



AGENDA ITEM NO.

<u>COUNCIL MEETING</u>	<u>06/19/07</u>
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_____	_____
APPROVED BY	

DEPARTMENT DIRECTOR

CITY MANAGER

June 19, 2007**FROM:** BRUCE RUDD, Assistant City Manager**SUBJECT:** AN ORDINANCE OF THE CITY OF FRESNO, CALIFORNIA, CHAPTER 11, ARTICLE 10 OF THE FRESNO MUNICIPAL CODE, RESTRICTING CAMPING AND STORAGE OF PERSONAL PROPERTY.**RECOMMENDATION**

Staff recommends the attached ordinance be introduced and adopted by Council.

EXECUTIVE SUMMARY

Pursuant to Council's recommendation, staff formed the Homeless Task Force which is comprised of several homeless service providing agencies, the County of Fresno and the City of Fresno. The task force met several times and composed a final recommendation letter and report (Attachment B), which was forwarded to the Office of the City Manager on May 11, 2007. The task force recommends adoption of the attached ordinance (Attachment A). This ordinance restricts individuals from camping or storing camping paraphernalia on public property without a permit. The permitting process will provide the ability to place conditions on the establishment, maintenance and operation of a camp or camping facility. This ordinance does not address camping on private property.

The purpose of this ordinance is to keep public property within the City in a clean, sanitary and accessible condition, and to protect the health, safety and welfare of the community, while recognizing that subject to reasonable conditions, camping and camping facilities associated with special events or set up to meet the needs of the community can be beneficial to the cultural and educational well-being of city residents.

BACKGROUND:

The City has experienced ongoing problems with individuals camping and storing camping paraphernalia on public property, which threatens the public health and safety, and interferes with the rights of others to use the areas for which they were intended. Camping without facilities for human waste, refuse, and cooking and/or washing facilities for clothing and persons, has lead to unsanitary and unsafe conditions for the individuals who are camping and for the general public. Camping has resulted in the accumulation of trash, biological and other waste, and fire hazards from cooking with open flames or cooking with equipment not intended for cooking and/or using cooking appliances and equipment in an inappropriate and unsafe manner.

OPTIONS:

1. Council may introduce the ordinance.
2. Council may modify and introduce the ordinance.
3. Council may take no further action at this time.

Attachment:

Proposed Ordinance, Attachment A
Homeless Task Force Recommendation Letter and Report, Attachment B

ORDINANCE OF THE COUNCIL OF THE CITY OF FRESNO
PROPOSED AND INITIATED BY _____
MOVED BY _____ SECONDED BY _____

BILL NO. _____

ORDINANCE NO. _____

AN ORDINANCE OF THE CITY OF FRESNO, CALIFORNIA, CHAPTER
11, ARTICLE 10 OF THE FRESNO MUNICIPAL CODE, RESTRICTING
CAMPING AND STORAGE OF PERSONAL PROPERTY.

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

SECTION 1. Article 10 is added to Chapter 11 of the Fresno Municipal Code to read:

SECTION 11-1001 FINDINGS AND INTENT.

The Council finds that:

- (a) Camping by individuals on public property and/or the storage of camping paraphernalia, threatens the public health and safety, and interferes with the rights of others to use the areas for which they were intended.
- (b) Camping in urban areas and locations not intended and/or designed for such activity, without facilities for human waste, refuse, and cooking and/or washing facilities for clothing and persons, leads to unsanitary and unsafe conditions for those persons who are camping and the general public, including but not limited to, the accumulation of trash, biological and other waste, and fire hazards from cooking with open flames or cooking with equipment not intended for cooking and/or using cooking appliances and equipment in an inappropriate and unsafe manner.

SECTION 11-1002. PURPOSE. The purpose of this article is to maintain public lands, streets, sidewalks, alleys, ways, waterways, parks, playgrounds, recreation areas,

plazas, open spaces, lots, parcels and other public areas within the city in a clean, sanitary and accessible condition and to protect the health, safety and welfare of the community, while recognizing that, subject to reasonable conditions, camping and camping facilities associated with special events or which are set up to meet community needs, can be beneficial to the cultural, health, and educational well-being of city residents. Nothing in this chapter is intended to interfere with otherwise lawful and ordinary uses of public property.

SECTION 11-1003. 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” or “camping” means to set-up or occupy camp facilities and/or to use camp paraphernalia.

(b) “Camp facilities” or “camp facility” means a form of temporary shelter intended to facilitate habitation, which includes, but is not limited to, tents, huts, lean-to’s, tarps, trailers, or other forms of temporary shelter.

(c) “Camp paraphernalia” includes, but is not limited to, bedrolls, blankets, tarpaulins, cots, beds, mattresses, pads, sleeping bags, hammocks, lanterns, cooking appliances and similar equipment.

(d) “City” means the City or its designee.

(e) “Street” or “public street” includes avenues, highways, lanes, alleys, ways, crossings or intersections, courts and cul-de-sacs, that are public rights of way intended for motorized travel.

(f) “Special event” means the meaning set forth in section 11-1006 of

this code.

SECTION 11-1004. UNLAWFUL CAMPING. It is unlawful and a public nuisance for any person or group of persons to camp, occupy camp facilities, and/or use camping paraphernalia on any public property not specifically designated for camping, without a camping permit. Camping permits authorize the permittee to camp as described in the permit, and in accordance with the terms and conditions of the permit. It is unlawful for the permittee to willfully violate the terms and conditions of the permit or for any camp participant with knowledge thereof, to willfully violate the terms and conditions of the permit.

SECTION 11-1005. STORAGE OF CAMPING PARAPHERNALIA IN PUBLIC PLACES. It shall be unlawful and a public nuisance for any person to store camping paraphernalia on any public property not specifically designated for storage of camping paraphernalia, without a permit.

SECTION 11-1006. PERMIT FOR SPECIAL EVENTS REQUIRED.

The City may issue a temporary camping permit to authorize camping in connection with a special event on public property. The City is further empowered to ascertain that the operation or maintenance of any camp or camping facility to which a temporary permit is issued will not jeopardize the public health, safety or welfare and, for this purpose, may make additional rules and regulations pertaining to the establishment, maintenance or operation of such camps or camping facilities. In order to protect the public health, safety and/or welfare, conditions may be imposed on the establishment, maintenance or operation of the camp or camping facility, including, but not limited to security, sanitation facilities, the number of occupants, posting of bonds or deposits,

insurance, quiet hours, duration of the permit, and permitted activities on the premises. When the City issues any permit pursuant to section 11-1006 of this code, such permit may be revoked at any time thereafter by the city if the city reasonably determines that the maintenance or continuing operation of the camp or camping facility is a public nuisance or poses a threat to or is adverse to the public health, safety or welfare.

A reasonable permit application fee, if adopted in the Master Fee Schedule shall be required to process a permit application. In exercising its discretion to issue a temporary camping permit, the City may consider any facts or evidence bearing on the sanitary, health, safety and welfare conditions surrounding the area or tract of land upon which the proposed temporary camp or camping facility is to be located.

A “special event” is intended to include, but not be limited to, programs operated by the departments of the City, youth or school events, marathons or other sporting events, and scouting activities.

SECTION 11-1007. POSTING COPY OF PERMIT. The permit obtained from the City in accordance with section 11-1006 of this code shall at all times be posted in a conspicuous place upon the area or tract of land on which the camp or camping facility is located.

SECTION 11-1008. VIOLATIONS. A violation of this chapter is an infraction as set forth in section 1-405 of this Code. In addition to the remedies set forth in section 1-404 of this Code, the City Attorney may, at the Council’s direction, institute civil actions to abate a public nuisance under this chapter. The City will not seek to take possession of personal property in connection with a violation of this ordinance unless otherwise authorized by any applicable statute, ordinance or administrative order.

SECTION 11-1009. APPEALS.

- (a) The applicant shall have the right to appeal the denial of a camping permit or a permit condition, pursuant to Chapter 1, Article 5 of the Fresno Municipal Code.
- (b) The hearing under Chapter 1, Article 5 shall be held no later than five (5) business days after the filing of the appeal, and the decision shall be rendered no later than two (2) business days after the date of the hearing.

SECTION 11-1010. INDEMNIFICATION AGREEMENT. Prior to the issuance of a camping permit, the permit applicant and authorized officer of the sponsoring organization (if any), must sign an agreement to reimburse the City for any costs incurred by it in repairing damage to City property occurring in connection with the permitted camping proximately caused by the actions of the permittee, its officers, employees, or agents, or any person who was, under the permittee's control insofar as permitted by law. The agreement shall also provide that the permittee shall hold harmless, indemnify and defend the City, its officials, members, agents and employees against any claims, costs, damages, demands, liability and notices arising or resulting from any damage or injury proximately caused by actions of the permittee in connection with the camping, regardless of whether the City is actively negligent or passively negligent, except for those claims, costs, damages, demands, liability and notices, caused solely by the negligence or willful misconduct of the City.

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SECTION 2. 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.

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SECTION 3. SEVERABILITY. The Council declares that the provisions of this ordinance are severable. If, for any reason, any sentence, paragraph, or section of this ordinance is determined by a court of competent jurisdiction to be invalid, such determination will not affect the validity of the remaining provisions of this ordinance.

STATE OF CALIFORNIA)
COUNTY OF FRESNO) ss.
CITY OF FRESNO)

I, REBECCA E. KLISCH, City Clerk of the City of Fresno, certify that the foregoing ordinance was adopted by the Council of the City of Fresno, at a regular meeting held on the _____ day of _____, 2007.

AYES :
NOES :
ABSENT :
ABSTAIN :

Mayor Approval: _____, 2007

Mayor Approval/No Return: _____, 2007

Mayor Veto: _____, 2007

Council Override Vote: _____, 2007

REBECCA E. KLISCH
City Clerk

BY: _____
Deputy

APPROVED AS TO FORM:
CITY ATTORNEY'S OFFICE

BY: _____
Charlotte M. Hylton, Deputy

CMH:ns [40607ns/ORD] – 3/28/07



Rev. Larry J. Arce
Chief Executive Officer

May 10, 2007

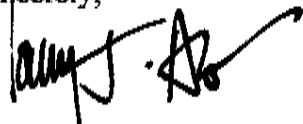
Andy T. Souza, City Manager
City of Fresno
2600 Fresno Street
Fresno, CA 93721-3601

Dear Mr. Souza:


As requested by Mayor Alan Autry, City Councilman Jerry Duncan and City Councilwoman Cynthia Sterling a Homeless Task Force was convened on Monday, April 23, 2007 at the Fresno Rescue Mission. The Task Force members suggested and discussed numerous recommendations for the establishment and operation of an encampment. The task force directed that a draft report regarding the Logistics be written by the Logistic Committee and brought for final approval. The Logistics Committee met on May 1, 2007 and again on May 9, 2007 and unanimously approved the included report. The Services Committee met on May 10, 2007. Their recommendations are still in the process of being determined.

If you have any questions about the report please do not hesitate to contact Captain Richard Larson at (559) 233-0139 or Rev. Larry Arce at (559) 268-0839.

Sincerely,



Co-Chairman
Reverend Larry Arce, CEO
Fresno Rescue Mission



Co-Chairman
Captain Richard Larson,
Salvation Army

Cc: Jerry Duncan, Councilman
Cynthia Sterling Councilwoman

Founded 1949

310 G Street • Post Office Box 1422 • Fresno, California 93716-1422
(559) 268-0839 • Fax (559) 268-1317 • www.fresnorescuemission.org

HOMELESS TASK FORCE
Logistics Committee
May 10, 2007

The Homeless Task Force was divided into two committees, a Logistics Committee and a Services Committee. The Logistics Committee is responsible for making recommendations to the City Manager on the physical layout, logistics and operation of the proposed homeless encampment. The Services Committee will meet separately on May 10, 2007 to develop recommendations for services to be provided to residents of the encampment.

The Logistics Committee met on May 1, 2007 at the Fresno Rescue Mission to formulate a plan for the establishment of the homeless encampment. The Logistics Committee met again on May 9, 2007. A motion was made by Jim Connell to submit these recommendations to the City. The motion was seconded by William Whalen. What follows are the unanimously approved recommendations to the City of Fresno regarding the proposed homeless encampment. (See Appendix listing of Committee Members).

RECOMMENDATIONS

Residents/Property - There are no restrictions on who may stay in the encampment. It is open to men, women, couples and families. There is no limit on how long a resident may stay in the encampment. Residents of the encampment may come and go as they please. There will be no curfew. However, it is advised that residents be encouraged not to allow non-residents in to the encampment. Depending on the level of security, this will be hard to enforce. Residents should be encouraged to take responsibility for enforcement.

It is recommended that shopping carts be allowed in the encampment. However, The City of Fresno and the County of Fresno will NOT be responsible for the property of the residents. Residents are responsible for the safeguarding of their own property.

Behavior - The encampment will be declared a drug and alcohol free environment. No illegal activity will be permitted. All Local, State and Federal laws will be enforced. Without 24 hour security, these rules will be difficult to enforce and will undoubtedly discourage some people from coming into the encampment.

Security – The site should be fenced on at least three sides. The fencing should be slatted chain-link high enough and strong enough to discourage penetration. The perimeter fence, portable toilets, social area and services trailer should be well lit. Some combination of police and/or private security should be available on a 24/7 basis, at least in the startup process. Residents of the encampment should be encouraged to participate in the security of the site.

Layout – Individual plots measuring 8ft.x10ft. should be delineated on the surface (no smaller than 8ft.x8ft.). This gives individuals a designated space for their property. An area for socializing needs to be provided. The site should be graded to provide for good drainage.

Dwellings – Residents of the encampment must provide their own dwellings. Only soft material will be allowed in the construction of dwellings. This means no wood or metal may be used.

Shading – Provide shading for the tents.

Water – Provide water for drinking and fire control.

Power – Provide electrical power for the services modular unit.

Fire Safety – Fires will NOT be permitted in the encampment. An audible fire alarm system needs to be provided to alert residents to a potential fire.

Portable Toilets – One portable toilet per eight (8) people including two (2) units for disabled individuals should be provided upon the opening of the encampment. Portable toilets need to be emptied at least twice per week. The interval between emptying should not be longer than three (3) days. The number of units and the frequency of emptying may need to be adjusted over time.

Trash Bins – We recommend that four (4) 4yd. trash bins be strategically dispersed throughout the encampment. Initially the bins should be emptied once per week. The number of bins and the frequency of emptying may need to be adjusted over time.

Pets – Dogs and cats will be allowed to stay in the encampment. Residents must cleanup after their own animals. If feasible, a pet area or “Dog walk” should be provided.

Liaison – The City should designate a City employee to act as a liaison to the encampment residents.

It recommended that the Logistics Committee reconvene 60 days after the opening of the encampment to reevaluate the operation.

Appendix: Committee Members present

Initial Task Force Meeting, April 23, 2007

Rev. Larry Arce, CEO, Fresno Rescue Mission
Jim Connell, Executive Director, Poverello House
Captain Richard Larson, Salvation Army
Paul Stack, Operations Director, Poverello House
Doreen Eley, Administrative Director, Poverello House
Gordon Donoho, One-by-One Leadership
Kyle Loreto, City of Fresno
Kathy McIlhargy, ESA Love inc.
Alan Doswald, ESA Love Inc.
Lupe Perez, Redevelopment Agency
Bruce Rudd, City of Fresno
Ken Nerland, City of Fresno
Doug Erickson, Maroa Home
CeCe Lomeli, Holy Cross Clinic
Cynthia Sterling, Fresno City Councilperson
Gregory Barfield, City of Fresno
Doug Lanier, Chaplain, Co. Sheriff Department
Jim Classen, Sr. Chaplain, Fresno Rescue Mission
Bob Henry, Chaplain, Fresno Police Department
Leonard Adams, Board Member, Fresno Rescue Mission

Logistics Committee Meeting, May 1, 2007

Rev. Larry Arce, CEO, Fresno Rescue Mission
Jim Connell, Executive Director, Poverello House
Captain Richard Larson, Salvation Army
Paul Stack, Operations Director, Poverello House
Doreen Eley, Administrative Director, Poverello House
Gordon Donoho, One-by-One Leadership
Kyle Loreto, City of Fresno
Ken Nerland, City of Fresno
Lupe Perez, Redevelopment Agency
Jim Classen, Sr. Chaplain, Fresno Rescue Mission
Bob Henry, Chaplain, Fresno Police Department
William Whalen, Citizen Volunteer
Hella Mankin, Redevelopment Agency
Joyce Williams, Evangel Home, Inc.

Logistics Committee Meeting, May 9, 2007

Rev. Larry Arce, CEO, Fresno Rescue Mission
Jim Connell, Executive Director, Poverello House
Captain Richard Larson, Salvation Army
Paul Stack, Operations Director, Poverello House
Doreen Eley, Administrative Director, Poverello House
Gordon Donoho, One-by-One Leadership
Kyle Loreto, City of Fresno
Ken Nerland, City of Fresno
Lupe Perez, Redevelopment Agency
Jim Classen, Sr. Chaplain, Fresno Rescue Mission
Bob Henry, Chaplain, Fresno Police Department
William Whalen, Citizen Volunteer
Hella Mankin, Redevelopment Agency
Gerre Brinneman, Evangel Home, Inc.
Jose Luis Barraza, Center for Independent Living