

Title 2

ADMINISTRATION AND FINANCE

Chapters:

- 2.05 City Council and Mayor**
- 2.10 City Manager**
- 2.15 Finance Director**
- 2.20 Departments, Boards and Commissions**
- 2.25 Personnel**
- 2.30 Campaign Contribution Limitations in Municipal Elections**
- 2.35 Administrative Operations**
- 2.40 Prohibitions on Former City Officials and on Designated Former Employees**
- 2.45 Electronic Filing**

Chapter 2.05

CITY COUNCIL AND MAYOR

Sections:

- 2.05.010 Time of regular meetings of council – Council recesses.
- 2.05.020 *Reserved.*
- 2.05.030 Place of council meetings.
- 2.05.040 Place of regularly scheduled study sessions.
- 2.05.050 Special meetings of council.
- 2.05.060 Compensation of mayor and councilmembers.
- 2.05.070 Reimbursement.
- 2.05.080 General municipal election date to fill city council offices.
- 2.05.090 Filling council vacancies.
- 2.05.100 Term limits.
- 2.05.110 Term of office for mayor and councilmembers.
- 2.05.120 By-district electoral system for six city councilmembers.
- 2.05.130 Establishment of city council electoral districts.
- 2.05.140 Election schedule for councilmembers elected by district.

2.05.010 Time of regular meetings of council – Council recesses.

The regular meetings of the city council shall be held on the first three Tuesdays of each month at 7:00 p.m.; provided, that when any such regular meeting time falls on a public holiday, no regular meeting shall be held on that day, but shall be held on the next business day as specified by the city council to be held as an adjourned regular meeting prior to the next regular meeting. The council shall be in recess for the first, second, third and fourth Tuesdays in August, and the fourth Tuesday in December. (Ord. 44 § 1a; Ord. 120 § 1; Ord. 341 § 1; Ord. 357 § 1; Ord. 1605 § 1, 4-10-84; Ord. 2029 § 1, 4-20-93; Ord. 2227 § 1, 3-11-97; Ord. 9-2011 § 1, 7-12-11; Ord. 10-2017 § 1, 6-13-17. 1990 Code § 2-1100.)

2.05.020 Reserved.

Repealed by Ord. 10-2017. (Ord. 2330 § 1, 4-27-99; Ord. 2332 § 1, 5-18-99; Ord. 2373 § 1, 1-11-00; Ord. 2385 § 1, 6-13-00; Ord. 9-2011 § 2, 7-12-11. 1990 Code § 2-1100.1.)

2.05.030 Place of council meetings.

All regular meetings of the council shall be held in the city council chamber in the Fremont City Hall, 3300 Capitol Avenue, Fremont, California. (Ord. 44 § 1b; Ord. 341 § 1; Ord. 690 § 1; Ord. 2475 § 1, 7-9-02; Ord. 10-2017 § 1, 6-13-17. 1990 Code § 2-1101.)

2.05.040 Place of regularly scheduled study sessions.

Regularly scheduled study sessions shall be held in the city council chamber in the Fremont City Hall, 3300 Capitol Avenue, Fremont, California. (Ord. 2330 § 2, 4-27-99; Ord. 2385 § 2, 6-13-00; Ord. 2475 § 2, 7-9-02; Ord. 10-2017 § 1, 6-13-17. 1990 Code § 2-1101.1.)

2.05.050 Special meetings of council.

At any time, four city councilmembers, or the mayor, or in his/her absence from the city or his/her disability, the mayor pro tempore, may call a special meeting by delivering written notice to each councilmember and to each local newspaper of general circulation, radio or television station requesting notice in writing and posting a notice on the city’s website. Such notice must be delivered personally or by any other means at least 24 hours before the time of such meeting as specified in the notice. Each councilmember shall at all times have on file with the city clerk an address to which such notices may be mailed in compliance herewith. The call and notice shall specify the time and place of the special meeting and the business to be transacted. No other business shall be considered at such meetings by the council. Written notice may be dispensed with as to any councilmember who at or prior to the time the meeting convenes files with the city clerk a written waiver of notice. The waiver may be given by telegram. The written notice may also be dispensed with as to any member who is actually present at the meeting at the time it convenes. All special meetings shall be held at the same place as provided in this chapter for the holding of regular meetings of the council and at such hour as is designated in the notice and call. (Ord. 44 § 2; Ord. 341 § 1; amended during 2012 reformat; Ord. 10-2017 § 1, 6-13-17. 1990 Code § 2-1102.)

2.05.060 Compensation of mayor and councilmembers.

- (a) Each member of the council other than the mayor shall receive a salary of \$2,427.76 per month.

- (b) The mayor shall receive a salary of \$4,313.28 per month.
- (c) Compensation increases shall be reviewed during each budget cycle and increases shall be considered commensurate with the Consumer Price Index – All Urban Consumers, San Francisco-Oakland-Hayward Metropolitan Area in an amount not to exceed four percent. Any increase to the councilmembers' salaries shall become effective only upon commencement of a new council term of office following adoption of an ordinance authorizing the increase. Any increase to the mayor's additional compensation (the amount that exceeds the councilmembers' salary amount) shall become effective as set forth in the ordinance adopting the increase. (Ord. 676 § 3; Ord. 1729 § 1, 6-8-86; Ord. 2192 § 1, 9-3-96; Ord. 2215 §§ 1, 2, 1-14-97; Ord. 2241 § 1, 5-20-97; Ord. 2245 § 1, 6-17-97; Ord. 2434 § 1, 11-5-02; Ord. 3-2012 § 1, 3-20-12; Ord. 31-2014 § 1, 10-14-14; Ord. 29-2016 § 1, 12-6-16; Ord. 10-2017 § 1, 6-13-17; Ord. 17-2018 § 1, 7-3-18; Ord. 08-2022 § 1, 9-6-22. 1990 Code § 2-1103.)

2.05.070 Reimbursement.

The salaries prescribed for councilmembers in Section 2.05.060 are and shall be exclusive of any amounts payable to each member of the council as reimbursement for actual and necessary expenses incurred by him/her in the performance of official duties for the city. (Ord. 676 § 3; amended during 2012 reformat; Ord. 10-2017 § 1, 6-13-17. 1990 Code § 2-1104.)

2.05.080 General municipal election date to fill city council offices.

Pursuant to Cal. Gov't Code § 36503, the general municipal election of the city of Fremont shall be held on the same day as the statewide general election, as set forth in Cal. Elec. Code § 1301. (Ord. 1500 § 2, 4-27-82; Ord. 1977 § 2(a), 8-13-91; Ord. 10-2017 § 1, 6-13-17. 1990 Code § 2-1105.)

Editor's Note: Section 2.05.080 was originally adopted by Ord. No. 1500 following an advisory vote of the voters of the city of Fremont in April 1982, changing the general municipal election date from April in even-numbered years to November in odd-numbered years (the first election under this provision was held in November 1983, and the last in November

1991). Section 2.05.080 was amended by Ord. No. 1977, subject to the approval of and subsequently approved by the voters of the city of Fremont in November 1991, voting on a binding nonadvisory measure, changing the general municipal election date from November in odd-numbered years to same day as the statewide general election which, pursuant to Cal. Elec. Code § 1301, is held on the first Tuesday after the first Monday in November in each even-numbered year (the first election under this provision was set for November 1994). Ord. No. 1977 set forth numerous findings in support of changing the date of the general municipal election to the same day as the statewide general election, including the larger number of voters participating in consolidated elections for national, state, regional and local agency candidates and measures; the cost benefits of consolidated elections; and the general benefits of consolidating the general municipal election with the governing board elections of several other local agencies with the same or substantially the same electorate (in 1991, this included the Alameda County water district, Fremont unified school district, Fremont-Newark (Ohlone) community college district, and the Washington Township hospital district).

2.05.090 Filling council vacancies.

- (a) If a vacancy occurs in an office of councilmember, the city council shall, within 60 days from the commencement of the vacancy, either fill the vacancy by appointment or call a special election to fill the vacancy. If the council fills the vacancy by appointment, the person appointed shall reside in the council district where the vacancy occurred and hold office as set forth in Cal. Gov't Code § 36512(b)(2).
- (b) If the vacancy in an office of councilmember is due to resignation, the resigning city council member may cast a vote on the appointment if the resignation will go into effect upon the appointment of a successor subject to the limitations set forth in Cal. Gov't Code § 36512(e).
- (c) If a vacancy occurs in the office of the mayor, the council shall fill the vacancy by appointment in accordance with Cal. Gov't Code § 34902. If the council fails to fill it within 60 days, it shall call an election to fill the vacancy to be held on the next established election date to be held not less than 114 days thereafter. A person appointed or elected to fill a vacancy shall hold office for the unexpired term of the former incumbent.

- (d) If the council calls a special election, the special election shall be held on the next regularly established election date not less than 114 days from the call of the special election. A person elected to fill a vacancy shall reside in the council district where the vacancy occurred and hold office for the unexpired term of the former incumbent. (Ord. 1992 § 1, 1-14-92; Ord. 2037 § 1, 7-13-93; Ord. 1-2013 § 5, 2013; Ord. 10-2017 § 1, 6-13-17. 1990 Code § 2-1106.)

2.05.100 Term limits.

- (a) No mayor who has served terms comprising eight consecutive years as mayor shall be qualified for further service in that office until he or she has a break in service in that office of at least four years.
- (b) No councilmember who has served terms comprising eight consecutive years as a councilmember shall be qualified for further service in that office until he or she has a break in service in that office of at least four years.
- (c) The disqualifications imposed by this section shall not prevent a person who is disqualified from serving as mayor from serving as a councilmember or a person who is disqualified from serving as a councilmember from serving as mayor. However, any person who has served terms comprising 16 consecutive years in the offices of mayor and councilmember shall be disqualified from further service in either office until he or she has a break in service from both offices of at least four years.
- (d) Time spent in office while serving less than a full term shall not be counted in computing consecutive years in any office.
- (e) Time spent in office prior to the enactment of this section shall not be counted in computing consecutive years in any office.
- (f) In computing the number of years served, full, four-year terms shall count as four years of service even though the period encompassed by such terms may not be exactly four years in duration. (Ord. 2210 § 1, 12-3-96; Ord. 2387 § 1, 6-27-00; Ord. 10-2017 § 1, 6-13-17. 1990 Code § 2-1107.)

2.05.110 Term of office for mayor and councilmembers.

The term of office for the mayor and each councilmember shall be four years. (Ord. 2387 § 2, 6-27-00; Ord. 10-2017 § 1, 6-13-17. 1990 Code § 2-1108.)

2.05.120 By-district electoral system for six city councilmembers.

- (a) Pursuant to Cal. Gov't Code §§ 34886 and 34871(c), councilmembers shall be elected by districts in six single-member districts. The mayor will be separately elected by a citywide vote.
- (1) Beginning with the general municipal election in November 2018, councilmembers shall be elected in the electoral districts established by Section 2.05.130 and as subsequently reapportioned as provided by state law. Elections shall take place on a by-district basis as that term is defined in Cal. Gov't Code § 34871; meaning one member of the city council shall be elected from each district, by the voters of that district alone, except for the mayor, who shall be elected citywide. In accordance with Section 2.05.110, and except as provided in Section 2.05.140(b), each councilmember, including the mayor, shall serve a four-year term until his or her successor has qualified.
- (2) Except as provided in subsection (a)(3) of this section, the councilmember elected to represent a district must reside in that district and be a registered voter in that district, and any candidate for city council must live in, and be a registered voter in, the district in which he or she seeks election at the time nomination papers are issued, pursuant to Cal. Gov't Code § 34882 and Cal. Elec. Code § 10227. Termination of residency in a district by a councilmember shall create an immediate vacancy for that council district unless a substitute residence within the district is established within 30 days after the termination of residency.
- (3) Notwithstanding any other provision of this section, the councilmembers in office at the time this chapter takes effect shall continue in office until the expiration of the full term to which he or she was

elected and until his or her successor is qualified. Notwithstanding Section 2.05.090, vacancies in councilmember offices elected at large may be filled from the city at large. At the end of the term of each councilmember, that member's successor shall be elected on a by-district basis in the districts established in Section 2.05.130 and as provided in Section 2.05.140. A vacancy in a councilmember office elected by district shall be filled by a person qualified to hold the office, who is a resident of the district. (Ord. 10-2017 § 1, 6-13-17.)

2.05.130 Establishment of city council electoral districts.

Six city council districts are hereby established in the city of Fremont. The boundaries and identifying number of each district shall be as described on the "Official City Council District Map" adopted by resolution of the city council and on file in the office of the city clerk. (Ord. 10-2017 § 1, 6-13-17; Ord. 02-2022 § 1, 4-5-22.)

2.05.140 Election schedule for councilmembers elected by district.

- (a) Councilmembers shall be elected in Council Districts 1, 2, 3, and 4 beginning at the general municipal election in November 2018, and every four years thereafter, except as provided in the subsection (b) of this section and subject to the term limits set forth in Section 2.05.100.
- (b) Notwithstanding subsection (a) of this section, and subject to subsection (d) of this section, the councilmember elected from Council District 1 in 2018 shall serve a two-year term.
- (c) The councilmembers from Council Districts 5 and 6 shall be elected beginning at the general municipal election in November 2020, and every four years thereafter, subject to the term limits set forth in Section 2.05.100.
- (d) The councilmember elected from Council District 1 in 2018 shall be subject to election again in November 2020, and every four years thereafter, subject to the term limits set forth in Section 2.05.100. (Ord. 10-2017 § 1, 6-13-17.)

Chapter 2.10

CITY MANAGER

Sections:

- 2.10.010 Office created.
- 2.10.020 Qualifications – Term of office.
- 2.10.030 *Repealed.*
- 2.10.040 Eligibility of councilmembers for office of city manager.
- 2.10.050 Bond.
- 2.10.060 Acting city manager.
- 2.10.070 Compensation.
- 2.10.080 Duties and powers.
- 2.10.090 Council to deal through city manager.
- 2.10.100 Subordinate officers shall cooperate with city manager.
- 2.10.110 Removal.

2.10.010 Office created.

The office of city manager is hereby created and established. (Ord. 16 § 1. 1990 Code § 2-2100.)

2.10.020 Qualifications – Term of office.

The city manager shall be appointed by the city council solely on the basis of his/her executive and administrative qualifications and ability. He/she shall hold office at and during the pleasure of the city council. (Ord. 16 §§ 1, 8; amended during 2012 reformat. 1990 Code § 2-2101.)

2.10.030 Residence in city not required.

Repealed by Ord. 1-2013. (Ord. 16 § 2. 1990 Code § 2-2102.)

2.10.040 Eligibility of councilmembers for office of city manager.

No person elected to membership on the city council shall subsequent to such election be eligible for appointment as city manager until two years have elapsed after he/she has ceased to be a member of the council. (Ord. 16 § 2; amended during 2012 reformat. 1990 Code § 2-2103.)

2.10.050 Bond.

The city manager and acting city manager shall furnish a corporate surety bond to be approved by the city council in such sum as may be determined by the said city council, and shall be conditioned upon the faithful performance of the duties imposed upon the city manager and acting

city manager as herein prescribed. Any premium for such bond shall be a proper charge against the city of Fremont. (Ord. 16 § 3; Ord. 745 § 1. 1990 Code § 2-2104.)

2.10.060 Acting city manager.

The assistant city manager shall serve as manager pro tempore during any temporary absence or disability of the city manager. In the event there is no assistant city manager, the city manager, by filing a written notice with the city clerk, shall designate a qualified city employee to exercise the powers and perform the duties of city manager during his/her temporary absence or disability. In the event the city manager's absence or disability extends over a two-month period, the city council may, after the two-month period, appoint an acting city manager. (Ord. 16 § 4; Ord. 745 § 1; amended during 2012 reformat. 1990 Code § 2-2105.)

2.10.070 Compensation.

- (a) The city manager shall receive such compensation as the city council shall from time to time determine.

In addition, the city manager shall be reimbursed for all actual and necessary expenses incurred in the performance of official duties. On termination of employment of the city manager by reason of involuntary removal from service other than willful misconduct in office, the city manager shall receive cash severance compensation in a lump sum equal to two months' compensation for every year of continuous service or fraction thereof as city manager, up to a total of six months' compensation, such compensation to be computed at the highest salary received by the city manager during service with the city, and the cash value of all leave and other benefits received by the city manager at the time of involuntary removal. Involuntary removal from service shall include reduction in compensation not applicable to all employees of the city.

- (b) The city council and city manager may negotiate and execute a formal employment agreement providing for the compensation of the city manager and for other terms and conditions of employment, including but not limited to leave and other benefits, and severance compensation which exceeds the compensation provided in subsection (a) of this section. (Ord. 16 § 5; Ord. 745 § 1; Ord. 2087 § 1, 10-4-94. 1990 Code § 2-2106.)

2.10.080 Duties and powers.

The city manager shall be the administrative head of the government of the city under the direction and control of the city council, except as otherwise provided in this chapter. He/she shall be responsible for the efficient administration of all the affairs of the city which are under his/her control. In addition to his/her general powers as administrative head, and not as a limitation thereon, it shall be his/her duty and he/she shall have the powers set forth in the following subsections:

- (a) Enforcement of Laws. To see that all laws and ordinances of the city are duly enforced and that all franchises, permits and privileges granted by the city are faithfully observed.
- (b) Control, Etc., of Officers and Employees. To control, order and give directions to all heads of departments, and to subordinate officers and employees of the city through their department head; transfer employees from one department to another; and consolidate or combine offices, positions, departments, or units under his/her direction.
- (c) Appointment, Removal, Etc., of Certain Officers. To appoint, remove and demote any and all appointive officers and employees of the city except the city attorney.
- (d) Representation of City. To represent the city in its negotiations and working relationships with the state, the county, and other governmental jurisdictions; provided, that any contracts negotiated for the exchange of services from any such other governmental jurisdiction shall be subject to approval by the city council.
- (e) Attendance at Council Meetings. To attend all meetings of the city council unless excused therefrom by the council.
- (f) Recommend Ordinances. To recommend to the city council for adoption such measures or ordinances as he/she deems necessary or expedient.
- (g) Advise as to Finances. To keep the city council at all times fully advised as to the financial conditions and needs of the city.
- (h) Preparation of Budget. To prepare and submit the proposed annual budget and the proposed annual salary plan to the city council for its approval.
- (i) Purchase of Supplies. To purchase all the supplies for all of the departments or divisions of the city. No expenditures shall be submitted or recommended to the city council except on report or approval of the city manager.

- (j) Investigations of City Affairs. To make investigations into the affairs of the city or any department or division thereof and any contract for the proper performance of any obligations running to the city.
- (k) Investigation of Complaints. To investigate all complaints in relation to matters concerning the administration of the city government and in regard to the service maintained by public utilities in the city, and to see that all franchises, permits, and privileges granted by the city are faithfully performed and observed.
- (l) Supervision of Public Property. To exercise general supervision over all public buildings, public parks, and all other public property which are under the control and jurisdiction of the city council.
- (m) Devotion of Entire Time to Duties. To devote full time to the duties of his/her office and the interest of the city.
- (n) Performance of Delegated Duties. To perform such other duties and exercise such other powers as may be delegated to him/her from time to time by ordinance or resolution or other action of the city council.
- (o) Attendance at Commission and Board Meetings. To attend any and all meetings of any commissions or boards heretofore or hereafter created by the city council upon his/her own volition or upon direction of the city council. At any such meetings which he/she attends, the city manager shall be heard by such commissions and boards as to all matters upon which he/she wishes to address them.
- (p) Delegation of Council Authority. To approve, on behalf of the city, administrative matters otherwise within the authority of the city council which the city council has by resolution authorized to be approved by the city manager or the city manager's designee during a scheduled recess of the city council. (Ord. 16 § 6; Ord. 745 § 2; Ord. 1927 § 1, 5-22-90; amended during 2012 reformat. 1990 Code § 2-2107.)

2.10.090 Council to deal through city manager.

The city council and its members shall deal with the administrative services of the city only through the city manager, except for the purpose of inquiry, and neither the city council nor any member thereof shall give orders to subordinates of the city manager. (Ord. 16 § 7. 1990 Code § 2-2108.)

2.10.100 Subordinate officers shall cooperate with city manager.

It shall be the duty of all subordinate officers, and the city attorney, to cooperate with and assist the city manager in administering the affairs of the city most efficiently, economically and harmoniously, so far as may be consistent with their duties as prescribed by the law and ordinances of the city. (Ord. 16 § 7b. 1990 Code § 2-2109.)

2.10.110 Removal.

Removal of the city manager shall be only by a vote of at least four members of the city council at a regular meeting of the council; provided, that the vote of five members of the council shall be required to remove a city manager within 60 days after the city manager's appointment or within the 60 days after any election at which one or more members are elected to the city council. (Ord. 16 § 8; amended during 2012 reformat; Ord. 02-2022 § 2, 4-5-22. 1990 Code § 2-2111.)

Chapter 2.15**FINANCE DIRECTOR**

Sections:

- 2.15.010 Creation of office.
- 2.15.020 Duties.
- 2.15.030 Bond.

2.15.010 Creation of office.

The office of finance director is hereby created. The person who is appointed to serve in such office shall also serve as ex officio treasurer of the city. (Ord. 1480 § 1, 12-1-81. 1990 Code § 2-7100.)

2.15.020 Duties.

Under the direction and control of the city manager, the finance director shall have the powers and duties set forth in the following subsections:

- (a) Those powers and duties imposed upon the treasurer by Cal. Gov't Code Title 4, Division 3, Part 3, Chapter 3, and other provisions of the state law.
- (b) Those powers and duties imposed upon the city clerk by Cal. Gov't Code Title 4, Division 3, Part 2, Chapter 4.
- (c) To prepare the proposed annual budget and exercise expenditure controls within the limitations of the budget.
- (d) To maintain a central accounting system of all income, investments and expenditures of the city.
- (e) To maintain a system of financial analysis and keep the city manager fully informed as to the financial conditions and needs of the city.
- (f) To maintain an internal audit system to validate income and expenditures of the city.
- (g) To collect on behalf of the city all revenue to which the city is entitled.
- (h) To purchase all supplies for all of the departments or divisions of the city.
- (i) To have custody of all public moneys of the city and to invest in prudent fashion those moneys that are not needed for immediate use of the city.
- (j) To manage the self-insured program of the city.
- (k) To provide economic forecasts and reports to the city manager.
- (l) Such other powers and duties as may be appropriately assigned by the city manager. (Ord. 1480 § 1, 12-1-81. 1990 Code § 2-7101.)

2.15.030 Bond.

Before entering upon the duties of the office, the finance director shall execute an official bond to the city, in such reasonable penal sum as may be recommended by the city attorney and fixed by the city council by resolution. Said penal sum may be changed by the city council during the term of office of the finance director. The form of such bond shall be subject to the approval of the city attorney. (Ord. 1480 § 1, 12-1-81. 1990 Code § 2-7103.)

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Chapter 2.20

DEPARTMENTS, BOARDS AND COMMISSIONS

Sections:

Article I. Uniform Regulations for Council-Established City Boards, Commissions and Committees

- 2.20.010 Title and purpose.
- 2.20.020 Boards, commissions and committees affected.
- 2.20.030 Regulations for subject bodies.
- 2.20.040 Appointment of citizen advisors.
- 2.20.050 City clerk to keep roster of members of subject body.

Article II. Emergency Organization and Functions

- 2.20.060 Purposes of article.
- 2.20.070 Definition.
- 2.20.080 Disaster council – Composition – Appointment of members – Officers.
- 2.20.090 Disaster council – Powers and duties.
- 2.20.100 Director and assistant director of emergency services – Office created – Appointment.
- 2.20.110 Director and assistant director of emergency services – Powers and duties.
- 2.20.120 Emergency organization.
- 2.20.130 Emergency plan.
- 2.20.140 Expenditures.
- 2.20.150 Unlawful acts – Penalty.

Article III. Department of Public Works
(Reserved)

Article IV. Recreation Commission

- 2.20.160 Definitions.
- 2.20.170 Creation – Composition.
- 2.20.180 Meetings.
- 2.20.190 Interpretation of recreation program.
- 2.20.200 Review of services of community recreation department.
- 2.20.210 Recommendation of general policy.
- 2.20.220 Recommending capital improvement plans.

Article V. Human Relations Commission

- 2.20.230 Statement of policy.
- 2.20.240 Creation – Composition – Appointment of members.
- 2.20.250 Functions and powers of commission.

Article VI. Planning Commission

- 2.20.260 Creation – Composition.
- 2.20.270 Mandatory powers and duties.
- 2.20.280 Discretionary powers.
- 2.20.290 Zoning administrator – Appointment.
- 2.20.300 Zoning administrator – Functions.
- 2.20.310 Planning agency of city.

Article VII. Historical Architectural Review Board

- 2.20.320 Creation – Composition.
- 2.20.330 Powers and duties.
- 2.20.340 Ex officio members – Director of community development and building official.
- 2.20.350 Term limit.

Article VIII. Library Advisory Commission

- 2.20.360 Creation – Composition.
- 2.20.370 Secretary.
- 2.20.380 Functions of commission.

Article IX. Senior Citizens Commission

- 2.20.390 Statement of policy.
- 2.20.400 Creation – Composition – Appointment of members.
- 2.20.410 Functions and powers.
- 2.20.420 Facilities subcommittee.

Article X. Economic Development Advisory Commission

- 2.20.430 Creation and composition.
- 2.20.440 Exceptions to uniform regulations.
- 2.20.450 Residency.
- 2.20.460 Proxy members.
- 2.20.470 Meeting schedule.
- 2.20.480 Duties and responsibilities.

Article XI. Environmental Sustainability Commission

- 2.20.490 Creation and composition.

- 2.20.500 Meetings.
2.20.510 Duties and responsibilities.

Article XII. Youth Advisory Commission

- 2.20.520 Statement of policy.
2.20.530 Creation of youth advisory commission.
2.20.540 Term of office.
2.20.545 Term limit.
2.20.550 Function and powers of commission.

Article XIII. The George W. Patterson House Advisory Board

- 2.20.560 Creation – Composition.
2.20.570 Powers and duties.
2.20.580 Appointments.

Article XIV. Art Review Board

- 2.20.590 Creation and composition.
2.20.600 Duties and responsibilities – Board representative.
2.20.610 Terms.
2.20.620 Term limit.

Article XV. Rent Review Board

- 2.20.630 Creation and composition.
2.20.640 Duties and responsibilities.
2.20.650 Terms.
2.20.660 Quorum.

Article XVI. Mobility Commission

- 2.20.670 Creation.
2.20.680 Composition.
2.20.690 Meetings.
2.20.700 Duties and responsibilities.
2.20.710 Terms.
2.20.720 Term limit.

Article I. Uniform Regulations for Council-Established City Boards, Commissions and Committees

2.20.010 Title and purpose.

This article may be referred to as the “uniform regulations for council-established city boards, commissions and committees.” The purpose of this article is to provide uniform general regulations

applicable to all the various boards, commissions and committees of the city established by the city council to advise the city council and to perform such other functions and duties as prescribed by the city council in other provisions of this code or pursuant to other action of the city council. Such uniform general regulations in this article include:

- (a) Qualifications, compensation, terms of office, appointment and removal of members;
- (b) Selection of the chairman and vice-chairman thereof;
- (c) Establishment of the times, dates and places of meeting; and
- (d) Other matters requiring or appropriate for uniformity of regulations. (Ord. 974 § 2, 2-5-74. 1990 Code § 2-3100.)

2.20.020 Boards, commissions and committees affected.

This article shall apply to the human relations commission, planning commission, recreation commission, historical architectural review board, civil service board, city beautiful committee, sister city commission, art review board, George W. Patterson House advisory board and such other bodies established by the city council from time to time. For purposes of this article, each such board, commission and committee shall be known as a subject body. (Ord. 974 § 2, 2-5-74; Ord. 1269 § 1, 9-5-78; Ord. 2225 § 1, 3-4-97. 1990 Code § 2-3101.)

2.20.030 Regulations for subject bodies.

- (a) The members of each subject body shall be appointed and shall be subject to removal by the mayor with the approval of the city council.
- (b) No person shall be eligible to be or to continue to be a member of a subject body unless he or she is a resident of the city.
- (c) Except as otherwise provided in this chapter, no person shall be eligible to serve as a member of a single subject body for more than two full terms.
- (d) No officer or employee of the city shall be eligible to be a member of a subject body, except for the sister city committee and the youth advisory commission. Members of the youth advisory commission may accept part-time employment with the city.
- (e) The members of the subject bodies shall receive no compensation for the performance of their official duties unless compensation is

expressly provided by action of the city council.

- (f) The term of office of a member of a subject body shall be four years, commencing on the first day of January of the initial year of such term, and concluding on the thirty-first day of December of the fourth year. Each member shall hold office until his or her resignation, death, removal from office, ineligibility to hold office, or disqualification for noncompliance with the attendance requirements of this section, or, in other cases, until his or her successor has been appointed and qualified.
- (g) The city manager shall designate a city employee to act as secretary to each subject body. The secretary shall have no vote and shall not be deemed to be a member of the sub-

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ject body for purposes of subsection (f) of this section.

- (h) **Consecutive Unexcused Absences.** A member of any subject body shall be ineligible to continue his or her membership if at any time during his or her term of office he or she has the following number of consecutive unexcused absences. If a member has the following number of consecutive unexcused absences during his or her term of office, he or she shall be automatically disqualified from continuing membership on the subject body.

Number of Regular Meetings per Month	Number of Consecutive Unexcused Absences
Less than 2	2
2	3

As used in this subsection, “regular meeting” shall include all meetings regularly scheduled in accordance with the rules of the subject body; provided, however, that a meeting at which no business was transacted due to the lack of a quorum shall not be deemed to constitute a “regular meeting.” The secretary of the subject body shall review the attendance records of such body after each regular meeting, and if he or she finds that any member has become ineligible for continued membership due to lack of attendance pursuant to this subsection, he or she shall promptly notify the chairman of the subject body and the city clerk of such fact in writing. The city clerk shall advise the city council of such fact so that the vacancy may be filled promptly.

- (i) **Unexcused Absences During Six-Month Period.** If a member of a subject body has the following number of unexcused absences during the first or last six months of a calendar year, he or she shall be automatically disqualified from continuing membership on the subject body:

Number of Regular Meetings of Subject Body per Month	Number of Unexcused Absences in Six-Month Period Triggering Disqualification
Less than 1	2
1	3
2 or more meetings	4

As used herein, “regular meeting” shall have the same meaning as specified in subsection (h) of this section. The secretary of the subject body shall review the attendance records of such body after each regular meeting, and if he or she finds that any member has become ineligible for continued membership due to lack of attendance pursuant to this subsection, he or she shall promptly notify the chairman of the subject body and the city clerk of such fact in writing. The city clerk shall advise the city council of such fact so that the vacancy may be filled promptly.

- (j) The attendance of a member of a subject body at a meeting shall be determined by the chair of the subject body. If a member attends over three-quarters of the meeting, the chair of the subject body shall determine that he or she attended the meeting. If a member fails to attend over three-quarters of the meeting, the chair of the subject body shall determine that he or she was absent from the meeting.
- (k) The absence of a member of a subject body from a regular meeting of such subject body shall be excused pursuant to this subsection. The chair of the subject body shall determine if an absence is excused pursuant to this chapter. If the chair determines that an absence is not excused, the absence will be treated as unexcused for purposes of this chapter. The secretary of the subject body shall record a member’s absence as excused or unexcused. An absence shall be considered excused if, and only if, the absence is caused by any of the following:
 - (1) The member’s hospitalization;
 - (2) The member’s observance of a religious holiday;
 - (3) Death in the member’s immediate family;
 - (4) The member’s illness, including recovery from a medical procedure;
 - (5) Illness of the member’s immediate family member; or
 - (6) The member conducting official business of the subject body.
- (l) The secretary of the subject body shall report member attendance at the subject body for the first and last six months of a calendar year to the city clerk. The report shall include, for each member of the subject body, their name, number of excused absences in the six-month period, and number of unexcused absences in the six-month period.

- (m) If a member of a subject body is removed therefrom for failure to comply with the attendance requirements of this chapter, such person may apply for reinstatement before the city council. After examining the evidence, the city council may reinstate such person as a member of the subject body. This subsection shall not be construed to require the city council to give any person who has been removed from a subject body for insufficient attendance any priority or preference in appointment to such body over other persons who may desire to be appointed to such body.
- (n) When an office of a subject body becomes vacant, the mayor with the approval of the city council shall appoint a qualified person to such office for the remainder of the unexpired term.
- (o) Each subject body shall, at its first regular meeting held for the transaction of business during a calendar year, elect a chairman and a vice-chairman for such calendar year. When a vacancy exists in the office of chairman or vice-chairman, the subject body shall elect a member to serve in such capacity for the remainder of the calendar year.
- (p) Each subject body shall establish rules as to the time, place, and dates of its regular meetings, and shall adopt such rules and regulations as it deems necessary to conduct its operations, including rules of procedure. Such rules and regulations shall not be inconsistent with the ordinances and regulations of the city or with the laws of the state. Upon adoption or amendment, such rules and regulations shall be submitted to the city council for review, and the city council shall have the power to approve, disapprove, or modify them as it deems necessary.
- (q) Each subject body shall prepare reports of its activities to the city council when the city council directs such subject body to do so. Each report shall be filed with the city clerk. (Ord. 974 § 2, 2-5-74; Ord. 1164 § 1, 4-12-77; Ord. 1184 § 1, 7-12-77; Ord. 1587 § 1, 2-21-84; Ord. 1741 §§ 1, 2, 9-16-86; Ord. 1749 §§ 1, 2, 10-28-86; Ord. 1809 § 1, 1-5-88; Ord. 1947 § 1, 12-4-90; Ord. 1911 § 1, 2-20-90; Ord. 2114 § 1, 3-7-95; Ord. 2134 § 1, 10-3-95; Ord. 2225 § 2, 3-4-97; Ord. 2274 § 1, 1-27-98; Ord. 2351 §§ 1 – 3, 9-7-99; Ord. 2421 § 1, 3-27-01; Ord. 2-2008 § 1, 2-12-08. 1990 Code § 2-3102.)

2.20.040 Appointment of citizen advisors.

- (a) Any subject body, established by the city council, may establish and specify the functions, purposes and operating procedure of standing committees or subcommittees composed solely of its own membership.
- (b) Subject to approval of the city council, any subject body, established by the city council, may establish citizens advisory committees, or expand the membership of its standing committees to include citizens advisors, to advise the subject body in the carrying out of its functions. Any proposal by any such subject body to establish or expand a committee as aforesaid shall be submitted in writing to the city council, and shall specify the advisory functions, rules of operation and number and type of membership proposed. The council shall approve, conditionally approve, or disapprove each such proposal.
- (c) Appointment of citizen advisory members to such citizen advisory or standing committees which have been approved by the city council shall be made by the city council from a written list of nominees submitted by the subject body, which list shall contain a total number of names equal to or exceeding three times the number of positions to be filled and the resident address of each nominee. The qualifications of each nominee shall also be included in any such list of nominees.
- (d) At least one member of the subject body shall be a member of any such standing committee approved by the city council. The membership of any citizen study committee may include a member or members of the subject body or may be exclusively composed of citizen members. Each such citizen study committee shall be dissolved by the subject body upon the completion of the study or studies assigned by the subject body, and may be dissolved prior thereto in its discretion. The membership of a citizen member of a standing committee shall terminate upon completion of the study or studies which caused his/her appointment or may be terminated prior thereto, in the discretion of the subject body. (Ord. 974 § 2, 2-5-74; amended during 2012 reformat. 1990 Code § 2-3103.)

2.20.050 City clerk to keep roster of members of subject body.

The city clerk shall maintain an accurate roster of the names of the members of all subject bodies. Inasmuch as the terms of office of the members of the subject bodies are staggered, the city clerk shall maintain accurate records as to the commencement date and the termination date of the term of office of each member. (Ord. 974 § 2, 2-5-74. 1990 Code § 2-3104.)

Article II. Emergency Organization and Functions

2.20.060 Purposes of article.

The declared purposes of this article are to provide for the preparation and carrying out of plans for the protection of persons and property within this city in the event of an emergency; the direction of the emergency organization; and the coordination of the emergency functions of this city with all other public agencies, corporations, organizations, and affected private persons. (Ord. 962 § 2, 10-2-73. 1990 Code § 2-3200.)

2.20.070 Definition.

As used in this article, “emergency” shall mean the actual or threatened existence of conditions of disaster or of extreme peril to the safety of persons and property within this city caused by such conditions as air pollution, fire, flood, storm, epidemic, riot, or earthquake, or other conditions, including conditions resulting from war or imminent threat of war, but other than conditions resulting from a labor controversy, which conditions are or are likely to be beyond the control of the services, personnel, equipment, and facilities of this city, requiring the combined forces of other political subdivisions to combat. (Ord. 962 § 2, 10-2-73. 1990 Code § 2-3201.)

2.20.080 Disaster council – Composition – Appointment of members – Officers.

The city of Fremont disaster council is hereby created and shall consist of the following:

- (a) The director of emergency services, who shall be chairman.
- (b) The assistant director of emergency services, who shall be vice-chairman.
- (c) Such chiefs of emergency services as are provided for in a current emergency plan of this city, adopted pursuant to this article.

- (d) Such representatives of school, hospital, flood control, water, and sanitary districts, or other organizations having an official emergency responsibility, as may be appointed by the director. (Ord. 962 § 2, 10-2-73. 1990 Code § 2-3202.)

2.20.090 Disaster council – Powers and duties.

It shall be the duty of the city of Fremont disaster council, and it is hereby empowered, to develop and recommend for adoption by the city council emergency and mutual aid plans and agreements and such ordinances and resolutions and rules and regulations as are necessary to implement such plans and agreements. The disaster council shall meet upon call of the chairman or, in his/her absence from the city or inability to call such meeting, upon the call of the vice-chairman. (Ord. 962 § 2, 10-2-73; amended during 2012 reformat. 1990 Code § 2-3203.)

2.20.100 Director and assistant director of emergency services – Office created – Appointment.

- (a) There is hereby created the office of director of emergency services. The city manager shall be the director of emergency services.
- (b) There is hereby created the office of assistant director of emergency services, who shall be appointed by the director. (Ord. 962 § 2, 10-2-73. 1990 Code § 2-3204.)

2.20.110 Director and assistant director of emergency services – Powers and duties.

- (a) The director is hereby empowered to:
 - (1) Request the city council to proclaim the existence of a “local emergency” if the city council is in session, or to issue such proclamation if the city council is not in session. Whenever a local emergency is proclaimed by the director, the city council shall take action to ratify the proclamation within seven days thereafter or the proclamation shall have no further force or effect.
 - (2) Request the governor to proclaim a “state of emergency” when, in the opinion of the director, the locally available resources are inadequate to cope with the emergency.

- (3) Control and direct the effort of the emergency organization of this city for the accomplishment of the purposes of this article.
 - (4) Direct cooperation between the coordination of services and staff of the emergency organization of this city, and resolve questions of authority and responsibility that may arise between them.
 - (5) Represent this city in all dealings with public or private agencies on matters pertaining to emergencies as defined herein.
- (b) In the event of the proclamation of a "local emergency" as herein provided, the proclamation of a "state of emergency" by the governor or the director of the state office of emergency services, or the existence of a "state of war emergency," the director is hereby empowered:
- (1) 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;
 - (2) To obtain vital supplies, equipment, and such other properties found lacking and needed for the protection of life and property and to bind the city for the fair value thereof and, if required immediately, to commandeer the same for public use;
 - (3) To require emergency services of any city officer or employee and, in the event of the proclamation of a "state of emergency" in the county in which this city is located or the existence of a "state of war emergency," to command the aid of as many citizens of this community as he/she deems necessary in the execution of his/her duties; such persons shall be entitled to all privileges, benefits, and immunities as are provided by state law for registered disaster service workers;
 - (4) To requisition necessary personnel or material of any city department or agency; and
 - (5) To execute all his/her ordinary power as city manager, all of the special powers conferred upon him/her by this article or by resolution or emergency plan pursuant hereto adopted by the city council, all powers conferred upon him/her by any statute, by any agreement approved by the

city council, and by any other lawful authority.

- (c) The director of emergency services shall designate the order of succession to that office, to take effect in the event the director is unavailable to attend meetings and otherwise perform his/her duties during an emergency. Such order of succession shall be approved by the city council.
- (d) The assistant director shall, under the supervision of the director and with the assistance of emergency service chiefs, develop emergency plans and manage the emergency programs of this city, and shall have such other powers and duties as may be assigned by the director. (Ord. 962 § 2, 10-2-73; amended during 2012 reformat. 1990 Code § 2-3205.)

2.20.120 Emergency organization.

All officers and employees of this city, together with those volunteer forces enrolled to aid them during an emergency, and all groups, organizations, and persons who may by agreement or operation of law, including persons impressed into service under the provisions of Section 2.20.110(b)(3), be charged with duties incident to the protection of life and property in this city during such emergency, shall constitute the emergency organization of the city. (Ord. 962 § 2, 10-2-73. 1990 Code § 2-3206.)

2.20.130 Emergency plan.

The city of Fremont disaster council shall be responsible for the development of the city of Fremont emergency plan, which plan shall provide for the effective mobilization of all of the resources of this city, both public and private, to meet any condition constituting a local emergency, state of emergency, or state of war emergency, and shall provide for the organization, powers and duties, services, and staff of the emergency organization. Such plan shall take effect upon adoption by resolution of the city council. (Ord. 962 § 2, 10-2-73. 1990 Code § 2-3207.)

2.20.140 Expenditures.

Any expenditures made in connection with emergency activities, including mutual aid activities, shall be deemed conclusively to be for the direct protection and benefit of the inhabitants and property of the city. (Ord. 962 § 2, 10-2-73. 1990 Code § 2-3208.)

2.20.150 Unlawful acts – Penalty.

It shall be a misdemeanor, punishable as provided by Section 1.15.020, for any person, during an emergency, to:

- (a) Willfully obstruct, hinder, or delay any member of the emergency organization in the enforcement of any lawful rule or regulation issued pursuant to this article, or in the performance of any duty imposed upon him/her by virtue of this article;
- (b) Do any act forbidden by any lawful rule or regulation issued pursuant to this article, if such act is of such a nature as to give or be likely to give assistance to the enemy or to imperil the lives or property of inhabitants of this city, or to prevent, hinder, or delay the defense or protection thereof;
- (c) Wear, carry, or display, without authority, any means of identification specified by the emergency agency of the state. (Ord. 962 § 2, 10-2-73. 1990 Code § 2-3209.)

Article III. Department of Public Works (Reserved)**Article IV. Recreation Commission****2.20.160 Definitions.**

The following words and phrases, when used in this article, shall, for the purpose of this article, have the meanings respectively ascribed to them in this section:

“Commission” means the Fremont recreation commission created by this article.

“Community recreation” means all public leisure resources that contribute to the physical, mental, moral development and the environment of the individual or group. These resources may include, but are not necessarily limited to, parks, harbors, museums, libraries, natural science centers, scenic and historical resources, airports, playgrounds, stadiums, golf courses, camps, swimming pools, community centers, and programs in the physical, intellectual, social, cultural, and nature fields. (Ord. 80 § 2-3400; Ord. 424 § 1. 1990 Code § 2-3400.)

2.20.170 Creation – Composition.

There is a Fremont recreation commission consisting of seven members. (Ord. 80 § 2-3401; Ord. 974 § 3, 2-5-74. 1990 Code § 2-3401.)

2.20.180 Meetings.

The recreation commission shall hold regular meetings at least once a month. (Ord. 80 § 2-3405; Ord. 974 § 5, 2-5-74. 1990 Code § 2-3405.)

2.20.190 Interpretation of recreation program.

The recreation commission shall interpret the community recreation program to public officials and to the general public in terms of needs and results, and toward the end that the program receives adequate moral and financial support from public and private sources. (Ord. 80 § 2-3407; Ord. 424 § 2; Ord. 769 § 1, 3-10-70. 1990 Code § 2-3407.)

2.20.200 Review of services of community recreation department.

The recreation commission shall review all general policies governing the services of the community recreation department, and shall act in an advisory capacity to the city council on all things relating to leisure resources as defined under “community recreation” in Section 2.20.160, for the determination of general policies to best carry out the purposes for which the department of community recreation is established. (Ord. 80 § 2-3408; Ord. 424 § 2. 1990 Code § 2-3408.)

2.20.210 Recommendation of general policy.

The recreation commission shall consider and recommend to the city council suggestions from any source outside the community recreation department involving matters of general policy. (Ord. 80 § 2-3409; Ord. 424 § 2. 1990 Code § 2-3409.)

2.20.220 Recommending capital improvement plans.

The recreation commission shall advise the city council and other appropriate public officials in the development of overall capital improvement plans for all public leisure resources as defined under “community recreation” in Section 2.20.160. (Ord. 80 § 2-3410; Ord. 424 § 2. 1990 Code § 2-3410.)

Article V. Human Relations Commission**2.20.230 Statement of policy.**

- (a) The public policy of the city of Fremont is to create an environment in which all individuals

and groups within the city may live, learn, work and play in peace and harmony, and realize their highest potential unhampered by discrimination based upon any characteristic protected by federal, state or local law, civic interest, or any other factor.

- (b) The city council finds that unlawful discrimination increases discord and unrest and poses a substantial threat to the health, safety and general welfare of the community.
- (c) The city council further finds that many private and public social services can assist individuals and families in coping with adverse conditions of physical and mental health, economic conditions, and other circumstances which may interfere with the ability to lead productive and fulfilling lives. (Ord. 434 § 1; Ord. 1091 § 1, 2-10-75; Ord. 16-2007 § 2, 6-5-07; Ord. 03-2018 § 1, 3-6-18. 1990 Code § 2-3500.)

2.20.240 Creation – Composition – Appointment of members.

In order to further the public policy of the city, there is a city human relations commission consisting of nine members. To the extent feasible, the commission shall consist of people who represent the community's broad diversity, including persons in groups protected from unlawful discrimination by federal, state or local law who have demonstrated an interest and concern for the city's social issues and who are committed to fostering human relations within the city. (Ord. 434 § 1; Ord. 501 § 1; Ord. 974 § 7, 2-5-74; Ord. 2376 § 1, 1-25-00; Ord. 16-2007 § 3, 6-5-07; Ord. 03-2018 § 1, 3-6-18. 1990 Code § 2-3501.)

2.20.250 Functions and powers of commission.

In order to implement the policies set forth in Section 2.20.230, the functions and powers of the human relations commission shall be as follows:

- (a) To study any problems of prejudice and discrimination in the community and the causes thereof.
- (b) To work with other agencies, public and private, in developing programs to eliminate prejudice and discrimination.
- (c) To initiate and encourage educational and other appropriate activities which tend to promote intergroup harmony, progress and integration.

- (d) To foster mutual understanding and respect among the diverse groups of the community, and the improvement of interpersonal relations.
- (e) To advise the city council on all problems of local intergroup relations and to submit reports to the city council as needed.
- (f) To locate and anticipate potential areas of friction due to intergroup discrimination which might erupt into a breach of the peace and to consult and advise with the groups and public officials primarily involved.
- (g) By persuasion and conference to seek to arrive at voluntary solutions designed to discourage and prevent any and all intergroup discrimination.
- (h) To act in an advisory capacity to the city council in all matters relating to human services in the city of Fremont.
- (i) Through voluntary means to encourage coordination of all human services, public and private, and to foster communication among the providers of human services to the residents of the city of Fremont.
- (j) To work with other private and public agencies to ensure that adequate human services are being provided, and to strive to improve the quality of services.
- (k) To perform such other functions and render such other reports and recommendations as may be directed by the city council. (Ord. 434 § 1; Ord. 501 § 3; Ord. 1091 § 1, 2-10-76; Ord. 16-2007 § 4, 6-5-07; Ord. 03-2018 § 1, 3-6-18. 1990 Code § 2-3509.)

Article VI. Planning Commission

2.20.260 Creation – Composition.

There is a city planning commission which shall consist of seven members. (Ord. 974 § 10, 2-5-74. 1990 Code § 2-3600.)

2.20.270 Mandatory powers and duties.

The planning commission shall have the power and shall be required to:

- (a) Prepare and recommend to the council the adoption, amendment, extension, addition to,

and maintenance of the general plan for physical development of the city as defined by the laws of the state.

- (b) Exercise the control provided by this code over the subdivision of land within the city.
- (c) Exercise the control provided by this code over the zoning plan and recommend or disapprove any proposed change in such plan.
- (d) Prepare and recommend plans for the clearance and rehabilitation of slum or blighted areas within the city.
- (e) Promote public interest in and understanding of the general plan and of planning, zoning, and rehabilitation of blighted or slum areas.
- (f) Perform such other functions and duties as may be required by other ordinances of the city or by the laws of the state. (Ord. 974 § 10, 2-5-74. 1990 Code § 2-3601.)

2.20.280 Discretionary powers.

The planning commission shall have the power to:

- (a) Prepare and recommend plans for the replanning, improvement, and development of any neighborhood.
- (b) Prepare and recommend plans for the replanning, reconstruction, or redevelopment of any area or district which may be destroyed in whole or in part or seriously damaged by fire, earthquake, flood, or other disaster.
- (c) Prepare and recommend plans and procedures for the improvement of housing standards, adequate housing, and regulations relating to housing and building codes.
- (d) In the performance of its functions, enter upon any land to make examinations and surveys. (Ord. 974 § 10, 2-5-74. 1990 Code § 2-3602.)

2.20.290 Zoning administrator – Appointment.

There is an office of zoning administrator. The city manager shall appoint the zoning administrator, who shall be either the director of community development or another person within the department of community development. (Ord. 974 § 10, 2-5-74. 1990 Code § 2-3603.)

2.20.300 Zoning administrator – Functions.

The zoning administrator shall have all the powers and shall perform all the functions vested in the office of zoning administrator by this code and by any ordinance of the city, and shall keep

such records as are necessary and appropriate. (Ord. 974 § 10, 2-5-74. 1990 Code § 2-3604.)

2.20.310 Planning agency of city.

- (a) Pursuant to Cal. Gov’t Code Title 7 (planning and zoning law) there is a planning agency of the city consisting of the city council, the planning commission, and such department as is or may be authorized and directed to assist the planning commission in the performance of its powers and duties. Such department shall be deemed to be a planning department for purposes of said Title 7.
- (b) For purposes of the conformity findings required to be made pursuant to Cal. Gov’t Code §§ 65401, 65402 and 65403, the functions of the planning agency of the city shall be performed by the planning manager, his or her designee, or such other official designated by the city council or community development director. The planning manager, designee, or other designated official may refer an application for a conformity finding to the planning commission if she or he determines that consideration by the planning commission is warranted.
- (c) The city council may, by resolution, delegate the functions of the planning agency of the city in a manner not in conflict with this code or state or federal law. (Ord. 974 § 10, 2-5-74; Ord. 23-2018 § 1, 10-2-18. 1990 Code § 2-3605.)

Article VII. Historical Architectural Review Board

2.20.320 Creation – Composition.

There is an historical architectural review board which shall consist of five members. (Ord. 974 § 10, 2-5-74; Ord. 1588 § 1, 2-28-84. 1990 Code § 2-3700.)

2.20.330 Powers and duties.

The powers and duties of the historical architectural review board shall be as prescribed in Title 18 (Zoning Ordinance). (Ord. 974 § 10, 2-5-74. 1990 Code § 2-3701.)

2.20.340 Ex officio members – Director of community development and building official.

The director of community development and the building official shall be nonvoting ex officio

members of the historical architectural review board. They shall not be subject to the regulations prescribed in Section 2.20.030. (Ord. 974 § 10, 2-5-74. 1990 Code § 2-3702.)

2.20.350 Term limit.

Notwithstanding Section 2.20.030(c), the term limit for the historical architectural review board shall be three full terms. (Ord. 2-2008 § 2, 2-12-08. 1990 Code § 2-3703.)

Article VIII. Library Advisory Commission

2.20.360 Creation – Composition.

There is hereby established a Fremont library advisory commission which shall consist of nine members appointed by the mayor. One member shall be an individual nominated by the Friends of the Library and one member shall be an individual nominated by the Alameda County library advisory commission. All members, with the exception of the Alameda County library advisory commission representative, shall be Fremont residents and shall serve without compensation. (Ord. 1606 § 1, 4-17-84. 1990 Code § 2-3900.)

2.20.370 Secretary.

Notwithstanding Section 2.20.030(g), the Fremont main librarian shall act as secretary to the commission. The secretary shall have no vote and shall not be deemed to be a member of the commission for purposes of Section 2.20.030(e). (Ord. 1606 § 1, 4-17-84. 1990 Code § 2-3901.)

2.20.380 Functions of commission.

The functions of the library advisory commission shall be as follows:

- (a) Study, report and make recommendations to the Fremont library staff, Fremont city council, and/or the Alameda County library advisory commission on library service in Fremont.
- (b) Advise the librarian and Fremont city council on the development and construction of library facilities in Fremont.
- (c) Study and support various means of financing library services in the Fremont libraries. (Ord. 1606 § 1, 4-17-84. 1990 Code § 2-3902.)

Article IX. Senior Citizens Commission

2.20.390 Statement of policy.

It is the policy of the city to create and maintain a social environment in which all senior citizens can live in an independent, healthful and productive manner. The city recognizes the role that older adults can play in finding meaningful and creative solutions to the problems of the elderly and values the contributions that they can make to the community at large. (Ord. 1394 § 1, 7-15-80; Ord. 2002 § 1, 4-28-92. 1990 Code § 2-31000.)

2.20.400 Creation – Composition – Appointment of members.

In order to further the public policy of the city, a senior citizens commission is created, consisting of 13 members. When making appointments to the commission, it shall be the policy of the city that the majority of the members be senior citizens (55 years of age or older) representing the various religious, ethnic, racial and economic groups within the community. (Ord. 1394 § 1, 7-15-80; Ord. 2002 § 1, 4-28-92. 1990 Code § 2-31001.)

2.20.410 Functions and powers.

The functions and powers of the senior citizens commission shall be as follows:

- (a) To assess the needs of the aging community, the resources available to meet these needs, and where deficiencies exist;
- (b) To work with various agencies, public and private, in developing programs to meet the assessed needs of older adults;
- (c) To initiate and encourage educational and other appropriate activities which tend to promote an understanding of the needs and problems of the elderly and the aging process;
- (d) To act in an advisory capacity to the city council in all matters relating to senior citizen services both for frail homebound elders and for well elders;
- (e) To monitor legislative developments concerning senior citizens;
- (f) To encourage coordination of all senior services through voluntary means, public and private, and to foster communication among the providers of senior citizen services to the residents of the city;
- (g) To work with other private and public agencies to ensure the provision of adequate senior

citizen services and to strive to improve the quality of services;

- (h) To act as liaison with other public agencies to explore funding sources for senior citizen programs;
- (i) To make recommendations to the city council on the allocation of city funding for senior services in the city;
- (j) To work cooperatively with other senior citizen organizations in the community to establish the Fremont senior center(s) as focal points for senior services;
- (k) To perform such other functions and render such reports and recommendations as may be directed by the city council. (Ord. 1394 § 1, 7-15-80; Ord. 2002 § 1, 4-28-92. 1990 Code § 2-31002.)

2.20.420 Facilities subcommittee.

- (a) A senior center facilities subcommittee, created of senior citizens, shall serve to advise the senior citizen commission in setting policies

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concerning the operation of the city's multi-service senior center(s).

- (b) The facilities subcommittee, consisting of no more than six members, shall be appointed by the chair of the commission with the approval of a majority of the commission for such term as is deemed appropriate by the commission. Rules and regulations governing the term of office for subcommittee members, meeting attendance requirements and other procedural matters will be adopted by the senior commission and approved by the city council.
- (c) The facilities subcommittee shall:
 - (1) Regularly visit and participate in the activities of the senior center facilities;
 - (2) Serve in an advisory role to the senior center administrator in developing programs and carrying out activities and maintenance of the senior center(s); and
 - (3) Provide to the commission policy recommendations requiring city council action. (Ord. 2002 § 1, 4-28-92. 1990 Code § 2-31003.)

Article X. Economic Development Advisory Commission

2.20.430 Creation and composition.

An economic development advisory commission is established and shall consist of the following members: five members at large; three members representing industrial or commercial interests; the president of the chamber of commerce, or other designee of the chamber; and the city manager or designee of the city manager (as an ex officio nonvoting member). (Ord. 1960 § 2, 2-19-91; Ord. 2036 § 1, 7-13-93; Ord. 2189 § 1, 7-23-96; Ord. 2397 § 1, 9-5-00. 1990 Code § 2-31200.)

2.20.440 Exceptions to uniform regulations.

Unless specified otherwise herein, the commission shall be subject to the uniform regulations for council-established city boards, commissions and committees set forth in Article I of this chapter. (Ord. 1960 § 2, 2-19-91. 1990 Code § 2-31201.)

2.20.450 Residency.

Members of the commission need not be residents of Fremont. (Ord. 1960 § 2, 2-19-91. 1990 Code § 2-31202.)

2.20.460 Proxy members.

Members of the commission may designate proxy members from their own representative category to attend commission meetings in their absence. Attendance of a proxy at a commission meeting shall constitute attendance of the appointing member for the purpose of applying the attendance/eligibility rules set out in Section 2.20.030(h) through (k). (Ord. 2397 § 2, 9-5-00. 1990 Code § 2-31202.1.)

2.20.470 Meeting schedule.

The commission shall meet bimonthly and its rules shall so provide. (Ord. 2397 § 3, 9-5-00. 1990 Code § 2-31202.2.)

2.20.480 Duties and responsibilities.

The commission shall act in an advisory capacity to the city council to actively promote the location of commercial and industrial firms in Fremont, expand economic opportunities and ensure a viable financial base for the city. The initial duty of the commission shall be to examine the need for industrial and commercial development promotional programs, to establish a strategy for addressing identified needs, and to recommend this strategy to the city council. (Ord. 1960 § 2, 2-19-91. 1990 Code § 2-31203.)

Article XI. Environmental Sustainability Commission

2.20.490 Creation and composition.

An environmental sustainability commission is established and shall consist of seven members. To the extent feasible, the commission shall include representatives from the following sectors of the community:

- (a) One representative of the Fremont business community;
- (b) One representative from an environmental organization;
- (c) One student (high school or college);
- (d) One non-elected employee representative from the Fremont Unified School District;
- (e) One representative from the development/construction industry;
- (f) Two representatives from the public at large. (Ord. 3-2013 § 1, 2-5-13; Ord. 22-2017 § 1, 12-12-17.)

2.20.500 Meetings.

The environmental sustainability commission shall meet quarterly. (Ord. 3-2013 § 1, 2-5-13.)

2.20.510 Duties and responsibilities.

The commission shall act in an advisory capacity to the city council and shall have the following duties and responsibilities, functions, and objectives:

- (a) Advise the city council on emerging policy issues related to environmental sustainability.
- (b) Advise the city council on updates to the climate action plan, and receive periodic progress reports from staff on meeting climate action goals.
- (c) Advise the city council on policy for recycling, source reduction, and waste diversion.
- (d) Assist the city with marketing, public education, outreach, and promotion activities in order to stimulate the greatest possible participation in sustainability efforts.
- (e) Provide a forum to receive public comment on environmental sustainability.
- (f) At the request of the city council, the environmental sustainability commission may perform other advisory functions not noted above. (Ord. 3-2013 § 1, 2-5-13.)

Article XII. Youth Advisory Commission**2.20.520 Statement of policy.**

The public policy of the city of Fremont is to promote and foster the exchange of ideas, concerns, and issues between the city council and members of the teenage population of Fremont. (Ord. 1894 § 1, 11-7-89. 1990 Code § 2-31500.)

2.20.530 Creation of youth advisory commission.

In order to further the public policy of the city, there is hereby established the youth advisory commission of the city, which reports to the recreation commission, consisting of 13 members. (Ord. 1894 § 1, 11-7-89; Ord. 1953 § 1, 1-15-91. 1990 Code § 2-31501.)

2.20.540 Term of office.

Notwithstanding Section 2.20.030(f), the term of office of the members of the youth advisory

commission shall be two years. (Ord. 1894 § 1, 11-7-89. 1990 Code § 2-31502.)

Editor's Note: Section 2 of Ord. No. 1894 reads as follows:

“Notwithstanding Section 2-31502 (as set forth in Section 1 of this ordinance), the initial term of one-half (1/2) of the total membership of the Youth Advisory Commission, i.e., for twelve (12) members, shall be one (1) year. The individual initial appointments which are to be for a one-year term shall be determined by lot at the first meeting of the commission, or as determined by the Mayor.”

2.20.545 Term limit.

Notwithstanding Section 2.20.030(c), the term limit for the youth advisory commission shall be three full terms. (Ord. 8-2014 § 1, 3-4-14.)

2.20.550 Function and powers of commission.

- (a) The function and powers of the youth advisory commission shall be as follows:
 - (1) Explore and identify issues and concerns of special importance to teens and communicate those issues to the city council.
 - (2) To work with other agencies, public and private, in developing and prioritizing programs to assist and inform teens.
 - (3) To foster mutual understanding, respect and communication among all racial, religious and nationality teen groups.
 - (4) To encourage teen leadership and responsibility through involvement.
 - (5) To create a forum for the purpose of encouraging public discussion of teen issues, such as but not limited to meetings, workshops and conferences.
 - (6) To submit reports to the recreation commission as considered necessary by the commission in order to keep the recreation commission fully informed as to its activities.
- (b) Nothing in subsection (a) of this section shall be interpreted as purporting to authorize the commission to exercise any power denied to cities by state law, or to enter into activities in any field preempted by state law and in which no authority has been delegated to cities. (Ord. 1894 § 1, 11-7-89. 1990 Code § 2-31503.)

Article XIII. The George W. Patterson House Advisory Board

2.20.560 Creation – Composition.

- (a) There is a George W. Patterson House advisory board, which shall consist of nine members, as follows:
- (1) Public at large: Three members.
 - (2) Recreation commission: One member.
 - (3) East Bay regional park district: One member.
 - (4) Mission Peak heritage foundation: Two members.
 - (5) Washington Township historical society: Two members.
- (b) In addition, for each of the said (regular) members, an alternate member may be appointed to act in the absence of the regular member. All members shall be appointed by the mayor, subject to confirmation by the city council. (Ord. 2225 § 4, 3-4-97. 1990 Code § 2-31600.)

2.20.570 Powers and duties.

The board shall oversee the general building maintenance, restoration, interpretative function and management of the Patterson House, and to procure funds for its restoration, maintenance and management. (Ord. 2225 § 4, 3-4-97. 1990 Code § 2-31601.)

2.20.580 Appointments.

A member of the Patterson family shall be appointed to the board as an ad hoc, nonvoting member. (Ord. 2225 § 4, 3-4-97. 1990 Code § 2-31602.)

Article XIV. Art Review Board

2.20.590 Creation and composition.

There is an art review board consisting of five members. Not less than three of the board members will be experienced visual and/or performing artists, architects, art educators, art scholars or art collectors whose expertise and skills are known and respected in the community. Up to two of the board members may be lay persons who have an interest in public art. Board members must also be knowledgeable about contemporary visual art, particularly public art, and capable of engaging effectively in a jury process. (Ord. 2225 § 5, 3-4-97; Ord. 25-2016 § 1, 12-6-16. 1990 Code § 2-31700.)

2.20.600 Duties and responsibilities – Board representative.

- (a) The art review board will advise the city in artistic matters and selection of art in public places. The board shall operate in accordance with the art in public places program policy, adopted and revised from time to time by city council resolution, unless otherwise provided in this code, and shall periodically review the policy. The board shall:
- (1) Advise and assist the city in obtaining financial assistance from private, corporate, and governmental sources for art in public places.
 - (2) Review installations of artwork in public places and advise as to its maintenance.
 - (3) Advise and assist private property owners who desire advice on art in public view.
- (b) Board Representative. The members of the art review board shall annually appoint a board member and an alternate board member to serve as the art board representative. The board representative will be available to meet with development review staff and private developers in providing advice and assistance, when requested. (Ord. 2225 § 5, 3-4-97; Ord. 8-2012 § 1, 5-1-12; Ord. 25-2016 § 1, 12-6-16. 1990 Code § 2-31701.)

2.20.610 Terms.

The term of the member shall be four years. (Ord. 2225 § 5, 3-4-97; Ord. 25-2016 § 1, 12-6-16. 1990 Code § 2-31702.)

2.20.620 Term limit.

Notwithstanding Section 2.20.030(c), the term limit for the art review board shall be three full terms. (Ord. 18-2014 § 1, 5-20-14; Ord. 25-2016 § 1, 12-6-16.)

Article XV. Rent Review Board

2.20.630 Creation and composition.

The rent review board is hereby created consisting of five regular members and one alternate. Two members shall be landlord representatives who own rental units in the city of Fremont, two members shall be tenant representatives who are residents of the city of Fremont, and one member and one alternate shall be a neutral third party who is a resident of the city of Fremont and is neither a landlord nor a tenant. The alternate will only serve

in the absence of the regular neutral member. (Ord. 13-2017 § 2, 10-3-17.)

2.20.640 Duties and responsibilities.

The rent review board will evaluate the reasonableness of proposed rent increases at the request of either a landlord or tenant pursuant to the rent review program set forth in Chapter 9.60. (Ord. 13-2017 § 2, 10-3-17.)

2.20.650 Terms.

Notwithstanding Section 2.20.030(c), for members appointed in January of 2018, the terms of one tenant representative and one landlord representative shall be two years so that the appointment of members can be staggered. The member serving a two-year term will be eligible to be re-appointed to serve two full terms. The selection of the representatives who will be limited to two-year terms will be determined by lot. The terms of all other members shall be four years. There is no term limit for the alternate member. (Ord. 13-2017 § 2, 10-3-17; Ord. 05-2019 § 6, 4-16-19.)

2.20.660 Quorum.

No meeting of the board shall occur unless there are three members present with one person from each of the required representation categories in attendance. (Ord. 13-2017 § 2, 10-3-17.)

Article XVI. Mobility Commission

2.20.670 Creation.

A mobility commission is established and shall be added to the list of commissions established by city council in Section 2.20.020. The uniform regulations for council-established city boards, commissions and committees contained in Article I of this chapter apply to the mobility commission unless otherwise provided in this article. (Ord. 09-2019 § 1, 10-15-19.)

2.20.680 Composition.

The mobility commission shall consist of nine members. To the extent feasible, the commission shall include representatives with expertise and leadership interests related to various travel modes including people who walk (two representatives), bicycle (two representatives), use transit (two representatives), drive (two representatives), and persons with mobility impairments (one representative). Consideration should also be given to having the commission reflect the diversity of

the Fremont community relative to geographic location, gender, age and ethnicity. (Ord. 09-2019 § 1, 10-15-19.)

2.20.690 Meetings.

The mobility commission shall meet quarterly. A subgroup of the commission may convene additional working group meetings and may rely on community groups to work on focused topics of interest related to special projects and programs. The city council and mobility commission shall meet annually in a work session with city staff to review accomplishments, discuss issues and establish a mobility commission work plan for the following year. (Ord. 09-2019 § 1, 10-15-19.)

2.20.700 Duties and responsibilities.

The mobility commission shall act in an advisory capacity to the city council and shall have the following duties and responsibilities, functions, and objectives:

- (a) Assist the city with the implementation of actions included in adopted transportation plans, including the mobility action plan and other plans related to traffic safety, traffic congestion management, school access, walking, bicycling, new technologies, and regional transportation.
- (b) Help advocate for Fremont's transportation interests with regional agencies, including support for transportation funding.
- (c) Assist the city with public education, outreach, and promotional activities in order to stimulate the greatest possible community participation in efforts such as safe routes to schools, traffic safety education, and use of alternative transportation modes.
- (d) Assist with city applications for grant funding from the State Transportation Development Act (TDA3) program for pedestrian and bicycle facilities.
- (e) Provide input on the preparation of new and updated transportation policies, plans and projects.
- (f) Provide a forum to receive public comment on mobility topics.
- (g) At the request of the city council, the mobility commission may perform other advisory functions not noted above. (Ord. 09-2019 § 1, 10-15-19.)

2.20.710 Terms.

The term of the mobility commission members shall be four years. The terms shall be staggered such that four of the commissioner’s terms will conclude on December 31st of the second year and five will conclude on December 31st of the fourth year. If a commissioner does not complete a full term, a new commissioner may be appointed for the duration of that term. (Ord. 09-2019 § 1, 10-15-19.)

2.20.720 Term limit.

No person shall be eligible to serve as a member of the mobility commission for more than two full terms. (Ord. 09-2019 § 1, 10-15-19.)

Chapter 2.25

PERSONNEL

Sections:

- 2.25.010 Adoption of personnel system.
- 2.25.020 Personnel officer established.
- 2.25.030 Authority of the city manager.
- 2.25.040 Duties of the city manager.
- 2.25.050 Adoption of rules.
- 2.25.060 Classified service.
- 2.25.070 Appointments.
- 2.25.080 Probationary period.
- 2.25.090 Status of present employees.
- 2.25.100 Filing of charges as to suspensions, dismissals, etc.
- 2.25.110 Hearings.
- 2.25.120 Suspension.
- 2.25.130 Abolition of positions.
- 2.25.140 Discrimination.
- 2.25.150 Offenses in connection with applications, examinations, and certification.
- 2.25.160 Offenses involving impersonation, examination questions, or unfairly securing waiver of rights.
- 2.25.170 Solicitation of contributions.
- 2.25.180 Right to contract for special service.
- 2.25.190 Appropriation of funds.
- 2.25.200 Allocation of classes to salary ranges.
- 2.25.210 Salary entitlement.
- 2.25.220 Surety bond required of all appointive officers and employees.
- 2.25.230 Bond for treasurer and city manager.
- 2.25.240 Costs of bonds are charges against the city.

2.25.010 Adoption of personnel system.

In order to establish an equitable and uniform procedure for dealing with personnel matters; to attract to municipal service the best and most competent persons available; to assure that appointments and promotions of employees will be based on merit and fitness as determined insofar as is practicable by competitive test; and to provide a reasonable degree of security for qualified employees, the following personnel system is hereby adopted. (Ord. 231 § 1. 1990 Code § 2-4100.)

2.25.020 Personnel officer established.

The city manager shall be ex officio personnel officer. The city manager may delegate any of the powers and duties conferred upon him/her as per-

sonnel officer to any other officer or employee of the city or may recommend that such powers and duties or any part of them be performed under contract. (Ord. 231 § 1. 1990 Code § 2-4101.)

2.25.030 Authority of the city manager.

Pursuant to the provisions of Section 2.10.080 and in accordance with the provisions of this chapter and the rules established hereunder, the city manager shall be responsible for making transfers, promotions, demotions, reinstatements, layoffs and appointments, and shall have the power to suspend or dismiss employees subject to the provisions of this chapter and the rules established hereunder, it being the intent and spirit of this chapter to provide a fair and just approach to municipal employment in order that city employees may be selected and promoted on a merit basis, but in no sense to impair the efficiency of the public service. (Ord. 231 § 1. 1990 Code § 2-4104.)

2.25.040 Duties of the city manager.

As administrative head of the city government, as set forth in Chapter 2.10, the city manager shall have the responsibility for making effective the purposes of this chapter. He/she shall:

- (a) Attend all meetings of the civil service board, unless represented by other officer or employee designated by him/her.
- (b) Administer all provisions of this chapter and the rules established hereunder not specifically reserved to the civil service board.
- (c) Prepare rules, and revisions and amendments thereof, for consideration by the civil service board, and after consideration by the board, submit the rules and revisions and amendments, together with the recommendations of the board and his/her own recommendations, to the city council for consideration and adoption by the council; provided, that the city manager may make recommendations directly to the city council necessitated or made desirable as the result of meeting and conferring or consultation between the municipal employee relations officer (city manager) and recognized employee organizations pursuant to the city's employer-employee rules and regulations.
- (d) Prepare and adopt a position classification plan, including class specifications, and revisions of the plan. The plan, and any revisions thereof, shall become effective upon city manager adoption, except in special circumstances

necessitating retroactive reclassification as determined by the city manager.

- (e) Prepare and adopt a salary and wage plan, and revisions and amendments thereof, consistent with appropriations available through the existing annual city budget. (Ord. 231 § 1; Ord. 777 § 1, 7-7-70; Ord. 2076 § 1, 5-24-94; amended during 2012 reformat. 1990 Code § 2-4105.)

2.25.050 Adoption of rules.

In addition to such other matters as may be necessary and proper to carry out the intent and purposes of this chapter, rules shall be adopted by the city council, upon recommendation of the city manager and the civil service board (except where the city council determines to take action independently of consideration by the board, or where, pursuant to Section 2.25.040, the city manager makes recommendations directly to the city council), establishing specific procedures to govern the following phases of the personnel program:

- (a) The preparation, installation, revision and maintenance of a position classification plan covering all positions in the classified service.
- (b) The formulation of desirable minimum standards and qualifications for each class of position.
- (c) The public announcement of vacancies and examinations and the acceptance of applications for employment.
- (d) The preparation and conduct of entrance and promotional examinations and the establishment and use of employment lists containing names of persons eligible for appointment and promotion.
- (e) The certification and appointment of persons from employment lists to fill vacancies and the making of provisional and emergency appointments.
- (f) The evaluation of employees during the probationary period and throughout their entire period of employment.
- (g) The transfer, promotion, demotion and reinstatement of employees in the classified service.
- (h) The separation from the service of employees through layoffs, suspensions, dismissals, for incapacity to perform required duties, or for other appropriate reasons.
- (i) The standardization of hours of work, attendance and leave regulations, working conditions and the development of employee morale, welfare and training.

- (j) Suitable provision for orderly and equitable presentations to the city manager and to the city council, by employees, of matters relating to general conditions of employment. (Ord. 231 § 1; Ord. 777 § 2, 7-7-70. 1990 Code § 2-4106.)

2.25.060 Classified service.

The provisions of this chapter shall apply to those in the classified service, which shall include all offices, positions and employments in the service of the city except:

- (a) Elective officers.
 - (b) Members of appointive boards, commissions and committees.
 - (c) Persons engaged under contract to supply expert professional services for a definite period of time.
 - (d) Volunteer personnel such as volunteer firemen and police reserves who receive no regular compensation from the city.
 - (e) Temporary or part-time employees, except persons employed to fill classified part-time positions.
 - (f) City manager and assistant city manager and deputy city manager.
 - (g) City attorney.
 - (h) City treasurer.
 - (i) Persons appointed, after the effective date of the ordinance amending this section, to occupy a classification as labor relations officer, assistant city attorney and as a department head including, but not limited to, the economic development director, finance director, fire chief, human services director, city clerk, parks and recreation director, human resources director, police chief, redevelopment agency director and information technology director.
- Provided, however, that the city manager, assistant city manager, deputy city manager, city attorney, city treasurer and the persons identified pursuant to subsection (i) of this section shall receive the benefits and privileges of this chapter and of the rules and regulations adopted hereunder, governing attendance, leaves and retirement system. The city attorney shall be appointed by the city council, shall hold office at and during the pleasure of the city council, and shall have the highest sense of duty to cooperate with the city manager. The assistant city manager and deputy city manager shall be appointed by the city manager and shall hold office at and during the

pleasure of the city manager. The city attorney, assistant city manager and deputy city manager shall be subject to the same provisions as the city manager in regard to compensation as set forth in Section 2.10.070; provided, that the city manager may recommend for council approval any initial, reduced or increased salary to be paid to said officers. (Ord. 231 § 1; Ord. 715 § 2; Ord. 745 § 3; Ord. 2056 § 1, 12-14-93; Ord. 2462 § 1, 6-4-02; Ord. 11-2004 § 1, 5-25-04; Ord. 1-2013 § 5, 1-8-13. 1990 Code § 2-4107.)

2.25.070 Appointments.

- (a) Appointments to vacant positions of the classified service, except to the position of city attorney, shall be made by the city manager in accordance with the provisions of this chapter and in accordance with the personnel rules and regulations. Appointments and promotions shall be based on merit and fairness to be ascertained so far as practicable by examination. Examinations shall be used and conducted to aid in the selection of qualified employees, and shall consist of such recognized selection techniques as achievement and aptitude tests, and other written tests, personal interview, performance tests, evaluation of daily work performance, work sampler, other recognized tests, or any combination of these, which will, in the opinion of the personnel officer, test fairly and effectively the qualifications of candidates. Physical, psychiatric and medical tests may be given as a part of any examination. In any examination the personnel officer may include, in addition to competitive tests, a qualifying test or tests, and set minimum standards therefor. Final interviews for all positions shall be held in the city.
- (b) If appointment is to be made from employment or promotional lists, the names of all eligible persons willing to accept appointments shall be certified to the appointing authority.
- (c) In the absence of appropriate employment lists, a provisional appointment may be made of a person meeting the minimum qualifications for the position; provided, however, that an employment list shall be established for such position within six months. No person shall be employed under a provisional appointment for a total of more than six months in any fiscal year, and no one position shall be filled by provisional appointments for more than a total of six months in any fiscal

year. Provided, however, that for the period of any national emergency, it is hereby provided that in the absence of appropriate employment lists, a provisional appointment may be made of a person meeting the minimum qualifications for the position for a total of 12 months, or for the duration of the national emergency and six months thereafter, whichever period shall be longer. It is further provided that nothing herein shall be construed to prevent the establishment of eligibility lists whenever it is possible so to do. When a position is to be filled by provisional appointment or a provisional appointment is to be extended, the city council shall direct the city clerk to record such action in the minutes of a meeting of the council prior to such appointment or extension.

- (d) No credit shall be allowed in the giving of any examination or the establishment of any employment or promotional lists for service rendered under a provisional or emergency appointment.
- (e) During the period of suspension of any employee, or pending final action on proceedings to review the suspension, demotion or dismissal of any employee, the vacancy created may be filled by temporary appointment only. (Ord. 231 § 1; Ord. 235 § 1. 1990 Code § 2-4108.)

2.25.080 Probationary period.

- (a) All original and promotional appointments shall be tentative and subject to a probationary period of such length as shall be established in the rules adopted hereunder. During this probationary period the employee may be rejected by the appointing authority at any time without right of appeal or hearing in any manner.
- (b) An employee rejected during the probationary period from a position to which he/she had been promoted shall be reinstated to the position from which he/she was promoted unless he/she is discharged as provided in this chapter or the rules established hereunder.
- (c) The probationary period shall be regarded as a part of the testing process and shall be utilized for closely observing the employee's work, for securing the most effective adjustment of a new employee to his/her position, and for rejecting any probationary employee whose performance in the opinion of the appointing authority does not meet the required standards

of work. (Ord. 231 § 1; amended during 2012 reformat. 1990 Code § 2-4109.)

2.25.090 Status of present employees.

Any person holding a position included in the classified service who, on the effective date of this chapter as amended, shall already have attained regular status shall continue in regular status in the classified service in the position held on such effective date without qualifying test, and shall thereafter be subject in all respects to the provisions of this chapter and the personnel rules and regulations. Any other persons holding positions or employment in the classified service shall be regarded as holding their positions or employment as probationers who are serving out the balance of their probationary periods before obtaining regular status, and the time served prior to the effective date of this chapter as amended shall be a portion of the probationary period. (Ord. 231 § 1. 1990 Code § 2-4110.)

2.25.100 Filing of charges as to suspensions, dismissals, etc.

- (a) The tenure of every employee holding a position in the classified service shall be during good behavior and proved fitness for the position on the basis of duties and responsibilities, but any officer or employee may be removed or otherwise disciplined as provided by this chapter and the rules established hereunder.
- (b) Any employee in the classified service who has been demoted, transferred, suspended, dismissed or reduced in pay shall receive a written statement of the reasons for such action on the effective date of such action, and he/she shall have 10 calendar days' time thereafter within which to answer in writing thereto. Copies of such charges and answer shall be filed with the chairman or vice-chairman of the civil service board and personnel officer. Within 10 days from the date of filing his/her answer to the written charges, or in the event such written charges have not been available to him/her within the time prescribed, then within 10 days after the action taken to demote, dismiss, transfer, or reduce pay of the employee, he/she may file a written demand with the chairman of the civil service board requesting a hearing before the board. The board shall then investigate the case and conduct a hearing as provided by Section 2.25.110 and by the rules established hereunder.

- (c) Notwithstanding any provision of this section, Section 2.25.110, or any rule established hereunder, where pursuant to the city's employer-employee rules and regulations the city shall have met and conferred in good faith with representatives of a formally recognized employee organization in good faith regarding matters within the scope of representation and shall have entered into a written memorandum of understanding approved by the city council establishing a procedure for arbitration of grievances, appeals as to disciplinary actions, and other matters affecting employment, persons in those classes of employment affected by such a memorandum of understanding shall not have a right to a hearing by the civil service board as to any such matter, and the board shall have no jurisdiction thereover. (Ord. 231 § 1; Ord. 1298 § 1, 12-12-78; amended during 2012 reformat. 1990 Code § 2-4111.)

2.25.110 Hearings.

- (a) If an employee has first exhausted all his/her regular administrative remedies, the civil service board shall have the right to investigate any complaint made by such employee in the classified service relative to any situation affecting his/her employment status or conditions of employment, except that the provisions of this section shall not apply to reductions of pay which are part of a general plan to reduce salaries and wages or to the abolition of positions or to layoff of employees in the interest of economy or efficiency or because the necessity for the position involved no longer exists. The rules established hereunder shall set forth procedures for the hearing of complaints made by employees in the classified service.
- (b) The hearing of the civil service board shall be public and the findings and recommendations of the board to the city manager and city council shall be made a matter of public record; provided, however, that at the discretion of the board a private hearing may be conducted when the matter under consideration relates to the dismissal, disciplining, appointment or employment of a public officer or employee; provided further, however, that any such hearing shall be public if the officer or employee so requests.
- (c) If the civil service board affirms the action against which a complaint was made or in connection with which an appeal was filed, then

such action shall become final and conclusive. If, however, the board recommends modification or reversal of such action and the city manager fails or lacks authority to carry out the board's recommendation, then in that event the matter shall be promptly referred to the city council for decision, and the council's action thereon shall be final and conclusive.

- (d) The provisions of this section shall not apply to layoffs when necessitated by inclement weather or other adverse working conditions, shortage of work or funds, or material changes in duties or organization.
- (e) In the event a hearing by the board held pursuant to this section, and at which the complaining employee or any other employee is to be present, is scheduled during the normal working hours of any such employee so involved, then at least two days' notice of such hearing shall be given to the department head of the employee (or to the city manager if the employee is a department head), who shall permit attendance of the employee at the hearing without loss of pay, or requiring the making up of the time lost, or any other penalty or disadvantage to such employee. (Ord. 231 § 1; amended during 2012 reformat. 1990 Code § 2-4112.)

2.25.120 Suspension.

Any person holding a position or employment in the classified service shall be subject to disciplinary suspension without pay, but such suspension shall not exceed a total of six calendar months in any fiscal year. An employee so suspended shall have the right to a hearing before the civil service board as prescribed in Section 2.25.110. (Ord. 231 § 1; Ord. 872 § 1, 10-26-71. 1990 Code § 2-4113.)

2.25.130 Abolition of positions.

Whenever in the judgment of the city council it becomes necessary in the interest of efficiency or economy or because the necessity for the position involved no longer exists, the city council may abolish any position or employment in the classified service in the same manner as such position or employment was created, in compliance with the provisions of Cal. Gov't Code § 45100. (Ord. 231 § 1. 1990 Code § 2-4114.)

2.25.140 Discrimination.

- (a) Minimum or maximum age limits for any civil service examination shall not be established,

and age shall not be a minimum qualification for any city employment in the classified service. Any person possessing all the minimum qualifications for a position shall be eligible to take any civil service examination, regardless of age, and the city council, the civil service board, the personnel officer or any other person shall not include age limits in any employment announcement or adopt any rule prohibiting the employment of any person, otherwise qualified, in any city employment solely because of age. The provisions of this section shall not, however, be deemed to apply to the employment of policemen or firemen.

- (b) No question in any examination, application form, or other personnel proceeding shall be so framed as to tend or attempt, whether or not such result be intended, to elicit information concerning the political affiliation, race, religious creed, color, national origin, ancestry, sex, marital status, age (over 40), medical condition (cured or rehabilitated cancer), or physical handicap of an applicant, eligible, or employee. No appointment to or removal from a position in the classified service shall be affected in any manner by any political opinion or affiliation, or because of race, religious creed, color, national origin, ancestry, sex, marital status, age (over 40), medical condition (cured or rehabilitated cancer), or physical handicap. (Ord. 231 § 1; Ord. 1865 § 1, 4-18-89. 1990 Code § 2-4115.)

2.25.150 Offenses in connection with applications, examinations, and certification.

It is unlawful for any person:

- (a) Willfully by himself or in cooperation with another person to defeat, deceive, or obstruct any person with respect to his/her right of examination, application, or certification for employment under the provisions of this chapter or the rules adopted hereunder.
- (b) Willfully and falsely to mark, grade, estimate, or report upon the examination or proper standing of any person examined or certified under the provisions of this chapter or the rules adopted hereunder, or to aid in so doing, or make any false representation concerning the same or the person examined.
- (c) Willfully to furnish to any person any special or secret information for the purpose of either improving or injuring the prospects or chances

of any person examined, certified or to be examined, or certified under the provisions of this chapter or the rules adopted hereunder. (Ord. 231 § 1; amended during 2012 reformat. 1990 Code § 2-4119.)

2.25.160 Offenses involving impersonation, examination questions, or unfairly securing waiver of rights.

It is unlawful for any person:

- (a) To impersonate another person or to permit or aid in any manner any other person to impersonate him/her in connection with any examination, application, or request to be examined under the provisions of this chapter or the rules adopted hereunder.
- (b) To furnish or obtain examination questions or other examination material prepared and intended for use in any examination, before such examination to be administered under the provisions of this chapter or the rules adopted hereunder.
- (c) To use any unfair means to cause or attempt to cause any eligible to waive any rights obtained under the provisions of this chapter or the rules adopted hereunder. (Ord. 231 § 1; amended during 2012 reformat. 1990 Code § 2-4120.)

2.25.170 Solicitation of contributions.

No officer or employee under the government of the city and no candidate for any city office shall directly or indirectly solicit or receive, or be in any manner concerned in soliciting or receiving, any assessment, subscription, or contribution, whether voluntary or involuntary, for any political purpose whatever, from anyone on the employment lists or holding any position under the provisions of this chapter. (Ord. 231 § 1. 1990 Code § 2-4121.)

2.25.180 Right to contract for special service.

Upon recommendation of the city manager, the city council may contract with any competent agency for the performance by such agency of such technical service in connection with the establishment of the personnel system or with its operation, as may be desired. (Ord. 231 § 1. 1990 Code § 2-4122.)

2.25.190 Appropriation of funds.

The city council shall appropriate such funds as are necessary to carry out the provisions of this chapter, being advised in this respect by the recommendations of the city manager in the proposed

annual budget. (Ord. 231 § 1. 1990 Code § 2-4123.)

2.25.200 Allocation of classes to salary ranges.

The allocation of the several classes to salary ranges shall be directed and designated by resolution of the city council. (Ord. 231 § 1; Ord. 971 § 1, 1-8-74. 1990 Code § 2-4124.)

2.25.210 Salary entitlement.

- (a) Subject to the provisions of this chapter, and to the rules and regulations adopted hereunder, each classified employee in the service of the city shall be entitled to receive, and they shall be paid for such services, the applicable rate of compensation prescribed for the class to which the position is allocated, in accordance with the salary range established pursuant to the negotiated memorandum of understanding or the compensation plan approved by the city manager pursuant to Article VI of Resolution 699 (Personnel Rules) as may be applicable.
- (b) Notwithstanding any contrary provision of this chapter, or the rules adopted pursuant thereto, classification and compensation of all unclassified employees other than the city attorney and the city manager shall be determined by the city manager. (Ord. 231 § 1; Ord. 246 § 1; Ord. 774; Ord. 971 § 1, 1-8-74; Ord. 1682 § 1, 8-20-85; Ord. 2226 § 1, 3-4-97. 1990 Code § 2-4125.)

2.25.220 Surety bond required of all appointive officers and employees.

Every office or employee of the city, with the exception of elected officers, shall be required to furnish a faithful performance bond in the basic sum of \$10,000. (Ord. 231 § 1. 1990 Code § 2-4126.)

2.25.230 Bond for treasurer and city manager.

The city treasurer shall furnish a surety bond in the amount of \$50,000; and the city manager, in addition to the basic bond referred to in Section 2.25.220, shall furnish a surety bond in the additional sum of \$40,000. (Ord. 231 § 1. 1990 Code § 2-4127.)

2.25.240 Costs of bonds are charges against the city.

The costs of the bonds required by Sections 2.25.220 and 2.25.230 shall be a charge against the city treasury. (Ord. 231 § 1. 1990 Code § 2-4128.)

Chapter 2.30

**CAMPAIGN CONTRIBUTION
LIMITATIONS IN MUNICIPAL
ELECTIONS**

Sections:

- 2.30.010 Title, purpose and intent.
- 2.30.020 Definitions.
- 2.30.030 Campaign contributions – Limitations.
- 2.30.040 Additional preelection campaign statement.
- 2.30.050 Aggregation of contributions.
- 2.30.060 Loans and unpaid debts to vendors.
- 2.30.070 Debt retirement committee.
- 2.30.080 Identification of contributors.
- 2.30.090 Return of campaign contributions.
- 2.30.100 Enforcement – Violations – Criminal.
- 2.30.110 Enforcement – Injunction.
- 2.30.120 Enforcement – Civil liability.

Prior legislation: Ords. 1059, 1144, 1353 and 1492.

2.30.010 Title, purpose and intent.

This chapter may be referred to as the “campaign contribution ordinance” of the city of Fremont.

It is the purpose and intent of the city council in enacting this chapter to minimize the potential for undue influence by individuals or groups (including political parties and other candidates and campaign committees) on the mayor and councilmembers by placing realistic and enforceable limits on the amount of money that individuals or groups may contribute to political campaigns in municipal elections while providing for a level of public participation adequate for a meaningful election campaign; to ensure and promote integrity, honesty and fairness in decisions of public policy; to provide for a campaign contribution and expenditure reporting process that will inform the public; and to enhance the opportunity for challengers to be competitive with incumbents.

In seeking to establish such limitations on campaign contributions, it is the intent of the city council to promote a broader and more open participation by all citizens in the electoral process. It is not intended that such limitations should act to deprive or restrict any citizen of his/her rights guaranteed under the First and Fourteenth Amendments of the United States Constitution.

In addition, these provisions are intended to supplement the provisions contained in the Political Reform Act of 1974 (Cal. Gov't Code Title 9). (Ord. 1778 § 1, 6-9-87; Ord. 2026 § 1, 4-6-93; Ord. 2282 § 1, 3-10-98; amended during 2012 reformat. 1990 Code § 2-1400.)

2.30.020 Definitions.

Unless the term is specifically defined in this chapter or the contrary is stated or clearly appears from the context, the definitions set forth in the Political Reform Act of 1974 (Cal. Gov't Code §§ 81000 et seq.) shall govern the interpretation of this chapter.

(a) Election Period.

- (1) For each general municipal election held in November every two years to elect a mayor and three councilmembers, the election period means the period beginning on January 1st after the previous general municipal election for the affected office and ending on December 31st after the next following (and current) general municipal election for the affected office.
- (2) For each special municipal election held to fill a vacancy in the office of mayor or councilmember, the election period means the period beginning on the day the vacancy began and ending on the sixtieth day following the special municipal election. However, for any candidate in the special election who has established, prior to the vacancy, a committee for the election to the affected office of mayor or councilmember, the election period begins on January 1st after the previous general municipal election for the affected office. (Ord. 1778 § 1, 6-9-87; Ord. 2026 § 1, 4-6-93; Ord. 2387 § 3, 6-27-00; Ord. 13-2018 § 1, 5-1-18. 1990 Code § 2-1401.)

2.30.030 Campaign contributions – Limitations.

- (a) No person shall make a contribution to any candidate and the controlled committee of such a candidate, and no candidate and the candidate's controlled committee shall accept from each such person a contribution or contributions, totaling more than \$640.00 for any election period.

- (b) Beginning January 1, 2019, the city clerk shall once biennially, on a calendar-year basis, increase the contribution limitation amount upon a finding that the cost of living in the immediate San Francisco Bay Area, as shown on the Consumer Price Index (CPI) for all items in the San Francisco Bay Area as published by the U.S. Department of Labor, Bureau of Statistics, has increased. The increase of the contribution limitation amount shall not exceed the CPI increase, using the index published in June 2017 as the index year. The adjustment shall be rounded up to the nearest \$10.00. The city clerk shall publish the contribution limitation amounts no later than February 1st of each year in which an increase occurs.
- (c) The candidate's own money or property used in the furtherance of the candidate's campaign shall not be subject to the contribution limits of this chapter. (Ord. 1778 § 1, 6-9-87; Ord. 2026 § 1, 4-6-93; Ord. 2111 § 1, 2-21-95; Ord. 14-2006 § 1, 7-25-06; Ord. 17-2006 § 1, 9-12-06; Ord. 13-2018 § 2, 5-1-18. 1990 Code § 2-1402.)

2.30.040 Additional preelection campaign statement.

In addition to the two preelection campaign statements required to be filed pursuant to Cal. Gov't Code §§ 84200.5 and 84200.8, a third statement is required to be filed in and received by the office of the city clerk by 2:00 p.m. of the Friday preceding the election. Said statement shall cover the period from the close of the second preelection statement through the Wednesday preceding the election and shall contain such information as is required in the previous two statements. (Ord. 1778 § 1, 6-9-87; Ord. 2026 § 1, 4-6-93; Ord. 13-2018 § 3, 5-1-18. 1990 Code § 2-1403.)

2.30.050 Aggregation of contributions.

For the purpose of the contribution limitations in Section 2.30.030, contributions from persons shall be aggregated as follows:

- (a) If the same person or a majority of the same persons in fact directs and controls the decisions of two or more entities to make contributions to support or oppose a candidate or candidates for elective office, those affiliated entities shall be considered one person.
- (b) Business entities in a parent-subsidiary relationship and business entities with the same

controlling (more than 50 percent) owner shall be considered one person, unless the business entities act completely independently in their decisions to make contributions to support or oppose candidates for elective office.

- (c) No committee which supports or opposes a candidate shall have as officers individuals who serve as officers on any other committee which supports or opposes the same candidate. No such committee shall act in concert with, or solicit or make contributions on behalf of, any other committee. (Ord. 1778 § 1, 6-9-87; Ord. 2026 § 1, 4-6-93. 1990 Code § 2-1404.)

2.30.060 Loans and unpaid debts to vendors.

- (a) Every loan to a candidate or committee shall be by written agreement and shall be filed with the candidate's or committee's campaign statement on which the loan is first reported.
- (b) Loans shall be subject to the contribution limitations in Section 2.30.030.
- (c) Debts owed by a candidate or committee to a vendor for goods or services rendered shall be considered campaign contributions for the purposes of this section if such debts are not repaid within one year following the election, unless the vendor has made a good faith effort to collect. A good faith effort shall consist of contracting with a collection agency for action, or the filing of a legal action to collect. To the extent such contribution exceeds the contribution limitation established in Section 2.30.030, it shall be a violation of this chapter, and subject to the enforcement provisions of Sections 2.30.100 et seq. (Ord. 1778 § 1, 6-9-87; Ord. 2026 § 1, 4-6-93; Ord. 2218 § 1, 2-4-97; Ord. 2282 § 1, 3-10-98. 1990 Code § 2-1405.)

2.30.070 Debt retirement committee.

A candidate may continue a controlled committee from a previous election period for the sole purpose of receiving contributions for the retirement of campaign debt from the previous election. Contributions to said committee shall be subject to all the limitations of this chapter and shall be cumulated to the previous election period for the purpose of the limits established in Sections 2.30.020 and 2.30.030. (Ord. 1778 § 1, 6-9-87; Ord. 2026 § 1, 4-6-93. 1990 Code § 2-1406.)

2.30.080 Identification of contributors.

Identification of contributors is required whenever the cumulative contributions from a single source total \$100.00 or more during an election period. (Ord. 1778 § 1, 6-9-87; Ord. 2026 § 1, 4-6-93. 1990 Code § 2-1407.)

2.30.090 Return of campaign contributions.

The intended recipient of any contribution which would cause the total amount of contributions to a committee from a single donor to exceed the contribution limitations in Section 2.30.030 shall, within 48 hours of receipt thereof, return any such excess to the donor. In the event an excessive campaign contribution is received and reported in the campaign report, the recipient shall, within 48 hours of notification by the city clerk, return such excess to the donor; if such excess is not returned within such 48 hours, the recipient shall promptly transmit to the city clerk for deposit in the general fund of the city a sum equal to such excess. (Ord. 1778 § 1, 6-9-87; Ord. 2026 § 1, 4-6-93; Ord. 2282 § 1, 3-10-98; Ord. 17-2006 § 2, 9-12-06. 1990 Code § 2-1408.)

2.30.100 Enforcement – Violations – Criminal.

- (a) Any person who knowingly or willfully violates any provision of this chapter is guilty of a misdemeanor.
- (b) No person convicted of a misdemeanor under this chapter shall be a candidate for an elected city council office for a period of four years following the date of the conviction unless the court at the time of sentencing specifically

determines that this provision shall not be applicable. A plea of nolo contendere shall be deemed a conviction for purposes of this section.

- (c) In addition to other penalties provided by law, a fine up to the greater of \$1,000 or three times the amount the person failed to report properly or unlawfully contributed, gave or received may be imposed upon conviction of each violation.
- (d) Prosecution for violation of this chapter must be commenced within four years after the date on which the violation occurred.
- (e) Whether or not a violation is inadvertent, the presence or absence of good faith shall be considered in applying the remedies and sanctions of this chapter.
- (f) If two or more persons are responsible for any violation, they shall be jointly and severally liable. (Ord. 1778 § 1, 6-9-87; Ord. 2026 § 1, 4-6-93. 1990 Code § 2-1409.)

2.30.110 Enforcement – Injunction.

Any person residing in the city may sue for injunctive relief to enjoin violations or to compel compliance with the provisions of this chapter. The court may, in its discretion, require the plaintiff to file a complaint with the district attorney prior to seeking injunctive relief. The court may award to a plaintiff or defendant who prevails his/her costs of litigation, including reasonable attorneys' fees. (Ord. 1778 § 1, 6-9-87; Ord. 2026 § 1, 4-6-93; amended during 2012 reformat. 1990 Code § 2-1410.)

2.30.120 Enforcement – Civil liability.

- (a) Any person who intentionally or negligently violates any of the reporting requirements of this chapter shall be liable in a civil action brought by the district attorney or by a person residing within the city for an amount not more than the amount or value not properly reported.
- (b) Any person who makes or receives a contribution, in violation of the provisions of this chapter, is liable in a civil action brought by the district attorney or by a person residing in the city for an amount up to \$500.00 or three times the amount of the unlawful contribution or gift, whichever is greater.
- (c) Any person who violates any provision of this chapter for which no specific penalty is provided shall be liable in a civil action brought

by the district attorney for an amount up to \$1,000.

- (d) No civil action alleging a violation of this chapter may be filed against a person pursuant to this section if the district attorney is maintaining a criminal action against that person pursuant to Section 2.30.100.
- (e) Any person, before filing a civil action pursuant to this section, must first file with the district attorney a written request for the district attorney to commence the action. The request shall include a statement of the grounds for believing a cause of action exists. The district attorney shall respond within 40 days after receipt of the request, indicating whether he/she intends to file a civil action. If the district attorney indicates in the affirmative, and files suit within 40 days thereafter, no other action may be brought unless the action brought by the district attorney is dismissed without prejudice as provided for in subsection (f) of this section.
- (f) Not more than one judgment on the merits with respect to any violation may be obtained pursuant to this section. Actions brought for the same violation or violations shall have precedence for purposes of trial in order of the time filed. Civil actions shall be dismissed once judgment has been entered or a settlement approved by the court in a previously filed action. The court may dismiss a pending action without prejudice to any other action for failure of the plaintiff to proceed diligently and in good faith. The action may be so dismissed on motion of the district attorney or any plaintiff in an action based on the same violation.
- (g) In determining the amount of liability under this section, the court may take into account the seriousness of the violation and the degree of culpability of the defendant. Whether or not a violation is inadvertent, the presence or absence of good faith shall be considered. If a judgment is entered against the defendant or defendants in an action brought by a person residing in the city under this section, the plaintiff shall receive 50 percent of the amount recovered. The remaining 50 percent shall be deposited in the general fund of the city. In an action brought by the district attorney, the entire amount recovered shall be paid to the general fund of the city.

- (h) No civil action alleging a violation of any provisions of this chapter shall be filed more than four years after the date the violation occurred.
- (i) The court may award to a plaintiff (including the district attorney) or defendant, who prevails in any action authorized by this chapter, the costs of litigation incurred by such party, including reasonable attorneys' fees. On motion of any party, a court shall require a private plaintiff to post a bond in a reasonable amount at any stage of the litigation to guarantee payment of costs. (Ord. 1778 § 1, 6-9-87; Ord. 2026 § 1, 4-6-93; amended during 2012 reformat. 1990 Code § 2-1411.)

Chapter 2.35

ADMINISTRATIVE OPERATIONS

Sections:

2.35.010 Holidays observed by city.

2.35.010 Holidays observed by city.

- (a) Excluding those offices which must remain open for the continuance of essential public services, such as police and fire protection, the public offices of the city shall be closed on the following days:
 - (1) Saturdays and Sundays;
 - (2) The day after the Thursday in November appointed as "Thanksgiving Day";
 - (3) December 24th;
 - (4) December 31st;
 - (5) The third Monday in January, known as "Dr. Martin Luther King, Jr. Day";
 - (6) Those holidays enumerated in Cal. Gov't Code §§ 6700 et seq., except as follows:
 - (A) A day shall not be observed as a holiday because of the fact alone that an election is held throughout the state;
 - (B) A day appointed by the president or governor for a public fast unless authorized by the city manager;
 - (C) February 12th, known as "Lincoln Day";
 - (D) Good Friday from 12:00 noon until 3:00 p.m.;
 - (E) September 9th, known as "Admission Day";
 - (F) The second Monday in October, known as "Columbus Day";
 - (7) Other holidays, including but not limited to those excepted or not authorized in subsection (a)(6) of this section, may be designated by ordinance or resolution of the city council.
- (b) When a holiday falls on a Sunday, the following Monday shall be observed as a holiday. When a holiday falls on a Saturday, the previous Friday shall be observed as a holiday. The following special rules shall apply to situations involving December 24th, 25th and 31st and January 1st:
 - (1) If December 25th or January 1st falls on a Saturday, the previous Thursday and Friday shall be observed as holidays;
 - (2) If December 25th or January 1st falls on a Sunday, the previous Friday and the fol-

lowing Monday shall be observed as holidays;

- (3) If December 25th or January 1st falls on a Monday, the following Tuesday shall be observed as a holiday.

Notwithstanding the foregoing provisions of this subsection, the holidays specially proclaimed or appointed by the president, governor or city council (not specifically set forth above) shall be observed only upon the day so proclaimed or appointed.

- (c) Notwithstanding the foregoing provisions of this section, the city manager shall be authorized, by administrative regulation or otherwise, to direct that all or a portion of the public offices of the city shall remain open for business, on a full or reduced staff basis, on any of the days or holidays prescribed above, when he/she deems it necessary in the public interest so to do. (Ord. 592 § 1; Ord. 778 § 1, 7-7-70; Ord. 1067 § 1, 9-16-75; Ord. 1285 § 1, 10-17-78; Ord. 1877 § 1, 8-1-89; amended during 2012 reformat. 1990 Code § 2-1501.)

Chapter 2.40

**PROHIBITIONS
ON FORMER CITY OFFICIALS AND ON
DESIGNATED FORMER EMPLOYEES**

Sections:

- 2.40.010 Purpose and intent.
- 2.40.020 Definitions.
- 2.40.030 Prohibitions for former city officials.
- 2.40.040 Prohibition for former board and/or commission members.
- 2.40.050 Prohibitions for designated employees.
- 2.40.060 Exceptions.
- 2.40.070 Applicability.
- 2.40.080 Waiver.
- 2.40.090 Sanctions.

2.40.010 Purpose and intent.

It is the purpose and intent of the city council to:

- (a) Assure the impartiality and independence of city officials and designated employees in making governmental decisions and to avoid any perceptions of unfair advantage.
- (b) Prohibit inappropriate influence of former public officials and designated former employees on the current decision making process.
- (c) Discourage private for-profit businesses or nonprofit agencies from hiring former officials or designated employees with the intent of influencing current employees and decisions. (Ord. 2267 § 1, 10-21-97; Ord. 2329 § 1, 4-13-99. 1990 Code § 2-10000.)

2.40.020 Definitions.

For the purposes of this chapter, the terms below shall have the following meaning:

- (a) "City official" means the mayor, city councilmembers, city manager and city attorney of the city of Fremont. "City official" shall also mean a member of the city redevelopment agency board.
- (b) "Commission" means any body created by the city council whose members are required to file statements of economic interest pursuant to the Political Reform Act of 1974 or the city's conflict of interest code.
- (c) "Nonprofit organization" means an entity which would qualify as such under the Federal Internal Revenue Code.

- (d) "Work" means any activity for which compensation is received from any source, including compensation received as an independent contractor. "Work" includes the supervision or direction of others.
- (e) "Designated employee" means any former employee of the city of Fremont whose position or classification has been designated by resolution of the city council as being covered by the provisions of this chapter. This term also includes any former employee whose former position or classification has been created or renamed following the city council's last designation in those cases where the city manager so directs.
- (f) "Financial interest" has the same meaning as that stated in Cal. Gov't Code § 87103 as that section exists and may be amended from time to time. (Ord. 2267 § 1, 10-21-97; Ord. 2329 § 1, 4-13-99. 1990 Code § 2-10001.)

2.40.030 Prohibitions for former city officials.

For one year immediately following the date of termination of city office or employment, no former city official shall:

- (a) Work on any matter on which the city official performed services on behalf of the city during the 12 months immediately preceding the date of termination of service;
- (b) Represent any person or entity, before the city council, redevelopment agency board, any committee, subcommittee or present member thereof, any city commission or any staff or employee of the city or agency, on a matter for which the city official has or will receive compensation or otherwise has a financial interest. (Ord. 2267 § 1, 10-21-97; Ord. 15-2009 § 2, 7-7-09. 1990 Code § 2-10002.)

2.40.040 Prohibition for former board and/or commission members.

For one year following the date of termination of commission service, a former commission member shall not represent any person or entity before the commission on which the former member served on a matter for which the former commission member has or will receive compensation or otherwise has a financial interest. (Ord. 2267 § 1, 10-21-97; Ord. 2329 § 1, 4-13-99. 1990 Code § 2-10003.)

2.40.050 Prohibitions for designated employees.

For one year immediately following the date of termination of employment, no designated employee shall:

- (a) Work on any matter on which the designated employee performed services on behalf of the city during the 12 months immediately preceding the date of termination of service.
- (b) Represent any person or entity, before the city council, redevelopment agency board, any city commission or any staff or employee of the city or agency, on a matter on which the designated employee worked for the city and for which representation the designated employee has received or will receive compensation or otherwise has a financial interest.
- (c) Represent any person or entity, before an agency or department of the city for which the designated employee worked or over which the designated employee had authority, if the designated employee has received or will receive compensation for such representation or otherwise has a financial interest. (Ord. 2329 § 1, 4-13-99. 1990 Code § 2-10004.)

2.40.060 Exceptions.

The following activities shall not be subject to the prohibitions in Section 2.40.030, 2.40.040 or 2.40.050:

- (a) Volunteering for a nonprofit organization.
- (b) Working as a board member, officer or employee of another local governmental agency or as an employee or representative of a public agency at the time of an appearance or communication on behalf of that agency.
- (c) Working as an independent contractor or consultant of the city where it has been determined that it is in the best interest of the city to retain the former official or designated employee. The city council or the city manager shall make such a determination.
- (d) Appearing on behalf of the former city official's designated former employee or former commission member's sole personal interest. (Ord. 2267 § 1, 10-21-97; Ord. 2329 § 1, 4-13-99; Ord. 15-2009 § 3, 7-7-09. 1990 Code § 2-10005.)

2.40.070 Applicability.

The provisions of this chapter shall not apply to prevent a former city official or designated employee from testifying as a witness in any legal

proceeding. (Ord. 2267 § 1, 10-21-97; Ord. 2329 § 1, 4-13-99. 1990 Code § 2-10006.)

2.40.080 Waiver.

The city council or city manager may waive the above prohibitions if, upon full disclosure of the facts concerning the proposed activity, the council or city manager finds that such waiver is in the best interest of the city and that the waiver is not inconsistent with the purposes of this chapter; except, however, neither the city council nor the city manager may waive the prohibitions set forth in Section 2.40.030. (Ord. 2267 § 1, 10-21-97; Ord. 2329 § 1, 4-13-99; Ord. 15-2009 § 4, 7-7-09. 1990 Code § 2-10007.)

2.40.090 Sanctions.

In addition to any other remedy provided by law, the following sanctions shall also apply to any violations of this chapter where appropriate:

- (a) Upon the petition of any person, a court or the presiding officer of any proceeding shall, after providing notice and an opportunity for hearing, exclude any person found to be in violation from further participation, including assisting or counseling any other participant, in the matter then pending before such court or body.
- (b) The city shall be entitled to recover from any former city official, former commissioner, board member or designated employee the monetary value of any compensation provided to such person for activities found to be in violation of this chapter.
- (c) Knowing and willful violation of the provisions of this chapter shall constitute an infraction. (Ord. 2267 § 1, 10-21-97; Ord. 2329 § 1, 4-13-99. 1990 Code § 2-10008.)

Chapter 2.45

ELECTRONIC FILING

Sections:

2.45.010 Electronic filing of campaign statements and statements of economic interests.

2.45.010 Electronic filing of campaign statements and statements of economic interests.

- (a) Any elected officer, candidate, committee or other person required to file statements, reports or other documents required by Chapter 4 of Title 9 of the Government Code (commencing with Cal. Gov't Code § 84100), except an elected officer, candidate, committee or other person who receives contributions totaling less than \$1,000 and makes expenditures totaling less than \$1,000 in a calendar year, shall file those statements, reports or other documents online or electronically with the city clerk.
- (b) Any person holding a position listed in Cal. Gov't Code § 82700 or designated in the city's local conflict of interest code adopted pursuant to Cal. Gov't Code § 83700 shall file any required statement of economic interest reports (FPPC Form 700) online or electronically with the city clerk.
- (c) In any instance in which an original statement, report or other document must be filed with the California Secretary of State and a copy of that statement, report or other document is required to be filed with the city clerk, the filer may, but is not required to, file the copy electronically.
- (d) If the city clerk's electronic system is not capable of accepting a particular type of statement, report or other document, an elected officer, candidate, committee or other person shall file that document with the city clerk in an alternative format. (Ord. 08-2020 § 1, 6-16-20.)

