

**ORDINANCE NO. \_\_\_\_\_ - 2024**

**AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF  
FREMONT ADOPTING CHAPTER 8.90 OF FREMONT MUNICIPAL  
CODE TO ADOPT A CAMPING ORDINANCE**

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WHEREAS, the City of Fremont (“City”) is committed to protecting the life, health, and safety of its residents and all people within the geographical boundaries of the City; and

WHEREAS, some lands within the City are environmentally sensitive, which may be significantly damaged by unregulated human activity and lands not specifically developed for camping purposes could potentially pose significant health and safety hazards to people who make shelter or stay overnight in these areas; and

WHEREAS, the Council is committed to protecting the rights of individuals who cannot obtain shelter and to treating their personal property with respect and consideration; and

WHEREAS, the City currently provides shelter beds for people experiencing homelessness, which offer a place to sleep and supportive services including job programs, housing support, treatment for mental health conditions or substance abuse, and security; and

WHEREAS, the City engages in outreach work to build relationships with people experiencing homelessness, using a person-centered, compassionate approach to provide services tailored to each person’s specific needs; and

WHEREAS, the City provides housing stability support, eviction protection, transitional housing, and supportive and permanent housing solutions to assist people with ending their homelessness; and

WHEREAS, the 2024 Point-in-Time Count administered by the County of Alameda Continuum of Care reported 614 people were experiencing unsheltered homelessness within the City; and

WHEREAS, City streets, sidewalks, and parks are intended for safe and sanitary shared use by a diverse community of users including businesses, government, and the general public for gathering, recreating, movement of people, maintenance, and cleaning, and are frequently used by people relying on a variety of mobility devices; and

WHEREAS, this activity has forced residents to walk in the street to pass encampments blocking City sidewalks and puts residents at risk of injury or death from vehicular traffic; and

WHEREAS, the sustained presence of people in the City’s open space and waterways within the City has created unsafe, unsanitary, unhealthy, and dangerous conditions including water pollution and frequent uncontained fires that threaten people living or using these areas, first responders, and the general public; and

WHEREAS, Fremont Fire indicates that fire crews respond to several fires each year suspected to have resulted from human activity related to homelessness; and

WHEREAS, people sheltering along riverbeds and flood control channels within the City are at risk of experiencing flooding, vector-related disease and other health issues, and these areas often contain sensitive environments at risk of significant damage by unregulated human activity; and

WHEREAS, the City counted approximately 223 encampments in 2022/2023 and collected over 409 tons of trash; and

WHEREAS, the City is obligated to protect public health and safety and its natural resources by maintaining clean, safe, and accessible City properties for all residents to enjoy, including parks, open space, and the public right of way; and

WHEREAS, to mitigate risks to the health and safety of the general public and potential damage to environmentally sensitive lands, the Council desires to enhance the City's authority to disband encampments regardless of the availability of shelter, due to the health and safety risk to those engaged in that activity, the general public, and the environment; and

WHEREAS, it is the intent of this Ordinance to prohibit camping, sleeping, and maintenance of encampments within the City while encouraging people experiencing homelessness to use available low barrier shelters and access a variety of services available from the City and its partners; and

WHEREAS, when abating any encampment, the City will provide written notice in advance of the cleared location that explains when the encampment will be cleaned up and how an individual can reclaim items stored during the process; and

WHEREAS, the City will store any personal property that may belong to a person, has apparently utility in its current condition and can be safely retrieved from the site, but will not store property that is broken, hazardous, contraband, or listed on the City's current list of common items regularly abandoned during the abatement process.

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF FREMONT DOES ORDAIN AS FOLLOWS:

SECTION 1. FMC CHAPTER 8.90 ADDED

Chapter 8.90 Camping on Public Property of Fremont Municipal Code Title 8 Health and Safety, is added to read as follows:

**Sec. 8.90.010 Purpose.**

The purpose of this chapter is to maintain streets, parks and other public and private areas within the city in a clean, sanitary and accessible condition and to adequately protect the health, safety

and public welfare of the community, while recognizing that, subject to reasonable conditions, camping and camp facilities associated with special events can be beneficial to the cultural and educational climate in the city. The use of streets and public areas within the city for camping purposes or for storage of personal property interferes with the rights of the public to use these areas for which they were intended. Such activity can constitute a public health and safety hazard that adversely impacts residential neighborhoods and commercial areas. Camping without the consent of the owner and proper sanitary measures adversely affects private property rights, public health, safety, and welfare of the city. Nothing in this chapter is intended to interfere with otherwise lawful and ordinary uses of public or private property.

**Sec. 8.90.020 Definitions.**

Unless the particular provisions or the context otherwise requires, the definitions contained in this section shall govern the construction, meaning, and application of words and phrases used in this chapter.

- (a) “Camp” means to place, pitch or occupy camp facilities; to live temporarily in a camp facility or outdoors; or to use camp paraphernalia.
- (b) “Camp facilities” include, but are not limited to, tents, huts, vehicles, vehicle camping outfits or temporary shelter.
- (c) “Camp paraphernalia” includes, but is not limited to, bedrolls, tarpaulins, cots, beds, sleeping bags, hammocks or cooking facilities and similar equipment.
- (d) “City manager” means the city manager or designee.
- (e) “Establish” means setting up or moving equipment, supplies or materials on to public or private property to “camp” or operate camp facilities.
- (f) “Maintain” means keeping or permitting equipment, supplies or materials to remain on public or private property in order to camp or operate camp facilities.
- (g) “Operate” means participating or assisting in establishing or maintaining a camp or camp facility.
- (h) “Park” means any park or recreation area used by the public and regulated under Chapter 12.20 of this code.
- (i) “Private property” means all private property including, but not limited to, streets, sidewalk, alleys, and improved or unimproved land.
- (j) “Public property” means all public property including, but not limited to, streets, sidewalks, alleys, improved or unimproved land and parks.

(k) “Store” means to put aside or accumulate for use when needed, to put for safekeeping, to place or leave in a location.

(l) “Street” means the same as defined in Section 18.25.2730 of this code.

**Sec. 8.90.030 Camping, locations prohibited; protection of waterways.**

(a) Camping. It is unlawful for any person to camp or to maintain an encampment in or upon any public property, including any street, sidewalk, park, open space, waterway, or banks of a waterway, or any private property not designated and equipped for such camping. Additionally, it is unlawful for any person to camp or maintain an encampment in or upon any land designated as a high fire risk area. This section is not intended to prohibit camping on private residential property by friends or family of the property owner, so long as the owner consents and the overnight camping is limited to not more than three consecutive nights.

(b) Waterways. It is unlawful for any person to do any of the following:

1. Build or erect a structure of any type along the banks of any waterway, or drive a nail or other object into any tree or other natural area vegetation for the purpose of building an encampment or any other structure, or to affix an object to any tree or other natural vegetation;
2. Move boulders or large rocks, destroy vegetation, paved roads or paths created by the city, or otherwise reconfigure the natural landscape in the parks, waters of or along the banks of a waterway;
3. Drive, park, or bring any vehicle along the banks of a waterway, except in places specifically provided and designated for vehicular use;
4. Dig on the banks of a waterway; or
5. Discharge or store waste, including garbage, refuse, or human or animal waste, along the banks or into the waters of a waterway.

(c) Nothing in this section is intended to prohibit the activities of an owner of private property or other lawful user of private property that are normally associated with and incidental to the lawful and authorized use of private property; and nothing is intended to prohibit the activities of a lawful user if such activities are expressly authorized by the City Manager or by any law, regulation, permit, order or other directive from a regulatory authority.

**Sec. 8.90.040 Storage of personal property on public and private property.**

(a) It is unlawful and a public nuisance for any person to store personal property, including camp paraphernalia, on any public property or any private property without the written consent of the owner, except as otherwise authorized in writing by the city.

- (b) Moving personal property to another location upon public property or returning personal property to the same block of public property on a daily basis shall be considered storing and shall not be considered to be removing the personal property from public property. This definition shall not include any personal property that, pursuant to statute, ordinance, permit, regulation or other authorization by the city or state, is stored with permission of the city or state on real property that is owned or controlled by the city.
- (c) No person shall store any personal property upon public property in such a manner as to obstruct city operations, including street or sidewalk maintenance or cleaning, or park or landscaping maintenance, repair or irrigation. Without prior notice, the city may temporarily move personal property, whether attended or unattended, which is obstructing city operations upon public property during the time necessary to conduct the city operations.
- (d) No person shall store any personal property upon public property in such a manner that it does not allow for passage as required by the Americans with Disabilities Act of 1990 as amended from time to time (ADA). Without prior notice, the city may move and may immediately impound any personal property, whether attended or unattended, stored upon public property in such a manner that it does not allow for passage as required by ADA.
- (e) No person shall store any personal property within ten feet of any operational and useable entrance, exit, driveway or loading dock. Without prior notice, the city may move and may immediately impound any personal property, whether attended or unattended, stored upon public property within ten feet of any such area.
- (f) No person shall store any personal property upon public property that has clearly posted closure time, after the posted closure time. Without prior notice, the city may move and may immediately impound any personal property, whether attended or unattended, stored upon public property within ten feet of any such area.

**Sec. 8.90.050 Power of the city manager to make rules and regulations.**

The city manager may adopt procedures for the removal and recovery of personal property left upon lands where camping is prohibited. Absent such procedures, personal property left upon lands where camping is prohibited for more than twenty-four hours may be removed by the city and may be recovered by the owner for up to ninety days.

**Sec. 8.90.060 Enforcement.**

- (a) Any person violating this chapter shall be subject to the following penalty:
  - 1. Temporary seizure of personal property, as set forth at Section 8.90.040 of this chapter.
  - 2. Prior to the city pursuing the remedy set forth at subsection (a)(1) of this section, the city shall provide the violator, orally or in writing, with information about housing support services. Nothing in this section or this chapter shall require the city to provide housing to such violator.

(b) Notwithstanding subsection (a) of this section:

1. Any person causing, permitting, aiding, abetting or concealing a violation of this chapter shall be guilty of a misdemeanor, and may be prosecuted as a misdemeanor and upon conviction be subject to a fine not to exceed \$1,000.00 or imprisonment in the city or county jail for a period of not more than six months, or by both such fine and imprisonment.
  2. Any violation of this chapter may be remedied by a civil action brought by the city attorney.
  3. Violations of this chapter are hereby declared to be public nuisances subject to abatement by the city by any lawful means, including but not limited summary abatement procedures set forth in Chapter 8.60 of this code.
  4. Any violation of this chapter is punishable as set forth in Title 1, General Provisions of this code.
- (c) The remedies set forth in this chapter shall be cumulative and in addition to any and all other remedies, civil, equitable, or criminal, afforded to the city under the law.
- (d) Nothing provided in this chapter shall create any duty on the city to enforce any specific law or code section or abate any specific condition or circumstance which may exist. The city shall exercise its discretion to enforce this chapter as resources permit.
- (e) The timing, methods and priority of specific abatement actions shall be subject to the sole discretion of the city manager.

## SECTION 2. CEQA

The City Council determines, each on a separate and independent basis, the following sections of Title 14 of the California Code of Regulations apply and no further environmental review is required: (1) the California Environmental Quality Act (CEQA) Guidelines Section 15061(b)(3), in that the ordinance does not have the potential to cause a significant effect on the environment, and is not subject to CEQA review; (2) Furthermore, the project is exempt under CEQA Guidelines 15183, Projects Consistent with a Community Plan or Zoning, as the ordinance is consistent with the land use envisioned for the site as established by the General Plan for which an Environmental Impact Report (SCH#2010082060) was previously prepared and certified, and CEQA Guidelines Sections 15162 and 15163, as none of the circumstances requiring preparation of a subsequent or supplemental EIR have occurred; (3) CEQA Guidelines Sections 15304 as this ordinance is an action by the City that may result in a minor alteration to land, water, and/or vegetation; and (4) CEQA Guidelines Sections 15307 and 15308 as this ordinance is an action by the City for the protection of birds and other wildlife and the environment in City public lands, parks and waterways. The Council therefore directs that a Notice of Exemption be filed with the Alameda County Clerk in accordance with the CEQA guidelines.

SECTION 3. SEVERABILITY

If any section, subsection, sentence, clause or phrase of this Ordinance is for any reason held by a court of competent jurisdiction to be invalid, such a decision shall not affect the validity of the remaining portions of this Ordinance. The City Council of the City of Fremont hereby declares that it would have passed this Ordinance and each section or subsection, sentence, clause and phrase thereof, irrespective of the fact that any one or more sections, subsections, sentences, clauses or phrases be declared invalid.

SECTION 4. EFFECTIVE DATE

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

SECTION 5. PUBLICATION AND POSTING

The City Attorney has prepared a summary of this ordinance under Government Code Section 36933(c). The City Clerk has caused the summary to be published once in a newspaper of general circulation printed and published in Alameda County and circulated in the City of Fremont for at least five days before the date of adoption. A certified copy of the full text of the ordinance was posted in the office of the City Clerk, since at least five days before this date of adoption. Within 15 days after adoption of this ordinance, the City Clerk shall cause the summary to be published again with the names of those City Council members voting for and against the ordinance and shall post in the office of the City Clerk a certified copy of the full text of this adopted ordinance with the names of those City Council members voting for and against the ordinance.

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

AYES:

NOES:

ABSENT:

ABSTAIN:

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Mayor

ATTEST:

APPROVED AS TO FORM:

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City Clerk

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City Attorney