

San Jose Safe Parking Draft Ordinance

Part 17.5 – INCIDENTAL SAFE PARKING USE ON PLACES OF ASSEMBLY AND CITY PARCELS

20.80.1660 - Definitions.

The following definitions are for purposes of this Part:

1. "Assembly Building" means a Building that is primarily used for Assembly Use.
2. "Assembly Use" means a use involving the gathering of persons to participate in a group or common activity or to observe a presentation, performance, or exhibition.
3. "Incidental Safe Parking" means the providing of shelter of homeless people as an incidental use to an existing primary Assembly Use or other use identified in this Part provided that the safe parking use occupies less than fifty (50%) percent of the paved square footage of the Site, and where the shelter is provided in vehicles located in designated paved "Safe Parking Area(s)".
4. "Place of Assembly" means a Site that contains Assembly Uses including but not limited to religious assemblies, gymnasiums, libraries, theaters, schools, and community centers
5. "Safe Parking Area" means the paved area(s) where the vehicles are parked for the Incidental Safe Parking use.

20.80.1665 - Permit required.

A. An Assembly Use may provide Incidental Safe Parking to homeless persons in compliance with Section 20.80.1840, and will not need to amend their current permit or obtain a new permit.

B. If a legal Assembly Use does not comply with Section 20.80.1680, Incidental Safe Parking may only be provided if:

1. The use is specifically allowed by a conditional use permit or Planned Development permit issued for the Assembly Use; or
2. With an amendment to an existing conditional use permit or Planned Development permit for Assembly Use; or
3. With a special use permit if no conditional use permit or Planned Development permit is required for the Assembly Use.

C. A management plan shall be submitted as part of any permit application for Incidental Safe Parking on Assembly Building site(s).

1. 20.80.1670 - Findings.

A. The Director or Planning Commission may issue a special use permit only after finding that:

1. The Incidental Safe Parking use at the location requested will not adversely affect the health, safety, or welfare of persons residing or working in the surrounding area.

2. The proposed site is adequate in size and shape to accommodate the Incidental Safe Parking use.

B. The application shall be denied where the information which is either submitted by the applicant or presented at the public hearing fails to satisfactorily substantiate such findings.

20.80.1675 - Conduct of use.

An Assembly Use that is a legal use may provide Incidental Safe Parking to homeless persons subject to each of the following limitations:

1. Incidental Safe Parking use may be allowed on a legal Parcel that is at least three thousand (3,000) square feet in size.
2. 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
3. All persons receiving Incidental Safe Parking shall shelter within the vehicles. No person shall eat or be housed in tents, lean-tos or other temporary facilities.
4. No site shall be enlarged or modified for Incidental Safe Parking use without an approved Development Permit as required by Chapter 20.100 of this Title.
5. The Incidental Safe Parking use 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.
6. The Incidental Safe Parking use shall comply with the requirements of Sections 20.80.1665 and 20.80.1680.
7. During weekdays, vehicles using the Incidental Safe Parking use shall arrive after 7:00 p.m. and depart before 7:00 a.m.
8. No fires of any kind shall be permitted.
9. No audio, video or other amplified sound may be played or generated that is audible outside participants' vehicles.
10. No cooking or food preparation shall be performed outside of the participants' vehicles.
11. Camping tarps or equipment erected beyond the participant's vehicle are prohibited.
12. A restroom, water, and trash dumping shall be provided for the participants.

20.80.1680 – Safe Parking Exception to Permit Requirement.

Notwithstanding Sections 20.80.1665 and 20.80.1670 of this Part, no conditional use permit or special use permit shall be required for any Safe Parking use that meets and remains in full compliance with all of the following requirements:

1. The Parcel containing the Incidental Safe Parking use shall be located within the City's Urban Service Area.

2. The portion of a Parcel containing the Incidental Safe Parking use shall not be located at a distance closer than a minimum of sixty-five feet from any residential use that is located on another Parcel, measured from the nearest point on the boundary of Safe Parking area to the nearest Parcel line of a Parcel containing a residential use. The minimum setback distance may be reduced to thirty-five feet in the event the adjacent residential use is separated by a solid six-foot or greater noise barrier with no adjacent second story residential facades. To be effective, a noise barrier must be solid over the face and at the base of the barrier (i.e., no cracks or gaps), and be constructed from materials having a minimum surface weight of three pounds per square foot (3 lbs./sq.ft). One-inch (nominal thickness) wood fence boards are suitable as well as concrete or masonry block. Any Safe Parking use that does not adhere to these minimum setbacks shall

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1. 20.80.1670 - Findings.

A. The Director or Planning Commission may issue a special use permit only after finding that:

1. The Incidental Safe Parking use at the location requested will not adversely affect the health, safety, or welfare of persons residing or working in the surrounding area.

RESOLUTION NO. _____

A RESOLUTION OF THE COUNCIL OF THE CITY OF SAN JOSE ADOPTING THE INCIDENTAL SAFE PARKING USE AMENDMENTS TO TITLE 20 OF THE SAN JOSE MUNICIPAL CODE PROJECT NEGATIVE DECLARATION, FOR WHICH AN INITIAL STUDY WAS PREPARED, ALL IN ACCORDANCE WITH THE CALIFORNIA ENVIRONMENTAL QUALITY ACT, AS AMENDED

WHEREAS, prior to the adoption of this Resolution, the Planning Director of the City of San José prepared an Initial Study and approved for circulation a Negative Declaration for Incidental Safe Parking Use Municipal Code Amendments under Planning File No. PP18-092 (the “Initial Study/Negative Declaration”), all in accordance with the requirements of the California Environmental Quality Act of 1970, together with state and local guidelines implementing said Act, all as amended to date (collectively “CEQA”); and

WHEREAS, the Incidental Safe Parking Use Municipal Code Amendments (the “Project”) analyzed under the Initial Study/Negative Declaration consists of a Director-initiated amendment to Title 20 of the San José Municipal Code to create standards that could allow homeless individuals and families to sleep overnight in their personal vehicles, by allowing “safe parking” as an incidental permitted use to an existing assembly use or on City properties, where the safe parking is provided on existing paved parking areas and operating in compliance with the San José Municipal Code within the City of San José, California; and

WHEREAS, the Initial Study/Negative Declaration concluded that implementation of the Project would not result in certain significant effects on the environment; and

WHEREAS, the City of San José is the lead agency on the Project, and the City Council is the decision-making body for the proposed approval to undertake the Project; and

WHEREAS, the City Council has reviewed and considered the Initial Study/Negative Declaration for the Project and intends to take actions on the Project in compliance with CEQA and State and local guidelines implementing CEQA; and

WHEREAS, the Initial Study/Negative Declaration for the Project are on file in the Office of the Director of Planning, located at 200 East Santa Clara Street, 3rd Floor Tower, San José, California, 95113, are available for inspection by any interested person at that location and are, by this reference, incorporated into this Resolution as if fully set forth herein;

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

THAT THE CITY COUNCIL does hereby make the following findings: (1) it has independently reviewed and analyzed the Initial Study/Negative Declaration and other information in the record and has considered the information contained therein, prior to acting upon or approving the Project, (2) the Initial Study/Negative Declaration prepared for the Project has been completed in compliance with CEQA and is consistent with State and local guidelines implementing CEQA, and (3) the Initial Study/Negative Declaration represents the independent judgment and analysis of the City of San José, as lead agency for the Project. The City Council designates the Director of Planning at the Director's Office at 200 East Santa Clara Street, 3rd Floor Tower, San José, California, 95113, as the custodian of documents and records of proceedings on which this decision is based.

THAT THE CITY COUNCIL does hereby find that based upon the entire record of proceedings before it and all information received that there is no substantial evidence that the Project will have a significant effect on the environment and does hereby adopt

the Negative Declaration prepared for the Project (Planning File No. PP18-092). The Initial Study/Negative Declaration are: (1) on file in the Office of the Director of Planning, located at 200 East Santa Clara Street, 3rd Floor Tower, San José, California, 95113 and (2) available for inspection by any interested person.

ADOPTED this ____ day of _____, 2019, by the following vote:

AYES:

NOES:

ABSENT:

DISQUALIFIED:

SAM LICCARDO
Mayor

ATTEST:

TONI J. TABER, CMC
City Clerk

DRAFT