



***Guidelines for the Implementation of the
Safe Work Zone Ordinance (OMC Chapter 9.06)***

1. Purpose

On December 19, 2023, the Oakland City Council adopted Ordinance No. _____C.M.S., (the “Safe Work Zone Ordinance”), which added Chapter 9.06 to the Oakland Municipal Code (OMC) to allow City and non-City essential workers to designate “safe work zones” on any public property, including the public right-of-way, for the purpose of providing a safe area to carry out their duties, and to make willful failure to leave a designated safe work zone a misdemeanor. The purpose of these Administrative Guidelines (“Guidelines”) is to provide guidance in administering and enforcing the Safe Work Zone Ordinance. These Guidelines are to be made available to the public; are administrative in nature; and can be amended at the City Administrator’s discretion.

Nothing in these Guidelines is intended to limit or alter the ability of any City staff, including any Oakland Police Officer, to enforce any other provisions of law or policy.

2. Definitions

Definitions pertaining to Safe Work Zones are found in OMC Chapter 9.06. Below are additional explanations that supplement the adopted definitions.

- **“City Administrator”** means the chief administrative officer of the City of Oakland appointed by the Mayor. The term always includes the City staff designated by the City Administrator, either verbally or in writing, to carry out specific duties and exercise specific authority as directed.
- **“Emergency”** means an active crime or imminent threat of violence beyond refusal to leave a safe work zone.
- **“Essential infrastructure”** means streets, sidewalks, parks, public buildings, utility lines and poles, street lights, traffic signals, sewers and storm drains, natural gas lines, water mains, telecommunications and cable equipment, and related equipment and locations that are designed to deliver essential utilities to the public.
- **“OPD”** means the Oakland Police Department.
- **“Peace Officer”** has the same meaning as in California Penal Code 830.1. As applied to OPD, Peace Officer means the Chief of Police or any police officer employed to perform police functions, whether on duty or hired for off duty support pursuant to OPD policies.

- **“Protected Worker”** means City employees, City contractors, and employees of public utility companies and other public agencies performing work on essential infrastructure on public property within the City of Oakland. As used in these Guidelines, non-City Protected Worker means any of the above except City employees.
- **“Public property”** means all real property owned, leased, possessed, maintained, or controlled by the City of Oakland or any other government agency or special district, including the Port of Oakland, Caltrans, BART, or Federal government, and including public rights-of-way, streets and sidewalks, but only to the extent that the City of Oakland Police Department has jurisdictional authority over such public property.
- **“Safe Work Zone”** means an area demarcated by a Protected Worker with physical boundaries or clear signage as described in Section 9.06.040.A and specifically intended to identify an area off-limits to members of the public to allow Protected Workers to safely carry out their duties. Safe work zones may also include the interior of a Protected Worker’s vehicle as well as the area immediately around the exterior of those vehicles when Protected Workers are accessing equipment and tools. A safe work zone must be for the purpose of protecting the workers from injury or harassment and not for the purpose of limiting observation of activities.

3. Designation of Safe Work Zones

a. Explanation of Criteria for safe work zones

Section 9.06.040.B specifies four findings that need to be made in order to implement a safe work zone. Below are additional explanations that supplement the adopted findings.

- (1) *The safe work zone is necessary to protect the safety of the workers involved based on the circumstances reasonably anticipated or witnessed during similar operations; and*

Examples of reasonably anticipated circumstances that support the need for a safe work zone include, but are not limited to, threats of violence to Protected Workers or a heightened sensitivity of the location of work. Examples of incidents witnessed during similar operations include, but are not limited to, refusal to leave identified Safe Work Zones, threats or actual violence, damage to city equipment, and blocking city equipment. Except in unusual circumstances, such examples should be recent, or within the past year.

- (2) *The size of the safe work zone is no larger than is reasonably necessary for Protected Workers to carry out their duties based on the size and type of equipment and the scope of the work; and*

Heavy equipment may require larger safe work zone areas than small or handheld equipment. For example, large debris packers may require a minimum of 20 feet around the equipment, while an individual working on a telephone pole may require only 10 feet around the pole. Safe work zones should begin small but may need to be increased due to changes in the operation or additional equipment. Staff increasing the size of safe work zones during operations should clearly communicate the new boundaries and the reasons for the increase to the viewing public.

- (3) *The safe work zone is not expected to impede reasonable observation by members of the public and an area outside of the safe work zone has been identified for members of the press and public to observe the operations; and*

Members of the public should not normally be permitted inside safe work zones once designated. Instead, the public should be directed to a location directly outside of the safe work zone to observe and engage in expressive conduct. However, Protected Workers may permit members of the public to enter the safe work zone to retrieve belongings left in the safe work zone for limited periods of time and when work is not actively underway.

- (4) *Members of the public have been or will be notified of the safe work zone as required by Subsection (A).*

The boundaries of the safe work zone must be apparent to the public. Protected Workers should use caution tape, other colored tape, chalk marks, spray painted perimeters, orange plastic fencing, other types of fencing, temporary or permanent posted signage, traffic cones, or other physical barriers to delineate the areas in which Protected Workers will be working. Where physical barriers are not feasible, the boundaries may be established with clear verbal instructions or police lines identifying the safe work zone.

If an encampment has been properly noticed for closure by the Encampment Management Team, belongings must be removed prior to the start time provided in the posted notice. The Encampment Management Team may begin work in other areas while individuals are actively removing belongings from a noticed closure area. If individuals interfere with City employees establishing a safe work zone after clear verbal instructions to leave the noticed area, the encampment notice shall be sufficient to establish this criterion.

b. Making findings for City-designated safe work zones

The findings required by Section 9.06.040.B can be made by any City employee performing work on public property or public rights-of-way. City employees designating safe work zones must fill out the Safe Work Zone Findings form attached hereto as Exhibit A prior to or concurrently with designating a safe work zone.

c. Making findings for safe work zones designated by non-City Protected Workers

The criteria in Section 9.06.040.B must be followed by non-City Protected Workers when designating safe work zones. Non-City Protected Workers shall fill out the Safe Work Zone Finding form attached hereto as Exhibit A, or shall provide another document created by their employer in substantially the same form as Exhibit A. Such form must confirm the findings described in 3(a)(1)-(4) above and must also confirm that the non-City Protected Worker has authorization for their employer to establish a Safe Work Zone under this Chapter.

Except in emergencies, if a non-City Protected Worker requests that a Peace Officer (whether hired for off-duty security or through police dispatch) ask an individual to leave a safe work zone using

this Ordinance, the Protected Worker shall provide such form to the Peace Officer that the designated safe work zone meets the required criteria.

d. Notice to OPD

Whenever feasible, Protected Workers should provide advance notice of safe work zones to OPD. For City projects on City-controlled property, OPD may assign one or more Peace Officers to support the operation and maintain the safe work zone. Non-City Protected Workers may hire off-duty Peace Officers to support planned essential infrastructure work on public property. Protected Workers should call OPD’s non-emergency dispatch [CONTACT] to report an individual entering or refusing to leave a properly-designated safe work zone. In emergencies, Protected Workers should call OPD’s emergency line - 911.

4. Reimbursement for Costs of Enforcement

Non-City Protected Workers or employers of non-City Protected Workers may hire off-duty OPD officers at the rate set forth in the Master Fee Schedule to support essential infrastructure operations and to enforce safe work zones pursuant to Chapter 9.06. The City reserves the right to bill employers of Protected Workers for extraordinary police services beyond routine enforcement of the Safe Work Zone Ordinance, as to be determined by the Chief of Police pursuant to existing OPD policies.

5. Applicability of other laws

The Safe Work Zone Ordinance is not intended to alter, repeal, or extend any other provisions of law, including but not limited to California Penal Code 409.5 related to closure of public areas during emergencies.

6. Revisions and changes to these Guidelines

Any proposed changes to these Guidelines will follow the adoption sequence below, to ensure the public has an opportunity to review and comment on the changes:

- a. Any proposed changes will be posted on the City webpage.
- b. A thirty-day (30) public comment period to receive comments on the proposed changes to the Guidelines will commence on the date the notice of the proposed changes is posted on the City web page. During the comment period, any person may submit written comments regarding the proposed changes to the City Administrator.
- c. After the close of the public comment period, the City Administrator will consider all public comments on the proposed changes to the Guidelines and will approve the final changes.
- d. The final changes to the Guidelines approved by the City Administrator will become final on the date the changes are posted on the City’s webpage.

Exhibit A
Safe Work Zone Findings
Oakland Municipal Code (OMC) Chapter 9.06

- I am a Protected Worker (City employees, City contractors, and employees of public utility companies and other public agencies) performing work on essential infrastructure on public property within the City of Oakland.
- I am establishing a Safe Work Zone around the work zone in order to protect my safety, the safety of other workers involved, and/or members of the public based on circumstances that I reasonably anticipate or based on recent incidents known to me. (OMC § 9.06.040.B(1))
- I have determined the size of the Safe Work Zone to be no larger than reasonably necessary for me or my team to carry out our duties based on the size and type of equipment and the scope of the work. (OMC § 9.06.040.B(2))
- I have identified an area outside of the Safe Work Zone for members of the press and public to observe the work within the Safe Work Zone. (OMC § 9.06.040.B(3))
- I will notify the public of the boundaries of the Safe Work Zone using one or both of the following methods (OMC § 9.06.040.B(4)):
 - Clear physical demarcation or signage including but not limited to caution tape, other colored tape, chalk marks, spray painted perimeters, orange plastic fencing, other types of fencing, temporary or permanent posted signage, traffic cones, physical barriers.
 - Clear and continuous verbal instructions if physical demarcation is infeasible.
- Non-City Protected Workers:*** I have authorization from my employer to establish the Safe Work Zone and, if necessary, to request enforcement of the Safe Work Zone Ordinance from the Oakland Police Department, subject to OMC § 9.06.070.