



Rashi Kesarwani
Councilmember, District 1

ACTION CALENDAR
September 10, 2024

TO: Honorable Mayor and Members of the City Council

FROM: Councilmember Rashi Kesarwani (Author) and Councilmember Susan Wengraf (Co-Sponsor)

SUBJECT: Encampment Policy Resolution to Promote Healthy and Safe Neighborhoods and Related First Reading of Ordinance Amending Chapter 14.48 of the Berkeley Municipal Code

RECOMMENDATION

Adopt a resolution affirming that the City of Berkeley will continue to offer interim housing (i.e., a shelter offer, with a preference for non-congregate options) when closing encampments, in accordance with the City's existing "Housing First" approach¹ and best practices guidance from the federal government. In order to account for nuanced health and safety situations, the resolution allows for six specific exceptions to this practice, based on City staff experience.

Offering shelter and housing to homeless individuals is considered a best practice, according to the United States Interagency Council on Addressing Homelessness.² It will continue to be the City's practice to make shelter offers whenever practicable and to invest in more shelter options. However, in the event that the City cannot make a shelter offer, then the City Manager is nonetheless authorized to enforce, including the use of citation and arrest, only under the following circumstances:

- The Fire Department has determined that an encampment poses a fire hazard or emergency condition as referenced in the Berkeley Fire Code, Berkeley Municipal Code (BMC) Chapter 19.48; or
- The Environmental Health Division of the Health, Housing and Community Services Department has determined that the encampment poses an imminent health hazard as defined in BMC section 11.36.030; or

¹ Arreguin, Jesse, Joining the House America Initiative that adopts a Housing First approach in accordance with the federal government, July 12, 2022, Consent Calendar Council item, unanimously approved, <https://berkeleyca.gov/sites/default/files/documents/2022-07-12%20Item%2013%20Joining%20the%20House%20America%20Initiative.pdf>

² United States Interagency Council on Addressing Homelessness: 7 Principles for Addressing Encampments, June 17, 2022: https://www.usich.gov/sites/default/files/document/Principles_for_Addresssing_Encampments_1.pdf

- The City has determined that a situation constitutes a public nuisance as defined in the BMC and is subject to an abatement pursuant to the BMC; or
- The encampment is located on a City street median, in the roadway, or otherwise in dangerous proximity to traffic pursuant to BMC section 14.32.040; or
- The encampment is located in an area where the City has authorized work (such as for construction, major or minor encroachments, etc.) pursuant to BMC section 13.36.045; or
- The encampment interferes with or impedes city or utility companies' construction or maintenance activities in the public right-of-way, street lighting installation or repair, street tree maintenance, or utilities maintenance or repair.

The City Manager is authorized to take enforcement actions to deter re-encampment (after clearing an encampment involving any of the six instances enumerated above) through such means as hardscaping; signage that references state Penal Code Section 647(e)³; or citation and arrest, even if a shelter offer cannot be made.

Adopt revisions to BMC Chapter 14.48 (Ordinance No. 7632) on miscellaneous use of streets and sidewalks to delete portions of 14.48.020, 14.48.120A and 14.48.120B in order to give the City Manager authority to make conforming changes to Administrative Regulation 10.2 to effectuate the above-stated encampment policy. Administrative Regulation 10.2 Regulating Temporary Non-Commercial Objects on Sidewalks and In Parklets Pursuant to BMC 14.48.120 is to be revised by the City Manager to enable enforcement of temporary non-commercial objects of less than nine-square-foot within less than 24 hours in a designated public area marked with signage to deter re-encampment.

CURRENT SITUATION AND ITS EFFECTS

Federal Ninth Circuit Court of Appeals Legal Decision in Martin v. City of Boise (2018) Has Guided City's Encampment Approach to Always Offer Shelter In All Circumstances Prior to Encampment Closure. In 2018, the Ninth Circuit Court of Appeals, with jurisdiction over California, ruled that "as long as there is no option of sleeping indoors, the government cannot criminalize indigent, homeless people for sleeping outdoors, on public property, on the false premise they had a choice in the matter."⁴ In practice, the *Martin* decision meant that the City of Berkeley was prevented from closing encampments—even when deemed a health and safety hazard—without offers of shelter, constituting an Eighth Amendment violation against cruel and unusual punishment. Due to limited shelter options and movement among unsheltered individuals, certain encampments have persisted, such as the encampments along the Harrison Corridor (between Ninth and Seventh streets and north of Harrison on Eighth Street), and the encampments in the Cedar and Second Street area (Second Street

³ Penal Code Section 647(e) states: "Except as provided in paragraph (5) of subdivision (b) and subdivision (k), every person who commits any of the following acts is guilty of disorderly conduct, a misdemeanor: (e) Who lodges in any building, structure, vehicle, or place, whether public or private, without the permission of the owner or person entitled to the possession or in control of it."

⁴ *Martin v. City of Boise*, 920 F .3d 584 (9th Cir. 2019):

<https://cdn.ca9.uscourts.gov/datastore/opinions/2019/04/01/15-35845.pdf>, p. 3

between Cedar and Page, Cedar from Eastshore Highway to Fourth, and on Page and Jones Streets west of Fourth).

Supreme Court Decision in Grants Pass v. Johnson (2024) Removes Shelter Offer Requirement, And Further Allows Local Jurisdictions to Ban Camping in Public Spaces. On June 28, 2024, the Supreme Court overruled the Ninth Circuit's *Martin v. Boise* ruling in their 6-3 decision in *Grants Pass v. Johnson*. In this decision, the Court ruled that applying anti-camping ordinances to homeless individuals, as had been done in the town of Grants Pass, Oregon, was not a violation of the Eighth Amendment's prohibition of cruel and unusual punishment. The Court removed the requirement to offer shelter before closing an encampment.⁵ The ruling gives cities like Berkeley greater authority to set encampment policy for nuanced health and safety situations.

Significantly, the Supreme Court Decision in Grants Pass Does Not Impact the City's Requirements Related to the Fourth, Fifth and Fourteenth Amendments. The City must still abide by the Fourth Amendment protecting individuals against unreasonable search and seizure, the Fifth Amendment guaranteeing due process and the Fourteenth Amendment guaranteeing equal protection under the law. The City's administrative regulations pertaining to regulating temporary non-commercial objects on the sidewalks (AR 10.1) and the temporary storage of unattended property (AR 10.2) ensure compliance with these Constitutional law requirements.

BACKGROUND

Housing First Is a Best Practice, With City of Berkeley Opening Hope Center, Two Homekey Sites, and Two Transitional Housing Motels Within the Last Three Years .

. . . Housing First is an approach to serving people experiencing homelessness that recognizes a homeless person must first be able to access a decent, safe place to live before stabilizing, improving health, reducing harmful behaviors, or increasing income, according to the California Department of Housing and Community Development (HCD).⁶ In 2018, Berkeley voters approved an increase to the real estate transfer tax for the top third of real estate transactions to augment General Fund resources available for homeless services, known as Measure P. These funds, along with state encampment resolution funds, have supported the leasing of two motels:

- **The Berkeley Inn operated by Dorothy Day House provides 25 rooms**, as well as meals, supportive services, and housing navigation services;
- **Campus Hotel (formerly Super 8) operated by Insight Housing provides 23 rooms**, as well as meals, supportive services, and housing navigation services with homeless individuals at the Harrison Corridor encampment granted first priority for these rooms;
- **The Hope Center (2012 Berkeley Way) operated by Insight Housing provides a congregate emergency shelter with 32 beds and 12 transitional**

⁵ *Grants Pass*, 144 S.Ct at 2211: https://www.supremecourt.gov/opinions/23pdf/23-175_19m2.pdf

⁶ Housing First, California Department of Housing and Community Development, <https://www.hcd.ca.gov/grants-funding/active-funding/docs/housing-first-fact-sheet.pdf>

housing beds for veterans. The Hope Center was funded by various local⁷, state, and federal sources.

The offer of motel rooms has dramatically increased the City's shelter acceptance rate—from 43 percent to 79 percent—among unsheltered people living in encampments.⁸

Measure P funds have also been used as local match funding for two permanent supportive housing sites that have received state funding via the Homekey program, the statewide program to expand and fund housing opportunities for people experiencing homelessness.⁹

- **The Rodeway Inn operated by Housing Consortium of the East Bay provides 42 permanent supportive housing units funded in part by the state Homekey program**, including meals and supportive services;
- **Golden Bear Homes operated by Bay Area Community Services provides 43 permanent supportive housing units funded in part by the state Homekey program**, including on-site property management, case management, and supportive services.
- **The Hope Center, funded by various local¹⁰, state, and federal sources, is operated by Insight Housing and provides 53 permanent supportive housing units**, as well as meals, physical and mental health care, and case management.

The City is poised to add an additional 39 units of permanent supportive housing in the near future via the Step-Up Housing site currently in construction at 1367 University Avenue to be operated by Building Opportunities for Self Sufficiency (BOSS). Further, a \$53 million local funding reservation from the Measure O affordable housing bond has been made for the North Berkeley and Ashby developments, with the first 100 percent affordable building at the North Berkeley site likely to break ground next year. The City Council has also acted to place Measure W on the November 2024 ballot to authorize a renewal and graduated increase in the Measure P real estate transfer tax for voter consideration to continue to ensure resources are available for future investments in permanent housing, interim housing, and homelessness prevention.

. . . Permanent and Interim Housing Placements Have Coincided with a Dramatic 45 Percent Reduction in the Count of Unsheltered Individuals, according to the 2024 Point-In-Time Homeless Count. Between 2022 and 2024, the City saw a 45 percent reduction in street homelessness corresponding with a 54 percent increase in sheltered homelessness. Overall, the City of Berkeley experienced a 21 percent

⁷ The Hope Center was not funded by Measure P proceeds.

⁸ City Manager Off Agenda Memo, May 16, 2024: As shelter and permanent housing investments have increased, Berkeley's homelessness has declined, <https://berkeleyca.gov/sites/default/files/documents/2024-05-16%20As%20shelter%20and%20permanent%20housing%20investments%20have%20increased%20C%20Berkeley%E2%80%99s%20homelessness%20has%20declined.pdf>

⁹ Homekey, California Department of Housing and Community Development, <https://www.hcd.ca.gov/grants-and-funding/homekey>

¹⁰ The Hope Center was funded locally by Measure O affordable housing bond funds, Housing Trust Fund proceeds, and measure U1 funds that increased gross receipts tax on owners of five or more rental units.

reduction in homelessness, compared to just a 3 percent reduction in Alameda County.¹¹ From 2015 through 2019, prior to enhanced local investment associated with Measure P, the City’s homeless count increased by 33 percent, as shown in Figure 1 (834 individuals in 2015 compared to 1,108 individuals in 2019). In 2024, with the addition of transitional motels, Homekey permanent supportive housing sites, and the Hope Center, the City of Berkeley experienced a dramatic 21 percent reduction in overall homelessness—far higher than the 3 percent reduction experienced by Alameda County overall.

Figure 1: Berkeley Homeless Point-In-Time Counts Increased from 2017 to 2019 Before Decreasing in 2022 and 2024, Coinciding with Shelter and Permanent Housing Investments

Year	Sheltered Count	Unsheltered Count	Total Homeless Population	% Increase/Decrease from last PIT count
2015	266	568	834	Not available
2017	308	664	972	16.5% increase
2019	295	813	1,108	14% increase
2022	254	803	1,057	5% decrease
2024	339	445	844	21% decrease

Sources: 2015 Homeless Point-In-Time Count, Jan. 26, 2016 (<https://newspack-berkeleyside-cityside.s3.amazonaws.com/wp-content/uploads/2016/06/2016-01-26-Item-21-Berkeley-2015-Homeless.pdf>); 2017, 2019, 2022 Point-In-Time Counts (<https://everyonehome.org/wp-content/uploads/2022/05/Berkeley-PIT-2022-Infographic-Report.pdf>); and 2024 Point-In-Time Count (<https://everyonehome.org/main/continuum-of-care/point-in-time-count-2024/>)

The West Berkeley Encampments at (1) the Harrison Corridor (Between Ninth and Seventh Streets, Including Eighth Street north of Harrison), and (2) the Second and Cedar Area (Second between Cedar and Page, Cedar from Eastshore Highway to Fourth, and on Page and Jones Streets west of Fourth)¹² are the Most Persistent and Hazardous in the City, With Documented Impacts Since 2019.

Despite significant reductions in the number of people who are homeless in Berkeley, a total of about 445 individuals continue to experience unsheltered homelessness, according to the 2024 point-in-time count. These individuals are largely in West Berkeley, with significant health and safety impacts in the Harrison Corridor, including dead animals, open food sources and spoiled food, used uncapped drug needles, combustible materials like flammable gas containers inside unsafe wooden structures, bottles of urine, human feces, animal feces, soiled clothing and sheltering material, and other unidentifiable liquid and waste products, according to an August 2023 off-agenda memo from the City Manager.¹³ Additionally, a large accumulation of bulky objects and sheltering structures completely block the sidewalk in several areas and extend into the roadway, creating numerous fire and traffic safety hazards. Since the Homelessness Response Team was established in 2021, City staff have documented 16 environmental

¹¹ Alameda County Health Department May 15, 2024 press release: Alameda County Homelessness County Shows Improvements As More Unhoused Residents Access Shelter and Housing: https://everyonehome.org/wp-content/uploads/2024/05/2024-PIT-Count-Press-Release_FINAL_v3.pdf

¹² See Second St, Page St, Jones St, Cedar St encampment map, attached

¹³ City Manager Dee Williams-Ridly’s Aug. 31, 2023 Off Agenda Memo: Nuisance Declaration and Summary Abatement of Conditions on Harrison St, found in her Off Agenda Memo of February 20, 2024: Eighth St and Harrison St Encampment Efforts, pp. 7, 8 (attached)

health abatements city-wide, with nine of those abatements occurring in the Harrison encampment and Cedar/Second Street area encampments.

Calls for Service and Fire-Related Incidents Associated with the Harrison Corridor are Elevated Compared to a Similar Area South of Gilman, Averaging One Police Call Every 1.5 Days and One Fire Service Call Every 4.5 Days. Call data underscores the intensive level of emergency response resources associated with the Harrison Corridor encampments. On average, BPD is called for service every day-and-a-half and Fire is called every four-and-a-half days. For the one-year period from August 2023 through July 2024, a total of 252 calls for police service were received by dispatch from the Harrison Corridor area. Of those calls, 45 percent were deemed high priority (either priority one or two on a nine-point scale, with one reflecting the highest level of urgency and nine reflecting the least). Berkeley’s Fire Department received a total of 78 calls for service during the same one-year timeframe; of those, 60 calls were for fire-related incidents, and 18 were for emergency medical services. For comparison, the same-sized area just south of Gilman Street (bounded by Seventh and Ninth Streets and Gilman to Camelia) had 152 calls for service over the same time period (100 fewer calls), and the percentage of high priority calls (levels one and two) was also less (32 percent versus 45 percent for the Harrison Corridor).¹⁴ Like the Harrison Corridor, the area south of Gilman is zoned Mixed Use Light Industrial and has significant numbers of RVs and other vehicles being used for habitation on the streets; however, the area does not have encampments similar to those in the Harrison Corridor.

Figure 2: Calls for Service Related for Harrison Corridor Encampments (12 months, Aug. 1, 2023 - July 31, 2024)

Berkeley Police Department Calls for Service	Total: 252	High priority calls ¹⁵ : 45%
Berkeley Fire Department Calls for Service	Total: 78	Types of calls: 60 fire-related responses; 18 emergency medical services responses

Sources: Berkeley Police Department (BPD) calls for service taken from the Berkeley Police Transparency Hub Calls for Service, <https://bpd-transparency-initiative-berkeleypd.hub.arcgis.com/pages/cfs-stats>. Berkeley Fire Department (BFD) calls for service data provided by BFD Fire Prevention Inspector.

Note: Calls are associated with the Harrison Corridor based on where the incident in question takes place.

Similar Health and Safety Concerns Persist at Second and Cedar Area. The encampments in the area of Second and Cedar (Second between Cedar and Page, Cedar from Eastshore Highway to Fourth, and on Page and Jones Streets west of Fourth) have been equally challenging, staff intensive, unhealthy, and unsafe. From December 2021 through January 2024, the City’s operations at these encampments have included six deep cleaning efforts entailing:

- Removal of large accumulations of debris and trash from the public right-of-way;

¹⁴ Information gathered from City of Berkeley’s Police Transparency Hub, Calls for Service: <https://bpd-transparency-initiative-berkeleypd.hub.arcgis.com/pages/cfs-stats>

¹⁵ This percentage reflects priority level 1 and 2 calls, indicating a high level of urgency. BPD categorizes calls from 1 being the most urgent to 9 being the least.

- Removal of hazardous materials including syringes, human waste, rotting food, and soiled clothing and bedding;
- Removal of unsafe unpermitted structures;
- Treatment of rat harborages;
- Decontamination of City’s stormwater drainage system.¹⁶

Calls for Service and Fire-Related Incidents for Second and Cedar Street Area are Comparable to Harrison Corridor, Averaging One Police Call Every 1.5 Days and One Fire Service Call Every 4.5 Days. In 2023, calls for service to both BPD and Berkeley Fire were as high, and in some cases higher, in the Cedar and Second Street area compared to the Harrison Corridor. In a document prepared for the state’s Encampment Resolution Fund-3 grant application, BPD noted: In 2023, calls for service jumped to 247 from 169 (+46 percent) from the previous year, and reported crimes rose to 69 from 60 (+15 percent). Commercial burglary was the most prevalent crime type, with 27 incidents reported. The data suggest a worsening safety situation, particularly around the Second Street encampments.¹⁷ Conditions in this area continue to deteriorate to this day. In the seven-month period from January 2024 through July 2024, there were a total of 234 police service calls, just shy of the 247 calls made for the entire 2023 calendar year. The total of 234 calls over a seven-month period is slightly more than one call per day, exceeding calls for service for the Harrison Corridor. Berkeley Fire noted at least 20 fires associated with the Cedar and Second encampment area in 2023 with one becoming a two-alarm fire requiring mutual aid. A total of seven different fire code violations have been associated with these encampments and include code violations related to outdoor storage of combustible materials, insufficient clearance from ignition sources, deliberate and/or negligent burning of combustible materials, unwanted fire ignitions, obstructed access to and insufficient clearance of fire hydrants.¹⁸

Figure 3: Calls for Service for Second and Cedar Street Area Encampments (12 months, Aug 1, 2023 - July 31, 2024)

Berkeley Police Department Calls for Service	Total: 369	High Priority ¹⁹ : 33.1%
Berkeley Fire Department Calls for Service	Total: 81	Types of Calls: 38 fire related responses; 43 emergency medical services responses

Source: BPD calls for service taken from the Berkeley Police Transparency Hub Calls for Service: <https://bpd-transparency-initiative-berkeleypd.hub.arcgis.com/pages/cfs-stats>. BFD calls for service data collected and provided by BFD Fire Prevention Inspector.

Note: Calls are associated with the Second and Cedar Street area based on where the incident in question takes place.

¹⁶ City of Berkeley Fire Police and Environmental Health - Evidence of Cross Jurisdictional Collaboration, p. 4, attached.

¹⁷ City of Berkeley Fire Police and Environmental Health - Evidence of Cross Jurisdictional Collaboration, p. 1, attached.

¹⁸ City of Berkeley Fire Police and Environmental Health - Evidence of Cross Jurisdictional Collaboration, pp 20 - 29, attached

¹⁹ This percentage reflects priority level 1 and 2 calls, indicating a high level of urgency. BPD categorizes calls from 1 being the most urgent to 9 being the least.

City Has Made Significant Investment to Offer Shelter and Abate Hazards at Harrison Corridor Encampments . . . The City has a long history of providing a wide range of services for the residents of the Harrison Corridor encampments, including 107 shelter offers, with a 53 percent uptake rate. In February 2022, Alameda County Winter Shelter 28-day motel vouchers were provided to all individuals and included an 83 percent uptake rate, and three other partial closures for deep cleaning have occurred since that time. City staff conducted the following activities through August 31, 2023:

- **Case Management and Engagement.** Weekly by-name case conferences hosted by the Homeless Response Team and attended by relevant city and county agencies²⁰; three community meetings (in May and July 2023) among City staff, residents, and advocates of the encampment to discuss resources and safety.²¹
- **Abating Rodent Harborage Conditions.** Major nuisance abatement of rodent harborage conditions in October 2022 and subsequent multiple targeted treatments of the extensive network of rodent burrows by the City's Environmental Health Division of the Health, Housing and Community Services Department; provision on numerous occasions of new tents and Sterilite tubs to help maintain cleaner and more rodent-proof conditions;
- **Deep Cleanings and Trash Removal.** Nine deep cleanings removing a total of 124.9 tons (249,800 pounds) of debris; placement of a dumpster on Eighth Street in April 2022 with service four times weekly, addition of a second dumpster on Seventh and Harrison in August 2023 also serviced four times weekly, and weekly illegal dumping removal service by the City's Public Works Department;
- **Basic Sanitation, including Portapotties, Handwashing Station, Weekly Showers and Laundry Services.** Placement of two portapotties with wash station located at the corner of Eighth and Harrison Streets, serviced regularly; weekly free mobile shower and laundry service since June 2022.

City Offered All 23 Rooms at Campus Hotel (formerly Super 8) to Homeless Individuals Residing in the Harrison Corridor . . . In June 2023, the City of Berkeley was awarded \$4.9M from the state's Encampment Resolution Fund-2 grant program, which is currently being used to master lease the Campus Hotel (formerly Super 8) located at 1619 University Avenue. The transitional housing site is operated by Insight Housing, and includes meals, supportive services, and housing navigation services. Unsheltered individuals residing in the Harrison Corridor were given priority for this site, with 34 people accessing the site to date and 18 individuals remaining from the Harrison Corridor, according to City staff.

²⁰ Agencies include: Alameda County Healthcare for the Homeless; Berkeley's Health, Housing and Community Services Department; Homeless Action Center; Bay Area Community Services (BACS); LifeLong Medical Care; East Bay Community Law Center; Options Recovery Services; Berkeley Mental Health; and Building Opportunities for Self-Sufficiency (BOSS). Alameda County's Street Medicine Teams also had an intensive presence at the encampments accompanied by multiple other service providers including the homeless advocacy group Where Do We Go Berkeley; Consider the Homeless, which provides meals; and Berkeley Needle Exchange, which provides clean needles and substance use services.

²¹ City Manager Dee Williams-Ridly's August 31, 2023 Off Agenda Memo: Nuisance Declaration and Summary Abatement of Conditions on Harrison St, found in her Off Agenda Memo of February 20, 2024: Eighth St and Harrison St Encampment Efforts, attached

. . . ***But Hazardous Harrison Corridor Encampments Continue to Persist.*** In a City Manager Feb. 20, 2024 off-agenda memo, staff wrote: “Despite having non-congregate shelter beds dedicated to this encampment, nearly every effort that the City has made to resolve portions of the encampment have been met with significant opposition and/or legal challenges.”²² Between August 2023 through December 2023, the City tried on four separate occasions to resolve encampments in the Harrison corridor in accordance with pending construction and maintenance projects and formally declaring the area as an imminent hazard resulting in an order for a summary abatement on the basis of public health and safety hazards but legal entanglements kept this from happening. During each of these efforts, offers of non-congregate shelter at the Campus Hotel and other available transitional housing at hotel sites preceded attempts to close and clean the encampment areas. In November 2023, the City installed temporary fencing designating the area a pending construction zone to repair and maintain City infrastructure, including sidewalks and street trees, but the fencing was soon breached and the area was re-encamped quickly.

To address the encampments in the Cedar and Second Street area, this past spring the City applied for another state Encampment Resolution Funds grant with the intent to master lease another motel for conversion to transitional housing for homeless individuals. As in the past, the City committed to matching any incoming dollars using Measure P funds. This potential new site would provide housing for another 26 individuals, have on-site services, meals, and housing navigation services. All of the rooms are intended to be prioritized for those living in the encampments in the Cedar and Second Street area.

Presence Of Encampments Yielding a High Rate of Police and Fire Calls for Service Impacts Safety of Nearby Residents, Workers, and Visitors and Is Detrimental to Business Operations. For many years, the District 1 Council office has received e-mail complaints about the hazardous street conditions in the Harrison Corridor and the Cedar and Second Street encampments areas. The Harrison Corridor is home to an electric range of businesses and organizations, including Fieldwork Brewing, Boichick Bagels bakery and storefront, Urban Adamah (a Jewish urban farm with programming for children and families), Harrison Skate Park and sports fields, Berkeley Repertory Theater Administrative Offices, Wilderness Travel Tour Agency, The Tile Shop, Blue Willow Teaspot, East Bay Tow Company, The Plant Library, United States Federal Detached Del Unit Post Office, Covenant Winery, Makers Workspace, Griffin Motorwerke and other automotive businesses, and several architecture and landscaping offices. The Cedar and Second Street area is home to manufacturing companies creating in-ground and above ground traffic detection systems, energy gels for endurance athletes, and AI-powered robotics. Industrial businesses in that area include construction companies, large equipment rentals, paper shredding, computer technology, glass installation, cutlery sharpening services, and automotive businesses. Other businesses, such as landscaping, automotive companies and an active travel tour

²² City Manager Dee Williams-Ridly's August 31, 2023 Off Agenda Memo: Nuisance Declaration and Summary Abatement of Conditions on Harrison St, found in her Off Agenda Memo of February 20, 2024: Eighth St and Harrison St Encampment Efforts, attached

company are also located in this area as are single family-homes and residences, starting on Fourth Street. Communications from residents, visitors, and workers in these two areas describe hazards and concerning interactions and behaviors, such as:

- **Traffic and Pedestrian Safety.** Tents and bulky structures protruding into lanes of traffic; and complete blockage of sidewalks on both sides of the street.
- **Pest Control Issues.** In July 2022, an organization in close proximity to the Harrison encampment reported rats in their buildings, and a considerable amount of resources expended in addressing pest control issues. The rats also climb into the parked cars and chew on the wiring causing thousands of dollars of damage to people's cars.
- **Fire-Related Concerns.** In July 2024, a constituent reported a big dumpster fire that "spewed all kinds of toxic chemicals into the air," settling onto their property where the operators were conducting outdoor summer programs. In May 2024, two fires in the Cedar and Second Street areas were classified as arson, according to Fire Chief David Sprague.²³

Anecdotal Reports Describe Assaults and Other Dangerous Conditions. Residents and employees near the Harrison Corridor and Second and Cedar Street encampments report being chased, yelled at and threatened by encampment residents. One local business, right at the northeast corner of Ninth and Harrison, is familiar with all of the encampment residents due its location. One employee shared in 2022 that their security camera caught on film instances of vandalism: the same individual, an encampment resident at the time, was seen kicking side mirrors off nearby parked cars repeatedly over several days. One employee going to her 4 a.m. shift was robbed at gunpoint when coming to work (2020) while a business owner relayed how a customer was attacked by two people when driving down Eighth just north of Harrison: one stood in front of the car to block it while the other attempted to pull the woman out of her vehicle (2022). In 2021 the office received an email from a Berkeley based business outside of the Gilman District trying to make a delivery to a business at Ninth and Harrison:

"Yesterday, my driver told me that the guy threw a bottle of urine on our truck, then threw rocks, and lumber trying to break our windows of the truck. Only after my driver had to show some force and not back down (along with another homeless person helping my driver), did the occupant of the pictured tent leave and allow my driver to do his job."

More recently neighbors in the Cedar and Second Street encampment area wrote with a list of troubling behaviors they had recently witnessed:

- *"Barely clothed woman, clearly impaired by drugs, exiting an RV on Cedar between railroad tracks and 4th street.*
- *Human feces just about anywhere you dare to look.*
- *Needles on sidewalks and in grass and bushes.*
- *Drug dealing.*
- *Infighting among the un-housed people, many times resulting in retaliatory arson.*
- *Trespassing*
- *A stabbing."*

²³ District 1 e-mail communication with Fire Chief Sprague, May 2024.

The above examples represent a small fraction of the myriad stories shared with the District 1 Council office. For years, stakeholders in these two areas of West Berkeley have lived and worked alongside a host of dangerous public health and safety hazards.

FISCAL IMPACT

It is expected that implementation of this encampment policy will result in no net change in staff time.

CONTACT

Rashi Kesarwani, Councilmember District 1

(510) 981-7110

Attachments:

- 1) Amendments to Chapter 14.48 (Ordinance No. 7632) on miscellaneous use of streets and sidewalks
- 2) Administration Regulation 10.1 Temporary Storage of Unattended Property
- 3) Administrative Regulation 10.2 Regulating Temporary Non-Commercial Objects on Sidewalks and In Parklets Pursuant to BMC 14.48.120
- 4) City Manager Dee Williams-Ridley's August 31, 2023 Off-Agenda Memo: Nuisance Declaration and Summary Abatement of Conditions on Harrison St, found in her Off Agenda Memo of February 20, 2024: Eighth St and Harrison St Encampment Efforts
- 5) 2nd and Cedar Street, Jones and Page Street encampment map
- 6) CoB Fire Police and Environmental Health - Evidence of Cross Jurisdictional Collaboration
- 7) City Manager's September 30, 2021 After Action Report: Harrison Street Corridor RV Operation
- 8) Second Street Deep Cleaning - After Action Reports: December 2, 2021
- 9) Second Street Deep Cleaning - After Action Report April 19, 2022
- 10) Second Street and Page Encampment Closure - After Action Report November 30, 2022
- 11) East Side of Page at Second Partial Closure, and Second Street Deep Cleaning Between Cedar and Page - After Action Report March 22, 2023;
- 12) Second Street Between Page and Cedar, and on Page Street East of Second Street Deep Cleaning - After Action Report May 9, 2023

RESOLUTION NO. ##,###-N.S.

Encampment Policy Resolution to Promote Healthy and Safe Neighborhoods

WHEREAS, offering shelter and housing to homeless individuals is considered a best practice, according to the United States Interagency Council on Addressing Homelessness; and

WHEREAS, the City of Berkeley expresses its continued commitment to a Housing First approach, in which we recognize that people experiencing homelessness must first be able to access a decent, safe place to live before stabilizing, improving health, reducing harmful behaviors, or increasing income; and

WHEREAS, in 2018, Berkeley voters approved an increase in the real estate transfer tax for the top third of real estate transactions to augment General Fund resources available for homeless services, known as Measure P, which has helped to fund transitional housing motels Berkeley Inn and Campus Hotel (formerly Super 8) and permanent supportive housing sites Golden Bear Homes, The Rodeway Inn, and Step-Up Housing (under construction), and will be considered by the voters for extension in November 2024 as Measure W; and

WHEREAS, from 2022 to 2024, the City saw a dramatic 45 percent reduction in street homelessness corresponding with a 54 percent increase in sheltered homelessness, and an overall 21 percent reduction in homelessness, illustrating that the provision of transitional and permanent supportive housing can successfully reduce overall homelessness; and

WHEREAS, in 2018, the Ninth Circuit Court of Appeals ruled in *Martin v. City of Boise* that “as long as there is no option of sleeping indoors, the government cannot criminalize indigent, homeless people for sleeping outdoors, on public property,” which required the City of Berkeley to make a shelter offer in all circumstances; and

WHEREAS, the recent Supreme Court decision in *Grants Pass v. Johnson* overturns the *Martin* standard, thus giving cities like Berkeley the authority to set a more nuanced encampment policy that considers exigent circumstances of fire, health, and nuisance abatement pursuant to the Berkeley Municipal Code; and

WHEREAS, certain encampments have persisted, such as the encampments in the Harrison Corridor (between Ninth and Seventh Streets and Eighth Street north of Harrison), and the Second and Cedar Area (Cedar between Eastshore and Fourth, and Second between Page and Cedar and on Page and Jones west of Fourth), despite documented fire, environmental health, and nuisance hazards as defined in the Berkeley Municipal Code and ongoing exhaustive City staff efforts to offer shelter when available and abate hazards; and

WHEREAS, City staff have provided extensive services for individuals sheltering in the Harrison Corridor area, including reserving the 23 rooms at the Campus Hotel (formerly Super 8) for residents of the Harrison corridor. City staff have also provided case management and engagement, abatement of rodent harborage conditions, deep cleaning

and trash removal four times per week, and basic sanitation services including portapotties, a handwashing station, weekly showers, and laundry services; and

WHEREAS, calls for Berkeley Police and Fire service are exceedingly high at both encampment areas with Berkeley Police calls for service at the Harrison encampment during 12 months (August 1, 2023 - July 31, 2024) totaling 252 and at Cedar and Second Streets encampment totaling 369—on average one call every day to day-and-a-half—and calls for Berkeley Fire service totaling 78 and 81, for each encampment respectively, during that same timeframe, with safety impacts for nearby residents, workers, and visitors and detrimental impacts on business operations.

NOW THEREFORE, BE IT RESOLVED that the City of Berkeley will continue to offer interim housing (generally a shelter offer, with a preference for non-congregate options) when closing encampments, in accordance with the City's existing "Housing First" approach and best practices guidance from the federal government;

BE IT FURTHER RESOLVED, in the event that the City cannot make a shelter offer, then the City Manager is nonetheless authorized to enforce, including the use of citation and arrest, only under the following circumstances:

- The Fire Department has determined that an encampment poses a fire hazard or emergency condition as referenced in the Berkeley Fire Code, BMC Chapter 19.48; or
- The Environmental Health Division of the Health, Housing and Community Services Department has determined that the encampment poses an imminent health hazard as defined in BMC section 11.36.030; or
- The City has determined that a situation constitutes a public nuisance as defined in the BMC and is subject to an abatement pursuant to the BMC; or
- The encampment is located on a City street median, in the roadway, or otherwise in dangerous proximity to traffic pursuant to BMC section 14.32.040; or
- The encampment is located in an area where the City has authorized work (such as for construction, major or minor encroachments, etc.) pursuant to BMC section 13.36.045; or
- The encampment interferes with or impedes city or utility companies' construction or maintenance activities in the public right-of-way, street lighting installation or repair, street tree maintenance, or utilities maintenance or repair.

BE IT FURTHER RESOLVED, the City Manager is authorized to take enforcement actions to deter re-encampment (after clearing an encampment involving any of the six instances enumerated above) through such means as hardscaping; signage that references state Penal Code Section 647(e); or citation and arrest, even if a shelter offer cannot be made.

BE IT FURTHER RESOLVED, that the City Council determines that the Harrison Corridor (Harrison Street between Ninth and Seventh Streets, including Eighth Street north of Harrison) and the Second and Cedar area (Second Street between Cedar and Page, Cedar from Eastshore Highway to Fourth, and on Page and Jones Streets west of Fourth) meet all six health and safety exceptions as proscribed by the above-stated policy and should therefore be prioritized for enforcement.

ORDINANCE NO. -N.S.

AMENDING BERKELEY MUNICIPAL CODE CHAPTER 14.48

BE IT ORDAINED by the Council of the City of Berkeley as follows:

Section 1. That Berkeley Municipal Code Chapter 14.48 is amended as follows:

**Chapter 14.48
MISCELLANEOUS USE OF STREETS AND SIDEWALKS**

Sections:

- 14.48.010** One-way streets.
- 14.48.020** Obstructions on streets and sidewalks.
- 14.48.030** Objects in transit.
- 14.48.040** Construction materials and barricades.
- 14.48.050** Trees and shrubs.
- 14.48.060** Poles, hydrants, signs, etc.
- 14.48.070** Bicycle racks.
- 14.48.080** Bus benches and bus shelters.
- 14.48.090** Mail boxes and armed forces recruiting signs.
- 14.48.100** Newspaper racks and newspapers.
- 14.48.110** Authorized retail displays.
- 14.48.120** Temporary Noncommercial Objects.
- 14.48.130** Decorative noncommercial installations.
- 14.48.140** Public telephones.
- 14.48.150** Sidewalk seating, benches and planters.
- 14.48.160** Removal of obstructions on streets and sidewalks.
- 14.48.170** Use of streets and sidewalks by vendors.
- 14.48.180** Trap doors in sidewalks.
- 14.48.190** Parklets.

14.48.010 One-way streets.

The City Traffic Engineer is authorized and directed to suitably indicate by appropriate signs those streets or portion of streets designated by resolution of the Council as one-way streets.

14.48.020 Obstructions on streets and sidewalks.

It is unlawful for any person to place or cause to be placed anywhere upon any Sidewalk, Parklet or roadway, any object which obstructs, restricts, or prevents the use of any portion of such Sidewalk, Parklet or roadway, except as set forth in this Chapter or in a regulation promulgated by the City Manager ~~and adopted by the City Council.~~

For purposes of this Chapter, Sidewalk is defined as provided in BMC Section 1.04.010(18) as that portion of a street between the curblineline and the adjacent property line intended for the use of pedestrians. Parklet is defined as provided in BMC Section 14.48.190(B)(4).

14.48.030 Objects in transit.

Goods, wares, merchandise, containers, furniture, suitcases and other similar objects in the immediate custody and control of individuals readily able to move or remove such objects may be allowed on the outer one-third of the sidewalk for up to one hour while in the actual course of receipt, delivery, transport, transit or removal.

14.48.040 Construction materials and barricades.

Materials used in the construction or repair of any building or structure, together with the necessary pedestrian walkways, barricades and warning signs, when required permits have been obtained from the City.

14.48.050 Trees and shrubs.

Trees, shrubs and flowers with the necessary barricades when planted or maintained by the City, or by private parties when expressly allowed by Council action or by the City Manager.

14.48.060 Poles, hydrants, signs, etc.

Poles, fire and police boxes, lamp posts, parking, street directional or warning signs, parking meters, drinking fountains, poster kiosks, hydrants, flag poles or standards, decorations for public events, sidewalk clocks, refuse cans, book return receptacles, barriers and any other similar installation; provided, however, that any such installation belongs to the City or is authorized by Council action.

14.48.070 Bicycle racks.

Bicycle racks of a type and at locations approved by and under such conditions as may be imposed by the City Manager.

14.48.080 Bus benches and bus shelters.

Bus benches and bus shelters at such locations and in accordance with such rules and regulations as may be prescribed by the City Manager.

14.48.090 Mail boxes and armed forces recruiting signs.

Mail boxes and armed forces recruiting signs that are placed in such locations that they do not interfere with the normal use of the sidewalk by pedestrians.

14.48.100 Newspaper racks and newspapers.

Newspaper racks which are installed and maintained in accordance with Chapter 16.40 or Chapter 16.44 of the Berkeley Municipal Code.

14.48.110 Authorized retail displays.

Objects such as, but not limited to, tables, chairs, umbrellas and canopies that are permitted pursuant to Chapter 9.48.

14.48.120 Temporary Noncommercial Objects.

A. Temporary Noncommercial Objects ("TNC Objects") are personal belongings:

1. In the immediate custody and control of a person or persons at substantially all times;
2. Not offered for sale or exchange or involved in the solicitation of money for immediate payment;
3. Not otherwise prohibited and of a size, weight and quantity that can be easily moved by the owner.
4. *Not furniture.* Furniture is only allowed pursuant to BMC Chapter 9.48 or pursuant to BMC § 14.48.030 Objects in Transit.

The City Manager may adopt regulations specifying what TNC Objects may be permitted under this Section and where such TNC Objects may be permitted, as well as procedures and limitations to implement this Section. Any such regulation shall contain provisions and shall be applied in such a manner as to ensure that it does not deprive any person of rights protected by the state or federal constitutions, including freedom of expression, and any size limitation contained therein shall not apply to dogs, or to limited cushioning material being used to sit on such as, but not limited to, blankets, cushions or mats. ~~Regulations adopted by the City Manager under this Section shall not take effect until they have been presented to the City Council for approval at a regularly scheduled meeting.~~

B. ~~After approval by the City Council,~~ the City Manager shall ensure that regulations adopted pursuant to this Section are publicized in a manner substantially equivalent to the manner in which ordinances are published, and that materials summarizing such regulations are available for dissemination in Commercial and Manufacturing zones. The City may also post fixed signage in Commercial and Manufacturing zones informing the public of such regulations.

C. No person may be cited for a violation of this Section or the regulations adopted pursuant to it unless that person has first been warned that their conduct is in violation hereof, is allowed a reasonable opportunity to comply but refuses to do so.

D. Violations of this Section or City Manager regulations adopted pursuant to this Section shall be charged as infractions, and not as misdemeanors.

14.48.130 Decorative noncommercial installations.

Decorative noncommercial installations subject to the following regulations and requirements:

A. At least six feet of improved sidewalk area measured at right angles to the curb shall be kept open and unobstructed.

B. Such decorative noncommercial installations shall be placed and maintained in the portion of the sidewalk area farthest from the curb; provided, however, that subject to all other conditions herein specified, such installations may be placed and maintained in the portion of the sidewalk area adjacent to the curb if such installations will not interfere with access to or from any parked vehicle and are:

1. Not closer than twenty-five feet to any curb return or fire hydrant;
2. Not located adjacent to any commercial or passenger loading zone;
3. Not closer to the curb than eighteen inches;
4. Not affixed to any City or utility company-owned poles or appurtenances;
5. Not mounted in or affixed to the sidewalk;
6. Not inconsistent with safety, development in the area, or other decorative noncommercial installations.

C. No decorative noncommercial installation shall be placed or maintained in the sidewalk area without a permit therefor. Application for such permit shall be made to the office of the City Manager, who may require as part of the application such information as may be deemed necessary to determine compliance with this Section and other applicable laws and regulations, including but not limited to a scaled site plan, signature of the fronting property owner and permittee, and agreement to indemnify the City as specified in Subsection D. The application shall be referred to the Public Works Department and the Civic Art Commission for review to determine that it is in the public interest to grant the permit, and that the granting thereof will not be detrimental to the public health, safety or general welfare. The permit shall not be granted without the approval of both the Public Works Department and the Civic Art Commission. If such approval is given and the City Manager concurs, the permit shall be granted subject to the conditions hereinabove set forth, and such additional conditions as may reasonably be imposed. Such permit shall be subject to revocation by the City Manager without cause; the decorative noncommercial installation for which the permit has been given shall be removed within ten days after notice.

D. Anyone granted a permit for a decorative noncommercial installation shall agree to indemnify and hold harmless the City, its officers and employees of and from any and all claims, damages or suits that may arise or in any way be occasioned by the granting of the permit or the maintenance of the decorative noncommercial installation permitted thereby.

1. The permittee shall carry liability insurance in the amount of \$500,000.

E. For purposes of this Chapter, "Decorative Noncommercial Installations" shall include but are not limited to artwork, planters, and other objects that are placed within the public right-of-way by a private party for the purpose of decoration in a residential, commercial, or industrial district, not for the purpose of advertising, commerce or other economic benefit.

F. Decorative Noncommercial Installations that are not permitted under this Section are prohibited encroachments under 16.18 and shall constitute a public nuisance subject to the remedies in Chapter 1.26.

G. The City Council may by resolution establish fees for the implementation and administration of this Section.

14.48.140 Public telephones.

Telephones for public use of a type and at locations approved by and under such conditions as may be imposed by the City Manager.

14.48.150 Sidewalk seating, benches and planters.

A. Notwithstanding anything to the contrary in this Chapter, the City of Berkeley Engineering Division of the Department of Public Works, or its successor, may approve Sidewalk Seating, Benches and/or Planters on sidewalks, parking lanes, street areas, and other public right of way locations as set forth in, and in compliance with, this Section.

1. No permit may be issued under this Section for any sidewalk area in front of a single parcel if there are any current violations of this Chapter in that sidewalk area.
2. A permit for Sidewalk Seating, Benches and/or Planters may not be issued unless the business for which the Sidewalk Seating, Benches and/or Planters is/are proposed is in full compliance with Title 23 and any Permit issued thereunder.
3. Sidewalk Seating and Outdoor Commerce shall require a Sidewalk Seating engineering permit, renewed annually.
4. Businesses conducting Outdoor Commerce in a parking lane shall additionally pay an annual Outdoor Commerce Use Fee in exchange for using public parking spaces for business operations.

5. Sidewalk Seating shall be permitted in any area of the public right-of-way if City Staff makes a finding that the use of the right-of-way for Sidewalk Seating purposes does not create a dangerous condition for customers, pedestrians, or bicycle or motor vehicle traffic. City staff will be defined as the Traffic Engineer, City Engineer, or Fire Marshall as appropriate.

6. Upon termination of any declared City emergency, any Sidewalk Seating present in the public right-of-way and not on the sidewalk shall within (365) days of date of termination either obtain a valid Sidewalk Seating Engineering Permit and pay the Outdoor Commerce Use Fee or be removed from the public right-of-way.

B. For purposes of this Chapter, the following terms shall be defined as follows:

1. "Bench" means a seat designed for two or more persons.

2. "Block Face" means one side of one block, e.g., the north side of Center Street between Milvia Street and Shattuck Avenue.

3. "Bus Bench" means a bench installed and maintained under an agreement between the City, A.C. Transit and Lamar Transit Advertising or another public or semi-public transit provider.

4. "Commercial Establishment" means, but is not limited to, a place where Business Activity is established. Business activity is defined as any activity subject to BMC Chapter 9.04 and any economic activity which generates receipts but is exempt from BMC Chapter 9.04 by state or federal law.

5. "District-wide Sidewalk Bench/Planter Area Plan" means a City-approved plan for a specific commercial district as defined in said plan that establishes area-specific regulations for benches, planters and/or plant material, and establishes general regulations for the placement of benches and planters in the public right-of-way, for the designated district.

6. "District-wide Sidewalk Seating Area Plan" means a City-approved plan for a specific commercial district as defined in said plan that establishes area-specific regulations for sidewalk seating, and establishes general regulations for the placement of sidewalk seating in the public right-of-way, for the designated district.

7. "Food Service Establishment" has the same meaning as set forth in BMC Chapter 23F.04.

8. "Furniture" means amenities such as but not limited to tables, chairs, benches, and other equipment that facilitates the stationary use of sidewalk, parking lanes, street area, and other public right of way spaces.

9. "Outdoor Commerce" means Sidewalk Seating in the public right of way.
10. "Outdoor Commerce Use Fee" means an annual fee for the use of the parking lane for Sidewalk Seating.
11. "Planter" means a container that is designed or used for growing plants.
12. "Parking Lane" and "Street Area" are considered to be part of the Public right-of-way (PROW), known as, "any public street, public way, public place or rights-of-way, now laid out or dedicated, and the space on, above or below it, and all extensions thereof, and additions thereto, owned, operated and/or controlled by the City or subject to an easement owned by City and any privately-owned area within City's jurisdiction which is not yet, but is designated as a proposed public place on a tentative subdivision map approved by City." as defined in BMC 23F.04.010.
13. "Sidewalk" has the same meaning as set forth in BMC 1.04.010(18).
14. "Sidewalk Seating" means tables and/or chairs (including benches) and, umbrellas and other associated furniture with lawfully operating Food Service Establishments or other commercial establishments, in or on the sidewalk. "Sidewalk Seating" includes seating and associated furniture in the public right-of-way or resting on, or projecting into, the sidewalk, parking lane, or street area, or any combination thereof which are not physically or structurally attached to a building, retaining wall or fence.
15. "Transit Stop" means an AC Transit bus stop, UC Berkeley bus stop, a paratransit bus stop, Bay Area Rapid Transit station entrance, or another public transit provider.
16. "Window Box Planter" means a box, designed to hold soil for growing plants, attached at or on a windowsill.

C. Sidewalk Seating, Benches and Planters shall fully conform to the following requirements of this subdivision:

1. Any object permitted under this Section shall leave a minimum horizontal clear space of six feet for ADA-compliant path of travel, (or reduce to 5 feet at a single point of contact) or such greater (or smaller) amount of clear space as the Engineering Division finds necessary to protect and enhance pedestrian and vehicle traffic for public use in the sidewalk area, as that space is determined by the City of Berkeley Engineering Division of the Department of Public Works, or its successor.
2. Objects permitted under this Section shall not:

- (a) Unduly interfere with access by public employees and utility workers to meters, fire hydrants or other objects (street hardware) in the right-of-way;
- (b) Block or obstruct the view of necessary authorized traffic devices;
- (c) Unduly interfere with pedestrian traffic in the public ROW/sidewalk, pedestrian safety, access to public or private parking, traffic circulation, and/or vehicular safety;
- (d) Be closer than 25 feet to any curb return or fire hydrant; except in such cases where the geometry of the roadway has been designed to accommodate, or will accommodate, Sidewalk Seating, as determined by City staff. City staff will be defined as the Traffic Engineer, City Engineer, or Fire Marshal as appropriate;
- (e) Be affixed to any City or utility company-owned poles or appurtenances;

3. All sidewalk seating shall be subject to the following additional standards and requirements:

- (a) All Sidewalk Seating configurations shall comply with applicable Americans with Disabilities Act (ADA) accessibility standards.
- (b) All Sidewalk Seating components shall be stored in a secure location when not in use.
- (c) The permittee shall regularly inspect and clean the Sidewalk Seating and that portion of the public sidewalk adjacent to the establishment. A waste receptacle shall be provided.

4. All benches and planters shall be subject to the following additional standards and requirements:

- (a) All proposals shall comply to the greatest extent possible with any design requirements adopted by the City for benches, planters and/or plant material.

D. All permits issued under this Section shall be subject to the following conditions:

- 1. The permittee shall be responsible for, and exercise reasonable care in the inspection, maintenance, and cleanliness of the area affected by any object(s) permitted by this Section, including any design requirements hereafter enacted, from the building frontage to the curb, parking lane, or street area.
- 2. The permittee shall restrict any objects permitted under this Section to the approved location(s) and configuration, and ensure compliance with all applicable laws, and the

number of tables and chairs shall not be increased without prior approval of the Public Works or Public Health Department.

3. When any objects permitted under this Section are found to be in conflict with existing or proposed facilities or improvements owned, maintained, or operated by the City, or any existing or proposed City design plans, those objects shall, upon written demand of the City Manager or their designee, be removed or relocated in such a way as to eliminate the conflict. Should the permittee fail to comply with said written demand within a reasonable period of time, the City may cause such relocation of the placement at the expense of the permittee. Any such non-compliance shall also be a violation of this Section.

4. Permits issued under the Section shall be posted in plain view within the commercial establishment for which the permit has been issued along with any other relevant permits that support health and safety of patrons and the general public.

5. By accepting a permit under this Section, the permittee explicitly agrees to hold the City, its officers and employees harmless from any liability, claims, suits or actions for any and all damages alleged to have been suffered by any person or property by reason of the permittee's installation, operation, maintenance or removal of Sidewalk Seating, Furniture, Benches and/or Planters.

6. Prior to permit approval, the permittee shall demonstrate possession of liability insurance in the amount of \$1,000,000 for Benches and Planters, and related Sidewalk Seating furniture. Said insurance shall name the City of Berkeley as additionally insured and shall be in a form acceptable to the City Attorney.

7. The permittee shall monitor and control the use of the Sidewalk Seating so as to prevent disturbance of the surrounding neighborhood.

8. A food service establishment that proposes to serve alcoholic beverages within an outdoor dining area shall comply with the standards established by the State of California Department of Alcoholic Beverage Control. The dining area shall be:

- (a) Physically defined and clearly part of the commercial establishment it serves; and
- (b) Supervised by a commercial establishment employee to ensure compliance with laws regarding the on-site consumption of alcoholic beverages.

E. Permits under this Section are not transferable, and must be renewed annually.

F. Sidewalk Seating, Benches, Furniture, and/or Planters that are not permitted under this Section are prohibited encroachments under Chapter 16.18, and shall constitute public nuisances subject to the remedies in Chapter 1.26.

G. The City Council may by resolution establish or waive fees for the implementation and administration of this Section. Outdoor Commerce Use Fees shall be equivalent to the expected block face parking revenue from the parking spaces used by the permittee, and shall be treated as Parking Meter Fund revenue.

14.48.160 Removal of obstructions on streets and sidewalks.

Anything placed or permitted to remain upon any sidewalk or roadway in violation of this Chapter, is declared to constitute a nuisance and the City is authorized and empowered to abate such nuisance by removing the same to the custodian of lost property in the Police Department or the Corporation Yard of the City, or other location designated by the City.

14.48.170 Use of streets and sidewalks by vendors.

Any properly licensed vendor may use the public streets of the City in commercial or industrial zones for the sale of goods, wares, merchandise, or food when conducted under the conditions stated in this section.

- A. Sidewalk vending is permitted as regulated by Chapter 9.48 of the Berkeley Municipal Code.
- B. Other street vending is permitted from vehicles which are lawfully parked upon streets which are not regulated by parking meters or other posted parking time limits.
- C. It is unlawful for any person to vend in violation of this section.

14.48.180 Trap doors in sidewalks.

A. Trap doors in sidewalks used to cover an opening for an elevator, stairway or chute must be kept in such a condition that they will not endanger persons or property, and it is unlawful for any person owning or being in charge or control of any such doors in sidewalks used for covering entrances to elevators, stairways or chutes, or other openings in the sidewalk leading to the basement, to allow said doors to remain open, except when such elevator, stairway or chute is being used and monitored for pedestrian safety while loading or unloading or transferring of merchandise or material.

B. The requirements of this section shall be in addition to and not in lieu of any other ordinance of the City having to do with doors or other openings in sidewalks.

14.48.190 Parklets.

A. Notwithstanding anything to the contrary in this Chapter, the City of Berkeley Engineering Division of the Department of Public Works, or its successor, may approve Parklets, Benches and/or Planters in the public right of way (excluding Sidewalks alone, which are subject to and governed by Section 14.48.200) as set forth in, and in compliance with, this Section.

1. No permit may be issued under this Section for any right-of-way area in front of a single parcel if there are any current violations of this Chapter in that right-of-way area.
2. A permit for a Parklet may not be issued unless the parklet Host is in full compliance with all applicable requirements of Title 23 and any Permit issued thereunder.
3. A permit for a Parklet may only be issued adjacent to parcels in the following zoning districts: all Commercial (C-prefixed districts), Mixed-Use Light Industrial (MU-LI), Mixed-Use Residential (MU-R), and Mixed Manufacturing (MM).

B. For purposes of this Chapter, the following terms shall be defined as follows:

1. "Bench" means a seat designed for two or more persons.
2. "Bike Parking" means a location with bike racks intended for the secure parking of bicycles.
3. "Furniture" means amenities such as but not limited to tables, chairs, benches, and other equipment that facilitates the stationary use of public space.
4. "Parklet" means a platform or similar level surface extending into the public right of way with amenities such as but not limited to tables and/or chairs (including Benches), Bike Parking, and umbrellas, designated as public space, located in or on the public right-of-way or resting on, or projecting into, the sidewalk and parking area, which are not physically or structurally attached to a building, retaining wall or fence. Platforms that meet this definition but have received a Sidewalk Seating Permit pursuant to BMC Section 14.48.150 shall not be considered Parklets.
5. "Planter" means a container that is designed or used for growing plants.
6. "Sidewalk" has the same meaning as set forth in Section 1.04.010(18).

7. "Sponsoring Business", "Host", "Permit Holder" or "Permittee" means, and is limited to, any establishment engaged in insuring and caring for the Parklet as set forth in the Parklet maintenance agreement.

8. "Transit Stop" means an AC Transit bus stop, UC Berkeley bus stop, a paratransit bus stop, Bay Area Rapid Transit station entrance, or another public transit provider.

C. Parklets, Benches and Planters shall fully conform to the following requirements of this subdivision:

1. Any object permitted under this Section shall leave a minimum of clear space as the Engineering Division finds necessary to protect and enhance pedestrian or vehicle traffic for public use in and around the Parklet area, as that space is determined by the City of Berkeley Engineering Division of the Department of Public Works, or its successor.

2. Parklets shall comply with applicable Americans with Disabilities Act (ADA) accessibility standards.

3. Objects permitted under this Section shall not:

(a) Unduly interfere with access by public employees and utility workers to meters, fire hydrants or other objects (street hardware) in the right-of-way;

(b) Block or obstruct the view of necessary authorized traffic devices;

(c) Unduly interfere with pedestrian traffic in the right-of-way, including the Sidewalk, pedestrian safety, traffic circulation, and/or vehicular safety;

(d) Be closer than 25 feet to any curb return or fire hydrant; except in such cases where the geometry of the roadway has been designed to accommodate, or will accommodate, a parklet, as determined by City staff. City staff will be defined as the Traffic Engineer, City Engineer, or Fire Marshall as appropriate;

(e) Be affixed to any City or utility company-owned poles or appurtenances;

(f) The width of the Parklet must not extend beyond six feet from the curb line, except in such cases where the geometry of the roadway has been designed to accommodate, or will accommodate, a Parklet, as determined by City staff. City staff will be defined as the Traffic Engineer, City Engineer, or Fire Marshall as appropriate.

4. All Parklets shall be subject to the following additional standards and requirements:

(a) Parklets must remain publicly accessible and must include signage posted on site to this effect;

(b) Parklet construction materials must be of high quality, durable, and suitable for public use;

(c) A visible edge to the Parklet is required, which may consist of Planters, railing, or cabling. The edges should be visually permeable;

(d) The Permittee shall regularly inspect and clean the Parklet and that portion of the public sidewalk adjacent to the Parklet;

(e) Access panels must be included in order to maintain the gutter and area underneath the Parklet and the design must allow for drainage along the gutter to pass underneath the Parklet;

(f) Safe hit posts and wheel stops, or approved equivalents, may be required. If Bike Parking is provided, the bike racks can be at street grade;

5. All Benches, Furniture, and Planters within the Parklet shall be subject to the following additional standards and requirements:

(a) All proposals shall comply with any design requirements adopted by the City for Benches, Planters and/or plant material;

(b) All non-secured Parklet components shall be stored in a secure location on private property when not in use;

(c) Any unsecured Furniture must be clearly different from the Furniture used by a Parklet Host in order to emphasize that the Parklet is public space, as determined by City staff;

D. All permits issued under this Section shall be subject to the following conditions:

1. The Permittee shall be responsible for, and exercise reasonable care in the inspection, maintenance, and cleanliness of the area affected by any object(s) permitted by this Section, including any design requirements hereafter enacted, from the building frontage to the right-of-way, including the Parklet area.

2. The Permittee shall restrict any objects permitted under this Section to the approved location(s) and configuration, ensure compliance with all applicable laws, and the number and configuration of Benches, Furniture and Planters and overall square footage of the Parklet shall not be modified without prior approval of the Public Works Department.

3. When any objects permitted under this Section are found to be in conflict with existing or proposed facilities or improvements owned, maintained, or operated by the City, or any

existing or proposed City design plans, those objects shall, upon written demand of the City Manager or his or her designee, be removed or relocated in such a way as to eliminate the conflict, at the sole expense of the Permittee. Should the Permittee fail to comply with said written demand within a reasonable period of time, the City may cause such relocation of the placement at the expense of the Permittee. Any such non-compliance shall also be a violation of this Section.

4. Permits issued under the Section, when under review prior to issuance shall be posted in plain view within the sponsoring establishment(s) for which the permit has been issued. Public notice, permitting, and appeal for Parklets are set forth in BMC Section 16.18.060 (Permit procedure for minor encroachment) of the Berkeley Municipal Code. Section D(4) is not applicable in cases of declared local emergency due to disease outbreak. Upon termination of a declared local emergency due to disease outbreak within 365 days, a permittee must:

(a) pay the permit fee for a minor encroachment and comply with all the requirements of this Section and Section 16.18.060, except that public notice requirements shall not be required; or

(b) apply for a Sidewalk Seating Permit pursuant to BMC Section 14.48.150, and pay initial annual outdoor commerce use fee (the application permit fee for transitioning permits will be waived); or

(c) remove the Parklet from the public right-of-way.

5. By accepting a permit under this Section, the Permittee explicitly agrees to hold the City, its officers and employees harmless from any liability, claims, suits or actions for any and all damages alleged to have been suffered by any person or property by reason of the Permittee's installation, operation, maintenance or removal of the Parklet, Benches and/or Planters.

6. Prior to permit approval, the Permittee shall demonstrate possession of liability insurance, in the amount not less than \$1,000,000, for the Parklet including any associated Benches, Planters and Furniture. Said insurance shall name the City of Berkeley as an additional insured and shall be in a form acceptable to the City Attorney.

7. The City Manager or their designee may require a performance bond to ensure Parklet removal in the event of a permit cancellation.

8. The Permittee shall monitor and control the use of the Parklet to prevent disturbance of the surrounding neighborhood.

9. A Sponsoring Business or other business is not permitted to perform table service at a Parklet or otherwise incorporate a Parklet into its business operations. Section D(9) is not applicable in cases of declared local emergency due to disease outbreak.

10. Commercial signage, smoking, and advertising are prohibited at Parklets.

E. Parklets, Benches and/or Planters that are not permitted under this Section are prohibited encroachments under Chapter 16.18, and shall constitute public nuisances subject to the remedies in Chapter 1.26.

F. The City Council may by resolution establish or waive fees and guidelines for the implementation and administration of this Section.

Section 2. Copies of this Ordinance shall be posted for two days prior to adoption in the display case located near the walkway in front of the Maudelle Shirek Building, 2134 Martin Luther King Jr. Way. Within 15 days of adoption, copies of this Ordinance shall be filed at each branch of the Berkeley Public Library and the title shall be published in a newspaper of general circulation.

A.R. NUMBER:	10.1
ORIGINAL DATE:	6/5/17
POSTED DATE:	6/5/17
PAGE 1 OF 8	PAGES

CITY OF BERKELEY
ADMINISTRATIVE REGULATIONS
SUBJECT: Temporary Storage of Unattended Property

PURPOSE

The purpose of this Administrative Regulation is to outline the policy and procedures for properly securing Unattended Property, in order to support the health and safety of our community, in compliance with all legal requirements.

POLICY

Unattended Property is defined as tangible personal property that has been left on City property or the public right of way ("Public Space") with no person claiming or asserting ownership, or that needs to be stored as the result of a law enforcement action or a medical situation.

Property includes but is not limited to:

- Identification
- Photos / photo albums
- Tents, sleeping bags, bedding (which is deemed to be in serviceable condition)
- Luggage, backpacks, purses
- Clothing
- Documents (together in a packet bound or secured in some way)
- Jewelry
- Medication
- Eyewear
- Electronic equipment
- Tools
- Bicycles and other non-motorized methods of transportation which are in working order

Unattended Property that is removed by City staff shall be held in safe-keeping for 14 days, unless it appears from visual observation to have a resale value of \$100 or more, in which case it shall be held for 90 days. Items that are usable for shelter, such as tents, tarps and sleeping bags, shall be retained for a minimum of 45 days regardless of apparent value. Unattended Property that is clearly refuse or garbage may be disposed of immediately. Items shall be secured in a locked, covered, storage container located at the Corporation Yard at 1326 Allston Way. The storage container shall be accessible by City Staff only.

PROCEDURE

1. Berkeley Police Department (981-5911) shall respond to calls from City Staff to provide assistance to City Staff who need law enforcement support when picking up and transporting Unattended Property.

2. City staff shall remove Unattended Property from Public Space as found as part of routine duties, in response to complaints, or as directed by the Berkeley Police Department. Occupied/attended encampments will be given a reasonable time to remove their property, as determined by the Berkeley Police Department.
3. City Staff shall photograph Unattended Property before it is removed, regardless of whether it is going to be disposed of or stored.

When removing property from Public Space, City Staff shall utilize a *Property Inventory Form (Inventory Form)* to record the date the Unattended Property was removed and the location from which it was removed. The Unattended Property shall be inventoried either as individual items or by the quantity of bags removed. Any items of value (including but not limited to jewelry, electronics, medical or dental equipment) shall be inventoried. The *Inventory Form* shall note whether each piece of inventoried Unattended Property removed from a given site is to be transported for storage or disposed of. A copy of this form shall be maintained by Corporation Yard staff.

Unattended Property that has been removed shall be kept in clear bags and bins. Each bag or bin shall be affixed with a copy of the *Inventory Form*, which displays the date and the location from which the Unattended Property was removed.

At the expiration of the requisite storage time, unclaimed property shall be disposed of; the date of disposal shall be noted on the corresponding *Inventory Form* and submitted to Corporation Yard staff.

City staff shall not store any of the following items as they are unsafe for storage or considered to be trash:

- Soiled or moldy items
- Loose or scattered papers
- Wet or damp clothing, bedding or sleeping bags if storing it would cause it to mold
- Perishable food or personal products that will spoil in storage
- Personal hygiene products such as toothbrushes, hair brushes
- Bike carcasses
- Mattresses, futons, furniture
- Shopping Carts*
- Broken or disassembled items or those stripped of parts (i.e. flat tires, electronics, torn up clothes)
- Weapons – weapons will be turned over to Berkeley Police Department
- Any item that may attract rodents or insects (containers for recycling or food storage)
- Hazardous or Explosive items such as gasoline cans, propane tanks, batteries

*Shopping carts with their contents shall not be stored in their entirety. Shopping carts will be returned to identified stores and/or the stores will be notified to retrieve them when possible. City Staff shall not remove the contents of shopping carts, unless there are items which can be easily identified as personal belongings and which meet the criteria for storage. These items shall be stored, and items which do not meet the criteria for storage shall be disposed. The *Inventory Form* shall be noted accordingly.

To Retrieve Stored Property:

Citizens wishing to reclaim their property shall contact 311 Customer Service Center. 311 shall in turn transfer the caller to the appropriate City Department, Parks or Public Works, based upon the location from which the property was removed, between the hours of 8:00 a.m. and 4:00 p.m. Monday – Friday, excluding holidays.

City Staff shall verify the date, time, location from which the requestor reports the property was picked up by the City, and the description of the property, against the *Inventory Forms*, to determine whether the property is in storage.

If the property is determined to be in storage, an appointment to reclaim the property from storage shall be scheduled between the appropriate City staff and the caller/requestor, for retrieval between the hours of 9:30 a.m. and 2:30 p.m. Monday – Friday, excluding holidays.

At the appointed date/time, the requestor shall come to the City's Corporation Yard, Bldg A lobby area. The individual shall identify him/her self and provide the date and location from which the property was picked up, along with a description of the property. The requestor shall wait at the Corporation Yard while designated City Staff retrieves the identified property from the storage unit and transports it to the parking lot. The requestor will be required to sign the *Inventory Form* and a copy of which will be maintained by Corporation Yard staff.

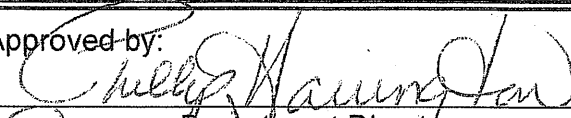

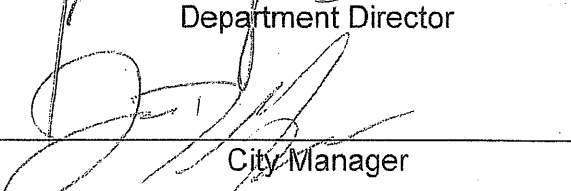
If an advocate for the requestor is retrieving the items, he/she shall be required to provide to City Staff a completed *Declaration of Authorization to Take Custody of Property* and sign the *Inventory Form* upon receipt of the property.

To File a Complaint:

Persons having complaints about the City's process for managing Unattended Property may submit their concerns to the Online Service Center <http://www.cityofberkeley.info/onlineservicecenter/>, and the complaint will be reviewed by designated City Staff accordingly.

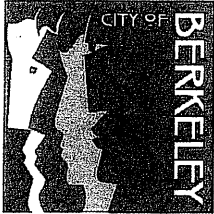
To File a Claim:

Persons wishing to file a claim shall be directed to complete the claim form which can be found - http://www.cityofberkeley.info/Attorney/Home/Claim_Form.aspx

<p>RESPONSIBLE DEPARTMENT: Public Works, Parks Recreation and Waterfront</p> <p>TO BE REVISED: As needed</p>	<p>Approved by:</p> <p> Department Director</p> <p> Department Director</p> <p> City Manager</p>
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APPENDICES

APPENDIX 1: PROPERTY INVENTORY FORM



Public Works Department
Parks, Recreation & Waterfront

PROPERTY INVENTORY FORM

INVENTORY ID NUMBER: _____

LAGAN CASE #: _____

DATE PICKED UP: _____

TIME PICKED UP: _____

PICK UP LOCATION/ADDRESS: _____

HOLD FOR 14 DAYS: Property which appears to be personal possessions of **less** than \$100 resale value.

HOLD FOR 45 DAYS: Property which is usable for shelter.

HOLD FOR 90 DAYS: Property which appears to be personal possessions of **more** than \$100 resale value.

DISCARDED: Property which appears to have been abandoned, illegally dumped or does not meet the storage requirements.

EMPLOYEE # (S): _____

DEPARTMENT: _____

DESCRIPTION of UNATTENDED PROPERTY (itemized with estimated value):

A.R. NUMBER:	10.2
ORIGINAL DATE:	11/13/18
POSTED DATE:	11/26/18
PAGE 1 OF 4	PAGES

CITY OF BERKELEY

ADMINISTRATIVE REGULATION

Subject: Regulating Temporary Non-Commercial Objects on Sidewalks and in Parklets, Pursuant to BMC § 14.48.120

PURPOSE

This Regulation is intended to protect the City's substantial interests in access and safety on Sidewalks and Parklets for pedestrians and for persons with disabilities, aesthetically pleasing streetscapes, and vital commercial areas, all of which are critical to the City's economic and social well-being, in a manner consistent with the United States and California Constitutions, including the First, Fourth, Eighth, and Fourteenth Amendments.

This Regulation provides policy and procedures regarding placing Temporary Noncommercial (TNC) Objects on Sidewalks and Parklets, pursuant to Berkeley Municipal Code (BMC) § 14.48.120.

DEFINITIONS

"BART Access Corridor" is a Sidewalk, including a wide plaza area, on the same side of the street as a BART Station entrance, within 25 feet of such entrance. In the downtown area, the BART Access Corridor includes all sidewalk and plaza areas on the west side of Shattuck Avenue from Addison Street to Allston Way.

"Parklet" is defined as provided in BMC § 14.48.190.

"Path of Travel" is defined as:

- For Sidewalks which measure less than fourteen (14) feet in width, the Path of Travel is six (6) feet wide; this 6-foot wide strip is parallel to the curb and the sides of this strip are equidistant from the curb edge of the sidewalk and the edge of private property abutting such sidewalk.
- For Sidewalks which measure 14 feet or greater in width, the Path of Travel is ten (10) feet wide; This 10-foot strip is parallel to the curb and the sides of this strip are equidistant from the curb edge of the sidewalk and the edge of private property abutting such sidewalk.

"Sidewalk" is defined as provided in BMC § 1.04.010(18) as that portion of a street between the curbline and the adjacent property line intended for the use of pedestrians.

"TNC Objects" are defined as provided in BMC § 14.48.120 as personal belongings:

1. In the immediate custody and control of a person or persons at substantially all times;

2. Not offered for sale or exchange or involved in the solicitation of money for immediate payment;
3. Not otherwise prohibited and of a size, weight and quantity that can be easily moved by the owner.
4. Not furniture. Furniture is only allowed pursuant to BMC Chapter 9.48 or pursuant to BMC § 14.48.030 for Objects in Transit or BMC § 14.48.150 for Sidewalk Café permits and City-installed furniture.

POLICY

A. Objects Subject to this Regulation

This Regulation applies to all Temporary Noncommercial (TNC) Objects. It does not apply to leafleting, hawking, peddling and similar activities to the extent those activities do not involve the placement of physical objects on the Sidewalk, or to TNC or other objects expressly permitted by the Berkeley Municipal Code.

B. TNC Objects Exempt from this Regulation:

The following categories of TNC Objects are exempt from this Regulation:

1. Mobility devices in use by pedestrians or individuals in wheelchairs; or
2. Blankets, cushions, mats, or other material providing cushioning ("Cushioning Material") while an individual is seated on such an item, which does not expand beyond 2' x 2' in size and is outside of the Path of Travel.

C. Time and Location Requirements for TNC Objects

1. TNC Objects - Residential Districts:

TNC Objects are prohibited on Sidewalks in Residential Districts, except Objects in Transit pursuant to BMC § 14.48.030 or as otherwise specifically authorized by the BMC.

2. TNC Objects - Commercial and Manufacturing Districts

- a. TNC Objects shall not be left unattended for more than 2 hours.
- b. TNC Objects may not be placed in Parklets.
- c. TNC Objects must not interfere with access to and use of driveways, crosswalks, bus benches, bus stops, transit stops, bicycle racks, fire hydrants, faucet bibs,

utility boxes, public art installations, mailboxes, ATM machines, embedded trap doors, parking meters, parking payment machines, refuse or recycling cans, or pursuant to a City permit, construction materials, newspaper racks, or sidewalk café seating.

- d. TNC Objects may not be placed in a location that interferes with access for individuals with disabilities such as curb and wheelchair ramps, or other features for disability access.
- e. TNC Objects may not be placed in a location where they would obstruct, restrict, or hinder visibility of traffic devices or signs.
- f. TNC Objects may not be placed at or adjacent to any blue or white curb.
- g. TNC Objects may not be placed on a Sidewalk directly in front or within three feet of either side of a building entrance, from the building face to the curb edge of the Sidewalk, except between the hours of 10:00 p.m. and 7:00 a.m., if the building entrance will not be used during that period (i.e., not an apartment building entrance where people may be expected to enter and exit 24/7, and not the entrance to a restaurant or business that is open for customers or deliveries).
- h. TNC Objects may not be placed within a BART Access Corridor, except objects in transit per 14.48.030 and other objects expressly allowed by the BMC.

D. ENFORCEMENT PROCEDURES

To the extent possible, given resources, the initial outreach may be made by homeless outreach staff; management and/or enforcement of TNC Objects may be initiated by Code Enforcement and/or Public Works staff.

To further implement BMC §§ 14.48.120(C) and (D), the City hereby adopts the following procedures:

1. If TNC Objects or Cushioning Material are located within the Path of Travel or in a BART Access Corridor, they must be immediately moved out of the Path of Travel or BART Access Corridor by their owner upon request of the enforcement officer. Should TNC objects not be immediately moved, such objects can be removed and stored by the City pursuant to BMC § 14.48.160 and Administrative Regulation 10.1, and/or a citation may be issued.
2. For TNC Objects or accumulations of TNC Objects, enforcement of this Regulation shall be a low priority, except when:
 - TNC Objects have been in the same approximate location for 24 hours or more,

- More than two accumulations of TNC Objects occupy a single blockface, or
- TNC Objects pose a significant risk to health or safety.
- Within 600 feet of a K-12 public or private school with 25 or more students located in a residential district.

Enforcement officers may:

- Request that TNC Objects be reduced to a 9-square-foot footprint (measured as 3' x 3', 4' x 2.25', 9' x 1', etc.) and/or less than 5 feet in height,
- Request that TNC Objects be moved to another location,
- Subject to the notice requirements below, remove and store TNC Objects pursuant to BMC § 14.48.160 and Administrative Regulation 10.1, or
- Issue an administrative citation or infraction.

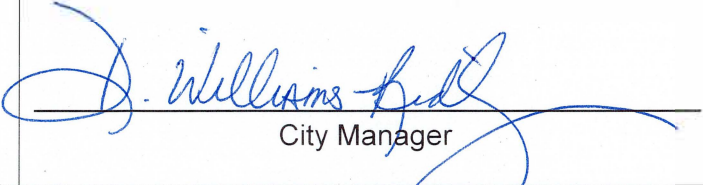
3. Except in the case of a significant health or safety risk:

Prior to removal of TNC Objects, 24 hour written notice of intent to remove TNC Objects shall be provided, either by attaching such notice to, or directly adjacent to, such TNC Objects, or by providing notice to the owner.

Removal of TNC Objects is a low priority between 10:00 p.m. and 7:00 am.

INTERPRETATION

This Regulation is intended to be consistent with the United States and California constitutions, and in the event a patent or latent ambiguity in this Chapter requires interpretation by the City or a Court, such interpretation shall, to the extent permissible, be consistent with relevant constitutional provisions.

<p>RESPONSIBLE DEPARTMENT: City Manager</p> <p>TO BE REVISED: As needed</p>	<p>Approved by:</p> <p>BERKELEY CITY COUNCIL on October 16, 2018</p>  <p>City Manager</p>
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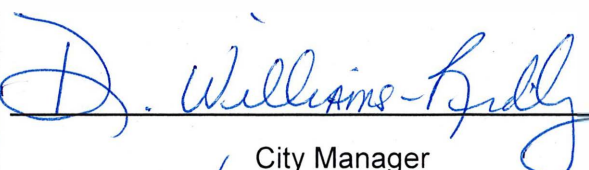
ADDENDUM TO ADMINISTRATIVE REGULATION 10.2

In addition to the requirements in Administrative Regulation 10.2, this addendum to Administrative Rule ("AR") 10.2 clarifies an ambiguity in the enforcement provisions therein. AR 10.2 Section D provides: "... enforcement of TNC Objects may be initiated by Code Enforcement and/or Public Works staff." While the Berkeley Police Department is not mentioned in this enforcement provision, it is not specifically excluded either, and has independent authority to enforce BMC 14.48.020. Other City staff either do not have the authority to issue an infraction citation or do not have the requisite training and experience to do so. Therefore, police officers will also will be needed to help enforce BMC 14.48.020/14.48.120.

In light of the above, clarification is needed that police officers are authorized to help enforce BMC 14.48.020 / 14.48.120 with respect to TNC objects unlawfully placed on sidewalks. As such, a police officer is authorized to:

- Contact the occupant of a tent or other improvised structure erected on a sidewalk during the day and evening (7:00 a.m. to 10:00 p.m.), warn the person of the violation of BMC 14.48.020 / 14.48.120, and tell the person to take down the tent/improvised structure.
- If the person does not comply, the officer may issue an infraction citation.
- The officer may also issue a Notice to the person or post a Notice on the tent/improvised structure advising that if the tent or structure is not removed from the sidewalk within 24 hours, it will be removed from the sidewalk pursuant to BMC 14.48.160 and handled in accordance with A.R. 10.1 at the Corp Yard.
- In no instance will pitched tents/improvised structures be allowed to remain in the Path of Travel on the sidewalk. An officer may move such a tent/structure out of the Path of Travel immediately.

As stated in BMC 14.48.020 and AR 10.2, the word sidewalk is defined as "that portion of a street between the curblineline and the adjacent property line intended for the use of pedestrians." The dirt planting strip that sometimes exists within the sidewalk along the edge of the curb is part of the sidewalk because it is intended to be used by pedestrians walking to and from a roadway, e.g. to a parked car.

<p>RESPONSIBLE DEPARTMENT: City Manager</p> <p>TO BE REVISED: As needed</p>	<p>Approved by:</p> <p> _____ City Manager</p> <p>Date: <u>4/10/19</u></p>
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Office of the City Manager

February 20, 2024

To: Honorable Mayor and Members of the City Council
From: *Dee* Dee Williams-Ridley, City Manager
Re: Eighth St and Harrison St Encampment Efforts

The purpose of this memo is to inform the Council that the City's Homeless Response Team (HRT) will be temporarily suspending efforts to resolve the remaining encampments in and around the intersection of Eighth St and Harrison St in Northwest Berkeley until the Court proceedings in two pending cases against the City at this encampment (*Prado* and *Parnell*) give us more insight and direction. The memo provides background and rationale behind this difficult decision.

The HRT strives to assist people who are homeless primarily through guiding them to housing (interim or permanent) and supportive services, while also ensuring the conditions of their encampments are as safe and clean as possible. The encampments in and around 8th and Harrison Streets in Northwest Berkeley have persistently posed serious health and safety concerns to the residents of the encampments as well as their neighbors, who include both residents and merchants. They have also contributed to public infrastructure damage (damaged and inoperable street lights, damaged sidewalks and street tree wells, dead or dying city trees, etc.) in the area. The HRT's strategy to resolve this challenging situation is laid out in greater detail below, and has included providing direct access to motels and other indoor solutions, cleaning the area regularly, and attempting to prevent re-encampment and a re-creation of the same problematic concerns and conditions so that infrastructure repairs and construction can commence.

The decision to temporarily pause this work will free up resources to more proactively address encampment concerns elsewhere in Berkeley. We will offer interim housing to those who are willing to accept it, and those areas can be more effectively be maintained for a complete resolution.

BACKGROUND

The encampments in this corridor of the city have, for several years, posed both very dangerous living conditions for the people living in them, and serious impacts to the neighboring businesses, residents, and general public. For years, the City has offered a wide range of both service opportunities and enforcement attempts at this encampment

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February 20, 2024
Re: Harrison Street Corridor Encampments

to foster safer and healthier conditions. (Both the persistent concerns and our efforts to mitigate them are documented in Attachment 1 to this memo.) However, a number of significant external challenges have consistently hindered the City's ability to permanently resolve this encampment, including an ever-shifting and uncertain legal landscape in the wake of Ninth Circuit's *Martin v. City of Boise* decision¹; suspension of encampment enforcement pursuant to CDC guidance during the height of the global COVID-19 pandemic²; and federal Coordinated Entry guidance regulating the prioritization of limited permanent supportive housing that is silent on the impacts of encampments.³ At the same time, and largely due to the presence of the encampment, the corridor has seen significant damage to public infrastructure, (including inoperable city streetlights; damaged city sidewalks; damaged tree wells and dead or dying city street trees) that have gone unrepaired.

In February 2023, the Neighborhood Services Division in the City Manager's Office applied for, and was awarded, a State of California Encampment Resolution Fund grant that enabled the City to master lease the Super 8 motel at 1619 University Avenue as a non-congregate shelter destination for individuals in this encampment. Over the spring and early summer, Neighborhood Services conducted an extensive survey of the encampments in the area, generating a census of 51 people living there, and between May and July 2023, the Homeless Response Team conducted three community meetings with the residents, advocates, and service providers in this encampment to explain our plans to target the new Super 8 motel to this encampment and eventually resolve the encampment to perform the infrastructure repairs. In August 2023, the program opened its doors and residents began moving into the shelter.

However, despite having non-congregate shelter beds dedicated to this encampment, nearly every effort that the City has made to resolve portions of the encampment have been met with significant opposition and/or legal challenges:

- On August 22, 2023, the City attempted to resolve the encampments in and along the northernmost part of 8th St and Codornices Creek from 8th St to 6th St, in accordance with pending construction in the area by the City of Albany; opponents pitched a "sit-in" and the closure was only partially completed (the Creek remains encamped to this day).

¹ See: <https://cases.justia.com/federal/appellate-courts/ca9/15-35845/15-35845-2019-04-01.pdf?ts=1554138051>

² See: <https://stacks.cdc.gov/view/cdc/107838>

³ See <https://files.hudexchange.info/resources/documents/Coordinated-Entry-Core-Elements.pdf>. In 2023, recognizing the insufficiency of this federal guidance with respect to dangerous encampments, the City of Berkeley sponsored a change in State law, [AB 1285](#) (Wicks), and pressed the Alameda County Continuum of Care (CoC) to prioritize the Harrison St encampments for permanent supportive housing, in a formal memo to the CoC (included here as Attachment 2). On November 8, a subcommittee of the CoC's Leadership Board voted 7-1 to deny Berkeley's recommendation to prioritize this encampment (see agenda item 7 in the [Nov 8, 2023 minutes of the Outreach, Access, and Coordination Committee](#)).

- On September 6, 2023, and in response to a formal declaration of the area as an imminent hazard and an order for summary abatement by the City Manager (see Attachment 1), the City attempted to abate the public health and safety hazards on Harrison St between 7th St and 8th St. In response, advocates and residents in the encampment, in collaboration with East Bay Community Law Center and Disability Rights Advocates, filed a lawsuit (*Prado v. City of Berkeley*) and were granted a temporary restraining order (TRO), enjoining the city from action. The TRO was eventually lifted on September 27, but the numerous conditions simultaneously imposed by the Judge posed significant implementation challenges for the city, such that this health and safety abatement could not be completed until November 7, 2023. Meanwhile, the *Prado* case is pending.
- On November 14, 2023, the City attempted to resolve the encampments along Harrison St from 7th to 8th, but was met with another TRO less than 24 hours before the planned operation. This had the effect of delaying the operation until December 5.
- On December 12, the City planned an operation to resolve the encampments along 8th St and along Harrison St from 8th to 9th, both to continue clearing the area for planned street construction as well as to enable adjacent parcel owners to construct a privately-financed fence. Hours into the operation, the City learned that another lawsuit (*Parnell v. City of Berkeley*) and order to cease and desist had been issued, forcing the City to suspend plans to fence the areas that had been closed that morning (which were re-encamped within minutes of the court's order).
- Between the November 7, 2023 abatement operation and the date of this memo, the temporary fencing designating the area as a pending construction zone has been breached, and the area behind the fencing re-encamped, on several occasions, sometimes within hours of the City's putting it up.

DECISION AND RATIONALE

The Homeless Response Team has made the decision to temporarily suspend future efforts to resolve the encampments in this area until the Court proceedings in the two pending cases against the City at this encampment (*Prado* and *Parnell*) give us more insight and direction. Because the timing is ultimately in the hands of the Court, we are unable to offer a timeline for when closure, and ultimately the street construction efforts they will precede, can continue. We will continue to serve the people living in these encampments with outreach and service offers; move those who wish to move into shelter indoors, in accordance with available resources; and perform regular clean-ups in the area to manage the footprint of the encampment. These latter efforts are ongoing and they will not stop now.

The rationale for this difficult decision is as follows:

- Each of these resolution operations required numerous hours of intricate legal, operational, and tactical planning by staff across numerous city departments, and pursuant to numerous case laws, required advanced written notice and careful

planning on how to sort and store each person's belongings. Despite all this planning, staff have been met three times with Court orders to cease, hours before or even during the operation, effectively rendering planning efforts moot. If and when the operations do take place, each operation has been a physically and emotionally taxing endeavor for HRT staff, with many hours in the field amidst vehement protest opposition. However, sometimes within days or even hours of completing an operation, the area is re-encamped and/or fencing has been breached and destroyed, putting the City back at square one. We simply do not have the staffing resources to continue these efforts indefinitely.

- The City has, since the inception of the Homeless Response Team in September 2021, focused the majority of its time and efforts in the Gilman District. More specifically:
 - Since September 2021, the Homeless Response Team has performed **106** encampment operations, including closures, deep cleanings, and vehicular enforcement. **28%** of all interventions have occurred in the Gilman District.
 - Since September 2021, the Homeless Response Team has removed **998,060** pounds of debris from encampments around the City. **22%** has come from the Gilman District.
 - Since September 2021, the Homeless Response Team has made **657** offers of shelter/interim housing to people in encampments. **35%** of all offers have been given to people living in the Gilman District.

The amount of time, resources, and effort given to this area have been immense—frankly, they have exceeded what a City of our size, considered by the State too small to be eligible for direct State homelessness funding, could reasonably be expected to provide. But there are numerous other encampments around the city, including in other historically redlined areas of West and South Berkeley, that need our attention and resources as well.

- The District Court has repeatedly required that we hold non-congregate shelter beds open for any closure of these encampments, even though our offers of shelter have been continuously declined, and congregate housing is available. It is unethical to continue to withhold vacant beds from people in other areas of the City who might benefit from them now. (Of lesser importance, beds at the Super 8 motel are paid for by a State grant with aggressive expenditure deadlines, and continuing to keep the beds vacant jeopardizes compliance with the deadlines.)
- The Homeless Response Team is a multi-disciplinary, multi-departmental team comprised of staff from numerous departments, including Neighborhood Services; Police; Public Works; Health, Housing and Community Services; Parks, Recreation, and Waterfront; and others as needed. Notably, the HRT is not sufficiently budgeted to pay for dedicated encampment staff from each of these departments; to staff a major encampment operation, the HRT relies on the same Police officers who respond to violent calls for service across the City and the same Public Works staff who perform street construction work. With vacancies in each of these departments hovering at 1 in 5 positions, we do not have the staff

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February 20, 2024
Re: Harrison Street Corridor Encampments

to perform more than a handful of encampment operations every month, and other health and safety concerns elsewhere in the city need our attention as well.

Once again, we will not abandon the Gilman District nor the people living unsheltered in it, and will continue to make every effort to provide available services to those unsheltered here and provide clean-ups in the area as frequently as our resources allow. But we must be realistic about what a City of our size and capacity can accomplish in the wake of so much judicial risk and uncertainty, and the very real costs to limited staff time and budgetary resources this uncertainty poses.

If you should have any questions, please do not hesitate to contact Peter Radu, Assistant to the City Manager, at 510-981-7045 or pradu@berkeleyca.gov.

cc:

Peter Radu, Assistant to the City Manager
LaTanya Bellow, Deputy City Manager
Anne Cardwell, Deputy City Manager
Farimah Brown, City Attorney
Andrew Murray, Interim Public Works Director
Jennifer Louis, Chief of Police
David Sprague, Chief of Fire
Matthai Chakko, Assistant to the City Manager
Jenny Wong, City Auditor
Mark Numainville, City Clerk



Office of the City Manager

To: Dee Williams-Ridley, City Manager

From: Peter Radu, Assistant to the City Manager

Date: August 31, 2023

Re: Nuisance Declaration and Summary Abatement of Conditions on Harrison St

INTRODUCTION AND HISTORY OF SERVICE EFFORTS

The encampments in and around Harrison Street, especially those between 8th and 7th Streets, in West Berkeley have presented ongoing challenges to the City. The City has provided a wide range of services for the residents in this area as well as full scale operations to reduce the debris and dangerous conditions. Since September 2021, when the City first resumed encampment operations after a COVID hiatus, these include:

- The placement of a dumpster on 8th St in April 2022, with service 4 times a week, and a second dumpster on 7th and Harrison in August 2023, as well as weekly illegal dumping removal service from the city's Public Works Department;
- The placement of two port-a-potties with wash station located at the corner of Eighth and Harrison St; both are serviced on a regular basis.
- Free mobile shower and laundry service to the residents of this encampment on a weekly basis since June 2022.
- A major effort to relocate RVs in the area in September and October 2021 to the City's Safe RV parking program; multiple offers of an off-street parking spot were offered to all 35 vehicles being used as shelter in the encampment, and 18 moved in or voluntarily relocated.
- One full closure of the encampment, in February 2022, and 3 partial closures since that time. The full closure in Feb 2022 included motel room offers for everyone living there, using Alameda County Winter Shelter motel vouchers and with an 83% uptake rate. Only two arrests and 0 criminal citations have been issued during these operations.
- Nine deep cleanings of the encampment, in which a total of 124.9 tons (249,800 pounds) of debris have been removed, and a major nuisance abatement of rodent harborage conditions in October 2022, in which a total of 32.1 tons (64,200 pounds, or nearly the weight of a humpback whale) of debris were removed.
- Multiple targeted treatments by the City's Environmental Health Division of the extensive network of rodent burrows in and around the encampment, and the provision on numerous occasions of new tents and Sterilite tubs to help maintain cleaner and more rodent-proof conditions.

- The provision of 107 shelter offers to the residents in this area, with an 53.3% uptake rate. Not including the major independent effort to resolve the People's Park encampment with UC Berkeley, this represents 23% of all shelter provisions the City's Homeless Response Team has made since September 2021. For lack of housing exits, many of those moved into shelter have returned back to this encampment over time.
- Weekly by-name case conferences, focusing heavily on this encampment, hosted by the Homeless Response Team and attended by Alameda County Healthcare for the Homeless, Berkeley's Health, Housing and Community Services Department, Homeless Action Center, Bay Area Community Services (BACS), LifeLong Medical Care, East Bay Community Law Center, Options Recovery Services, Berkeley Mental Health, and Building Opportunities for Self-Sufficiency (BOSS).
- Three community meetings (in May and July 2023) between city staff and residents and advocates of the encampment to discuss resources and how to improve safety.

All of these services are in addition to the intensive presence of the County's Street Medicine Teams in the encampment.

On June 14, 2023, the City of Berkeley was awarded \$4.9M from the State of California's Encampment Resolution Fund-2 grant program, which the City now uses to master lease the 23-room Super 8 motel on University Avenue and contract with Insight Housing to provide low-barrier, service-rich, noncongregate shelter to the residents of this encampment. Since August 1, the HRT has maintained a daily presence in the area to schedule move-ins and begin assisting people from the encampment into places of greater safety. So far, 14 people have moved into the Super 8 from this encampment, with an additional 4 scheduled; 3 people have been matched directly to permanent supportive housing, and one more has moved into the Berkeley Inn.

In addition, the HRT has attempted to foster a more transparent and collaborative working relationship with the residents and advocates of this encampment to maintain cleaner conditions. Since May of 2023, the HRT and the encampment have had three community meetings to discuss the City's concerns about the conditions, the encampment residents' stated needs, and how to better work together in maintaining cleaner conditions. These "Good Neighbor Guidelines" are 5 common sense standards which, if maintained, reduce the likelihood of a large city clean-up. Though these Guidelines have not been officially adopted,¹ they received a good deal of stated support and understanding from residents themselves in the encampment.

ASSESSMENT OF PRESENT ENCAMPMENT CONDITIONS

Nevertheless, and despite these numerous efforts, for months (and at present) the HRT continues to observe dead animals, open food sources and spoiled food, used uncapped drug needles, combustible materials like flammable gas containers inside unsafe wooden structures, bottles of urine, human feces, animal feces, soiled clothing and sheltering material, and other unidentifiable liquid and waste products. In addition, the large accumulation of debris and ad-hoc sheltering

¹ Advocates in the encampment specifically recommended engaging businesses, housed residents, and other stakeholders for their input before adoption, and so Neighborhood Services will be bringing them to the October 4, 2023 meeting of the Homeless Services Panel of Experts for discussion and a possible referral to the Council or a Council policy subcommittee.

structures has completely blocked the sidewalk and extended into the roadway, creating numerous concerning fire and traffic safety hazards.

RECOMMENDATION

The HRT and City Manager's Office will continue to work to finalize the Good Neighbor Guidelines for future implementation at encampments around the City and will continue the ongoing process of moving residents inside the new Super 8 or other City shelter resources. The City has also formally engaged the Alameda County CoC with a recommendation to prioritize this encampment for permanent supportive housing referrals, with a memo dated July 20, 2023, and that recommendation is under discussion.

In the meanwhile, however, the Berkeley Fire Department and Environmental Health Divisions have observed alarming conditions that justify their declaring Harrison St between 7th and 8th Streets an imminent health hazard (see attached memos and reports). Therefore, **to resolve these dangerous nuisance conditions now as we work towards a fuller resolution of the entire encampment in the near future, we recommend a summary nuisance abatement of the encampment conditions Harrison St between 7th and 8th Streets.**

Respectfully submitted,

A handwritten signature in black ink, appearing to read "Peter T. Radu". The signature is fluid and cursive, with a large initial "P" and a long horizontal stroke at the end.

Peter T Radu

Assistant to the City Manager – Neighborhood Services



Department of Fire and Emergency Services
Division of Fire Prevention & Investigations

MEMORANDUM

Date: August 30, 2023

To: Peter Radu, Assistant to the City Manager, City of Berkeley Neighborhood Services

From: Shannon Shaffer-Killey, Fire Prevention Inspector, Berkeley Fire Department

Subject: Fire Department Response and Inspection of Encampments at Harrison Street between Seventh and Eighth Streets

The Division of Fire Prevention & Investigations reviewed fire-related incidents on Harrison Street between Seventh and Eighth Street in Berkeley, CA. The time period reviewed was from January 2023 through August 28, 2023. The following are the twenty-nine incidents that occurred in the vicinity:

Searched under "Harrison, Harrison & 7th, Harrison & 8th"

2023-000068 on 1/02/2023 at 11:08 AM - small fire in the roadway, initially dispatched as encampment fire

2023-000927 on 1/19/2023 at 04:56 PM - contained cooking fire, initially dispatched as a van on fire

2023-000979 on 1/20/2023 at 07:16 PM - pallet on fire

2023-001683 on 2/04/2023 at 04:58 PM - RV fire

2023-002343 on 2/18/2023 at 01:17 PM - trash burning in the middle of the roadway

2023-002665 on 2/25/2023 at 05:20 AM - small encampment fire

2023-004252 on 3/23/2023 at 10:16 PM - rubbish fire

2023-004471 on 3/28/2023 at 04:30 PM - individual burning garbage in the roadway

2023-005720 on 4/23/2023 at 10:30 AM - trash in a BBQ grill

2023-005856 on 4/26/2023 at 02:17 AM - large encampment fire

2023-005909 on 4/27/2023 at 08:15 AM - wood warming fire

2023-006403 on 5/07/2023 at 08:34 AM - multiple warming fires in metal containers next to encampments

2023-008467 on 6/23/2023 at 09:15 AM - cooking fire

2023-008595 on 6/27/2023 at 05:05 AM - mattress fire due to smoking

2023-008618 on 6/27/2023 at 02:46 PM - clothing and garbage burning in roadway

2023-008924 on 7/04/2023 at 07:32 PM - cooking fire in the creek area

2023-009110 on 7/09/2023 at 01:03 AM - dumpster fire

2023-009175 on 7/10/2023 at 12:43 PM - cooking and warming fires

2023-009202 on 7/10/2023 at 09:21 PM - Tent fire
2023-009859 on 7/25/2023 at 10:43 AM - barrel fire in the middle of the roadway
2023-010331 on 8/04/2023 at 12:46 PM - large cooking fire in the middle of roadway
2023-010408 on 8/06/2023 at 12:21 PM - debris fire
2023-010455 on 8/07/2023 at 05:55 AM - cooking fire
2023-010609 on 8/10/2023 at 08:23 AM - debris fire in middle of roadway
2023-010662 on 8/11/2023 at 06:54 AM - cooking fire
2023-010800 on 8/14/2023 at 05:20 AM - burning leaves and cardboard in roadway
2023-011051 on 8/19/2023 at 08:07 AM - warming and cooking fire
2023-011078 on 8/19/2023 at 05:49 PM - cooking fire under the brush near creek
2023-011238 on 8/22/2023 at 11:40 AM - tent and surrounding belongings on fire

Additionally, on August 23 2023, a joint inspection was completed with Fire Prevention, Homeless Response Team, and Environmental Health to assess the current situation on the north side Harrison St between Seventh and Eighth St. During this inspection, multiple fire and building code violations were identified, and include (but not limited to) the following:

1. Constructing and maintaining this structure constitutes an unlawful act - BFC 112.1
2. The structure does not have adequate fire separation distance and fire-resistive construction to separate it from adjacent property lines and structures - BBC 602
3. As constructed the design, materials, methods of construction, and the structure as a whole have not been approved and do not comply with important provisions of the Berkeley Building Code including Chapter 23, "Wood" of the Berkeley Building Code.
4. Accumulations of combustible waste materials are present in and around the structure and the adjacent encampment areas - BFC 304.1
5. Combustible materials are being stored within ten feet of the lot line - BFC 315.4

The volume of fire-related calls for service in this specific area is unusually high for the time period when compared to similar areas that do not have encampments. Based on the nature of the calls, the great majority of these calls appear to be directly related to human activity, specifically habitation in this area. The number and types of calls combined with the observed code violations are sufficiently concerning for the Berkeley Fire Department to recommend that the encampments on the north side of Harrison St. be abated summarily. This action will significantly reduce the likelihood of severe injury or death from fire, as well as reduce the likelihood of substantial damage to property and public infrastructure.

Cc: David Sprague, Fire Chief, Berkeley Fire Department
Keith May, Deputy Fire Chief, Berkeley Fire Department
Steve Riggs, Fire Marshal, Berkeley Fire Department

Attachment: August 23, 2023 Inspection Photos

Harrison Street Encampments

Location: Northside of Harrison St. between Seventh St. and Eighth St. Berkeley CA

Date of Inspection: August 23, 2023












Internal



Health, Housing &
Community Services Department
Environmental Health Division

Date: August 30, 2023

To: Peter Radu, Assistant to the City Manager

From: Ron Torres, Environmental Health Division Manager 

cc: Amy Davidson, HHCS Deputy Director

Subject: Declaration of Imminent Health Hazard for areas along Harrison St between Seventh and Eighth Street

Per your request, Environmental Health staff assessed the conditions of the subject area and found significant areas of concern with regard to the health and safety of the residents in this area and to the public in general. These concerns are included in the attached report which identifies several areas along the north side of Harrison St.

I believe that the conditions documented in attached report rise to the level of an imminent health hazard, particularly findings of used syringes, areas where raw sewage was observed and the proliferation of rat burrows all along the Harrison St corridor.

Per Section 11.40.030 of the Berkeley Municipal Code, I am recommending to the City Manager that those areas identified in the attached report be summarily abated to minimize the impact to the residents and general public.

August 23, 2023

Report of Findings on the Health and Safety Conditions of the Harrison St Corridor between Seventh and Eighth Street, Berkeley, CA



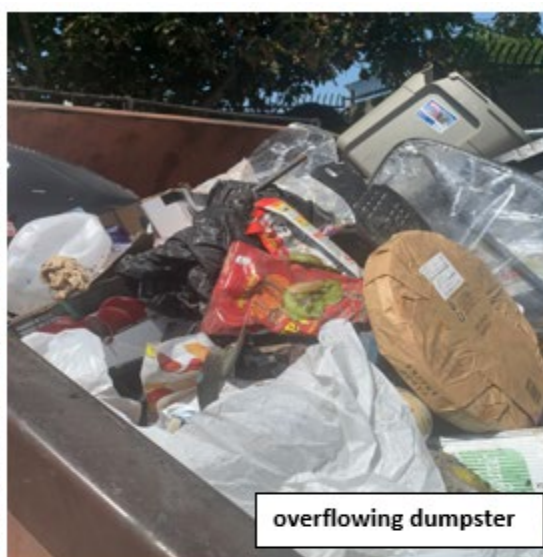
Areas inspected by Environmental Health staff are designated as Locations "1", "2" and "3" above and are detailed on the following pages.

Location 1:

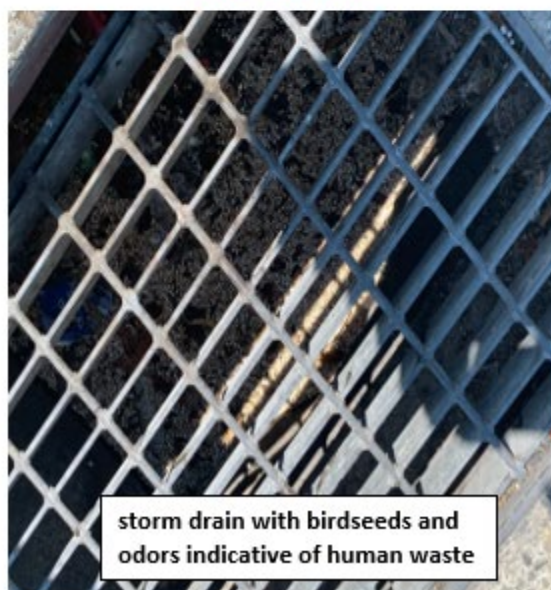


Rodent Burrows

Internal



Food Sources



Storm Drain



Imminent Health Hazard - Storm Drain



Debris Harborage

Note: The presence of raw sewage and the proliferation of rat burrows due to abundant food sources and harborage are of utmost concern in this area

Location 2:

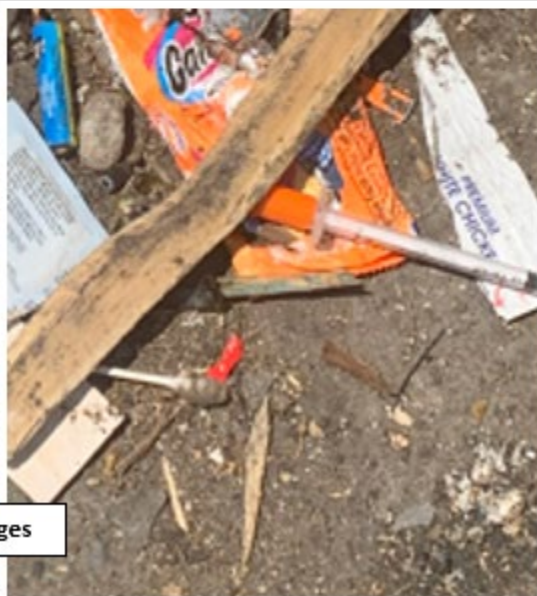


Food Sources



Debris Harborage

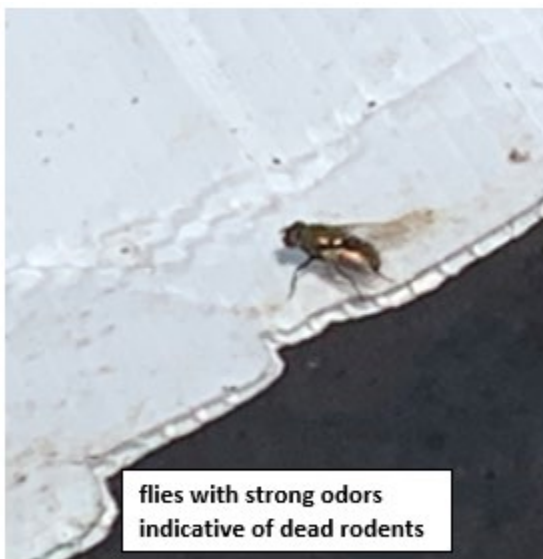
Internal



Imminent Health Hazard

Note: the presence of the used hypodermic needles are of utmost concern in this area of the Harrison St corridor

Internal



Rodents



Rodent Burrows

Internal



Rodent Droppings

Internal



rubbish

Debris Harborage

Internal



putrid waste



Food Sources

Location 3:



dog feces



pasta & putrid produce



Food Sources



Imminent Health Hazard - Storm Drain



Debris Harborage

a. VIOLATIONS:

- i. BMC 11.32.050. Rodent harborage--Maintenance prohibited.
- ii. BMC 11.32.070. Accumulations creating rodent harborage prohibited.
- iii. BMC 11.36.030. Imminent health hazards designated.
- iv. BMC 17.20.030 No matter other than stormwater may be discharged into the storm drain system.
- v. BMC 17.20.050 Affirmative duty to prevent contamination of stormwater by pollutants.

b. PROPOSED REMEDY: PROPOSED REMEDY: Removal of all debris, food sources, and vehicles. Treat with CO2 where necessary.

Glossary of Violations:

- i. **BFC 315.4 Outside storage.** Outside storage of combustible materials shall not be located within 10 feet (3048 mm) of a lot line.
- ii. **NFPA 25 – Standard for the Inspection, Testing, and Maintenance of Water-Based Fire Protection Systems (2023 Ed.) – Section 5.2.2 Pipe and Fittings, 5.2.2.2** Sprinkler piping shall not be used to support non-system components.
- iii. **NFPA 25 – Standard for the Inspection, Testing, and Maintenance of Water-Based Fire Protection Systems (2023 Ed.) – Section 5.4.1 Sprinklers, 5.4.1.7** Sprinklers shall not be altered in any respect or have any type of ornamentation, paint, or coatings applied after shipment from the place of manufacture.
- iv. **California Code of Regulations, Title 19, Division 1, §3.07(a) Clearances.**
 - 1. (a) General. No combustible material shall be placed or stored within 10 feet of any building or structure.
 - 2. 304.1.1 Waste material. Accumulations of wastepaper, wood, hay, straw, weeds, litter or combustible or flammable waste or rubbish of any type shall not be permitted to remain on a roof or in any court, yard, vacant lot, alley,

3. parking lot, open space, or beneath a grandstand, bleacher, pier, wharf, manufactured home, recreational vehicle or other similar structure.
- v. **BFC 114.1.1 Unsafe conditions.** Structures or existing equipment that are or hereafter become unsafe, insanitary or deficient because of inadequate means of egress, inadequate light and ventilation, or that constitute a fire hazard, are otherwise dangerous to human life or the public welfare, or involve illegal or improper occupancy or inadequate maintenance, shall be deemed an unsafe condition. Unsafe structures shall be taken down and removed or made safe, as the fire code official deems necessary and as provided for in this section. A vacant structure that is not secured against unauthorized entry shall be deemed unsafe.
- vi. **BFC 304.2 Storage.** Storage of combustible rubbish shall not produce conditions that will create a nuisance or a hazard to the public health, safety or welfare.
- vii. **BFC 307.4.3 Portable outdoor fireplaces.** Portable outdoor fireplaces shall be used in accordance with the manufacturer's instructions and shall not be operated within 15 feet (3048 mm) of a structure or combustible material.
- viii. **BFC 315.4 Outside storage.** Outside storage of combustible materials shall not be located within 10 feet (3048 mm) of a lot line.
- ix. **BMC 11.32.050. Rodent harborage--Maintenance prohibited.** No person shall possess, occupy or maintain, or cause or permit another person to occupy or maintain, any building, structure, vehicle or any other place in such a condition as will permit the breeding or harboring therein, or thereon, of rodents or any other vermin.
- x. **BMC Sec 11.32.070. Accumulations creating rodent harborage prohibited.** No person shall place, leave, dump or permit to accumulate any garbage or rubbish in or upon any building, structure or place so that the same shall afford food and/or harborage for rodents. No person shall accumulate or permit the accumulation on any place, premises or on any open lot any lumber, building material, boxes, paper, rags, excess or dense vegetation, or any material that may be permitted to remain thereon that may serve as a rodent harborage, unless the same shall be placed on open racks that are elevated not less than eighteen inches above the ground and evenly piled or stacked, or otherwise made reasonably unsuitable as a rodent harborage by such manner as may be approved by the chief of environmental health.
- xi. **BMC 11.36.030. Imminent health hazards designated.** For the purpose of this chapter, the existence of the following condition is declared to constitute an imminent health hazard: the discharge of sewage, garbage or any other organic filth into or upon any place in such a manner that transmission of infective material to human beings may result therefrom.
- xii. **BMC 14.48.020. Obstruction on Streets and Sidewalks.** It is unlawful for any person to place or cause to be placed anywhere upon any Sidewalk, Parklet or roadway, any object which obstructs, restricts, or prevents the use of any portion of such Sidewalk, Parklet or roadway, except as set forth in this Chapter or in a regulation promulgated by the City Manager and adopted by the City Council.
- xiii. **BMC 17.20.030.** No matter other than stormwater may be discharged into the storm drain system.
- xiv. **BMC 17.20.050.** Affirmative duty to prevent contamination of stormwater by pollutants--Manner of conducting specified activities. Any person engaged in activities which will or may result in pollutants entering the storm drain system shall undertake all practicable measures to reduce or prevent the contamination of stormwater by pollutants. Such measures shall include, but are not limited to, adherence to the following requirements: (A.) Littering prohibited. No person shall throw, deposit, leave, maintain, keep, or permit to be thrown, deposited, placed, left or maintained, any refuse, rubbish, garbage, or other discarded or abandoned

objects, articles, or accumulations, in or upon any street, alley, sidewalk, storm drain, inlet, catch basin, conduit or other drainage structures, business place, or upon any public or private lot of land in the City, so that the same might be or become a pollutant that enters the storm drain system; provided however, that nothing in this section shall be construed to prohibit the disposal of garbage, rubbish or other waste in a lawful manner as provided in Berkeley Municipal Code Chapter 11.16 (Waste Collection and Disposal) or Chapter 12.32 (Refuse Disposal), or the disposal of recycled materials in the manner provided for pursuant to Chapter 12.36 (Recycled Materials Collection Program), or the disposal of garbage, rubbish or other waste in lawfully established dumping grounds.



Office of the City Manager

To: Members of the Systems Coordination Committee, Alameda County Continuum of Care

From: Peter Radu, Assistant to the City Manager, City of Berkeley

Date: July 20, 2023

Re: Pilot Approach to Prioritizing Residents of the Harrison Street Encampments in Berkeley

RECOMMENDATION

The encampments in and around Harrison Street from 10th St to 6th/7th in West Berkeley have presented ongoing challenges to the City of Berkeley, and pose acute threats to the health and safety of the residents living in them. With new State ERF-2 resources and the City Council's commitment of local resources, the City of Berkeley has an exciting opportunity to resolve one of the most persistently challenging encampments in all of Alameda County. To do so as rapidly and effectively as possible, **we respectfully request a partnership with the County and CoC to explicitly prioritize, on a pilot basis, the PSH-eligible residents of this encampment for all new upcoming permanent supportive housing vacancies in the CoC.** Beyond the obvious benefits of improved public health and decreased need for costly services in this encampment, we believe that this request is (1) permissible and justified under our CoC's current Coordinated Entry policies; (2) allowable under federal Fair Housing law; and (3) especially urgent because of the considerable fire and life safety hazards at the encampment. The remainder of this memo outlines the rationale for this recommendation.

HISTORY OF SERVICES AND RESOURCES AT THE ENCAMPMENT

The City of Berkeley's Homeless Response Team (HRT) is the multi-departmental team, coordinated by the City Manager's Office, charged with responding to unsheltered homelessness with resource and shelter offers, and resolving dangerous encampments without the use of citation and arrest. The HRT is committed to the USICH 7 Principles of Encampment Resolution, and has provided countless hours and resources in an attempt to better the lives of those living in this encampment, and better the conditions of the encampment. Since September 2021, when the City first resumed encampment operations after a COVID hiatus, these include:

- The placement of a dumpster on 8th St in April 2022, with service 4 times a week, and weekly illegal dumping removal service from the city's Public Works Department;
- The placement of a port-a-potty located at the corner of Eighth and Harrison St. The residents here also have access to another port-a-potty located at Eighth St and the Creek. Both are serviced on a regular basis.

- Free mobile shower and laundry service to the residents of this encampment on a weekly basis since June 2022.
- A major effort to relocate RVs in the area in September and October 2021 to the City's Safe RV parking program; multiple offers of an off-street parking spot were offered to all 35 vehicles being used as shelter in the encampment, and 18 moved in or voluntarily relocated.
- One full closure of the encampment, in February 2022, and 3 partial closures since that time. The full closure in Feb 2022 included motel room offers for everyone living there, using Alameda County Winter Shelter motel vouchers and with an 83% uptake rate. Only two arrests and 0 criminal citations have been issued during these operations.
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- Multiple targeted treatments by the City's Environmental Health Division of the extensive network of rodent burrows in and around the encampment, and the provision on numerous occasions of new tents and Sterilite tubs to help maintain cleaner and more rodent-proof conditions.
- The provision of 107 shelter offers to the residents in this area, with an 53.3% uptake rate. Not including the major independent effort to resolve the People's Park encampment with UC Berkeley, this represents 23% of all shelter provisions the City's Homeless Response Team has made since September 2021. For lack of housing exits, many of those moved into shelter have returned back to this encampment over time.
- Weekly by-name case conferences, focusing heavily on this encampment, hosted by the Homeless Response Team and attended by Alameda County Healthcare for the Homeless, Berkeley's Health, Housing and Community Services Department, Homeless Action Center, Bay Area Community Services (BACS), LifeLong Medical Care, East Bay Community Law Center, Options Recovery Services, Berkeley Mental Health, and Building Opportunities for Self-Sufficiency (BOSS).
- Two community meetings (in May and July 2023) between city staff and residents and advocates of the encampment to discuss resources and how to improve safety.

All of these services are in addition to the intensive presence of the County's Street Medicine Teams in the encampment.

Nevertheless, and despite these numerous efforts, for months the HRT has repeatedly observed dead animals, open food sources and spoiled food, used uncapped drug needles, bottles of urine, human feces, animal feces, soiled clothing and sheltering material, and other unidentifiable liquid and waste products. In addition, the large accumulation of debris and ad-hoc sheltering structures has completely blocked the sidewalk and extended into the roadway, creating numerous concerning fire and traffic safety hazards.

On June 14, 2023, the City of Berkeley was awarded \$4.9M from the State of California's Encampment Resolution Fund-2 grant program, which the City will use to master lease the 23-room Super 8 motel on University Avenue and contract with Insight Housing to provide low-barrier, service-rich, noncongregate shelter to the residents of this encampment. On June 22, 2023, the Berkeley City Council's Budget and Finance Policy Committee voted unanimously to approve an additional \$5M in City general fund to match this State grant, and on July 11th, the City Council

approved the lease, contract, and funding. **Altogether, this means Berkeley has everything in place to open this new noncongregate shelter by August 1, and to keep it open for at least four years.** Because of the serious and persistent health and safety concerns at this encampment, we will prioritize this new resource to the residents there, with the goal of ultimately resolving the encampment to make way for long-overdue infrastructure repairs and other construction-related activity later this calendar year. We will also prioritize all North County Coordinated Entry resources, including City-funded housing navigation slots and other services, to this encampment, and we have recently approved an exception to our internal HIPAA Privacy Rule interpretations to allow for need-to-know information sharing with our Mental Health Division to better coordinate mental health resources for the encampment as well.

Put simply, the City has done--and with this new State grant, will be doing--everything within our power to prioritize these vulnerable residents for shelter and every other resource at our direct disposal that can improve their lives. However, we do not have the administrative authority to prioritize permanent supportive housing to these residents; by Federal regulation, only the CoC, through the Coordinated Entry process, can prioritize and match permanent supportive housing.

RATIONALE FOR RECOMMENDATION

Beyond the obvious benefits of improved public health and decreased need for services resources in this encampment, we believe that this request is (1) permissible and justified under our CoC's current Coordinated Entry policies; (2) allowable under federal Fair Housing law; and (3) especially urgent because of the considerable fire and life safety hazards at the encampment.

(1) This request is permissible and justified under our CoC's current Coordinated Entry policies.

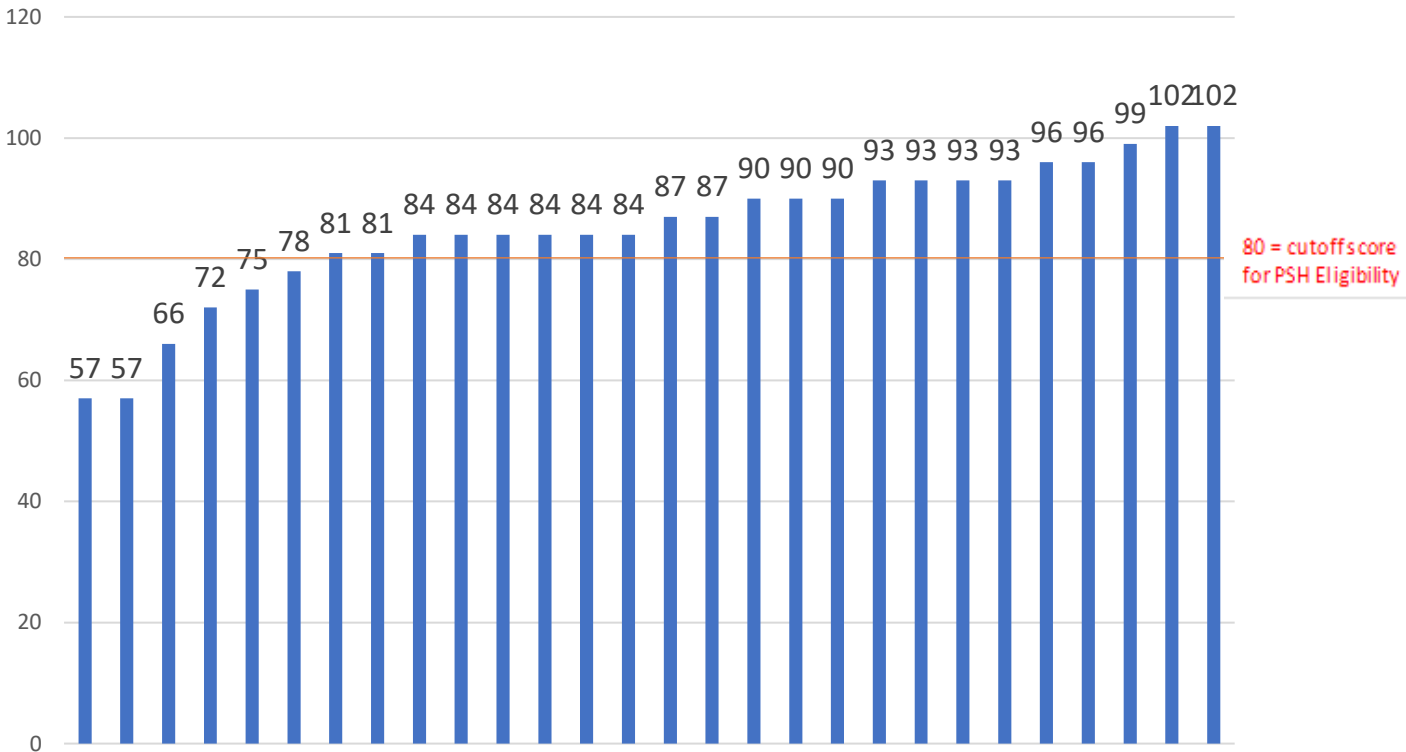
From April 19 – May 1 and again from June 14 - 30, 2023, the HRT performed daily outreach to the residents (both in tents and vehicles) at this encampment, with the purposes of building and refining an accurate by-name census of everyone known to be living in the encampment. In addition to allowing us to better serve these residents with tailored outreach, this effort has allowed us to collect both information on Coordinated Entry scores and vulnerabilities, as well as demographics on race, ethnicity and gender at the encampment.

Our analyses of these data found 47 total people known to us and our partner providers to be living in this encampment. Of those:

- 28 of the 47 residents (59.6%) staying in the Harrison Street encampment have been assessed for Coordinated Entry.
- 22 (78.6% of those assessed) qualify for Permanent Supportive Housing (PSH) – i.e., are already on the PSH Priority list. An additional 4 residents (14.3%) qualify for rapid rehousing.
- Only 2 residents (7.1%) do not score high enough to qualify for a traditional housing intervention.

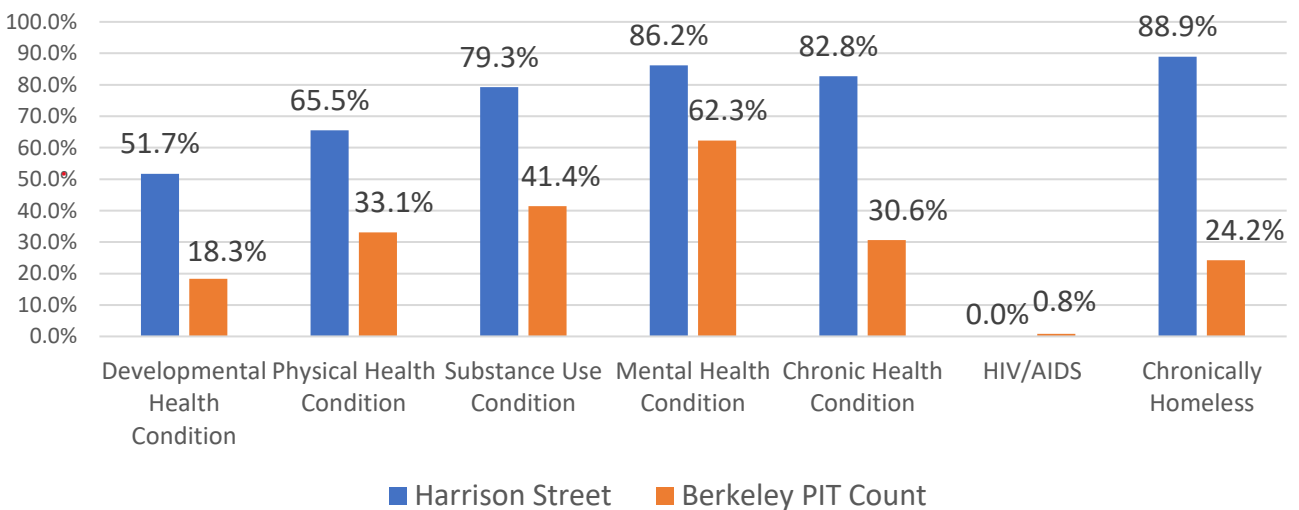
The chart immediately below provides a breakdown of the assessment scores of those who have been assessed: only five people assessed for Coordinated Entry do not meet the threshold score in our CoC for PSH:

Harrison Street Encampment: Resident CES Assessment Scores



In addition, the chart below provides a breakdown of the self-reported vulnerabilities of those in the encampment, relative to the self-reported vulnerabilities in our overall homeless population, showing how disproportionately vulnerable the residents of this encampment are:

Harrison Street Encampments: Resident Disabling Conditions



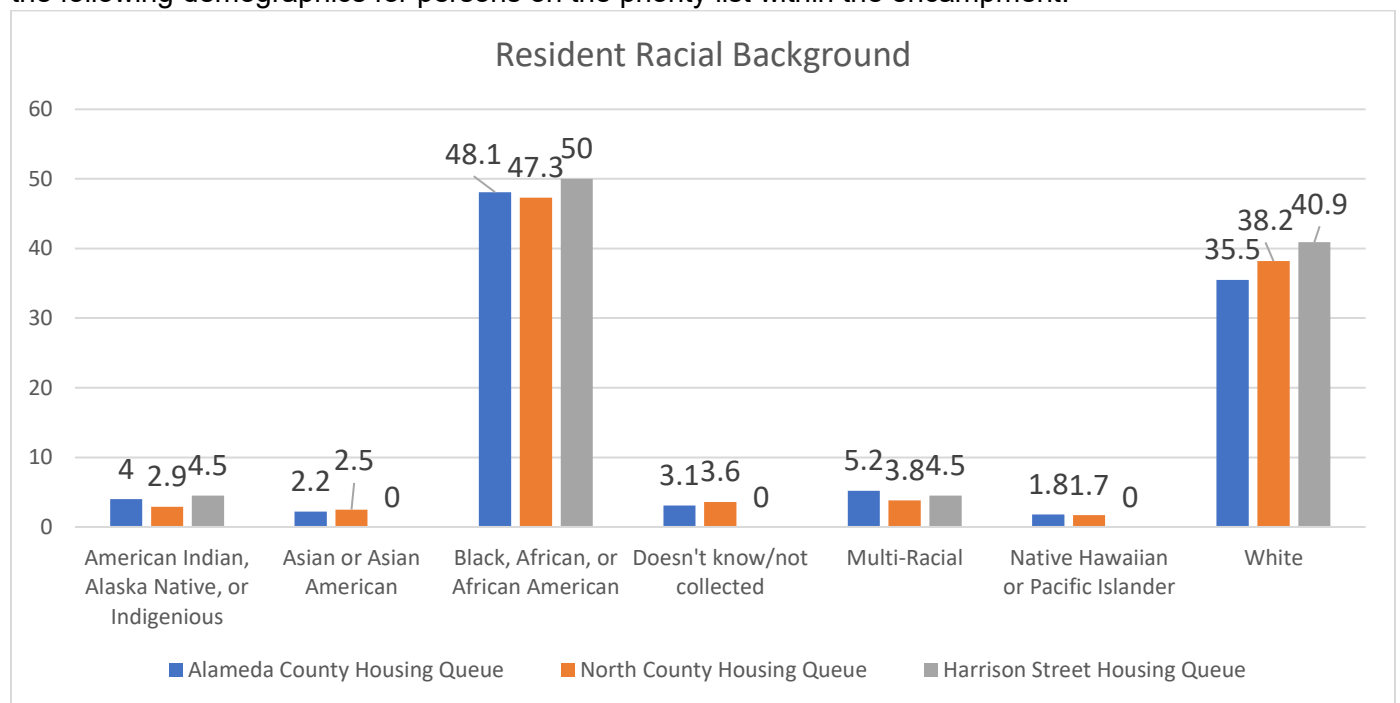
By all accounts, these are people who would already otherwise be eligible and prioritized for Permanent Supportive Housing in Alameda County. Importantly, *this proposal would not make anyone who is not already on the PSH Priority List eligible for permanent supportive housing.*

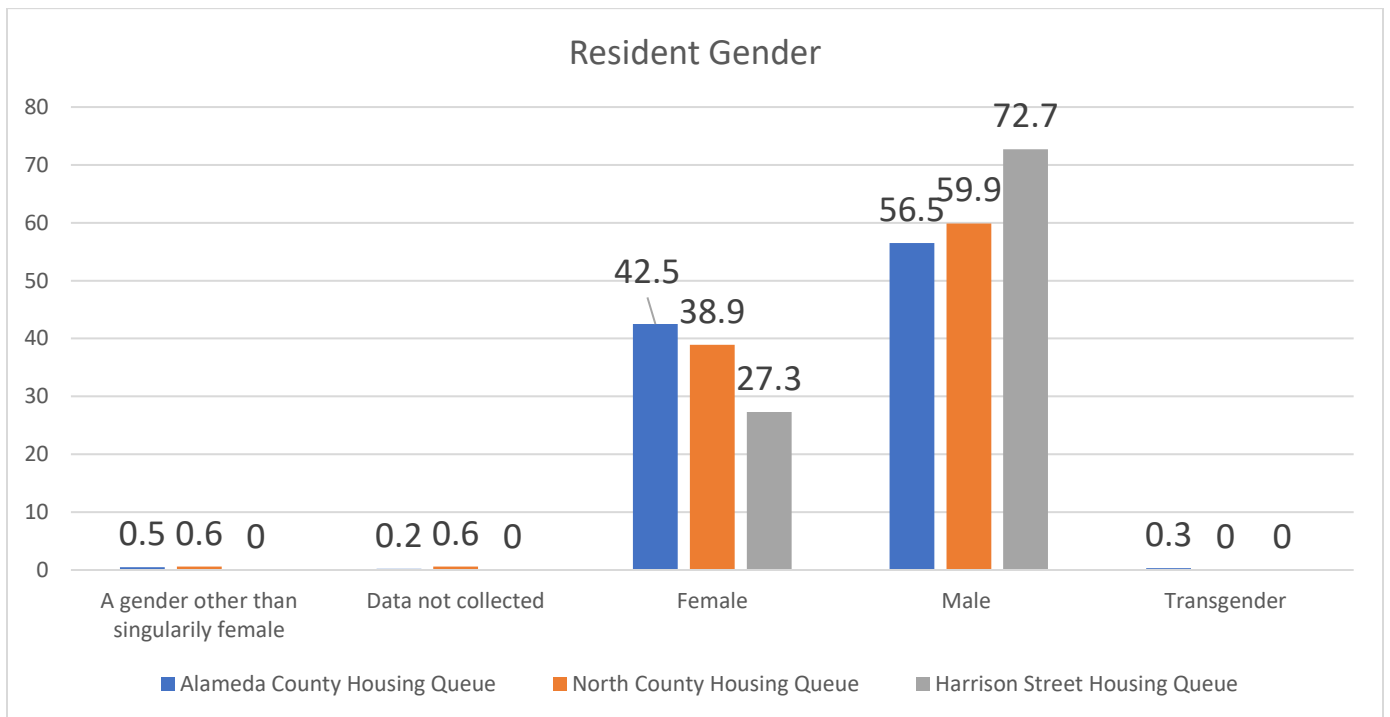
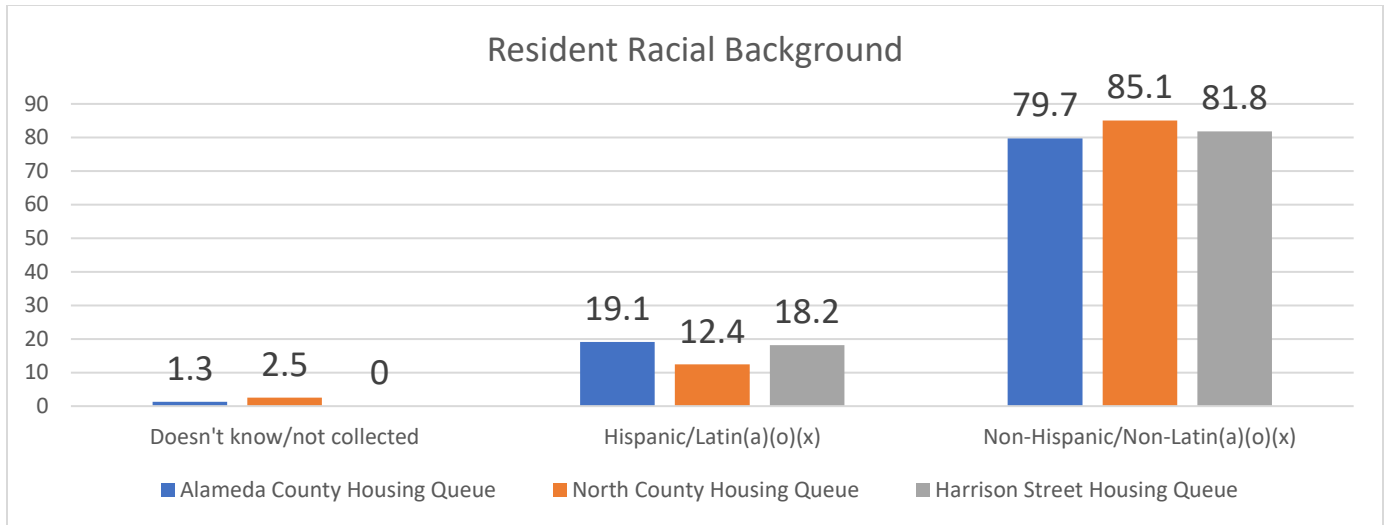
Instead, it would offer those residents in the encampment census *who otherwise are already on the priority list* the first referrals to any upcoming permanent housing vacancies. In other words, it would, temporarily and on a pilot basis, limit the County’s priority pool only to those in the encampment census who otherwise qualify for permanent supportive housing under the existing established Federal and CoC Coordinated Entry policies, and keep it that way until everyone has had a housing offer. It does not otherwise change the prioritization algorithm in any way.

(2) *This request is allowable under Federal Fair Housing law.*

The essence of Federal Fair Housing law is that housing access must not discriminate against, or cause disproportionate impacts on the basis of, a protected class status. To preempt any Fair Housing concerns associated with the targeting of this encampment for housing resources, the City of Berkeley contacted the HUD Region IX Program Compliance Division for guidance (see Attachment 1). We were advised that such an analysis can be performed by comparing the demographics (race, ethnicity, disability, and gender) of all residents currently living in encampments in the encampment and who are on the PSH priority list to their representation in the North County and Alameda County PSH priority lists, to determine if any protected class groups will be disproportionately impacted by giving a priority or preference to the encampment.

To this end, Berkeley staff and our nonprofit contractors spent weeks collecting and compiling into HMIS the demographic data of everyone known to be living in the encampment, and found the following demographics for persons on the priority list within the encampment:





From these analyses, we see no compelling evidence that this proposal would disproportionately impact any protected racial and ethnic classes; if anything, it would *better* serve Black/African American and Indigenous homeless residents, those races most disproportionately represented in Alameda County’s homeless population and the key focus of the County’s own stated racial equity goals for our homeless response system.¹

While the gender distribution in our analyses do reveal a skew towards those identifying as male, we have evidence that this skew is not necessarily a result of the Harrison St demographic make-up *per se*, but could reflect systematic bias in Coordinated Entry access at this encampment: of

¹ See: https://everyonehome.org/wp-content/uploads/2020/10/EveryoneHome_10.20_Summary_FINAL.pdf

the 12 residents identifying as female at this encampment, 6 have been assessed for CES and 6 have not (50% of females are assessed). Meanwhile, of the 25 residents identifying as male, 22 have been assessed and 3 have not (88% of males are assessed).² The overall distribution of females to males in the encampment is closer to 50%, but females are clearly not receiving assessments at the same rate as males—despite a recent sustained “assessment blitz” in early July by the City and its providers to all encampment residents here. Thus, we assert that the slight skew towards males in our analyses do not reflect a Fair Housing concern with the proposal *per se*, but rather a *deeper underlying equity problem in Coordinated Entry access at encampments by gender* that is worth further consideration from the CoC, and further underscores the validity of a pilot approach to prioritizing this encampment.

(3) This request is especially urgent because of the considerable fire and life safety hazards at the encampment

Aside from the fact that these residents are, by and large, already the very residents our Coordinated Entry system would prioritize for permanent supportive housing, they face an unusual exposure to additional health and safety threats simply by virtue of their living in this encampment setting: the area was recently declared an imminent health hazard, pursuant to Berkeley Municipal Code 11.36.030, by the City’s Environmental Health Manager, due primarily to the rodent harborage conditions and extensive network of rodent burrows in the encampment (see attachment 2), and according to the Berkeley Fire Marshal is experiencing an unusually high and concerning number of fires and fire-related calls (see attachment 3). In other words, aside from the documented *personal* vulnerabilities of the people living in this encampment, they are exposed to unusually intense *environmental* vulnerabilities.

Many years ago, our nation’s health experts realized that health is not simply a factor of personal vulnerabilities; the environment one lives in can expose people to additional health risk factors, and population level health requires the mitigation of environmental risk factors. Indeed, many of our County’s recent public health initiatives have explicitly prioritized communities for interventions on the basis of environmental or geographic risk: most recently, we explicitly prioritized COVID testing and vaccine resources to those ZIP codes most likely to experience socioeconomic conditions, such as crowded housing or employment in an essential service, that made them disproportionately vulnerable to the disease. Ironically, Alameda County homeless service providers often speak about homelessness not just as a housing crisis but a health crisis too, and speak of housing as a healthcare intervention—but we have taken few affirmative steps to explicitly prioritize the environmental factors that also dictate a homeless person’s health when making Coordinated Entry prioritization decisions.

If a chief moral imperative of Coordinated Entry in our CoC is to assist those people who are most vulnerable to serious illness and death on the streets, then by any measure—personal or environmental--the residents of this encampment are as or more vulnerable than any in our County. The urgency of their situation, in the opinion of the health and fire experts in our City, should increase their priority for housing.

² The remaining 10 clients on the census have not provided us with any information as to their gender identity.

CONCLUSION

The City of Berkeley has done—and with the recent State ERF-2 grant announcement, will do—everything within our power to serve and end the homelessness of those living in the deplorable conditions at the Harrison and 8th St encampments. But we cannot resolve this encampment on our own, which is why we respectfully request a pilot program that would offer these residents—assuming they otherwise qualify for PSH—the first offers for new PSH vacancies, until such time as everyone eligible has been made an offer.

Rationing scarce resources efficiently—which is the fundamental essence of Coordinated Entry—requires that we start *somewhere*. This memo has argued that starting with the residents of the Harrison and 8th Street encampment is justified, legal, and especially urgent. Necessarily, when rationing resources, there will always be “winners” and “losers.” In our current system, residents of entrenched and dangerous encampments have systematically been the “losers” for far too long—and it’s time we put them at the front of the line.

Respectfully submitted,

Peter T. Radu

Assistant to the City Manager - Neighborhood Services

City of Berkeley

2180 Milvia St, 5th Floor | Berkeley, CA 94704

Desk: 510-981-7045 | Cell: 510-853-2368

Email: pradu@cityofberkeley.info

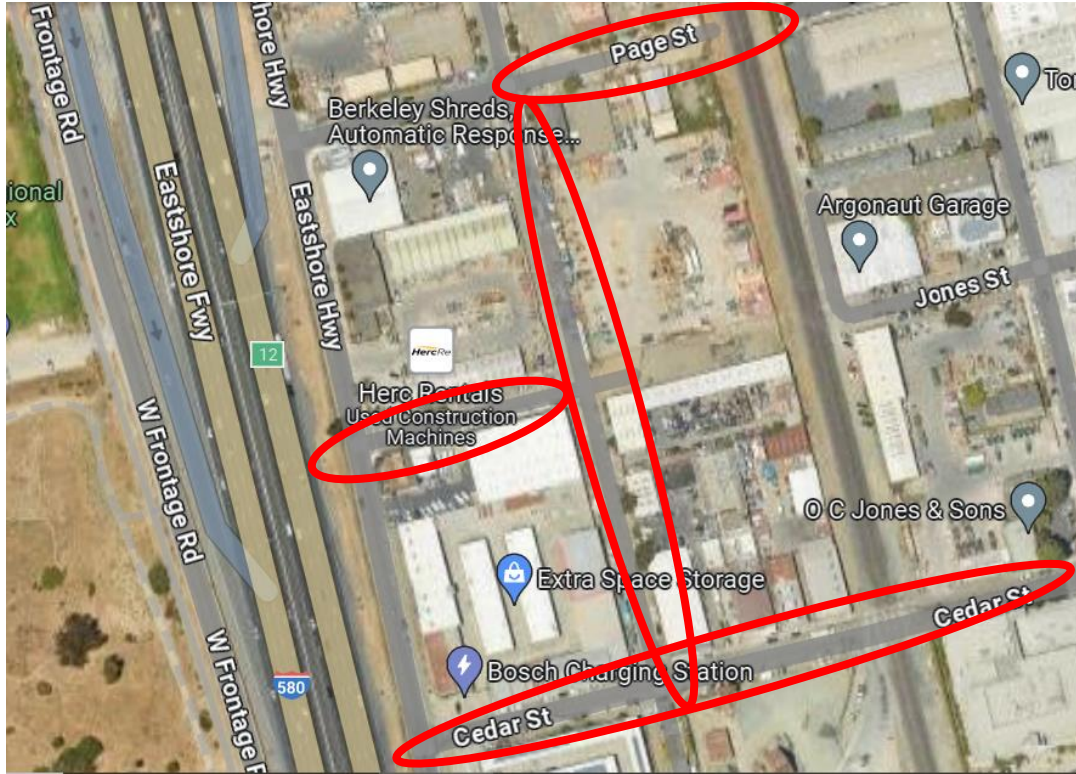
ATTACHMENTS:

1. Correspondence with HUD Region IX Program Compliance Division on Fair Housing Law analysis guidance, Feb – May 2023
2. Memo from City of Berkeley Environmental Health Division Manager re: Conditions of Imminent Health and Safety Hazards at the Eighth St. and Harrison St. corridor, May 2023
3. Memo from City of Berkeley Deputy Fire Marshall re: Fire Department Incident Responses to Encampment at Harrison, Seventh and Eighth Streets, May 2023

Encampment Map:

2nd St, Page St, Jones St, Cedar St – Berkeley, CA

Areas circled in RED are the streets and sidewalks where encampments currently reside.





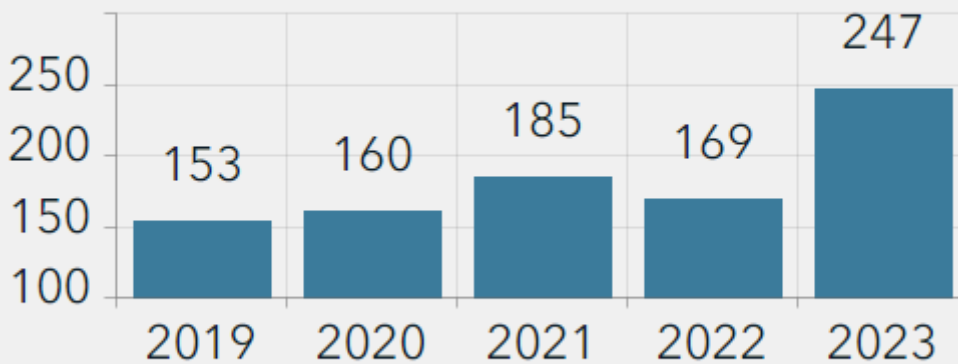
Berkeley Police Department

Date: January 10, 2024
To: Peter Radu, Assistant to the City Manager
From: Arlo Malmberg, Data and Policy Analyst, Berkeley Police Department
Subject: Public Safety Concerns at the 2nd Street Encampment Zone

The data from the area bounded by Eastshore Hwy, Cedar St., 3rd St., and Page St. indicates a significant public safety concern, with a marked increase in calls for service and crimes over the past year. In 2023, calls for service jumped to 247 from 169 (+46%) in the previous year, and reported crimes rose to 69 from 60 (+15%). Commercial burglary was the most prevalent crime type, with 27 incidents reported. The data suggests a worsening safety situation, particularly around the 2nd St. encampments.

In the opinion of BPD, any resources that can resolve this encampment by moving its residents inside and away from this encampment is likely to improve the public safety issues in this area.

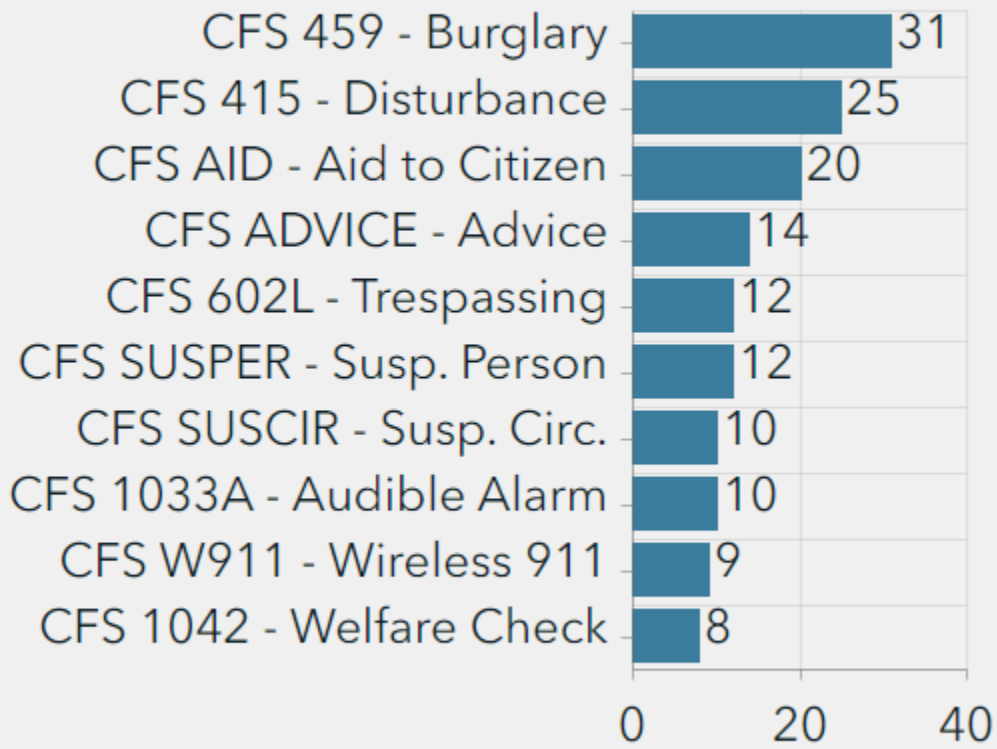
Calls for Service



Excluding officer-initiated calls

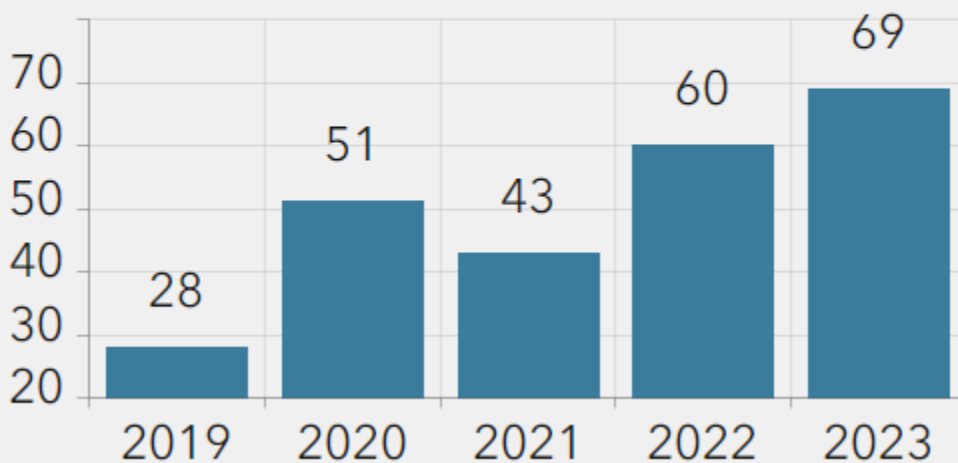
2023:

Call Types

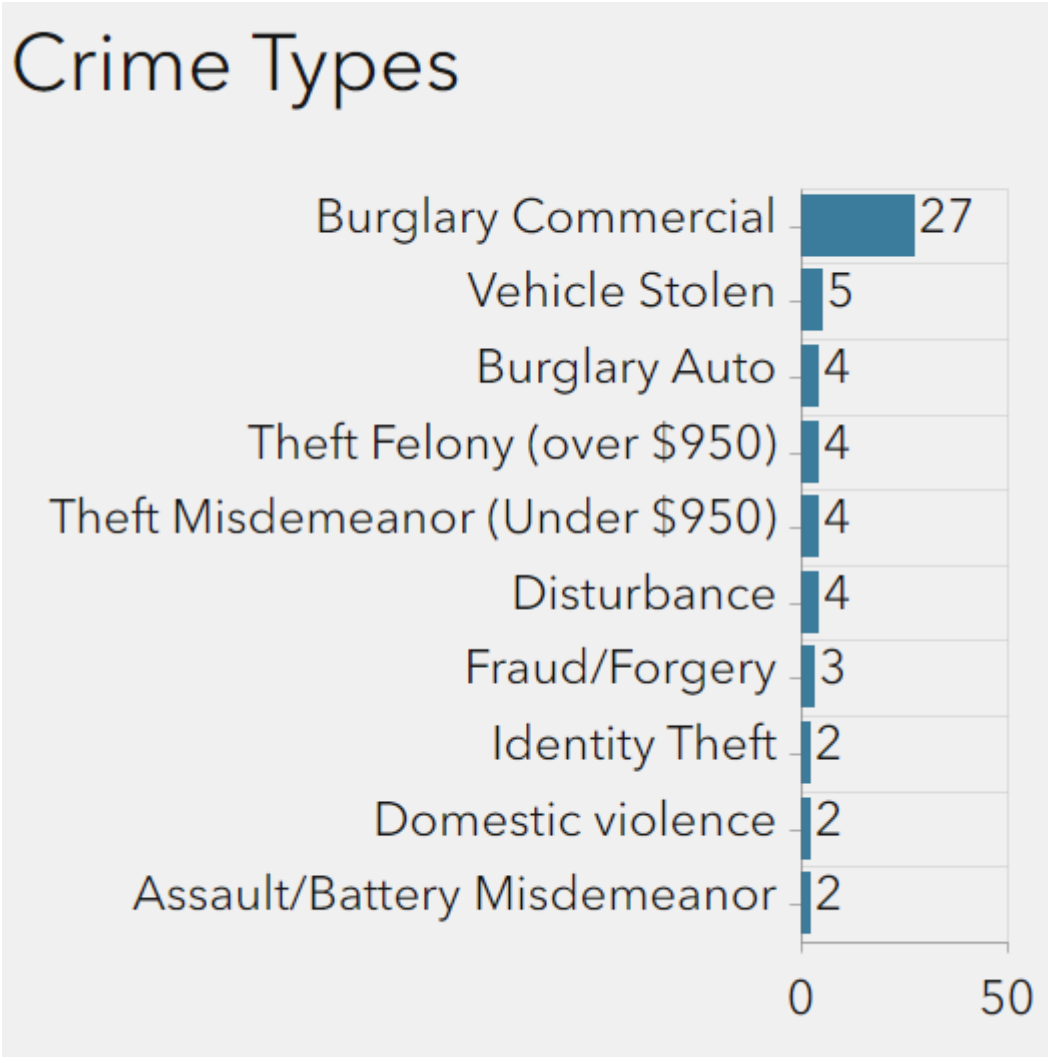


Excluding officer-initiated calls

Crimes



2023:





Health, Housing &
Community Services Department
Environmental Health Division

Date: January 12, 2024
To: Peter Radu, Assistant to the City Manager
From: Ron Torres, Environmental Health Manager
cc: Amy Davidson, HHCS Deputy Director
Subject: Declaration of Imminent Health Hazard for areas of Second Street between Page and Cedar Streets

Environmental Health staff assessed the conditions of the subject area and found significant areas of concern with regard to the health and safety of the residents in this area and to the public in general. In addition, significant environmental impacts to water quality were observed. These concerns are included in the attached report which identifies several areas along the Second Street corridor between Page and Cedar Streets.

I believe that the conditions documented in attached report rise to the level of an imminent health hazard with significant environmental impacts. Findings include:

- Used hypodermic needles
- Extensive rat burrow systems and harborages with abundant food sources and putrescible waste (rotting food) helping to support a significant rat population
- Direct contamination of the of the City's storm water drainage system

To minimize the impact to the residents of this encampment and general public, we strongly recommend prioritizing this encampment for any resources, including the State of California Encampment Resolution Funding program, that can lead to a quick and humane resolution of this encampment and its conditions.

Respectfully,

A handwritten signature in black ink, appearing to read "Ron Torres", written over a circular stamp or seal.

Ron Torres

Environmental Health Manager

City of Berkeley

January 4, 2024

2nd St Between Cedar St and Second St



1. Violations:

a. Rodent Harborage: rat burrows

PROPOSED REMEDY: Treatment of CO2

(BMC) 11.32.050. Rodent harborage--Maintenance prohibited.

No person shall possess, occupy or maintain, or cause or permit another person to occupy or maintain, any building, structure, vehicle or any other place in such a condition as will permit the breeding or harboring therein, or thereon, of rodents or any other vermin.



b. Rodent harborage - food sources & rubbish

(BMC) 11.32.050. Rodent harborage--Maintenance prohibited.

No person shall possess, occupy or maintain, or cause or permit another person to occupy or maintain, any building, structure, vehicle or any other place in such a condition as will permit the breeding or harboring therein, or thereon, of rodents or any other vermin.

(BMC) Sec 11.32.070. Accumulations creating rodent harborage prohibited. No person shall place, leave, dump or permit to accumulate any garbage or rubbish in or upon any building, structure or place so that the same shall afford food and/or harborage for rodents. No person shall accumulate or permit the accumulation on any place, premises or on any open lot any lumber, building material, boxes, paper, rags, excess or dense vegetation, or any material that may be permitted to remain thereon that may serve as a rodent harborage, unless the same shall be placed on open racks that are elevated not less than eighteen inches above the ground and evenly piled or stacked, or otherwise made reasonably unsuitable as a rodent harborage by such manner as may be approved by the chief of environmental health.





2. Violations:

Storm Drain with rubbish

(BMC) 17.20.030 No matter other than stormwater may be discharged into the storm drain system

(BMC) 17.20.050 Affirmative duty to prevent contamination of stormwater by pollutants--Manner of conducting specified activities. Any person engaged in activities which will or may result in pollutants entering the storm drain system shall undertake all practicable measures to reduce or prevent the contamination of stormwater by pollutants. Such measures shall include, but are not limited to, adherence to the following requirements:

(A.) Littering prohibited. No person shall throw, deposit, leave, maintain, keep, or permit to be thrown, deposited, placed, left or maintained, any refuse, rubbish, garbage, or other discarded or abandoned objects, articles, or accumulations, in or upon any street, alley, sidewalk, storm drain, inlet, catch basin, conduit or other drainage structures, business place, or upon any public or private lot of land in the City, so that the same might be or become a pollutant that enters the storm drain system; provided however, that nothing in this section shall be construed to prohibit the disposal of garbage, rubbish or other waste in a lawful manner as provided in Berkeley Municipal Code Chapter 11.16 (Waste Collection and Disposal) or Chapter 12.32 (Refuse Disposal), or the disposal of recycled materials in the manner provided for pursuant to Chapter 12.36 (Recycled Materials Collection Program), or the disposal of garbage, rubbish or other waste in lawfully established dumping grounds.



Waste valve with hose attachment within feet from storm drain

3. Violations:

Rodent harborage – rat run & burrow

PROPOSED REMEDY: Treatment of CO2

(BMC) 11.32.050. Rodent harborage--Maintenance prohibited.

No person shall possess, occupy or maintain, or cause or permit another person to occupy or maintain, any building, structure, vehicle or any other place in such a condition as will permit the breeding or harboring therein, or thereon, of rodents or any other vermin.



4. Violations:

Rodent harborage - food sources & rodent droppings

(BMC) 11.32.050. Rodent harborage--Maintenance prohibited.

No person shall possess, occupy or maintain, or cause or permit another person to occupy or maintain, any building, structure, vehicle or any other place in such a condition as will permit the breeding or harboring therein, or thereon, of rodents or any other vermin.

(BMC) Sec 11.32.070. Accumulations creating rodent harborage prohibited. No person shall place, leave, dump or permit to accumulate any garbage or rubbish in or upon any building, structure or place so that the same shall afford food and/or harborage for rodents. No person shall accumulate or permit the accumulation on any place, premises or on any open lot any lumber, building material, boxes, paper, rags, excess or dense vegetation, or any material that may be permitted to remain thereon that may serve as a rodent harborage, unless the same shall be placed on open racks that are elevated not less than eighteen inches above the ground and evenly piled or stacked, or otherwise made reasonably unsuitable as a rodent harborage by such manner as may be approved by the chief of environmental health.



5. Violations

Rodent harborage - food sources & rubbish

(BMC) 11.32.050. Rodent harborage--Maintenance prohibited.

No person shall possess, occupy or maintain, or cause or permit another person to occupy or maintain, any building, structure, vehicle or any other place in such a condition as will permit the breeding or harboring therein, or thereon, of rodents or any other vermin.

(BMC) Sec 11.32.070. Accumulations creating rodent harborage prohibited. No person shall place, leave, dump or permit to accumulate any garbage or rubbish in or upon any building, structure or place so that the same shall afford food and/or harborage for rodents. No person shall accumulate or permit the accumulation on any place, premises or on any open lot any lumber, building material, boxes, paper, rags, excess or dense vegetation, or any material that may be permitted to remain thereon that may serve as a rodent harborage, unless the same shall be placed on open racks that are elevated not less than eighteen inches above the ground and evenly piled or stacked, or otherwise made reasonably unsuitable as a rodent harborage by such manner as may be approved by the chief of environmental health.





6. Violations:

Rodent harborage - rubbish

(BMC) 11.32.050. Rodent harborage--Maintenance prohibited.

No person shall possess, occupy or maintain, or cause or permit another person to occupy or maintain, any building, structure, vehicle or any other place in such a condition as will permit the breeding or harboring therein, or thereon, of rodents or any other vermin.

(BMC) Sec 11.32.070. Accumulations creating rodent harborage prohibited. No person shall place, leave, dump or permit to accumulate any garbage or rubbish in or upon any building, structure or place so that the same shall afford food and/or harborage for rodents. No person shall accumulate or permit the accumulation on any place, premises or on any open lot any lumber, building material, boxes, paper, rags, excess or dense vegetation, or any material that may be permitted to remain thereon that may serve as a rodent harborage, unless the same shall be placed on open racks that are elevated not less than eighteen inches above the ground and evenly piled or stacked, or otherwise made reasonably unsuitable as a rodent harborage by such manner as may be approved by the chief of environmental health.



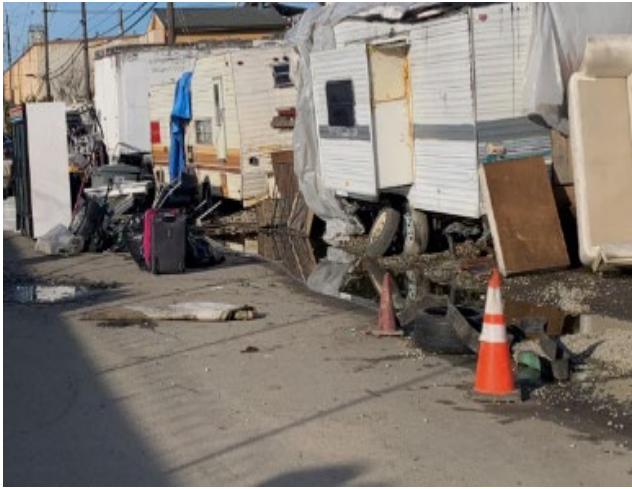
7. Violations

a. Rodent Harborage – rubbish

(BMC) 11.32.050. Rodent harborage--Maintenance prohibited.

No person shall possess, occupy or maintain, or cause or permit another person to occupy or maintain, any building, structure, vehicle or any other place in such a condition as will permit the breeding or harboring therein, or thereon, of rodents or any other vermin.

(BMC) Sec 11.32.070. Accumulations creating rodent harborage prohibited. No person shall place, leave, dump or permit to accumulate any garbage or rubbish in or upon any building, structure or place so that the same shall afford food and/or harborage for rodents. No person shall accumulate or permit the accumulation on any place, premises or on any open lot any lumber, building material, boxes, paper, rags, excess or dense vegetation, or any material that may be permitted to remain thereon that may serve as a rodent harborage, unless the same shall be placed on open racks that are elevated not less than eighteen inches above the ground and evenly piled or stacked, or otherwise made reasonably unsuitable as a rodent harborage by such manner as may be approved by the chief of environmental health.



8. Violations:

Rodent harborage - food sources & rubbish

(BMC) 11.32.050. Rodent harborage--Maintenance prohibited.

No person shall possess, occupy or maintain, or cause or permit another person to occupy or maintain, any building, structure, vehicle or any other place in such a condition as will permit the breeding or harboring therein, or thereon, of rodents or any other vermin.

(BMC) Sec 11.32.070. Accumulations creating rodent harborage prohibited. No person shall place, leave, dump or permit to accumulate any garbage or rubbish in or upon any building, structure or place so that the same shall afford food and/or harborage for rodents. No person shall accumulate or permit the accumulation on any place, premises or on any open lot any lumber, building material, boxes, paper, rags, excess or dense vegetation, or any material that may be permitted to remain thereon that may serve as a rodent harborage, unless the same shall be placed on open racks that are elevated not less than eighteen inches above the ground and evenly piled or stacked, or otherwise made reasonably unsuitable as a rodent harborage by such manner as may be approved by the chief of environmental health.



9. Violations:

Rodent Harborage – rubbish

(BMC) 11.32.050. Rodent harborage--Maintenance prohibited.

No person shall possess, occupy or maintain, or cause or permit another person to occupy or maintain, any building, structure, vehicle or any other place in such a condition as will permit the breeding or harboring therein, or thereon, of rodents or any other vermin.

(BMC) 11.32.070. Accumulations creating rodent harborage prohibited. No person shall place, leave, dump or permit to accumulate any garbage or rubbish in or upon any building, structure or place so that the same shall afford food and/or harborage for rodents. No person shall accumulate or permit the accumulation on any place, premises or on any open lot any lumber, building material, boxes, paper, rags, excess or dense vegetation, or any material that may be permitted to remain thereon that may serve as a rodent harborage, unless the same shall be placed on open racks that are elevated not less than eighteen inches above the ground and evenly piled or stacked, or otherwise made reasonably unsuitable as a rodent harborage by such manner as may be approved by the chief of environmental health.



10. Violations

Rodent Harborage – rat burrow

(BMC) 11.32.050. Rodent harborage--Maintenance prohibited.

No person shall possess, occupy or maintain, or cause or permit another person to occupy or maintain, any building, structure, vehicle or any other place in such a condition as will permit the breeding or harboring therein, or thereon, of rodents or any other vermin.



11. Violations

- a. Exposed hypodermic syringes

(BMC) 11.36.030. Imminent health hazards designated.

For the purpose of this chapter, the existence of the following condition is declared to constitute an imminent health hazard: the discharge of sewage, garbage or any other organic filth into or upon any place in such a manner that transmission of infective material to human beings may result therefrom.



- b. Rodent Harborage – rubbish, food sources & indications of rat gnawing
(BMC) 11.32.050. Rodent harborage--Maintenance prohibited. No person shall possess, occupy or maintain, or cause or permit another person to occupy or maintain, any building, structure, vehicle or any other place in such a condition as will permit the breeding or harboring therein, or thereon, of rodents or any other vermin.
(BMC) 11.32.070. Accumulations creating rodent harborage prohibited. No person shall place, leave, dump or permit to accumulate any garbage or rubbish in or upon any building, structure or place so that the same shall afford food and/or harborage for rodents. No person shall accumulate or permit the accumulation on any place, premises or on any open lot any lumber, building material, boxes, paper, rags, excess or dense vegetation, or any material that may be permitted to remain thereon that may serve as a rodent harborage, unless the same shall be placed on open racks that are elevated not less than eighteen inches above the ground and evenly piled or stacked, or otherwise made reasonably unsuitable as a rodent harborage by such manner as may be approved by the chief of environmental health.



Glossary of Violations:

- i. **BFC 315.4 Outside storage.** Outside storage of combustible materials shall not be located within 10 feet (3048 mm) of a lot line.
- ii. **NFPA 25 – Standard for the Inspection, Testing, and Maintenance of Water-Based Fire Protection Systems (2023 Ed.) – Section 5.2.2 Pipe and Fittings, 5.2.2.2** Sprinkler piping shall not be used to support non-system components.
- iii. **NFPA 25 – Standard for the Inspection, Testing, and Maintenance of Water-Based Fire Protection Systems (2023 Ed.) – Section 5.4.1 Sprinklers, 5.4.1.7** Sprinklers shall not be altered in any respect or have any type of ornamentation, paint, or coatings applied after shipment from the place of manufacture.
- iv. **California Code of Regulations, Title 19, Division 1, §3.07(a) Clearances.**
 1. (a) General. No combustible material shall be placed or stored within 10 feet of any building or structure.
 2. 304.1.1 Waste material. Accumulations of wastepaper, wood, hay, straw, weeds, litter or combustible or flammable waste or rubbish of any type shall not be permitted to remain on a roof or in any court, yard, vacant lot, alley,
 3. parking lot, open space, or beneath a grandstand, bleacher, pier, wharf, manufactured home, recreational vehicle or other similar structure.
- v. **BFC 114.1.1 Unsafe conditions.** Structures or existing equipment that are or hereafter become unsafe, insanitary or deficient because of inadequate means of egress, inadequate light and ventilation, or that constitute a fire hazard, are otherwise dangerous to human life or the public welfare, or involve illegal or improper occupancy or inadequate maintenance, shall be deemed an unsafe condition. Unsafe structures shall be taken down and removed or made safe, as the fire code official deems necessary and as provided for in this section. A vacant structure that is not secured against unauthorized entry shall be deemed unsafe.
- vi. **BFC 304.2 Storage.** Storage of combustible rubbish shall not produce conditions that will create a nuisance or a hazard to the public health, safety or welfare.
- vii. **BFC 307.4.3 Portable outdoor fireplaces.** Portable outdoor fireplaces shall be used in accordance with the manufacturer’s instructions and shall not be operated within 15 feet (3048 mm) of a structure or combustible material.
- viii. **BFC 315.4 Outside storage.** Outside storage of combustible materials shall not be located within 10 feet (3048 mm) of a lot line.
- ix. **BMC 11.32.050. Rodent harborage--Maintenance prohibited.** No person shall possess, occupy or maintain, or cause or permit another person to occupy or maintain, any building, structure, vehicle or any other place in such a condition as will permit the breeding or harboring therein, or thereon, of rodents or any other vermin.
- x. **BMC Sec 11.32.070. Accumulations creating rodent harborage prohibited.** No person shall place, leave, dump or permit to accumulate any garbage or rubbish in or upon any building, structure or place so that the same shall afford food and/or harborage for rodents. No person shall accumulate or permit the accumulation on any place, premises or on any open lot any lumber, building material, boxes, paper, rags, excess or dense vegetation, or any material that may be permitted to remain thereon that may serve as a rodent harborage, unless the same shall be placed on open racks that are elevated not less than eighteen inches above the

ground and evenly piled or stacked, or otherwise made reasonably unsuitable as a rodent harborage by such manner as may be approved by the chief of environmental health.

- xi. **BMC 11.36.030. Imminent health hazards designated.** For the purpose of this chapter, the existence of the following condition is declared to constitute an imminent health hazard: the discharge of sewage, garbage or any other organic filth into or upon any place in such a manner that transmission of infective material to human beings may result therefrom.
- xii. **BMC 14.48.020. Obstruction on Streets and Sidewalks.** It is unlawful for any person to place or cause to be placed anywhere upon any Sidewalk, Parklet or roadway, any object which obstructs, restricts, or prevents the use of any portion of such Sidewalk, Parklet or roadway, except as set forth in this Chapter or in a regulation promulgated by the City Manager and adopted by the City Council.
- xiii. **BMC 17.20.030.** No matter other than stormwater may be discharged into the storm drain system
- xiv. **BMC 17.20.050.** Affirmative duty to prevent contamination of stormwater by pollutants--Manner of conducting specified activities. Any person engaged in activities which will or may result in pollutants entering the storm drain system shall undertake all practicable measures to reduce or prevent the contamination of stormwater by pollutants. Such measures shall include, but are not limited to, adherence to the following requirements: (A.) Littering prohibited. No person shall throw, deposit, leave, maintain, keep, or permit to be thrown, deposited, placed, left or maintained, any refuse, rubbish, garbage, or other discarded or abandoned objects, articles, or accumulations, in or upon any street, alley, sidewalk, storm drain, inlet, catch basin, conduit or other drainage structures, business place, or upon any public or private lot of land in the City, so that the same might be or become a pollutant that enters the storm drain system; provided however, that nothing in this section shall be construed to prohibit the disposal of garbage, rubbish or other waste in a lawful manner as provided in Berkeley Municipal Code Chapter 11.16 (Waste Collection and Disposal) or Chapter 12.32 (Refuse Disposal), or the disposal of recycled materials in the manner provided for pursuant to Chapter 12.36 (Recycled Materials Collection Program), or the disposal of garbage, rubbish or other waste in lawfully established dumping grounds.



Fire & Emergency Services Department
Fire Prevention Division

Date: January 23, 2024
To: Peter Radu, Assistant to the City Manager
From: Dori Tieu, Deputy Fire Marshal
Subject: Assessment of fire hazards for areas along Second Street between Page and Cedar Streets

On January 9, 2024, Berkeley Fire Department Fire Prevention staff assessed fire safety conditions along the Second Street corridor between Page and Cedar Streets, including half the block of Cedar Street west of Second Street. Staff found some areas of concern with regard fire safety in this area and to the public in general. A majority of the concerns were related to storage of combustible items and rubbish along the corridor providing potential fuel for a fire:

- **BFC 304.2 Storage.** Storage of combustible rubbish shall not produce conditions that will create a nuisance or a hazard to the public health, safety or welfare.
- **BFC 315.4 Outside storage.** Outside storage of combustible materials shall not be located within 10 feet (3048 mm) of a lot line.

There were a handful of fire code violations related to:

- **BFC 305.1 Clearance from ignition sources.** Clearance between ignition sources, such as luminaires, heaters, flame-producing devices and combustible materials, shall be maintained in an approved manner.
- **BFC 305.4 Deliberate or negligent burning.** It shall be unlawful to deliberately or through negligence set fire to or cause the burning of combustible material in such a manner as to endanger the safety of persons or property.
- **BFC 305.5 Unwanted fire ignitions.** Acts or processes that have caused repeated ignition of unwanted fires shall be modified to prevent future ignition.
- **BFC 507.5.4 Obstruction.** Unobstructed access to fire hydrants shall be maintained at all times. The fire department shall not be deterred or hindered from gaining immediate access to fire protection equipment or fire hydrants.
- **BFC 507.5.5 Clear space around hydrants.** A 3-foot (914 mm) clear space shall be maintained around the circumference of fire hydrants, except as otherwise required or approved.

Environmental Health Division Staff completed an assessment of the same area on January 4, 2024. In their memo to Peter Radu, Assistant to the City Manager, they provided an aerial photo of the area and numbered the locations on the map. Below is the photo that Fire will also reference to in this report.

2nd St Between Cedar St and Second St



The subsequent photos document examples of the following fire code violations:

BFC 304.2 Storage. Storage of combustible rubbish shall not produce conditions that will create a nuisance or a hazard to the public health, safety or welfare.

BFC 315.4 Outside storage. Outside storage of combustible materials shall not be located within 10 feet (3048 mm) of a lot line.

Area #11 – Encampments along north side of Page Street, east of Second Street



Area #11 – Encampments along south side of Page Street, east of Second Street



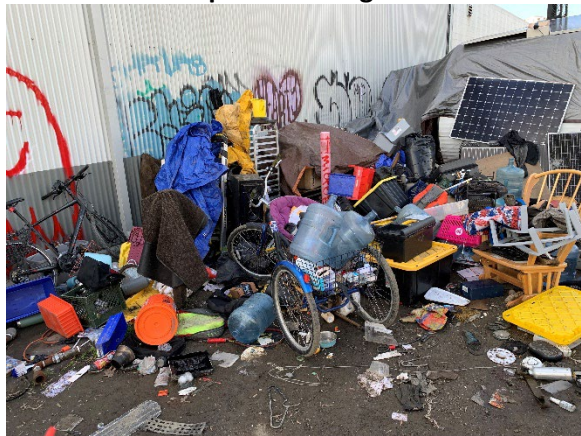
Area #10 – Encampment at southeast corner of intersection of Second Street and Page Street



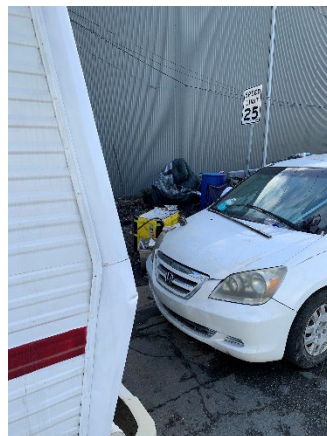
Area #4 – Storage area approximately a half block south of Jones Street on east side of Second Street



Area #4 – Encampments along west side of Second Street, midblock between Jones and Cedar Streets



Area #1 – Encampments along south side of Cedar Street, west of Second Street



Area #1 – Encampments along north side of Cedar Street, west of Second Street



The following four photos document examples of the following fire code violations:

BFC 305.1 Clearance from ignition sources. Clearance between ignition sources, such as luminaires, heaters, flame-producing devices and combustible materials, shall be maintained in an approved manner.

BFC 305.4 Deliberate or negligent burning. It shall be unlawful to deliberately or through negligence set fire to or cause the burning of combustible material in such a manner as to endanger the safety of persons or property.

BFC 305.5 Unwanted fire ignitions. Acts or processes that have caused repeated ignition of unwanted fires shall be modified to prevent future ignition.

Area #11 – Eastern most encampment along north side of Page Street, east of Second Street



Area #11 – Midblock encampment along south side of Page Street, east of Second Street



Area #1 – Solar panel charging a DC battery along the north side of Cedar Street, west of Second Street



The following two photos document examples of the following fire code violations:

BFC 507.5.4 Obstruction. Unobstructed access to fire hydrants shall be maintained at all times. The fire department shall not be deterred or hindered from gaining immediate access to fire protection equipment or fire hydrants.

BFC 507.5.5 Clear space around hydrants. A 3-foot (914 mm) clear space shall be maintained around the circumference of fire hydrants, except as otherwise required or approved.

Area #1 – Encampment at northwest corner of Second Street and Cedar Street intersection



There have been multiple fires at abandoned warehouses and nuisance fires in proximity to the encampment. A quick search of fires in 2023 resulted in 20 fires within one to two blocks of the encampment. The most recent building fire occurred on January 13, 2024, at 2:15 AM. It became a two-alarm fire with mutual aid that started as an offensive attack and moved to a defensive attack because of the large size of the fire and heavy content loading inside the building. Embers cast from nearby fires could ignite the combustible materials among the encampment and endanger the residents.

The Berkeley Fire Department is concerned about the numerous fire and life safety hazards associated with this encampment, and would recommend prioritizing this encampment for any shelter resources, including the State of California Encampment Resolution Funding program, that can lead to resolution of this encampment and its conditions. We also recommend fire safety education, clean-up of combustible materials, removal of obstructions and tampering of the fire hydrant, and removal of potential ignition sources. We look forward to partnering with you towards a safer future for this encampment

Respectfully,

Dori Tieu, Deputy Fire Marshal

CC: Fire Chief David Sprague
Fire Marshal Steve Riggs
Fire Prevention Inspector Shannon Shaffer-Killey
Fire Prevention Files

Harrison Street Corridor RV Operation – Day 1 After Action Report

9/30/21



Harrison between 8th and 7th



8th between Harrison and Gilman



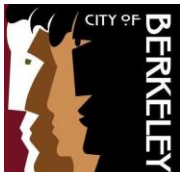
Harrison between 9th and 8th



SE Corner of 9th and Harrison

On Wed, Sept 29, 2021, City staff from Neighborhood Services, Public Works, and BPD including Parking Enforcement collaborated in the first of two planned operations to address the RVs encamped along the Harrison St Corridor and neighboring side streets. The City Attorney signed off on the final notice and advised during the planning process. This report provides a brief after-action summary of the operation and its outcomes:

- Reason for operation and timing:
 - The operation was planned to coincide with the opening of the Safe RV Parking Program on Grayson Street. A deep cleaning of the area's streets and sidewalks was planned to help reduce/remove the debris associated with the vehicles after vehicles moved into the program.
 - Vehicles in the area were provided a notice of a street sweeping, TNC regulations, and the City's storage policy for unattended belongings on Friday, Sept 24th. Temporary tow-away signage for the day and time of the operation (9/29 and 10/6, 7am – 3pm) was posted on Fri, Sept 24th as well.
- Number of Vehicles and Brief Site Assessment:
 - On Sept 23, Neighborhood Services performed a final census of the area. Staff identified 38 oversized vehicles, 35 of which were being used as shelter and potentially eligible for Rv Parking Program referral.
 - No vehicles that moved into the area after the census were eligible for referral into the program.
- History of Outreach/Engagement Attempts:
 - Outreach began in preparation for the operation in early September. Neighborhood Services performed numerous visits to advise people of the opening of the Safe RV Parking program, build a referral list, and advise residents there of the possibility of impending parking enforcement.
- Outcomes:
 - At the conclusion of yesterday's operation, Neighborhood Services counted 17 remaining oversized vehicles in the area. This is a roughly 50% reduction in vehicles. The debris/belongings footprint associated with most of the remaining vehicles was substantially reduced.
 - A total of 23 vehicles were issued citations for parking violations in the street sweeping zone. Six were dismissed when the vehicle moved. One vehicle was towed. No vehicles being used as shelter were towed.
 - Public Works picked up 3.49 tons of debris from Harrison Street, Ninth Street, Eighth Street, Fourth Street and 2nd Street from Camelia Street to Cedar Street. Harrison Street was mechanically swept and pressure washed.
 - As of 5:30pm on 9/29, 6 vehicles from the area had moved into the Safe RV Parking Program. The destination for the other vehicles that relocated is unknown at this time.
- Next Steps:
 - City staff will reconvene on Friday, Oct 1 to plan for addressing the remaining vehicles.
 - The second of the two planned operations will be conducted on Wed., October 6th. Notices will be reposted by Neighborhood Services on Friday, Oct. 1.



City Manager's Office

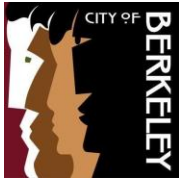
2nd Street Deep Cleaning - After Action Report
12/2/21



Page Street - Before



Page Street - After

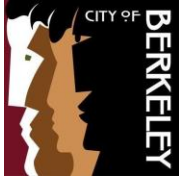


City Manager's Office

***Cedar and 2nd - Cleaned******2nd b/w Camelia and Page - Cleaned***

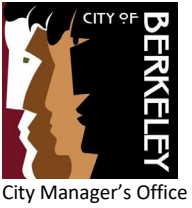
On Wednesday, December 1, 2021, City staff from Neighborhood Services, Public Works, and BPD collaborated to perform a deep cleaning of the 2nd Street Corridor from Cedar to Camelia in West Berkeley. The scope of the operation was to remove the huge accumulation of debris in the area, as well as address an encampment on private property on Page between Eastshore and 2nd. No one on public property was required to move or relocate, nor to part with anything they did not want to. This report provides a brief after-action summary of the operation and its outcomes:

- **Reason for the operation:**
 - A large accumulation of debris, trash, and hazardous materials (large quantities of loose and uncapped syringes, human waste) in the public right of way that required a dedicated crew to fully address.
 - An encampment that was located on private property, where the owner had submitted trespassing complaints and requested removal of the encampment pursuant to CA Penal Code 602.
- **Scope of the operation:**
 - The target area was 2nd Street between Camelia and Cedar, as well as an encampment on private property on Page St between 2nd and Eastshore.
 - The public right of way in the area had roughly 25 RVs and 4 tents/structures on the day of the operation.
 - The private parcel had 8 tents/structures on the day of the operation.



City Manager's Office

- Outcomes:
 - 7.47 tons (14,900 pounds) of debris were removed from the area.
 - One referral for an RV (parked adjacent to the private parcel) was made for the Grayson Street Safe Parking Program and was accepted. One RV, known to be unoccupied, was towed.
 - No arrests/citations were issued.
 - On the private parcel:
 - Five tents were unattended and were removed. Nothing was stored as there were serious health hazards including numerous loose and scattered syringes.
 - Three tents/structures were attended at the time of the operation; two voluntarily relocated. The third did not and so was not removed, and will be addressed at a later time.
 - Two shelter offers were made to Horizon and one was accepted.



2nd Street Deep Cleaning - After Action Report
4/19/22



2nd near Cedar - Before



2nd near Cedar - After



2nd near Jones - Before



2nd near Jones - After



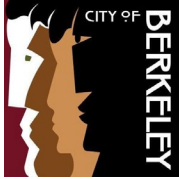
Page St - Before



Page St - After

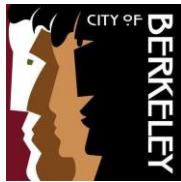
On Tuesday, April 19, 2022 the Homeless Response Team performed a deep cleaning of the 2nd Street Corridor from Cedar to Camelia in West Berkeley. The scope of the operation was to remove the huge accumulation of debris and rodent harborage conditions in the area, which negatively affects both the residents and the surrounding businesses. No one was required to move or relocate, nor to part with anything they did not want to. This report provides a brief after-action summary of the operation and its outcomes:

- Scope and Reason for the operation:
 - The target area was 2nd Street between Camelia and Cedar, as well as Page St between 2nd and Eastshore.
 - A large accumulation of debris, trash, and hazardous materials (large quantities of loose and uncapped syringes, human waste, appliances, flammable materials like propane tanks and gasoline containers) and rodent harborage conditions (open and rotting food sources) in the public right of way that required a dedicated crew to fully address.
 - Recent fires in the area (one on the southwest corner of 2nd and Page that destroyed an RV, another on Page St between Eastshore and 2nd) pose safety risks to the unsheltered as well as the surrounding business community.
- Outreach/Assessment and Notification Efforts:
 - Neighborhood Services staff performed a site assessment on April 11 and noted 20 RVs and 8 tents/structures in the target area. On the day of the operation, staff noted 19 RVs and 7 tents/structures.
 - Written notice was provided to residents in the area on April 12.



City Manager's Office

- Outreach was provided by Neighborhood Services on April 12, 13, 15, and 18, to inform residents of the upcoming intervention and make shelter offers. No shelter offers were accepted.
- Neighborhood Services also coordinated with Street Medicine staff from LifeLong Medical Care in the week prior to the operation, allowing outreach from trusted (non-City) providers and thus providing additional notice and preparation for the operation.
- Outcomes:
 - 11.67 tons (23,340 pounds) of debris were removed from the area.
 - Shelter was offered to 2 individuals but it was declined.
 - Animal Services was engaged to assess two RVs with dogs on Page St, including one with a suspected abandoned/neglected dog inside. Notice was provided and Animal Care Services will continue to engage.
 - No arrests/citations were issued.



City Manager's Office

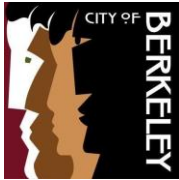
2nd Street & Page St Encampment Closure - After Action Report
11/30/22



2nd Between Page and Camelia - Before



2nd Between Page and Camelia - After

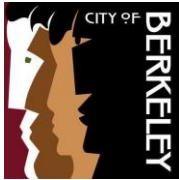


City Manager's Office

*Page St - Before**Page St - After*

On Tuesday, August 31, 2022 the Homeless Response Team (HRT) closed the vehicle and tent encampments along 2nd and Page Streets in West Berkeley. Beginning in September, this area has been undergoing major street and sidewalk construction as part of the Gilman/I-80 interchange project. Phase II of this construction project, which includes 2nd St from Camelia to Page and the north side of Page St from 2nd to Eastshore, is scheduled to begin on December 1. To meet this deadline, the scope of the present operation was to remove all tents and vehicles in the construction corridor. This report provides a brief after-action summary of the operation and its outcomes:

- Scope and Reason for the operation:
 - The target area for the operation was the north side of Page St between Eastshore Hwy to 2nd St, and 2nd St from Page St north to Camelia St. Beginning in September, the greater area has been undergoing major street and sidewalk construction as part of the Gilman/I-80 interchange project, with Phase II in the target area beginning on December 1. Neighborhood Services and Public Works have been coordinating closely with CalTrans on construction phasing and timing.
 - The target area was found to be in violation of the City's street and sidewalk policies (BMC sections 14.48.020 and 14.48.120).
 - Growing accumulation of debris, trash, and hazardous materials (syringes, rodent harborage conditions) in the public right of way.
- Brief Site Assessment
 - The Homeless Response Team has performed numerous assessments of the target area alongside outreach efforts. On both November 15 and Nov 12 (date of first and second rounds of written noticing, respectively), staff observed 6 residents and 4 trailers/RVs, and posted 10-12 written notices. On the day of the operation, staff encountered 6 residents and 3 trailers/RVs remaining in the construction area.



City Manager's Office

- The HRT repeatedly observed numerous health and safety violations in the area, including loose and scattered syringes; live and dead rodents and rodent harborage conditions including accumulated trash and debris and open food sources; and debris and belongings, including tents, spilling into the lane of traffic.
- Outreach/Assessment and Notification Efforts:
 - The HRT as well as the City's contracted homeless providers have provided regular outreach to this area for many months, including garbage service and the provision of a port-a-potty and wash station.
 - Beginning in August, once the HRT learned of the timeline for construction in the target area, Neighborhood Services convened a weekly case conference of numerous contracted homeless providers and outreach workers, including representatives from HHCS and Alameda County, to build a robust by-name list of everyone in the area, with the goal of (1) connecting them to as many services and housing opportunities as possible; (2) coordinating their care across multiple agencies; and (3) providing thorough and advance notification of the upcoming construction and City encampment interventions to prepare for it.
 - Two rounds of written notice of the operation were provided to residents in the area (on Nov 15 and 22), providing 2 weeks of formal notice. This was accompanied by outreach to explain the scope and purpose of the operation to residents in the area, along with the distribution of maps to clearly identify the construction zone to be vacated.
 - No Parking/Tow Away signage was posted on November 23, providing more than 72 hours' notice.
- Outcomes:
 - All residents, including those living in vehicles, voluntarily relocated by or before the morning of the operation. Shelter was not offered on the morning of the operation, as the population in the area had been previously offered shelter and had all declined. HRT will continue to collaborate with our nonprofit service providers to assist these residents into permanent housing wherever possible and as outreach resources allow.
 - No vehicles being used as residences were towed, but three passenger vehicles (all unattended and inoperative) were towed to impound, one after having received targeted treatment to abate rodents living in the vehicle.
 - 5.75 tons (11,500 pounds) of debris were removed from the area. As residents were given ample notice to vacate, as well as some time during the morning of the operation to remove a last round of wanted belongings, no storage for belongings was provided.
 - No arrests/citations were issued.



Homeless Response Team

East side of Page at 2nd Partial Closure, and 2nd Street Deep Cleaning Between Cedar and Page -
After Action Report
03/22/23



East side of Page at 2nd Street- Before



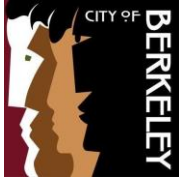
East side of Page at 2nd Street- After



2nd Street – Structural Fire



2nd and Page Street- Burnt RV



Homeless Response Team



2nd and Page Street- Stole Vehicle

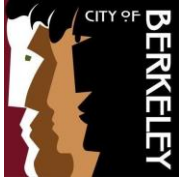
On Wednesday, March 22, 2023, the Homeless Response Team performed a Partial closure on the East Side of Page (at 2nd St) and a Deep Cleaning on 2nd Between Cedar and Page. This report provides a brief after-action summary of the operation and its outcomes:

Reason for closures and closure's timing:

- **East side of Page at 2nd St.**
 - Debris and belongings impeding the vehicular right-of-way; excessive trash and debris.
 - Impeding access to a gate for a City sanitary sewer construction project.
 - Violation of Shared Sidewalk Policies (BMC sections 14.48.020 and 14.48.120)
- **2nd Street Between Cedar and Page**
 - Debris and belongings impeding the vehicular right-of-way; excessive trash and debris; remains of an RV fire.
 - Violation of Shared Sidewalk Policies (BMC sections 14.48.020 and 14.48.120)
- **Final notice of closure was posted on March 17, 2023 for location listed, providing more than 72 hours' notice.**

Number of Individuals at the Encampment and Brief Site Assessment:

- **East Side of Page Street at 2nd St.**
 - Documented conditions of the encampment include: rotting food; loose and scattered syringes; soiled clothing and bedding; dismantled camping gear; evidence of recent fire activity and excessive debris and personal belongings.
 - The population at this encampment has remained consistent with approximately 6 individuals, all of whom have resided in the area for over a year and was relocated



Homeless Response Team

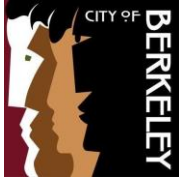
from the area of 2nd from Page through Camelia due to construction which began December 2022.

- **2nd Street between Cedar and Page**
 - Documented conditions of the encampment include: rotting food; soiled clothing and bedding; dismantled camping gear; evidence of recent fire activity; and excessive debris and personal belongings.
 - An RV which was burned out completely.
 - The population at this encampment remained consistent with approximately 15 RV's parked at the location. However, the area is a highly sought out encampment location due to being less visible. The area does experience a high level of criminal activity in comparison to other encampments throughout the city.

History of Outreach/Engagement Attempts and Shelter Placements:

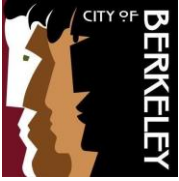
- **East Side of Page at 2nd St.**
 - Public Works Clean City staff performs weekly cleanings in order to manage the debris and reduce the footprint that builds up quickly and frequently by both the residences of the area and illegal dumping.
 - Offers of housing coordination with City contractor BACS.
 - Receives care from Lifelong Medical Street Medicine Team.
 - Connection with local organizations such as HAC, and Where do we Go Berkeley
 - HHCS provides a mobile shower and laundry services through Dignity on Wheels resource to all residences in the area.
 - There has been on going outreach beginning mid- March up until the day of the operation by both Berkeley Police CSB unit and Neighborhood Services staff as a way to gain voluntary compliance.
- **2nd street Between Cedar and Page**
 - Neighborhood Services has attempted outreach, but since many reside in RV's. engagement has not been successful since they indicate they do not consider themselves homeless.
 - Public Works Clean City staff performs weekly cleaning in order to manage the debris and reduce the footprint that builds up quickly and frequently by both the residences of the area along with illegal dumping.
 - Receives care from Lifelong Medical Street Medicine Team
 - Offers of housing coordination with the City contractors BACS
 - Connection with local organizations such as HAC, and Where do we Go Berkeley.
 - HHCS provides a mobile shower and laundry service through Dignity on Wheels resources to all residences in the area.

Outcomes:



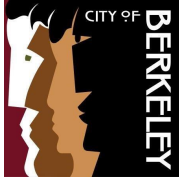
Homeless Response Team

- **East Side of Page at 2nd Street**
 - Upon arrival there had been some voluntary removal. There needed to be a bit more for the sanitary sewer project access gate to be fully accessible for construction equipment to safely come in and out. There was one Berkeley Inn referral to a resident in the area which was accepted. He stated that he would need help transporting his dogs' belongings which BPD agreed to. He then biked over to the motel where he met with a member of the Neighborhood Services Team and was successfully moved in. While the other residents in the area remained, some did in fact voluntarily reduce their footprint by sorting through belongings and disposing to the Public Works crew.
- **2nd Street Between Cedar and Page**
 - Upon arrival previously there had been a fire in the area where a vehicle was completely burned and displaced 3 people. The owner of the vehicle stated the vehicle could be removed he would need a notice of when that was to take place so that he had time to salvage some of his personal belongings he wished to keep, that requested was accepted by the Neighborhood Services Team and he was given notice on 3/17/2023 providing him 6 days to gather what he needed. There was no shelter provided, the owner was able to establish shelter for himself within the corridor. The vehicle was stripped of all the metal and was not in the same condition as it was on the day which notice was provided, this was not done by the owner. It was later during the clean-up that the resident stated he would be utilizing a vehicle on scene to transport the material, but the vehicle was determined to in fact be stolen and the owner of the vehicle was contacted. He came to retrieve the vehicle. The individual originally wanting to utilize the vehicle to transport the material stated he was housed and left the scene. The driver of the stolen vehicle is someone which the Neighborhood Services Team is familiar with and had previously placed into a motel, she had left the scene shortly after arriving stating a claim that she had lost the keys and was going elsewhere to retrieve a spare and never returning while staff was on scene. The frame of the burnt RV was towed after being stripped of debris.
 - On the East side of 2nd between Page and Cedar there was a makeshift structural shelter made of plywood and pallets which caught fire and was engulfed in flames within a matter of seconds. Fire arrived on scene determined there was no one inside and extinguished the fire. The fire captain expressed his safety concern for the recent fires in the area stating they have been responding to fires in the area daily.
- No arrests/citations were issued.
- No storage pursuant to AR 10.1 provided.



Homeless Response Team

- 12.68 tons of debris were removed and discarded by Public Works.



Homeless Response Team

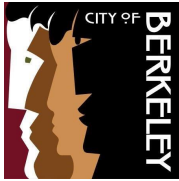
2nd St. between Page and Cedar, and on Page St. East of 2nd St. Deep Cleaning - After
Action Report
5/9/23



2nd and Cedar- Before



2nd and Cedar- After



Homeless Response Team



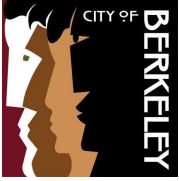
2nd and Jones (Unsafe Structure)- Before

2nd and Jones (Unsafe Structure)- After



2nd and Jones- Before

2nd and Jones- After



Homeless Response Team



2nd and Jones- Before



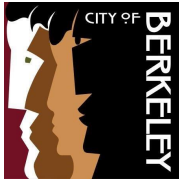
2nd and Jones- After



2nd and Page (Unsafe Structure)- Before



2nd and Page (Unsafe Structure)- After



Homeless Response Team



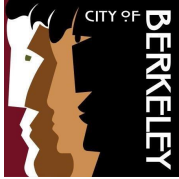
2nd and Page- Before



2nd and Page- After

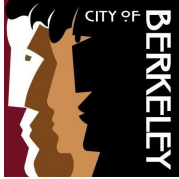


On Tuesday, May 9, 2023, City staff from Neighborhood Services, Public Works, Fire, Environmental Health and BPD collaborated to perform a deep cleaning of the 2nd Street Corridor from Cedar to Page in West Berkeley. The scope of the operation was to remove the huge accumulation of debris, hazardous materials, and unsafe unpermitted structures. No one was asked to relocate from the area. This report provides a brief after-action summary of the operation and its outcomes:



Homeless Response Team

- **Reason for deep cleaning and removal of structures:**
- **2nd St. between Page and Cedar and on Page St. East of 2nd St.**
 - Violation of Shared Sidewalk Policies (BMC sections 14.48.020 and 14.48.120)
 - Debris and belongings impeding the vehicular right-of-way.
 - Berkeley Fire Code 114.1.1 Unsafe conditions
 - Berkeley Fire Code 315.4 outside storage
 - Berkeley Fire Code 304.2 Storage
 - Berkeley Fire Code 307.4.3 Portable Outdoor Fireplaces
 - California Code of Regulations, Title 19, Division 1, §3.07(a) Clearances
 - Building Code 116.1
 - Berkeley Municipal Code 11.36.030 Imminent Health Hazards Designated
 - Berkeley Municipal Code 17.20.030
 - Berkeley Municipal Code 17.20.050
- **Final Notice of Deep Cleaning was posted May 5, 2023 for the location listed, providing more than 72 hours' notice.**
- **Number of Individuals at the Encampment and Brief Site Assessment:**
- **2nd St. Between Page and Cedar and on Page St. East of 2nd St.**
 - The population of this area has remained consistent with approximately 25 RVs and 8 tents and 4 structures on the day of the operation. However, the area is a highly sought out encampment location due to being less visible, we frequently see new encampment pop up once one relocates others move in within a day or so.
 - Documented conditions of the encampment including; human waste; rotting food; soiled clothing and bedding; dismantled camping gear; and excessive debris and personal belongings.
 - Data provided by the Fire Departments indicates there has been
- **History of Outreach/Engagement Attempts and Shelter Placements:**
- **2nd St. Between Page and Cedar and on Page St. East of 2nd St.**
 - Public Works Department conducts weekly cleanings in order to manage the debris and reduce the footprint that builds up frequently, primarily due to safety concerns of the residents and business whom are impacted due to close proximity and the great concern of rodents which affects their businesses.
 - Offers of housing coordination with City contractor BACS.
 - Receives care from Lifelong Medical Street Medicine Team.
 - Homeless Response Team conducted daily outreach in the area beginning on April 19th.
 - There was weekly meeting with partner organization in which there was discussion around on how to best serve the population at the encampment.
 - A community meeting was held on April 21, 2023 in the area of 2nd St. present was City staff (Neighborhood Services Team, Fire, and Environmental Health),



Homeless Response Team

advocates, and resident as a way we all could best coordinate on best efforts to assist them with the resources required to sustain a safe environment. There was a report provided to all in attendance which was developed by an assessment conducted within the corridor on April 5, 2023 where Fire and Environment Health documented the conditions of the area and determined the desired outcome of the deep cleaning.

- Neighborhood Services had tents on hand for the residents whom structures would need to be removed due to Fire recommendations. As a way to mitigate the rodent activity each resident in the corridor received 2 (27 gallon) storage containers where they would be able to store food and other personal belongings.
- **Outcomes:**
 - 10.85 of debris were removed from the area.
 - One RV parked on the East side of 2nd was towed and one van on the West/North corner of Jones and Eastshore Highway.
 - Neighborhood Services offered a motel room to a resident whom had previously been on 3rd and Camelia, after several attempts' appointments made for intake and him being unavailable, the room remained available for him an additional 3 weeks and he successfully moved in on May 9th.
 - May 3rd a meeting was held with Public Works to discuss placement of a dumpster to reduce the debris in the vehicular right-of way and it was agreed upon that one would be placed at the S/W corner of 2nd and Page St. and would receive service weekly.
 - No arrests/citations were issued.

