



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 JOSE)

I, Lee Price, City Clerk & 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. 28576**", the original copy of which is attached hereto, was passed for publication of title on the **19th day of May, 2009**, was published in accordance with the provisions of the Charter of the City of San Jose, and was given final reading and adopted on the **2nd day of June, 2009**, by the following vote:

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

NOES: NONE.

ABSENT: CHIRCO, NGUYEN.

DISQUALIFIED: NONE.

VACANT: NONE.

Said ordinance is effective as of **July 3, 2009**.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed the corporate seal of the City of San Jose, this **4th day of June, 2009**.

(SEAL)

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

/rmk

ORDINANCE NO. 28576

**AN ORDINANCE OF THE CITY OF SAN JOSE
AMENDING SECTION 20.100.500 OF CHAPTER 20.100
OF TITLE 20 OF THE SAN JOSE MUNICIPAL CODE TO
ALLOW FOR AN ADDITIONAL EXTENSION OF
DEVELOPMENT PERMIT TERMS OR A REACTIVATION
OF CERTAIN EXPIRED DEVELOPMENT PERMITS FOR
A TEMPORARY PERIOD OF TIME**

WHEREAS, on March 30, 2009 this Ordinance was found to be categorically exempt from environmental review per the provisions of Section 15061(b)(3) of the California Environmental Quality Act of 1970, as amended, under File No. PP09-070, which determination has not been protested, challenged or appealed and has been considered and approved by the City Council prior to taking any approval actions on this Ordinance.

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

Section 20.100.500 of Chapter 20.100 of Title 20 of the San José Municipal Code is hereby amended to read as follows:

20.100.500 Adjustments

- A. The Director may, at the Director's sole discretion, approve an adjustment for the following elements of a Development Permit, subject to and in accordance with the provisions of this Section:
1. **General Extensions**. An extension of the term of an approved Development Permit for a period of up to but not exceeding one (1) year; provided, however, that all of the following criteria are met:
 - a. That no more than four (4) such term extensions may be approved on or before October 13, 2011 for Development Permits allowing office uses located in Downtown Zoning Districts; and
 - b. That no more than two (2) such term extensions may be approved for any other type of Development Permit.

2. **Special Extension.** In addition to General Extensions authorized pursuant to this Section, a one-time, Special Extension of the term of an approved Development Permit prior to October 13, 2011 for a period of up to but not exceeding two (2) years; provided, however, that all of the following criteria are met:
 - a. Only one (1) such extension may be approved on or before October 13, 2011; and
 - b. The Development Permit whose term would be extended with the adjustment does not allow residential development in any area described in that certain North San Jose Area Development Policy adopted by City on June 21, 2005, as that Policy may be amended from time to time.

3. **Reactivations.** In addition to General Extensions authorized pursuant to Section 20.100.500.A.1 above, a reactivation of a previously approved but expired Development Permit and an extension of its term for an additional period of up to but not exceeding two (2) years from its expiration date where all of the following criteria are met:
 - a. The Development Permit to be reactivated does not allow residential development in any area described in that certain North San Jose Area Development Policy adopted by City on June 21, 2005, as that Policy may be amended from time to time; and
 - b. The Development Permit to be reactivated expired on a date between November 1, 2008 and October 13, 2011.

4. 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.

5. Signs which conform to Title 23, minor changes to approved sign programs, and sign programs that are a condition of a Development Permit.

6. 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.
 7. Building Mounted Wireless Communications Antenna. { XE "Wireless communications antenna:building mounted:process" }
 8. Tract sales, model home sales, or leasing offices associated with an approved housing development.
 9. Temporary construction or storage yards in connection with the construction of houses or other buildings in an adjacent subdivision or lot or parcel.
 10. The creation, on or above ground through installation, construction, or replacement, of less than one (1) gross acre of impervious surface.
 11. The replacement, repaving, reconfiguration, or re-striping of parking spaces on existing surfaces.
 12. Building additions of less than five thousand (5,000) square feet in area or less than fifty percent (50%) of the building area prior to the addition, whichever is smaller, to non-residential buildings.
 13. Generators meeting performance standards for noise and air pollution.
 14. Above-ground tanks of two thousand (2,000) gallons or less.
 15. Building additions of less than two hundred (200) square feet in total area or less than ten percent (10%) of the building area prior to the addition, whichever is smaller, to two-family dwellings, provided that current parking regulations are being met and would continue to be met after the completion of any addition.
- B. Adjustments may be issued only where issuance of the adjustment would be consistent and comply with all applicable local laws in effect at the time of issuance, including without limitation the City's General Plan, the provisions of this Title, and the provisions of Title 21 of this Code.
- C. An application for an adjustment must be filed on the form provided by the Director on or before the date that is three (3) business days prior to the expiration of the Development Permit proposed for adjustment and accompanied by the fees as set forth in the Schedule of Fees adopted by

resolution of the City Council; provided, however, that an adjustment for a reactivation pursuant to subsection A.2 above must be filed on the form provided by the Director no later than: (1) September 1, 2009 for a Development Permit that expired on November 1, 2008 through and including July 3, 2009, or (2) sixty (60) days from that Development Permit's expiration date for a Development Permit that expired on or after July 4, 2009, and all applications must be accompanied by the fees set forth in the Schedule of Fees adopted by resolution of the City Council.

- D. 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 shall preclude the applicant from thereafter filing an application for a Development Permit.
- E. Where property was developed prior to the requirement of a Site Development Permit, adjustments for projects as set forth in Section 20.100.610(A) may be approved without the necessity of the issuance of a full Site Development Permit.

PASSED FOR PUBLICATION of title this 19th day of May, 2009, by the following vote:

AYES: CHU, CONSTANT, KALRA, LICCARDO, NGUYEN, OLIVERIO, PYLE, REED.

NOES: NONE.

ABSENT: CAMPOS, CHIRCO, HERRERA.

DISQUALIFIED: NONE.



CHUCK REED
Mayor

ATTEST



LEE PRICE, MMC
City Clerk