

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.

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. Within 90 days of enactment, City Administration shall provide to City Council a written report identifying city properties that could be converted to shelter, low sensitivity areas, and/or safe parking sites.

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:

EXHIBIT A

- 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, including property crimes, committed at encampments, especially violent crimes, arson, and narcotics, weapons, or human 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, property crimes, 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.

EXHIBIT A

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 and Abatement 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 and Abatement Team

The Encampment Management and Abatement Team (EMAT) 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 EMAT is facilitated by the CAO via the Homelessness Administrator.

The division of responsibilities between each member department of the EMAT 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 EMAT member departments that further defines each department's roles and responsibilities.

The EMAT'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 EMAT intervention is any area on City property or in the right of way where one or more individuals or households are living, for longer than 72 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 EMAT under this policy; and
- Participates as needed in developing procedure(s) to effectuate this policy.

EXHIBIT A

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 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 EMAT intervention and situations that authorize other departments to take actions separate from the EMAT;
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 map indicating the high and low sensitivity areas is attached to this policy to help the EMAT and the public identify such areas; however, this policy shall override the map in the event of conflicts.

A. High-Sensitivity Areas

High-Sensitivity Areas are specific locations where unsheltered homelessness poses an immediate and elevated risk to public health and safety, including demonstrable risk of harm to vulnerable populations (e.g. young children), critical infrastructure, or noncompliance with state and/or federal regulations (e.g. ADA, CalFire, protected waterways).

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.

EXHIBIT A

- 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.
- 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 dangerous 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

All City property not explicitly designated as high-sensitivity areas shall be treated as low-sensitivity areas, where the City does not automatically prohibit encampments. These locations may serve as temporary stability zones when residents are not yet connected to shelter or housing, and where no immediate public safety risk exists.

In these areas, the City may permit encampments to remain provided they do not pose emergency or urgent health and safety conditions and if they meet minimum health, safety, and access standards, as outlined below. These standards ensure basic access, emergency response capability, and fire prevention, while upholding dignity for individuals who have not yet been offered shelter or housing.

- Encampments and all inhabited single tents, vehicles, and structures in low-sensitivity areas must meet the following standards to maintain public health, safety, and fire separation standards: 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.

EXHIBIT A

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

III. EMAT INTERVENTION

A. Findings Prompting EMAT Intervention

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

For low-sensitivity areas, the EMAT will assess encampments based on compliance with the minimum health and safety standards outlined in this policy. If those standards are not met, the EMAT shall:

1. Assess whether an emergency or urgent health and safety condition requires expedited closure;
2. Initiate outreach and offer voluntary compliance, including education on standards and available services;
3. Assess mitigation options, such as sanitation services or spatial reconfiguration;
4. If mitigation and outreach are unsuccessful, determine whether intervention is necessary, and if so, pursue the least disruptive option, with a focus on preserving stability and avoiding displacement without shelter or housing offers;
5. If encampment is not closed, 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 will not cite or arrest any individual solely for camping, or otherwise for the status of being homeless and will make reasonable efforts to allow and, where

EXHIBIT A

feasible, assist the encamped individual with gaining compliance with the encampment standards outlined in this policy.

B. Types of EMAT 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 EMAT or another City 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.** Partial closure refers to a targeted intervention that relocates a portion of an encampment in order to address specific public safety risks or to allow for access to public infrastructure. Partial closures may also be used to mitigate persistent health or safety concerns within a section of an encampment. In performing this intervention, the City will provide advance notice as outlined below and 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. The City, on its own or in conjunction with another public agency, will make every reasonable effort to provide offers to all affected encamped individuals of shelter, or when shelter is unavailable despite such efforts, the City shall allow an individual to move to a low-sensitivity area (as described below).
- **Closure.** Closure refers to the full removal and disbandment of an encampment, typically due to its location within a high-sensitivity area or the presence of severe and unresolvable health or safety risks in a low sensitivity area, including those associated with construction or emergency infrastructure access. In performing this intervention, the City will provide advance notice as outlined below and 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. The City, on its own or in conjunction with another public agency,

EXHIBIT A

will make every reasonable effort to provide offers to all affected encamped individuals of shelter, and when shelter is unavailable despite such efforts, the City shall allow an individual to move to a low-sensitivity area (as described below).

- **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, or less in the case of emergencies or urgent health and safety conditions. Individuals who return to the same or similar encampment location with posted No Encampment and/or No Parking signage may be subject to enforcement actions, up to and including citation and/or arrest.
- **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 EMAT may request that DOT and/or OPD tow vehicles in connection with an encampment cleaning or closure operation in the event vehicles are located within encampments otherwise subject to an EMAT intervention. In those cases, during and in the vicinity of an EMAT operation, all such vehicles present are still subject to tow when CVC and/or OMC towable violations are present, except that vehicles present in the location of a noticed EMAT 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 and individuals living in such vehicles will be offered shelter and storage to the same extent as those living in tents within the EMAT operation area. DOT or OPD is encouraged, but not required, to coordinate with the EMAT to address inhabited vehicles when tents or makeshift structures surround such vehicles.

C. Public Noticing of EMAT 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

EXHIBIT A

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 Imminent Threats to Life, Health, Safety, or Infrastructure

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 EMAT 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:

- 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 EMAT 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:

EXHIBIT A

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;

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, or where there is notice of a public health emergency from a county, state, or federal public health entity.

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. Offers of Shelter

In connection with a Partial Closure or Closure of an encampment, the EMAT will make every reasonable effort to offer shelter to each individual residing within the noticed area, including those living in vehicles, prior to removing that individuals' belongings.

Non-emergency Actions

For closures other than those to address signed re-encampment areas or to abate "emergencies" or "urgent health and safety conditions", as listed above, "every reasonable

EXHIBIT A

effort to offer shelter” means (1) pacing regular encampment closures to account for resource and operation constraints; (2) attempting to identify all impacted individuals and assessing their shelter needs (e.g., families, persons with disabilities) at least 72-hours prior to the closure, (3) identifying the number and type of shelter beds available and confirming the availability on the day of closure, (4) making at least one offer of available shelter, prioritizing families and persons with disabilities, and holding offer(s) open for 72-hours, and (5) offering to transport individuals and their belongings to a shelter program.

If on the day of the operation, despite the efforts described above, there are insufficient shelter beds for all impacted individuals willing to accept shelter, the EMAT should consider delaying the operation, or if delay is not reasonable or feasible, shall allow individuals an opportunity to move to a low sensitivity area.

Emergencies, urgent health and safety conditions, and re-encampment closures

For closures to address re-encampment areas, or to abate emergencies or urgent health and safety conditions, “every reasonable effort to offer shelter” means (1) attempting to identify the number and type of shelter beds available at the time of closure; (2) attempting to make an offer of shelter to all impacted individuals, which may include a referral to congregate shelter. Depending on the situation, such efforts may not be feasible, and in no case will emergency or urgent closures be delayed for shelter unavailability. Individuals who must be displaced without a shelter offer shall be permitted to move to a low sensitivity area and shall not be subject to arrest or citation.

Vehicle tows

Prior to towing a vehicle that occupants reasonably claim to be living in, the City department leading the tow should consider contacting the EMAT to identify shelter that may be available (which may include congregate or other non-vehicle based shelter), and should provide a referral contact to such individuals when available, *unless* the vehicle presents an imminent hazard, is stolen, or if there is probable cause that the vehicle has been used for criminal activity. If no shelter is available or if shelter is declined, the City should consider allowing the occupants to relocate the vehicle to a low sensitivity area.

E. 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 *Miralles v. City of Oakland* (2022).

During the course of any EMAT intervention, OPW and other EMAT member departments may remove debris, trash, waste, illegal dumping, hazardous materials, and/or other materials that cannot be safely stored, following ordinary procedures with respect to handling such materials and the disposal thereof. OPW and other EMAT 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

EXHIBIT A

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 EMAT will make reasonable efforts to protect and store personal property collected from encampment operations as follows: (1) visually scan encampment area for personal property that meets the OPW Guidelines for Property Identification and/or coordinate with encampment occupants to determine if storable property is present; (2) discard items that do not meet the Guidelines for Property Identification; (3) collect identified personal property that meets the Guidelines into bags and label the bags; (4) post a notice of collected property stating the address where such property will be stored and the options for retrieval; and (5) store collected personal property for ninety (90) days and make reasonable efforts to maintain such property in the same condition as when collected.

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 EMAT 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 for closures to abate emergency or urgent health and safety concerns, encampment residents will be given at least 72-hours to accept an offer of shelter. 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 EMAT intervention, unless an emergency or urgent public health and safety situation arises.

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 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

EXHIBIT A

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 EMAT. 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@oaklandca.gov for action.

LINKS:

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