ORDINANCE NO. 02-2023

AN ORDINANCE OF THE CITY OF FREMONT AMENDING FREMONT MUNICIPAL CODE TITLE 6, SECTION 6.05.010, ADDING SECTION 6.10.140 AND REPEALING SECTION 6.40.040

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

SECTION 1. FMC TITLE 6, ANIMALS, CHAPTER 6.05, SECTION 6.05.010

Fremont Municipal Code Title 6, Chapter 6.05, Section 6.05.010 is amended to add the following definitions:

(v) “Apiary” or “apiaries” means a place where honey bees (apis mellifera) are kept; a collection of beehives. “Beekeping” is included under this definition.

(w) “Beehive” or “beehives” means the box or boxes in which honeybees are kept and from which honey and honeycomb are collected.

(x) “Responsible beekeeper” means the person or entity responsible for the placement, maintenance and safety of any individual hive or apiary.

SECTION 2. FMC TITLE 6, ANIMALS, CHAPTER 6.10, SECTION 6.10.140

Fremont Municipal Code Title 6, Chapter 6.10, Section 6.10.140 is added to read as follows:

Section 6.10.140 Bees.

(a) The installation and maintenance of apiaries does not require a permit or registration with the city. All apiaries must be registered with Alameda County (Food & Agriculture code section 29040 et seq.) and all beekeeping equipment and beehives must be maintained in good condition with adequate space and management techniques to prevent overcrowding and swarming.

(b) All properties on which beehives are kept must provide for adequate water sources on the property at all times of year and must ensure that they do not become a mosquito-breeding site. Adequate sources are those that provide both an amount of water necessary for the number of bees or beehives and a method for the bees to safely access the water.

(c) All apiaries shall be maintained and placed in a manner that encourages bees to disperse, rather than concentrate, before potentially encountering neighbors or other members of the public. Implementing at least one of the following strategies to disperse bees is required. Additional measures to disperse bees may be required as determined by the Animal Services Manager:

(1) Managing the direction and angle of the bee flyway from the entrance of the hive by properly siting and orienting the hives, and by using flyway barriers as needed to modify the departure angle, such that bees reach a height of eight or more feet above the ground.
(2) Placing beehive boxes at least five feet from property lines.

(3) Placing beehives behind a barrier at least six feet in height consisting of an impenetrable structure not limited to a fence, wall, building or dense vegetation. Fences, walls, and vegetation used to meet this standard shall also comply with Chapter 18.171, and accessory buildings used to meet this standard shall comply with Chapter 18.153.

(d) In Single Family Dwelling lots, beehives shall not be located within 5 feet of any property line.

(e) Before beehives can be placed on Multiple Dwelling lots, the responsible beekeeper shall first obtain written consent from the property owner, or the homeowner’s association where one exists, and shall provide written notice to all current residents and owners of the residential development that are within a one hundred fifty-foot radius of the hive placement site. The notice must include, but is not limited to, the specific location of the beehive(s); the name, telephone, and email contact information for the beekeeper; the name, telephone, and email contact information of the property owner or homeowner’s association where the beehive(s) will be located; and the date on which the beekeeper plans to request permission from the property owner or homeowner’s association for the beehive. The notification must be provided to neighbors at least ten days prior to beekeeper submitting the request for permission to have a beehive(s) on the property owner or homeowner’s association. The responsible beekeeper must also clearly stencil their name and phone number on the beehive’s exterior.

(f) Within Dwelling Group or similar developments, such as townhouses, beehives shall not be placed within five feet of any private balcony, private yards, or common open space except for those spaces exclusively owned or leased by the responsible beekeeper.

(g) Failure to keep bees in accordance with this section is a public nuisance subject to abatement under Municipal Code Chapters 8.05 (Nuisance Conditions on Private or Public Property), 8.10 (Nuisance Response), and 8.60 (Neighborhood Preservation).

SECTION 3. FMC TITLE 6, ANIMALS, CHAPTER 6.40, SECTION 6.40.040

Fremont Municipal Code Title 6, Chapter 6.40, Section 6.40.040 is hereby repealed.

SECTION 4. CEQA

The amendments to the Animal Ordinance, an administrative government activity, is not subject to the California Environmental Quality Act (CEQA) pursuant to CEQA Guidelines Section 15061(b)(3) in that the activity is covered by the general rule that CEQA applies only to projects which have the potential for causing a significant effect on the environment. Where it can be seen with certainty that the there is no possibility that the activity in question may have a significant effect on the environment, the activity is not subject to CEQA. The amendments to the Animal Ordinance will clearly not have a significant effect on the environment and, thus, CEQA does not apply.
SECTION 4. SEVERABILITY

If any section, subsection, sentence, clause or phrase of this Ordinance is for any reason held by a court of competent jurisdiction to be invalid, such a decision shall not affect the validity of the remaining portions of this Ordinance. The City Council of the City of Fremont hereby declares that it would have passed this Ordinance and each section or subsection, sentence, clause and phrase thereof, irrespective of the fact that any one or more sections, subsections, sentences, clauses or phrases be declared invalid.

SECTION 5. EFFECTIVE DATE

This ordinance shall take effect and will be enforced thirty (30) days after its adoption.

SECTION 6. PUBLICATION AND POSTING

The City Clerk has prepared and published at least five days before the date of adoption, this ordinance once in a newspaper of general circulation printed and published in Alameda County and circulated in the City of Fremont. A certified copy of the full text of the ordinance was posted in the office of the City Clerk since at least five days before this date of adoption. Within fifteen (15) days after adoption of this ordinance, the City Clerk shall cause this ordinance to be published again with the names of those City Council members voting for and against the ordinance. The City Clerk shall post in the office of the City Clerk a certified copy of the full text of this adopted ordinance with the names of those City Council members voting for and against the ordinance.

***

The foregoing ordinance was introduced before the City Council of the City of Fremont at the regular meeting of the City Council, held on the 21st of February, 2023 and finally adopted at a regular meeting of the City Council held on the 7th day of March, 2023 by the following vote:

AYES: Mayor Mei, Vice Mayor Keng, Councilmembers Campbell, Kassan, Shao, Salwan and Cox

NOES: None

ABSENT: None

ABSTAIN: None

[Signature]
Mayor