

Safe Parking Lots

Homeless Action Subcommittee
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June 28, 2021

Recommended Action

- Receive a presentation on the requirements for operating a safe parking lot program in Carlsbad, specifically at the former Farmers Insurance building property
- Discuss possible recommendations for City Council consideration.

What is a safe parking lot?

Considerations for Safe Parking Lots

- Zoning ordinances
- Other ordinances
- Specific Plans—use restrictions
- CC&Rs
- State law
 - Gov't Code, Health & Safety Law, housing laws
 - Executive Orders

Current Local Zoning for Emergency Shelters

- Carlsbad Municipal Code 21.32.070 - Standards for emergency shelters to protect health, safety, general welfare
- CMC 21.32.010 - Permitted in M Industrial Zone *
- CMC 21.34.020 - Permitted in P-M Planned Industrial Zone *

State Laws Impacting Safe Parking Lots

- Shelter crisis emergency declaration (Gov't Code Sec. 8698-8698.4)
- Executive Order N-23-20 issued 1/8/20

Shelter Crisis--Key Findings Required

“A situation in which a **significant number of persons** are **without the ability to obtain shelter**, resulting in a **threat to their health and safety**”

Shelter Crisis Definitions

- “public facility” —any facility of a political subdivision including parks, schools, and vacant or underutilized facilities which are owned, operated, leased, or maintained (or a combination) by the political subdivision through taxes or assessments.
- “homeless shelter” -- a facility with overnight sleeping accommodations, the primary purpose of which is to provide temporary shelter for the homeless that is not in existence after the declared shelter crisis; may include supportive and self-sufficiency development services; includes safe parking lots

What Happens If a City Declares a Shelter Crisis?

- City may take such action “as is necessary to carry out the provisions of this chapter;” may allow homeless persons to occupy designated **public facilities** during the duration of the emergency, which includes safe parking lots
- City is immune from liability for ordinary negligence in conditions, acts, or omissions directly related to the provision of emergency housing
- State and local housing, health and safety laws “shall be” suspended to extent that strict compliance would hamper efforts to mitigate the shelter crisis
- City may enact municipal health and safety standards in place of the suspended regulations to ensure minimal public health and safety during the period of emergency

Additional Provisions in Gov't Code Section 8698.4

- Shelters may be located or constructed on land owned or leased by city, including land acquired with low- and moderate-income housing funds
- Alternative to complying with local building approval procedures or *state* housing, health, habitability, planning and zoning, or safety standards, procedures, and laws
- Suspension* of any housing, health, habitability, planning and zoning or safety standards, procedures or laws if the city has adopted and enforces minimal health and safety standards and procedures
- Suspension of landlord tenant laws for habitability and tenantability claims
- Suspension of compliance with local land use plans, including general plan

Additional Provisions in Gov't Code Section 8698.4

- Suspension of Special Occupancy Parks act, Mobilehome Parks Act, Mobilehome Residency Law, Recreational vehicle Park Occupancy Law, except if vehicle abandoned by owner
- CEQA not applicable to city's actions to lease, convey, or encumber land owned by a city, county or city and county, or to facilitate the lease, conveyance, or encumbrance of land owned by the local government for, or to provide financial assistance to, a homeless shelter constructed/allowed by this section
- Annual state reporting requirements

Executive Order N-23-20

- Issued 1/8/20 to immediately and urgently provide state government aid for homeless
- Multi-agency strike team
- Access to state resources: excess state land, travel trailers
- Local governments must track and report progress to access state resources
- Encourages creation of temporary shelters such as safe parking lots
- Unlike Gov't Code, does not override local zoning ordinances or applicable state or local laws

Former Farmers Insurance Building

- Purchased with CFD funds; lease may be okay
- But:
 - CM Zone
 - Carlsbad Research Center Specific Plan
 - Carlsbad Research Center CC&Rs; not waived by a shelter crisis declaration

Conclusion

- Safe parking lot program currently not feasible in Carlsbad due to zoning restrictions
- Would need to amend zoning ordinance OR make a shelter crisis declaration to allow a safe parking lot program
- Some city locations, such as the Farmers Insurance Building, would not a feasible site notwithstanding a shelter crisis declaration or zoning amendments due to CC&Rs