

Subject:	Garbage Removal; Clean-up of Temporary Shelters; and Code Enforcement Abatement Procedures	Number: 6-23
		Date Issued: 08/30/07 Date Revised:
Responsible Department:	City Manager	Approved:

Purpose

The City of Fresno receives regular complaints from citizens and businesses throughout the City which relate to health and safety, and other concerns arising in and around areas in which individuals have erected temporary shelters.

By this Administrative Order, the City of Fresno sets forth its policies and procedures for cleaning up areas in which individuals have constructed temporary shelters, and expresses its intention to implement these policies in a manner which balances the needs and rights of all of its citizens, including the residents of such temporary shelters. This policy does not establish any individual right to erect temporary shelters or otherwise encroach on public or private property.

Policy

The City of Fresno shall respond to complaints and concerns arising in and around areas in which individuals have erected temporary shelters in a manner that protects the public health and safety and which complies with applicable state and federal laws.

Procedures

Procedures applicable to garbage removal, enforcement of trespass laws and the clean-up of encampments are set forth in Sections I, II and III, below. Procedures applicable to code enforcement activities are set forth in Section IV, below.

I. Garbage Removal.

A. City-Owned Property.

- (1) The City of Fresno Community Sanitation Division regularly receives requests to remove trash and debris which has accumulated in or around City owned property. The Community

Sanitation Division shall continue to receive and act upon these requests for service consistent with its historical practice. However, when the Community Sanitation Division determines that a request for service involves the removal of trash or debris occurring within 200 feet of an area which contains temporary shelters, and absent exigent circumstances, such as an immediate threat to public health or safety, such trash or debris removal shall not occur until at least three (3) days after the posting and/or service of written notice in a form substantially similar to the Notice attached hereto as Exhibit A.

- (2) The posting and/or service of said notice shall be performed in a manner which is reasonably calculated to provide effective notice to any residents of the adjacent temporary shelters. Where possible, the notice shall describe the area subject to garbage removal as clearly as possible (e.g., the east side of the 400 block of Olive Avenue.)
- (3) As part of the removal of any trash and/or debris, the City of Fresno shall not destroy any materials of apparent value which appear to be the personal property of any individual. Personal property of apparent value may include clothing, shoes, jackets, tents, sleeping bags, bed rolls, blankets, backpacks, duffel bags, bicycles, tools, watches, jewelry, audio and video equipment, medications, toiletries, eyeglasses, purses, handbags, personal papers, equipment, photographs, books and baby strollers.
- (4) Trash and debris includes property that appears to have been discarded by its owner, but the fact that property is unattended does not necessarily mean that it has been discarded. Reasonable doubt about whether property is "trash or debris" or valuable property should be resolved in favor of the conclusion that the property is valuable and has not been discarded.

B. Private Property, Including Public Property Not Owned by the City.

The City will not respond to requests by private property owners, or owners of public property not owned by the City, to remove junk, trash and/or debris accumulated on private property unless a clean-up effort has been approved, in advance, by the City Manager's Office. In instances in which such approval is granted, and the request for services involves the removal of trash or debris occurring within 200 feet of an area which contains temporary shelters, the City will follow the notice procedure set forth in Section I, A, above.

II. Clean-Up(s)

A. Private Property, Including Public Property Not Owned by the City.

The City of Fresno regularly receives complaints from residents and business owners regarding the existence of temporary encampments constructed by individuals that have no legal right or permission to occupy the property. These complaints include a broad range of issues, including, but not limited to, loitering, trespass, drug sales and use, prostitution, assault and the accumulation of trash and debris.

(1) In situations where the City of Fresno has received complaints regarding alleged criminal activity at temporary encampments established on private property, the Police Department will respond to and handle the situation in accordance with current policy.

(2) The City will not respond to a request by private property owner to remove junk, trash and/or debris left behind on private property unless a clean up effort has been approved, in advance, by the City Manager's Office. In instances in which such approval is granted, the removal of trash and debris on private property shall be performed as set forth in Section III, A, below.

B. City-Owned Property.

(1) In situations in which the City of Fresno has received complaints regarding alleged criminal activity at temporary encampments established on City-owned property, the Police Department will respond to and handle the situation in accordance with current policy.

(2) If a clean-up involves the collection of personal property value, then the procedures set forth in Section III below will be followed. If the City desires to remove garbage in conjunction with any such action, it shall follow the procedures in Section I above.

III. Clean-up of Encampments.

For encampments of ten (10) or more individuals which have been in place for more than ten (10) days, the City shall seek to provide the residents of such encampments at least seven days advance notice of the need to vacate said property by posting and serving written notice in a form substantially similar to the Notice attached hereto as Exhibit B.

A. Clean-up of Encampments on City-Owned Property.

(1) In situations in which the City of Fresno intends to clean areas where an encampment is located on City-owned property, the City will provide written notice of the intended clean-up in a form substantially similar to the Notice attached as Exhibit C. The City of Fresno will collect and dispose of any junk, garbage and/or debris in the area and will also collect and store any unattended personal property of value (as described in Section II, B(2) above). Personal property collected by the City will be stored for ninety (90) days without charge, during which time said property shall be available to be reclaimed by the subject owner. After the expiration of ninety (90) days, any unclaimed property will be destroyed.

(2) The posting and service of said notice shall be performed in a manner which is reasonably calculated to provide effective notice to the residents of the temporary shelters, and to the extent possible, the notice shall describe the area subject to the clean-up effort as clearly as possible. The notice shall also be served by hand delivery and/or facsimile on the organizations that assist residents of temporary shelters including, but not limited to: The Fresno Rescue Mission, The Poverello House, St. Benedict Catholic Workers, Central California Legal Services and the Community Alliance Newspaper.

B. Clean-up of Encampments on Private Property, Including Public Property Not Owned by the City.

Request by property owners to enforce trespass laws may be reported to the Police Department or the City Manager's Office. The Police Department will respond to and handle the situation in accordance with current policy. However, the City will not respond to a request by a private property owner to clean-up encampments located on private property unless the clean-up request has been approved, in advance, by the City Manager's Office. In instances in which such approval is granted, clean-up of encampments on private property shall be performed as set forth in Section III, A, above.

IV. Code Enforcement.

A. It is anticipated that the City of Fresno will, from time to time, pursue code enforcement activities concerning the abatement of a public nuisance which includes temporary encampments constructed by individuals. These activities may include, but are not limited to, weed abatement, the

collection and disposal of junk, garbage and/or debris, as well as the collection and disposal of personal property in and around the area of encampments.

- B.** In situations where code enforcement activities to abate a public nuisance involve the collection of personal property of value (as described in Section II, B(2) above) which reasonably appears to belong to an individual, the City will provide at least a three to seven day written notice of the intended clean-up in a form substantially similar to the Notice attached hereto as Exhibit D, and which, to the extent possible, shall describe the areas subject to the code enforcement activities as clearly as possible.
- C.** At the time the City abates the subject nuisance, it will collect and dispose of any junk, garbage and/or debris in the area and will also collect and store any unattended personal property which reasonably appears to belong to an individual. Personal property collected by the City as part of an abatement effort will be stored for ninety (90) days without charge, during which time it shall be available to be reclaimed by the subject owner. After the expiration of ninety (90) days, any unclaimed property will be destroyed.

NOTICE OF GARBAGE REMOVAL

PLEASE TAKE NOTICE:

That on [_____ insert date _____] at [__ insert time __], the City of Fresno will remove and destroy garbage that has accumulated in the area of [_____ insert address _____].

The City will not remove or destroy the personal property of any individuals. However, to avoid any confusion, please move any personal property you may have away from any garbage piles located in this area. If you have any concerns or comments, please contact [_____ person and title _____] at [_____ address and phone number _____].

NOTICE OF TRESPASS

PLEASE TAKE NOTICE:

The City of Fresno has received complaints concerning individuals who are loitering near or residing in temporary shelters that have been constructed in the vicinity of [_____ insert address _____]. Any individual loitering or residing in this area may be trespassing, and must immediately move off this site and remove any personal property they own.

On [_____ insert date _____], at [_____ insert time _____], the City of Fresno will seek the voluntary cooperation of any individuals who remain on site to relocate, and will enforce trespass laws against any individual who fails or refuses to move off this site.

If you have any questions or comments, please contact [_____ person and title _____] at [_____ address and phone number _____].

NOTICE OF TRESPASS AND CLEAN-UP

PLEASE TAKE NOTICE:

The City of Fresno has received complaints concerning individuals who are loitering near or residing in temporary shelters that have been constructed in the vicinity of [_____ insert address _____].

Any individuals loitering or residing in this area may be trespassing, and will need to immediately move off this site and remove any personal property they own.

On [_____ insert date _____], at [_____ insert time _____], the City of Fresno will conduct a clean-up of the area, including the removal of all individuals, personal property, temporary shelters, junk and/or garbage from this area. Individuals wishing to reclaim personal property collected by the City as part of the clean-up project may do so by contacting [_____ person and title _____] at [_____ address and phone number _____] for a period of ninety (90) days following [_____ date of clean-up _____].

Personal property collected by the City shall be stored, without charge, for ninety (90) days. After ninety (90) days, any unclaimed property will be thrown away.

NOTICE OF CODE ENFORCEMENT AND CLEAN-UP

PLEASE TAKE NOTICE:

The City of Fresno will be enforcing the Fresno Municipal Code which requires the removal of accumulated junk, property and/or garbage in the vicinity of [_____ insert address _____], including any temporary shelters. Any individuals who are residing or storing property in this area are in violation of the Fresno Municipal Code and will need to immediately move off this site and remove any personal property they own.

On [_____ insert date _____], at [_____ insert time _____], the City of Fresno will conduct a clean-up of the area, including the removal of all individuals, personal property, temporary shelters, junk and/or garbage from this area. Individuals wishing to reclaim personal property collected by the City as part of the clean-up project may do so by contacting [_____ person and title _____] at [_____ address and phone number _____] for a period of ninety (90) days following [_____ date of clean-up _____].

Personal property collected by the City shall be stored, without charge, for

ninety days. After ninety (90) days, any unclaimed property will be thrown away.

If you have any questions or comments, please contact [person
 and title] at [address and phone number].