

BILL NO. _____

ORDINANCE NO. _____

AN ORDINANCE OF THE CITY OF FRESNO, CALIFORNIA,
AMENDING SECTIONS 10-1703(a), 10-1707, 10-2101, 10-
2204 and 10-2205 OF THE FRESNO MUNICIPAL CODE,
RELATING TO THE PROHIBITION ENCAMPMENTS IN
PUBLIC PLACES

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

SECTION 1. Section 10-1703(a) of the Fresno Municipal Code is amended to read as follows:

(a) A violation of this article is a misdemeanor, and upon conviction, confinement of up to of up to [one year] ~~six months~~ in jail and/or fines up to \$1,000 per violation, or as set forth in the Master Fee Schedule, plus payment for the actual costs of transporting and storing property of the violator. In addition to the remedies set forth in Penal Code section 370, et seq., the City Attorney may institute civil actions to abate a public nuisance under this article.

SECTION 2. Section 10-1707 of the Fresno Municipal Code shall be removed in its entirety:

~~SECTION 10-1707. RESTRICTION ON ENFORCEMENT. An individual shall not be cited under this ordinance unless it is confirmed a bed is available at a shelter or other facility, and there are no unlawful restrictions that may otherwise make such bed unavailable to that person.~~

SECTION 3. Section 10-2101 of the Fresno Municipal Code is amended to read as follows:

1 of 10

Date Adopted:

Date Approved

Effective Date:

City Attorney Approval:



Ordinance No.

ARTICLE 21

PUBLIC WELFARE

SECTION 10-2101. [SITTING, LYING, SLEEPING OR CAMPING ON A PUBLIC PLACE INCLUDING BUT NOT LIMITED TO SIDEWALKS, STREETS, ALLEYS, SENSITIVE AREAS OR WITHIN DOORWAYS PROHIBITED] ~~SITTING, LYING, OR SLEEPING OR STORING, USING MAINTAINING OR PLACING PERSONAL PROPERTY IN THE PUBLIC RIGHT-OF-WAY~~

(a) [No person may sit, lie, sleep or camp on a public place at any time. "Camp" shall be defined to include, but not be limited to; sitting, lying, storing or placing a tent on a public place. "Public Place" shall be defined to include, but not be limited to, sidewalks, streets, alleyways, or other public space.] ~~No person shall obstruct a street, sidewalk, or other public right-of-way:~~

(1) ~~by sitting, lying, or sleeping, or by storing, using, maintaining, or placing personal property in a manner that impedes passage, as provided by the Americans with Disabilities Act of 1990, Pub. L. No. 101-336, 104 Stat. 328 (1990), as amended from time to time;~~

(2) ~~by sitting, lying, or sleeping, or by storing, using, maintaining, or placing personal property, within 10 feet of any operational or utilizable driveway or loading dock;~~

(3) ~~by sitting, lying, or sleeping, or by storing, using, maintaining, or placing personal property, within 5 feet of any operational or utilizable building entrance or exit;~~

~~(4) — by sitting, lying, or sleeping, or by storing, using, maintaining, or placing personal property, within 2 feet of any fire hydrant, fire plug, or other fire department connection;~~

~~(5) — by sitting, lying, or sleeping, or by storing, using, maintaining, or placing personal property, within the public right-of-way in a manner that obstructs or unreasonably interferes with the use of the right-of-way for any activity for which the City has issued a permit.~~

(b) [No person may sit, lie, sleep or camp in any pedestrian or vehicular entrance to public or private property abutting a public sidewalk.]

~~No person shall obstruct any portion of any street or other public right-of-way to use by motor vehicles, or any portion of a bike lane, bike path, or other public right-of-way open to use by bicycles, by sitting, lying or sleeping, or by storing, using, maintaining, or placing personal property, anywhere within the street, bike lane, bike path, or other public right-of-way, as specified.~~

(c) [No person may sit, lie, sleep or camp on a property designated as a sensitive use. For a property to be designated as a "sensitive use," the property must be a School, Childcare Facilities, Public Park, Public Library, City Facility, Governmental Facility located in the City of Fresno, Warming and Cooling Centers, and City-Permitted Shelters for the Unhoused.] ~~Except as limited by Subsection (d), no person shall:~~

~~(1) — sit, lie, sleep, or store, use, maintain, or place personal property, in or upon any street, sidewalk, or other public right-of-way within the distance stated on the posted signage (up to a maximum of 500 feet) of a property designated as a sensitive use. For a property to be designated as a "sensitive use," the property must be a School, Childcare Facilities, Public Park, Public Library, Warming and Cooling Centers, and City-Permitted Shelters for the Unhoused;~~

~~(2) — sit, lie, sleep, or store, use, maintain, or place personal property, in or upon any street, sidewalk, or other public right-of-way within the distance stated on the posted signage (up to a maximum of 500 feet) of an overpass, underpass, freeway ramp, tunnel, bridge, pedestrian bridge, or active railway, where the City Council determines, in the designating resolution, that the public health, safety, or welfare is served by the prohibition, including, without limitation, by finding that sleeping or lodging within stated proximity to the designated area is unhealthy, unsafe, or incompatible with safe passage.~~

~~(3) — sit, lie, sleep, or store, use, maintain, or place personal property, in or upon any street, sidewalk, or other public right-of-way within the distance stated on the posted signage (up to a maximum of 500 feet) of a designated facility, that provides shelter, safe sleeping, or safe parking to homeless persons, or that serves as a~~

homeless services navigation center;

~~(4) — sit, lie, sleep, or store, use, maintain, or place personal property, in or upon any street, sidewalk, or other public right-of-way that has been posted with signage prohibiting sitting, lying, sleeping, or storing, using, maintaining, or placing personal property. In order to designate a section of street, sidewalk, or other public right-of-way as prohibited under this subdivision, the City Council shall determine, in a designating resolution and based on specific documentation, that the circumstances of continued sitting, sleeping, lying or storing personal property, or otherwise obstructing the public right-of-way at the location poses a particular and ongoing threat to public health or safety.~~

(d) [In addition to any other remedy provided by law, any person found in violation of this section may be immediately removed from the premises.] ~~No person shall be found to be in violation of any prohibition set forth in Subsection (c) unless and until (1) the City Council has taken action by resolution to designate specified areas for enforcement against sitting, lying, sleeping, or storing, using, maintaining, or placing personal property, or otherwise obstructing the public right-of-way; (ii) the City has posted signage at the designated area or areas set forth in the resolution, with such signage including reference to any required findings adopted in the resolution and giving notice of the date after which no sitting, lying, sleeping,~~

~~or storing, using, maintaining, or placing personal property, or otherwise obstructing the public right-of-way will be allowed; and (iii) at least 14 calendar days have passed from the date on which the signage is posted at the designate area or areas.~~

~~(e) — No person shall sit, lie, sleep, or store, use, maintain or place personal property, in or upon any street, sidewalk, or other public property within 500 feet of a School or Day Care Center. A violation of this subsection is governed by Section 10-2101(f) of this code.~~

~~(f)[(e)] [A violation of this article is a misdemeanor, and upon conviction punishable by a fine of not exceeding one thousand dollars (\$1,000.00) or by imprisonment in the Fresno County Jail for a period of not more than one year or by both such fine and imprisonment. In addition to the remedies set forth in Penal Code section 370, et seq., the City Attorney may institute civil actions to abate a public nuisance under this article.~~

~~Any individual charged with violation of this article, in lieu of being taken to jail may, at the election of the citing police officer and with the consent of the individual, be taken to a facility providing social services related to mental health, housing, and/or substance abuse treatment.~~

~~As an alternative to a fine or jail sentence, the City would encourage the Court to grant diversion or probation with a condition the offender complete a rehabilitation program.]~~involving a person who willfully resists, delays, or obstructs a City employee from enforcing this section or who willfully refuses to comply after being requested to do so by an authorized~~~~

~~City employee shall be subject to the penalties pursuant to Chapter 1, Article 3 of this Code. All other violations shall be enforceable only as infractions pursuant to Sections 1-308, et seq. Appeal of an administrative citation may be made pursuant to Sections 1-308 et seq.~~

[(f)] The City shall adhere to State law as it pertains to mobile and sidewalk vendors.

SECTION 4. Section 10-2204 of the Fresno Municipal Code is amended to read as follows:

SECTION 10-2204. NOTICE.

(a) Pre-Removal Notice. Pre-removal notice shall be deemed provided if a written notice is provided to the Person who is Storing or claims ownership of the Personal Property or is posted conspicuously on or near the Personal Property and the actual removal commences no more than [24]72 hours after the pre-removal notice is posted. The written notice shall contain the following:

- (1) A general description of the Personal Property to be removed.
- (2) The location from which the Personal Property will be removed.
- (3) The date and time the notice was posted.
- (4) A statement that the Personal Property has be stored in violation of Section 10-2203.

(5) A statement that the Personal Property may be impounded if not removed from Public Areas within 24 hours.

(6) A statement that moving Personal Property to another location in a Public Area shall not be considered removal of Personal Property from a Public Area.

(7) The address where the removed Public Property will be located, including a telephone number and the internet website of the City through which a Person may receive information as to impounded Personal Property as well as information as to voluntary storage location(s).

(8) A statement that impounded Personal Property may be discarded if not claimed within [60]~~90~~ days after impoundment.

(b) Post-Removal Notice. Upon removal of Stored Personal Property, written notice shall be conspicuously posted in the area from which the Personal Property was removed. The written notice shall contain the following:

(1) A general description of the Personal Property removed.

(2) The date and approximate time the Personal Property was removed.

(3) A statement that the Personal Property has been stored in violation of Section 10-2203.

(4) The address where the removed Personal Property will be located including a telephone number and internet website of the City through which a Person may receive information as to impound Personal Property.

(5) A statement that impounded Personal Property may be discarded if not claimed within ~~[60]~~90 days after impoundment.

(c) Personal Property shall be defined as, set forth in Section 10-2202(i) of the Fresno Municipal Code.

SECTION 5. Section 10-2205 of the Fresno Municipal Code is amended to read as follows:

SECTION 10-2205. STORAGE AND DISPOSAL.

(a) Except as specified herein, the City shall move Personal Property to a place of storage.

(b) Except as specified herein, the City shall store impounded Personal Property for ~~[60]~~90 days, after which time, if not claimed, may be discarded. The City shall not be required to undertake any search for, or return, any impounded Personal Property store for longer than ~~[60]~~90 days.

(c) The City shall maintain a record of the date any impounded Personal Property was discarded.

SECTION 6. This ordinance shall become effective and in full force and effect at 12:01 a.m. on the thirty-first day after its final passage.

