

DRAFT

**ORDINANCE NO. XX-2021**

**AN ORDINANCE OF THE CITY OF FREMONT AMENDING CHAPTER 18.25 (DEFINITIONS) AND CHAPTER 18.190 (SPECIAL PROVISIONS APPLYING TO MISCELLANEOUS USES) UNDER FREMONT MUNICIPAL CODE TITLE 18 (PLANNING AND ZONING) TO ALLOW SAFE PARKING AS AN ANCILLARY USE AT SITES WITH PERMITTED ASSEMBLY USES, QUASI-PUBLIC FACILITIES, AND PUBLIC FACILITIES (PLN2021-00298) AND MAKING FINDINGS OF CEQA EXEMPTION**

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THE CITY COUNCIL OF THE CITY OF FREMONT DOES ORDAIN AS FOLLOWS:

SECTION 1. FMC § 18.25.2475, ADDED

Fremont Municipal Code Section 18.25.2475 is added to read as follows:

**Sec. 18.25.2475 Safe parking site.**

“Safe parking site” shall mean a location that provides homeless individuals and/or families living in a vehicle a dedicated, safe place to park. The occupancy of a vehicle at a permitted safe parking site shall not constitute a nuisance pursuant to FMC 8.60.040.

SECTION 2. FMC § 18.190.475, ADDED

Fremont Municipal Code Section 18.190.475 is added to read as follows:

**Sec. 18.190.475 Safe parking host sites.**

(a) Purpose and Applicability. The purpose of this section is to establish standards for the establishment and operation of safe parking sites<sup>1</sup> at existing assembly uses, quasi-public facilities<sup>1</sup>, and public facilities that assures compatibility of safe parking site activities with surrounding uses. The provisions of this section apply notwithstanding the requirements of Section 18.190.150.

(b) Location. Safe parking host sites are a permitted use within any zoning district, provided they are located in conjunction with an existing and properly permitted assembly use or quasi-public or public facility and comply with the requirements of a safe parking site host permit as provided in subsection (c) of this section.

(c) Ministerial Safe Parking Host Site Permit. A safe parking host site shall not be established or maintained unless and until a ministerial safe parking site host permit has been issued and is in full force and effect.

- (1) **Scope.** The safe parking site host permit shall allow safe parking as an ancillary use to the permitted primary assembly, quasi-public, or public use. Any physical modification or expansion of facilities associated with a safe parking site shall require a separate design review permit pursuant to Section 18.235.
- (2) **Submittal Requirements.** An application for the safe parking host site permit shall be submitted to the Community Development Department, and shall include the following:
  - (A) A site plan showing the proposed location of required facilities listed in subsection (d)(4), parking spaces designated for safe parking, and setbacks to adjacent properties as required per subsection (d)(8);
  - (B) A site management and operations plan describing the proposed functions of the site, including:
    - (i) A list of other uses conducted on the site and their hours of operation, demonstrating that the primary use will not conflict with the safe parking use;
    - (ii) The number of safe parking spaces provided and the days and hours the spaces will be available for safe parking;
    - (iii) A description of program management, including procedures for site monitoring, participant screening, and provision of facilities and services;
    - (iv) A description of how waste disposal, including both greywater disposal and trash disposal, shall be managed by the host site according to best management practices;
    - (v) A description of how the site will meet the performance standards as provided in subsection (d).
- (3) **Inspection Requirement.** Prior to the approval of a safe parking host site permit, City staff shall perform an inspection of the site to ensure compliance with the safe parking site standards.
- (4) **Ministerial Approval.** The zoning administrator or designee shall approve an application for a ministerial safe parking host site permit when an inspection has been performed and the applicant has demonstrated that they would meet all standards as provided in subsection (d) of this section. The approval shall be valid for one year from the date of issuance.
- (5) **Renewal.** Applications for renewal of the safe parking host site permit shall be made to the Community Development Department and shall require re-inspection of the safe parking site premises to ensure ongoing compliance with safe parking site standards.
- (6) **Rotational Program.** An entity that has been issued a valid safe parking host site permit may partner with one or more other entities who have also been issued a valid

safe parking host site permit to offer safe parking to the same group of individuals on a rotational basis within the approvals for each respective site.

(d) **Safe Parking Host Site Standards.** The zoning administrator or designee shall issue a safe parking host site permit when the applicant has demonstrated that they would meet all of the following performance standards:

- (1) **Operation.** Safe parking host sites shall be operated as an ancillary use subordinate to or part of the principal use at an existing facility.
- (2) **Approved Site Management and Operations Plan.** Safe parking host sites shall have a site management and operations plan approved by the Human Services Department Director or designee.
- (3) **Hours of Operation.** On any night that safe parking is offered, a safe parking host site shall operate for a minimum of ten (10) hours. The specific hours of operation for each site, including additional hours up to and including 24-hour operation, shall be established with the approval of the safe parking host site permit.
- (4) **Types of Vehicles Permitted.** Safe parking host sites shall be used only by operable cars, recreational vehicles (RVs), and vans that have received a valid permit from the site operator to park at a specific safe host parking site. For the purposes of this subsection, “operable” shall mean that the vehicle is capable of moving or operating on its own power or that of a companion tow vehicle, is not missing any significant component part, and can be driven on and off site without assistance.
- (5) **Maximum Number of Participants.** No more than 20 inhabited vehicles shall be allowed to park at a safe parking host site at one time.
- (6) **Facilities.** Restroom, potable water, and trash facilities shall be provided, maintained, and accessible to participants on the site during safe parking hours.
- (7) **Vehicle Clearances.** A minimum clearance of eight feet shall be maintained between any car or van used for safe parking and any other passenger vehicle. A minimum clearance of sixteen feet shall be maintained between any RV, truck with cab-over camper or similar sized vehicle used for safe parking and any other vehicle.
- (8) **Fire Safety.** Fire extinguishers and combination smoke/carbon monoxide detectors shall be provided within each RV. A combination smoke/carbon monoxide detector shall be provided within each passenger car or van. Communal fire extinguisher(s) shall be provided such that there is one fire extinguisher located within 75 feet of each inhabited vehicle.
- (9) **Circulation.** Parked vehicles shall not obstruct drive aisles or otherwise interfere with established circulation patterns on the site. The site shall maintain adequate emergency vehicle access and access to fire protection systems, as determined by the Fire Marshal or designee.
- (10) **Setbacks from Property Lines.**

- (A) Designated safe parking spaces for cars and vans shall be located a minimum of twenty feet from any property line directly abutting a property with a residential general plan land use designation.
  - (B) Designated safe parking spaces for recreational vehicles, truck with cab-over campers, or similar sized vehicles shall be located a minimum of forty feet from any property line directly abutting a property with a residential general plan land use designation.
  - (C) Designated safe parking spaces shall be located a minimum of five feet from any property line abutting any non-residential general plan designation.
- (11) Setbacks from Buildings. All vehicles shall be located at least 10 feet from any other building or structure located on the property.
  - (12) Noise. Safe parking host sites shall observe quiet hours between 10:00 p.m. and 7:00 a.m. Use of generators shall be prohibited during quiet hours.
  - (13) Posting. The site address and phone number for the representative of the site operator shall be posted in a visible location on the safe parking site.
  - (14) Exterior Storage Prohibited. Outdoor storage around parked vehicles shall be prohibited. Tents, tarps, and other temporary outdoor shelters, either affixed to a participant's vehicle or freestanding, shall be prohibited.
  - (15) Fire Prohibited. Fires, heaters, barbeque grills, and other outdoor cooking or warming appliances shall be prohibited.

### SECTION 3. CEQA

The City Council finds that the proposed amendments to the Fremont Municipal Code are exempt from the requirements of the California Environmental Quality Act (CEQA), each on a separate and independent basis, (1) CEQA Guidelines Section 15183, as the proposed amendments are consistent with general plan policies and do not involve any peculiar significant effects that were not previously analyzed or discussed as significant effects in prior Environmental Impact Reports (EIRs) or the General Plan, with which the proposed amendments are consistent, and/or (2) CEQA Guidelines Section 15061(b)(3) in that it can be seen with certainty that there is no possibility that the proposed amendments will have the potential for causing a significant effect on the environment, and are not subject to CEQA review. The Community Development Director is directed to file a Notice of Determination within five working days of the date of adoption of this ordinance.

### SECTION 4. SEVERABILITY

If any section, subsection, sentence, clause or phrase of this ordinance is for any reason held by a court of competent jurisdiction to be invalid, such a decision shall not affect the validity of the remaining portions of this ordinance. The City Council of the City of Fremont declares that it would have passed this ordinance and each section or subsection, sentence, clause and

phrase thereof, irrespective of the fact that any one or more sections, subsections, sentences, clauses or phrases be declared invalid.

SECTION 5. EFFECTIVE DATE

This Ordinance shall take effect and will be enforced thirty (30) days after its adoption.

SECTION 6. PUBLICATION AND POSTING

The City Clerk has prepared and published at least five days before the date of adoption a summary of this ordinance once in a newspaper of general circulation printed and published in Alameda County and circulated in the City of Fremont. A certified copy of the full text of the ordinance was posted in the office of the City Clerk since at least five days before this date of adoption. Within 15 days after adoption of this ordinance, the City Clerk shall cause the summary to be published again with the names of those City Council members voting for and against the ordinance and shall post in the office of the City Clerk a certified copy of the full text of this adopted ordinance with the names of those City Council members voting for and against the ordinance.

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The foregoing ordinance was introduced before the City Council of the City of Fremont at the regular meeting of the City Council, held on the \_\_\_ day of \_\_\_\_\_, 2021, and finally adopted at a regular meeting of the City Council held on the \_\_\_ day of \_\_\_\_\_, 2021, by the following vote:

AYES:

NOES:

ABSENT:

ABSTAIN:

\_\_\_\_\_  
Mayor

ATTEST:

APPROVED AS TO FORM:

\_\_\_\_\_  
City Clerk

\_\_\_\_\_  
Sr. Deputy City Attorney II