

**FREMONT CITY COUNCIL SPECIAL MEETING
JUNE 2, 2020**

TELECONFERENCING VIA ZOOM

Immediately following Adjournment of the 7 PM City Council Meeting

1. Preliminary

- A. Call to Order
- B. Roll Call

2. Staff Report

- A. **ADOPT A RESOLUTION RATIFYING THE DIRECTOR OF EMERGENCY SERVICES PROCLAMATION AND ORDER OF PROCLAIMING THE EXISTENCE OF A LOCAL EMERGENCY, DECLARING A CURFEW AND AUTHORIZING STREET CLOSURES**

Contact Person:

Name: Trisha Ortiz

Title: Assistant City Attorney

Div/Dept: City Attorney's Office

Phone: 510-284-4030

E-Mail: tortiz@fremont.gov

RECOMMENDATION: Adopt a resolution ratifying EO 2020-05.

3. Adjournment

ADOPT A RESOLUTION RATIFYING THE DIRECTOR OF EMERGENCY SERVICES PROCLAMATION AND ORDER OF PROCLAIMING THE EXISTENCE OF A LOCAL EMERGENCY, DECLARING A CURFEW AND AUTHORIZING STREET CLOSURES

Contact Person:

Name: Trisha Ortiz
Title: Assistant City Attorney
Div/Dept: City Attorney's Office
Phone: 510-284-4030
E-Mail: tortiz@fremont.gov

Executive Summary: On June 1, 2020 the City Manager, in his capacity as the Director of Emergency Services, proclaimed a local state of emergency in the City of Fremont due to large scale and recurring incidents of civil unrest occurring in the City and surrounding cities, which resulted shootings, injuries, fires, looting, rioting and firearm offenses.

BACKGROUND: Fremont Municipal Code section 2.20.110 empowers the City Manager, serving as the Director of Emergency Services, to proclaim the existence of a local emergency when the Council is not in session. Thereafter, the Council must act to ratify the proclamation of a local emergency within seven days after its announcement.

A disaster declaration allows public officials to exercise emergency powers to preserve life, property and public health in response to a disaster. These powers include ordering curfews and the closure of streets.

Given the status of a rapidly changing public safety, making a local emergency declaration will provide greater latitude and authority for the City Manager to make important and timely public safety decisions.

DISCUSSION/ANALYSIS: As Director of Emergency Services, the City Manager has determined that the proclamation of a local emergency is warranted by virtue of the extreme peril and threat of peril to the safety of persons and property in the City caused by large scale and recurring incidents of civil unrest occurring in the City and surrounding cities, which resulted shootings, injuries, fires, looting, rioting and firearm offenses. The efforts required to prepare for, respond to, mitigate, and recover from civil unrest and looting, as well as the spread of COVID-19 infections among participants in large gatherings impose extraordinary burdens on City resources and expenses on the City, thereby diverting resources from day-to-day operations, mutual aid assistance, and efforts to contain the COVID-19 pandemic. Therefore, the City Manager has found it necessary to use extraordinary measures to protect the public peace, safety, and welfare, which measures include a curfew and street closures.

The City Manager issued EO 2020-05 (i) to establish a curfew Citywide from June 1, 2020 through June 8, 2020, from the hours of 8 pm to 5 am, (ii) to establish road closures at Pacific Commons, Christy Street, south of Auto Mall, Pacific Commons Blvd, from Auto Mall to Bunche Drive, Boscell Rd, from Auto Mall to Bunche Drive, Cushing Parkway, from Auto Mall to Bunche Drive (both directions) and Nobel Drive, from Auto Mall to Bunche Drive, and (iii) to delegate authority to the Chief of Police to issue additional orders for the protection of life and property.

FISCAL IMPACT: Fiscal impacts are difficult to determine at this time. The City will consider all options available under law to seek reimbursement for expenses through the appropriate authority with jurisdiction over these matters.

ATTACHMENTS:

- Draft Resolution- Ratifying the Proclamation of a Local Emergency and Order Declaring a Curfew and Authorizing Street Closures
- City of Fremont Director of Emergency Services EO 2020-05

RECOMMENDATION: Adopt a resolution ratifying EO 2020-05.

DRAFT

RESOLUTION NO. 2020-XX

**RESOLUTION OF THE CITY COUNCIL OF THE CITY OF
FREMONT RATIFYING THE DIRECTOR OF EMERGENCY
SERVICES PROCLAMATION AND ORDER PROCLAIMING THE
EXISTENCE OF A LOCAL EMERGENCY, DECLARING A
CURFEW AND AUTHORIZING STREET CLOSURES**

WHEREAS, Fremont Municipal Code Section 2.20.110 empowers the City Manager in his capacity as the Director of Emergency Services to proclaim the existence of a local emergency when the Council is not in session. Thereafter, the Council must act to ratify the proclamation of a local emergency within seven days after its issuance; and

WHEREAS, in the event of a proclamation of a local emergency, Fremont Municipal Code Section 2.20.110 empowers the Director of Emergency Services to make and issue rules and regulations on matters reasonably related to the protection of life and property as affected by such emergency, provided, however, such rules and regulations must be confirmed at the earliest practicable time by the City Council; and

WHEREAS, on June 1, 2020 the Director of Emergency Services issued EO 2020-05 to proclaim a local emergency due to large scale and recurring incidents of civil unrest occurring in the City and surrounding cities, which resulted in shootings, injuries, fires, looting, rioting and firearm offenses; and

WHEREAS, EO 2020-05 further declared a curfew, authorized street closures and delegated to the Chief of Police of the Fremont Police Department the authority to issue additional orders for the protection of life and property.

NOW, THEREFORE, BE IT RESOLVED that the City Council of the City of Fremont hereby confirms and ratifies the local emergency proclaimed by the Director of Emergency Services on June 1, 2020; and

BE IT FURTHER RESOLVED that during the existence of the local emergency, the powers, functions, and duties of the Director of Emergency Services and the City's emergency organization shall be those prescribed by state law, local ordinances and resolutions, and county orders as applicable; and

BE IT FURTHER RESOLVED that the City Council authorizes and directs the City Administrator or designee, to issue emergency orders that are

necessary to protect the life and safety of City occupants and property within the City. The City Council further directs the City's emergency organization to take all steps necessary and reasonable to protect public health, safety and property in the City; and

BE IT FURTHER RESOLVED that the City Council hereby confirms and ratifies the curfew, street closures and delegation to the Chief of Police of the Fremont Police Department the authority to issue additional orders for the protection of life and property as provided in EO 2020-05; and

BE IT FURTHER RESOLVED that the local emergency shall continue until such time when the Fremont City Council terminates the emergency. The City Council shall review the need for continuing the local emergency as required by law.

ADOPTED, _____, 2020, by the City Council of the City of Fremont by the following vote:

AYES:

NOES:

ABSENT:

ABSTAIN:

Mayor

ATTEST:

APPROVED AS TO FORM:

City Clerk

City Attorney



Office of the City Manager

3300 Capitol Avenue, Building A | P.O. Box 5006, Fremont, CA 94537-5006

510 284-4000 *ph* | 510 284-4001 *fax* | www.fremont.gov

**CITY OF FREMONT
DIRECTOR OF EMERGENCY SERVICES
EO 2020-05**

EMERGENCY PROCLAMATION AND ORDER OF THE CITY MANAGER/DIRECTOR OF EMERGENCY SERVICES PROCLAIMING THE EXISTENCE OF A LOCAL EMERGENCY, DECLARING A CURFEW AND AUTHORIZING STREET CLOSURES

WHEREAS, I am the City Manager for the City of Fremont, and in my capacity as the Director of Emergency Services I am empowered to proclaim a local emergency and to make and issue emergency orders, rules, and regulations to protect life and property and to combat, prevent, and mitigate the impacts of an emergency in accordance with state law and Fremont Municipal Code Chapter 2.20; and

WHEREAS, as the Director of Emergency Services of the City, I find the following:

1. On May 25, 2020, George Floyd tragically died in Minneapolis, Minnesota, shortly following his arrest in which an officer of the Minneapolis Police Department knelt on his neck to detain him during the arrest, and did not respond to Mr. Floyd's requests for help and statements that he could not breathe; and
2. Following the incident, protests and marches have taken place in many cities throughout the country, and recent protests in Newark, Oakland, Vallejo, San Leandro, San Francisco, Emeryville, San Jose, Walnut Creek, and other nearby cities have been violent and have resulted in civil unrest, shootings, injuries, fires, looting and rioting; and
3. The Fremont Police Department has and continues to provide mutual aid to other cities that are experiencing civil unrest, shootings and rioting; and
4. Civil unrest incidents involving looting, shootings, armed robberies, armed burglaries, and attempts to steal firearms have now occurred in Fremont, and the Police Department anticipates the civil unrest, shootings, injuries, fires, looting and rioting from nearby cities will continue to spread to Fremont; and

WHEREAS, the City is already operating under a local emergency due to the COVID-19 pandemic, and the gathering of large crowds threatens the health of participants and could lead to the spread of the disease; and

WHEREAS, the above facts give rise to conditions of extreme peril to the safety and health of persons and to property within the City, including the continuing spread of COVID-19 infections; and

WHEREAS, these conditions are or are likely to be beyond the control of the services, personnel, equipment, and facilities of the City; and

WHEREAS, the efforts required to prepare for, respond to, mitigate, and recover from civil unrest and looting, as well as the spread of COVID-19 infections among participants in large gatherings will impose extraordinary burdens on City resources and expenses on the City, thereby diverting resources from day-to-day operations, mutual aid assistance, and efforts to contain the COVID-19 pandemic; and

WHEREAS, due to the above conditions of extreme peril, I find it necessary and appropriate to proclaim a second local emergency and use extraordinary measures to protect the public peace, safety, and welfare; and

WHEREAS, time is of the essence due to the perils resulting from the threat of this emergency and the Fremont City Council is not in session and cannot immediately be called into session;

NOW, THEREFORE, based on the above recitals which I believe to be true and correct, and reports of ongoing incidents of civil unrest and looting in the area, I order and declare that a public safety emergency now exists throughout the City and call upon the City's emergency organization to exercise its powers, functions, and duties as prescribed by state law, by ordinance and by resolutions of this City.

I FURTHER ORDER AND DECLARE that due to the threat of and actual civil unrest surrounding the protests and the need to protect the safety of persons and property within the City, there exists the need to impose a citywide curfew within the City of Fremont, and that the following curfew order is hereby imposed as follows:

1. **A citywide curfew is hereby imposed in the City of Fremont from June 1, 2020 through June 8, 2020, from the hours of 8 pm to 5 am.**
2. During this time no person shall be upon the public street, avenue, alley, park, or other public place or unimproved public realty in the City.
3. The law enforcement personnel of this City along with other law enforcement authorities cooperating with the City are hereby authorized and charged to the extent provided by law with the duty to enforce this curfew, and are further authorized to arrest or issue a citation to any person who does not obey this curfew after due notice, oral or written, has been given to that person.
4. A violation of the curfew may be punishable as a misdemeanor in accordance with state law or pursuant to Fremont Municipal Code Chapter 1.15.
5. The curfew also may be enforced through the issuance of administrative citations pursuant to Fremont Municipal Code Chapter 1.20.
6. The curfew does not apply to law enforcement personnel, firefighters, first responders, emergency health care providers, civilians officially engaged in responding to the emergency, persons traveling to and from work or for medical reasons, persons impacted by homelessness, and authorized representatives of a news service, newspaper, radio or television station or network.

7. The curfew order will remain in effect until 5:01 am on Monday, June 8, 2020 unless otherwise terminated earlier or extended by the City Council or order of the Director of Emergency Services.

I FURTHER ORDER AND DECLARE that the following road closures are authorized and will remain in place during the dates and times of the curfew order, unless otherwise provided by subsequent order of the Chief of Police of the Fremont Police Department:

Road Closures - Pacific Commons

Christy Street, south of Auto Mall

Pacific Commons Blvd, from Auto Mall to Bunche Drive

Boscell Rd, from Auto Mall to Bunche Drive

Cushing Parkway, from Auto Mall to Bunche Drive (both directions)

Nobel Drive, from Auto Mall to Bunche Drive

I FURTHER ORDER AND DECLARE that I delegate to the Chief of Police of the Fremont Police Department the authority to issue additional orders for the protection of life and property.

I FURTHER ORDER AND DECLARE that the law enforcement forces of this City are authorized and charged with the responsibility to enforce this emergency order and regulation. These law enforcement forces are further authorized to cite, arrest and take other appropriate measures against persons who disobey this regulation after due notice, either oral or written, has been given. Enforcement of this order shall be in accordance with law and with the emergency proclamations, powers, and orders issued by the State of California, the County of Alameda, and the City of Fremont. Violations of this order are punishable by law.

I FURTHER ORDER AND DECLARE that this emergency order and any orders and regulations issued during the local emergency shall receive widespread publicity and notice.

Issued on this 1st day of June 2020, at 1:45 PM.



Mark Danaj
City Manager/Director of Emergency Services