Initial Study

Incidental Safe Parking Use Municipal Code Amendments

File No.: PP18-092

CITY OF SAN JOSE
CAPITAL OF SILICON VALLEY

December 2018

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SECTION 1.0 INTRODUCTION AND PURPOSE

1.1 PURPOSE OF THE INITIAL STUDY

The City of San José as the Lead Agency, has prepared this Initial Study for the proposed amendments to the Municipal Code in compliance with the California Environmental Quality Act (CEQA), the CEQA Guidelines (California Code of Regulations Section 15000 et seq.) and the regulations and policies of the City of San José, California.

The purpose of this Initial Study is to evaluate the environmental impacts of the proposed amendments to Title 20 of the 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. This Initial Study evaluates the environmental impacts that might reasonably be anticipated to result from implementation of the proposed project.

1.2 CONSIDERATION OF THE INITIAL STUDY AND PROJECT

The City Council will consider the adoption of this Initial Study/Negative Declaration for the project at a regularly scheduled meeting. The City Council shall consider the Initial Study/Negative Declaration together with any comments received at or prior to the public hearing. Upon adoption of the Initial Study/Negative Declaration, the City may proceed with project approval actions.

1.3 NOTICE OF DETERMINATION

If the project is approved, the City will file a Notice of Determination (NOD), which will be available for public inspection and posted within 24 hours of receipt at the County Clerk's Office for 30 days. The filing of the NOD starts a 30-day statute of limitations on court challenges to the approval under CEQA (CEQA Guidelines Section 15075(g)).

SECTION 2.0 PROJECT INFORMATION

2.1 PROJECT TITLE

Incidental Safe Parking Use Municipal Code Amendments

2.2 LEAD AGENCY CONTACT

City of San José
Department of Planning, Building and Code Enforcement
Attention: Reema Mahamood, Planner III
200 East Santa Clara Street, T-3
San José, CA 95113
reema.mahamood@sanjoseca.gov
(408) 535-6872

2.3 PROJECT PROPONENT

City of San José

2.4 PROJECT LOCATION

Citywide

2.5 ASSESSOR'S PARCEL NUMBER

Citywide

2.6 GENERAL PLAN DESIGNATION AND ZONING DISTRICT

Citywide

2.7 HABITAT PLAN DESIGNATION

Not Applicable

2.8 PROJECT-RELATED APPROVALS, AGREEMENTS, AND PERMITS

City Council adoption of an ordinance amending San José Municipal Code Title 20

SECTION 3.0 PROJECT DESCRIPTION

3.1 BACKGROUND

In 2017, the San José City Council amended Title 20 of the San José Municipal Code to create standards that allow incidental shelter of homeless individuals and families in a safe place, by allowing the incidental shelter as an incidental permitted use, to an existing assembly use, where the shelter is provided inside existing building(s) that are constructed and operating in compliance with the San José Municipal Code.

An incidental shelter use is a shelter use that is incidental to the primary assembly use on the site. The shelter use qualifies as incidental if it occupies less than 50 percent of the usable square footage of the building(s) that are primarily used for assembly use on the parcel. A primary assembly use includes, but is not limited to all religious assemblies, and other places where the public can assemble, such as gymnasiums, libraries, movie theaters, nightclubs, schools and community centers.

3.2 PROPOSED PROJECT

3.2.1 Amendments to the Municipal Code

The project proposes amendments to Title 20 of the San José Municipal Code (Zoning Code) to allow homeless individuals and families living in their private vehicles to park their vehicles overnight at existing designated parking areas as follows:

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

20.80.1800 - 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 to 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.

20.80.1810 - Permit May Be 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 20.80.1840, 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).

20.80.1820 - 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 would 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.

20.80.1830 - 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 also comply with the requirements of Section 20.80.1810 or Section 20.80.1840.
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.

20.80.1840 – Safe Parking Exception to Permit Requirement.

Notwithstanding Sections 20.80.1810 and 20.80.1820 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 provide an analysis prepared by a qualified noise consultant demonstrating compliance with the City's noise standards for uses adjacent to residential uses.
3. 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.
4. 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.

5. Sites containing Incidental Safe Parking uses shall be inspected for compliance with the Fire Code and Housing Department requirements.
6. 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.
7. 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.
8. The Incidental Safe Parking use shall comply with the requirements of Section 20.80.1830.

20.80.1860 – Incidental Safe Parking Use– City Property

Notwithstanding this Part, an Incidental Safe Parking use may be provided on a Parcel owned or leased by the City, provided that the Safe Parking Area(s) shall include no more than 49 percent of the paved area.

20.80.1870 – Incidental Safe Parking Use– Generally

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.

3.2.2 Operational Plan Registration with Housing Department

As described above, the proposed Code revisions include a proposed registration process with the City's Housing Department. To facilitate the registration process, the Housing Department would develop guidelines for the operation of an incidental safe parking area, materials required to complete the registration process, and relevant information for incidental safe parking operators such as any operational issues that should be considered. In addition, the registration process may require submittals such as contact information, a service management plan, an emergency disaster plan, an evacuation plan, and a fire watch log.

The Housing Department would develop a checklist, or template, to assist incidental safe parking operators to assess the facility's conformance to applicable Municipal Code regulations, and the Housing Department's registration process (see Appendix A). An Incidental Safe Parking use shall comply with the following location criteria, or require supplemental environmental review:

No Safe Parking use shall occur within a mapped FEMA 1% Flood Hazard Zone
No Safe Parking use shall occur within a mapped Geologic Hazards Zone
No Safe Parking use shall occur within a mapped ALUC Airport Safety Zone
No Safe Parking use shall occur within 1,000 feet of a California Accidental Release Program (CalARP) facility
No Safe Parking use shall occur on a property included on any list compiled pursuant to 65962.5 of the Government Code (Cortese List).

Upon receipt of a registration packet, the Housing Department will arrange for an inspection of the incidental safe parking area to determine the maximum occupancy capacity (i.e., maximum number of persons/vehicles) of the proposed incidental safe parking area.

3.3 DIRECT AND REASONABLY FORESEEABLE INDIRECT ENVIRONMENTAL CHANGES

The proposed project involves a set of changes to existing regulations. The physical environmental changes that would result from the proposed project would be indirect, in that existing assembly uses and City properties with paved parking would be allowed to provide safe parking on a portion of the parking area. These indirect effects would be realized as changes to the use of existing assembly use properties and City property, as discussed below. Given that there are no direct physical changes to evaluate concerning specific sites and facility operations, and that the environmental impacts resulting from the proposed ordinance would be indirect in nature, the analysis in this Initial Study necessarily must rely on reasonable assumptions or predictions.

As described previously, the proposed ordinance would allow additional activity at existing developed properties, during evening hours when the primary assembly use or use of City property does not currently occur. For example, an assembly use or public park that currently operates during daytime hours but is closed at night could instead provide safe parking at night. There would be no construction activity, and potential environmental impacts of the future safe parking would be primarily operational in nature, resulting from additional use of parking at existing facilities and additional transport of persons to and from existing facilities via vehicle trips. Temporary structures such as porta-potties and trash receptacles may be provided at some sites as needed. An assembly use could, under the proposed Code provisions, provide both incidental shelter within existing buildings and incidental safe parking in parking areas.

SECTION 4.0 ENVIRONMENTAL CHECKLIST AND IMPACT DISCUSSION

This section presents the discussion of impacts related to the following environmental subjects in their respective subsections:

4.1	Aesthetics	4.10	Land Use and Planning
4.2	Agricultural and Forestry Resources	4.11	Mineral Resources
4.3	Air Quality	4.12	Noise
4.4	Biological Resources	4.13	Population and Housing
4.5	Cultural Resources	4.14	Public Services
4.6	Geology and Soils	4.15	Recreation
4.7	Greenhouse Gas Emissions	4.16	Transportation/Traffic
4.8	Hazards and Hazardous Materials	4.17	Utilities and Service Systems
4.9	Hydrology and Water Quality	4.18	Mandatory Findings of Significance

The discussion for each environmental subject includes the following subsections:

- **Environmental Checklist –** The environmental checklist, as recommended by CEQA, identifies environmental impacts that could occur if the proposed project is implemented. The right-hand column of the checklist lists the source(s) for the answer to each question. The sources are identified at the end of this section.

- **Impact Discussion** – This subsection discusses the project's impact as it relates to the environmental checklist questions.

- **Existing Conditions** – The proposed project involves Code amendments that would allow existing parking areas across the City, subject to certain provisions, to be used for incidental safe parking. As this is a program-level CEQA analysis to support amendments to Title 20 of the Muni Code, and not an analysis of a specific property or properties to be used for incidental safe parking, it is not possible, or necessary, to describe the existing conditions on each potential property that could be used. The discussion for each environmental subject takes into account the general environmental resources or factors that are typically present on or around an existing parking area and how the introduction of a safe parking use could affect those resources or factors. As noted above in *Section 3.3*, given that there are no direct physical changes to evaluate concerning specific sites and facility operations, and that the environmental impacts resulting from the proposed ordinance would be indirect in nature, the analysis in this Initial Study necessarily must rely on reasonable assumptions or predictions, and not actual conditions on any site(s).

Important Note to the Reader

The California Supreme Court in a December 2015 opinion [*California Building Industry Association v. Bay Area Air Quality Management District*, 62 Cal. 4th 369 (No. S 213478)] confirmed that CEQA, with several specific exceptions, is concerned with the impacts of a project on the environment, not the effects the existing environment may have on a project. Therefore, the

evaluation of the significance of project impacts under CEQA in the following sections focuses on impacts of the project on the environment, including whether a project may exacerbate existing environmental hazards.

The City of San José currently has policies that address existing conditions (e.g., air quality, noise, and hazards) affecting a proposed project, which are also addressed in this section. This is consistent with one of the primary objectives of CEQA and this document, which is to provide objective information to decision-makers and the public regarding a project as a whole. The CEQA Guidelines and the courts are clear that a CEQA document (e.g., Environmental Impact Report or Initial Study) can include information of interest even if such information is not an "environmental impact" as defined by CEQA.

Therefore, where applicable, in addition to describing the impacts of the project on the environment, this chapter will discuss Planning Considerations that relate to policies pertaining to existing conditions. Such examples include, but are not limited to, locating a project near sources of air emissions that can pose a health risk, in a floodplain, in a geologic hazard zone, in a high noise environment, or on/adjacent to sites involving hazardous substances.

4.1 AESTHETICS

4.1.1 Environmental Setting

4.1.1.1 *Regulatory Framework*

City of San José Outdoor Lighting Policy

The City of San José's Outdoor Lighting Policy (City Council Policy 4-3) promotes energy efficient outdoor lighting on private development to provide adequate light for nighttime activities while benefiting the continued enjoyment of the night sky and continuing operation of the Lick Observatory by reducing light pollution and sky glow.

4.1.2 Environmental Checklist

	Potentially Significant Impact	Less Than Significant With Mitigation Incorporated	Less Than Significant Impact	No Impact	Checklist Source(s)
Would the project:					
a) Have a substantial adverse effect on a scenic vista?	☐	☐	☐	☒	1-3
b) Substantially damage scenic resources, including, but not limited to, trees, rock outcroppings, and historic buildings within a state scenic highway?	☐	☐	☐	☒	1-3
c) Substantially degrade the existing visual character or quality of the site and its surroundings?	☐	☐	☒	☐	1-3
d) Create a new source of substantial light or glare which will adversely affect day or nighttime views in the area?	☐	☐	☐	☒	1-3

4.1.3 Impact Discussion

a)-d) Have a substantial adverse effect on a scenic vista? Substantially damage scenic resources, including, but not limited to, trees, rock outcroppings, and historic buildings within a state scenic highway? Substantially degrade the existing visual character or quality of the site and its surroundings? Create a new source of substantial light or glare that would adversely affect day or nighttime views in the area?

As discussed in *Section 3.0 Project Description*, the proposed Municipal Code amendments do not involve any direct physical changes to the environment. Rather, the project would allow existing parking areas at assembly use facilities and City properties to be utilized as incidental safe parking. No new buildings would be constructed as a result of the project. Porta-potties and trash receptacles may be brought to the sites on an as-needed basis.

The City would seek existing paved areas such as parking lots as the primary locations for safe parking use. Because the existing use is intended for the use of vehicles, the Safe Parking program would not change the aesthetics of the sites and surroundings. Further, the Safe Parking program

would operate only during specified hours and cars would not be parked on the site permanently. In addition, any site containing an Incidental Safe Parking use shall be maintained in a clean and safe condition, and in compliance with a required management plan.

The project, therefore, would not have a substantial adverse effect on a scenic vista, substantially damage scenic resources, or substantially degrade the existing visual character or quality of the site and its surroundings.

Although the project may result in additional activity at existing facilities during nighttime hours, parcels containing incidental safe parking uses would be required to comply with City Council Policy Number 4-3 on Outdoor Lighting for Private Developments. The project, therefore, would not create a new source of substantial light or glare that would adversely affect day or nighttime views in the area. **(Less Than Significant Impact)**

4.2 AGRICULTURAL AND FORESTRY RESOURCES

4.2.1 Environmental Setting

4.2.1.1 *Regulatory Framework*

State

Farmland Mapping and Monitoring Program

The California Resources Agency's Farmland Mapping and Monitoring Program (FMMP) assesses the location, quality, and quantity of agricultural land and conversion of these lands over time. Agricultural land is rated according to soil quality and irrigation status; the best quality land is called *Prime Farmland*. In CEQA analyses, the FMMP classifications and published County maps are used, in part, to identify whether agricultural resources that could be effected are present on-site or in the project area.

California Land Conservation Act (Williamson Act)

The California Land Conservation Act (commonly referred to as the Williamson Act) enables local governments to enter into contracts with private landowners to restrict parcels of land to agricultural or related open space use. In return, landowners receive lower property tax assessments. In CEQA analyses, identification of properties that are under Williamson Act contract is used, in part, to identify sites that may include agricultural resources or are zoned for agricultural uses.

Forest Land, Timberland, and Timberland Production

The California Department of Forestry and Fire Protection (Cal Fire) identifies forest land, timberland, and lands zoned for timberland production that can (or do) support forestry resources.[1] In CEQA analyses, programs such as Cal Fire's Fire and Resource Assessment Program (FRAP) and are used to identify whether forest land, timberland, or timberland production areas that could be effected are located on or adjacent to a project site.

[1] *Forest land* is land that can support 10-percent native tree cover under natural conditions and that allows for management of one or more forest resources (including timber, fish and wildlife, and biodiversity) (California Public Resources Code Section 12220(g)); *Timberland* is land (not owned by the federal government or designated by the board as experimental forest land) that is available for, and capable of, growing a crop of trees of any commercial species used to produce lumber and other forest products, including Christmas trees (California Public Resources Code Section 4526); and land zoned as *Timberland Production* is land devoted to and used for growing and harvesting timber, or for growing and harvesting timber and compatible uses (Government Code Section 51104(g)).

4.2.2 Environmental Checklist

	Potentially Significant Impact	Less Than Significant With Mitigation Incorporated	Less Than Significant Impact	No Impact	Checklist Source(s)
Would the project:					
a) Convert Prime Farmland, Unique Farmland, or Farmland of Statewide Importance (Farmland), as shown on the maps prepared pursuant to the Farmland Mapping and Monitoring Program of the California Resources Agency, to non-agricultural use?	☐	☐	☐	☒	1-3
b) Conflict with existing zoning for agricultural use, or a Williamson Act contract?	☐	☐	☐	☒	1-3
c) Conflict with existing zoning for, or cause rezoning of, forest land (as defined in Public Resources Code Section 12220(g)), timberland (as defined by Public Resources Code Section 4526), or timberland zoned Timberland Production (as defined by Government Code Section 51104(g))?	☐	☐	☐	☒	1-3
d) Result in a loss of forest land or conversion of forest land to non-forest use?	☐	☐	☐	☒	1-3
e) Involve other changes in the existing environment which, due to their location or nature, could result in conversion of Farmland, to non-agricultural use or conversion of forest land to non-forest use?	☐	☐	☐	☒	1-3

4.2.3 Impact Discussion

a)-e) Convert Prime Farmland, Unique Farmland, or Farmland of Statewide Importance (Farmland) to non-agricultural use?

Conflict with existing zoning for agricultural use, or a Williamson Act contract?

Conflict with existing zoning for, or cause rezoning of, forest land, timberland, or timberland zoned Timberland Production?

Result in a loss of forest land or conversion of forest land to non-forest use?

Involve other changes in the existing environment which, due to their location or nature, could result in conversion of Farmland, to non-agricultural use or conversion of forest land to non-forest use?

As discussed in *Section 3.0 Project Description*, the proposed Municipal Code amendments do not involve any direct physical changes to the environment. Rather, the project would allow existing parking areas at assembly use facilities and City properties to be utilized as incidental safe parking.

The use of existing facilities for incidental safe parking would not result in significant impacts to agricultural and forestry resources. **(No Impact)**

4.3 AIR QUALITY

4.3.1 Environmental Setting

4.3.1.1 *Regulatory Framework*

Federal and State

Air Quality Overview

Federal, State, and regional agencies regulate air quality in the San Francisco Bay Area Air Basin, within which the proposed project is located. At the federal level, the United States Environmental Protection Agency (EPA) is responsible for overseeing implementation of the Clean Air Act and its subsequent amendments. The California Air Resources Board (CARB) is the State agency that regulates mobile sources throughout the State and oversees implementation of the State air quality laws and regulations, including the California Clean Air Act.

Regional and Local Criteria Pollutants

The federal Clean Air Act requires the EPA to set national ambient air quality standards for six common air pollutants (referred to as "criteria pollutants"): particulate matter (PM), ground-level ozone, carbon monoxide, sulfur oxides, nitrogen oxides, and lead. The EPA and the CARB have adopted ambient air quality standards establishing permissible levels of these pollutants to protect public health and the climate.

Violations of ambient air quality standards are based on air pollutant monitoring data and are determined for each air pollutant. "Attainment" status for a pollutant means that a given air district meets the standard set by the EPA and/or CARB. The Bay Area as a whole does not meet State or federal ambient air quality standards for ground level ozone and fine particulate matter ($PM_{2.5}$), nor does it meet State standards for respirable particulate matter (PM_{10}). The Bay Area is considered in attainment or unclassified for all other pollutants.

Toxic Air Contaminants and Fine Particulate Matter (Local Community Risks)

Besides criteria pollutants, there is another group of substances found in ambient air referred to as Toxic Air Contaminants (TACs). These contaminants tend to be localized and are found in relatively low concentrations in ambient air; however, exposure to low concentrations over long periods can result in increased risk of cancer and/or adverse health effects. TACs are primarily regulated through State and local risk management programs. These programs are designed to eliminate, avoid, or minimize the risk of adverse health effects from exposures to TACs. A chemical becomes a regulated TAC in California based on designation by the California Office of Environmental Health Hazard Assessment (OEHHA). Diesel exhaust, in the form of diesel particulate matter (DPM), is the predominant TAC in urban air and accounts for roughly 60 percent of the total cancer risk associated with TACs in the Bay Area. Other TACs found in urban air include lead, benzene and formaldehyde.

Fine Particulate Matter ($PM_{2.5}$) is a complex mixture of substances that includes elements such as carbon and metals, compounds such as nitrates, organics, and sulfates, and mixtures such as diesel exhaust and wood smoke. Because of their small size (particles are less than 2.5 micrometers in diameter), $PM_{2.5}$ can lodge deeply into the lungs. According to the Bay Area Air Quality

Management District (BAAQMD), $PM_{2.5}$ is the air pollutant most harmful to the health of Bay Area residents.

Common stationary sources of TACs and $PM_{2.5}$ include gasoline stations, dry cleaners, and diesel backup generators. The other more significant, common mobile source is motor vehicles on roadways and freeways. Unlike regional criteria pollutants, local risks associated with TACs and $PM_{2.5}$ are evaluated on the basis of risk to human health rather than comparison to an ambient air quality standard or emission-based threshold.

Regional

Bay Area Air Quality Management District

The Bay Area Air Quality Management District (BAAQMD) is the agency primarily responsible for assuring that the federal and State ambient air quality standards are maintained in the San Francisco Bay Area. BAAQMD has permit authority over stationary sources, acts as the primary reviewing agency for environmental documents, and develops regulations that must be consistent with or more stringent than, federal and State air quality laws and regulations.

Regional air quality management districts, such as BAAQMD, must prepare air quality plans specifying how State air quality standards would be met. BAAQMD's most recently adopted plan is the Bay Area 2017 Clean Air Plan (2017 CAP). The 2017 CAP focuses on two closely related BAAQMD goals: protecting public health and protecting the climate. To protect public health, the 2017 CAP describes how the BAAQMD will continue its progress toward attaining State and federal air quality standards and eliminating health risk disparities from exposure to air pollution among Bay Area communities.

The 2017 CAP includes a wide range of control measures designed to decrease emissions of the air pollutants that are most harmful to Bay Area residents, such as particulate matter, ozone, and toxic air contaminants; to reduce emissions of methane and other "super-GHGs" that are potent climate pollutants in the near-term; and to decrease emissions of carbon dioxide by reducing fossil fuel combustion.

4.3.2 Environmental Checklist

	Potentially Significant Impact	Less Than Significant With Mitigation Incorporated	Less Than Significant Impact	No Impact	Checklist Source(s)
Would the project:					
a) Conflict with or obstruct implementation of the applicable air quality plan?	☐	☐	☒	☐	1-3
b) Violate any air quality standard or contribute substantially to an existing or projected air quality violation?	☐	☐	☒	☐	1-3

	Potentially Significant Impact	Less Than Significant With Mitigation Incorporated	Less Than Significant Impact	No Impact	Checklist Source(s)
Would the project:					
c) Result in a cumulatively considerable net increase of any criteria pollutant for which the project region is classified as non-attainment under an applicable federal or state ambient air quality standard including releasing emissions which exceed quantitative thresholds for ozone precursors?	☐	☐	☒	☐	1-3
d) Expose sensitive receptors to substantial pollutant concentrations?	☐	☐	☒	☐	1-3
e) Create objectionable odors affecting a substantial number of people?	☐	☐	☒	☐	1-3

4.3.3 Impact Discussion

a)-e) Conflict with or obstruct implementation of the applicable air quality plan?

Violate any air quality standard or contribute substantially to an existing or projected air quality violation?

Result in a cumulatively considerable net increase of any criteria pollutant for which the project region is classified as non-attainment under an applicable federal or state ambient air quality standard including releasing emissions which exceed quantitative thresholds for ozone precursors?

Expose sensitive receptors to substantial pollutant concentrations?

Create objectionable odors affecting a substantial number of people?

The project would allow existing assembly use facilities and City properties to be used for incidental safe parking. No new construction or substantial alteration of existing facilities is expected, therefore the proposed ordinance is not expected to result in substantial construction emissions. The existing assembly facilities and City properties generate emissions of pollutants through current operations, primarily through vehicle trips to and from the facilities. Given the nature and limited scale of the incidental safe parking program, a substantial increase in vehicle trips to and from these existing facilities is not anticipated to result.

To the extent the homeless vehicles are currently being parked elsewhere in the City, their vehicle emissions are already occurring in the local environment. Persons utilizing the designated safe parking sites are likely to be traveling from the immediate surrounding area. As a result, the project would not result in a substantial increase in the emissions of pollutants. The project, therefore, would not conflict with or obstruct implementation of the applicable air quality plan, violate any air quality standard or contribute substantially to an existing or projected air quality violation, result in a

cumulatively considerable net increase of any criteria pollutant, or expose sensitive receptors to substantial pollutant concentrations.

To minimize odor impacts on nearby residential parcels, no fires of any kind shall be permitted, and no cooking or food preparation shall be performed outside of the participants' vehicles. , For these reasons, incidental safe parking at existing parking areas would not generate objectionable odors affecting a substantial number of people. **(Less Than Significant Impact)**

4.4 BIOLOGICAL RESOURCES

4.4.1 Environmental Setting

4.4.1.1 *Regulatory Framework*

Federal

Migratory Bird Treaty Act

The federal Migratory Bird Treaty Act (MBTA: 16 USC Section 703, Supp. I, 1989) prohibits killing, possessing, or trading in migratory birds except in accordance with regulations prescribed by the Secretary of the Interior. This act encompasses whole birds, parts of birds, bird nests, and eggs. Construction disturbance during the breeding season could result in a violation of the MBTA such as the incidental loss of fertile eggs or nestlings, or nest abandonment.

State

Special Status Species

Special status species include plants or animals that are listed as threatened or endangered under the federal and/or California Endangered Species Act, species identified by the California Department of Fish and Wildlife (CDFW) as a California Species of Special Concern, as well as plants identified by the California Native Plant Society (CNPS) as rare, threatened, or endangered.

Regional and Local

Habitat Conservation Plans

The Santa Clara Valley Habitat Plan/Natural Community Conservation Plan (SCVHP) was approved in 2013 and covers an area of 519,506 acres, or approximately 62 percent of Santa Clara County. It was developed and adopted through a partnership between Santa Clara County, the Cities of San José, Morgan Hill, and Gilroy, Santa Clara Valley Water District (SCVWD), Santa Clara Valley Transportation Authority (VTA), US Fish and Wildlife Service (USFWS), and California Department of Fish and Wildlife (CDFW). The SCVHP is intended to promote the recovery of endangered species and enhance ecological diversity and function, while accommodating planned growth in approximately 500,000 acres of southern Santa Clara County. The Santa Clara Valley Habitat Agency is responsible for implementing the plan.

The existing parking areas that could be used for incidental safe parking are located within the Habitat Plan study area and are typically designated as “Urban-Suburban” land. “Urban-Suburban” land is comprised of areas where native vegetation has been cleared for residential, commercial, industrial, transportation, or recreational structures, and is defined as having one or more structures per 2.5 acres.

City of San José Tree Ordinance

Ordinance-sized trees, heritage trees, and street trees make up the urban forest and are protected under the City of San José Tree Ordinance. The City of San José Tree Removal Controls (San José City Code, Sections 13.31.010 to 13.32.100) protect all trees having a trunk that measures 38 inches or more in circumference (12.1 inches in diameter) at the height of 54 inches above the natural grade. The ordinance protects both native and non-native species. A tree removal permit is required from the City for the removal of ordinance-size trees. In addition, any tree found by the City Council to have special significance due to history, girth, height, species, or unique quality can be designated as a Heritage Tree, regardless of tree size or species. It is illegal to prune or remove a heritage tree without first consulting the City Arborist and obtaining a permit.

4.4.2 Environmental Checklist

	Potentially Significant Impact	Less Than Significant With Mitigation Incorporated	Less Than Significant Impact	No Impact	Checklist Source(s)
Would the project:					
a) Have a substantial adverse effect, either directly or through habitat modifications, on any species identified as a candidate, sensitive, or special-status species in local or regional plans, policies, or regulations, or by the California Department of Fish and Wildlife (CDFW) or United States Fish and Wildlife Service (USFWS)?	☐	☐	☐	☒	1-3
b) Have a substantial adverse effect on any riparian habitat or other sensitive natural community identified in local or regional plans, policies, regulations, or by the CDFW or USFWS?	☐	☐	☐	☒	1-3
c) Have a substantial adverse effect on federally protected wetlands as defined by Section 404 of the Clean Water Act (including, but not limited to, marsh, vernal pool, coastal, etc.) through direct removal, filling, hydrological interruption, or other means?	☐	☐	☐	☒	1-3
d) Interfere substantially with the movement of any native resident or migratory fish or wildlife species or with established native resident or migratory wildlife corridors, impede the use of native wildlife nursery sites?	☐	☐	☐	☒	1-3
e) Conflict with any local policies or ordinances protecting biological resources, such as a tree preservation policy or ordinance?	☐	☐	☐	☒	1-3

	Potentially Significant Impact	Less Than Significant With Mitigation Incorporated	Less Than Significant Impact	No Impact	Checklist Source(s)
Would the project:					
f) Conflict with the provisions of an adopted Habitat Conservation Plan, Natural Community Conservation Plan, or other approved local, regional, or state habitat conservation plan?	☐	☐	☐	☒	1-3

4.4.3 Impact Discussion

a)-d) Have a substantial adverse effect, either directly or through habitat modifications, on any species identified as a candidate, sensitive, or special-status species in local or regional plans, policies, or regulations, or by the CDFW or USFWS?

Have a substantial adverse effect on any riparian habitat or other sensitive natural community identified in local or regional plans, policies, regulations, or by the CDFW or USFWS?

Have a substantial adverse effect on federally protected wetlands as defined by Section 404 of the Clean Water Act (including, but not limited to, marsh, vernal pool, coastal, etc.) through direct removal, filling, hydrological interruption, or other means?

Interfere substantially with the movement of any native resident or migratory fish or wildlife species or with established native resident or migratory wildlife corridors, impede the use of native wildlife nursery sites?

Conflict with any local policies or ordinances protecting biological resources, such as a tree preservation policy or ordinance?

Conflict with the provisions of an adopted Habitat Conservation Plan, Natural Community Conservation Plan, or other approved local, regional, or state habitat conservation plan?

As discussed in *Section 3.0 Project Description,* the proposed Municipal Code amendments do not involve any direct physical changes to the environment. Rather, the project would allow existing assembly use facilities and City properties to be utilized as incidental safe parking. The use of existing facilities for incidental safe parking would not result in significant impacts to biological resources in that parking would be occurring at night on paved surfaces. Many homeless now living near creeks could be sheltered as a result of the ordinance, thereby reducing the amount of human habitation occurring near area creeks, which can disrupt use of those areas by wildlife. There are numerous existing parking areas at assembly uses or on City properties that could be used for incidental safe parking that contain trees, however, it is not practical or necessary in this program-level analysis to document existing trees at all eligible potential safe parking sites, nor is it foreseeable that the removal of trees will indirectly result on any sites from the proposed Code amendments. **(No Impact)**

4.5 CULTURAL RESOURCES

4.5.1 Environmental Setting

4.5.1.1 *Regulatory Framework*

Federal

National Historic Preservation Act

The National Register of Historic Places (NRHP), established under the National Historic Preservation Act, is a comprehensive inventory of known historic resources throughout the United States. The NRHP is administered by the National Park Service and includes buildings, structures, sites, objects and districts that possess historic, architectural, engineering, archaeological or cultural significance. For a resource to be eligible for listing, it also must retain integrity of those features necessary to convey its significance. CEQA requires evaluation of project effects on properties that are listed in or eligible for listing in the NRHP.

State and Regional

California Register of Historical Resources

The California Register of Historical Resources (CRHR) is a guide to cultural resources that must be considered when a government agency undertakes a discretionary action subject to CEQA. The CRHR aids government agencies in identifying, evaluating, and protecting California's historical resources, and indicates which properties are to be protected from substantial adverse. The CRHR is administered through the State Office of Historic Preservation, which is part of the California State Parks system. A historic resource listed in, or formally determined to be eligible for listing in, the NRHP is, by definition, included in the CRHR.[2]

Archaeological Resources and Human Remains

Archaeological sites are protected by several State policies and regulations under the California Public Resources Code, California Code of Regulations (Title 14 Section 1427), and California Health and Safety Code. California Public Resources Code Sections 5097.9-5097.991 require notification of discoveries of Native American remains and provides for the treatment and disposition of human remains and associated grave goods.

Both State law and County of Santa Clara County Code (Sections B6-19 and B6-20) require that the Santa Clara County Coroner be notified if cultural remains are found on a site. If the Coroner determines the remains are those of Native Americans, the Native American Heritage Commission and a "most likely descendant" must also be notified.

Assembly Bill 52 – Tribal Cultural Resources

Assembly Bill (AB) 52 requires that tribal cultural resources be considered under CEQA. A tribal cultural resource can be a site, feature, place, object, or cultural landscape with value to a California Native American tribe that is also eligible for listing on the CRHR. AB 52 includes a broad definition

[2] Refer to Public Resources Code Section 5024.1(d)(1)

of what may be considered to be a tribal cultural resource, and includes a list of recommended mitigation measures for potential impacts. AB 52 requires lead agencies to provide notice of projects to tribes that are traditionally and culturally affiliated with the geographic area if they have requested to be notified. Where a project may have a significant impact on a tribal cultural resource, consultation is required until the parties agree to measures to mitigate or avoid a significant effect on a tribal cultural resource or when it is concluded that agreement cannot be reached.

Paleontological Resources Regulations

Paleontological resources are the fossilized remains of organisms from prehistoric environments found in geologic strata. These resources are valued for the information they yield about the history of the earth and its past ecological settings. The California Public Resources Code (Section 5097.5) specifies that unauthorized removal of a paleontological resource is a misdemeanor. Under the CEQA Guidelines, a project would have a significant impact on paleontological resources if it will disturb or destroy a unique paleontological resource or site or unique geologic feature.

4.5.2 Environmental Checklist

	Potentially Significant Impact	Less Than Significant With Mitigation Incorporated	Less Than Significant Impact	No Impact	Checklist Source(s)
Would the project:					
a) Cause a substantial adverse change in the significance of an historical resource as defined in CEQA Guidelines Section 15064.5?	☐	☐	☐	☒	1-3
b) Cause a substantial adverse change in the significance of an archaeological resource as defined in CEQA Guidelines Section 15064.5?	☐	☐	☐	☒	1-3
c) Directly or indirectly destroy a unique paleontological resource or site, or unique geologic feature?	☐	☐	☐	☒	1-3
d) Disturb any human remains, including those interred outside of formal cemeteries?	☐	☐	☐	☒	1-3
e) Cause a substantial adverse change in the significance of a tribal cultural resource, defined in Public Resources Code Section 21074 as either a site, feature, place, cultural landscape that is geographically defined in terms of the size and scope of the landscape, sacred place, or object with cultural value to a California Native American tribe, and that is:					

	Potentially Significant Impact	Less Than Significant With Mitigation Incorporated	Less Than Significant Impact	No Impact	Checklist Source(s)
Would the project:					
Listed or eligible for listing in the California Register of Historical Resources, or in a local register of historical resources as defined in Public Resources Code Section 5020.1(k); or	☐	☐	☐	☒	1-3
A resource determined by the lead agency, in its discretion and supported by substantial evidence, to be significant pursuant to criteria set forth in subdivision (c) of Public Resources Code Section 5024.1. In applying this criteria, the significance of the resource to a California Native American tribe shall be considered.	☐	☐	☐	☒	1-3

4.5.3 Impact Discussion

a)-d) Cause a substantial adverse change in the significance of an historical resource?

Cause a substantial adverse change in the significance of an archaeological resource?

Directly or indirectly destroy a unique paleontological resource or site, or unique geologic feature?

Disturb any human remains, including those interred outside of formal cemeteries?

Cause a substantial adverse change in the significance of a tribal cultural resource, defined in Public Resources Code Section 21074 as either a site, feature, place, cultural landscape that is geographically defined in terms of the size and scope of the landscape, sacred place, or object with cultural value to a California Native American tribe, and that is: listed or eligible for listing in the California Register of Historical Resources, or in a local register of historical resources as defined in Public Resources Code Section 5020.1(k); or a resource determined by the lead agency, in its discretion and supported by substantial evidence, to be significant pursuant to criteria set forth in subdivision (c) of Public Resources Code Section 5024.1. In applying this criteria, the significance of the resource to a California Native American tribe shall be considered.

As discussed in *Section 3.0 Project Description*, the proposed Municipal Code amendments do not involve any direct physical changes to the environment. Rather, the project would allow existing assembly use facilities and City properties to be utilized for incidental safe parking. While it is not known whether any assembly use properties or City properties with historical buildings would be used for incidental safe parking, any physical modifications proposed to these facilities to accommodate the incidental safe parking program would be subject to relevant development permit requirements and project-level, site-specific environmental review pursuant to CEQA, if applicable.

During the environmental review process, the potential for the proposed development to result in significant cultural resources impacts would be evaluated and mitigation measures would be identified, as necessary. Future use of parcels for safe parking, therefore, would not cause a substantial adverse change in the significance of an historical resource. Additionally, because no ground-disturbing activities would occur as a result of the proposed amendments, the project would not cause a substantial adverse change in the significance of an archaeological or tribal resource, directly or indirectly destroy a unique paleontological resource or unique geologic feature, or disturb any human remains. To date, in San José the only request made by a tribe pursuant to AB 52 for notification pertains to projects that involve substantial ground disturbance. **(No Impact)**

4.6 GEOLOGY AND SOILS

4.6.1 Environmental Setting

4.6.1.1 *Regulatory Framework*

Alquist-Priolo Earthquake Fault Zoning Act

The Alquist-Priolo Earthquake Fault Zoning (AP) Act was passed into law following the destructive 1971 San Fernando earthquake. The AP Act regulates development in California near known active faults due to hazards associated with surface fault ruptures. Areas within the Alquist-Priolo Earthquake Fault Zone require special studies to evaluate the potential for surface rupture to ensure that no structures intended for human occupancy are constructed across an active fault.

Seismic Hazards Mapping Act

The Seismic Hazards Mapping Act (SHMA) was passed by the California legislature in 1990 to protect the public from the effects of strong ground shaking, liquefaction, landslides, and other seismic hazards. The SHMA established a State-wide mapping program to identify areas subject to violent shaking and ground failure; the program is intended to assist cities and counties in protecting public health and safety. The California Geological Survey (CGS) is mapping SHMA Zones and has completed seismic hazard mapping for the portions of California most susceptible to liquefaction, ground shaking, and landslides, which include the central San Francisco Bay Area and Los Angeles Basin.

City of San José Municipal Code

Title 24 of the San José Municipal Code includes the current California Building, Plumbing, Mechanical, Electrical, Existing Building, and Historical Building Codes. Requirements for building safety and earthquake hazard reduction are also addressed in Chapter 17.40 (Dangerous Buildings) and Chapter 17.10 (Geologic Hazards Regulations) of the Municipal Code. Requirements for grading, excavation, and erosion control are included in Chapter 17.10 (Building Code, Part 6 Excavation and Grading). In accordance with the Municipal Code, the Director of Public Works must issue a Certificate of Geologic Hazard Clearance prior to the issuance of grading and building permits within defined geologic hazard zones, including State Seismic Hazard Zones for Liquefaction.

4.6.2 Environmental Checklist

	Potentially Significant Impact	Less Than Significant With Mitigation Incorporated	Less Than Significant Impact	No Impact	Checklist Source(s)
Would the project:					
a) Expose people or structures to potential substantial adverse effects, including the risk of loss, injury, or death involving:					

	Potentially Significant Impact	Less Than Significant With Mitigation Incorporated	Less Than Significant Impact	No Impact	Checklist Source(s)
Would the project:					
1. Rupture of a known earthquake fault, as described on the most recent Alquist-Priolo Earthquake Fault Zoning Map issued by the State Geologist for the area or based on other substantial evidence of a known fault (refer to Division of Mines and Geology Special Publication 42)?	☐	☐	☐	☒	1-3
2. Strong seismic ground shaking?	☐	☐	☐	☒	1-3
3. Seismic-related ground failure, including liquefaction?	☐	☐	☐	☒	1-3
4. Landslides?	☐	☐	☐	☒	1-3
b) Result in substantial soil erosion or the loss of topsoil?	☐	☐	☐	☒	1-3
c) Be located on a geologic unit or soil that is unstable, or that will become unstable as a result of the project, and potentially result in on- or off-site landslide, lateral spreading, subsidence, liquefaction or collapse?	☐	☐	☐	☒	1-3
d) Be located on expansive soil, as defined in Section 1802.3.2 of the California Building Code (2007), creating substantial risks to life or property?	☐	☐	☐	☒	1-3
e) Have soils incapable of adequately supporting the use of septic tanks or alternative wastewater disposal systems where sewers are not available for the disposal of wastewater?	☐	☐	☐	☒	1-3

4.6.3 Impact Discussion

a)-e) Expose people or structures to potential substantial adverse effects, including the risk of loss, injury, or death involving: i) rupture of a known earthquake fault, ii) strong seismic ground shaking, iii) seismic-related ground failure, or iv) landslides?

Result in substantial soil erosion or the loss of topsoil?

Be located on a geologic unit or soil that is unstable, or that will become unstable as a result of the project, and potentially result in on- or off-site landslide, lateral spreading, subsidence, liquefaction or collapse?

Be located on expansive soil, as defined in Section 1802.3.2 of the California Building Code (2007), creating substantial risks to life or property?

Have soils incapable of adequately supporting the use of septic tanks or alternative wastewater disposal systems where sewers are not available for the disposal of wastewater?

As discussed in *Section 3.0 Project Description*, the proposed Municipal Code amendments do not involve any direct physical changes to the environment. Rather, the project would allow existing assembly use facilities and City properties with paved parking areas to be used for incidental safe parking. No new buildings would be constructed as a result of the project, nor substantial modification of existing sites and structures. The project, therefore, would not result in significant geology and soils impacts. **(No Impact)**

4.7 GREENHOUSE GAS EMISSIONS

4.7.1 Environmental Setting

4.7.1.1 *Regulatory Framework*

State

Global Warming Solutions Act

Under the California Global Warming Solution Act, also known as Assembly Bill (AB) 32, the California Air Resources Board (CARB) established a Statewide GHG emissions cap for 2020, adopted mandatory reporting rules for significant sources of GHG, and adopted a comprehensive plan, known as the Climate Change Scoping Plan, identifying how emission reductions will be achieved from significant GHG sources.

In 2016, SB 32 was signed into law, amending the California Global Warming Solution Act. SB 32, and accompanying Executive Order B-30-15, require CARB to ensure that Statewide GHG emissions are reduced to 40 percent below the 1990 level by 2030. CARB updated its Climate Change Scoping Plan in December of 2017 to express the 2030 Statewide target in terms of million metric tons of carbon dioxide equivalent (MMTCO2e). Based on the emissions reductions directed by SB 32, the annual 2030 Statewide target emissions level for California is 260 MMTCO2e.

Regional

Bay Area 2017 Clean Air Plan

Regional air quality management districts, such as BAAQMD, must prepare air quality plans specifying how State and federal air quality standards will be met. BAAQMD's most recently adopted plan is the Bay Area 2017 Clean Air Plan (2017 CAP). The 2017 CAP focuses on two related BAAQMD goals: protecting public health and protecting the climate. To protect the climate, the 2017 CAP includes control measures designed to reduce emissions of methane and other super-GHGs that are potent climate pollutants in the near-term, and to decrease emissions of carbon dioxide by reducing fossil fuel combustion.

Local

Envision San José 2040 General Plan and Greenhouse Gas Reduction Strategy

The General Plan includes strategies, policies, and action items that are incorporated in the City's GHG Reduction Strategy (GHGRS) to help reduce GHG emissions. Multiple policies and actions in the General Plan have GHG implications, including land use, housing, transportation, water usage, solid waste generation and recycling, and reuse of historic buildings. The City's Green Vision, as reflected in these policies, also has a monitoring component that allows for adaptation and adjustment of City programs and initiatives related to sustainability and associated reductions in GHG emissions. The GHGRS is intended to meet the mandates outlined in the CEQA Guidelines, as well as the BAAQMD requirements for Qualified GHG Reduction Strategies.

The City's GHGRS identifies GHG emissions reduction measures to be implemented by development projects as part of three categories: built environment and energy, land use and transportation, and recycling and waste reduction. Some measures are mandatory for all proposed development projects and others are voluntary. Voluntary measures could be incorporated as mitigation measures for proposed projects, at the City's discretion.

4.7.2 Environmental Checklist

	Potentially Significant Impact	Less Than Significant With Mitigation Incorporated	Less Than Significant Impact	No Impact	Checklist Source(s)
Would the project:					
a) Generate greenhouse gas emissions, either directly or indirectly, that may have a significant impact on the environment?	☐	☐	☒	☐	1-3
b) Conflict with an applicable plan, policy or regulation adopted for the purpose of reducing the emissions of greenhouse gases?	☐	☐	☒	☐	1-3

4.7.3 Impact Discussion

a)-b) Generate greenhouse gas emissions, either directly or indirectly, that may have a significant impact on the environment?

Conflict with an applicable plan, policy or regulation adopted for the purpose of reducing the emissions of greenhouse gases?

The project would allow existing assembly use facilities and City properties with paved parking areas to be used for incidental safe parking. The existing facilities generate greenhouse gas (GHG) emissions through current operations such as the burning of natural gas for heating and the burning of gasoline in vehicles traveling to and from assembly events and to and from City properties. Additional indirect emissions occur as a result of the generation of electricity used at the facilities. Given the nature of incidental use of safe parking by homeless persons, a substantial increase in vehicle trips to and from these existing facilities is not anticipated to result from the project. Persons using the safe parking areas are likely to be traveling from the immediate surrounding area. The use of existing paved parking for incidental safe parking would not result in increased use of natural gas and electricity. The project, therefore, would not generate either directly or indirectly, GHG emissions that may have a significant impact on the environment.

The City's Municipal Code includes regulations, such as the Green Building Ordinance, that would reduce GHG emissions from future development. The City of San José has also adopted localized policies to regulate GHG emissions. The Envision San José 2040 General Plan includes strategies, policies, and action items that are incorporated in the City's GHG Reduction Strategy to help reduce GHG emissions to meet goals established by the State of California. The GHG Reduction Strategy identifies GHG reduction measures to be implemented by development projects in three categories: built environment and energy, land use and transportation, and recycling and waste reduction. The proposed project would not result in new development nor a substantial intensification of existing

developed sites and, therefore, would not conflict with an applicable plan, policy or regulation adopted for the purpose of reducing the emissions of greenhouse gases. **(Less Than Significant Impact)**

4.8 HAZARDS AND HAZARDOUS MATERIALS

4.8.1 Environmental Setting

4.8.1.1 *Regulatory Framework*

Comprehensive Environmental Response, Compensation, and Liability Act

The Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA), commonly known as Superfund, was enacted by Congress in 1980. This law provided broad federal authority to respond directly to releases or threatened releases of hazardous substances that may endanger public health or the environment. CERCLA established prohibitions and requirements concerning closed and abandoned hazardous waste sites, provided for liability of persons responsible for releases of hazardous wastes at these sites, and established a trust fund to provide for cleanup when no responsible party could be identified.

Resource Conservation and Recovery Act

The Resource Conservation and Recovery Act (RCRA), initially authorized in 1976, gives the USEPA the authority to control hazardous waste from "cradle-to-grave." This includes the generation, transportation, treatment, storage, and disposal of hazardous waste. RCRA also set forth a framework for the management of non-hazardous solid wastes. The 1986 amendments to RCRA enabled the USEPA to address environmental problems that could result from underground tanks storing petroleum and other hazardous substances.

Department of Toxic Substances Control and Regional Water Quality Control Board

The Department of Toxic Substances Control (DTSC) regulates hazardous waste and remediation of existing contamination and evaluates procedures to reduce the hazardous waste produced in California. DTSC regulates hazardous waste in California primarily under the authority of the federal RCRA and the California Health and Safety Code. The San Francisco Bay Regional Water Quality Control Board also provides regulatory oversight for sites with contaminated groundwater or soils.

Government Code §65962.5 (Cortese List)

Section 65962.5 of the Government Code requires the California Environmental Protection Agency (CalEPA) to develop and annually update a list of hazardous waste and substances sites, known as the Cortese List. The Cortese List is used by State and local agencies and developers to comply with CEQA requirements. The Cortese List includes hazardous substance release sites identified by DTSC and the State Water Resources Control Board (SWRCB).

California Accidental Release Prevention Program

The California Accidental Release Prevention (CalARP) Program aims to prevent accidental releases of regulated hazardous materials that represent a potential hazard beyond property boundaries. Facilities that are required to participate in the CalARP Program use or store specified quantities of toxic and flammable substances (hazardous materials) that can have off-site consequences if accidentally released. A Risk Management Plan (RMP) is required for such facilities. The intents of the RMP are to provide basic information that may be used by first responders in order to prevent or

mitigate damage to the public health and safety and to the environment from a release or threatened release of a hazardous material, and to satisfy federal and State Community Right-to-Know laws. The County of Santa Clara Department of Environmental Health reviews CalARP risk management plans as the Certified Unified Program Agency (CUPA).

Federal Aviation Regulations, Part 77

Federal Aviation Regulations, Part 77, "Objects Affecting Navigable Airspace" (FAR Part 77) sets forth standards and review requirements for protecting the airspace for safe aircraft operation, particularly by restricting the height of potential structures and minimizing other potential hazards (such as reflective surfaces, flashing lights, and electronic interference) to aircraft in flight. These regulations require that the Federal Aviation Administration (FAA) be notified of certain proposed construction projects located within an extended zone defined by an imaginary slope radiating outward for several miles from an airport's runways.

Norman Y. Mineta San José International Airport Comprehensive Land Use Plan

Norman Y. Mineta San José International Airport (SJIA) is located north of Interstate 880 and west of State Route 87. Development within the Airport influence Area (AIA) can be subject to hazards from aircraft and also pose hazards to aircraft travelling to and from the airport. The AIA is a composite of areas surrounding the airport that are affected by noise, height and safety considerations. These hazards are addressed in federal and State regulations as well as in land use regulations and policies in the Airport Comprehensive Land Use Plan (ACLUP).

4.8.2 Environmental Checklist

	Potentially Significant Impact	Less Than Significant With Mitigation Incorporated	Less Than Significant Impact	No Impact	Checklist Source(s)
Would the project:					
a) Create a significant hazard to the public or the environment through the routine transport, use, or disposal of hazardous materials?	☐	☐	☐	☒	1-3
b) Create a significant hazard to the public or the environment through reasonably foreseeable upset and accident conditions involving the release of hazardous materials into the environment?	☐	☐	☐	☒	1-3
c) Emit hazardous emissions or handle hazardous or acutely hazardous materials, substances, or waste within one-quarter mile of an existing or proposed school?	☐	☐	☐	☒	1-3

	Potentially Significant Impact	Less Than Significant With Mitigation Incorporated	Less Than Significant Impact	No Impact	Checklist Source(s)
Would the project:					
d) Be located on a site which is included on a list of hazardous materials sites compiled pursuant to Government Code Section 65962.5 and, as a result, will it create a significant hazard to the public or the environment?	☐	☐	☐	☒	1-3
e) For a project located within an airport land use plan or, where such a plan has not been adopted, within two miles of a public airport or public use airport, will the project result in a safety hazard for people residing or working in the project area?	☐	☐	☐	☒	1-3
f) For a project within the vicinity of a private airstrip, will the project result in a safety hazard for people residing or working in the project area?	☐	☐	☐	☒	1-3
g) Impair implementation of, or physically interfere with, an adopted emergency response plan or emergency evacuation plan?	☐	☐	☐	☒	1-3
h) Expose people or structures to a significant risk of loss, injury or death involving wildland fires, including where wildlands are adjacent to urbanized areas or where residences are intermixed with wildlands?	☐	☐	☐	☒	1-3

4.8.3 Impact Discussion

a)-c) Create a significant hazard to the public or the environment through the routine transport, use, or disposal of hazardous materials?

Create a significant hazard to the public or the environment through reasonably foreseeable upset and accident conditions involving the release of hazardous materials into the environment?

Emit hazardous emissions or handle hazardous or acutely hazardous materials, substances, or waste within one-quarter mile of an existing or proposed school?

As discussed in *Section 3.0 Project Description*, the proposed Municipal Code amendments do not involve any direct physical changes to the environment. Rather, the project would allow existing assembly use facilities and City properties with paved parking areas to be utilized for incidental safe parking. Numerous laws and regulations are in place at the federal, State, and local levels to ensure the safe handling, transport, use, storage, and disposal of hazardous materials. All existing assembly use facilities and City properties are, and would continue to be, required to comply with all applicable federal, State, and local hazardous material laws and regulations. The incidental use of

the paved parking areas at these existing facilities would not involve the routine transport, use, or disposal of hazardous materials. **(No Impact)**

d)-h) Be located on a site which is included on a list of hazardous materials sites compiled pursuant to Government Code Section 65962.5 and, as a result, will it create a significant hazard to the public or the environment?

For a project located within an airport land use plan or, where such a plan has not been adopted, within two miles of a public airport or public use airport, will the project result in a safety hazard for people residing or working in the project area?

For a project within the vicinity of a private airstrip, would the project result in a safety hazard for people residing or working in the project area?

Impair implementation of, or physically interfere with, an adopted emergency response plan or emergency evacuation plan?

Expose people or structures to a significant risk of loss, injury or death involving wildland fires, including where wildlands are adjacent to urbanized areas or where residences are intermixed with wildlands?

As stated in *Section 3.0 Project Description*, an Incidental Safe Parking use on City property shall comply with the following location criteria, or require supplemental environmental review:

1. No Safe Parking use shall occur within a mapped FEMA 1% Flood Hazard Zone
2. No Safe Parking use shall occur within a mapped Geologic Hazards Zone
3. No Safe Parking use shall occur within a mapped ACLUP Airport Safety Zone
4. No Safe Parking use shall occur within 1,000 feet of a California Accidental Release Program (CalARP) facility
5. No Safe Parking use shall occur on a property included on any list compiled pursuant to 65962.5 of the Government Code (Cortese List).

An existing assembly use proposed for incidental safe parking would already have been evaluated for these environmental hazards. Some existing assembly use facilities and City properties may be located on sites included on a list of hazardous materials sites, within an airport land use plan, within two miles of a public airport, within the vicinity of a private airstrip, or in areas where there is a risk of wildfires. Since these facilities currently function as assembly uses and City facilities where groups of people gather, additional human activity in the form of incidental safe parking on paved areas would not create new significant hazards. Additionally, the use of existing facilities for incidental safe parking would not impair implementation of, or physically interfere with, an adopted emergency response plan or emergency evacuation plan. As noted in *Section 3.0 Project Description*, the registration process may require submittals such as contact information, a service management plan, an emergency disaster plan, an evacuation plan, and a fire watch log. **(No Impact)**

4.9 HYDROLOGY AND WATER QUALITY

4.9.1 Environmental Setting

4.9.1.1 *Regulatory Framework*

Federal, State, and Regional

Water Quality Overview

The federal Clean Water Act and California's Porter-Cologne Water Quality Control Act are the primary laws related to water quality. Regulations set forth by the EPA and SWRCB have been developed to fulfill the requirements of this legislation. EPA regulations include the National Pollutant Discharge Elimination System (NPDES) permit program, which controls sources that discharge pollutants into the waters of the United States (e.g., streams, lakes, bays, etc.). These regulations are implemented at the regional level by the water quality control boards. The City is within the jurisdiction of the San Francisco Bay RWQCB.

Municipal Regional Stormwater NPDES Permit (MRP)/C.3 Requirement

The San Francisco Bay RWQCB has issued a Municipal Regional Stormwater NPDES Permit (MRP) that covers the project area. Under provisions of the NPDES Municipal Permit, redevelopment projects that create or replace more than 10,000 square feet are required to design and construct stormwater treatment controls to treat post-construction stormwater runoff. The MRP requires regulated projects to include Low Impact Development (LID) practices, such as pollutant source control measures and stormwater treatment features aimed to maintain or restore the site's natural hydrologic functions. The MRP also requires that stormwater treatment measures are properly installed, operated and maintained.

National Flood Insurance Program

FEMA established the National Flood Insurance Program (NFIP) in order to reduce impacts of flooding on private and public properties. In addition to providing flood insurance, FEMA also publishes Flood Insurance Rate Maps that identify Special Flood Hazard Areas (SFHA). A SFHA is an area that will be inundated by the one-percent annual chance flood, which is also referred to as the base flood or 100-year flood. NFIP floodplain management regulations are required in SFHAs.

4.9.2 Environmental Checklist

	Potentially Significant Impact	Less Than Significant With Mitigation Incorporated	Less Than Significant Impact	No Impact	Checklist Source(s)
Would the project:					
a) Violate any water quality standards or waste discharge requirements?	☐	☐	☐	☒	1-3

	Potentially Significant Impact	Less Than Significant With Mitigation Incorporated	Less Than Significant Impact	No Impact	Checklist Source(s)
Would the project:					
b) Substantially deplete groundwater supplies or interfere substantially with groundwater recharge such that there will be a net deficit in aquifer volume or a lowering of the local groundwater table level (e.g., the production rate of pre-existing nearby wells will drop to a level which will not support existing land uses or planned uses for which permits have been granted)?	☐	☐	☐	☒	1-3
c) Substantially alter the existing drainage pattern of the site or area, including through the alteration of the course of a stream or river, in a manner which will result in substantial erosion or siltation on-or off-site?	☐	☐	☐	☒	1-3
d) Substantially alter the existing drainage pattern of the site or area, including through the alteration of the course of a stream or river, or substantially increase the rate or amount of surface runoff in a manner which will result in flooding on-or off-site?	☐	☐	☐	☒	1-3
e) Create or contribute runoff water which will exceed the capacity of existing or planned stormwater drainage systems or provide substantial additional sources of polluted runoff?	☐	☐	☐	☒	1-3
f) Otherwise substantially degrade water quality?	☐	☐	☒	☐	1-3
g) Place housing within a 100-year flood hazard area as mapped on a Federal Flood Hazard Boundary or Flood Insurance Rate Map or other flood hazard delineation map?	☐	☐	☐	☒	1-3
h) Place within a 100-year flood hazard area structures which will impede or redirect flood flows?	☐	☐	☐	☒	1-3
i) Expose people or structures to a significant risk of loss, injury or death involving flooding, including flooding as a result of the failure of a levee or dam?	☐	☐	☐	☒	1-3
j) Inundation by seiche, tsunami, or mudflow?	☐	☐	☐	☒	1-3

4.9.3 Impact Discussion

a) Violate any water quality standards or waste discharge requirements?

Substantially deplete groundwater supplies or interfere substantially with groundwater recharge such that there will be a net deficit in aquifer volume or a lowering of the local groundwater table level (e.g., the production rate of pre-existing nearby wells will drop to a level which will not support existing land uses or planned uses for which permits have been granted)?

Substantially alter the existing drainage pattern of the site or area, including through the alteration of the course of a stream or river, in a manner which will result in substantial erosion or siltation on-or off-site?

Substantially alter the existing drainage pattern of the site or area, including through the alteration of the course of a stream or river, or substantially increase the rate or amount of surface runoff in a manner which will result in flooding on-or off-site?

Create or contribute runoff water which will exceed the capacity of existing or planned stormwater drainage systems or provide substantial additional sources of polluted runoff?

Otherwise substantially degrade water quality?

Place housing within a 100-year flood hazard area as mapped on a Federal Flood Hazard Boundary or Flood Insurance Rate Map or other flood hazard delineation map?

Place within a 100-year flood hazard area structures which will impede or redirect flood flows?

Expose people or structures to a significant risk of loss, injury or death involving flooding, including flooding as a result of the failure of a levee or dam?

Result in inundation by seiche, tsunami, or mudflow?

As discussed in *Section 3.0 Project Description*, the proposed Municipal Code amendments do not involve any direct physical changes to the environment. Rather, the project would allow parking areas at existing assembly use facilities and City properties to be used for incidental safe parking. No permanent housing would be constructed in a 100-year flood hazard area. The registration process may require submittals such as contact information, a service management plan, an emergency disaster plan, an evacuation plan in the event a site providing an incidental safe parking under the ordinance experiences flooding. No new buildings would be constructed as a result of the project, nor would any ground-disturbing activities occur. The management staff will strictly enforce site cleanliness and ensure that there is no dumping of food/beverage or waste on the site. Existing parking areas are now subject to water quality impacts from vehicles parked during the day that may leak fluids, e.g. motor oil and engine coolant; however, the increased use of existing parking areas at night could lead to increased amounts of fluids leaking into the environment. To address this, the

management plan for a safe parking facility will include regular cleaning of the safe parking areas to address leaking fluids from cars. The project, therefore, would not result in significant hydrology and water quality impacts. **(Less Than Significant Impact)**

4.10 LAND USE AND PLANNING

4.10.1 Environmental Checklist

	Potentially Significant Impact	Less Than Significant With Mitigation Incorporated	Less Than Significant Impact	No Impact	Checklist Source(s)
Would the project:					
a) Physically divide an established community?	☐	☐	☐	☒	1-3
b) Conflict with any applicable land use plan, policy, or regulation of an agency with jurisdiction over the project (including, but not limited to the general plan, specific plan, local coastal program, or zoning ordinance) adopted for the purpose of avoiding or mitigating an environmental effect?	☐	☐	☐	☒	1-3
c) Conflict with any applicable habitat conservation plan or natural community conservation plan?	☐	☐	☐	☒	1-3

4.10.2 Impact Discussion

a)-c) Physically divide an established community?

Conflict with any applicable land use plan, policy, or regulation of an agency with jurisdiction over the project adopted for the purpose of avoiding or mitigating an environmental effect?

Conflict with any applicable habitat conservation plan or natural community conservation plan?

As discussed in *Section 3.0 Project Description*, the proposed Municipal Code amendments do not involve any direct physical changes to the environment. Rather, the project would allow parking areas at existing assembly use facilities and City properties to be used for incidental safe parking. Since these facilities currently function as assembly uses and City properties where groups of people gather, additional human activity in the form of incidental safe parking would introduce an additional nighttime population, and not physically divide an established community, conflict with any applicable land use plan, policy, or regulation adopted for the purpose of avoiding or mitigating an environmental effect, or conflict with any applicable habitat conservation plan or natural community conservation plan. **(No Impact)**

4.11 MINERAL RESOURCES

4.11.1 Environmental Checklist

	Potentially Significant Impact	Less Than Significant With Mitigation Incorporated	Less Than Significant Impact	No Impact	Checklist Source(s)
Would the project:					
a) Result in the loss of availability of a known mineral resource that will be of value to the region and the residents of the state?	☐	☐	☐	☒	1-3
b) Result in the loss of availability of a locally-important mineral resource recovery site delineated on a local general plan, specific plan or other land use plan?	☐	☐	☐	☒	1-3

4.11.2 Impact Discussion

a)-b) Result in the loss of availability of a known mineral resource that will be of value to the region and the residents of the state?

Result in the loss of availability of a locally important mineral resource recovery site delineated on a local general plan, specific plan or other land use plan?

As discussed in *Section 3.0 Project Description*, the proposed Municipal Code amendments do not involve any direct physical changes to the environment. Rather, the project would allow parking areas at existing assembly use facilities and City properties to be used for incidental safe parking. The project, therefore, would not result in impacts to mineral resources. **(No Impact)**

4.12 NOISE

The following discussion is based on a Noise Analysis Memo prepared by *Illingworth & Rodkin, Inc.* in November 2018, attached as Appendix B.

4.12.1.1 *Regulatory Framework*

Envision San José 2040 General Plan

The General Plan includes policies for the purpose of avoiding or mitigating impacts resulting from planned development projects in the City. The following policies are specific to noise and are applicable to the proposed project. In addition, the noise and land use compatibility guidelines set forth in the General Plan are shown in Table 3.12-1.

Envision San José 2040 Relevant Noise Policies

Policies	Description
Policy EC-1.1	Locate new development in areas where noise levels are appropriate for the proposed uses. Consider federal, State and City noise standards and guidelines as a part of new development review. Applicable standards and guidelines for land uses in San José include: <u>Interior Noise Levels</u> • The City's standard for interior noise levels in residences, hotels, motels, residential care facilities, and hospitals is 45 dBA DNL. Include appropriate site and building design, building construction and noise attenuation techniques in new development to meet this standard. For sites with exterior noise levels of 60 dBA DNL or more, an acoustical analysis following protocols in the City-adopted California Building Code is required to demonstrate that development projects can meet this standard. The acoustical analysis shall base required noise attenuation techniques on expected *Envision General Plan* traffic volumes to ensure land use compatibility and General Plan consistency over the life of this plan. <u>Exterior Noise Levels</u> • The City's acceptable exterior noise level objective is 60 dBA DNL or less for residential and most institutional land uses [refer to Table EC-1 in the General Plan or Table 3.12-1 in this Initial Study]. The acceptable exterior noise level objective is established for the City, except in the environs of the San José International Airport and the Downtown, as described below: • For new multi-family residential projects and for the residential component of mixed-use development, use a standard of 60 dBA DNL in usable outdoor activity areas, excluding balconies and residential stoops and porches facing existing roadways. Some common use areas that meet the 60 dBA DNL exterior standard will be available to all residents. Use noise attenuation techniques such as shielding by buildings and structures for outdoor common use areas. On sites subject to aircraft overflights or adjacent to elevated roadways, use noise attenuation techniques to achieve the 60 dBA DNL standard for noise from sources other than aircraft and elevated roadway segments.
Policy EC-1.2	Minimize the noise impacts of new development on land uses sensitive to increased noise levels [Land Use Categories 1, 2, 3 and 6 in Table EC-1 in the General Plan or Table 3.12-1 in this Initial Study] by limiting noise generation and by requiring use of noise attenuation measures such as acoustical enclosures and sound barriers, where feasible. The City considers significant noise impacts to occur if a project would: • Cause the DNL at noise sensitive receptors to increase by five dBA DNL or more where the noise levels would remain "Normally Acceptable"; or

- Cause the DNL at noise sensitive receptors to increase by three dBA DNL or more where noise levels would equal or exceed the "Normally Acceptable" level.

Policy EC-1.3 Mitigate noise generation of new nonresidential land uses to 55 dBA DNL at the property line when located adjacent to existing or planned noise sensitive residential and public/quasi-public land uses.

Table 3.12-1: General Plan Land Use Compatibility Guidelines

Land Use Category	Exterior DNL Value in Decibels					
	55	60	65	70	75	80
1. Residential, Hotels and Motels, Hospitals and Residential Care[1]						
2. Outdoor Sports and Recreation, Neighborhood Parks and Playgrounds						
3. Schools, Libraries, Museums, Meeting Halls, and Churches						
4. Office Buildings, Business Commercial, and Professional Offices						
5. Sports Arena, Outdoor Spectator Sports						
6. Public and Quasi-Public Auditoriums, Concert Halls, and Amphitheaters						

Notes: [1]Noise mitigation to reduce interior noise levels pursuant to Policy EC-1.1 is required.

Normally Acceptable:
Specified land use is satisfactory, based upon the assumption that any buildings involved are of normal conventional construction, without any special noise insulation requirements.

Conditionally Acceptable:
Specified land use may be permitted only after detailed analysis of the noise reduction requirements and noise mitigation features included in the design.

Unacceptable:
New construction or development should generally not be undertaken because mitigation is usually not feasible to comply with noise element policies.

City of San José Municipal Code

The Zoning Ordinance limits noise levels to 55 dBA L_{eq} at any residential property line and 60 dBA L_{eq} at commercial property lines, unless otherwise expressly allowed in a Development Permit or other planning approval.

4.12.2 Environmental Checklist

	Potentially Significant Impact	Less Than Significant With Mitigation Incorporated	Less Than Significant Impact	No Impact	Checklist Source(s)
Would the project result in:					
a) Exposure of persons to or generation of noise levels in excess of standards established in the local general plan or noise ordinance, or applicable standards of other agencies?	☐	☐	☒	☐	1-4
b) Exposure of persons to, or generation of, excessive groundborne vibration or groundborne noise levels?	☐	☐	☒	☐	1-3
c) A substantial permanent increase in ambient noise levels in the project vicinity above levels existing without the project?	☐	☐	☒	☐	1-4
d) A substantial temporary or periodic increase in ambient noise levels in the project vicinity above levels existing without the project?	☐	☐	☒	☐	1-4
e) For a project located within an airport land use plan or, where such a plan has not been adopted, within two miles of a public airport or public use airport, will the project expose people residing or working in the project area to excessive noise levels?	☐	☐	☒	☐	1-3
f) For a project within the vicinity of a private airstrip, will the project expose people residing or working in the project area to excessive noise levels?	☐	☐	☒	☐	1-3

4.12.3 Impact Discussion

a) Result in exposure of persons to or generation of noise levels in excess of standards established in the local general plan or noise ordinance, or applicable standards of other agencies?

c) Result in a substantial permanent increase in ambient noise levels in the project vicinity above levels existing without the project?

d) Result in a substantial temporary or periodic increase in ambient noise levels in the project vicinity above levels existing without the project?

The proposed Ordinance would regulate requests by places of assembly and City properties, such as those used for religious purposes, gymnasiums, libraries, theaters, schools, and community centers, to provide homeless people safe parking for overnight shelter in their own vehicles.

Noise Regulatory Background

The City's Municipal Code contains a Zoning Ordinance that limits noise levels at adjacent properties. Chapter 20.30.700 states that sound pressure levels generated by any use or combination of uses on a property shall not exceed 55 dBA at any property line shared with land zoned for residential use, except upon issuance and in compliance with a Conditional Use Permit. This code is not explicit in terms of the acoustical descriptor associated with the noise level limit. However, a reasonable interpretation of this standard would identify the ambient base noise level criteria as the hourly average noise level (L_{eq}).

According to the World Health Organization, sleep disturbance can occur when intermittent interior noise levels reach or exceed 45 dBA L_{max}, particularly if background noise is low. Typical structural attenuation is 15 dBA with a bedroom window partially open; therefore, the World Health Organization criteria suggest that short-term events should not generate noise in excess of 60 dBA L_{max} in order to prevent sleep disturbance.

Noise Levels Expected from Safe Parking Use

Noise levels expected from Incidental Safe Parking Use have been derived from noise measurements and observations made by *Illingworth & Rodkin, Inc*. (I&R) at the Safe Parking Pilot Program for Families at the Seven Trees Community Center and Library located at Los Arboles Street/Cas Drive and I&R file data of typical parking lots sounds. The Safe Parking Pilot Program is a temporary, interim shelter option for homeless families living in their vehicles at the overflow lot of the Seven Trees Community Center and Library. Program site hours are 7 p.m. - 7 a.m., 7 days a week. LifeMoves operates the program for the City. LifeMoves staff are present from 7pm-12am (midnight) Monday through Friday to ensure access control and ensure program safety in the evening hours. If participants arrive earlier than 7pm, participants must park in the main parking lot and be actively engaging in case management services inside of the Community Center and/or Library upon arrival at the site. Starting at 7pm, program participants may begin to move their vehicles to the program site. All families must arrive by 10pm. Quiet hours are from 10pm-6am. LifeMoves staff arrive by 6am Monday through Friday to ensure families are vacating the program site by 7am. There is overnight full-time contracted security coverage from 12am-6am Monday through Friday and additional coverage from 7pm-7am on Saturday and Sunday. During the noise monitoring, only four families were participating in the Pilot Program; therefore, noise attributable to the Safe Parking Pilot Program was limited.

Given the current limited usage at the Pilot Program site when noise measurements were taken, I&R reviewed file data of typical parking lots sounds to estimate future noise levels from more fully utilized safe parking facilities. Noise sources associated with Incidental Safe Parking would likely include vehicle circulation, engine starts, door slams, and human voices. Sounds due to car horns or alarms may also occur on an infrequent basis. The instantaneous noise (i.e. L_{max}) of a passing car at 15 miles per hour (mph) typically ranges from 52 decibels (dBA) to 62 dBA at 50 feet. The noise generated during an engine start is similar. Door slams create lower noise levels. The hourly average noise level resulting from all of these noise-generating activities in a busy parking lot, without taking into account the shielding effect of sound walls, could range from 47 dBA to 57 dBA L_{eq} at a distance of 50 feet from the parking area.

Analysis

Noise generated by the project would occur in the form of increased activity at these existing facilities, including during nighttime hours when there may currently be little to no activity at these locations. As presented in *Section 3.0 Project Description*, an Incidental Safe Parking use would adhere to City Ordinance Part 17.5, Section 20.80.1830, which states that,

"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 also comply with the requirements of Section 20.80.1810 or Section 20.80.1840.*
7. *No fires of any kind shall be permitted.*
8. *No audio, video or other amplified sound may be played or generated that is audible outside participants' vehicles.*
9. *No cooking or food preparation shall be performed outside of the participants' vehicles.*
10. *Camping tarps or equipment erected beyond the participant's vehicle are prohibited.*
11. *A restroom, water, and trash dumping shall be provided for the participants."*

Further, Incidental Safe Parking facilities would implement additional noise controls contained in their management plan similar to those observed at the Safe Parking Pilot Program for Families at the Seven Trees Community Center and Library. These additional noise controls include:

- Quiet hours between 10 p.m. and 7 a.m., daily.
- Staff/Security monitoring and enforcement of conduct
    - All electronic devices must be on low or on vibrate mode at all times
    - When using any electronic devices, speaker mode is not allowed
    - All residents must use headphones when sound is necessary for usage

- Prohibition of congregation on the site
- Limitation of number of vehicles
- Public outreach and information meetings for community members.

With these controls included in the Ordinance and expected in site-specific management plans, and based on the uppermost limits of the noise data presented above, hourly average noise levels during busy time periods in a safe parking lot would be 55 dBA L_{eq} or less as measured 65 feet from the parking area. At this same distance, maximum instantaneous noise levels due to vehicle circulation, engine starts, door slams, and human voices would be 60 dBA L_{max} or less.

The noise from Incidental Safe Parking itself is the most important quantitative measure as it relates to noise impacts on nearby noise-sensitive land uses. A minimum 65-foot setback would yield hourly average noise levels that would comply with Chapter 20.30.700 of the City of San José's Municipal Code and maximum instantaneous noise levels to below 60 dBA L_{max}. Such exterior noise levels would be 45 dBA L_{max} or less indoors assuming windows are partially open for ventilation and would be reduced to a level where a person of reasonable sensitivity would not experience sleep disturbance or interference with other indoor activities such as reading or watching television.

The noise analysis prepared for the ordinance indicates a setback of 35 feet would be sufficient to ensure that noise levels do not exceed 55 dBA L_{eq} in shielded residential outdoor activity areas or 60 dBA L_{max} at the residential façade where proposed parking areas are shielded by solid six-foot or greater noise-barrier walls 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/square foot (3 lbs/sf). One-inch (nominal thickness) wood fence boards are suitable as well as concrete or masonry block.

As stated in *Section 3.0 Project Description*, any Safe Parking use that does not adhere to these minimum setbacks (i.e., 65 feet or 35 feet when shielded by noise barrier and no adjacent second story residential façade) shall provide an analysis prepared by a qualified noise consultant demonstrating compliance with the City's noise standards for uses adjacent to residential uses. No setback would be required to achieve relevant noise standards if there are no adjoining residences or places where people sleep.

The qualitative effect of the overnight parking would not necessarily be dependent on ambient noise levels. Even in busy areas, ambient nighttime noise levels are substantially lower that daytime noise levels unless a noise source such as a freeway is nearby. Each site would have a unique ambient noise level depending on localized noise sources at night and shielding of noise sources by intervening buildings. The setting of the parking lot is also important. For example, Incidental Safe Parking proposed in a shielded parking area beside or behind an assembly building, with adjoining residential backyards and bedrooms, may be qualitatively judged by nearby residents as more intrusive because noise from parking would at times be audible. **(Less Than Significant Impact)**

b) Result in exposure of persons to, or generation of, excessive groundborne vibration or groundborne noise levels?

As discussed in *Section 3.0 Project Description*, the proposed Municipal Code amendments do not involve any direct physical changes to the environment. The project would not involve substantial construction activity that would expose persons to excessive vibration levels. **(Less Than Significant Impact)**

e) For a project located within an airport land use plan or, where such a plan has not been adopted, within two miles of a public airport or public use airport, will the project expose people residing or working in the project area to excessive noise levels?

f) For a project within the vicinity of a private airstrip, will the project expose people residing or working in the project area to excessive noise levels?

As discussed in *Section 3.0 Project Description*, the proposed Municipal Code amendments do not involve any direct physical changes to the environment. Rather, the project would allow existing assembly use facilities and City properties, some of which may be located within an airport land use plan or in the vicinity of public and private airports/airstrips, to be used for incidental safe parking during nighttime hours, when aircraft flights are infrequent. These are locations at which parking already occurs during the day when aircraft flights are more common. **(Less Than Significant Impact)**

4.13 POPULATION AND HOUSING

4.13.1 Environmental Checklist

	Potentially Significant Impact	Less Than Significant With Mitigation Incorporated	Less Than Significant Impact	No Impact	Checklist Source(s)
Would the project:					
a) Induce substantial population growth in an area, either directly (for example, by proposing new homes and businesses) or indirectly (for example, through extension of roads or other infrastructure)?	☐	☐	☒	☐	1-3
b) Displace substantial numbers of existing housing, necessitating the construction of replacement housing elsewhere?	☐	☐	☐	☒	1-3
c) Displace substantial numbers of people, necessitating the construction of replacement housing elsewhere?	☐	☐	☐	☒	1-3

4.13.2 Impact Discussion

a) Induce substantial population growth in an area, either directly (for example, by proposing new homes and businesses) or indirectly (for example, through extension of roads or other infrastructure)?

As discussed in *Section 3.0 Project Description*, the proposed Municipal Code amendments do not involve any direct physical changes to the environment. Rather, the project would allow existing parking areas at assembly use facilities and City properties to be used for incidental safe parking. Because the safe parking areas would be incidental (i.e., not for permanent residence) to an existing assembly use or City facility, the project would not induce substantial population growth. **(Less Than Significant Impact)**

b)-c) Displace substantial numbers of existing housing, necessitating the construction of replacement housing elsewhere?

Displace substantial numbers of people, necessitating the construction of replacement housing elsewhere?

The use of existing parking areas at facilities as incidental safe parking would not displace substantial numbers of existing housing or people. **(No Impact)**

4.14 PUBLIC SERVICES

4.14.1 Environmental Checklist

	Potentially Significant Impact	Less Than Significant With Mitigation Incorporated	Less Than Significant Impact	No Impact	Checklist Source(s)
Would the project					
a) Result in substantial adverse physical impacts associated with the provision of new or physically altered governmental facilities, the need for new or physically altered governmental facilities, the construction of which could cause significant environmental impacts, in order to maintain acceptable service ratios, response times or other performance objectives for any of the public services:					
- Fire Protection?	☐	☐	☒	☐	1-3
- Police Protection?	☐	☐	☒	☐	1-3
- Schools?	☐	☐	☒	☐	1-3
- Parks?	☐	☐	☒	☐	1-3
- Other Public Facilities?	☐	☐	☒	☐	1-3

4.14.2 Impact Discussion

a) Result in substantial adverse physical impacts associated with the provision of new or physically altered governmental facilities, the need for new or physically altered governmental facilities, the construction of which could cause significant environmental impacts, in order to maintain acceptable service ratios, response times or other performance objectives for public services?

As discussed in *Section 3.0 Project Description*, the proposed Municipal Code amendments do not involve any direct physical changes to the environment. Rather, the project would allow existing parking areas at assembly use facilities and City properties to be used for incidental safe parking. The amendments would require that all premises be inspected for occupancy compliance with the Fire Code, and all activities associated with the incidental shelter use operate in a manner that is in conformance with all State and local laws. Since these facilities currently function as assembly uses or City facilities where groups of people gather, additional human activity in the form of incidental safe parking would not create substantial new demand for fire and police protection such that new or physically altered government facilities would be necessary. Because the safe parking areas would be incidental (i.e., not for permanent residence), no student generation resulting in impacts to nearby schools would occur as a result of the project. While parks located in the vicinity of incidental safe parking areas may experience an increase in visitation from persons using the parks, the use of nearby parks by homeless would not rise to a level where new or expanded facilities would be required to accommodate the potential increase in use. For these reasons, the project would not result in significant impacts to public services. **(Less Than Significant Impact)**

4.15 RECREATION

4.15.1 Environmental Checklist

		Potentially Significant Impact	Less Than Significant With Mitigation Incorporated	Less Than Significant Impact	No Impact	Checklist Source(s)
a)	Would the project increase the use of existing neighborhood and regional parks or other recreational facilities such that substantial physical deterioration of the facility will occur or be accelerated?	☐	☐	☒	☐	1-3
b)	Does the project include recreational facilities or require the construction or expansion of recreational facilities which might have an adverse physical effect on the environment?	☐	☐	☐	☒	1-3

4.15.2 Impact Discussion

a) Increase the use of existing neighborhood and regional parks or other recreational facilities such that substantial physical deterioration of the facility will occur or be accelerated?

While parks located in the vicinity of incidental safe parking areas may experience an increase in visitation from homeless persons using the parks, the use of nearby parks would not rise to a level where substantial physical deterioration would not occur or be accelerated. **(Less Than Significant Impact)**

b) Include recreational facilities or require the construction or expansion of recreational facilities which might have an adverse physical effect on the environment?

The project would not include recreational facilities or require the construction or expansion of recreational facilities. **(No Impact)**

4.16 TRANSPORTATION/TRAFFIC

4.16.1 Environmental Setting

4.16.1.1 *Regulatory Framework*

Regional

Santa Clara County Valley Transportation Authority

The Santa Clara County Valley Transportation Authority (VTA) is the Congestion Management Agency for the County and has policies and regulations that are relevant to the project. The VTA is responsible for ensuring local government conformance with the Congestion Management Program (CMP), a program aimed at reducing regional traffic congestion. The CMP requires that each jurisdiction identify existing and future transportation facilities that will operate at an acceptable service level and provide mitigation where future growth degrades that service level. VTA has review responsibility for proposed development projects that are expected to generate 100 or more peak-hour trips.

Local

Transportation Analysis Policy (City Council Policy 5-1)

As established in City Council Policy 5-1 "Transportation Analysis Policy" (2018), the City of San José uses vehicle miles traveled (VMT) as the metric to assess transportation impacts from new development. According to the policy, an employment (e.g., office, R&D) or residential project's transportation impact would be less than significant if the project VMT is 15 percent or more below the existing average regional per capita VMT. For industrial projects (e.g., warehouse, manufacturing, distribution), the impact would be less than significant if the project VMT is equal to or less than existing average regional per capita VMT. The threshold for a retail project is whether it generates net new regional VMT, as new retail typically redistributes existing trips and miles traveled as opposed to inducing new travel. If a project's VMT does not meet the established thresholds, mitigation measures would be required, where feasible. The policy also requires preparation of a Local Transportation Analysis (LTA) to analyze non-CEQA transportation issues, including local transportation operations, intersection level of service, site access and circulation, and neighborhood transportation issues such as pedestrian and bicycle access, and recommend needed transportation improvements.

Screening criteria have been established to determine which projects require a detailed VMT analysis. If a project meets the relevant screening criteria, it is considered to a have a less than significant VMT impact.

4.16.2 Environmental Checklist

	Potentially Significant Impact	Less Than Significant With Mitigation Incorporated	Less Than Significant Impact	No Impact	Checklist Source(s)
Would the project:					
a) Conflict with an applicable plan, ordinance or policy establishing measures of effectiveness for the performance of the circulation system, taking into account all modes of transportation including mass transit and non-motorized travel and relevant components of the circulation system, including but not limited to intersections, streets, highways and freeways, pedestrian and bicycle paths, and mass transit?	☐	☐	☒	☐	1-3
b) Conflict with an applicable congestion management program, including, but not limited to level of service standards and travel demand measures, or other standards established by the county congestion management agency for designated roads or highways?	☐	☐	☒	☐	1-3
c) Result in a change in air traffic patterns, including either an increase in traffic levels or a change in location that results in substantial safety risks?	☐	☐	☐	☒	1-3
d) Substantially increase hazards due to a design feature (e.g., sharp curves or dangerous intersections) or incompatible land uses (e.g., farm equipment)?	☐	☐	☐	☒	1-3
e) Result in inadequate emergency access?	☐	☐	☐	☒	1-3
f) Conflict with adopted policies, plans, or programs regarding public transit, bicycle, or pedestrian facilities, or otherwise decrease the performance or safety of such facilities?	☐	☐	☒	☐	1-3

4.16.3 Impact Discussion

a), b), f) Conflict with an applicable plan, ordinance or policy establishing measures of effectiveness for the performance of the circulation system, taking into account all modes of transportation including mass transit and non-motorized travel and relevant components of the circulation system, including but not limited to intersections, streets, highways and freeways, pedestrian and bicycle paths, and mass transit?

Conflict with an applicable congestion management program, including, but not limited to level of service standards and travel demand measures, or other standards established by the county congestion management agency for designated roads or highways?

Conflict with adopted policies, plans, or programs regarding public transit, bicycle, or pedestrian facilities, or otherwise decrease the performance or safety of such facilities?

As discussed in *Section 3.0 Project Description*, the proposed Municipal Code amendments do not involve any direct physical changes to the environment. Rather, the project would allow existing parking areas at assembly use facilities and City properties to be used for incidental safe parking. By allowing sleeping in personal vehicles at these existing facilities, the project would result in additional vehicle trips. Given the nature of incidental safe parking by homeless persons, a substantial increase in commute peak hour vehicle trips to and from these existing facilities is not anticipated to result from the project. Persons sleeping in their vehicles would be arriving at a safe parking facility on weekdays after 7:00 p.m. and leaving before 7:00 a.m. Impacts to roadways and intersections during weekday commute peak hours would, therefore, be limited and not considered significant. Given that homeless would be arriving in their vehicles, the use of public transport and pedestrian and bicycle facilities would not increase as a result of the project.

As an incidental use with a transitory nighttime population, the safe parking facilities are not a land use subject to evaluation for vehicle miles travelled (VMT) under the City's Transportation Analysis Policy 5-1. **(Less Than Significant Impact)**

c) Result in a change in air traffic patterns, including either an increase in traffic levels or a change in location that results in substantial safety risks?

The project would not result in a change in air traffic patterns in that use of existing parking areas for incidental safe parking at night would not introduce new structures that could pose obstruction hazards to aircraft nor would there be any effect on air traffic levels. **(No Impact)**

d)-e) Substantially increase hazards due to a design feature (e.g., sharp curves or dangerous intersections) or incompatible land uses (e.g., farm equipment)? Result in inadequate emergency access?

The project would allow the use of existing parking areas at assembly use facilities and City properties as incidental safe parking. No new development would occur that may increase hazards due to a design feature. Additionally, the facilities are, and would continue to be, required to comply with all requirements pertaining to emergency access. **(No Impact)**

4.17 UTILITIES AND SERVICE SYSTEMS

4.17.1 Environmental Setting

4.17.1.1 *Regulatory Framework*

Federal

Drinking water is regulated by federal and State laws. The federal government sets minimum standards for water quality, including for drinking water and bodies of water. The Safe Drinking Water Act (SDWA) of 1974 and subsequent amendments gave the EPA authority to establish standards for contaminants in drinking water supplies. The National Primary Drinking Water Standards establish the maximum contaminant levels (MCLs) allowed in public distribution systems. The National Secondary Drinking Water Standards establish the MCLs that apply to potable water supplies at the point of delivery to the customer. The EPA administers the SDWA at the federal level and establishes MCLs for bacteriological, inorganic, organic, and radiological contaminants.

State and Regional

Urban Water Management Plans

Water suppliers providing water for municipal purposes to more than 3,000 customers or supplying more than 3,000 acre-feet (approximately 980 million gallons) of water annually must prepare and adopt an urban water management plan (UWMP) and update it every five years. The State Water Code requires water agencies to evaluate and describe their water resource supplies and projected needs over a 20-year planning horizon, and to address water conservation, water service reliability, water recycling, opportunities for water transfers, and contingency plans for drought events.

Wastewater

The San Francisco RWQCB includes regulatory requirements that each wastewater collection system agency shall, at a minimum, develop goals for the Sewer System Management Plan to provide adequate capacity to convey peak flows. Other RWQCB regulatory requirements include the General Waste Discharge Requirements, which regulates the discharge from wastewater treatment plants.

Local

San José Zero Waste Strategic Plan/Green Vision

The Zero Waste Strategic Plan outlines policies to help the City of San José foster a healthier community. The Green Vision provides a comprehensive approach to achieve sustainability through new technology and innovation, including 75 percent waste diversion by 2013 and zero waste by 2022. The Green Vision also includes ambitious goals for economic growth, environmental sustainability and an enhanced quality of life for San José residents and businesses.

4.17.2 Environmental Checklist

	Potentially Significant Impact	Less Than Significant With Mitigation Incorporated	Less Than Significant Impact	No Impact	Checklist Source(s)
Would the project:					
a) Exceed wastewater treatment requirements of the applicable Regional Water Quality Control Board?	☐	☐	☒	☐	1-3
b) Require or result in the construction of new water or wastewater treatment facilities or expansion of existing facilities, the construction of which could cause significant environmental effects?	☐	☐	☒	☐	1-3
c) Require or result in the construction of new stormwater drainage facilities or expansion of existing facilities, the construction of which could cause significant environmental effects?	☐	☐	☒	☐	1-3
d) Have sufficient water supplies available to serve the project from existing entitlements and resources, or are new or expanded entitlements needed?	☐	☐	☒	☐	1-3
e) Result in a determination by the wastewater treatment provider which serves or may serve the project that it has adequate capacity to serve the project's projected demand in addition to the provider's existing commitments?	☐	☐	☒	☐	1-3
f) Be served by a landfill with sufficient permitted capacity to accommodate the project's solid waste disposal needs?	☐	☐	☒	☐	1-3

4.17.3 Impact Discussion

a)-f) Exceed wastewater treatment requirements of the applicable Regional Water Quality Control Board?

Require or result in the construction of new water or wastewater treatment facilities or expansion of existing facilities, the construction of which could cause significant environmental effects?

Require or result in the construction of new stormwater drainage facilities or expansion of existing facilities, the construction of which could cause significant environmental effects?

Have sufficient water supplies available to serve the project from existing entitlements and resources, or are new or expanded entitlements needed?

Result in a determination by the wastewater treatment provider which serves or may serve the project that it has adequate capacity to serve the project's projected demand in addition to the provider's existing commitments?

Be served by a landfill with sufficient permitted capacity to accommodate the project's solid waste disposal needs

As discussed in *Section 3.0 Project Description*, the proposed Municipal Code amendments do not involve any direct physical changes to the environment. Rather, the project would allow existing parking areas at assembly use facilities and City properties to be utilized as incidental safe parking, resulting in additional activity at existing facilities, likely during times when the primary assembly use at the facility does not currently occur. It is anticipated that less than significant increases in demands on infrastructure and City services would result from incidental safe parking uses. This additional activity would lead to an incremental increase in the use of utilities (electricity, natural gas, water, sanitary sewer, solid waste collection, etc.) in these existing facilities. As described previously, safe parking would be incidental (i.e., not for permanent residence). The incremental increase in the use of utilities at existing facilities due to homeless sleeping in their vehicles would not exceed the capacity of the existing utility infrastructure serving the City, nor require the physical alteration of existing infrastructure. The project, therefore, would not result in significant utilities and service systems impacts. **(Less Than Significant Impact)**

4.18 MANDATORY FINDINGS OF SIGNIFICANCE

4.18.1 Environmental Checklist

		Potentially Significant Impact	Less Than Significant With Mitigation Incorporated	Less Than Significant Impact	No Impact	Checklist Source(s)
a)	Does the project have the potential to degrade the quality of the environment, substantially reduce the habitat of a fish or wildlife species, cause a fish or wildlife population to drop below self-sustaining levels, threaten to eliminate a plant or animal community, reduce the number or restrict the range of a rare or endangered plant or animal or eliminate important examples of the major periods of California history or prehistory?	☐	☐	☒	☐	1-3
b)	Does the project have impacts that are individually limited, but cumulatively considerable ("cumulatively considerable" means that the incremental effects of a project are considerable when viewed in connection with the effects of past projects, the effects of other current projects, and the effects of probable future projects)?	☐	☐	☒	☐	1-3
c)	Does the project have environmental effects which will cause substantial adverse effects on human beings, either directly or indirectly?	☐	☐	☒	☐	1-3

4.18.2 Impact Discussion

a) Does the project have the potential to degrade the quality of the environment, substantially reduce the habitat of a fish or wildlife species, cause a fish or wildlife population to drop below self-sustaining levels, threaten to eliminate a plant or animal community, reduce the number or restrict the range of a rare or endangered plant or animal or eliminate important examples of the major periods of California history or prehistory?

As discussed in *Section 3.0 Project Description*, the proposed Municipal Code amendments do not involve any direct physical changes to the environment. Rather, the project would allow existing parking areas at assembly use facilities and City properties to be utilized as incidental safe parking, resulting in additional nighttime activity at existing facilities. As discussed in the individual sections of the Initial Study, the project would not have the potential to degrade the quality of the environment, substantially reduce the habitat of a fish or wildlife species, cause a fish or wildlife population to drop below self-sustaining levels, threaten to eliminate a plant or animal community, reduce the number or restrict the range of a rare or endangered plant or animal or eliminate important examples of the major periods of California history or prehistory. **(Less Than Significant Impact)**

b) Does the project have impacts that are individually limited, but cumulatively considerable?

Under Section 15065(a)(3) of the CEQA Guidelines, a lead agency shall find that a project may have a significant effect on the environment where there is substantial evidence that the project has potential environmental effects "that are individually limited, but cumulatively considerable." As defined in Section 15065(a)(3) of the CEQA Guidelines, cumulatively considerable means "that the incremental effects of an individual project are significant when viewed in connection with the effects of past projects, the effects of other current projects, and the effects of probable future projects."

The project would not impact agricultural, forestry, biological, cultural, or mineral resources, nor would it impact aesthetics, geology and soils, hazards and hazardous materials, hydrology and water quality, or land use. Therefore, the project would not contribute to cumulative impacts in those resource areas.

The project would result in less than significant impacts in the areas of air quality, noise, population and housing, public services, recreation, transportation, and utilities and service systems. As described previously, the project would allow additional nighttime activity at existing facilities that are located throughout the City. Safe parking may be allowed at assembly use sites that are also being used for incidental shelter, with the restriction that an incidental shelter use shall not be located closer than a minimum distance of 500 feet from any parcel on which another incidental shelter use exists. As a result, impacts would be dispersed over a large geographic area and would not be concentrated in any one location. The incremental increase in activity at existing operating facilities spread over a large geographic area would not result in, or make a considerable contribution to, significant cumulative impacts. **(Less Than Significant Impact)**

c) Does the project have environmental effects which will cause substantial adverse effects on human beings, either directly or indirectly?

Consistent with Section 15065(a)(4) of the CEQA Guidelines, a lead agency shall find that a project may have a significant effect on the environment where there is substantial evidence that the project has the potential to cause substantial adverse effects on human beings, either directly or indirectly. Under this standard, a change to the physical environment that might otherwise be minor must be treated as significant if people would be significantly affected. This factor relates to adverse changes to the environment of human beings generally, and not to effects on particular individuals. While changes to the environment that could indirectly affect human beings would be represented by all the designated CEQA issue areas, those that could directly affect human beings include air pollutants, geological hazards, flooding hazards, hazardous materials, and noise. As described in Sections 4.1 through 4.17 of this Initial Study, the project would not have environmental effects which would result in significant direct or indirect adverse effects on human beings. **(Less Than Significant Impact)**

Checklist Sources

1. Professional judgment and expertise of the environmental specialist preparing this assessment.
2. City of San José. *Envision San José 2040 General Plan*. November 2011.
3. City of San José. *Municipal Code Title 20, Zoning Ordinance.*
4. Illingworth & Rodkin, Inc. *Noise Analysis Memo Incidental Safe Parking Use Ordinance, San Jose, CA*. November 2018.

SECTION 5.0 REFERENCES

City of San José. *Envision San Jose 2040 General Plan*. November 2011.

City of San José. *Municipal Code Title 20, Zoning Ordinance*.

Illingworth & Rodkin, Inc. *Noise Analysis Memo Incidental Safe Parking Use Ordinance, San Jose, CA*. November 2018.

SECTION 6.0 LEAD AGENCY AND CONSULTANTS

6.1 LEAD AGENCY

City of San José
Department of Planning, Building, and Code Enforcement
Rosalynn Hughey, Director

Environmental Review
Susan Walsh, Supervising Environmental Planner
Reema Mahamood, Environmental Project Manager

Citywide Planning - Ordinance
Aparna Ankola, Planning Project Manager

6.2 CONSULTANTS

David J. Powers & Associates, Inc.
Environmental Consultants and Planners
Akoni Danielsen, Principal Project Manager

Illingworth & Rodkin, Inc.
Acoustical Consultants
Michael Thill, Principal

Appendix A

San José Safe Parking

REGISTRATION PACKET

INTRODUCTION

Incidental Safe Parking is a use that allows homeless persons to sleep in their cars on registered or permitted Safe Parking sites. Properties that have legal Assembly Uses or are leased/owned by the City may be eligible to host incidental safe parking. In order to host incidental safe parking without a requirement for a planning permit you will need to register and comply with certain site and program requirements described in this packet.

If your organization or business is interested in offering a designated incidental safe parking area on property you own or lease within San José for persons residing in their vehicle or recreational vehicle to safely park, the City Housing Department can offer some guidance on what is needed to conduct a safety evaluation and review best practices. The maximum number of vehicles shall be determined by the Fire Marshall. Please complete the following packet to participate in San José Safe Parking.

CHECKLIST

Please complete the following as part of the registration packet.

- ☐ Address, Contact and Property Information ……Page 2
- ☐ Management Plan……Page 3
- ☐ Emergency Evacuation Plan

Please use the following tool nightly during operation.

- ☐ Fire Watch Log

SITE VISIT

Once the packet is received by the City, a site visit will be scheduled with the identified point of contact. The site visit will include a safety evaluation conducted by the Housing Department and/or the Fire Department to recommend the maximum occupancy for designated parking spaces, lighting and the submitted emergency evacuation plan.

EVALUATION

Registrants will be periodically asked to provide a summary of their experience and any feedback on the following, if applicable and feasible:

- Total number served
- Success stories
- Lessons learned
- Unmet needs
- Other thoughts and comments

San José Safe Parking

REGISTRATION PACKET

SUBMIT PACKET

Please submit the registration packet for San José Safe Parking to Lorena Diez in the City Housing Department via email (lorena.diez@sanjoseca.gov) or mail (Attention: Lorena Diez, 200 E. Santa Clara St., 12th Floor San José, CA, 95113). Please feel free to call Lorena at 408-975-4456 with questions.

CONTACT INFORMATION

Property owner: _____

Property Address: _____

Primary contact name: _____

Primary contact phone: _____

Primary contact email: _____

Alternate contact name: _____

Alternate contact phone: _____

Alternate contact email: _____

Property Information:

Property Address: _____

Owner Name: _____

Please check if Property is located in any of the following areas, in which case additional review will be conducted.

A mapped FEMA 1% Flood Hazard Zone _____

A mapped Geologic Hazards Zone _____

A mapped ALUC Airport Safety Zone _____

Within 1,000 feet of a California Accidental Release Program (CalARP) facility_____

The property is included on any list compiled pursuant to 65962.5 of the Government Code (Cortese List) _____

San José Safe Parking

REGISTRATION PACKET

MANAGEMENT PLAN

Start Date: _____ End Date: _____

Hours of operation: _____ P.M. - _____ A.M.

Participant Eligibility (check all that apply)

- ☐ By referral only (by _____)
- ☐ Walk ins welcome
- ☐ Intake (for example, general personal information, program rules, behavioral expectations, etc.)
- ☐ Pets allowed
- ☐ Other _____

Target Population (check all that apply)

- ☐ Anyone
- ☐ Single individuals
- ☐ Families
- ☐ Other _____

Services (check all that apply)

- ☐ Restrooms
- ☐ Water
- ☐ Trash cans
- ☐ Janitorial/maintenance services
- ☐ Onsite staff/volunteers/assistance for participants
- ☐ Security
- ☐ Interested in bringing services to participants from an established organization
- ☐ Electricity hook-up
- ☐ Black/grey water disposal
- ☐ Designated smoking area identified
- ☐ Other _____

Appendix B

ILLINGWORTH & RODKIN, INC.
Acoustics • Air Quality
429 E. Cotati Ave
Cotati, California 94931
Tel: 707-794-0400 *Fax: 707-794-0405*
www.illingworthrodkin.com *illro@illingworthrodkin.com*

M E M O

Date: November 21, 2018

To: Akoni Danielsen
David J. Powers & Associates
1871 The Alameda, Suite 200
San Jose, CA 95126
ADanielsen@davidjpowers.com

From: Michael S. Thill
Illingworth & Rodkin, Inc.
429 E. Cotati Ave
Cotati, CA 94931

RE: **Incidental Safe Parking Use Ordinance, San Jose, CA --**
Noise Analysis, IR Job #18-216

This memo addresses community noise issues associated with the proposed City Ordinance Part 17.5 - Incidental Safe Parking Use on Places of Assembly and City Parcels. The proposed Ordinance would regulate requests by places of assembly, such as those used for religious purposes, gymnasiums, libraries, theaters, schools, and community centers, to provide homeless people safe parking for overnight shelter in their own vehicles. This memo quantifies noise levels anticipated from an Incidental Safe Parking Use, provides an assessment of the projected noise levels with respect to the quantitative limits set forth in the San Jose Municipal Code as well as a qualitative evaluation of the potential to disturb persons residing in the surrounding area, and provides comments and suggestions on the requirements set forth in the ordinance to minimize disturbance.

The memo is divided into two sections: 1) the Setting Section provides a brief description of the fundamentals of environmental noise and discusses the noise expected from the Incidental Safe Parking Use; and 2) the Analysis and Recommendations Section presents the quantitative and qualitative assessment of the noise upon sensitive receptors, and technical comments on the operational requirements set forth in the Ordinance related to noise.

SETTING

Fundamentals of Environmental Noise

Noise may be defined as unwanted sound. Noise is usually objectionable because it is disturbing or annoying. The objectionable nature of sound could be caused by its *pitch* or its *loudness*. *Pitch* is the height or depth of a tone or sound, depending on the relative rapidity (frequency) of the vibrations by which it is produced. Higher pitched signals sound louder to humans than sounds with a lower pitch. *Loudness* is intensity of sound waves combined with the reception characteristics of the ear. Intensity may be compared with the height of an ocean wave in that it is a measure of the amplitude of the sound wave.

In addition to the concepts of pitch and loudness, there are several noise measurement scales which are used to describe noise in a particular location. A *decibel (dB)* is a unit of measurement which indicates the relative amplitude of a sound. The zero on the decibel scale is based on the lowest sound level that the healthy, unimpaired human ear can detect. Sound levels in decibels are calculated on a logarithmic basis. An increase of 10 decibels represents a ten-fold increase in acoustic energy, while 20 decibels is 100 times more intense, 30 decibels is 1,000 times more intense, etc. There is a relationship between the subjective noisiness or loudness of a sound and its intensity. Each 10 decibel increase in sound level is perceived as approximately a doubling of loudness over a fairly wide range of intensities. Technical terms are defined in Table 1.

There are several methods of characterizing sound. The most common in California is the *A-weighted sound level (dBA)*. This scale gives greater weight to the frequencies of sound to which the human ear is most sensitive. Representative outdoor and indoor noise levels in units of dBA are shown in Table 2. Because sound levels can vary markedly over a short period of time, a method for describing either the average character of the sound or the statistical behavior of the variations must be utilized. Most commonly, environmental sounds are described in terms of an average level that has the same acoustical energy as the summation of all the time-varying events. This *energy-equivalent sound/noise descriptor* is called L_{eq}. The most common averaging period is hourly, but L_{eq} can describe any series of noise events of arbitrary duration.

The scientific instrument used to measure noise is the sound level meter. Sound level meters can accurately measure environmental noise levels to within about plus or minus 1 dBA. Various computer models are used to predict environmental noise levels from sources, such as roadways and airports. The accuracy of the predicted models depends upon the distance the receptor is from the noise source. Close to the noise source, the models are accurate to within about plus or minus 1 to 2 dBA.

Since the sensitivity to noise increases during the evening and at night -- because excessive noise interferes with the ability to sleep -- 24-hour descriptors have been developed that incorporate artificial noise penalties added to quiet-time noise events. The *Day/Night Average Sound Level* (L_{dn} or *DNL*) is a measure of the cumulative noise exposure in a community, with a 10 dB addition to nocturnal (10:00 pm - 7:00 am) noise levels.

TABLE 1 Definition of Acoustical Terms Used in this Report

Term	Definition
Decibel, dB	A unit describing, the amplitude of sound, equal to 20 times the logarithm to the base 10 of the ratio of the pressure of the sound measured to the reference pressure. The reference pressure for air is 20 micro Pascals.
Sound Pressure Level	Sound pressure is the sound force per unit area, usually expressed in micro Pascals (or 20 micro Newtons per square meter), where 1 Pascal is the pressure resulting from a force of 1 Newton exerted over an area of 1 square meter. The sound pressure level is expressed in decibels as 20 times the logarithm to the base 10 of the ratio between the pressures exerted by the sound to a reference sound pressure (e. g., 20 micro Pascals). Sound pressure level is the quantity that is directly measured by a sound level meter.
Frequency, Hz	The number of complete pressure fluctuations per second above and below atmospheric pressure. Normal human hearing is between 20 Hz and 20,000 Hz. Infrasonic sound are below 20 Hz and Ultrasonic sounds are above 20,000 Hz.
A-Weighted Sound Level, dBA	The sound pressure level in decibels as measured on a sound level meter using the A-weighting filter network. The A-weighting filter de-emphasizes the very low and very high frequency components of the sound in a manner similar to the frequency response of the human ear and correlates well with subjective reactions to noise.
Equivalent Noise Level, L_{eq}	The average A-weighted noise level during the measurement period.
L_{max}, L_{min}	The maximum and minimum A-weighted noise level during the measurement period.
L_{01}, L_{10}, L_{50}, L_{90}	The A-weighted noise levels that are exceeded 1%, 10%, 50%, and 90% of the time during the measurement period.
Day/Night Noise Level, L_{dn} or DNL	The average A-weighted noise level during a 24-hour day, obtained after addition of 10 decibels to levels measured in the night between 10:00 pm and 7:00 am.
Ambient Noise Level	The composite of noise from all sources near and far. The normal or existing level of environmental noise at a given location.
Intrusive	That noise which intrudes over and above the existing ambient noise at a given location. The relative intrusiveness of a sound depends upon its amplitude, duration, frequency, and time of occurrence and tonal or informational content as well as the prevailing ambient noise level.

Source: Handbook of Acoustical Measurements and Noise Control, Harris, 1998.

TABLE 2 Typical Noise Levels in the Environment

Common Outdoor Activities	Noise Level (dBA)	Common Indoor Activities
	110 dBA	Rock band
Jet fly-over at 1,000 feet		
	100 dBA	
Gas lawn mower at 3 feet		
	90 dBA	
Diesel truck at 50 feet at 50 mph		Food blender at 3 feet
	80 dBA	Garbage disposal at 3 feet
Noisy urban area, daytime		
Gas lawn mower, 100 feet	70 dBA	Vacuum cleaner at 10 feet
Commercial area		Normal speech at 3 feet
Heavy traffic at 300 feet	60 dBA	
		Large business office
Quiet urban daytime	50 dBA	Dishwasher in next room
Quiet urban nighttime	40 dBA	Theater, large conference room
Quiet suburban nighttime		
	30 dBA	Library
Quiet rural nighttime		Bedroom at night, concert hall (background)
	20 dBA	
		Broadcast/recording studio
	10 dBA	
	0 dBA	

Source: Technical Noise Supplement (TeNS), California Department of Transportation, September 2013.

Noise Levels Expected from Safe Parking Use

Noise levels expected from Incidental Safe Parking Use have been derived from noise measurements and observations made by Illingworth & Rodkin, Inc. (I&R) at the LifeMoves Safe Parking Pilot Program for Families and I&R file data of typical parking lots sounds. The LifeMoves Pilot Program is a temporary, interim shelter option for homeless families living in their vehicles at the overflow lot of the Seven Trees Community Center and Library. Program site hours are 7pm-7am, 7 days a week. LifeMoves staff are present from 7pm-12am (midnight) Monday through Friday to ensure access control and ensure program safety in the evening hours. If participants arrive earlier than 7pm, participants must park in the main parking lot and be actively engaging in case management services inside of the Community Center and/or Library upon arrival at the site. Starting at 7pm, program participants may begin to move their vehicles to the program site. All families must arrive by 10pm. Quiet hours are from 10pm-6am. LifeMoves staff arrive by 6am Monday through Friday to ensure families are vacating the program site by 7am. There is overnight full-time contracted security coverage from 12am-6am Monday-Friday and additional coverage from 7pm-7am on Saturday and Sunday.

Noise Data Collected at LifeMoves Safe Parking Pilot Program for Families

I&R monitored noise levels along the southeast boundary of the overflow lot (see Figure 1) between Wednesday, November 7, 2018 and Friday, November 9, 2018, during the initial week of the Safe Parking Pilot Program. During the noise monitoring, only four families were participating in the Pilot Program; therefore, noise attributable to the Pilot Program was limited.

Ambient noise levels measured at Site LT-1 were primarily the result of distant traffic along Capitol Expressway, local traffic along Los Arboles Street, aircraft, activities associated with the operation of Seven Trees Community Center (e.g., basketball and tennis, parking lot activities), and activities associated with Ezie Street residences (e.g., indoor amplified music, dog barks). Figures 2-4 summarize the measured noise data in terms of the maximum instantaneous noise level (L_{max}), the minimum instantaneous noise level (L_{min}), and the average noise level (L_{eq}) over 10-minute and 1-hour time periods.

Between the hours of 7pm and 7am, ambient hourly average noise levels typically ranged from 49 to 65 dBA L_{eq}. Maximum instantaneous noise levels were produced by sources of noise including residential amplified music (58-59 dBA), dog barks (78 to 83 dBA), distant vehicles accelerating onto Capitol Expressway (67 to 74 dBA), aircraft overflights (61 to 68 dBA), emergency vehicle sirens (67 to 78 dBA), tennis and basketball at the community center (61 to 64 dBA) and parking lot activities including door slams, engine starts, and voices (58 to 74 dBA).

During the observed monitoring period between 7pm and 9pm on Wednesday, November 7, 2018, only one family was parked in the overflow lot. Noises attributable to the Pilot Program did not measurably contribute to ambient hourly average noise levels. The maximum instantaneous noise levels due to vehicle circulation were 62 dBA at 15 feet and 56 dBA at 75 feet, respectively, and door slams produced maximum instantaneous noise levels of 58 to 61 dBA at 35 feet. The sounds of voices were just audible, but not measurable over other ambient sources of noise.

I&R File Data for Parking Lots

Based on a review of I&R file data, noise sources associated with Incidental Safe Parking would likely include vehicle circulation, engine starts, door slams, and human voices. Sounds due to car horns or alarms may also occur on an infrequent basis. The L_{max} of a passing car at 15 mph typically ranges from 52 dBA to 62 dBA at 50 feet. The noise generated during an engine start is similar. Door slams create lower noise levels. The hourly average noise level resulting from all of these noise-generating activities in a busy parking lot, without taking into account the shielding effect of sound walls, could range from 47 dBA to 57 dBA L_{eq} at a distance of 50 feet from the parking area.

ANALYSIS AND RECOMMENDATIONS

Regulatory Background

The City's Municipal Code contains a Zoning Ordinance that limits noise levels at adjacent properties. Chapter 20.30.700 states that sound pressure levels generated by any use or combination of uses on a property shall not exceed 55 dBA at any property line shared with land zoned for residential use, except upon issuance and in compliance with a Conditional Use Permit. This code is not explicit in terms of the acoustical descriptor associated with the noise level limit. However, a reasonable interpretation of this standard would identify the ambient base noise level criteria as the hourly average noise level (L_{eq}).

According to the World Health Organization, sleep disturbance can occur when intermittent interior noise levels reach or exceed 45 dBA L_{max}, particularly if background noise is low. Typical structural attenuation is 15 dBA with a bedroom window partially open; therefore, the World Health Organization criteria suggest that short-term events should not generate noise in excess of 60 dBA L_{max} in order to prevent sleep disturbance.

Analysis

Based on the uppermost limits of the noise data presented above, hourly average noise levels during busy time periods in the parking lot would be 55 dBA L_{eq} or less as measured 65 feet from the parking area. At this same distance, maximum instantaneous noise levels due to vehicle circulation, engine starts, door slams, and human voices would be 60 dBA L_{max} or less.

The noise from Incidental Safe Parking itself is the most important quantitative measure as it relates to noise impacts on nearby noise-sensitive land uses. A minimum 65-foot setback would yield hourly average noise levels that would comply with Chapter 20.30.700 of the City of San Jose's Municipal Code and maximum instantaneous noise levels to below 60 dBA L_{max}. Such exterior noise levels would be 45 dBA L_{max} or less indoors assuming windows are partially open for ventilation and would be reduced to a level where a person of reasonable sensitivity would not experience sleep disturbance or interference with other indoor activities such as reading or watching television.

A setback of 35 feet would be sufficient to ensure that noise levels do not exceed 55 dBA L_{eq} in shielded residential outdoor activity areas or 60 dBA L_{max} at the residential façade where proposed parking areas are shielded by solid six-foot or greater noise barrier walls with no adjacent second story residential facades. No setback would be required if there are no adjoining residences or places

where people sleep.

The qualitative effect of the overnight parking would not necessarily be dependent on ambient noise levels. Even in busy areas, ambient nighttime noise levels are substantially lower that daytime noise levels unless a noise source such as a freeway is nearby. Each site would have a unique ambient noise level depending on localized noise sources at night and shielding of noise sources by intervening buildings. The setting of the parking lot is also important. For example, Incidental Safe Parking proposed in a shielded parking area beside or behind an assembly building, with adjoining residential backyards and bedrooms, may be qualitatively judged by nearby residents as more intrusive because noise from parking would at times be audible.

Recommendations

The siting of the parking area is the key factor to consider to minimize the potential for noise conflicts. In addition to the setbacks identified above, Incidental Safe Parking should be located along the street frontage adjoining the front of a house as opposed to shielded parking areas behind a building near residential rear yard areas or elevated residential facades that overlook the parking area. Parking lots having solid six-foot or greater noise barrier walls, and no adjacent second story residential facades, are preferable.

From a noise control perspective, a successful Incidental Safe Parking Use would adhere to City Ordinance Part 17.5, Section 20.80.1830, which states that,

"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 also comply with the requirements of Section20.80.1810 or Section 20.80.1840. [solely operational -should be covered by the Housing registration requirements.]*

7. *No fires of any kind shall be permitted.*
8. *No audio, video or other amplified sound may be played or generated that is audible outside participants' vehicles.*
9. *No cooking or food preparation shall be performed outside of the participants' vehicles.*
10. *Camping tarps or equipment erected beyond the participant's vehicle are prohibited.*
11. *A restroom, water, and trash dumping shall be provided for the participants."*

Further, a successful Incidental Safe Parking Use would implement additional noise controls similar to those observed at the LifeMoves Safe Parking Pilot Program for Families. These additional noise controls include:

- Quiet hours between 10pm and 7am, daily.
- Staff/Security monitoring and enforcement of conduct
    - All electronic devices must be on low or on vibrate mode at all times
    - When using any electronic devices, speaker mode is not allowed
    - All residents must use headphones when sound is necessary for usage
- Prohibition of congregation on the site
- Limitation of number of vehicles
- Public outreach and information meetings for community members.

Figure 1 Noise Measurement Location at LifeMoves Safe Parking Pilot Program for Families

Source: Google earth, 2018

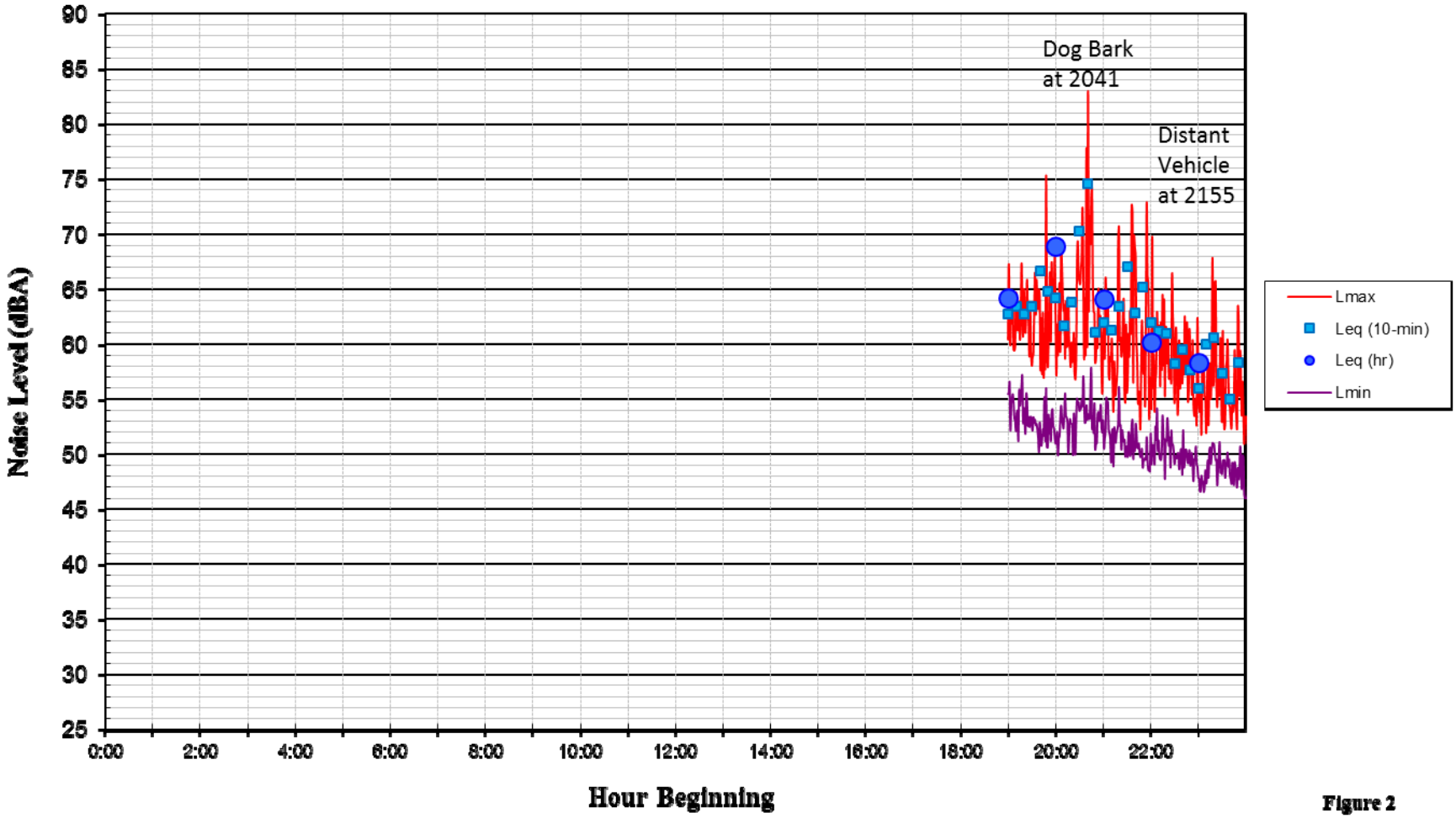

Noise Levels at Noise Measurement Site LT-1
Seven Trees Community Center Parking Lot Adjacent to Ezie Street Residences
Wednesday, November 7, 2018
Noise Level (dBA)
90
85
80
75
70
65
60
55
50
45
40
35
30
25
0:00
2:00
4:00
6:00
8:00
10:00
12:00
14:00
16:00
18:00
20:00
22:00
Hour Beginning
Dog Bark at 2041
Distant Vehicle at 2155
Lmax
Leq (10-min)
Leq (hr)
Lmin

Figure 2

Noise Levels at Noise Measurement Site LT-1
Seven Trees Community Center Parking Lot Adjacent to Ezie Street Residences
Thursday, November 8, 2018

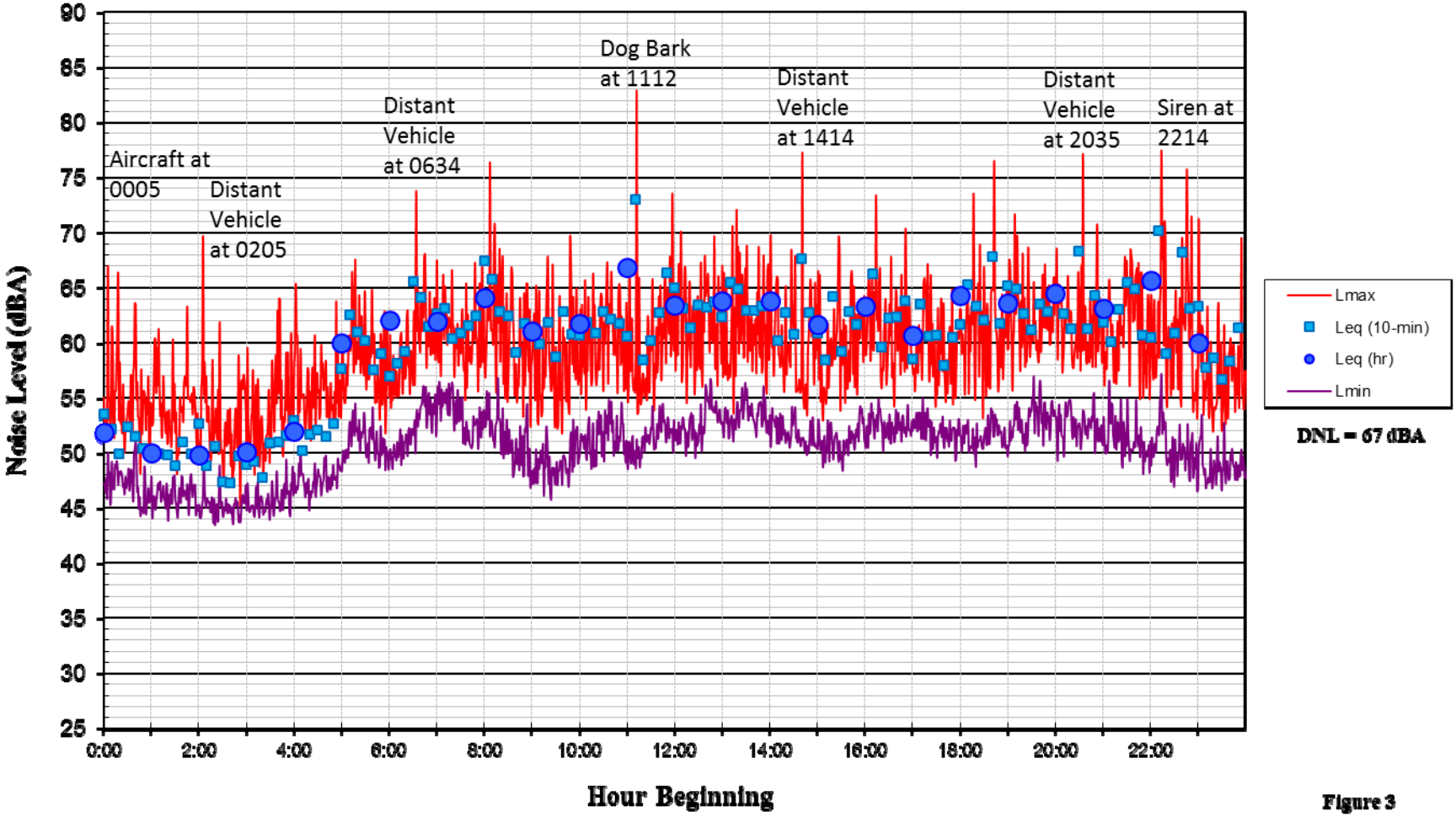


Figure 3

Noise Levels at Noise Measurement Site LT-1
Seven Trees Community Center Parking Lot Adjacent to Ezie Street Residences
Friday, November 9, 2018

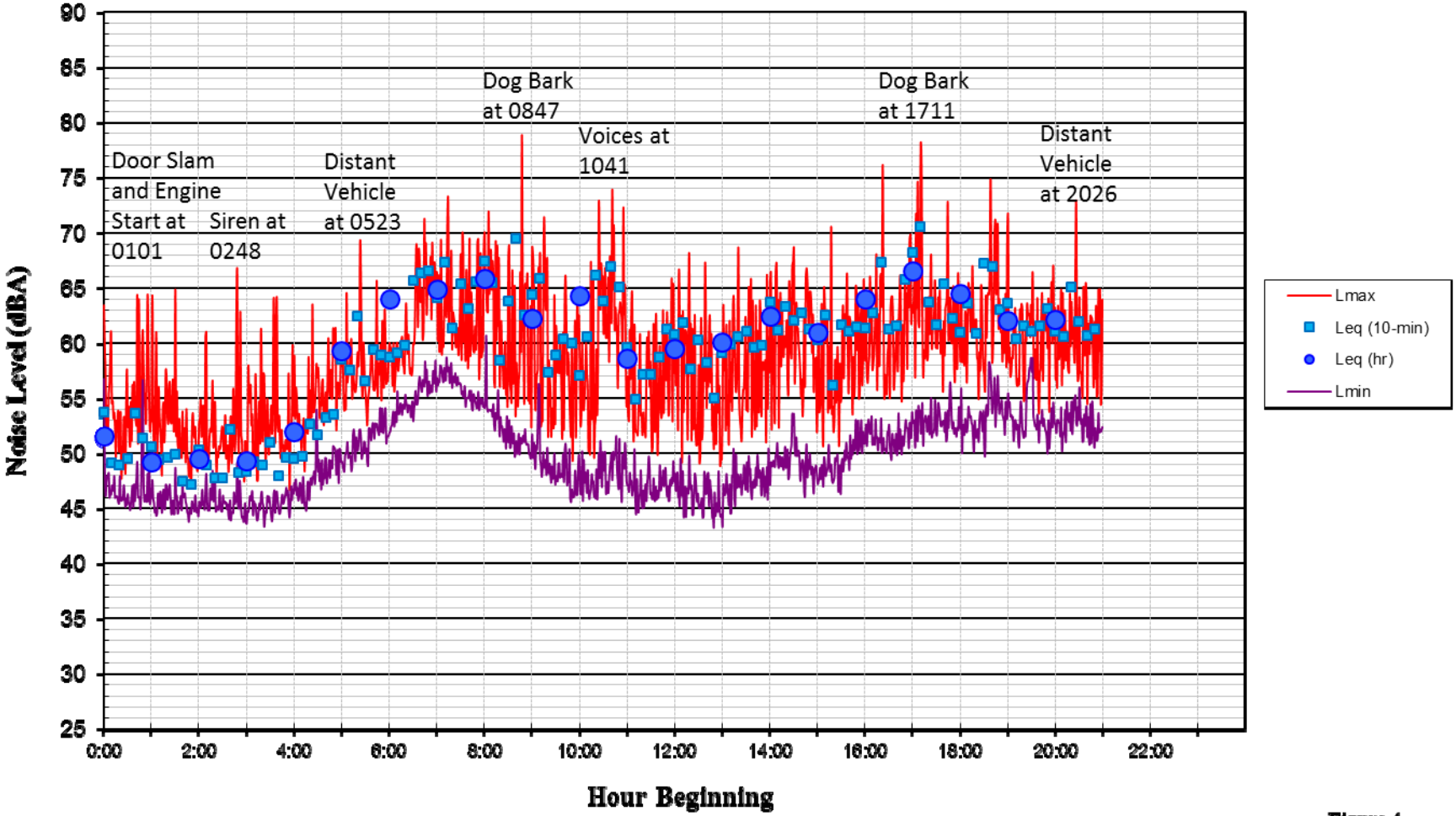
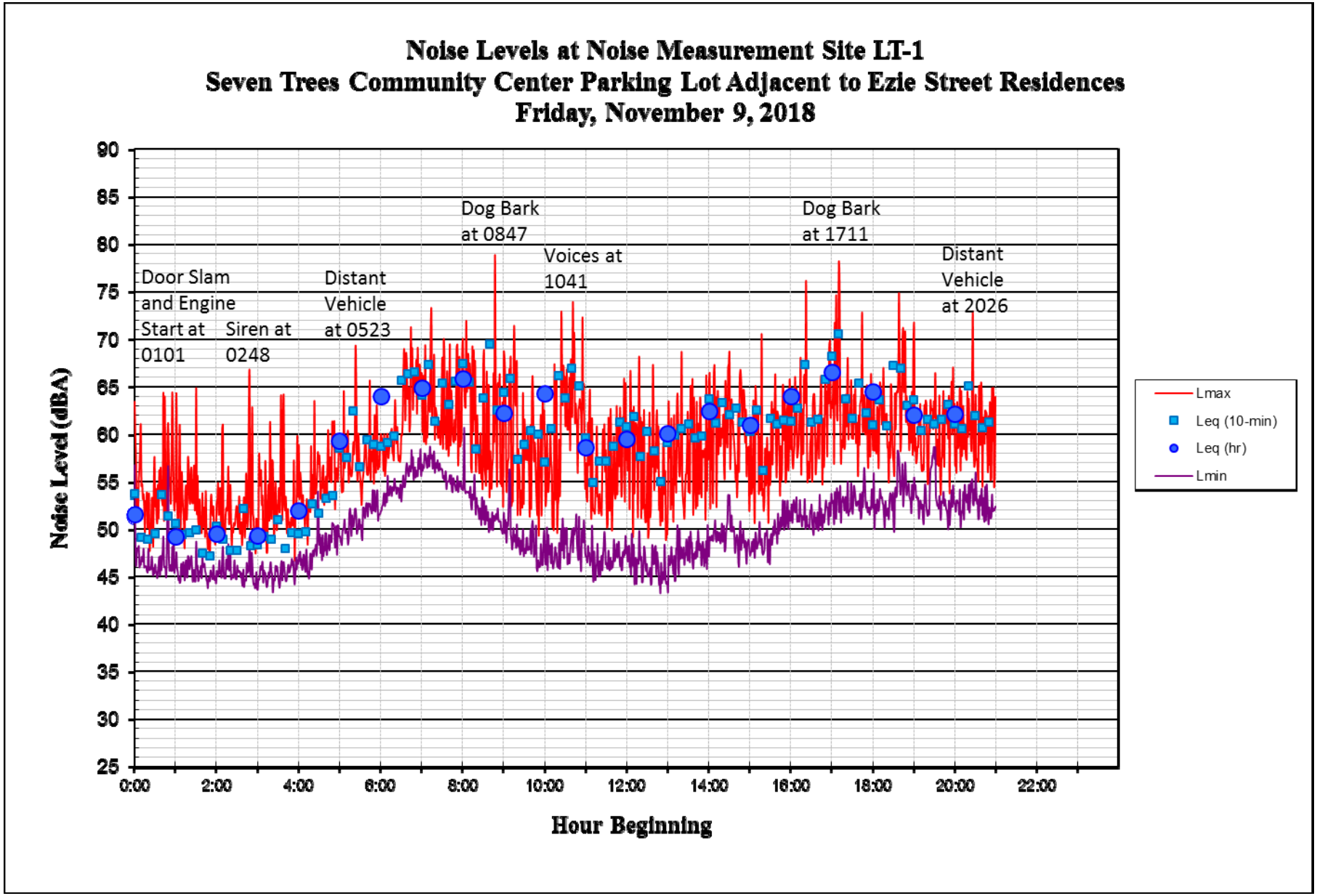


Figure 4


Noise Levels at Noise Measurement Site LT-1
Seven Trees Community Center Parking Lot Adjacent to Ezie Street Residences
Friday, November 9, 2018
Noise Level (dBA)
90
85
80
75
70
65
60
55
50
45
40
35
30
25
0:00
2:00
4:00
6:00
8:00
10:00
12:00
14:00
16:00
18:00
20:00
22:00
Hour Beginning
Door Slam and Engine Start at 0101
Siren at 0248
Distant Vehicle at 0523
Dog Bark at 0847
Voices at 1041
Dog Bark at 1711
Distant Vehicle at 2026
Lmax
Leq (10-min)
Leq (hr)
Lmin