



Memorandum

TO: HONORABLE MAYOR
AND CITY COUNCIL

FROM: NORA FRIMANN,
City Attorney

**SUBJECT: AMENDMENTS TO SAN JOSE
MUNICIPAL CODE**

DATE: May 30, 2025

RECOMMENDATION

- A. Approve an ordinance of the City of San José amending Section 10.20.140 of Chapter 10.20 of Title 10 of the San José Municipal Code related to trespass on private property to include a definition for “private property”, authorize police officers to give notice of “no trespassing”, clarify requirements for “no trespassing” signs, and to prohibit entry for up to six months.
- B. Approve an ordinance of the City of San José amending Section 10.20.150 of Chapter 10.20 of Title 10 of the San José Municipal Code related to trespass on City property to include technical clarifications.
- C. Approve an ordinance of the City of San José amending Section 9.10.410 of Chapter 9.10 of Title 9 of the San José Municipal Code related to solid waste and trash accumulation.
- D. Approve an ordinance of the City of San José amending Section 11.36.220 of Chapter 11.36 of Title 11 of the San José Municipal Code requiring vehicles left standing for seventy-two (72) consecutive hours to be moved at least one thousand (1,000) feet (approximately two-tenths [2/10] of a mile) from its current location.
- E. Approve an ordinance of the City of San José amending Title 11 of the San José Municipal Code to add a new Chapter 11.58 authorizing the removal of vehicles that illegally dump solid waste or hazardous material on the public right-of-way.
- F. Approve an ordinance of the City of San José amending Title 6 of the San José Municipal Code to add Chapter 6.48 prohibiting the rental of recreational vehicles to be used for lodging within the public right-of-way.
- G. Approve an ordinance of the City of San José amending Title 10 of the San José Municipal Code to add a new Chapter 10.52 pertaining to the illegal possession and transportation of commercial copper wire.

- H. Approve an ordinance of the City of San José amending Title 17 of the San José Municipal Code to add Chapter 17.39 relating to the maintenance of vacant lots.

OUTCOME

Approval of the ordinances will implement City Council's direction in the Mayor's March Budget Message for Fiscal Year 2025-2026 relating to amendments to existing ordinances and adoption of new ordinances enhancing the quality of life for all San José residents, businesses, and community.

BACKGROUND

The City Council approved the Mayor's March Budget Message for Fiscal Year 2025-2026 on March 18, 2025¹. City Council's approval of the Mayor's March Budget Message for Fiscal Year 2025-2026 included direction to the City Attorney to work with the City Manager to return to City Council by June 2025 with:

1) Changes to existing ordinances to enable efficient and effective enforcement of behaviors frequently witnessed on City streets that are already prohibited in the Municipal Code.

2) New or amended ordinances to address gaps within the existing Municipal Code by adding other behaviors frequently witnessed on the City's streets, such as harassment, trespassing, management of biowaste, damage to any City-owned property (including electrical infrastructure and vegetation), and accumulating materials outside of a 12-foot by 12-foot footprint.

The Mayor's March Budget Message also directed the City Attorney to work with the City Manager to identify gaps in the California Vehicle Code to allow new ordinances and improved enforcement provisions to address the quality-of-life impacts from lived-in vehicles. Specifically, the City Attorney was directed to explore an ordinance that would require vehicles to move at least 1,000 feet away from their current location every 72 hours, akin to Fremont's Enhanced Parking Ordinance.² The City Attorney was also directed to explore an amendment to the Municipal Code to allow for vehicle seizure in illegal dumping cases. Lastly, the City Attorney was directed to work with the City Manager to develop an ordinance that makes it illegal to possess copper wire without credible proof of ownership.

¹ <https://sanjose.legistar.com/LegislationDetail.aspx?ID=7249203&GUID=736B5F35-189E-45D9-94FC-70C816FB4999>

²

https://fremontcityca.igam2.com/Citizens/Detail_LegiFile.aspx?Frame=&MeetingID=1980&MediaPosition=&ID=5285&CssClass=

ANALYSIS

The City Attorney's Office, City Manager's Office, and City departments coordinated extensively on the above City Council directions. A City team consisting of representatives from the City Attorney's Office, City Manager's Office and Police Department, Environmental Services Department, Transportation Department, Public Works Department, Code Enforcement Division, and Beautify SJ met on a weekly basis to develop a workplan surrounding Council's directions and coordinated on potential ordinances to address quality-of-life issues outlined in the Mayor's Budget Message. After significant research, evaluation, and coordination, it was jointly determined that the eight ordinances recommended and described herein best respond to Council's direction.

Trespass on Private Property

San José Municipal Code Section 10.20.140 prohibits any person from remaining on private property or business premises after being notified by the owner or lessee, or other person in charge thereof, to leave the private property.

The proposed amendments to the trespass on private property ordinance include the following:

1. Add a definition for "private property" to include, but not be limited to, any buildings, structures, yards, open spaces, walkways, courtyards, driveways, carports, parking areas, or vacant lots.
2. Authorize police officers to give verbal notice of no trespassing on behalf of the owner, lessee, or other person in lawful possession of the private property.
3. Include provisions for displaying signs prohibiting entry onto private property.
4. Prohibiting entry upon any private property for a period up to six months after being advised to leave and not return.

Currently, the trespass on private property ordinance does not define "private property" and is silent on displaying "no trespassing" signs. The proposed changes will provide clarity by adding a definition section broadly defining "private property" and include provisions for private property owners to provide notice by displaying "no trespassing" signs. The proposed changes will also allow police officers to provide verbal notice on behalf of property owners, who are often reluctant to approach individuals trespassing on their property. The current ordinance is silent on when a person may return after being notified by a property owner to leave and not return. The proposed amendment will include provisions prohibiting any person from re-entering private property for a period of six months after being notified to leave and not return.

These changes will provide clarity and make it easier to enforce and prosecute private property trespassing, if needed.

Trespass on City Property

San José Municipal Code Section 10.20.150 prohibits any person from remaining on City property after having been notified not to enter such property. The current ordinance is one long sentence that has created confusion. The proposed amendments will modernize the ordinance and add subsections, concise language on elements of trespassing on City property, and other minor changes to be consistent with the rest of the format of the Municipal Code.

Solid Waste and Trash Accumulation

Chapter 9.10 of the San José Municipal Code addresses solid waste management in the City. Generally, it prohibits storage and accumulation of solid waste upon any property in the City. The proposed ordinance will amend Section 9.10.410 to clarify that no person shall keep, place, maintain, or accumulate any solid waste unless explicitly authorized to do so under the Municipal Code. The proposed ordinance will also make non-technical changes to provide clarity.

72-Hour Parking

San José Municipal Code Section 11.36.220 prohibits vehicles parked on any street or alley from remaining unmoved for a consecutive period of seventy-two (72) hours, unless the vehicle is moved more than one-tenth (1/10) of a mile during that time. The Section further prohibits attempting to eradicate or hide the tire markings placed by an authorized City employee which are used to determine if the vehicle has moved the required one-tenth (1/10) of a mile during a consecutive 72-hour period.

The proposed amendments to Section 11.36.220 include the following:

1. Increasing the required movement of the vehicle from one-tenth (1/10) of a mile to one thousand (1,000) feet or approximately two-tenths (2/10) of a mile.
2. Adding a provision authorizing the removal of vehicles parked or left standing in violation of this seventy-two (72) hour parking limit in accordance with the California Vehicle Code.

The proposed changes will increase the required movement of vehicles parked or left standing for a consecutive period of seventy-two (72) hours, specifically authorize removal, and provide the process for notice and the timeline for removal.

Removal of Vehicles

On January 30, 2024, the City Council directed the City Manager to work with the City Attorney's Office to research and return with a recommendation on whether to prepare an ordinance consistent with Mountain View's ordinance³ related to the parking of vehicles that discharge domestic sewage on the public right-of-way. The Mayor's March Budget Message for Fiscal Year 2025-2026 further directed the City Attorney's Office to work with the City Manager's Office to draft new ordinances or amendments to address the accumulation and release of biowaste and other illegal dumping activities onto the public right-of-way.

Other jurisdictions, including Los Angeles County⁴ and the City of Los Angeles, have adopted ordinances which permit the abatement of nuisance vehicles utilized for illegal dumping in order to address public health and safety issues. The proposed City of San José ordinance is similarly modeled and permits the abatement and forfeiture of vehicles utilized for illegal dumping pursuant to a court order, incident to arrest, or when probable cause that the vehicle was involved in illegal dumping is established. The proposed ordinance defines hazardous materials, illegal dumping, and solid waste, and provides authority for abatement and the process for forfeiture. The forfeiture process contained in the proposed ordinance requires notice, procedures to oppose, and the process for disposal of the vehicle.

Vanlord

On March 12, 2025, the Rules and Open Government Committee directed the City Manager, in collaboration with the City Attorney and other relevant departments, to prepare a proposed ordinance to curtail the leasing, renting, letting out, or otherwise loaning of vehicles for habitation in the public right-of-way in exchange for money or other form of compensation. This process, known as "vanlording" is often associated with unregistered, poorly maintained, or substandard housing conditions, which create safety issues for the inhabitants, as well as the public, and impact emergency responses.

The proposed ordinance prohibits "vanlording". Similar prohibitions are currently codified through Section 6.46.040 of the San José Municipal Code, which prohibits the use of automobile trailers or house cars for living or sleeping quarters in any place in the City, outside of a lawfully operated mobilehome park, auto camp, or on private property

3

https://library.municode.com/ca/mountain_view/codes/code_of_ordinances?nodeId=PTIITHCO_CH19MOVETR_ARTVIIIISTSTPA_DIV2MEPA_S19.70.1PAVEDIDOSEPURI-W

4

https://library.municode.com/ca/los_angeles_county/codes/code_of_ordinances?nodeId=TIT13PUPEMO_WE_DIV10MOVESEFO_CH13.80ILDU

as a bona fide guest of a City resident. The proposed ordinance applies a similar prohibition to all vehicles utilized for living or sleeping quarters within the public right-of-way and prohibits the advertising, leasing, rental, letting out, or loaning of vehicles for this purpose.

Copper Theft

The proposed ordinance would prohibit a person from possessing or transporting commercial grade copper wire, aluminum wire, or cable, without sufficient proof of ownership or a business license or permit to engage in a legitimate commercial activity. The prohibition would extend to sheathed or unsheathed wire. The proposed ordinance would also prohibit the stripping of the sheathing or insulation of commercial grade copper wire, aluminum wire, or cable. Additionally, it would be unlawful for any person to knowingly present or use false or fraudulent written evidence of ownership of commercial grade copper or aluminum wire or cable.

The proposed ordinance would provide the City with another tool to address the widespread problem of the theft of copper wire and other materials used in utilities and telecommunications. Both the City of Fresno and the County of Fresno⁵ have adopted similar ordinances to the one proposed to address copper theft. It should be noted that the Fresno County District Attorney has expressed concerns that the ordinance adopted by the County of the Fresno may be preempted by State law. Preemption remains an open question as neither the Attorney General nor a court has yet addressed that issue.

Vacant Lots

Currently, there is no regulation addressing neglected vacant or abandoned lots. San José Municipal Code Chapter 17.38 only applies to neglected vacant or abandoned buildings. The proposed addition of Chapter 17.39 aims to close this gap by establishing maintenance requirements for vacant lots. It will also require property owners to register their vacant lots in a new vacant lot registry program. If owners fail to do so, the Code Enforcement Division will have the authority to register vacant or abandoned lots on their behalf.

The proposed new maintenance of vacant lots ordinance includes the following:

1. Defines the purpose of this new vacant lot ordinance.
2. Add a definition for “vacant lot” to mean any property, lot, or parcel that is undeveloped, lacks a completed/permitted structure for a period of more than

⁵ <https://fresnocounty.legistar.com/LegislationDetail.aspx?ID=7285917&GUID=5A16038B-16A7-4C86-92D2-F1EDE40CE651&Options=&Search=>

thirty (30) days, or that has been occupied by an unauthorized person for any length of time.

3. Establishes general maintenance requirements for vacant lots.
4. Establishes enforcement mechanism for vacant lots, including registry to the neglected vacant lot monitoring program.

These changes will allow Code Enforcement to enforce and prosecute against owners of vacant lots who fail to maintain their properties.

PUBLIC OUTREACH/INTEREST

This memorandum and the ordinances have been posted on the City's website for the June 10, 2025 agenda.

COST SUMMARY/IMPLICATIONS

The City Manager's Office will provide a Supplemental Memorandum outlining the operational and budgetary considerations to implement and enforce these ordinances.

CEQA

General Procedure & Policy Making resulting in no changes to the physical environment. Public Project number PP17-008.

By /s/
NORA FRIMANN
City Attorney

cc: Jennifer Maguire, City Manager

For questions, please contact NORA FRIMANN, City Attorney, at (408) 535-1900