

ORDINANCE NO. XXXX

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF FULLERTON, CALIFORNIA, REPEALING AND REPLACING CERTAIN SECTIONS OF CHAPTER 7.108 (PROTECTION OF CRITICAL INFRASTRUCTURE) WHICH REGULATIONS PROHIBIT THE PRESENCE OF PERSONS AND THEIR PERSONAL PROPERTY IN AND NEAR CRITICAL INFRASTRUCTURE

WHEREAS, the City of Fullerton, pursuant to its police power, may adopt regulations to protect the public health, safety and welfare (California Constitution Article XI, Section 7; California Government Code Section 37100).

WHEREAS, the Fullerton City Council adopted Ordinance No. 3328 on January 25, 2024 adding Fullerton Municipal Code Chapter 7.108 relating to protection of critical infrastructure.

WHEREAS, City Council finds: (1) a principal threat to the public health, safety and welfare is the potential destruction of, damage to, interference with or obstruction of infrastructure critical to the provision of important, and often emergency, public services such as law enforcement, fire prevention, transportation and utilities including communication, water and waste disposal; (2) critical infrastructure needs protection from destruction, damage, interference or obstruction of such facilities which may be caused by fire, contamination, obstruction, vandalism or other causes and that restricting access to such facilities is necessary to prevent these potential effects and (3) destruction, damage, interference with or obstruction or vandalism of critical infrastructure is often caused by persons conducting unpermitted and/or unauthorized activities in, on or very near critical infrastructure, and thus such activities must be prohibited.

WHEREAS, Chapter 7.108 reduces the risk and cost of destruction and damage to, interference with and obstruction or vandalism of critical infrastructure in order to protect the health, safety and welfare of the public and preserve the efficient and effective use and operations of such facilities, as well as continuing to facilitate public services, by authorizing the removal of unauthorized persons and personal property in, on or near critical infrastructure.

WHEREAS, City Council finds that Chapter 7.108 needs certain minor changes to clarify the original intent and application to particular camping activities and as to specified facilities throughout the City and in furtherance of the City's valid police power and regulatory authority over infrastructure necessary and critical to the public within the City and for the continued protection of the public health, welfare and safety.

WHEREAS, all legal prerequisites prior to the adoption of this Ordinance have occurred.

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF FULLERTON ORDAINS AS FOLLOWS:

SECTION 1. City Council finds all facts, findings, declarations and conclusions set forth in this Ordinance are true and correct.

SECTION 2. City Council makes and adopts as findings the facts and conclusions set forth in the preamble of this Ordinance and for the reasons set forth in the recitals and based upon all facts and the record relating to adoption of prior related Ordinance No. 3328 hereby finds adopting this Ordinance to revise, modify and clarify Chapter 7.108 provisions, as adopted by Ordinance No. 3328, is necessary for the public health, welfare and safety.

SECTION 3. City Council amends Fullerton Municipal Code Title 7 (Public Safety and Morals), Chapter 7.108 (Protection of Critical Infrastructure), Section 7.108.020 (Definitions) as follows:

When used in this chapter, the following words and phrases have the following meanings:

“Camp” has the same meaning as in Fullerton Municipal Code Section 7.105.020.B.

“Camp facilities” include, but are not limited to, tents, huts or temporary shelter.

“Camp paraphernalia” means sleeping, cooking or other equipment intended to be used for camping, including bedrolls, blankets, pillows, tarpaulins, cots, beds, sleeping bags, hammocks or cooking facilities.

“Critical infrastructure” means real property or a facility, whether privately or publicly owned, designated by city council resolution as so vital and integral to the operation or functioning of the city that its damage, incapacity, blockage, inaccessibility, disruption or destruction would have a debilitating impact on the public health, safety or welfare.

Critical infrastructure includes government buildings such as fire stations, police stations, libraries, jails, courthouses, bridges, train stations, and parking structures, as expressly designated by city council resolution.

“Debris” means building and construction materials, garbage, refuse, wreckage, spoiled or ruined household goods.

“Facility” means a building, structure, equipment, system or asset.

“Garbage” means discarded non-putrescible or putrescible household items, objects or materials with no use or reuse intended. Garbage does

not include source-separated recyclables, food waste or yard waste that is properly disposed of for that purpose.

“Hazardous waste” has the same meaning as in California Public Resources Code Section 40141.

“Infectious waste” has the same meaning as in California Code of Regulations, Title 14, Section 17225.36.

“Solid waste” means all putrescible and non-putrescible solid, semi-solid and liquid wastes including garbage, ashes, industrial waste, demolition and construction waste, discarded home and industrial appliances, abandoned vehicles and vehicle parts, dewatered, treated or chemically fixed sewage sludge not considered hazardous waste, manure, dirt, soil, rock, gravel, sand or other aggregate material and other discarded solid and semisolid waste not including recyclables, food waste or yard waste that is properly disposed of for that purpose.

SECTION 4. City Council repeals and replaces Fullerton Municipal Code Title 7 (Public Safety and Morals), Chapter 7.108 (Protection of Critical Infrastructure), Section 07.108.030 in its entirety with the following:

- A. It is unlawful and a public nuisance for any person to camp, occupy camp facilities or use camp paraphernalia at or within 15 feet of critical infrastructure.
- B. It is unlawful and a public nuisance for any person to store personal property, including camp facilities and camp paraphernalia at or within 15 feet of critical infrastructure.
- C. City Council does not intend by this Section to prohibit overnight 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 one consecutive night.
- D. Nothing in this chapter is intended to prohibit or make unlawful the activities of an owner of private real property or other lawful user of private real property normally associated with and incidental to the lawful and authorized use of private real property for residential or other purposes and nothing is intended to prohibit or make unlawful the activities of a real property owner or other lawful user if the Municipal Code or other laws, ordinances and/or regulations expressly authorized such activities.

SECTION 5. City Council repeals or modifies to the extent necessary to effect the provisions of this Ordinance any provision of the Fullerton Municipal Code

or appendices thereto inconsistent with the provisions of this Ordinance. Except as provided herein, the remaining provisions of Fullerton Municipal Code Title 7, Chapter 7.108 shall remain in full force and effect.

SECTION 6. If any section, subsection, phrase or clause of this Ordinance is for any reason held as unconstitutional, such decision will not affect the validity of the remaining portions of this Ordinance. City Council hereby declares that it would have passed this Ordinance and each section, subsection, phrase or clause thereof irrespective of the fact that any one or more sections, subsections, phrases or clauses may be declared unconstitutional.

SECTION 7. The City Clerk shall certify to passage and adoption of this Ordinance and published in the manner required by law.

SECTION 8. This Ordinance shall become effective 30 days from and after its passage.

ADOPTED BY THE FULLERTON CITY COUNCIL ON _____, 2025.

Fred Jung , Mayor

ATTEST:

Lucinda Williams, MMC
City Clerk