



CITY CLERK

CITY OF SAN JOSÉ, CALIFORNIA

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STATE OF CALIFORNIA)
COUNTY OF SANTA CLARA)
CITY OF SAN JOSE)

I, Patricia L. O'Hearn, City Clerk and Ex-Officio Clerk of the Council of and for the City of San Jose, in said County of Santa Clara, and State of California, do hereby certify that "**Ordinance No. 26388**" the original copy of which is attached hereto, was adopted on the **15th day of May, 2001**, by the following vote:

AYES: CAMPOS, CORTESE, DANDO, DIQUISTO, LeZOTTE, REED,
SHIRAKAWA, WILLIAMS, YEAGER; GONZALES

NOES: NONE

ABSENT: CHAVEZ

DISQ: NONE

VACANT: NONE

Said ordinance is effective on **May 15, 2001**.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed the corporate seal of the City of San Jose, this **25th day of May, 2001**.

(SEAL) Patricia L. O'Hearn
PATRICIA L. O'HEARN
CITY CLERK AND EX-OFFICIO
CLERK OF THE CITY COUNCIL

ORDINANCE NO. 26388

AN URGENCY ORDINANCE OF THE CITY OF SAN JOSE AMENDING TITLE 20 OF THE SAN JOSE MUNICIPAL CODE BY AMENDING SECTIONS 20.30.100, 20.40.100, AND 20.50.100, AMENDING PART 4 OF CHAPTER 20.100, ADDING A NEW PART 7 TO CHAPTER 20.30, A NEW PART 6 TO CHAPTER 20.40, AND A NEW PART 21 TO CHAPTER 20.80, AND AMENDING CHAPTER 20.200, ALL TO ESTABLISH REGULATIONS FOR ELECTRICAL POWER GENERATION AND SETTING FORTH THE FACTS CONSTITUTING SUCH URGENCY

WHEREAS, on January 17, 2001, the Governor of the State of California proclaimed a State of Emergency to exist due to the energy shortage in the State of California; and

WHEREAS, the State of California has been experiencing Stage 2 and Stage 3 power alerts and rolling black-outs and there is a high probability that these power alerts and rolling blackouts will continue through this summer; and

WHEREAS, the City Council desires to provide businesses and residents in the City of San José an opportunity to obtain permits for stand-by or back-up power generation for summer 2001; and

WHEREAS, this ordinance was found to be statutorily exempt from environmental review per the provisions of Section 21080(b)(4) of the California Environmental Quality Act of 1970, as amended.

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

SECTION 1. Section 20.200.1310 of Chapter 20.200 is hereby amended to read in its entirety as follows:

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20.200.1310 Utility Facility

Any building, structure, plant, equipment or use for the provision and operation of utility services including, but not limited to water, sewage disposal, telephone service, telegraph service, communications services, telecommunications or cable television. Utility facility does not include electrical power generation facilities but does include electrical transmission facilities.

SECTION 2. Chapter 20.200 of Title 20 of the San José Municipal Code is hereby amended by adding a section to be numbered and entitled and to read as follows:

20.200.115 Base Load Power Plant

A "Base Load Power Plant" is an electrical power generation facility that, regardless of fuel or energy source, is operated by a public utility or independent power producer and whose primary function is the provision of electricity to the electrical distribution system or transmission grid.

SECTION 3. Chapter 20.200 of Title 20 of the San José Municipal Code is hereby amended by adding a section to be numbered and entitled and to read as follows:

20.200.1285 Transportable Peaking Power Plant

A "Transportable Peaking Power Plant" is a transportable electrical power generation facility brought on-site on flatbed trailers and left on the trailer or placed on steel skids for a temporary period, which can be for a particular peak season or season-to-season. A Transportable Peaking Power Plant is not permanently installed, and its main function is the provision of supplemental power to the electrical distribution system or transmission grid during periods of peak demand. The maximum number of annual hours of operation of a Transportable Peaking Power Plant is restricted by a Bay Area Air Quality

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Management District permit and typically does not exceed five hundred (500) hours. A Transportable Peaking Power Plant is typically on-site for up to three (3) years, but one or more such power plants can be installed on-site for a given peak period, then removed.

SECTION 4. Chapter 20.200 of Title 20 of the San José Municipal Code is hereby amended by adding a section to be numbered and entitled and to read as follows:

20.200.1200 Stationary Peaking Power Plant

A "Stationary Peaking Power Plant" is an electrical power generation facility permanently installed on a foundation and whose main function is the provision of supplemental power to the electrical distribution system or transmission grid during periods of peak demand. The maximum number of annual hours of operation of a Stationary Peaking Power Plant is restricted by a Bay Area Air Quality Management District permit and typically does not exceed one thousand five hundred (1,500) hours. The typical useful life of a Stationary Peaking Power Plant is up to thirty (30) years.

SECTION 5. Chapter 20.200 of Title 20 of the San José Municipal Code is hereby amended by adding a section to be numbered and entitled and to read as follows:

20.200.1165 Solar Photovoltaic Power

"Solar Photovoltaic Power" means electrical power generation through the utilization of photovoltaic cells, typically building-integrated, non-mechanical semiconductor devices that convert sunlight into direct current electricity.

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

20.200.195 Co-generation Facility

A "Co-generation Facility" means an electrical power generation facility that utilizes waste heat to generate electricity to supply some of the needs of an individual building or group of buildings. Electricity generated by a co-generation facility may be sold back to the electrical distribution system or transmission grid or to other end-users.

SECTION 7. Chapter 20.200 of Title 20 of the San José Municipal Code is hereby amended by adding a section to be numbered and entitled and to read as follows:

20.200.1190 Stand-By or Backup Electrical Power Generation Facility

"Stand-By or Backup Electrical Power Generation Facility" means an electrical power generation facility that is operated only during interruptions of electrical service from the distribution system or transmission grid due to circumstances beyond the operator's control. Electrical generation facilities operating where an interruptible service contract has been executed are not considered Stand-By or Backup Electrical Power Generation Facilities.

SECTION 8. Chapter 20.200 of Title 20 of the San José Municipal Code is hereby amended by adding a section to be numbered and entitled and to read as follows:

20.200.1275 Temporary Stand-By or Backup Electrical Power Generation Facility

A "Temporary Stand-By or Backup Electrical Power Generation Facility" means an electrical power generation facility that is operated for and during a period of time not to exceed four (4) consecutive months in any twelve (12) month period and only during interruptions of electrical service from the distribution system or transmission grid due to circumstances beyond the operator's control. After this

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four (4)-month maximum time period, a Temporary Stand-By or Backup Electrical Power Generation Facility is disassembled and removed. A Temporary Stand-By or Backup Electrical Power Generation Facility possesses no permanent foundation. These facilities, by definition, must meet the performance standards set forth in this Title. Electrical generation facilities operating where an interruptible service contract has been executed are not considered a Temporary Stand-By or Backup Electrical Power Generation Facility.

SECTION 9. Section 20.30.100 of Chapter 20.30 of Title 20 of the San José Municipal Code is hereby amended to read in its entirety as follows:

20.30.100 Allowed Uses and Permit Requirements

- A. "Permitted" land uses are indicated by a "P" on Table 20-50.
- B. "Conditional" uses are indicated by a "C" on Table 20-50. These uses may be allowed in such designated districts, as an independent use, but only upon issuance of and in compliance with a Conditional Use Permit as set forth in Chapter 20.100.
- C. "Special" uses are indicated by a "S" on Table 20-50. These uses may be allowed in such designated districts, as an independent use, but only upon issuance of and in compliance with a Special Use Permit as set forth in Chapter 20.100.
- D. Land uses not Permitted are indicated by a "-" on Table 20-50. Land uses not listed on Table 20-50 are not Permitted.
- E. When the right column of Table 20-50 includes a reference to a Section number or a footnote, the regulations cited in the Section number or footnote apply to the use. In addition, all uses are subject to any other

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applicable provision of this Title 20 and any other Title of the San Jose Municipal Code.

Table 20-50: Residential Districts Land Use Regulations					
Use	Zoning District				Applicable Sections & Notes
	R-1	R-2	R-M	R-MH	
Residential Uses					
One-family dwelling	P	P	P	C	Note 1, Section 20.30.110
Two-family dwelling	-	P	P	-	Note 2, Section 20.30.110
Multiple dwelling	-	-	P	-	Note 1
Guesthouse	-	-	C	-	Section 20.30.120
Mobilehome Parks	-	-	-	P	
Travel Trailer Parks	-	-	-	C	
Residential Care Facility, six or fewer persons	P	P	P	P	
Residential Care Facility, seven or more persons	-	-	C	C	
Residential Service Facility, six or fewer persons	P	P	P	P	
Residential Service Facility, seven or more persons	-	-	C	C	
Servants quarters attached to a one-family dwelling or attached to a garage structure	P	-	-	-	Note 3
Sororities, fraternities and dormitories occupied exclusively (except for administrators thereof) by students attending college or other educational institutions	-	-	C	-	
Single Room Occupancy Living Unit	-	-	C	-	Part 15, Chapter 20.80
Residential Accessory Uses and Improvements					
Accessory buildings and structures	P	P	P	P	Note 4, Section 20.80.200
Home Occupations	P	P	P	P	Part 9, Chapter 20.80
Entertainment and Recreation Related					
Equestrian and riding club	C	-	-	-	
Golf course	C	C	C	-	Note 5
Private club or lodge	-	-	C	-	
Swim and tennis club	C	C	C	C	
Education and Training					
Child daycare center located on an existing school site or as an incident to an on-site Church/Religious Assembly use involving no building additions or changes to the site	P	P	P	P	
Day care center	C	C	C	C	
School- elementary and secondary (Public)	P	P	P	-	

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Table 20-50: Residential Districts Land Use Regulations					
Use	Zoning District				Applicable Sections & Notes
	R-1	R-2	R-M	R-MH	
School- elementary and secondary (Private)	C	C	C	-	
Public, Quasi-Public and Assembly Uses					
Cemetery	C	C	C	C	
Church/Religious Assembly	C	C	C	C	
Museums, libraries, parks, playgrounds, or community centers (Privately operated)	C	C	C	C	
Museums, libraries, parks, playgrounds, or community centers (Publicly operated)	P	P	P	P	
Health and Veterinary Services					
Emergency ambulance service	C	C	C	C	
General Services					
Bed & Breakfast	C	C	C	-	
Transportation and Utilities					
Community television antenna systems	C	C	C	C	
Off-site, alternating use and alternative use parking arrangements	S	S	S	S	Section 20.90.200
Parking establishment, off-street	C	C	C	C	Section 20.90.150
Utility facilities, excluding corporation yards, storage or repair yards and warehouses	C	C	C	C	
Wireless communication antenna	C	C	C	C	Section 20.80.1900
Wireless communication antenna, building mounted	C	C	C	C	Section 20.80.1900
Electrical Power Generation					
Stand-By/Backup					
Facilities that do not exceed noise or air standards	S	S	S	S	
Facilities that do exceed noise or air standards	-	-	-	-	
Photovoltaic	P	P	P	P	Note 6

Notes:

1. Only one one-family dwelling unit per lot in the R-1, R-2, R-M and R-MH Districts.
2. Only one dwelling structure per lot in the R-2 District.
3. Only permitted in the R-1-1 Estate Residential District.
4. No lot may be used solely for an accessory structure or building.
5. No driving ranges or miniature golf facilities.
6. Photovoltaic (PV) systems in the R-M zoning district may be processed through a Site Development Permit Adjustment or Planned Development Permit Adjustment. PV systems for single-family or duplex lots do not require Planning Division approval.

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SECTION 10. Chapter 20.30 of Title 20 of the San José Municipal Code is hereby amended by adding a new Part to be numbered and entitled and to read as follows:

Part 7
Performance Standards

20.30.700 Performance Standards

A. In the R-1, R-2, R-M, and R-MH Residential Districts, no primary, secondary, incidental or conditional use or activity related thereto shall be conducted or permitted:

1. In a manner that causes or results in the harmful discharge of any waste materials into or upon the ground, into or within any sanitary or storm sewer system, into or within any water system or water, or into the atmosphere; or
2. In a manner that constitutes a menace to persons or property or in a manner that is dangerous, obnoxious, or offensive by reason of the creation of a fire, explosion, or other physical hazard, or by reason of air pollution, odor, smoke, noise, dust vibration, radiation, or fumes; or
3. In a manner that creates a public or private nuisance.

B. Without limiting the generality of the preceding subsection, the following specific standards shall apply in the Residential Zoning Districts:

1. Noise
The sound pressure level generated by any use or combination of uses on a property shall not exceed the decibel levels indicated in Table 20-85 at any property line.

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Table 20-85 Noise Standards	
	Maximum Noise Level in Decibels at Property Line
Any residential or non-residential use	55

2. Vibration

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

SECTION 11. Section 20.40.100 of Chapter 20.40 of Title 20 of the San José Municipal Code is hereby amended to read in its entirety as follows:

20.40.100 Allowed Uses and Permit Requirements

- A. "Permitted" land uses are indicated by a "P" on Table 20-90.
- B. "Conditional" uses are indicated by a "C" on Table 20-90. These uses may be allowed in such designated districts, as an independent use, but only upon issuance of and in compliance with a Conditional Use Permit as set forth in Chapter 20.100.
- C. "Special" uses are indicated by a "S" on Table 20-90. These uses may be allowed in such designated districts, as an independent use, but only upon issuance of and in compliance with a Special Use Permit as set forth in Chapter 20.100.
- D. "Administrative" uses are indicated by a "A" on Table 20-90. These uses may be allowed in such designated districts, as an independent use, but only upon issuance of and in compliance with an Administrative Permit as set forth in Chapter 20.100.

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- E. Land uses not Permitted are indicated by a "-" on Table 20-90. Land uses not listed on Table 20-90 are not Permitted.
- F. When the right column of Table 20-90 includes a reference to a Section number or a footnote, the regulations cited in the Section number or footnote apply to the use. In addition, all uses are subject to any other applicable provision of this Title 20 and any other Title of the San Jose Municipal Code.
- G. The first column under Applicable Sections & Notes identifies further regulations on the uses in a portion of the CG Zoning District which apply to ground floor building space defined as Downtown Ground Floor Space ("DG Area") in Section 20.200.295. If there are no additional regulations on properties located in the DG Area noted in this column, the use regulations for the DG Area remain those regulations of the CG Zoning District.

Table 20-90: Commercial Districts Land Use Regulations						
Use	Zoning District				Applicable Notes & Sections	
	CO	CP	CN	CG	Add'l Use Regula-tions for the DG Area	Applicable to all Commercial Districts
General Retail						
Retail sales, goods and merchandise	-	P	P	P	Note a	
Alcohol, off-site sales	-	C	C	C		Section 20.80.900
Bakery, retail	-	P	P	P		
Food, beverage, groceries	-	P	P	P		
Nursery, plant	-	P	P	P		Note 1
Outdoor vending	-	A	A	A		Part 10, Chapter 20.80

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Table 20-90: Commercial Districts Land Use Regulations						
Use	Zoning District				Applicable Notes & Sections	
	CO	CP	CN	CG	Add'l Use Regula-tions for the DG Area	Applicable to all Commercial Districts
Pawn shop/broker	-	C	C	C	Note b	See Title 6
Seasonal sales					C	Part 14, Chapter 20.80
Education and Training						
Child daycare center located on an existing school site or as an incident to an on-site Church/Religious Assembly use involving no building additions or changes to the site	P	P	P	P		
Day care center	C	C	C	C	Note c	
Instructional art studios	-	P	P	P	-	Note 2
Instructional art studios, with live models	-	C	C	C	-	Note 2
Private Instruction, personal enrichment	-	P	P	P	-	Note 3
School- elementary and secondary (Public)	P	P	P	P	-	
School- elementary and secondary (Private)	-	C	C	C	-	
School, driving (class C & M license)	-	P	P	P	-	Note 4
School, post secondary	-	P	P	P	-	Note 5
School, trade and vocational	-	C	C	C	- Note d	
Entertainment and Recreation Related						
Arcade, amusement	-	C	C	C	Note e	
Dancehall	-	C	C	C		
Poolroom/Billiards Establishment	-	C	C	C		
Private club or lodge	C	C	C	C	-	
Recreation, Commercial/indoor	-	P	P	P		
Recreation, Commercial/outdoor	-	C	C	C		
Theatre, indoor	-	C	C	C		
Theatre, outdoor	-	-	-	C		
Food Services						
Banquet facility	-	C	C	C		
Caterer	-	P	P	P	C Note f	Note 6
Drinking establishments	-	C	C	C		
Entertainment (with any food or alcohol service)	-	C	C	C		
Public eating establishments	-	P	P	P		
Health and Veterinary Services						
Animal boarding, indoor	-	P	P	P	-	Section 20.40.120

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Table 20-90: Commercial Districts Land Use Regulations						
Use	Zoning District				Applicable Notes & Sections	
	CO	CP	CN	CG	Add'l Use Regulations for the DG Area	Applicable to all Commercial Districts
Animal grooming	-	P	P	P	-	Section 20.40.120
Emergency ambulance service	C	C	C	C	-	
Hospital/ in-patient facility	C	C	C	C	-	
Medical clinic/ out-patient facility	P	P	P	P	-	
Medical, dental and health practitioner	P	P	P	P	-	
Veterinary clinic	-	P	P	P	-	Note 7
General Services						
Bed and Breakfast	-	P	P	P		Part 2, Chapter 20.80
Dry cleaner	-	P	P	P		
Hotel/motel	-	P	P	P		
Laundromat	-	P	P	P		
Maintenance and repair, small household appliances	-	P	P	P	-	
Messenger services	P	P	P	P	-	Note 8
Mortuary and funeral services	P	P	P	P	-	
Personal services	-	P	P	P	Note g	
Photo processing and developing	-	P	P	P		
Printing and publishing	-	P	P	P	Note h	
Offices and Financial Services						
Automatic Teller Machine	P	P	P	P		Section 20.80.200
Business Support	-	P	P	P	-	
Financial Institution	P	P	P	P	C Note i	
Offices, business and administrative	P	P	P	P	- Note j	Section 20.40.110
Public, Quasi-Public and Assembly Uses						
Cemetery	C	C	C	C	-	
Church/Religious Assembly	C	C	C	C		
Museums, libraries, parks, playgrounds, or community centers (Publicly operated)	P	P	P	P	Note k	
Museums, libraries, parks, playgrounds, or community centers (Privately operated)	-	C	C	C	Note k	
Residential						
Emergency residential shelter	C	C	C	C	-	Section 20.80.500

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Table 20-90: Commercial Districts Land Use Regulations						
Use	Zoning District				Applicable Notes & Sections	
	CO	CP	CN	CG	Add'l Use Regula- -tions for the DG Area	Applicable to all Commercial Districts
Live/Work	-	S	S	S	-	Section 20.40.130
Mixed Use/Ground floor commercial with residential above	-	C	C	C	Note I	Note 9
Residential Care Facility for seven or more persons	C	C	C	C	-	
Residential Service Facility for seven or more persons	C	C	C	C	-	
Single Room Occupancy Hotel	-	C	C	C	-	Part 15, Chapter 20.80
Single Room Occupancy Living Unit	-	C	C	C	-	Part 15, Chapter 20.80
Drive-Through Uses						
Drive-through in conjunction with any use	-	C	C	C	-	Part 15, Chapter 20.80
Recycling Uses						
Reverse vending	A	A	A	A	-	
Small collection facility	A	A	A	A	-	
Transportation and Utilities						
Communications service exchange	-	-	-	C	-	
Community television antenna systems	C	C	C	C	-	
Off-site, alternating use and alternative parking arrangements	S	S	S	S	-	Section 20.90.200
Parking establishment, off-street	C	C	C	C	-	
Utility facilities, excluding corporation yards, storage or repair yards and warehouses	C	C	C	C	-	
Television, radio studios without antenna/dishes	-	-	-	C	-	
Short term parking lot for uses or events other than on-site	-	-	-	C		Note 10
Wireless communication antenna	C	C	C	C	-	Section 20.80.1900
Wireless communication antenna, building mounted	P	P	P	P	-	Section 20.80.1900
Electrical Power Generation						
Co-Generation Facility	S	S	S	S		
Stand-By/Backup						

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Table 20-90: Commercial Districts Land Use Regulations						
Use	Zoning District				Applicable Notes & Sections	
	CO	CP	CN	CG	Add'l Use Regula-tions for the DG Area	Applicable to all Commercial Districts
Facilities that do not exceed noise or air standards	S	S	S	S		
Facilities that do exceed noise or air standards	C	C	C	C		
Temporary Stand-By/Backup	A	A	A	A		
Photovoltaic	P	P	P	P		Note 15
Vehicle Related Uses						
Accessory installation, passenger vehicles and pick-up trucks	-	-	C	P	-	
Auto broker, retail	-	-	P	P	-	
Auto broker, wholesale, no on-site storage	P	P	P	P	-	
Car wash, detailing	-	-	C	C	-	
Gas or charge station	-	C	C	P	-	Note 11
Gas or charge station with incidental service and repair	-	C	C	P	-	Note 12
Glass sales, installation and tinting	-	-	C	P	-	
Sale or lease, commercial vehicles	-	-	C	C	-	
Sale passenger vehicles, pick-up trucks not exceeding twenty-five (25) feet in length, and motorcycles	-	C	C	P	-	
Leasing passenger vehicles, pick-up trucks not exceeding twenty-five (25) feet in length, and motorcycles	-	C	C	C	-	
Sale, vehicle parts	-	C	P	P	-	Note 14
Tires, batteries, lube, oil change, smog check station, air conditioning servicing of passenger vehicles and pick-up trucks	-	-	C	P	-	Note 13

Notes Applicable to the DG Area Only:

- (a) Excluding second-hand stores not dealing primarily in antiques, artworks, or vintage clothing.
- (b) Only as a use incident to a retail jewelry store, otherwise, not permitted.
- (c) Only as a use incident to existing on-site office use, otherwise, not permitted.
- (d) Culinary/Art School with public classes and public demonstrations allowed.
- (e) Allowed only as an incident use to other allowed recreation uses.
- (f) Only as a use incident to restaurant, grocery or bakery uses, otherwise, not permitted.
- (g) Permitted Use includes mail service centers but excludes check-cashing services.

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- (h) Only if dedicated primarily to on-site retail customer copy services, otherwise, not permitted.
 - (i) Only if dedicated primarily to on-site retail customer services, otherwise, not permitted.
 - (j) Exception for travel agencies and real estate agencies which are the only permitted uses.
 - (k) Excludes community centers.
 - (l) Subject to all other ground floor use regulations.
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Notes Applicable to all Commercial Districts:

- (1) In the CP District, landscaping materials, such as rock, mulch, and sand are limited to prepackaged sales.
- (2) Includes such areas as dance, music, martial arts and fine arts.
- (3) Includes such areas as driving, language, and academics.
- (4) No on site storage of vehicles permitted.
- (5) Includes public and private colleges and universities, as well as extension programs and business schools.
- (6) Not a catering facility.
- (7) No boarding, except for patient care.
- (8) No on site storage of vehicles permitted.
- (9) Make sure General Plan supports mixed use or residential.
- (10) Use must be less than twenty-four (24) hours.
- (11) No incidental repair or service permitted. No retail sale of food, grocery items or alcoholic beverages may be approved. See Section 20.80.550.
- (12) Incidental repair includes air conditioning service, carburetor & fuel injection service, electrical service, radiator service, and tune-up, lube, oil change, and smog check, as well as tires, batteries and accessories installation. Does not allow body repair or painting. No retail food, grocery items or alcohol. See Section 20.80.550.
- (13) Non engine and exhaust related service and repair allowed as incidental.
- (14) No outdoor sales areas or dismantling allowed.
- (15) Photovoltaic (PV) systems may be processed through a Site Development Permit Adjustment or Planned Development Permit Adjustment.

SECTION 12. Chapter 20.40 of Title 20 of the San José Municipal Code is hereby amended by adding a new Part to be numbered and entitled and to read as follows:

Part 6

Performance Standards

20.40.600 Performance Standards

- A. In the CO, CP, CN, and CG Commercial Districts no primary, secondary, incidental or conditional use or activity related thereto shall be conducted or permitted:

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1. In a manner that causes or results in the harmful discharge of any waste materials into or upon the ground, into or within any sanitary or storm sewer system, into or within any water system or water, or into the atmosphere; or
 2. In a manner that constitutes a menace to persons or property or in a manner that is dangerous, obnoxious, or offensive by reason of the creation of a fire, explosion, or other physical hazard, or by reason of air pollution, odor, smoke, noise, dust vibration, radiation, or fumes; or
 3. In a manner that creates a public or private nuisance.
- B. Without limiting the generality of the preceding paragraph, the following specific standards shall apply in the Commercial Zoning Districts:

1. Noise

The sound pressure level generated by any use or combination of uses on a property shall not exceed the decibel levels indicated in Table 20-105 at any property line, except upon issuance and in compliance with a Conditional Use Permit as provided in Chapter 20.100.

Table 20-105
Noise Standards

	Maximum Noise Level in Decibels at Property Line
Commercial use adjacent to a property used or zoned for residential purposes	55
Commercial use adjacent to a property used or zoned for commercial or other non-residential purposes	60

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2. Vibration

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

SECTION 13. Section 20.50.100 of Chapter 20.50 of Title 20 of the San José Municipal Code is hereby amended to read in its entirety as follows:

20.50.100 Allowed Uses and Permit Requirements

- A. "Permitted" land uses are indicated by a "P" on Table 20-110.
- B. "Conditional" uses are indicated by a "C" on Table 20-110. These uses may be allowed in such designated districts, as an independent use, but only upon issuance of and in compliance with a Conditional Use Permit as set forth in Chapter 20.100.

"Conditional" uses which may only be approved on property designated on the Land Use/Transportation Diagram of the San Jose 2020 General Plan, as amended, with the Mixed Industrial Overlay are indicated by a "CM" on Table 20-110. These uses may be allowed in such designated districts, as an independent use, but only upon issuance of and in compliance with a Conditional Use Permit as set forth in Chapter 20.100.

- C. "Special" uses are indicated by a "S" on Table 20-110. These uses may be allowed in such designated districts, as an independent use, but only upon issuance of and in compliance with a Special Use Permit as set forth in Chapter 20.100.

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- D. "Administrative" uses are indicated by a "A" on Table 20-110. These uses may be allowed in such designated districts, as an independent use, but only upon issuance of and in compliance with an Administrative Permit as set forth in Chapter 20.100.
- E. Land uses not permitted are indicated by a "-" on Table 20-110. Land uses not listed on Table 20-110 are not Permitted.
- F. When the right column of Table 20-110 includes a reference to a Section number or a footnote, the regulations cited in the Section number or footnote apply to the use. In addition, all uses are subject to any other applicable provision of this Title 20 and any other Title of the San Jose Municipal Code.

Table 20-110 Industrial Districts Land Use Regulations				
Use	Zoning District			Applicable Sections & Notes
	IP	LI	HI	
Industry				
Auction		C	C	
Industrial Services	-	P	P	
Laboratory, processing	-	P	P	
Manufacturing and Assembly				
Light	P	P	-	
Medium	-	P	P	
Heavy	-	-	P	
Research and Development	P	-	-	
Catalog and mail order	P	P	-	
Construction/Corporation yard	-	P	C	
Distribution facility	C	P	-	
Establishment for the repair, cleaning of household, commercial or industrial equipment or products	-	P	P	
Extraction of minerals from the ground, including quarrying	-	-	C	
Hazardous materials storage	-	C	C	
Hazardous waste facility	-	CM	C	
Junkyard	-	-	C	
Miniwarehouse/ministorage	-	P	P	
Outdoor uses or storage	-	C	P	Section 20.50.210
Stockyard, including slaughter	-	-	C	

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Table 20-110 Industrial Districts Land Use Regulations				
Use	Zoning District			Applicable Sections & Notes
	IP	LI	HI	
Warehouse	-	P	P	
Wholesale sale establishment	C	P	P	
Additional Uses				
Any use not set forth in Tables 20-30, 20-50, 20-90	-	-	C	
Commercial support	P	-	-	Section 20.50.110
General Retail				
Nursery, plant	-	-	CM	
Retail or wholesale commercial entity, single occupant greater than 100,000 gross square feet	CM	CM	-	
Sales, office furniture, industrial equipment, machinery	-	C	-	
Seasonal Sales	P	P	P	Part 4, Chapter 20.80
Education and Training				
Day care center	CM	CM	CM	
School, driving (class A & B license)	-	P	P	
School, trade and vocational	-	CM	-	
Entertainment and Recreation Related				
Equestrian and riding club	-	CM	CM	
Health club, gymnasium	CM	CM	CM	
Performing arts production/rehearsal space	CM	CM	CM	
Swim and Tennis club	-	CM	CM	
Theatre, outdoor	-	-	CM	
Food Services				
Public eating establishments	CM	CM	CM	
Health and Veterinary Services				
Emergency ambulance service	CM	CM	CM	
Medical clinic/ out-patient facility	CM	-	-	
General Services				
Crematory	-	CM	C	
Hotel/motel	CM	-	-	
Personal services	CM	CM	CM	
Photo processing and developing	P	P	P	
Printing and publishing	P	P	P	
Social Service Agency	CM	CM	-	
Offices and Financial Services				
Automatic Teller Machine	P	P	P	Section 20.80.200
Financial institution	CM	CM	CM	
Offices, business and administrative	P	-	-	
Public, Quasi-Public and Assembly Uses				
Cemetery	CM	CM	CM	
Church/Religious Assembly	CM	CM	CM	
Residential				
Emergency residential shelter	-	CM	CM	Section 20.80.500
Living quarters, custodian, caretakers	-	-	C	Note 2

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Drive-Through Use				
Drive-through in conjunction with any use	CM	CM	CM	
Recycling Uses				
Recycling processing facility	C	S	S	
Recycling transfer facility	C	S	S	
Large collection facility	-	-	P	
Reverse vending	A	A	A	
Small collection facility	A	A	A	
Transportation and Utilities				
Common carrier depot	C	C	C	Note 3
Community television antenna systems	C	C	C	
Communications service exchange	C	C	C	
Off-site, alternating and alternative use parking arrangements	S	S	S	Section 20.90.200
Parking establishment not Permitted in Tables 20.30, 20.50 and 20.90	C	C	C	
Parking establishment, off-street	C	C	C	
Television, radio studio	C	C	C	
Utility facilities, excluding corporation yards, storage or repair yards and warehouses	C	C	C	
Wireless communication antenna	C	C	C	Section 20.80.1900
Wireless communication antenna, building mounted	P	P	P	Section 20.80.1900
Electrical Power Generation				
Base Load Facility	-	-	C	
Stationary Peaking Facility	-	C	C	
Transportable Peaking Facility	-	C	C	
Co-Generation Facility	S	S	S	
Stand-By/Backup				
Facilities that do not exceed noise and air standards	A	A	A	
Facilities that do exceed noise and air standards	C	C	C	
Temporary Stand-By or Backup	A	A	A	
Photovoltaic	P	P	P	
Vehicle Related Uses				
Gas or charge station	-	CM	CM	Note 4
Gas or charge station with incidental service and repair	-	CM	CM	Note 5
Repair and cleaning of vehicles	-	P	P	
Sale or lease of commercial trucks, buses, trailers, campers, boats, mobilehomes, construction equipment	-	C	-	
Vehicle wrecking, including sales of parts	-	-	P	

Notes:

1. Site must be seven (7) acres or more.
2. Includes associated office.
3. No incidental repair or service. No retail sale of food grocery items or alcoholic beverages may be approved. See Section 20.80.550.

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- 4. Incidental repair includes air conditioning service, carburetor & fuel injection service, electrical service, radiator service, and tune-up, lube, oil change, and smog check, as well as tires, batteries and accessories installation. Does not allow body repair or painting. No retail sale of food grocery items or alcoholic beverages may be approved. See Section 20.80.550.

SECTION 14. Part 4 of Chapter 20.50 of Title 20 of the San José Municipal Code is hereby amended to read in its entirety as follows:

**Part 4
Performance Standards**

20.50.300 Performance Standards

- A. In the IP, LI and HI Industrial Districts no primary, secondary, incidental or conditional use or activity related thereto shall be conducted or permitted:
 - 1. In a manner that causes or results in the harmful discharge of any waste materials into or upon the ground, into or within any sanitary or storm sewer system, into or within any water system or water, or into the atmosphere; or
 - 2. In a manner that constitutes a menace to persons or property or in a manner that is dangerous, obnoxious, or offensive by reason of the creation of a fire, explosion, or other physical hazard, or by reason of air pollution, odor, smoke, noise, dust vibration, radiation, or fumes; or
 - 3. In a manner that creates a public or private nuisance.

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B. Without limiting the generality of the preceding subsection, the following specific standards shall apply in the Industrial Zoning Districts:

1. Incineration

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

2. Vibration

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

3. Air Pollution

There shall be no emission on any site for more than three (3) minutes in any hour of air contaminants which, at the emission point or within a reasonable distance of the emission point, are as dark or darker in shade as that designated as No. 1 on the Ringelmann Chart as published in the United States Bureau of Mines Information Circular 7718.

4. Noise

- a. The sound pressure level generated by any use shall not exceed the decibel levels in the designated octave bands shown below in Table 20-130.
- b. The sound pressure level generated by any use or combination of uses shall not exceed the decibel level at any property line as shown in Table 20-135, except upon issuance and in compliance with a Conditional Use Permit as provided in Chapter 20.100. In no case shall the sound pressure level exceed the levels as shown below in Table 20-130.

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Table 20-130 Noise Standards		
Octave Band Cycles Per Second	Maximum Permitted Sound Level in Decibels Along Residence Districts Boundaries or 125 feet from Plant or Operation Property Line, whichever is greater	Maximum Permitted Sound Level in Decibels Along Business District Boundaries or 125 feet from Plat or Operation Property Line, whichever is greater
0-75	72	79
75-150	67	74
150-300	61	68
300-600	56	62
600-1200	50	56
1200-2400	45	51
2400-4800	41	47
Over 4800	38	44

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

SECTION 15. Part 4 of Chapter 20.100 of Title 20 of the San José Municipal Code is hereby amended to read in its entirety as follows:

**Part 4
Adjustments**

20.100.500 Adjustments

A. The Director may, at the Director's sole discretion, approve an adjustment for the following:

1. Changes to an approved Development Permit but only for minor modification of architectural elements or landscape details (including but not limited to minor storefront alterations, relocation of doors, equipment screening, minor landscape furniture and structures,

benches, small trellises, and planters) which do not affect the use, intensity, general character, architectural style, circulation or other site function of the project.

2. Signs which conform to Title 23, minor changes to approved sign programs, and sign programs that are a condition of a Development Permit.
 3. Additions, accessory buildings and minor structures such as trellises, patio covers, swimming pools and decks for one-family residences which were approved and are subject to an existing Planned Development Permit.
 4. Building Mounted Wireless Communications Antenna.
 5. Tract sales, or model home sales offices.
 6. Temporary construction or storage yards in connection with the construction of houses or other buildings in an adjacent subdivision or lot or parcel.
 7. Solor Photovoltaic Electrical Power Generation Systems.
- B. An application for an adjustment must be filed on the form provided by the Director and accompanied by the fees as set forth in the Schedule of Fees adopted by resolution of the City Council.
- C. The decision to grant, deny or condition an adjustment is an administrative determination and requires no hearing or notice. The action of the Director shall be final. If the Director denies an adjustment, nothing herein

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shall preclude the applicant from thereafter filing an application for a Development Permit.

- D. Where property was developed prior to the requirement of a Site Development Permit, adjustments may be approved without the necessity of the issuance of a full Site Development Permit.

SECTION 16. Chapter 20.80 of Title 20 of the San José Municipal Code is hereby amended by adding a new Part to be numbered and entitled and to read as follows:

Part 21

Stand-By/Backup Electrical Power Generation

20.80.2000 Intent

The intent of this Part is to enable the expeditious permitting of energy generation facilities on properties without creating adverse conditions or impacts on neighboring properties.

20.80.2010 Permit Required

No person shall place, construct or operate, or permit the placement, construction, or operation of, any electrical power generation equipment or facility for the purpose of providing stand-by or backup power, either permanent or temporary, without first obtaining a permit pursuant to the provisions set forth in this Title.

20.80.2020 Administrative Permit for Temporary Equipment

- A. An applicant for an Administrative Permit to allow the placement, construction or operation of a Temporary Stand-By or Backup Electrical Power Generation Facility shall, in addition to all other Administrative Permit requirements, declare under penalty of perjury that the Temporary

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Stand-By or Backup Electrical Power Generation Facility sought for use subject to an Administrative Permit will at all times be maintained in full conformance with each and every one of the criteria and standards set forth in this Part.

- B. An Administrative Permit to allow a Temporary Stand-By or Backup Electrical Power Generation Facility shall not be issued unless the Director determines that all of the applicable criteria and standards set forth in this Part are met.

20.80.2030 Criteria and Standards

- A. Any Stand-By or Backup Electrical Power Generation Facility permitted with an Administrative Permit shall meet all of the following criteria and standards listed below. Any electrical power generation uses that may be permitted with a Site Development Permit, Special Use Permit, or Conditional Use Permit shall meet the standards and criteria below, provided that the Director, Planning Commission, or City Council, as the case may be, may relax such standards or impose stricter standards as a reasonable exercise of their 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.
- B. The standards and criteria for stand-by and back-up electrical power generation uses are as follows:
 - 1. Maximum noise levels, based upon a noise analysis by an acoustical engineer, will not exceed the applicable noise standards set forth in this Title.

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2. If the applicable maximum noise standards are exceeded in any commercial or industrial zoning district, a Conditional Use Permit issued in accordance with Part 6 of Chapter 20.100 of this Title shall be required.
3. A Bay Area Air Quality Management District (BAAQMD) permit has been issued for the use or evidence to the satisfaction of the Director that the use complies with all applicable BAAQMD requirements has been submitted to the Director.
4. Operation of a Temporary Stand-By or Backup Power Generation Facility, by definition, shall not exceed a maximum time period of four (4) consecutive months in any twelve (12) month period.

SECTION 17. The Administration is hereby directed to return to the City Council within ninety (90) days with a regular ordinance regarding the long-term land use regulation of electrical power generation that incorporates the provisions of this urgency ordinance, together with any amendments, additions or changes that may be appropriate.

SECTION 18. This Ordinance is declared by the City Council to be an urgency measure necessary for the immediate preservation of the public peace, health or safety. The facts constituting such urgency are: On January 17, 2001, the Governor of the State of California proclaimed a State of Emergency to exist due to the energy shortage in the State of California, and the State of California has been experiencing Stage 2 and Stage 3 power alerts as well as rolling blackouts. There is a high probability that these power alerts and rolling blackouts will continue through this summer, and the City needs to provide businesses and residents in the City of San José with an opportunity to obtain permits for stand-by or back-up power generation for summer 2001 in order to alleviate some of

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the hardships, as well as threats to public health, safety and welfare, that this electricity shortage will cause.

SECTION 19. This Ordinance shall become effective immediately upon its adoption pursuant to Section 605 of the Charter of the City of San Jose and shall remain effective until the effective date of a duly adopted superseding ordinance.

ADOPTED this 15th day of May, 2001, by the following vote:

AYES: CAMPOS, CORTESE, DANDO, DIQUISTO, LeZOTTE,
REED, SHIRAKAWA, WILLIAMS, YEAGER; GONZALES

NOES: NONE

ABSENT: CHAVEZ

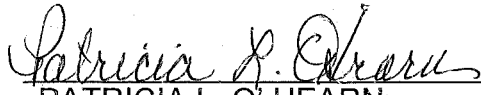
VACANT: NONE

DISQUALIFIED: NONE



RON GONZALES
Mayor

ATTEST:



PATRICIA L. O' HEARN
City Clerk