DRAFT

ORDINANCE NO. _____

AN ORDINANCE OF THE CITY OF SAN JOSE AMENDING TITLE 20, CHAPTER 20.80 OF THE SAN JOSE MUNICIPAL CODE PART 17.5, CHAPTER 20.80, SECTIONS 20.80.1680 AND 20.80.1690 REDUCING SETBACK DISTANCES AND EXEMPTING INCIDENTAL SAFE PARKING AREAS FROM MAXIMUM EXTERIOR NOISE LEVELS

WHEREAS, on February 26, 2019, the City Council approved an ordinance (Ordinance No. 30226) to allow for an incidental "safe parking" use in City-owned and Assembly use parking lots for people who live in their vehicles, and requested an amendment to reduce the setback from safe parking area boundaries; and

WHEREAS, the noise analysis prepared for the ordinance as required under the California Environmental Quality Act ("CEQA") determined that a minimum setback of 65 feet would yield noise levels that would be compatible with the City's Municipal Code Chapter 20.30.700, which states that sound pressure levels generated by any use or combination of uses on a property shall not exceed 55 decibel (DB) at any property line shared with land zoned for residential use, except upon issuance and in compliance with a use permit; and

WHEREAS, in order to accommodate as many existing and potential safe parking sites as possible, amendments to Sections 20.80.1680 and 20.80.1690 of Part 17.5, Chapter 20.80 of the San José Municipal Code would reduce the required setbacks for Incidental Safe Parking areas and exempt Incidental Safe Parking use from maximum exterior noise levels of 55 decibels ("DB"); and

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Council Agenda: 06-11-2019
Item No.: 10.1f(b)
DRAFT – Contact the Office of the City Clerk at (408) 535-1260 or CityClerk@sanjoseca.gov for final document.
REVISED – Administrative changes made since original posting on May 31, 2019 (shown in yellow highlight).

WHEREAS, pursuant to the provisions and requirements of the California Environmental Quality Act of 1970, together with related State CEQA Guidelines and Title 21 of the San José Municipal Code (collectively, "CEQA"), the Director of Planning, Building and Code Enforcement of the City of San José, on December 20, 2018, prepared and approved the Initial Study/Negative Declaration for the Incidental Safe Parking Program; and

WHEREAS, the City Council adopted Resolution No. 78990 on February 26, 2019, setting forth certain findings pertaining to the Initial Study/Negative Declaration, all pursuant to the provisions of CEQA; and

WHEREAS, pursuant to CEQA Guidelines Section 15162, the Director of Planning, Building and Code Enforcement of the City of San José, on May 10, 2019, prepared an Addendum to the Incidental Safe Parking Program Initial Study/Negative Declaration under the provisions of the environmental review requirements, the California Environmental Quality Act of 1970, as amended, including the state and local implementing regulations~~, and was adopted by the Director of the Department of Planning, Building and Code Enforcement City Council on June 11, 2019 ;~~ and

WHEREAS, the City Council adopted Resolution No. _____, adopting the Addendum to the Initial Study/Negative Declaration, all pursuant to the provisions of CEQA; 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 reviewed and considered the Addendum, ~~adopted Incidental Safe Parking Use Project~~ the Initial Study/Negative Declaration and any prior addenda thereto~~and related City Council Resolution No. 78990~~, prior to taking any approval actions on this Ordinance;

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

SECTION 1. Section 20.80.1680 of Chapter 20.80 of Title 20 of the San José Municipal Code is amended to read as follows:

Part 17.5

INCIDENTAL SAFE PARKING USE ON PLACES OF ASSEMBLY AND CITY PARCELS

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:

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

B. The boundary of the Incidental Safe Parking Area shall be at least five (5) feet from any exterior property line.

~~B.~~C. The ~~portion of a Parcel containing the~~ Incidental Safe Parking ~~use~~ Area shall not be located at a distance closer than ~~a minimum of sixty-five feet~~ the following minimum setback distances from any residential use that is located on another Parcel, measured from the nearest point on the boundary of Incidental Safe Parking Area to the dwelling structure: ~~to the nearest Parcel line of a Parcel containing a residential use~~.

i. ~~The minimum setback distance may be reduced to thirty-five feet in the event~~ Thirty-five (35) feet from the first story of an occupied dwelling structure where the adjacent residential use is separated by a solid six-foot tall or greater ~~noise~~ sound 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 provide an analysis prepared by a qualified noise consultant demonstrating compliance with the City's noise standards for uses adjacent to residential uses.~~

ii. Sixty-five (65) feet from a single-story occupied structure where no sound barrier exists.

iii. Sixty-five (65) feet from a second-story of an occupied dwelling structure.

iv. Five feet (5) from an Accessory Dwelling Unit or Secondary Unit, where no openings on the nearest building wall exist.

~~C.~~D. The Parcel containing the Incidental Safe Parking use shall comply with City Council Policy Number 4-3 on Outdoor Lighting for Private Developments, as may be amended from time to time.

~~D.~~E. Incidental Safe Parking uses shall be registered with the Housing Department and periodically update registration, on such forms as may be approved by the Director of Housing.

~~E.~~F. Sites containing Incidental Safe Parking uses shall be inspected for compliance with the Fire Code and Housing Department requirements.

~~F.~~G. Quiet hours on any Parcel containing an Incidental Safe Parking use shall be maintained between 10:00 p.m. and 7:00 a.m., seven (7) days a week, 365 days a year. Quiet hours do not preclude outdoor activities, such as smoking in designated outdoor areas or exiting the Site.

~~G.~~H. Any Site containing an Incidental Safe Parking use including public access and parking shall be maintained in a clean and safe condition, and in compliance with a management plan that is completed as part of registration with the Housing Department.

~~H.~~I. Incidental Safe Parking use shall comply with the requirements of Section 20.80.1675.

J. The operator shall work with any neighbor(s) to address impacts that the use may have on the neighboring community. The Management Plan shall require that a contact number be posted in plain view, timely responses be made, and a log of complaints, and responses to those complaints be maintained.

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SECTION 2. Section 20.80.1690 of Chapter 20.80 of Title 20 of the San José Municipal Code is amended to read as follows:

20.80.1690 – Incidental Safe Parking Generally

A. Council Policy 6-16 (Uses of Public Property) and Chapter 6.46 of Title 6 of this Code (regulating Mobilehomes and Mobilehome Parks) shall not apply to Incidental Safe Parking.

B. Incidental Safe Parking use is exempt from maximum exterior noise level of 55 dB, measured at the property line adjacent to a property used or zoned for residential purposes.

PASSED FOR PUBLICATION of title this _____ day of _____, 2019, by the following vote:

AYES:

NOES:

ABSENT:

DISQUALIFIED:

SAM LICCARDO
Mayor

ATTEST:

TONI J. TABER, CMC
City Clerk