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**ORDINANCE NO.**

**AN ORDINANCE OF THE CITY OF SAN JOSE AMENDING TITLE 20 OF THE SAN JOSE MUNICIPAL CODE TO AMEND SECTION 20.40.100 OF CHAPTER 20.40 (COMMERCIAL ZONING DISTRICTS), TO ADD A NEW PART 1.5 TO CHAPTER 20.80 (SPECIFIC USE REGULATIONS), AND TO ADD A NEW SECTION 20.200.114 TO CHAPTER 20.200 (DEFINITIONS), ALL TO ESTABLISH LAND USE REGULATIONS PERTAINING TO BAIL BOND ESTABLISHMENTS**

**WHEREAS**, the elements of this Ordinance were the subject of an Environmental Impact Report for the General Plan 2020 of the City of San José (the “EIR”) prepared in conformance with the California Environmental Quality Act of 1970 of 1970, together with state and local guidelines implementing said Act, all as amended to date (collectively, “CEQA”), which EIR was certified by the City Council on August 16, 1994; and

**WHEREAS**, this City Council of the City of San José, acting as a lead agency under CEQA, proposes to approve a project, the environmental impacts of which were described and disclosed within the analyses contained in the EIR, to wit: the adoption of an ordinance to amend Title 20 of the San José Municipal Code (sometimes referred to as the “Zoning Code”) in order to establish land use regulations pertaining to bail bonds establishments; and

**WHEREAS**, the City Council of the City of San José has, on August 16, 1994, adopted Resolution No. 65459 making findings in connection with said EIR; and

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

**WHEREAS**, this City Council has considered and approves the information contained in said EIR and Resolution No. 65459 prior to taking actions on this Ordinance; and

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**WHEREAS**, the City Council had adopted and extended a temporary moratorium on the establishment of new bail bond establishments pending the review of and possible amendment to land use regulations applicable to such establishments, which temporary moratorium expired by its own terms and operation of state law as of August 24, 2011; and

**WHEREAS**, the City Council now desires and believes it is in the public interest to consider and approve this Ordinance to amend City's land use regulations applicable to bail bond establishments.

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

**SECTION 1.** Section 20.40.100 of Chapter 20.40 of Title 20 of the San José Municipal Code is hereby amended to read in its entirety as follows:

**20.40.100 Allowed Uses and Permit Requirements**

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

<b>Table 20-90 Commercial Districts Land Use Regulations</b>					
Use	Zoning District				Notes & Sections
	CO	CP	CN	CG	
<b>General Retail</b>					
Retail sales, goods and merchandise	-	P	P	P	
Alcohol, off-site sales – beer and/or wine only	-	C	C	C	Section 20.80.900
Alcohol, off-site sales, full range of alcoholic beverages	-	C	C	C	Section 20.80.900
Bakery, retail	-	P	P	P	
Food, beverage, groceries	-	P	P	P	
Nursery, plant	-	P	P	P	Note 1
Outdoor vending	-	A	A	A	Part 10, Chapter 20.80
Pawn shop/broker	-	C	C	C	See Title 6
Seasonal sales					Part 14, Chapter 20.80
Retail Art Studio	-	P	P	P	Section 20.40.140
<b>Education and Training</b>					
Child daycare center located on an existing school site or as an incident to an on-site Church/Religious Assembly use involving no building additions or changes to the site	P	P	P	P	
Day care center	C	C	C	C	
Instructional art studios	-	P	P	P	
Instructional art studios, with live models	-	C	C	C	
Private Instruction, personal enrichment	-	P	P	P	
School- elementary and secondary (Public)	P	P	P	P	
School- elementary and secondary (Private)	-	C	C	C	
School, driving (class C & M license)	-	P	P	P	Note 2
School, post secondary	-	P	P	P	Note 3
School, trade and vocational	-	C	C	C	
<b>Entertainment and Recreation Related</b>					
Arcade, amusement	-	C	C	C	

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<b>Use</b>	<b>Zoning District</b>				<b>Notes &amp; Sections</b>
	<b>CO</b>	<b>CP</b>	<b>CN</b>	<b>CG</b>	
Dancehall	-	C	C	C	
Poolroom/Billiards Establishment	-	C	C	C	
Private club or lodge	C	C	C	C	
Recreation, Commercial (indoor)	-	P	P	P	
Recreation, Commercial (outdoor)	-	C	C	C	
Relocated Cardroom	-	-	-	C	Section 20.80. 1155
Theatre, indoor	-	C	C	C	
Theatre, outdoor	-	-	-	C	
<b>Food Services</b>					
Banquet facility	-	C	C	C	
Caterer	-	P	P	P	Note 4
Drinking establishments	-	C	C	C	
Public eating establishments	-	P	P	P	
Outdoor dining, incidental to a public eating establishment or a retail establishment	-	P	P	P	Section 20.40.520
Wineries, Breweries	-	C	C	C	
<b>Health and Veterinary Services</b>					
Animal boarding, indoor	-	P	P	P	Section 20.40.120
Animal grooming	-	P	P	P	Section 20.40.120
Emergency ambulance service	C	C	C	C	
Hospital/ in-patient facility	C	C	C	C	
Medical clinic/ out-patient facility	P	P	P	P	
Office, medical	P	P	P	P	
Veterinary clinic	-	P	P	P	
<b>General Services</b>					
Bail Bond Establishment – Outside Main Jail Area	-	P	P	P	Part 1.5, Chapter 20.80
Bail Bond Establishment – Within Main Jail Area	-	P	P	P	Note 14; Part 1.5, Chapter 20.80
Bed and Breakfast	-	P	P	P	Part 2, Chapter 20.80
Dry cleaner	-	P	P	P	
Hotel/motel	-	P	P	P	
Laundromat	-	P	P	P	
Maintenance and repair, small household appliances	-	P	P	P	
Messenger services	P	P	P	P	Note 2
Mortuary and funeral services	P	P	P	P	

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<b>Use</b>	<b>Zoning District</b>				<b>Notes &amp; Sections</b>
	<b>CO</b>	<b>CP</b>	<b>CN</b>	<b>CG</b>	
Personal services	-	P	P	P	Section 20.200.880
Photo processing and developing	-	P	P	P	
Printing and publishing	-	P	P	P	
<b>Offices and Financial Services</b>					
Automatic Teller Machine	P	P	P	P	Section 20.80.200
Business Support	-	P	P	P	
Financial Institution	P	P	P	P	
Office, general business	P	P	P	P	Section 20.40.110
<b>Public, Quasi-Public and Assembly Uses</b>					
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	
Museums, libraries, parks, playgrounds, or community centers (Privately operated)	C	C	C	C	
<b>Residential</b>					
Emergency residential shelter	C	C	C	C	Section 20.80.500
Live/Work	-	S	S	S	Section 20.40.130
Mixed Use/Ground floor commercial with residential above	-	C	C	C	Note 6
Residential Care Facility for seven or more persons	C	C	C	C	
Residential Service Facility for seven or more persons	C	C	C	C	
Single Room Occupancy Hotel	-	C	C	C	Part 15, Chapter 20.80
Single Room Occupancy Living Unit	-	C	C	C	Part 15, Chapter 20.80
<b>Drive-Through Uses</b>					
Drive-through in conjunction with any use	-	-	C	C	
<b>Recycling Uses</b>					
Reverse vending	A	A	A	A	
Small collection facility	A	A	A	A	
<b>Transportation and Utilities</b>					
Data Center	-	-	-	C	
Community television antenna systems	C	C	C	C	
Off-site, alternating use and alternative parking arrangements	S	S	S	S	Section 20.90.200

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<b>Use</b>	<b>Zoning District</b>				<b>Notes &amp; Sections</b>
	<b>CO</b>	<b>CP</b>	<b>CN</b>	<b>CG</b>	
Parking establishment, off-street	C	C	C	C	
Utility facilities, excluding corporation yards, storage or repair yards and warehouses	C	C	C	C	
Television, radio studios without antenna/dishes	-	-	-	C	
Short term parking lot for uses or events other than on-site	-	-	-	C	Note 7
Wireless communication antenna	C	C	C	C	Section 20.100.1300
Wireless communication antenna, slimline monopole	S	S	S	S	Section 20.80.1900
Wireless communication antenna, building mounted	P	P	P	P	Section 20.80.1910
<b>Electrical Power Generation</b>					
Private Electrical Power Generation Facility	C	C	C	C	Note 2
Co-Generation Facility	S	S	S	S	
<b>Stand-by/Backup</b>					
Facilities that <b>do not</b> exceed noise or air standards	A	A	A	P	
Facilities that <b>do</b> exceed noise or air standards	C	C	C	C	
Temporary Stand-by/Backup	P	P	P	P	
Solar Photovoltaic System	P	P	P	P	Section 20.100.610(C)(7)
<b>Vehicle Related Uses</b>					
Accessory installation, passenger vehicles and pick-up trucks	-	-	C	P	
Auto broker, wholesale, no on-site storage	P	P	P	P	
Car wash, detailing	-	-	C	C	
Gas or charge station	-	C	C	P	Note 8
Gas or charge station with incidental service and repair	-	C	C	P	Note 9, Note 13
Glass sales, installation and tinting	-	-	C	P	Note 13
Sale or lease, commercial vehicles	-	-	C	C	Note 13
Sale passenger vehicles, pick-up trucks not exceeding twenty-five (25) feet in length, and motorcycles	-	C	S	P	Note 12, Note 13

Table 20-90 Commercial Districts Land Use Regulations					
Use	Zoning District				Notes & Sections
	CO	CP	CN	CG	
Leasing passenger vehicles, pick-up trucks not exceeding twenty-five (25) feet in length, and motorcycles	-	C	C	C	Note 2
Sale, vehicle parts	-	C	P	P	Note 11
Tires, batteries, lube, oil change, smog check station, air conditioning servicing of passenger vehicles and pick-up trucks	-	-	C	P	Note 10, Note 13
<b>Historic Reuse</b>					
Historic Landmark Structure Reuse	S	S	S	S	Part 8.5 Chapter 20.80

**Notes Applicable to all Commercial Districts:**

- (1) In the CP District, landscaping materials, such as rock, mulch, and sand are limited to prepackaged sales.
- (2) No on site storage of vehicles permitted.
- (3) Includes public and private colleges and universities, as well as extension programs and business schools.
- (4) Not a catering facility.
- (5) No on site storage of vehicles permitted.
- (6) Make sure General Plan supports mixed use or residential.
- (7) Use must be less than twenty-four (24) hours.
- (8) No incidental repair or service permitted.
- (9) Incidental repair includes air conditioning service, carburetor & fuel injection service, electrical service, radiator service, and tune-up, lube, oil change, and smog check, as well as tires, batteries and accessories installation. Does not allow body repair or painting.
- (10) Non engine and exhaust related service and repair allowed as incidental.
- (11) No outdoor sales areas or dismantling allowed.
- (12) In the CG District, incidental repair of vehicles requires a Special Use Permit. Incidental repair of vehicles is prohibited in all other commercial districts.
- (13) All vehicle-related repair, service, and accessory or other installation shall be conducted within a fully enclosed building.
- (14) **Bail Bond Establishments shall not be located and are prohibited uses on the ground floors of structures located within the Main Jail Area, as that area is defined in Section 20.80.070 of Chapter 20.80 of this Title. Bail Bond Establishments are allowed as shown on Table 20-90 on other, above-ground floors of structures. All Bail Bond Establishments shall meet all distance requirements specified in Section 20.80.075 of Chapter 20.80 of this Title.**

**SECTION 2.** 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 in its entirety as follows:

**Part 1.5**  
**Bail Bond Establishments**

**20.80.070 Bail Bond Regulations**

The purposes of this Part are to provide reasonable regulations to govern the appropriate siting of certain uses of real property, specifically Bail Bond Establishments; to prevent adverse effects that can result from the concentration or clustering of such uses in close proximity to residential uses, and to retain business opportunities for uses other than Bail Bond Establishments within close proximity to the Santa Clara County Department of Correction Main Jail Complex.

**20.80.075 Siting Criteria For Bail Bond Establishments**

The location and operation of a Bail Bond Establishment shall comply with all of the following criteria at the time that the Bail Bonds Establishment locates at a site if no Development Permit is required or at the time a Development Permit is issued if a Development Permit is required:

- A. All property lines of the real property on which the Bail Bond Establishment is located are at least two hundred (200) feet from other Bail Bond Establishments situated within or outside the City; and
- B. All property lines of the real property on which the Bail Bond Establishment is located are at least two hundred (200) feet from real property zoned for residential uses or on which a public park or public or private kindergarten-12<sup>th</sup> grade school is located.

**20.80.080 Late Night Use and Activity**

Notwithstanding the provisions of Section 20.40.500 of Chapter 20.40 of this Title related to Late Night Use and Activity in Commercial Districts, a Bail Bond Establishment may operate between the hours of midnight and 6:00 a.m. within those Commercial Zoning Districts specified in Section 20.40.100 of Chapter 20.40 of this Title without first obtaining a Conditional Use Permit for such late night operations only if the location and late night operations of that Bail Bond Establishment fully conform with all of the following standards and criteria at all times:

- A. The real property on which the Bail Bond Establishment is located is outside of the Main Jail Area, which "Main Jail Area" means for purposes of this Title the area bounded by Highway 87, Rosemary Street, Sixth Street, Empire Street, and Hawthorne Street; and
- B. The provisions of Section 20.80.075 above are met; and
- C. The Bail Bond Establishment does not exceed two thousand (2,000) square feet of floor area; and
- D. The late night activity of the Bail Bond Establishment does not involve any customers, deliveries, employee errands, or other arrivals to and departures from the Bail Bond Establishment between the hours of midnight and 6:00 a.m.; and
- E. The Bail Bond Establishment removes all litter, graffiti, or other materials on the site of the Bail Bond Establishment between the hours of 8 a.m. and 10 p.m.; and
- F. The Bail Bond Establishment meets all other requirements of this Title, including but not limited to all regulations contained in Chapter 20.40 for Commercial Zoning Districts.

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

**DRAFT**

**20.200.114 Bail Bond Establishment**

“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 a court of law.

**PASSED FOR PUBLICATION** of title this            day of            , 2011, by the following vote:

AYES:

NOES:

ABSENT:

DISQUALIFIED:

\_\_\_\_\_  
CHUCK REED  
Mayor

ATTEST:

\_\_\_\_\_  
DENNIS D. HAWKINS, CMC  
City Clerk