

OAKLAND CITY COUNCIL

RESOLUTION NO. _____ C.M.S.

INTRODUCED BY COUNCILMEMBER HOUSTON

RESOLUTION AMENDING RESOLUTION NO. 88341 TO REPEAL THE 2020 ENCAMPMENT MANAGEMENT POLICY AND REPLACE WITH A 2025 ENCAMPMENT ABATEMENT POLICY THAT (A) DEFINES "ENCAMPMENT" TO EXCLUDE VEHICLES AND AUTHORIZES CITATION AND TOWING OF INHABITED VEHICLES BY CITY DEPARTMENTS PURSUANT TO THE CALIFORNIA VEHICLE CODE AND OAKLAND VEHICLE CODE; (B) CONTINUES TO REQUIRE REASONABLE EFFORTS TO MAKE SHELTER OFFERS AND 7-DAY NOTICE PRIOR TO NON-URGENT ENCAMPMENT CLOSURES; AND (C) CLARIFIES EMERGENCY AND URGENT HEALTH AND SAFETY CONDITIONS THAT AUTHORIZE IMMEDIATE, 24-HOUR, OR 72-HOUR NOTICE FOR ENCAMPMENT CLOSURES, INCLUDING ENCAMPMENTS BLOCKING SIDEWALKS

WHEREAS, the number of homeless persons in the City of Oakland continues to increase, with the latest 2024 point-in-time count of 5,485 individuals experiencing homelessness in Oakland, an increase of 8.5% from 2022, with the largest growth in people living in recreational vehicles (RVs) and cars, and this number is likely to increase given the substantial upward pressure of residential rents; and

WHEREAS, the current number of homeless individuals living in Oakland far outpaces the number of existing safe parking spots, shelter beds, transitional housing or permanent supportive housing units available; and

WHEREAS, the adverse impacts of tent and make shift structure encampments in Oakland continue to increase significantly, including a rise in service calls for fire, assault, robbery, drug trafficking, medical emergencies, right-of-way obstructions, storage of combustible materials, and illegal electrical wiring, all of which jeopardizes housed and unhoused residents' safety and health; and

WHEREAS, unauthorized vehicle encampments have increased substantially across Oakland within the public right of way, thus exposing unhoused individuals to traffic hazards, increased vulnerability to crime, risk of death and injury, exposure to weather, lack of adequate sanitation and debris services and other conditions that are detrimental to health and safety; and

WHEREAS, similar increases have been reported throughout the State of California, prompting the creation of statewide homelessness task force by Governor Gavin Newsom; and

WHEREAS, Oakland residents are being affected by the increasing number of unsheltered individuals living in vehicles with regard to traffic and pedestrian safety, lack of sanitation and debris services, waste and sewage discharge into the storm drain systems; and

WHEREAS, when a vehicle is abandoned or otherwise improperly maintained, it will eventually leak hazardous substances such as transmission fluid, radiator coolant, brake fluid, motor oil, battery acid, and/or fuel; and

WHEREAS, since vehicles are extremely heavy and are frequently parked on streets, they are more likely to present serious obstacles to emergency vehicles and emergency personnel, and are more likely to block critical infrastructure, than a tent or similar dwelling structure; and

WHEREAS, unlike tents, RVs often have sewage collection tanks, and if emptied improperly, the sewage creates serious biological hazards in the immediate area, and fecal matter enters the City's storm drain system and flows into the San Francisco Bay; and

WHEREAS, RVs, unlike tents, are often designed with heating and/or cooking systems that rely on propane; when these systems are improperly used or maintained, they pose serious threats to the RV's occupants, other people in the vicinity, and first responders; and

WHEREAS, vehicles typically have passenger compartments and/or trunks that can be locked, meaning they can be used to secure and conceal weapons or other dangerous contraband in ways that tents and similar dwelling structures cannot; and

WHEREAS, on October 20, 2020, pursuant to Resolution No. 88341 C.M.S., the City Council adopted the Encampment Management Policy (2020 EMP), which governs the City's notice, shelter, and storage policies for actions to clean or close encampments undertaken by the City's Encampment Management Team (EMT); and

WHEREAS, separate from the EMP, the California Vehicle Code (CVC) allows City officials in the Oakland Department of Transportation (OakDOT) and/or the Oakland Police Department to tow and impound vehicles that present health and safety threats or impede traffic; and

WHEREAS, OakDOT currently cites vehicles, including RVs, in violation of these CVC sections; however, OakDOT does not typically tow inhabited vehicles except in coordination with a noticed EMT operation; and

WHEREAS, the City Council desires to allow OakDOT and/or OPD to cite, tow, and/or impound vehicles according to generally applicable tow authorities regardless of whether they are being used as dwellings; and

WHEREAS, the CVC is the exclusive authority allowing removal of vehicles from public streets and sets minimum baseline notice requirements; and

WHEREAS, in some cases, the Oakland Municipal Code or City policy extends such notices requirements beyond the minimum, including but not limited to requiring 72-hour notice for vehicles parked in construction zones; and

WHEREAS, the CVC authorizes vehicles obstructing traffic or presenting imminent threats to public safety to be towed immediately, including vehicles that are stolen, in a signed tow-away zone, or that present a hazard, obstruction or other immediate health and safety threat as determined by OakDOT or OPD; and

WHEREAS, the City desires to replace the 2020 EMP with a 2025 Encampment Abatement Policy to redefine “encampment” to exclude vehicles, and authorize OakDOT and/or OPD to cite, tag, and tow vehicles in accordance with the CVC or OMC provisions, whichever provides greater notice, except that the department leading a tow of a vehicle that an occupant reasonably claims to be living in will provide resource information and allow relocation to a low sensitivity area where feasible; and

WHEREAS, in June 2024, the United States Supreme Court issued a decision in *City of Grants Pass v. Johnson* (2024) that overturned existing Ninth Circuit precedent in *Martin v. City of Boise* (2018), and held that it is not a violation of the Eighth Amendment Cruel and Unusual Punishments Clause of the United State Constitution for cities to remove encampments from public property without offering an alternative location or shelter; and

WHEREAS, the 2020 EMP incorporated the prior Ninth Circuit precedent and required shelter offers prior to removal of encampments from public property; and

WHEREAS, in the past several years, shelter spaces have become more limited, and there are not enough shelter beds to accommodate every unhoused person moved from encampments; and

WHEREAS, the proposed 2025 Encampment Abatement Policy would maintain the requirement to make reasonable efforts to provide shelter offers prior to closing encampments and removing and storing personal property, and criminal citations for camping would still only be authorized in cases of imminent danger to public health and safety; and

WHEREAS, reasonable efforts to provide shelter offers may differ depending on the urgency of the closure, and if no shelter is available despite such efforts, non-urgent closures may be delayed if feasible, but emergency and urgent operations should not be delayed; and

WHEREAS, in October 2022, the City Council approved an Injunctive and Monetary Relief Settlement in *Miralle v. City of Oakland*, which specified certain notice and storage requirements for EMT actions, but such changes have not yet been included in the EMP; and

WHEREAS, the *Miralle* settlement agreement requires 7-day notice before the EMT closes any non-urgent encampment, but allows immediate closure in the case of emergencies or less than 72-hour closure in the case of urgent health and safety conditions; and

WHEREAS, the former Mayor issued Executive Order 2024-1, which clarified the conditions authorizing encampment closures with less than 7-day notice, including immediate closures for imminent dangers and less than 72-hour notice for urgent conditions, consistent with the terms of the *Miralle* settlement; and

WHEREAS, the City desires to incorporate the terms of *Miralle* settlement agreement and Executive Order 2024-1 into the 2025 Encampment Abatement Policy; and

WHEREAS, such revisions would authorize the City Administrator or relevant departments to determine, on a case-by-case, that an encampment must be closed immediately or with little notice in order to address emergency or urgent conditions such as, imminent fire hazards, imminent or active damage to critical infrastructure, sidewalk obstructions in noncompliance of the ADA, obstructed waterways, or other objective dangers; now, therefore, be it

RESOLVED: That the City Council finds and determines the foregoing recitals to be true and correct and hereby makes them a part of this Resolution; and be it

FURTHER RESOLVED: That the City Council hereby amends Resolution No. 88341 C.M.S. and adopts the 2025 Encampment Abatement Policy, attached as Exhibit A, which repeals and supersedes the 2020 EMP, which changes are shown in underline additions and strikethrough deletions in Exhibit B; and be it

FURTHER RESOLVED: That the City Attorney and City Administration are authorized to make non-substantive edits to the 2025 Encampment Abatement Policy, consistent with this Resolution and its basic purpose; and be it

FURTHER RESOLVED: That the City Administrator is authorized to complete all required actions consistent with this Resolution and its basic purpose, including issuing administrative guidelines and/or departmental standard operating procedures to further implement the 2025 Encampment Abatement Policy, subject to City Attorney review and approval.

IN COUNCIL, OAKLAND, CALIFORNIA,

PASSED BY THE FOLLOWING VOTE:

AYES - BROWN, FIFE, GALLO, HOUSTON, RAMACHANDRAN, UNGER, WANG, AND
PRESIDENT JENKINS

NOES –

ABSENT –

ABSTENTION –

ATTEST: _____
ASHA REED
City Clerk and Clerk of the Council of the
City of Oakland, California

Exhibit A
2025 Encampment Abatement Policy

Exhibit B

**Changes of 2025 Encampment Abatement Policy
From 2020 Encampment Management Policy**