



# Memorandum

**TO:** HONORABLE MAYOR  
AND CITY COUNCIL

**FROM:** Nora Frimann  
City Attorney

**SUBJECT:** SEE BELOW

**DATE:** March 13, 2024

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**SUBJECT: PROPOSED ORDINANCES AUTHORIZING THE REMOVAL OF VEHICLES PARKED IN VIOLATION OF PROHIBITED LARGE VEHICLE PARKING ZONES AND NO OVERNIGHT PARKING ZONES**

## **RECOMMENDATION**

- A. Approve an ordinance amending Chapter 11.98 of Title 11 of the San Jose Municipal Code to add Section 11.98.025 authorizing the removal of large vehicles parked upon a street, or portions thereof, where the parking of large vehicles creates a safety hazard for pedestrians or vehicles; and amending Section 11.98.040 to require the posting of signage authorizing the removal of large vehicles parked in “No Large Vehicle Parking Zones;” and
- B. Approve an ordinance amending Chapter 11.36 of Title 11 of the San Jose Municipal Code to add Section 11.36.255 to prohibit the overnight parking of vehicles upon a street, or portion thereof; and amending Chapter 11.56.060 authorizing the removal of vehicles parked where the overnight parking of vehicles is prohibited.

## **BACKGROUND**

On January 30, 2024, City Council approved a memorandum coauthored by Mayor Mahan, and Councilmembers Jimenez, Cohen, Ortiz, and Doan (“Joint Memorandum”) directing staff to prepare two ordinances authorizing the removal of vehicles under certain the following circumstances.

1. Prepare an ordinance giving maximum flexibility to add other locations through Council resolution which prohibits the parking and authorizes the towing of oversized vehicles on public roadways within any area where an engineering assessment has identified that safety hazards for pedestrians, bicycles, or vehicles caused by the parking of oversized vehicles exists.

2. Prepare an ordinance giving maximum flexibility to add other locations through Council resolution, which prohibits the parking and authorized the towing of vehicles parked within any area that prohibits parking between the hours of 10:00 p.m. and 6:00 a.m.

Chapter 11.98 of the San Jose Municipal Code (“Municipal Code”) regulates “oversized vehicles” but refers to them instead as “large vehicles,” which we recommend continuing to utilize. Chapter 11.98 regulates large vehicle parking and specifically permits the Director of Transportation to designate a street, or portions thereof, as a “no large vehicle parking zone” whenever the Director determines that parking of large vehicles upon such street, or portions thereof, creates a safety hazard for pedestrians or vehicles. However, Chapter 11.98 does not authorize the immediate removal of large vehicles parked in violation of the “no large vehicle parking zones.”

Similarly, Sections 11.36.250 and 11.36.260 of Chapter 11.36 of the Municipal Code prohibits the parking of vehicles during certain times in unmetered zones and where signs have been placed giving notice that the stopping, standing and parking of vehicles on certain streets or highways, or portions thereof, are prohibited during all or certain hours of the day. However, neither section authorizes the immediate removal of vehicles parked overnight.

## **ANALYSIS**

The proposed ordinances would authorize the removal of large vehicles parked in violation of “No Large Vehicle Parking Zones” and the removal of vehicles parked in violation of “No Overnight Parking Zones.” Additionally, the City Council to designate additional zones pursuant to California Vehicle Code (“CVC”) Section 22651(n) through resolution of the City Council.

1. Authority to Remove Large Vehicles Parked in Violation of “No Large Vehicle Parking Zone”

The proposed ordinance amends Chapter 11.98 of the Municipal Code by adding Section 11.98.025 which authorizes, pursuant to CVC Section 22651(n), the removal of large vehicles parked in violation of a no large vehicle parking zone. In order to conform to the notice requirements contained within the CVC, the proposed ordinance also amends Section 11.98.040 to provide the posting of signage which provides notice to the public that large vehicles parked in violation of the parking zone restrictions are subject to removal.

2. Authority to Remove Vehicles Parked in Violation of “No Overnight Parking Zone”

The proposed ordinance amends Chapter 11.36 of the Municipal Code by adding Section 11.36.255 which prohibits the overnight parking of vehicles in certain zones established by the City's Traffic Engineer. Additionally, the proposed ordinance amends Chapter 11.56 to add Section 11.56.060 which authorizes, pursuant to CVC Section 22651(n), the removal of vehicles parked in violation of a no overnight parking zone.

### **CONCLUSION**

The proposed ordinances conform to the direction from the City Council from January 30, 2024, as discussed above.

### **CEQA**

Not a Project, File No. PP17-009, Staff Reports, Assessments, Annual Reports, and Informational Memos that involve no approvals of any City action.

NORA FRIMANN  
City Attorney

/s/ \_\_\_\_\_

For questions, please contact Matthew Tolnay, Deputy City Attorney, at (408) 535-1900.

cc: Jennifer Maguire, City Manager