



CITY OF SAN JOSÉ, CALIFORNIA

Office of the City Clerk
200 East Santa Clara Street
San José, California 95113
Telephone (408) 535-1260
FAX (408) 292-6207

City Clerk

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

I, Lee Price, City Clerk & Ex-Officio Clerk of the Council of and for the City of San José, in said County of Santa Clara, and State of California, do hereby certify that **Ordinance No. 28629**, the original copy of which is attached hereto, was passed for publication of title on the **11th day of August, 2009**, was published in accordance with the provisions of the Charter of the City of San José, and was given final reading and adopted on the **25th day of August, 2009**, by the following vote:

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

NOES: NONE.

ABSENT: CONSTANT.

DISQUALIFIED: NONE.

VACANT: NONE

Said ordinance is effective as of **September 25, 2009**.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed the corporate seal of the City of San José, this **26th day of August, 2009**.

(SEAL)

LEE PRICE, MMC
CITY CLERK & EX-OFFICIO
CLERK OF THE CITY COUNCIL

ORDINANCE NO. 28629

**AN INTERIM ORDINANCE OF THE CITY OF SAN JOSÉ
ESTABLISHING A TEMPORARY MORATORIUM ON THE
ESTABLISHMENT OF NEW BAIL BONDS
ESTABLISHMENTS PENDING THE REVIEW AND
POSSIBLE AMENDMENT OF LAND USE REGULATIONS
APPLICABLE TO SUCH ESTABLISHMENTS AND
SETTING FOR THE FINDINGS TO SUPPORT SUCH
TEMPORARY MORATORIUM**

WHEREAS, it is estimated that there are between 50 and 150 bail bonds establishments located in the City, with approximately 20 located in the vicinity of North First Street between Jackson Avenue and Interstate 880; and

WHEREAS, residents located near bail bonds establishments recently have raised concerns related to the operations of these establishments, which concerns generally relate to the disruptive behavior of persons seeking bail bond services (such as yelling, physical violence, soliciting money from residents to make bail, and leaving a trail of bail bond literature, drug paraphernalia and beer bottles strewn over front yards of nearby residences) and which behavior occurs at or near these establishments, and the City Council has indicated its concerns about these serious issues raised by the community; and

WHEREAS, under current land use regulations bail bonds establishments are treated as personal services uses and allowed to operate prior to midnight and after 6:00 a.m. in the CG Commercial General, CN Commercial Neighborhood, CP Commercial Pedestrian, and CIC Combined Industrial Commercial zoning districts and may operate during other hours with a conditional use permit in those same zoning districts; and

WHEREAS, questions have arisen regarding the appropriateness of treating bail bonds establishments as a personal service use under City's land use regulations, rather than as an office or other type of use; and

WHEREAS, the City Council desires the City Administration to review, examine and make a report and recommendation on the appropriate land use regulations applicable to bail bond establishments in light of historical and recent information provided to City in connection with the land use issues posed by the operations of such establishments; and

WHEREAS, during such period of review and examination, the community would be in jeopardy of new bail bonds establishments commencing operations under existing land use regulations prior to the potential adoption of new land use regulations intended to preserve and protect the public health, safety and welfare; and

WHEREAS, in fairness to all businesses and citizens, the City Council desires to establish a temporary moratorium on the establishment of new bail bonds establishments in City while the City Administration is conducting its review and formulating its report and recommendation on this matter and until such time as the City Council has made a decision on the appropriate land use regulations applicable to bail bonds establishments; and

WHEREAS, pursuant to California Government Code Section 65858, City may adopt an ordinance temporarily prohibiting uses that may conflict with a contemplated zoning ordinance amendment that City wishes to study and consider within a reasonable period of time where City finds that there is a current and immediate threat to the public health, safety, or welfare and approval of such uses would result in that threat to public health safety or welfare; and

WHEREAS, the provisions of this Ordinance have been found to be exempt from review under the California Environmental Quality Act of 1970, together with regulations and guidelines promulgated thereunder (including without limitation Section 15061(b)(3) of the CEQA Guidelines), as well as pursuant to the provisions of Title 21 of the San José Municipal Code, under File No. PP09-102, dated April 29, 2009 (the "Exemption"), which exemption determination has not been challenged, protested or appealed; and

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

WHEREAS, this City Council has read, considered and approves said Exemption prior to taking any approval actions on this proposed Ordinance;

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

SECTION 1. A temporary moratorium is hereby established and imposed as of September 25, 2009 on the following activities:

- A. The acceptance or processing of an application for any permit, or the issuance of any permit, under the San José Municipal Code for the establishment of a new bail bonds establishment; and
- B. The establishment or commencement of a new bail bonds establishment use.

SECTION 2. This temporary moratorium shall not prohibit a bail bonds establishment already operating in compliance with all applicable laws from applying to City for development or other permits or approvals necessary: (a) to address an immediate threat to public health or safety, (b) to comply with an order of a court or other tribunal of competent jurisdiction, or (c) to modify its business, or the site on which the business

operates, in a manner that would not result in a significant intensification of the use or the site, and all such applications submitted pursuant to this Section 2 shall be subject to all laws and policies applicable to the proposed development or other activity described in such application.

SECTION 3. For purposes of this Ordinance, a "bail bond establishment" means a business that collects a fee for obtaining the release of criminal defendants from jail by pledging money or property as a guarantee that the defendant will appear in court.

SECTION 4. This Ordinance and the moratorium imposed hereunder shall become effective as of September 25, 2009 and shall remain in effect until October 9, 2009 or until the date that a decision by the City Council on the appropriate land use regulations applicable to bail bonds establishments has been made and, if necessary, effectuated by appropriate legislation, whichever date first occurs. Nothing in this Ordinance precludes the City Council from taking a later action to extend the term of this temporary moratorium in accordance with the provisions of applicable law.

SECTION 5. Pursuant to the provisions of California Government Code Section 65858, the City Council of the City of San José hereby finds that there is a current and immediate threat to the public health, safety and welfare of City that warrants the establishment of this temporary moratorium of new bail bonds establishments, which finding is based upon all of the following elements:

- A. The community within the vicinity of existing bail bonds establishments located in City have alerted this Council to possible concerns related to the operations of these establishments, which concerns generally relate to the disruptive behavior of persons seeking bail bond services (such as yelling, physical violence, soliciting money from residents to make bail, and leaving a trail of bail bond literature, drug paraphernalia and beer

bottles strewn over front yards of nearby residences), which activities are alleged to be occurring at and around such establishments; and

- B. This Council has heard these community concerns and desires that they be examined in order to inform appropriate land use regulations applicable to these establishments; and
- C. Without a temporary moratorium prohibiting new bail bonds establishments while these community concerns are being examined and appropriate regulations are being developed, there remains a current and immediate threat that new bail bond establishments are allowed to operate by right prior to midnight or with development permits after midnight in certain locations in City under existing land use regulations and could further establish in City in a manner that would exacerbate and proliferate the current concerns and problematic behaviors identified by the community.

PASSED FOR PUBLICATION of title this 11th day of August, 2009, by the following vote:

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

NOES: CHU, CONSTANT.

ABSENT: NONE.

DISQUALIFIED: NONE.



CHUCK REED
Mayor

ATTEST:



LEE PRICE, MMC
City Clerk

SAN JOSE POST-RECORD

95 S. Market St., Ste. 535, SAN JOSE, CA 95113
Telephone (408) 287-4866 / Fax (408) 287-2544

**SUZANNE GUZZETTA
SAN JOSE CITY CLERK
200 E. SANTA CLARA ST.
SAN JOSE, CA - 95113**

PROOF OF PUBLICATION

(2015.5 C.C.P.)

State of California)
County of SANTA CLARA) ss

Notice Type: GORSJ - SAN JOSE ORDINANCE (1 PUB)

Ad Description: ORDINANCE #28629

I am a citizen of the United States and a resident of the State of California; I am over the age of eighteen years, and not a party to or interested in the above entitled matter. I am the principal clerk of the printer and publisher of the SAN JOSE POST-RECORD, a newspaper published in the English language in the city of SAN JOSE, county of SANTA CLARA, and adjudged a newspaper of general circulation as defined by the laws of the State of California by the Superior Court of the County of SANTA CLARA, State of California, under date 02/03/1922, Case No. 27844. That the notice, of which the annexed is a printed copy, has been published in each regular and entire issue of said newspaper and not in any supplement thereof on the following dates, to-wit:

08/18/2009

Executed on: 08/18/2009
At Los Angeles, California

I certify (or declare) under penalty of perjury that the foregoing is true and correct.



Signature

RECEIVED

This space for filing stamp only
San Jose City Clerk

2009 AUG 24 A 10:15

v

SJ#: 1670874

ORDINANCE NO. 28629

AN ORDINANCE OF THE CITY OF SAN JOSE ESTABLISHING A TEMPORARY MORATORIUM ON THE ESTABLISHMENT OF NEW BAIL BONDS ESTABLISHMENTS PENDING THE REVIEW AND POSSIBLE AMENDMENT OF LAND USE REGULATIONS APPLICABLE TO SUCH ESTABLISHMENTS AND SETTING FOR THE FINDINGS TO SUPPORT SUCH TEMPORARY MORATORIUM PASSED FOR PUBLICATION of title this 11th day of August, 2009, by the following vote:
AYES: CAMPOS, CHIRCO, HERRERA, KALRA, LICCARDO, NGUYEN, OLIVERIO, PYLE, REED
NOES: CHU, CONSTANT.
ABSENT: NONE.
DISQUALIFIED: NONE.

CHUCK REED
Mayor
ATTEST:
LEE PRICE, MMC
City Clerk

8/18/09

SJ-1670874#



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