilities on multiple sites.

A single administrative permit may be granted to allow more than one reverse vending machine or more than one small collection facility, even if located on different sites, but only if all of the following criteria and conditions are fully met:

- A. The operator of each of the proposed machines and/or facilities is the same;
 - B. The real property owner of each of the proposed sites is the same;
 - C. All of the applicable criteria and standards set forth in this part are met for each such proposed machine and/or facility; and
 - D. The proposed machines and/or facilities are determined by the director to be similar in nature, size, and intensity of activity.
- (Ords. 26248, 29265.)

20.80.1115 Maximum number of administrative permits for unattended collection containers.

At any given time, the maximum number of valid and unexpired administrative permits issued for unattended collection containers shall not exceed eighteen. (Ord. 29265.)

20.80.1120 Approval of administrative permit.

An applicant shall declare, under penalty of perjury, that a recycling use subject to an administrative permit is and at all times will be maintained to conform with each and every one of the applicable criteria and standards set forth in Section 20.80.1130 below. An administrative permit shall not be issued unless all of the applicable criteria are met. (Ord. 26248.)

20.80.1130 Criteria and standards.

- A. Each owner of a site on which a recycling facility is to be located and each operator of the recycling facility shall first obtain an administrative permit to allow that recycling facility to be located and operate on the site. Each owner of a site on which a recycling facility is allowed to be located with an administrative permit and each operator of the permitted recycling facility shall thereafter be required to ensure that the recycling facility meets all of the applicable criteria and standards listed below. Those recycling facilities permitted with a site development permit, special use permit, or conditional use permit shall meet the applicable criteria and standards listed below, provided that the director, planning commission, or city council, as the case may be, may relax such standards or impose stricter standards as set forth in that permit as an exercise of discretion, upon a finding that such modifications are reasonably necessary in order to implement the

general intent of this part and the purposes of this title at a particular site. The criteria and standards for recycling facilities are as follows:

B. Reverse vending machines.

1. Shall be established only in conjunction with a fixed-base host business which is in compliance with all applicable provisions of the San José Municipal Code, including without limitation the zoning, building and fire codes of the City of San José;
2. Shall be located within fifteen feet of a primary building entrance of the fixed-base host business and shall not obstruct pedestrian or vehicular circulation;
3. Shall be constructed and maintained with durable waterproof and rustproof material, and shall be covered;
4. Shall be clearly marked to identify the type of material to be deposited;
5. Shall be allowed a maximum of four square feet of sign area, and all sign(s) shall be attached to the respective machine or facility;
6. Shall, in the aggregate, number no more than three machines and/or facilities per fixed-base host business;
7. Shall be no more than fifty cubic feet in bulk and no more than eight feet in height;
8. Reverse vending machines located indoors do not require any permits under this title.

C. Small collection facilities.

1. A small collection facility shall be established only in conjunction with a fixed-base host business in compliance with all applicable provisions of the San José Municipal Code, including without limitation the zoning, building and fire codes of the City of San José;
2. A small collection facility shall be operated and maintained as a facility for the deposit or drop-off of recyclable material;
3. All containers of a small collection facility shall be constructed and maintained with durable, vector-resistant, watertight, waterproof and rustproof material, and shall be covered;
4. The recycling containers of a small collection facility shall be kept clean and sanitary and shall be maintained in a manner that repels and keeps away flies, vermin, birds and rodents;

5. The recycling containers of a small collection facility shall be maintained free of graffiti, and any graffiti shall be removed from such recycling containers on at least a daily basis;
6. All containers of the small collection facility shall be clearly marked to identify the type of recyclable or recyclables which may be deposited;
7. The small collection facility shall be clearly marked to identify the name and telephone number of the operator of the small collection facility and the owner of the site on which the small collection facility is located;
8. The site on which the small collection facility is located shall be swept and maintained in a dust-free, litter-free condition on at least a daily basis;
9. The small collection facility shall be placed and maintained on a site in compliance with the Americans with Disabilities Act and shall not obstruct on-site or off-site pedestrian or vehicular circulation;
10. The small collection facility shall be set back at least ten feet from the nearest edge of any street right-of-way;
11. The small collection facility shall not impair the landscaping required for any concurrent use of the site by this title or any permit issued pursuant thereto;
12. The noise level created by the operation of the small collection facility shall not at any time exceed 55 dBA as measured at the property line of residentially zoned or occupied property and shall not exceed 70 dBA as measured at all other adjacent property lines of the site;
13. The small collection facility shall not include power-driven sorting and/or consolidation equipment, such as crushers or balers; bulk reverse vending machines may be permitted;
14. Signs may be provided on a small collection facility as follows:
 - a. An unattended collection container not over fifty cubic feet in bulk and not over eight feet in height may have a maximum sign area of four square feet; and
 - b. Other containers or units may have one flat-mounted sign per side of container

SPECIFIC USE REGULATIONS

§ 20.80.1130

- or wall of enclosure of twenty percent of the surface of the side or six square feet, whichever is greater;
15. The minimum average illumination of the portion of the site on which the small collection facility is located shall be one-half foot-candle;
 16. Use of the small collection facility for collection of solid waste or hazardous material, as defined in Sections 9.10.280 and 9.10.150 of Title 9 of this Code, is prohibited;
 17. The small collection facility shall be removed from site on the day following permit expiration;
 18. Attended small collection facilities shall be in operation only during those hours that the fixed-base host business is in operation;
 19. The small collection facility shall conform to all development regulations for the zoning district in which it is located; for an attended small collection facility, a minimum of one parking space per attendant shall be provided;
 20. The small collection facility shall be located in such a manner that any required parking for the fixed-base host business is not displaced;
 21. The permittee shall be responsible for the proper disposal of any hazardous material or other solid waste that is placed in the container or otherwise dropped off at the permittee's small collection facility;
 22. Unattended collection containers shall not be located within any applicable minimum setback areas required by this Code and shall be setback at least ten feet from any property line that abuts a public park or a public trail.
 23. The front of each unattended collection container shall conspicuously display all of the following:
 - a. The name, address, telephone number, and, if available, the internet web address of the owner and operator of the unattended collection container.
 - b. A statement, in at least two-inch typeface, that discloses whether the owner and/or operator of the unattended collection container is a nonprofit or for-profit organization. If the owner and operator is a for-profit organization, the statement shall read, "This collection box is owned and operated by a for-profit organization". If the owner and operator is a nonprofit organization, the statement shall read, "This collection box is owned and operated by a nonprofit organization." If the owner and operator are different entities, one a nonprofit organization and the other a for-profit organization, the statement shall identify the nonprofit or for-profit status of both the owner and the operator. For purposes of this section, a "nonprofit organization" means an organization that is exempt from taxation, pursuant to Section 501(c)(3) or 501(c)(4) of the United States Internal Revenue Code. Further, for purposes of this section, a "commercial fundraiser," as defined in California Government Code Section 12599, as it may be amended, shall be classified as a for-profit organization.
- c. Any other statements or disclosures required under applicable State or Federal law including, but not limited to, California Welfare and Institutions Code Section 151, as it may be amended.
- D. Transfer facilities.
1. Operations shall take place within a fully enclosed building or:
 - a. Within an area enclosed by a solid wood or masonry fence at least six feet in height; and
 - b. At least one hundred fifty feet from property planned, zoned or occupied for residential use;
 2. Setbacks from property lines shall be those provided for in the zoning district in which the facility is located, but if such setback is less than twenty-five feet, then the transfer facility shall be buffered by a landscape strip at least ten feet wide along each property line;
 3. If the transfer facility is located within five hundred feet of property planned, zoned or occupied for residential use, it shall not be in operation between the hours of 7:00 p.m. and 7:00 a.m.;
 4. Noise levels from transfer facility operations shall not exceed 55 dBA as

§ 20.80.1130

SAN JOSE CODE

- measured at the property line of residentially zoned or occupied property, or otherwise shall not exceed 70 dBA as measured at all other adjacent property lines of the site;
5. Sign criteria shall be those provided for the zoning district in which the transfer facility is located.
- E. Processing facilities.
1. Operations shall take place within a fully enclosed building, or:
 - a. Within an area enclosed by a solid wood or masonry fence at least six feet in height; and
 - b. At least one hundred fifty feet from property planned, zoned or occupied for residential use;
 2. Setbacks from property lines shall be those provided for in the zoning district in which the processing facility is located, but if such setback is less than twenty-five feet, then the processing facility shall be buffered by a landscape strip at least ten feet wide along each property line;
 3. If the processing facility is located within five hundred feet of property planned, zoned or occupied for residential use, it shall not be in operation between the hours of 7:00 p.m. and 7:00 a.m.;
 4. Noise levels from processing facility operations shall not exceed 55 dBA as measured at the property line of residentially zoned or occupied property, or otherwise shall not exceed 70 dBA as measured at all other adjacent property lines of the site;
 5. Sign criteria shall be those provided for the zoning district in which the processing facility is located.
- F. Composting facilities.
1. Setbacks of all outdoor uses including, but not limited to, compost heaps and structures, shall be those provided for in the zoning district in which the composting facility is located, but shall not be less than twenty-five feet;
 2. A landscape strip of at least fifteen feet in width shall be provided along all property lines;
 3. Noise levels of composting facility operations shall not exceed 55 dBA as measured at the property line of

- residentially zoned or occupied property, or otherwise shall not exceed 70 dBA as measured at all other adjacent property lines of the site;
4. Sign criteria shall be those provided for in the zoning district in which the composting facility is located;
 5. Sufficient water shall be available on site to put out any fire which may occur;
 6. The stockpiling of composted material, and the composting and processing of such material, shall be accomplished in a manner which will protect the health and safety of all composting facility employees.
 7. Composting facilities where mixed waste is composted shall be enclosed by a solid wood or masonry fence. Sufficient slope shall be provided to allow the drainage of all water; and
 8. All composting facilities shall be maintained in a manner that repels and keeps away flies, vermin, birds and rodents (i.e., free of pests) and shall not constitute a nuisance in terms of odor or dust.
- (Ords. 26248, 29265.)

20.80.1140 Adhering to criteria.

The criteria provided in Section 20.80.1130 above shall be deemed conditions of any administrative permit or development permit for any recycling facility. It shall be unlawful to violate said criteria.
(Ord. 26248.)

20.80.1150 Site clean-up required.

The owner or operator of any recycling facility, small collection facility, transfer facility, or processing facility shall cause or ensure that, on at least a daily basis, any and all recyclable materials or refuse that have accumulated or are deposited outside the container, bins, or enclosures intended as receptacles for such materials are removed from the respective facility's location. Upon the failure to remove said materials from areas on the site that are visible to or open to the general public, the city may revoke any approvals issued by the city for the respective recycling facility, collection facility, transfer facility, or processing facility in the manner specified in this Code for such revocation.
(Ords. 26248, 29265.)

SPECIFIC USE REGULATIONS

§ 20.80.1155

Part 13.5

RELOCATED CARDROOM

Sections:

20.80.1155 Relocated cardroom criteria for approval.**20.80.1155 Relocated cardroom criteria for approval.**

- A. No conditional use or planned development permit shall be issued for a relocated cardroom unless all of the following criteria are met:
1. The lot or parcel to which a relocated cardroom proposes to relocate is not located closer than one hundred fifty feet from any lot or parcel, within or outside the city, situate in a residential district, or R-MH Mobilehome Park District, nor closer than five hundred feet from any school, college, university, or hospital location situate within or outside the city, nor closer than five hundred feet from another cardroom use, including without limitation another relocated cardroom, situate within or outside the city.
 2. The lot or parcel to which a relocated cardroom proposes to relocate meets all locational criteria applicable to that relocated cardroom that may be set forth in federal, state or local law, regulation, license or other approval.
- B. In addition to the zoning districts in which a relocated cardroom may be conditionally permitted with a conditional use permit, a relocated cardroom may be allowed in a planned development zoning district, subject to the requirements of that district and the issuance of a planned development permit in accordance with the provisions of Part 8 of Chapter 20.100 of this title.
- C. Permits and approvals issued under this title are intended to promote and further the purposes of this title as set forth in Section 20.10.020 of Chapter 20.10 of this title, whereas those provisions related to cardrooms set forth in Title 16 of this Code are intended to further the purposes set forth in Section 16.02.010 of Chapter 16.02 of Title 16 of this Code. This provision is declarative of existing law.
- D. In addition to the findings required for the issuance of a conditional use permit or a planned development permit set forth elsewhere in this title, no conditional use permit or planned development permit for a relocated cardroom shall be issued unless all of following additional findings, based upon substantial evidence in the record, are made:
1. The granting of the development permit would not violate any city, state or federal law, regulation or written policy; and
 2. The existing operations of a cardroom that desires to obtain a development permit to be a relocated cardroom are in full compliance with all city laws, regulations, permits, approvals and written policies applicable to that existing cardroom as of the date of issuance of any development permit for a relocated cardroom; provided, however, that a determination of compliance with Title 16 of this Code shall mean and be limited to a determination that the existing cardroom possesses a current and valid cardroom permit under Title 16 of this Code; and
 3. The granting of the development permit would not violate any court order; and
 4. The location to which the relocated cardroom proposes to relocate meets the criteria of this part.
- Notwithstanding the above provisions of this subsection, no conditional use permit or planned development permit issued to a relocated cardroom pursuant to the provisions of this title shall impose restrictions or conditions upon a relocated cardroom for reasons that are based upon the regulatory authorities and concerns addressed by Title 16 of this Code and that have no articulated land use implication, basis or impact.
- E. For the purpose of making a finding under Section 20.100.720A.1. of Chapter 20.100 of this title, or other similar finding required for a land use determination under another section of this title, there shall be a rebuttable presumption that a relocated cardroom that holds a current and valid cardroom permit issued pursuant to the provisions of Title 16 of this Code will not, solely due to its status as a cardroom use, adversely affect the peace, health, safety, morals or welfare of persons residing or working in the

§ 20.80.1155

SAN JOSE CODE

surrounding area, nor impair the value of property of others located in the vicinity of the site, nor be detrimental to public health, safety or welfare. This provision shall not preclude a decision maker for a development permit or approval from finding that a relocated cardroom will adversely affect the peace, health, safety, morals or welfare of persons residing or working in the surrounding area of a relocated cardroom, or will impair the value of property of others located in the vicinity of the site, or will be detrimental to public health, safety or welfare, on grounds unrelated to and not based upon the mere status of the relocated cardroom use as a cardroom use.

F. A determination of compliance with applicable laws, regulations, policies, permits, and other approvals made under this part shall be made only for the purposes of this part after review of information submitted for a development permit application. No such finding made under this part shall preclude a contrary finding from being made a future date or outside of the context of this part.

G. Obtaining a development permit or other approval under the provisions of this title shall not be construed or deemed to be a license or permit to operate a relocated cardroom under the provisions of Title 16 of this Code or state or federal law nor in any way constitute a fulfillment of the requirement to obtain such an operational license or permit under Title 16 of this Code or under state or federal law.

(Ord. 28579.)

Part 13.7

RETAIL ART STUDIO

Sections:

20.80.1175 Retail art studio.

20.80.1175 Retail art studio.

A. Retail art studios are a permitted use in the CP commercial pedestrian, CN commercial neighborhood, CG commercial general, MS-G main street ground floor commercial, MS-C main street commercial, DC downtown primary commercial and DC-NT1 downtown commercial neighborhood transition 1 districts only if all of the following criteria are met:

1. The use is located on the ground floor of a building; and
 2. A maximum of one thousand five hundred square feet of the total floor area is devoted to manufacturing of artistic items, and shall be contiguous to the area of retail sales use; and
 3. A minimum of twenty percent of the total floor area shall be devoted to retail sales; and
 4. All activities, except for activities that conform to Section 20.40.520 or Section 20.75.320, shall be conducted in a fully enclosed building; and
 5. The use shall conform to all applicable building and fire code regulations of the City of San José.
- B. A retail art studio that does not conform to all of the requirements set forth in Section 20.80.1175A. may be allowed through the approval of a special use permit.

(Ord. 28858.)

Part 14

SEASONAL SALES

Sections:

- 20.80.1200 Seasonal sales.
- 20.80.1210 Regulation of use.

20.80.1200 Seasonal sales.

Notwithstanding anything in this title to the contrary, seasonal sales, including the sale of Halloween pumpkins and Christmas trees, may be held on lots in the CO, CP, CN, CG, IP, LI, and HI zoning districts, as well as on lots zoned planned development where the permitted uses align with the permitted uses in the aforementioned lots. Such seasonal sales may also be held on property in any zoning district if such property is designated public/quasi-public on the land use/ transportation diagram of the general plan and the property is currently being used for uses consistent with that designation.

(Ord. 26248.)

20.80.1210 Regulation of use.

The following regulations shall apply to all seasonal outdoor Halloween pumpkin and Christmas tree sales lots:

The foregoing instrument is a correct copy of the original on file in this office.

Attest:

TONI J. TABER
City Clerk

City Clerk of the City of San Jose
County of Santa Clara, State of California

1742.d

that is a legal use may provide temporary shelter to homeless persons subject to each of the following limitations:

1. An Assembly Use may provide temporary shelter to no more than thirty (30) persons in one twenty-four (24) hour period.
2. An Assembly Use may provide temporary shelter up to two (2) times in a calendar year. The total amount of days for such shelter may not exceed ninety (90) days in any calendar year.
3. At no time shall the number of persons sheltered in any Assembly Buildings exceed the maximum square footage and occupancy standards set forth in Title 17 of this Code.
4. No Assembly Building or other Structure shall be erected, enlarged or modified without an approved Development Permit as required by Chapter 20.100 of this Title.
5. All persons receiving temporary shelter shall sleep and eat within Assembly Build-

ings. No person shall eat or be housed in tents, lean-tos or other temporary facilities.

6. The temporary shelter shall be operated in a manner that is fully in conformance with all State and local laws including regulations and permit requirements which are not otherwise in conflict with the provisions of this Part.
 7. An Assembly Use providing temporary shelter shall be registered with the Housing Department, on such forms as may be approved by the Director of Housing.
- B. Notwithstanding Sections 20.80.1610 and 20.80.1620 of this Part, any Assembly Use that provided temporary shelter to the homeless consistent with the terms of Ordinance No. 29663 during the period between June 30, 2017 and the effective date of this Ordinance shall be deemed to have been in compliance with this Part during that period.
- C. For illustrative purposes only, below is a table comparing the significant features of temporary shelter to incidental shelter:

	Temporary Shelter	Incidental Shelter
Maximum duration	90 days in one calendar year, up to twice a year	Year-round
Maximum number of persons	30 persons in any 24-hour period	50 persons or as restricted by the Fire Code
Required conformance to ALL performance standards (e.g., 150-foot minimum distance from shelter use to parcel with residential use)	No	Yes (If unable to meet any standard, approval of use permit is required)
Required Housing Department Registration	Yes	Yes

(Ord. 29976.)

Part 18

TEMPORARY TRAILERS

Sections:

20.80.1700 Use of temporary trailer.

20.80.1710 Definitions.

20.80.1720 Zoning districts and permit required.

20.80.1730 Temporary use trailer - Permit required.

20.80.1740 Temporary use trailer - Conditions of issuance.

20.80.1750 Temporary antenna trailer - Permit required.**20.80.1760 Temporary antenna trailer - Conditions of issuance.****20.80.1700 Use of temporary trailer.**

This part is to allow temporary trailers to be used only for the following purposes:

1. The continuation of a commercial, industrial or manufacturing business while a primary structure is undergoing alteration or restoration; and
2. The temporary erection of antennas mounted on trailers for short term operation while permitted alterations of existing wireless communication antennas are being constructed or for short term testing of coverage for wireless communication systems.

(Ords. 26248, 29364.)

20.80.1710 Definitions.

The following definitions are for purposes of this part:

1. "Primary structure" means an existing building in which a principal permitted commercial, industrial or manufacturing use has been conducted and as to which an applicant for a permit under this part has demonstrated a need for retrofit, restoration or other such work.
2. "Temporary use trailer" means a trailer, modular unit or other moveable prefabricated structure which is 2,000 (two thousand) square feet or less in floor area.
3. "Temporary antenna trailer" means a temporary, portable antenna, along with attendant cabinets and other equipment, mounted on a trailer that is licensed by the California Department of Motor Vehicles and is capable of towing by a single axle pickup truck.

(Ord. 26248.)

20.80.1720 Zoning districts and permit required.

No temporary use trailer or temporary antenna trailer shall be used on any property unless:

1. The property is located in a commercial zoning district, in an industrial zoning district or those planned development zoning districts which permit uses in the commercial or industrial districts; and
2. The property owner has obtained a valid permit issued in conformance with this part.

(Ord. 26248.)

20.80.1730 Temporary use trailer - Permit required.

A. A temporary use trailer for use as a replacement structure during retrofit, restoration or other such work on a primary structure requires one of the following permits:

1. An administrative permit, as provided in Chapter 20.100 of this title, and in conformance with the requirements of this section and Section 20.80.1740; or
2. In the event the owner cannot meet the requirements of this part or the director denies an administrative permit, a special use permit, as provided in Chapter 20.100.

B. All applications for a permit for a temporary use trailer shall set forth facts demonstrating to the satisfaction of the director the need to use a temporary use trailer to continue to conduct a commercial, industrial, or manufacturing use, which was in compliance with this title, at a primary structure located on the same lot for which the permit is being requested and in order to accomplish one or more of the following:

1. Retrofit for seismic safety;
2. Restoration of the primary structure necessitated by the total or partial destruction or damage of the structure by catastrophic event or sudden cause;
3. Modification of the primary structure, or of equipment or processes at the facil-

- ity, that requires on-site workers to vacate the primary structure while work is undertaken; or
4. Other such work determined by the director to be in the interest of public health and safety.
- C. All applications shall demonstrate that the proposed temporary use trailer shall be maintained in conformance with the provisions of Section 20.80.1740.
- D. Upon a determination that the application meets the requirements of this part, the director may issue the administrative permit. (Ords. 26248, 29011.)

20.80.1740 Temporary use trailer - Conditions of issuance.

The use of any temporary use trailer shall be in accordance with all of the following conditions:

- A. The use of the temporary use trailer may be permitted for up to one year, and renewed for one additional year at the discretion of the Director.
- B. No more than one temporary use trailer per lot shall be permitted at any given time, except that in the case where temporary use trailers are being used to temporarily house on-site workers displaced from the primary structure due to temporary construction activities under the provisions of Section 20.80.1730B.3., additional temporary use trailers may be permitted as needed to temporarily house those displaced workers provided that each and all of the temporary use trailers do not conflict with applicable development standards including without limitation setback and parking requirements.
- C. Temporary use trailers shall be located a minimum of fifteen feet from the front property line.
- D. No temporary use trailer shall be used in such a manner that circulation aisles are blocked.

- E. The minimum number of required off-street parking spaces for the site shall be calculated according to the provisions of Chapter 20.90 based upon the cumulative square footage of temporary use trailers and any remaining useable space in the primary structure.
- F. Not more than one sign shall be permitted per lot. Such sign shall be attached to the trailer and shall not exceed six square feet in area.
- G. The hours of operation shall be the same as for the preexisting use in the primary structure.
- H. Nothing herein excuses full compliance with the provisions of Section 20.150.020 of this title.
- I. The temporary use trailer shall comply with all applicable building and fire safety standards.
- J. All necessary city permits, in addition to those required by this part, shall be obtained prior to installation of the temporary use trailer.
- K. The temporary use trailer shall be removed and the construction site shall be cleared of all debris upon completion of the retrofit, reconstruction or other work on the primary structure or upon revocation or expiration of the administrative or special use permit, whichever occurs first.
- L. No certificate of occupancy, as provided for in Section 307 of the building code, shall be issued for the primary structure until after the temporary use trailer has been completely removed from the lot and all utilities have been disconnected from the temporary use trailer in a safe manner.
- M. Revocation of any permit issued hereunder shall be in accordance with the provisions of this title which are applicable to the type of permit issued.

(Ords. 26248, 29011.)

20.80.1750 Temporary antenna trailer - Permit required.

- A. A temporary antenna trailer for the testing of a wireless communication network requires the following permit:
1. An administrative permit, as provided in Chapter 20.100 of this title, and in conformance with the requirements of this section and Section 20.80.1760; or
 2. In the event the owner cannot meet the requirements of this part or the director denies an administrative permit, a special use permit, as provided in Chapter 20.100.
- B. All applications for permit for a temporary antenna trailer shall set forth facts demonstrating to the satisfaction of the director that the temporary antenna trailer will be used to determine if the site is necessary for a wireless communications network.
- C. All applications shall demonstrate that the proposed temporary antenna trailer shall be maintained in conformance with the provisions of Section 20.80.1760.

(Ords. 26248, 26455, 29364.)

20.80.1760 Temporary antenna trailer - Conditions of issuance.

The use of a temporary antenna trailer shall be in accordance with all of the following conditions:

1. The temporary antenna trailer shall not exceed forty-five feet in height, or the maximum height of the zoning district, whichever is less; and
2. The temporary antenna trailer shall operate for no more than one year at the site if for testing purposes; and
3. If not for testing purposes the temporary antenna trailer shall operate for no longer than the duration of constructing permitted alterations of existing wireless communication antennas; and

4. No temporary antenna trailer, for testing purposes, shall have operated within two thousand feet of the proposed site in the previous two years; and
5. The issuance of the administrative permit is intended only for the temporary operation while permitted alterations of existing wireless communication antennas are being constructed or for the temporary testing of operation or design of the wireless communications network and the approval of such a temporary antenna trailer shall not serve as a justification or basis for future approvals of wireless communication antennas on the site; and
6. No more than one temporary antenna trailer per site may be permitted at any given time; and
7. The temporary antenna trailer shall be located a minimum of fifty feet from the property line; and
8. No temporary antenna trailer shall block any circulation aisles; and
9. The temporary antenna trailer shall comply with all applicable building and fire safety standards; and
10. All necessary permits shall be obtained prior to installation of the temporary antenna trailer; and
11. Revocation of any permit issued hereunder shall be in accordance with the provisions of this title which are applicable to the type of permit issued.

(Ords. 26248, 29364.)

Part 19**UTILITY STRUCTURES****Sections:**

- ~~20.80.1800 Permit required.~~
~~20.80.1810 Minimum development criteria -~~
~~At least one copy of the original shall be filed in the office.~~

Attest:

TONI J. TABER
 City Clerk

City Clerk of the City of San Jose
 County of Santa Clara, State of California

EXHIBIT 9

RESO. NO. 78814

EXHIBIT A*City of San José, California***COUNCIL POLICY**

TITLE SIGNS ON CITY-OWNED LAND INCLUDING BILLBOARDS, PROGRAMMABLE ELECTRONIC SIGNS AND SIGNS DISPLAYING OFF-SITE COMMERCIAL SPEECH	PAGE 1 of 9	POLICY NUMBER 6-4
EFFECTIVE DATE November 9, 2018 (Replacement Policy 6-4)	REVISED DATE September 25, 2018	
APPROVED BY COUNCIL ACTION 1/10/72 (Original Policy 6-4); 9/25/18, Item 10.2(d), Res. No. 78814 (Replacement Policy 6-4)		

BACKGROUND

Council Policy 6-4 was originally approved in 1972, prohibiting future use of billboards on City-owned land and directing the removal of billboards from City-owned land within five (5) years. In 1974, the City Council adopted an ordinance prohibiting the placement of billboards within five hundred (500) feet of the right-of-way of certain freeways if designed to be visible to the freeway. In 1985, the City Council adopted a citywide ban on new billboards and continued in effect its prohibitions of other types of signs displaying off-site commercial speech.

In 2010, the City Council conducted a public hearing to consider a staff presentation outlining a preferred strategy for updating Title 23 of the San José Municipal Code (the Sign Code) and addressing billboards on private property. At the conclusion of the public hearing, Council approved maintaining the cap on the number of billboards in the City and directed staff to explore opportunities for moving existing billboards from residential areas to commercial areas. In December 2015, electronic digital off-site advertising signs and billboard installations were added to the Council priority list as a work item for staff. This item has been one of the top ten Council priorities since March 7, 2017. On December 19, 2017, the Council accepted the Community and Economic Development Committee status report on implementing a phased work plan to investigate removing existing barriers to off-site commercial advertising on City-owned and non-City-owned sites in the City of San José, that could allow:

1. New off-site advertising on City-owned sites throughout the City, including the exchange of existing legal static billboards on other sites for new electronic billboards on City-owned sites (Phase 1);

TITLE SIGNS ON CITY-OWNED LAND	Page 2 of 9	POLICY NUMBER 6-4
---------------------------------------	--------------------	--------------------------

2. Exchange of existing legal static billboards for new electronic billboards on non-City-owned existing freeway-facing billboard sites and/or new freeway-facing sites in the North San José Development Policy Area (Phase 2);
3. New off-site advertising on non-City-owned sites in the Downtown Sign Zone, including exchange of existing legal static billboards on other sites for new electronic billboards in the Downtown Sign Zone (Phase 2).

This Policy implements Phase 1 of the December 19, 2017 Council direction.

DEFINITIONS

Except where the context otherwise requires, the definitions set forth in Part 1 of Chapter 23.02 of Title 23 of the San José Municipal Code are incorporated by reference into this Council Policy. Where a word or phrase is not defined in Part 1 of Chapter 23.02 of Title 23 of the San José Municipal Code, the definitions set forth in Chapter 20.200 of Title 20 of the San José Municipal Code are incorporated by reference into this Council Policy.

PURPOSE

To state Council Policy regarding existing and future use of Signs, including Billboards, Programmable Electronic Signs and Signs displaying Off-site Commercial Speech on City-owned land; to provide guidance regarding the implementation of a program that may allow Signs, including Billboards, Programmable Electronic Signs and Signs displaying Off-site Commercial Speech, on City-owned land; and to confirm the City's continued interest in regulating Signs on City-owned land to promote an aesthetically pleasing environment.

POLICY

1. The City will only allow the future use of Billboards and Signs displaying Off-Site Commercial Speech on City-owned land, as and where expressly allowed pursuant to this Council Policy 6-4.
2. The City may allow Signs, including Billboards, Programmable Electronic Signs and Signs displaying Off-Site Commercial Speech on City-owned land pursuant to this Council Policy 6-4 for any of the following purposes, where consistent with applicable State and federal law:
 - a. To generate revenue for the City, including revenue to support City-owned facilities, programs, or services; and/or eliminate visual clutter and blight by reducing the overall number of existing Billboards City-wide, or

TITLE SIGNS ON CITY-OWNED LAND	Page 3 of 9	POLICY NUMBER 6-4
--------------------------------	-------------	-------------------

eliminating existing Billboards from locations where they are particularly unsightly or incompatible with surrounding land uses.

- b. To explore opportunities to enhance the commercial vibrancy of the City in selected locations, including the Downtown Sign Zone, while maintaining an aesthetically pleasing environment, by allowing the City to develop options for criteria and best practices and additional environmental review for non-City owned sites, based on the City's experience with implementation of Phase 1.

IMPLEMENTATION

General

The City may allow Signs on City-owned land including Billboards, Programmable Electronic Signs and Signs displaying Off-Site Commercial Speech, under this Council Policy, and in compliance with State and federal regulations. Signs approved under this Council Policy shall be in addition to any other Signs that may be allowed on the City-owned property under Title 23 of the San José Municipal Code.

This Policy identifies selection criteria for City-owned land on which the City Council may consider allowing these additional Signs, including Billboards, Programmable Electronic Signs and Signs displaying Off-Site Commercial Speech. Based on the identified selection criteria, this Policy also designates up to seventeen (17) sites, which may be eligible or potentially eligible for up to twenty-two (22) additional Signs. Additional City-owned land may be considered eligible or potentially eligible for additional Signs under this Policy, if the Policy is amended by action of the City Council, which will require further review under the California Environmental Quality Act. (CEQA).

This Policy further specifies minimum limitations on the location, number, type, size and height of Signs that may be allowed under this Policy, including illumination requirements. In addition, this Policy identifies message limitations that the City may impose on Signs approved pursuant to this Policy.

Finally, this Policy generally describes the process for the approval of additional Signs that may be allowed under the Policy.

Site Selection Criteria

The following site selection criteria have been used to designate City-owned land that is or may be potentially eligible for additional Signs under this Policy, and subject to direction of the City Council, to screen additional City-owned land for eligibility for such Signs.

1. The site, which may consist of parcels, a parcel, or a portion of a parcel, has a General Plan Land Use/Transportation Diagram designation other than Open

TITLE SIGNS ON CITY-OWNED LAND	Page 4 of 9	POLICY NUMBER 6-4
--------------------------------	-------------	-------------------

Space, Parkland, Habitat, Lower Hillside, Agriculture, Private Recreation and Open Space, Open Hillside, Mixed-use Neighborhood, Transit Residential, Urban Residential or Residential Neighborhood.

2. The site is in a Zoning District other than OS Open Space or A Agricultural.
3. A Sign can be located on the site consistent with Council Policy 6-34 (Riparian Corridor Protection and Bird Safe Design).
4. A Sign can be located on the site consistent with City policies and design guidelines for development in proximity to or on Structures designated as historical resources as defined in CEQA Guidelines Section 15064.5, or historic landmarks or candidate historic landmarks by the City, State, or Federal government, and shall conform to the Secretary of the Interior's Standards and Guidelines for Archeology and Historic Preservation, as well as Chapter 13.48, "Historic Preservation," of Title 13 of the Municipal Code.
5. Locating a Sign on the site would be compatible with any existing use on the site or any potential use of the site for purposes other than a Sign.
6. The Finance Department has determined that the site can, or may potentially be, used for a Sign without violating bond covenants or other financing restrictions. Final clearance from the Finance Department will be required prior to completion of the approval process for placement of a Sign on the site pursuant to the section of this Policy entitled "Sign Approval Process".

Designated Sites

As of the date of this Policy, the sites that have been identified as eligible, or potentially eligible, for additional Signs under this Policy, based on the above selection criteria are identified in Attachment A. This Policy may be amended by action of the City Council to add sites that may be considered eligible or potentially eligible for Signs pursuant to this Policy, subject to further review under the California Environmental Quality Act (CEQA).

Sign Location, Type, Size, Height and Number

1. The Sign location must comply with all requirements of State and federal law.
2. Any Programmable Electronic Sign must be located on the site such that:
 - a. The Sign is not visible from any dwelling unit that is located within one hundred fifty (150) linear feet of the Sign; and
 - b. The Sign is greater than one hundred fifty (150) linear feet from the nearest boundary line of a Residential Zoning District.

TITLE SIGNS ON CITY-OWNED LAND	Page 5 of 9	POLICY NUMBER 6-4
--------------------------------	-------------	-------------------

3. Signs shall not have a total Sign Area in excess of twelve hundred (1,200) square feet.
4. Sign Area shall be computed as provided in Section 23.02.910 of the San José Municipal Code.
5. Freestanding Signs shall be subject to the following Height limitations, computed as provided in Section 23.02.930 of the San José Municipal Code:
 - a. Signage, including Supporting Structure, shall not exceed sixty (60) feet in Height above surrounding grade, except for Freestanding Freeway Signs meeting the criteria for a height exception specified in Section 23.04.035C.2 of the San José Municipal Code. Further Height limitations may apply based on other consideration, such as Federal Aviation Administration (FAA) criteria.
 - b. All Freestanding Monument Signs shall rest on a base of at least eighteen (18) inches in Height.
 - i. The Height to the top of the base of a Freestanding Monument Sign shall not be more than twenty-two (22) feet above grade.
 - ii. The base of a Freestanding Monument Sign shall be architecturally consistent with the largest building on the parcel and the Sign it supports. The base shall be constructed of durable materials and surrounded by landscaping, as needed for soil stability, drainage, site accessibility and architectural integrity.

Sign Illumination

1. All Programmable Electronic Signs shall operate in conformance with the operational requirements for Programmable Electronic Signs as specified in Section 23.02.905 of the San José Municipal Code, except that such Signs may display Off-Site Commercial Speech.
2. No Sign shall be in operation between the hours of 12:00 a.m. and 6:00 a.m., except that Signs may display emergency messages from local, state, and federal governments at any time.
3. Signs shall be constructed of high-quality and durable materials and shall be installed with sensors to automatically lower light output in accordance with atmospheric conditions. Throughout Sign operation, the dimness setting shall be automatically adjusted so that it does not exceed the level of illumination, as specified in Section 23.02.905 of the San José Municipal Code.

TITLE SIGNS ON CITY-OWNED LAND	Page 6 of 9	POLICY NUMBER 6-4
--------------------------------	-------------	-------------------

4. Illuminated Signs, including Billboards, and Programmable Electronic Signs, shall at a minimum meet the following additional requirements between the hours of sunset and 12:00 a.m.:
 - a. The Signs must be tilted downward toward the ground by at least fifteen (15) degrees and provide a rimmed edge along the top of the Sign, or shall utilize other alternative(s) which the City determines will provide equivalent attenuation of upward illumination.
 - b. The Signs shall utilize warmer colors, or display a background with bright text and/or image(s), and restrict white or bright backgrounds.
 - c. No new east-facing Programmable Electronic Signs or Billboards will be allowed in the Alum Rock Planning Area.

Downtown Sign Zone

All Signs approved in the Downtown Sign Zone pursuant to this Policy shall be subject to the following additional requirements:

1. Attached Signs shall not cover any portion of a window or door that is located less than seventy-five (75) feet above grade.
2. A Sign that is not a Programmable Electronic Sign may be internally lit, or externally lit only with downlighting that is shielded to minimize upward illumination.
3. Only one Sign will be allowed per site, except for the sites designated for up to two (2) Signs on Attachment A. An Attached Sign that covers all or any part of more than one (1) Building Façade shall be considered one (1) Sign provided that the total Sign area on all Building Facades does not exceed the maximum area stated above.

Airport Influence Area

All Signs approved in the Airport Influence Area pursuant to this Policy shall be subject to the following additional requirements:

1. No Sign shall be erected within any Airport Runway Protection Zone.
2. Signage located within an Airport Influence Area shall conform to illumination requirements, as specified in Section 23.04.250 of the San José Municipal Code.
3. Signage within Airport Influence Area must meet FAA criteria.

TITLE SIGNS ON CITY-OWNED LAND	Page 7 of 9	POLICY NUMBER 6-4
--------------------------------	-------------	-------------------

All Zones other than Downtown Sign Zone

Only Programmable Electronic Signs will be allowed under this Policy in zones other than the Downtown Sign Zone.

Message Limitations

1. No Sign approved pursuant to this Policy shall display a message that contains false advertising, speech inciting unlawful activity, defamatory speech, "fighting words" or obscene speech.
2. By approval of this Policy, the City does not intend to create a public forum on any of the sites that are or may be designated as potential Sign sites pursuant to this Policy. The City may limit any Sign or Signs approved pursuant to this Policy to only the display of commercial messages.
3. The City may develop a list of goods, products or services that may not be advertised on City-owned Signs. Such list will be subject to City Council approval and if approved will be included in the solicitation for proposals described below in the "Sign Approval Process" section of this Policy.
4. The City may require any Sign approved pursuant to this Policy to reserve message space or time for City government speech.

Sign Approval Process

1. The City will solicit proposals for Signs to be approved pursuant to this Policy. City Council direction will be obtained prior to the commencement of any solicitation process.
2. The City may approve placement of a Sign on City-owned land pursuant to this Policy through approval of a lease or other contractual agreement. Development specific environmental clearance under CEQA and the issuance of a building permit for the approved Sign will be required; but no other regulatory permit issued by the City will be required, such as a site Development Permit. This Policy shall supersede Council Policy 6-16 with respect to permitting requirements for uses of Public Property, but the noticing requirements that would apply for a Site Development Permit shall apply to the Council consideration of any lease or other contractual agreement for a Sign pursuant to this Policy.
3. A sign is that is allowed pursuant to this Policy on a site that is subject to the requirements of Business and Professions Code Section 5272 (b) (freeway site for large arena sponsorship sign) shall be required to comply with all requirements of Business and Professions Code Section 5272 (b). Any lease for such sign shall incorporate provisions to implement the requirements of Business and Professions Code Section 5272 (b).

TITLE SIGNS ON CITY-OWNED LAND	Page 8 of 9	POLICY NUMBER 6-4

4. On City-owned sites that would be subject to a lease for another use at the time a Sign may be approved pursuant to this Policy, the City will coordinate the process for solicitation or approval of sign proposals with the lessee, and, if required, obtain the lessee's consent.
5. The City may solicit proposals for any, some or all, of the following purposes pursuant to this Policy:
 - a. To generate revenue for the City;
 - b. To generate revenue to support City-owned facilities, programs, or services;
 - c. To eliminate visual clutter and blight by reducing the overall number of existing Billboards City-wide or eliminating existing Billboards from locations where they are particularly unsightly or incompatible with surrounding land uses.
6. If the City solicits proposals for reduction or elimination of existing Billboards, a minimum take down ratio of four (4) existing Billboards shall be required for each new Sign, including Billboard, Programmable Electronic Sign or Sign displaying Off-Site Commercial Speech.
7. To further the City's purpose of eliminating existing Billboards from locations where they are particularly unsightly or incompatible with surrounding land uses, any entity with an existing Billboard or Sign displaying Off-site Commercial Speech will be required to identify such Billboards or Signs displaying Off-Site Commercial Speech as a condition of submitting a proposal to the City for Signs that may be approved pursuant to this Policy.

TITLE SIGNS ON CITY-OWNED LAND	Page 9 of 9	POLICY NUMBER 6-4
--------------------------------	-------------	-------------------

ATTACHMENT A

List 1. Potential City-owned Sites for proposed Signage Installation

APN	CURRENT USE	ADDRESS	SIGNS
259-34-039	San Pedro Market Parking Garage	45 North Market Street	2
467-21-002	CSJ Parking Garage	95 North Third Street	1
259-43-064	Center for Performing Arts	255 Almaden Boulevard	2
467-46-109	Hammer Theater	101 Paseo San Antonio	2
467-46-097	CSJ Parking Garage	280 South Second Street	1
259-40-066	San Jose Museum of Art	110 South Market Street	1
259-28-043	SAP Center	525 West Santa Clara Street	2
254-01-004	Mabury Service Yard *	1404 Mabury Road	1
259-06-054	CSJ Parking Lot	737 North San Pedro Street	1
259-04-019	CSJ Parking Lot	Hwy 87 and West Mission Street	1
101-03-009	Airport Facility ¹ *	2500 Seaboard Avenue	1
230-01-058	Airport Facility ¹	2200 Airport Boulevard	1
230-46-065	Airport Facility ¹	1128 Coleman Avenue	1
230-02-021	Airport Facility ¹ *	2341 Airport Boulevard	1

¹ FAA requires City receive fair market value for use of property

* State law restricts to on-site commercial speech and large arena sponsorship signage.

List 2. Potential City-owned Sites subject to additional clearance

APN	CURRENT USE	ADDRESS	SIGNS
259-42-023	The Tech **	201 South Market Street	1
230-37-020	Vacant Lot (Near National Guard) *	Hwy 87 and West Hedding Street	1
264-29-113	McEnery Convention Center **	150 West San Carlos Street	2

* State law requires rezoning prior to consideration

** Currently identified to require financial/ bond restriction clearance prior to consideration. All sites will require final clearance from the Finance Department prior to completion of the approval process for placement of the sign on the site pursuant to the section of this Policy entitled "Sign Approval Process."

The foregoing instrument is
a correct copy of the original
on file in this office.

Attest:

TONI J. TABER

City Clerk

City Clerk of the City of San Jose

County of Santa Clara, State of California

By *[Signature]*, Deputy