

Citywide Policy on Encampment Cleanups

PURPOSE AND SCOPE

The purpose of this policy is to ensure that all City personnel and contractors involved in the cleanup of encampments understand the needs and rights of unhoused individuals and to establish procedures to guide staff and contractors during all contacts with unhoused communities and their personal property, whether consensual or for enforcement purposes.

This policy shall apply to all City personnel and contractors engaged to any extent in the cleanup of encampments.

City staff shall not conduct or assist in cleanup operations of belongings that reasonably appear to be the property of unhoused persons except in accordance with this Policy.

TREATMENT OF UNHOUSED PERSONS' PROPERTY, GENERALLY

The personal property of unhoused persons must not be treated differently than the property of other members of the public. City staff should use reasonable care when handling, collecting and retaining the personal property of unhoused persons and should not destroy or dispose of the personal property of an unhoused person except in accordance with this Policy.

City staff who encounter unattended encampments, bedding, or other personal property in public areas that reasonably appears to belong to an unhoused person should not remove or dispose of such property. If property believed to belong to an unhoused individual is the subject of a complaint or concern, city staff may inform the Deputy Director of Housing & Homelessness or designee.

POSTING

Any cleanup of unhoused encampments must be preceded by proper posting of a Notice of Cleanup (Attachment #1), in both English and Spanish, in order to provide adequate prior notice. The Notice of Cleanup must be posted in accordance with the following rules:

- The Notice of Cleanup shall be posted at least 72 hours before the arrival of staff at an encampment for the purpose of a cleanup.
- The Notice of Cleanup must be fully completed at the time of posting, including notification of the timeframe in which the cleanup will begin and estimated to end,

recognizing that times may be extended for emergency situations. The Notice of Cleanup must state a date and time (which may be up to a 3-hour window) during which the cleanup will be initiated and anticipated to be completed. The notice must also include a map of the area to be cleaned and a contact number to request further information for outreach and related services as detailed in the policy below.

- Courtesy wakeup calls shall begin no earlier than 7:00 a.m. Cleanups shall be set between the hours of 7:30 a.m. and 6:00 p.m. only. This includes all day-of activities, including initial day-of contacts with unhoused individuals, as well as other support, storage, and reasonable accommodations discussed below.
- In the event that the City misses the 3-hour window listed on a posted notice, the City must cancel the cleanup or post a new Notice of Cleanup, in accordance with the process above.
- Posting of the Notice of Cleanup must be in a prominent place. For the locations where there is no place to affix the notice, staff conducting a cleanup must coordinate with Public Works Department staff who will erect a makeshift signpost on which to post the Notice of Cleanup.
- Staff must document the posting of the site, for example by activating body-worn camera (or other recording device) and recording video of the posting or by taking a date-stamped photograph of the posting.
- Staff shall keep a copy of the Notice of Cleanup on file at the department conducting the cleanup.
- Where possible, the noticing should be coordinated with non-sworn City personnel, who should also provide oral notice to any encampment occupants present during posting.
- Each day, following the posting of sites, staff responsible for posting the sites shall share a list of all sites posted with a Notice of Cleanup with the Deputy Director of Housing & Homelessness.

REASONABLE DISABILITY ACCOMMODATION PROCESS

In anticipation that one or more unhoused persons at an encampment cleanup may be disabled, the City will ensure that a person—the City ADA Coordinator or their designee—who is trained and experienced in assisting those who are disabled, will be available to assist in providing reasonable accommodations when the need for such accommodation is obvious, such as a person is using mobility equipment, or where such accommodation is required by statute or regulation, or has been requested.

The ADA Coordinator or their designee shall conduct a visual assessment in advance of the cleanup in order to assess the potential ways the planned activities may impact disabled

individuals. A necessary component of this assessment shall involve identifying unhoused people with obvious needs for accommodation. The ADA Coordinator or their designee shall then create and document plans to meet these needs onsite.

An unhoused person's accommodation request may be made in writing on a form provided by the City, but individuals may make oral requests anytime, including on the day of the clean-up.

Forms will be made available to unhoused persons when notice of cleanup, storage, or disposal is posted. An unhoused person may make an oral request of any City personnel and contractors and the person will be directed to the designated person who is providing onsite accommodation services. That person's property shall not be removed or discarded pending determination of their accommodation request.

The City will comply with HIPAA regulations. The City will gather sufficient information from the person with disabilities who made the accommodation request, as well as from qualified experts, so that the City is able to determine whether the requested accommodation is reasonable, without requesting medical information beyond the individual's disability-related limitations.

If the City denies a request, it will provide a written denial explaining the interactive process undertaken, and why the request was denied, pointing to lawful reasons for denial in detail. The ADA Coordinator or their designee will engage in an interactive process with the requester to determine whether an alternative accommodation is available to meet the requester's needs. The ADA Coordinator or their designee will investigate the request, communicate effectively with the requester, and determine whether another accommodation would meet the requester's needs. A denial may be appealed immediately to the Deputy Director of Housing and Homelessness or their designee.

A reasonable accommodation may include, for example, but is not limited to, one or more of the following:

- Temporary Wheelchair Access
- Temporary Walker Access
- Hotel Vouchers
- Transportation Assistance
- Additional Time to Relocate
- Assistance with packing, storing, and/or transporting personal property
- Assistance with accessing Temporary Property Storage

INITIATING A CLEANUP

Staff shall initiate a cleanup only during the time window posted on the Notice of Cleanup.

Upon arrival at an encampment, and before commencement of any cleanup, ample time should be provided to occupants of the encampment to retrieve personal property, to confirm which items are trash and suitable for disposal. The determination of what constitutes ample time must take individuals' disabilities into consideration. Staff should provide resources to the occupants to assist with this process. For example, staff will provide bags of different colors to differentiate between personal property and trash. Staff will also provide identification tags and

receipts for those bags filled with personal property which are to be stored in accordance with this policy.

As described above, reasonable accommodations shall be afforded to any occupants who express a need or to occupants for whom the need for accommodation is obvious as a consequence of a visible disability or medical condition. If an individual is having a medical emergency, City staff should call 9-1-1.

Prior to and during any cleanup, City staff should endeavor to proactively offer services to unhoused individuals, ideally coordinated in advance. These interactions are an opportunity to directly engage with the unhoused community and leverage the resources and services provided by other agencies in a collaborative manner that furthers public safety.

CONDUCTING A CLEANUP

Consistent with best practices, the City shall complete the clean-up without displacing individuals, unless displacement is unavoidable for documented, objectively reasonable purposes, such as health, safety, maintenance, repair, or facilitating reserved and/or scheduled events. If unhoused individuals must move in order for the City or its contractors to carry out proper sanitation services, they shall be offered non-congregate shelter options, if available, including hotel vouchers, shelter provided by non-profit partners or other alternatives that meet the individuals' needs (e.g., disability needs and/or remaining with their partner, property, and/or pet).

During any cleanup, City staff shall treat items as follows:

- Attended Property – Attended property is personal property which remains at the site following the 72-hour notice period, where the property owner is present when City personnel arrive at a cleanup.
 - Attended property is not trash unless the owner identifies it as trash.
 - Provide owner ample time to remove or request storage of such attended property, when displacement is the only alternative.
 - Follow procedures detailed above to determine if a reasonable accommodation must be offered for assistance to relocate property.
- Trash – May be discarded. Trash is defined as discarded matter or refuse, examples may be viewed in Exhibit A.
 - For the sake of clarity, trash does not include unattended items such as identification documents, medicine, walkers, wheelchairs, medical devices, wallets or phones, medical records, and medical supplies and those items placed in personal property bags or document envelopes.
 - The City shall provide colored trash bags of different colors and document envelopes to unhoused individuals prior to each noticed clean-up. The City shall provide clear notice of which color trash bags are for trash and which are for personal property.

- Unattended Property – Unattended property means personal property left at the site following the 72-hour notice period, where the property owner is not present when City personnel arrive at a cleanup.
 - Tag property with a 24-Hour Notice of Intent to Store (Attachment #2) providing the owner with notice that the City may seize and store the property if it is not removed within the following 24 hours. The 24-Hour Notice of Intent to Store shall clearly state a date and time (with a window of no more than 3 hours) during which the City will return to finalize the cleanup. In addition, the site should be posted with a Second Notice of Cleanup (Attachment #3) informing occupants that a further cleanup will occur in 24 hours. The Second Notice of Cleanup shall be posted in accordance with the same rules as the original 72-Hour Notice of Cleanup (though it will be for a 24-hour period only).
 - Upon return, if the property is now attended, City staff shall follow the procedures for ‘Initiating a Cleanup’ above, i.e., providing ample time to move. If the property remains unattended, City staff should store the property in accordance with the ‘Storage of Property’ procedures below. Once property is taken into storage, staff shall post a Notice of Storage (Attachment #4), notifying any owner that property left at the site has been taken into storage by the City. The Notice of Storage shall be posted in a prominent place close to where the property was taken from. For the locations where there is no place to affix the notice, staff conducting a cleanup must coordinate with Public Works Department staff who will erect a makeshift signpost on which to post the Notice of Storage. The Notice of Storage shall indicate the date and time the property was taken, provide a case number, provide a phone number for more information and to arrange for the retrieval of property, state the time during which the property can be retrieved, state that no identification is needed to collect the property (except for medications), and state that the property can be retrieved free of charge. The posting of such notice shall be documented.
- Items Constituting a Health and Safety Risk That Cannot Be Safely Stored Due to Biohazard or Infestation – This covers any items that are a risk to human health and safety if left in storage. For example, this covers items soiled with human excrement or bodily fluids, or infested with insects, vermin, or vectors of disease. This shall not include items which are merely dirty or that the owner agrees to remove.
 - If trash, as defined above, the items may simply be discarded as trash. If unattended property, absent exigent circumstances presenting a potential biohazard or vermin infestation, follow procedures above.
 - Whenever an item constituting a health and safety risk is discarded, staff shall document the date, time, location, and description of the item on a Discarded Property Log (Attachment #5). A copy of the Discarded Property Log shall be sent to the Deputy Director of Housing & Homelessness.

- Contraband/Evidence of Crime – Where applicable, law enforcement personnel may process property that is contraband or evidence of a crime according to usual procedures and policies regarding disposition of evidence. Such property is outside the scope of this Policy.
- Vehicles – Vehicle towing and impoundment must be done in accordance with constitutional and statutory protections, as well as the San Bernardino Police Department “Vehicle Towing and Release” Policy.
- Documentation – Each cleanup shall be documented, to the extent possible using date-stamped and time-stamped photographs. Before and after photos shall be taken of the encampments, including items that are destroyed during the cleanup.
- Consent – Before destroying personal property (e.g., tents, tarps, clothing, bags, food, etc.) pursuant to an individual’s consent, staff must first offer identification tags for personal property storage and/or any necessary reasonable accommodations to assist an unhoused individual in maintaining their personal property. If personal property, such as the items listed above, are destroyed pursuant to consent, staff shall collect a signed consent form from the individual and take a photograph of the property before it is destroyed.

STORAGE OF PROPERTY (STORAGE CONNECT)

The City shall store all personal property which has been tagged as personal property by placing it in the designated color bag or tagged separately if a large item. This may also include unattended personal property such as identification documents, medicine, wallets or phones..

Personal property shall be stored at a City facility administered by the Public Works Department (aka Storage Connect). The facility shall primarily be reachable by phone, through which individuals may set a time to collect their property during regular business hours. Recognizing that some individuals do not have access to a cell phone, it is possible that unhoused individuals may contact City employees for a connection to Storage Connect. In such cases, City staff should refer the individual to the Housing Division of Community and Economic Development Department. Property must be available for pickup within two hours of request during business hours. Property shall be stored in a logical manner at the facility, organized based on the date on which and location from which the property was removed and marked by name when identification tags have been used. Property shall be available for collection on the same day. City staff shall expedite the return of essential items, such as medications, tents, wallets, and important documents.

At the time of pick-up, staff shall require a general description of the property, the place from which it was taken, and an approximate date on which it was taken before releasing the property. For medication, identification matching the medication must also be provided. No identification shall otherwise be required. The City shall not charge any fees in connection with the storage or release of property stored under this Policy.

In return of property, reasonable accommodations may include delivery of property back to where it was taken or within a reasonable distance.

Property shall be stored for a period of 90-days. If uncollected after 90 days, property may be

deemed abandoned and destroyed.

POST-SEIZURE HEARING

The City expects that an unhoused person who wishes to recover their personal property that has been seized and removed by the City will arrange to collect it from Storage Connect within 90 days, and that no hearing will be necessary. The City will provide a hearing to any unhoused person who requests a hearing after the seizure of something that that unhoused person claims is their personal property. A hearing may be requested: 1) at the cleanup by orally requesting of City staff if the property has not yet been removed from the site, or 2) at other times by asking City staff or calling the number listed on the notice of cleanup, storage, or disposal. The hearing will be conducted by City's designee prior to the destruction of the thing claimed to be personal property if reasonably possible. The hearing will be documented, such as by video and audio recording.

LAW ENFORCEMENT INVOLVEMENT IN THE ENCAMPMENT CLEANUP PROCESS

It is the City's policy to dedicate City resources in the most appropriate manner possible. Consistent with recent practices, the City seeks to allocate its law enforcement resources to exclusively public safety and policing purposes. Accordingly, the City's goal is to reduce the role of highly-qualified and specialized law enforcement personnel in encampment cleanups.

The City recognizes that homelessness is not a crime. Accordingly, City staff shall not use homelessness as a basis for detention or law enforcement action. Public Works will be the lead in clean-ups, and other departments will participate as necessary to ensure safety of individuals or to provide assistance when called upon. To the extent law enforcement personnel are present at a cleanup, law enforcement personnel shall only run warrants or check for probation or parole status only when required for ordinary law enforcement investigative purposes. The status of homelessness shall not be used as a basis to conduct warrant checks or parole status checks. Consistent with the law enforcement practices and law, law enforcement personnel shall issue a warning of possible arrest or citation under applicable statutes (e.g., Penal Code section 602 for trespassing) only when they have probable cause of a specific statutory violation and when necessary to obtain compliance with the law. In such cases, law enforcement personnel shall provide warning and a reasonable opportunity to cure the violation. If citation becomes necessary, law enforcement personnel shall document probable cause and identify the specific subsection of any code section for which the individual is being cited.

TRAINING

City employees participating in encampment clean-ups shall be trained on how to implement this

policy, shall receive a copy of this policy, and attest annually that they have read and will follow the policy. Encampment clean-up leaders shall ensure that all employees and contractors who are participating in clean-ups are directed according to this policy.

CLARIFICATIONS AND QUESTIONS

The City shall provide a phone number and a designated person at cleanups for unhoused individuals to ask questions, make complaints, express concerns, and make requests related to encampment cleanups. These communications shall be logged, and City staff or the City's designee shall be responsible for providing a response on site.

DISABILITY PLANNING AND ASSESSMENTS

The City shall conduct a self-evaluation as required by law.

ATTACHMENTS

Attachment #1	72-Hour Notice of Cleanup
Attachment #2	24-Hour Notice of Intent to Store
Attachment #3	Second Notice of Cleanup (24-Hour Notice)
Attachment #4	Notice of Storage
Attachment #5	Discarded Property Log