

ORDINANCE NO.

AN ORDINANCE ADDING TITLE 8, CHAPTER 8.100, TO THE STOCKTON MUNICIPAL CODE RELATING TO PROTECTION OF CRITICAL INFRASTRUCTURE AND WILDFIRE RISK AREAS

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF STOCKTON, AS FOLLOWS:

SECTION I. AMENDMENT OF CODE

Title 8, Chapter 8.100, Sections 8.100.010, 8.100.020, 8.100.030, 8.100.040, 8.100.050, and 8.100.060 are added to the Stockton Municipal Code and shall read as follows:

8.100.010 Findings and purpose.

The City Council finds as follows: (1) a principal threat to the public health, safety, and welfare is the potential destruction of, damage to, or interference with, infrastructure that is critical to the provision of public services such as law enforcement, fire prevention, transportation, and utilities including communication, water, wastewater, stormwater, and waste disposal; (2) destruction of, damage to, or interference with, critical infrastructure is caused by fire, contamination, obstructing access, or other causes; and (3) destruction of, damage to, or interference with, critical infrastructure is often caused by persons whose activities are not permitted or authorized in, on, or near critical infrastructure.

The purpose of this chapter is to mitigate the threat of fire and other potential causes of destruction and damage to, and interference with, critical infrastructure, in order to protect the health, safety, and welfare of the public, by authorizing the removal of persons and their personal property in, on, or near critical infrastructure.

8.100.020 Definitions.

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

“Camp” means to place, pitch or occupy camp facilities; to live temporarily in a camp facility or outdoors; to use camp paraphernalia.

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

“Camp paraphernalia” includes, but is not limited to, bedrolls, tarpaulins, cots, beds, sleeping bags, hammocks, cooking facilities, and similar equipment.

“Critical infrastructure” means each of the following:

1. Levees;

2. Sloughs, rivers, canals, and waterways; or

3. Real property or a facility, whether privately or publicly owned, as approved by action of the City Council, that the City Manager designates as being so vital and integral to the operation or functioning of the City that its damage, incapacity, disruption, or destruction would have a debilitating impact on the public health, safety, or welfare.

Critical infrastructure may include, but is not limited to, government buildings, such as fire stations, police stations, jails, or courthouses; hospitals; structures, such as antennas, bridges, roads, train tracks, or drainage systems; or systems, such as computer networks, public utilities, electrical wires, natural gas pipes, telecommunication centers, or water sources; and parks.

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

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

“Garbage” means discarded household items, objects, or materials for which there is no use or reuse intended.

“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, semisolid, 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 that is not hazardous waste; manure; dirt; soil, rock, gravel, sand, or other aggregate material; and other discarded solid and semisolid waste.

“Wildfire risk area” has the same meaning as in California Code of Regulations, title 24, part 9, section 202.

8.100.030 Prohibited activities.

A. It is unlawful and a public nuisance for any person to camp, occupy camp facilities, or use camp paraphernalia, or for a property owner to allow such activity to occur, at the following locations:

1. Critical infrastructure;
2. Within 30 feet of critical infrastructure;
3. Within 30 feet of the property line of any parcel enclosing critical infrastructure;
4. Within 30 feet of a vehicular or pedestrian entrance or exit of critical infrastructure;
5. On those portions of a right-of-way that are required by local, state, or federal law to be free of obstruction to first responders, including but not limited to members of law enforcement, fire prevention, or emergency medical services agencies; or
6. In a wildfire risk area.

B. It is unlawful and a public nuisance for any person to store personal property, including camp facilities and camp paraphernalia, in the following locations without the written consent of the owner, except as otherwise provided by action of the City Council:

1. Critical infrastructure;
2. Within 30 feet of critical infrastructure;
3. Within 30 feet of the property line of any parcel enclosing critical infrastructure;
4. Within 30 feet of a vehicular or pedestrian entrance or exit of critical infrastructure;
5. On those portions of a right-of-way that are required by local, state, or federal law to be free of obstruction to first responders, including but not limited to members of law-enforcement, fire-prevention, or emergency-medical-services agencies; or
6. Wildfire risk area.

C. Nothing in this chapter is intended to prohibit or make unlawful 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 for residential or other purposes; and nothing is intended to prohibit or make unlawful the activities of a property owner or other lawful user if such activities are expressly authorized by the Stockton Development Code or other laws, ordinances, and regulations.

8.100.040 Summary abatement.

A. Any violation of section 8.100.030 may be abated by the City upon 24 hours of prior notice by way of posting notice conspicuously on or in front of property; but a violation of section 8.100.030 may be abated immediately by the City without prior notice, if the violation poses an imminent threat to public health or safety.

B. Abatement pursuant to subsection A may include, but is not limited to, removal of camp facilities, camp paraphernalia, personal property, garbage, hazardous waste, infectious waste, junk, or debris; and securing the perimeter of the property with fencing, gates, or barricades to prevent further occurrences of the nuisance activity.

8.100.050 Interference with summary abatement.

No person shall willfully prevent, delay, resist, obstruct, or otherwise interfere with a City official, employee, contractor, or volunteer in their execution of an abatement pursuant to this chapter.

8.100.060 Violation—Penalty.

A. In addition to any other remedy allowed by law, any person who violates a provision of this chapter is guilty of a misdemeanor and subject to criminal sanctions pursuant to Chapter 1.08.

B. Violations of this chapter are hereby declared to be a public nuisance.

C. Any person who violates a provision of this chapter is liable for civil penalties in the minimum amount of \$250 and a maximum amount of \$25,000 for each day a violation continues.

D. Any person who violates a provision of this chapter is subject to administrative penalties to reimburse the City for all costs, including time, services, and materials, needed to abate a violation of this chapter and hold violator(s) accountable unless the City waives such reimbursement in whole or in part. The hourly rate used to compute the time spent to investigate, document, and abate a violation for purposes of reimbursement shall be the actual costs. Costs may be assessed against the violator and the owner of property where the violation occurred as a personal obligation, lien against the subject premises, or both. Administrative penalties may be appealed within 10 calendar days from the date of a notice of violation in accordance with Chapter 1.44.

E. All remedies prescribed under this chapter are cumulative and the election of one or more remedies does not bar the City from the pursuit of any other remedy to enforce this chapter.

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SECTION II. CRITICAL INFRASTRUCTURE LIST

The City Council approves of the Critical Infrastructure List included as Attachment A to this ordinance. Properties and facilities on the Critical Infrastructure List shall be included in the definition of critical infrastructure for Chapter 8.100 of the code.

SECTION III. SEVERABILITY

If any section of this ordinance or the application thereof to any person or circumstance is held invalid, the invalidity shall not affect other provisions or applications of the act which can be given without the invalid provisions or application, and to this end the provisions of this act are severable.

SECTION IV. EFFECTIVE DATE

This ordinance shall take effect and be in full force thirty (30) days after its passage.

ADOPTED: _____

EFFECTIVE: _____

KEVIN J. LINCOLN, II
Mayor of the City of Stockton

ATTEST:

ELIZA R. GARZA, CMC
City Clerk of the City of Stockton