

Homeless Policy and Good Neighbor Guidelines

Draft Staff Recommendations

HOMELESS SERVICES PANEL OF EXPERTS

OCT 4, 2023

Presentation Outline

1. Overview of Council referrals
2. City staff response rationale
3. Overview of proposed draft policy
4. Recommendation to the Panel
5. Questions and discussion

Council Referrals

In 2018, Council made three referrals to staff for development:

1. April 26, 2018 – develop a sidewalk policy, an encampment policy, and necessary amendments to other city policies
2. Oct 16, 2018 – analyze city's existing policies in light of *Martin v. Boise* and draft new policies (including encampment policy) as needed
3. Oct 16, 2018 – develop non-criminal alternatives to the enforcement of laws and regs related to the use of public space

Rationale for Staff Policy Response

1. This policy is a draft
2. This is NOT a plan to end homelessness, and must not be confused with one
3. Both of the following can be (and right now are) true at once:
 1. Encampments are born of necessity when people have nowhere else to live or store their belongings.
 2. Encampments often create serious impacts to their neighbors and the broader community.

Good Neighbor Guidelines

- 1. Please throw away your trash and old food.**
- 2. Please keep your belongings out of the road.**
- 3. Please do not build any structures out of wood, metal, or other materials that can create a fire hazard or injury risk.**
- 4. Please try to stay to one sidewalk side of the street.**
- 5. Please be fire safe.**

Prioritization of Encampments

Lowest Priority:

- Encampments meeting the Good Neighbor guidelines.
- Tents/vehicles with an external footprint of belongings or debris that is less than 9 square feet as required in Administrative Regulation 10.2, and not otherwise creating ADA accessibility issues. Since most tents cannot meet the 9 square foot maximum, the size of an individual tent itself shall not be included in this assessment.

Prioritization of Encampments

Medium Priority:

- Accumulated possessions, trash and debris exceeding 9 square feet.
- ADA-passage obstructions of the public right-of-way and extension of belongings/debris into the roadway.
- Interference with businesses and residences and public infrastructure.
- Hindrances to construction or other City-issued permits.
- Vehicles that meet community caretaking standards for removal, as defined in California state law
- Impacts to water quality.

Prioritization of Encampments

Highest Priority:

- Extreme environmental hazards, including impacts to fish and wildlife and exposure to toxic materials.
- Imminent health hazards, including rodents and rodent harborage conditions, syringes, and raw sewage.
- Imminent fire or life safety hazards, including, unsafe structures, accumulation of combustible materials, and imminently unsafe location such as a street median or a creekbed in flash flood conditions.

Interventions

- Public noticing (encouragement to voluntarily relocate/comply with rules)
- Health and hygiene interventions – dumpsters, toilets/wash stations, mobile shower and laundry
- Voluntary trash and debris removal
- Deep cleanings
- Encampment Closures

Staff Recommendation

- Advance the Staff policy, alongside any HSPE input, to the full City Council, with a recommendation that they then assign it to an appropriate policy subcommittee for further public process and development.

Questions and Discussion

it starts here.

**DOWNTOWN
BERKELEY**

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October 2, 2023

Re: Draft Encampment Policy and Good Neighbor Guidelines

Dear Homeless Services Panel of Experts:

While we are deeply sympathetic to the travails of unhoused persons living in our community, and appreciate the tireless work of City staff and City-funded agencies in helping these unhoused persons into services and housing, we cannot support the Draft Encampment Policy, dated September 21, 2023. Hence the Downtown Berkeley Association board of directors recommends that the Policy be withdrawn and rewritten to address the following concerns:

- 1) We do not accept that unhoused persons living on our streets is or should be the “*new normal*”. While we understand the limitation of resources (particularly both short-term and longer-term housing), we see no reason to accept people living on our streets as acceptable for them or the broader community. Our goal and plan should continue to be providing housing and shelter for everyone. As currently written the draft policy essentially accepts encampments in our Downtown and other commercial areas as long as they follow health, safety and ADA regulations, and abide by the Good Neighbor Guidelines. This policy also risks inviting other homeless persons into Berkeley since they are told their tents will be low priority.
- 2) While we understand this draft Encampment Policy is not to be confused with a strategic plan to address homelessness in Berkeley, the memo should not make strategic assumptions that “will likely take decades to address and undo [the homeless situation]”. This statement is defeatist and unproductive. There are solutions such as [Nevada CARES Campus](#) that can dramatically improve the homeless situation. While Berkeley cannot do this alone, this can be done working with the State and other jurisdictions.
- 3) While we appreciate and agree that outreach and services should be highest and first priority in getting unhoused people into temporary shelter and long-term housing, the City should not avoid enforcement of City ordinances. We should not eliminate the option of “tough-love” enforcement of City ordinances as an additional incentive to get people into services and shelter/housing. Moreover, *Boise vs. Martin* states that cities can enforce encampment ordinances if they provide a nearby shelter bed for the individual.
- 4) While we appreciate state funding of City programs for non-congregate housing (e.g., hotel and motel rooms) and longer-term housing, and the client preference for privacy of this type of shelter/housing, we do not have the time or funding to build enough rooms/beds to house everyone. Hence the City and the State need to significantly increase funding for congregate shelters with wrap-around services to help people move off sidewalks into shelter. The [Nevada Care Campus](#) in Reno is a highly successful model, coupling extensive outreach and tough-love enforcement directing folks into quality shelter including wrap around services, with stair step to non-congregate, transitional and permanent supportive housing.

- 5) The draft Administrative Regulation (AR) states as Medium Priority: “*Interference with businesses and residence and public infrastructure*”. The memo and the AR should more clearly prioritize the impact of encampments on business and cultural vitality in our City. For example, under the current draft, it appears the City would make a low priority if multiple tents appeared in BART Plaza or arts district, if they abided by health & safety, ADA, and Good Neighbor Guidelines. Clearly encampments of this sort should be prioritized higher than tents along a blank warehouse wall and not near any retail or cultural venues.
- 6) The memo should outline pre-pandemic and current congregate and non-congregate (e.g., motel rooms) shelter/housing in Berkeley so we can clearly understand current resources. Also, we understand that virtually all shelters were de-densified in Berkeley during the pandemic due to COVID safety and health concerns. The memo should also provide data on any additional shelter capacity available by further re-densifying shelters back to pre-pandemic capacity.
- 7) The memorandum should provide data on homeless trends in Berkeley. Due to the great work by staff and others, as the Mayor frequently mentions, Berkeley has actually experienced a modest drop in homelessness in recent years. This is important context to understand this draft policy.
- 8) The City should eliminate the use of “*criminalization*” jargon as it pertains to enforcement of City ordinances. We are not criminalizing unhoused persons when we require them to abide by city ordinances, just as we are not criminalizing people driving for moving or speeding violations. This language only serves to inflame the discussion of enforcement policy.
- 9) Statements of “*Berkeley’s values*” or “*Statement of Values*” are probably best left to the City Council and a strategic planning process, and not included in an Administrative Regulation of Encampment Policy.

Finally, we believe the meeting of the Homeless Services Panel of Experts on October 4 at the Berkeley Rep, should be essentially a public hearing on the Draft Encampment Policy and Good Neighbor Guidelines. The panel should not take any action to refer draft Encampment Policy and Guidelines to Council until they have had a chance to review comments from the hearing, as well as those from others by written or other communications. The panel should also allow time for staff to possibly restructure or revise the policy at the panel’s direction after reviewing input from the Berkeley community. Also, please note many merchants will be nervous to speak at large public forum. We also encourage panel experts to talk to businesses and nonprofits impacted by encampments, and we would be happy to provide suggestions.

We welcome future discussion and engagement on this draft policy.

Sincerely,



John Caner

CEO, Downtown Berkeley Association

Cc: Mayor & Council, City Manager, Director Homeless Services, Deputy City Managers, Berkeley Chamber, Berkeley Alliance of Business Organizations members