



AGENDA ITEM NO.

COUNCIL MEETING 06/03/08

APPROVED BY

DEPARTMENT DIRECTOR

CITY MANAGER

June 3, 2008

FROM: JAMES SANCHEZ, City Attorney 

BY: Kathryn C. Phelan, Deputy City Attorney 

SUBJECT: ORDINANCE TO ADD SECTION 5-308 TO THE FRESNO MUNICIPAL CODE RELATING TO CONDUCT ON OR ABOUT TRANSIT PROPERTY.

RECOMMENDATION

Council adopt the proposed ordinance to add Section 5-308 to the Fresno Municipal Code to add a section previously repealed during the Code Streamlining process which staff now finds is needed.

EXECUTIVE SUMMARY

On December 11, 2007, Council adopted an ordinance repealing Chapters 4 and 5 and adopting new Chapters 4 and 5 that had been cleaned up and revised as part of the Code Streamlining Project. In the readoption of Chapter 5, former Section 5-308 was repealed with City staff approval. Former Section 5-308 provided regulations prohibiting certain dangerous and/or offensive conduct on transit property, such as destroying or interfering with a City bus and/or loitering on City transit property. The proposed ordinance is intended to readopt the previously deleted language to ensure that the Fresno Police Department may continue to enforce these provisions.

BACKGROUND

On December 11, 2007, Council adopted Ordinance No. 2007-96 which became effective January 19, 2008. In that ordinance, Council repealed and readopted Chapters 4 and 5. This action was taken as part of the Code Streamlining project to clean up and revise the Fresno Municipal Code. It was recently discovered that former Section 5-308 provided many regulations prohibiting offensive and/or dangerous activities on or about City transit properties not found in Penal Code. For example, it prohibited anyone from tampering, destroying or disturbing a City bus or transit equipment. Additionally, it prohibited people from loitering on City buses and transit facilities. At the time it was repealed, staff authorized the repeal understanding that many of these violations could be enforced under State Penal Code provision. However, the Police Department reports that to ensure the public peace, health and safety it is necessary to enforce these as City ordinance violations. The City Attorney's Office prepared the proposed ordinance to reenact former Section 5-308 as the new Section 5-308 (which would be the next sequentially available section number in Article 3 of Chapter 5).

FISCAL IMPACT

None

KCP:kcp:pn[45019kcp_pn/KCP]-05/28/08

Attachment:

- 1) Proposed Ordinance Adding Section 5-308 to the Fresno Municipal Code.

BILL NO. _____

ORDINANCE NO. _____

AN ORDINANCE OF THE CITY OF FRESNO, CALIFORNIA,
ADDING SECTION 5-308 TO THE FRESNO MUNICIPAL
CODE, RELATING TO CONDUCT ON OR ABOUT TRANSIT
PROPERTY.

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

SECTION 1. Section 5-308 is added to the Fresno Municipal Code to read:

SECTION 5-308. CONDUCT ON OR ABOUT TRANSIT
PROPERTY.

(a) No person shall destroy, injure, deface, or disturb any part of a transit bus, building, sign, equipment, structure, shelter, bus bench, or other transit property;

(b) No person shall loiter on any transit bus, bus bench, shelter, or on transit property;

(c) No person shall knowingly or willfully make any false statement or report to the Director, Transit Manager, or any Supervisor or employee of transit;

(d) No person shall enter any restricted transit areas posted as being closed to the general public, except as may be authorized by the Transit Manager;

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(e) No person shall interfere or tamper with any transit bus, or put in motion such bus, or use any transit bus, part, instrument, or toll without the permission of the Transit Manager.

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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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 _____, 2008.

AYES :
NOES :
ABSENT :
ABSTAIN :

Mayor Approval: _____, 2008
Mayor Approval/No Return: _____, 2008
Mayor Veto: _____, 2008
Council Override Vote: _____, 2008

REBECCA E. KLISCH
City Clerk

BY: _____

APPROVED AS TO FORM:
CITY ATTORNEY'S OFFICE

BY:  5/28/08
Kathryn C. Phelan Date
Deputy

KCP:pn[45018pn/ORD]-rev. 5/28/08