

CITY OF OAKLAND

2025 ENCAMPMENT ABATEMENT POLICY

Revised By City Council Resolution On [xxx]

I. INTRODUCTION

In December 2019, the Oakland City Council adopted the Permanent Access to Housing (PATH) Framework, which among other things, recommended strategies and interventions to address the growing homelessness crisis in Oakland.

The PATH Framework groups response strategies into three major categories:

1. **Prevention:** to protect vulnerable tenants from losing the housing they have and stabilizing those most at risk of becoming homeless;
2. **Emergency Response:** to shelter and rehouse households and improve health and safety on the street.
3. **Housing Development:** to expand the number of Extremely Low Income (ELI) and Permanent Supportive Housing (PSH) units prioritized for individuals and families experiencing homelessness.

Prevention strategies and affordable housing development strategies are not addressed in this particular policy; however, it is important to acknowledge that the emergency response strategies outlined in this policy fall within a broader framework to ultimately exit unhoused individuals and families from the homelessness system to permanent housing.

The PATH Framework specifically called for the development of an Encampment Management Policy to address the adverse health and safety impacts of unsheltered homelessness, with compassion and care to not criminalize poverty. Additionally, the PATH Framework highlights the importance of developing an encampment policy through a race and equity lens, given the disproportionate impact of homelessness on African Americans in Oakland, as well as disproportionate health and safety impacts from encampments on low income communities of color.

A. Equity Considerations

African Americans are disproportionately impacted by unsheltered homelessness. In Oakland, 53 percent of the homeless population are African American and the vast majority of known encampments at this time are located within communities of concern. For these reasons, this policy was developed with an intentional focus on the following equity outcomes:

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- Health and safety standards are achieved and maintained for encampment residents who are disproportionately Black, Indigenous, and Persons of Color (BIPOC).
- BIPOC neighborhoods and businesses are not disproportionately impacted by vehicle and street encampments.
- Service provisions close disparities in BIPOC groups' representation in homelessness.

An equity impact analysis will be conducted in coordination with the City's Department of Race and Equity after the adoption and implementation of this policy to ensure the stated outcomes above are achieved and maintained.

It is important to note that an equity impact analysis is a comprehensive process that begins during the policy development stage and extends well into the implementation and evaluation stage of the policy process.

To this end, this policy will undergo a semi-annual equity review to determine its effectiveness in relation to the equity indicators and outcomes consistent with the guidance and best practices promoted by the City's Department of Race and Equity.

B. Public Safety Considerations

It is important to distinguish between public safety "emergencies" and public safety "factors" to determine the appropriate encampment intervention.

Public safety emergencies requiring a fire, medical, and/or police response should be immediately reported to 911, and those departments shall respond according to the ordinances, codes, statutes, and/or regulations under which they operate and are authorized to enforce (e.g., Health & Safety Code, Fire Code, Penal Code, etc.).

The status of being unsheltered does not create immunity from generally enforced state codes and local ordinances. For example, the Oakland Police Department ("OPD") or other relevant agencies shall conduct investigation of crimes committed at encampments, especially violent crimes, arson, and narcotics trafficking, consistent with the laws and policies that currently govern all other criminal investigations, irrespective of location or whether the suspect is sheltered or unsheltered. Although the City does not enforce ordinances or policies that criminalize the "status" of being homeless (e.g. citing or arresting for sitting, lying, or sleeping outdoors), the City will enforce laws, ordinances and policies aimed at punishing criminal conduct unrelated to the status of being homeless (e.g. drug and sex trafficking, arson, assault, vandalism, trespass, theft, etc.). The City shall enforce against all criminal activities in encampments regardless of housing status.

The City will also enforce California Vehicle Code ("CVC") and Oakland Municipal Code ("OMC") violations that address health and safety concerns regardless of an occupant or owner's homelessness status, as further described in this Policy.

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Regarding public safety factors that are not necessarily public safety emergencies (e.g., accumulation of trash and/or debris, hazardous waste and toxic substances, distancing of tents, vehicles, structures, etc.), the Encampment Management Team shall determine the level of intervention depending on specific findings, which are presented later in this policy. Certain public safety factors (e.g., imminent damage to critical infrastructure, excessive fires, right of way obstructions) may rise to the level of public safety emergencies requiring immediate intervention or urgent health and safety interventions, as further described below in Section III.C.

C. Encampment Management Team

The Encampment Abatement Team (EAT) is an interdepartmental working group tasked with implementing and administering this policy, consisting of representatives from Oakland's Public Works Department ("OPW"), Human Services Department ("HSD"), Oakland Police Department ("OPD"), Oakland Fire Department ("OFD"), the City Administrator's Office ("CAO"), and other consulted departments as necessary (e.g., the Mayor's Office, the City Attorney's Office, Oakland Parks, Recreation & Youth Development Department). The EAT is facilitated by the CAO via the Homelessness Administrator.

The division of responsibilities between each member department of the EAT may be adjusted as necessary by the CAO depending on available resources, capacity, and emergency responsiveness. Each department may, from time to time, promulgate additional specific procedures necessary to effectuate the roles and duties described in this policy under department specific Standard Operating Procedures (SOPs). The CAO may also promulgate guidance to all EAT member departments that further defines each department's roles and responsibilities.

The EAT's role is limited to addressing the health and safety impacts of *encampments* on City property. For the purposes of this revised policy, an "encampment" subject to EAT intervention is any area on City property or in the right of way where two or more households are living, for longer than 48 hours, in tents or makeshift structures. This definition specifically excludes any type of vehicle, even if a person resides in such vehicle.

Each stakeholder department:

- Provides regular input on issues governed by this policy, based in their departmental expertise;
- Participates in collective decision-making for any intervention proposed under this policy;
- Performs any aspect(s) of an intervention delegated to their department once the intervention is approved by the ~~EMT~~EAT under this policy; and
- Participates as needed in developing procedure(s) to effectuate this policy.

The purpose of this policy is to protect and serve all Oaklanders, sheltered and unsheltered, and to manage the adverse impacts of homeless encampments by balancing

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the interests of all residents (i.e. unhoused, housed, business community), focusing encampment actions on mitigating negative outcomes as they pertain to public safety, public health, and equity outcomes. This policy aims to:

1. Designate high-sensitivity areas, where unmanaged encampments are presumed to cause unreasonably high levels of health and safety impacts due to the nature of the location;
2. Designate low-sensitivity areas, where enforcement will not be prioritized;
3. Determine findings that will prompt EAT intervention and situations that authorize other departments to take actions separate from the EAT;
4. Provide guidance on addressing unreasonable health and safety risks, promoting voluntary compliance, and strategies to address non-compliance.

II. DESIGNATION OF ENCAMPMENT SENSITIVITY AREAS

This revised policy designates two distinct areas – high and low sensitivity – of City property.

A. High-Sensitivity Areas

High-Sensitivity Areas are formally designated by the City Council and can include parks, particularly those with playground structures or tot lots, protected waterways, and other public lands. High-sensitivity areas are locations where the health and safety impacts of homeless encampments are heightened due to the potential degradation of critical infrastructure, restriction of public amenities or services, or significant obstructions to residences, businesses, emergency routes and rights-of-way. In these locations, the City would prioritize maintaining the areas free of encampments. Parks with playground structures or tot lots, or that host City-sponsored programs or classes for children shall be the City's highest priority high-sensitivity areas.

This policy hereby establishes the following public property locations as high-sensitivity areas:

- Locations designated as High Fire Severity Zones (HFSZ) by the Oakland Fire Department and/or CalFIRE.
- Within 150 feet of an elementary, middle, pre-school or child care center, and 100 feet from a high school.
- Within 50 feet of a protected waterway as established by any governing body.
- Within 50 feet of a residence.
- Within 50 feet of a retail business, and 50 feet from the main entrance and any emergency exits from all other businesses, including places of worship.

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- Within 50 feet of a city park or other public land that has a children's playground, play structure, tot lot, or recreation center in which children participate in city-sponsored programs/classes*
- Within 50 feet of a public park, soccer field, baseball field, basketball court, tennis court, and/or golf course.
- Areas directly adjacent (within 25 feet) to emergency shelter interventions.
- Within 200 feet of a construction zone.
- Within 25 feet of hospitals or emergency rooms or any medical facility where compromised immune filtration systems could be compromised.
- Where obstruction of sidewalk and path of travel is a violation of American Disabilities Act (ADA) and requires pedestrians to modify path that would take them into a dangers situation as defined by public safety officials. (All vehicular traffic lanes, bike lanes, and sidewalks must comply with ADA sidewalk and street requirements and must allow for passage of emergency vehicles.)

B. Low-Sensitivity Areas

Low-Sensitivity Areas are all other areas not included above, and the following standards are to apply to all encampments and to all inhabited single tents, vehicles, and structures in these locations:

- Shall not impede vehicle, bike, or pedestrian traffic.
- Shall not impede ADA access points.
- Shall not impede emergency ingress/egress routes.
- Compliance with applicable and generally enforced state codes and local ordinances.
- Maintain a maximum footprint of 12 x 12 sq. ft per person.
- Area directly adjacent to an inhabited vehicle must remain clear at all times.
- No gray or black water dumping.
- No illegal electrical or water taps.
- No storage of automobiles, tires, gasoline, generators, or propane tanks, or unsafe storage of combustible materials or accumulation of combustible waste.
- Structures and tents shall maintain not less than six (6) feet distance between one another.

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- Vehicles must be in a legal parking space, operable, and registered.

III. EAT INTERVENTION

A. Findings Prompting EAT Intervention

Encampments located in high-sensitivity areas are always subject to EAT intervention given the potential degradation of critical infrastructure, restriction of public amenities or services, or significant obstructions to residences, businesses, emergency routes and rights-of-way.

For encampments located in low-priority areas that do not meet the standards outlined above, the EAT will consider the following findings in deciding what level of intervention is appropriate.

Public health findings:

- Confirmed case(s) of infectious disease(s) (e.g., Bubonic plague, Tuberculosis, Zika, COVID-19);
- Confirmed exposure(s) to case(s) of infectious disease(s) (e.g., Bubonic plague, Tuberculosis, Zika, COVID-19);
- Excessive animal or vermin vector hazards (e.g., rats, other vector vermin);
- Presence of biological vector hazards (e.g., blood, fecal matter);
- Notice of public health emergency at an encampment site declared by a county, state, or federal public health entity;
- Need for encampment decompression as identified by public health officials;
- Location of encampment in a public recreational area, or shared facility for recreational activity should such facility require repurposing; and/or
- Impeding the ability of a hospital or clinic to provide critical care or creating a significant risk of compromising patient care and welfare.

Public safety findings:

- Location of encampment impedes the right-of-way, lane of traffic, bike lane, or ADA access;

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- Location of encampment such that First Responders (including, but not limited to, Fire, Police, and any health care workers), are impeded in performing their essential government functions;
- Pervasive criminal activity;
- Damage to essential infrastructure (e.g., reservoirs, bridges, public utilities, drainage and sewer systems);
- Excessive amounts of waste/garbage/debris as determined by OPW.
- Proximity of encampment to objective dangers (e.g., edge of a steep slope, on an active train track, in a vehicular lane of traffic).
- Excessive fire hazards and/or calls for service as determined by OFD.
- Unpermitted outside fires burning less than 30 feet away from any structure, tent, or vehicle.
- Presence of open electrical splices or illegal wiring.
- Roadway does not have 20 feet of unobstructed width for Fire Apparatus Access
- Fire hydrant obstructions with less than twenty-five (25) feet radial clearance around hydrants.
- Storage of tires, gasoline, or propane tanks, and unsafe storage of combustible materials or accumulation of combustible waste.
- Parking and storage of vehicles with propane tanks, and unsafe combustible materials or accumulation of combustible waste under critical infrastructure, such as electrical and any overhead utility and transportation infrastructure.

B. Types of EAT Interventions

It is the goal of the City to provide regular and adequate trash collection from encampments, to ensure that porta-potties and hand-washing stations are serviced regularly as needed, and that encampments receive regular deep cleanings to ensure that our unhoused residents are not living in conditions that threaten health and/or safety.

- **Health & Hygiene Intervention.** This intervention may include placing handwashing stations or portable toilets, and/or providing routine waste collection services at an encampment.
- **Deep Cleaning.** This intervention may require individuals encamped at a site to temporarily relocate to mitigate public safety and/or public health risks, allowing individuals to return to the site after the intervention is complete. This intervention may be used when one or more of the public safety and/or public health findings identified above are present and, due to its presence, the EAT or another City

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department decides that performing this intervention is necessary to protect the public. In performing this intervention, the City will make reasonable efforts to mitigate any individual or group property loss, as outlined in OPW's SOPs, but may determine that some property must be removed to protect the public. When possible, this intervention will be coordinated with relevant public agencies.

- **Partial closure.** This intervention may include partially moving and/or closing an encampment due to construction, to provide access to a work zone, or to abate ongoing public safety and/or health hazards. When available, affected encamped individuals will be offered shelter and/or alternative housing (or, if located in a high-sensitivity area, an opportunity to voluntarily relocate to a low-sensitivity area). This intervention may be used when the City is alerted to an impending construction or work project, and/or one or more of the public safety and/or public health findings identified above are present and, due to its presence, the EAT decides that performing this intervention is necessary to protect the public (including, but not limited to, the health and/or safety of the individuals living in the encampment). In performing this intervention, the City will make reasonable efforts to mitigate any individual or group property loss, as outlined in OPW's SOPs, but may determine that some property must be removed to protect the public. When shelter is available, the City, on its own or in conjunction with another public agency, will make offers to all affected encamped individuals of shelter and/or alternative housing.
- **Closure.** This intervention may include fully closing an encampment due to location within a high-sensitivity zone, construction, to provide access to a work zone, or to abate ongoing public safety and/or health hazards. When available, affected encamped individuals will be offered shelter and/or alternative housing (or, if located in a high sensitivity zone, an opportunity to voluntarily relocate to a low sensitivity zone). This intervention may be used when the City is alerted to an impending construction or work project, and/or one or more of the public health and/or public safety findings identified above are present and, due to its presence, the EAT decides that performing this intervention is necessary to protect the public (including, but not limited to, the health and/or safety of the individuals living in the encampment). In performing this intervention, the City will make reasonable efforts to mitigate any individual or group property loss, as outlined by OPW's SOPs, but may determine that some property must be removed to protect the public and/or to complete the process of closing the encampment. When shelter is available, the City, on its own or in conjunction with another public agency, will make offers to all affected encamped individuals of shelter and/or alternative housing.
- **Re-encampment Closure.** If an encampment arises on the same site (within the same block on either side of the street) within 60 days of the notice of a prior Closure or Partial Closure, such encampment is subject to closure with 72-hour notice. If the area is also posted with No Encampment and/or No Parking signs, the EAT is not required to make offers of shelter and/or alternative housing. Individuals who return to the same or similar encampment location with posted No Encampment and/or No Parking signage may be subject to citation and/or arrest.

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- **Vehicles.** All vehicles parked in violation of the CVC and/or OMC are subject to enforcement by DOT and/or OPD according to applicable law and are not considered encampments subject to this policy. The EAT may request that DOT and/or OPD tag and tow vehicles in connection with an encampment cleaning or closure operation in the event vehicles are located within encampments otherwise subject to an EAT intervention. In those cases, all such vehicles present are still tagged under the CVC and/or OMC and not in accordance with the EAT's outreach, storage and notice procedures when CVC and/or OMC towable violations are present, except that vehicles present in the location of a noticed EAT operation will not be towed prior to the expiration of the notice applicable to the operation (7-days if not an emergency or urgent intervention) absent imminent risks. DOT or OPD is encouraged, but not required, to coordinate with the EAT to address inhabited vehicles when tents or makeshift structures surround such vehicles.

C. Public Noticing of EAT Interventions

To the extent feasible, the City will follow the procedures stated below to provide notice prior to any encampment intervention.

Non-emergency Actions

For any non-urgent intervention, the City will provide adequate notice. For Health & Hygiene interventions, the City will work with those encamped to ensure the effectiveness of the intervention. For all Deep Cleaning interventions and Re-encampment Closures, the City will provide at least a 72-hour notice unless there is an emergency or urgent public health and safety concern that prevents such notice from being provided, as described in the section below. For all Partial Closure and Closure operations, the City will provide at least 7-day notice unless there is an emergency or urgent public health and safety concern that prevents such notice from being provided, as described below. The applicable notice will be provided in writing, posted around the site in multiple languages, and, as feasible, verbally to those encamped. The notice will: state the date that the intervention will begin; state the date of the posting; identify whether the intervention will take place over multiple days by stating the days on which the intervention will occur; be reposted if the intervention does not occur on the day (or time) as posted; include a 4-hour window for the intervention start time; and include contact information for homelessness services outreach.

Emergency Actions Due To Catastrophic Events, Natural Disasters, or other Urgent Health and Safety Concerns

For any emergency Deep Cleaning, Partial Closure, or Closure, the City will make reasonable efforts to provide those encamped with some form of notice, such as outreach workers visiting the site and sharing information verbally or in writing, if such notice is feasible. For certain emergency interventions, like fires, the City may be unable to provide prior notice due to the nature of the emergency. The City will make reasonable efforts to provide prior notice for urgent health and safety concerns that are not emergencies.

The EAT or another City department may conduct an immediate closure for emergency conditions where the City will attempt to provide same-day notice where there is a:

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1) Determination with findings by OPD and/or OFD of imminent risk of serious injury or death, including but not limited to:

- a) active fires or fires having occurred within past 24 hours;
- b) criminal investigations; and
- c) encampments attached to residential or business structures determined by OFD to be an imminent fire hazard; or a

2) Determination by applicable City Department of imminent or active destruction to critical infrastructure, including:

- a) traffic signal and equipment;
- b) emergency warning equipment;
- c) light poles and power poles;
- d) electrical energy stations;
- e) active train tracks or bridges
- f) drainage and sewer systems, including active dumping of hazardous waste or debris into sewer system;
- g) obstruction of traffic lanes, including bike lanes or on and offramps; and
- h) disruption of US mail service, and/or trash service.

The EAT or other City Department may conduct an immediate closure for urgent health and safety concerns where the City will attempt to provide 24-hour to 72-hour notice:

1) Determination with findings by OPD and/or OFD of risk of serious injury or death, including but not limited to:

- a) unpermitted fires burning less than 30 feet from any structure, tent, or vehicle;
- b) open electrical splices or illegal wiring;
- c) roadway with less than twenty (20) feet unobstructed width;
- d) fire hydrants with less than three (3) feet unobstructed radial clearance;
- e) storage of tires, gasoline, or propane tanks, and other combustible materials;
- f) accumulation of combustible waste;

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g) pervasive criminal activity.

- 2) Sidewalk obstructions that block pedestrian access or safe passage, as determined by the City Administrator;
- 3) Obstructed waterways or storm drains;
- 4) Obstructed signed construction zones;
- 5) Unsafe proximity to objective dangers, such as active train tracks, as determined by the City Administrator;
- 6) Any location where necessary to comply with regulatory requirements from oversight agencies;
- 7) Any location experiencing an outbreak of contagious disease or vermin infestation.

A vehicle that presents an emergency or urgent health and safety concern will be towed and/or impounded by DOT or OPD immediately if prior notice is not reasonable or feasible.

D. Storage of Individuals' Property

In performing any intervention, the City will respect and protect individuals' rights to their property while also following applicable local, state, and federal laws, as well as the injunctive relief and settlement described in *Miralle v. City of Oakland* (2022).

During the course of any EAT intervention, OPW and other EAT member departments may remove debris, trash, waste, illegal dumping, hazardous materials, and/or other materials, following ordinary procedures with respect to handling such materials and the disposal thereof. OPW and other EAT member departments may also encounter property that is not debris, trash, waste, illegal dumping, or hazardous materials. For any such property: (1) whose ownership cannot be clearly determined but does not seem abandoned; or (2) whose ownership is known but the owner cannot transport it, the City will make reasonable efforts to store up to one (1) cubic yard of such property per individual. Any such effort will comport with OPW's ordinary practices with respect to property storage during encampment interventions. Should OPW require additional procedures for performing these property-related functions under this policy, OPW may promulgate such additional SOPs. Note that if a law enforcement agency must effectuate an arrest, the Alameda County Sheriff's Department, which operates the County's detention and incarceration facilities, will set any and all rules regarding property storage at their facilities.

While this policy is in effect, the EAT will explore reasonable methods of safe, secure, property storage potentially available to the City, including, but not limited to, OPW's storage facility; self-storage; and partnering with other public agencies or businesses to develop storage capacity.

IV. COMPLIANCE

The City must balance the rights of encamped individuals against its fundamental duty to maintain public safety and public health, in both high- and low-sensitivity areas. Where necessary, and when voluntary compliance cannot be achieved, the EAT may perform one or more of the interventions described above to maintain public safety and public health. The City will enforce criminal laws in an ordinary manner to protect unsheltered and sheltered residents alike.

Encampments located within a high-sensitivity area will be subject to a Closure intervention as outlined above. Except when emergency or urgent health and safety concerns require shorter notice, encampment residents will be given at least 72-hours to accept an offer of shelter or alternative housing if such referrals are available. If after 72 hours, an individual declines an offer of a specific shelter program, the program spot will be provided to another individual. A person is also free to voluntarily relocate to a low-sensitivity area if shelter provisions are declined. All declinations will be documented. Emergency shelter provisions cannot be reserved for greater than 72-hours at a time, given the current demand.

Encampments in low-sensitivity areas that are in compliance with the standards outlined above are not prioritized for EAT intervention, unless an emergency or urgent public health and safety situation arises.

Encampments in low-sensitivity areas that are not in compliance with the standards established in this policy are subject to EAT intervention as follows:

- Encampment residents will be notified by the EAT of any public safety and/or public health findings and, unless urgent health and safety concerns require shorter notice, will be given 7 days to obtain voluntary compliance. Outreach workers may assist encampment residents during this period to achieve voluntary compliance.
- If the Outreach Team is unsuccessful, the encounter is documented and scheduled for a Deep Cleaning, Partial Closure, or Closure as determined by specific findings of the EAT, adhering to all noticing and storage requirements outlined above.
- Outreach efforts and service offers will continue, as resources allow, with the goal of ending the individual's unsheltered status if possible. Encampments in compliance with the standards established for low-sensitivity areas must still abide by all relevant local, state and federal laws.

The City cannot require any individual to accept any offered form of shelter and/or alternative housing, even if such acceptance is strongly recommended for public health or public safety reasons. Instead, an individual offered shelter and/or alternative housing who declines the offer may continue to camp without risk of being issued a citation or arrested for remaining encamped, unless the encampment must be partially or fully closed as

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described above for public health and/or public safety reasons. In those limited circumstances, the City will make reasonable efforts to allow and, where feasible, assist the encamped individual in moving to a new location. The City will avoid citation or arrest unless either is necessary to protect against imminent risks to public safety and alternative shelter or housing has been offered and declined.

Encampments will be regularly monitored and managed by the EAT. In the case of a medical or public safety emergency, 911 should be called. Inquiries and complaints should be forwarded to 311 and/or homelessness@oakalndca.gov for action.

LINKS:

<https://www.oaklandca.gov/documents/2019-permanent-access-to-housing-path-framework-update>