

RESOLUTION NO. 6009

RESOLUTION OF THE SAUSALITO CITY COUNCIL CLOSING CERTAIN CITY PROPERTY TO CAMPING AND STORAGE OF PERSONAL PROPERTY; AND ADOPTING STANDARD OPERATING PROCEDURES FOR CLEARING AND CLEANING ENCAMPMENTS

WHEREAS, the unauthorized use of public property for camping purposes and the storage of personal property interferes with the rights of others to use the areas for which they were intended and creates public health and safety hazard that adversely affects residential and commercial uses; and

WHEREAS, Sausalito is not immune from the homelessness crisis affecting the Bay Area and the State of California; and

WHEREAS, people without homes may find it necessary to sleep at night outdoors on public property when homeless shelters or other indoor living arrangements are not available; and

WHEREAS, Sausalito endeavors to locate shelter beds or other safe living arrangements wherever available for people without homes within its City limits, and to take other actions to support and protect the welfare of homeless persons and the entire community; and

WHEREAS, an encampment was recently established on City-owned property adjacent to Dunphy Park and that encampment continues to expand; and

WHEREAS, the Dunphy Park encampment is not an appropriate location because of its proximity to Richardson's Bay and Dunphy Park and lack of access to restrooms, showers and other sanitary services and thus poses health, welfare and safety risks to the persons living in the encampment and to the environment; and

WHEREAS, the City finds that Marinship Park, located on Testa Street at Marinship Way, is a more appropriate publically-owned location within the City for overnight sleeping by people without homes who have no option to sleep indoors, due to its access to restrooms, mobile showers, sanitary services, trash collection, and other factors; and

WHEREAS, Sausalito Municipal Code section 13.28.010 authorizes the City Council to regulate entry, access, and use of City property by resolution. Specifically, section 13.28.010, subdivision (a), authorizes the City Council to close or place use restrictions, including area, time, or manner restrictions, on any park, parkway, recreation area, street, alley, or other public land owned or controlled by the City. Further, section 13.28.010, subdivision (b), authorizes the City Council to regulate the manner of use of any park, parkway, recreation area, street, alley, or other public land owned or controlled by the City; and

WHEREAS, pursuant to its authority under Municipal Code section 13.28.010, the City desires to close all City-owned and City-controlled property to daytime camping; and

WHEREAS, pursuant to its authority under Municipal Code section 13.28.010, the City desires to close all City-owned and City-controlled property to overnight camping; except Marinship Park as a temporary, transitional overnight camping location for people without homes who have no option of sleeping indoors; and

WHEREAS, in compliance with due process requirements, the City desires to adopt Standard Operating Procedures for clearing and cleaning of encampments of people without homes and the impoundment of personal property unlawfully stored or maintained on public property.

NOW, THEREFORE, THE CITY COUNCIL HEREBY RESOLVES:

1. **Definitions:** As used in this Resolution, the following terms shall have the meanings given them in this section.

a. "Camp" or "camping" means using property for living accommodation purposes, as evidenced by: (a) remaining for prolonged or repetitious periods of time, not associated with ordinary recreational use of the property as authorized under any other ordinance or law, or regulation, with one's personal possessions or belongings (including, but not limited to, clothing, tents, sleeping bags, bedrolls, blankets, sheets, luggage, backpacks, kitchen utensils, cookware and cooking equipment); and (b) engaging in one or more of the following: sleeping, storing personal possessions or belongings, making a fire outside of a designated fire pit, or cooking meals.

b. "Camping facilities" means and includes, but is not limited to, tents, huts, temporary shelters, unpermitted structures and, when used for the purpose of sleeping, vehicles.

c. "Personal property" means any and all tangible property, and includes, but is not limited to, items, goods, materials, camping facilities, merchandise, furniture and cooking equipment.

2. **Unlawful daytime camping.** Absent express written authorization by the City Manager or his/or her designee, no person shall camp or store camping facilities on any parks, parkways, recreation areas, streets, alleys, and other public lands owned or controlled by the City from sunrise to sunset.

3. **Unlawful overnight camping.** Absent express written authorization by the City Manager or his/her designee, overnight camping and storage of camping facilities is prohibited on any parks, parkways, recreation areas, streets, alleys, and other public lands owned or controlled by the City from sunset to sunrise, except for area(s) of Marinship Park designated by the Interim City Manager or her designee, located on Testa Street at Marinship Way, by persons who have no option to sleep indoors, pending further action by the City Council. All persons camping overnight must

remove all camping facilities and personal property from Marinship Park between the hours of thirty (30) minutes after sunrise to thirty (30) minutes before sunset.

4. **Standard Operating Procedures.** The City hereby adopts the Standard Operating Procedures attached as Exhibit A to govern the clearing and cleaning of areas used for camping.

5. **Severability.** If any section, subsection, sentence, clause, portion or phrase of this Resolution is for any reason held illegal, invalid, or unconstitutional by the decision of any court of competent jurisdiction, such decision shall not affect the validity of the remaining portions thereof. The City hereby declares that it would have passed this Resolution and each section, subsection, sentence, clause, portion or phrase thereof, irrespective of the fact that any one or more sections, subsection, sentences, clauses or phrases be declared illegal, invalid or unconstitutional.

6. **CEQA Findings.** The City pursuant to the provisions of the California Environmental Quality Act ("CEQA") (California Public Resources Code Section 21000 et seq.) and State CEQA Guidelines (Sections 15000 et seq., Title 14 California Code of Regulations) has determined that this Resolution is not a "project" pursuant to Public Resources Code Section 21065, and that it is exempt from the provisions of CEQA pursuant to Guidelines Sections 15061(b)(3) (because it can be seen with certainty that the adoption of this Resolution will not have an effect on the environment), 15308 (actions by a regulatory agency for the protection of the environment), 15269 (emergency projects) and 15321 (enforcement actions by regulatory agencies).


RESOLUTION PASSED AND ADOPTED, at the regular meeting of the City Council on the 5th day of February 2021, by the following vote:

AYES:	Councilmember:	Sobieski, Cleveland-Knowles, Kellman, Mayor Hoffman
NOES:	Councilmember:	Blaustein
ABSENT:	Councilmember:	None
ABSTAIN:	Councilmember:	None

DocuSigned by:

 234F04F0675F49A...

 JILL JAMES HOFFMAN
 MAYOR

ATTEST:
 DocuSigned by:

 919A0B149906407...

 HEIDI SCOBLE
 CITY CLERK

Exhibit A: Standard Operating Procedure

**RESOLUTION OF THE SAUSALITO CITY COUNCIL
CLOSING CERTAIN CITY PROPERTY AND PARKS TO OVERNIGHT SLEEPING**

EXHIBIT A: STANDARD OPERATING PROCEDURE

**CLEANING AND CLEARING OF HOMELESS ENCAMPMENTS AND
IMPOUNDMENT OF PROPERTY**

I. General Provisions

- A. These Standard Operating Procedures govern the cleaning and clearing of homeless encampments on City property and the impoundment of personal property unlawfully stored or maintained on public property.
- B. All departments and employees of the City of Sausalito must comply with these Standard Operating Procedures.
- C. The Department of Public Works (DPW) shall have primary responsibility for implementing these Standard Operating Procedures, and may enlist support from other City departments as needed.
- D. Notwithstanding the Municipal Code or other applicable law, the City shall not cite or arrest any individual solely for overnight sleeping or camping on public property, or otherwise for the status of being homeless.
- E. The City must balance the rights of encamped individuals against its fundamental duty to maintain public health, welfare, and safety.
- F. As used in these Standard Operating Procedures, the following terms shall have the meanings given them in this section.
 - 1. “Camp” or “camping” means using property for living accommodation purposes, as evidenced by: (a) remaining for prolonged or repetitious periods of time, not associated with ordinary recreational use of the property as authorized under any other ordinance or law, or regulation, with one’s personal possessions or belongings (including, but not limited to, clothing, tents, sleeping bags, bedrolls, blankets, sheets, luggage, backpacks, kitchen utensils, cookware and cooking equipment); and (b) engaging in one or more of the following: sleeping, storing personal possessions or belongings, making a fire outside of a designated fire pit, or cooking meals.
 - 2. “Camping facilities” means and includes, but is not limited to, tents, huts, temporary shelters, unpermitted structures and, when used for the purpose of sleeping, vehicles.
 - 3. “Personal property” means any and all tangible property, and includes, but is not limited to, items, goods, materials, camping facilities, merchandise, furniture and cooking equipment.

II. Public Noticing

- A. Where the City authorizes overnight camping at a location but requires that persons camping overnight remove their camping facilities and personal property from that location during daytime hours, the City must provide reasonable notice of these requirements.
 - 1. The notice must be in writing, distributed to those encamped, and posted around the encampment. As feasible, the notice must also be given orally to those encamped. The notice must include a description of any and all conditions imposed on overnight camping at that location, including any requirements for campers to depart and remove their camping facilities and personal property from the overnight camping location during any specified hours.
 - 2. In the event a person camping overnight fails to comply with legal requirements to remove their camping facilities and personal property from the overnight camping location during daytime hours, the City shall post notice of non-compliance in writing in a visible manner on or in the immediate vicinity of the offending camping facilities or personal property. As feasible, notice of non-compliance must also be given orally to the person in non-compliance. The notice must also inform the overnight camper that a second violation of the daily requirement to remove their camping facilities and personal property from the overnight camping location during daytime hours may result in the City's impoundment of their camping facilities and/or personal property unlawfully remaining at the overnight camping location.
- B. Except as provided in Section II.A., before conducting any non-urgent cleaning, clearing or impoundment activities, the City must provide at least 72-hours' notice.
 - 1. The notice must be provided in writing, distributed to those encamped, and posted around the encampment. As feasible, the notice must also be given orally to those encamped.
 - 2. The notice must include a description of the activities to be conducted, the approximate date and time of those activities, any temporary or permanent relocation requirements, information about authorized overnight camping locations, offers of indoor shelter or alternative housing and information about recovery of personal property.
- C. Before conducting any emergency cleaning, clearing or impoundment activities, the City must make reasonable efforts to provide some form of notice, that may include outreach workers visiting the site and sharing information orally or in writing.

1. Emergency activities are warranted where conditions present a serious threat of environmental harm or injury or death to any persons, including but not limited to wildfire, severe weather, flooding, tsunami, earthquake, and infectious disease.

III. **Cleaning of Encampments and Surrounding Public Property**

- A. After providing the notice described in Section II, the City may conduct any cleaning or maintenance activities within an encampment that it deems to be in the interest of the public health, welfare, or safety. These cleaning activities may include but are not limited to:
 1. Removing debris, trash, waste, illegal dumping, hazardous materials, or other materials; and
 2. Washing and sanitizing the encampment area.
- B. The City may require campers to temporarily or permanently relocate during cleaning activities when it finds that this is necessary to protect public health, welfare, or safety.
- C. Notwithstanding Sections II and III.A, the City may conduct routine cleaning and maintenance activities on public property in the vicinity and around an encampment without providing advance written notice. These activities may include, but are not limited to:
 1. Cleaning, servicing, and repairing restrooms, showers, parks and recreation facilities, and other public facilities;
 2. Performing routine waste, recycling, compost, and trash collection;
 3. Conducting ordinary maintenance and landscaping activities, such as street sweeping, sidewalk cleaning, raking, blowing, mowing, tree trimming, and hedging.

IV. **Clearing and Closing Encampments**

- A. After providing the notice described in Section II, the City may clear and close any encampment or any portion of an encampment, provided that:
 1. The City has located and offered indoor shelter or alternative housing to each affected homeless person; *or*
 2. The closure is for a temporary period of eight hours or less; *or*
 3. The City has designated an alternative location within the City for overnight sleeping and camping by homeless persons who have no option to sleep indoors.

- B. The City must document in writing any decline of an offer of indoor shelter or alternative housing prior to clearing and closing an encampment.
- C. The City may coordinate clearing and closing of encampments with other relevant public agencies, as appropriate.

V. **Storage and Recovery of Property**

- A. The City will take reasonable efforts to mitigate property loss during cleaning and clearing activities or impoundment of property unlawfully stored or maintained on public property, and to ensure that campers have a reasonable opportunity to recover property collected by the City during such activities.
- B. During the notice period, before cleaning and clearing or impoundment activities begin, the City will not prevent campers from retrieving their belongs.
- C. After the notice period, and after cleaning, clearing or impoundment activities have begun, the City will allow campers to retrieve their belongings as long as they do so in a reasonable period of time and do not interfere with the safety of operations.
- D. During cleaning, clearing and impoundment activities, the City will dispose of the following materials and not store them for later recovery:
 - 1. Items that are soiled (i.e., mildewed; moldy; stained with or contaminated with urine, bodily waste, or other waste matter) (e.g., mattresses, blankets, sleeping bags, etc. that are soiled as described);
 - 2. Items that are perishable (e.g., perishable food, open personal products);
 - 3. Items that are contaminated (e.g., used for hygiene, such as toothbrushes, hairbrushes, wash cloths, underwear);
 - 4. Items that are hazardous, combustible, or present a fire risk (e.g., car batteries, gasoline cans, propane tanks, generators);
 - 5. Items that are broken or disassembled (e.g., electronics stripped for copper, flat tires, disassembled or broken furniture, disassembled or broken bikes or cars, rags);
 - 6. Weapons (all weapons will be turned over to the Police Department);
 - 7. Paper products;
 - 8. Open household products;

9. Items that are considered to be trash; and
 10. Items that are considered to be unsafe for storage.
- E. For other property, including the items listed below, the City will make reasonable efforts to store up to one square yard of property per individual, tent, or living space. This will include property whose ownership cannot be determined, or property whose ownership is known but whose owner cannot transport the property.
1. Identification (e.g., passport, Social Security card, Driver's License, library card);
 2. Medications (controlled substances must be turned over to the Police Department);
 3. Photographs, photo albums, and other items of obvious sentimental, religious, or personal value (e.g., religious icons, holy books);
 4. Tax records;
 5. Medical records;
 6. Other vital records (e.g., bank records, checkbooks);
 7. Unopened mail;
 8. Electronics in reasonable shape (i.e., not leaking);
 9. Tools;
 10. A functional bicycle;
 11. Books; and
 12. Up to the volume of a 64-gallon bag of miscellaneous items that its owner attests does not contain any items listed in section V.D above.
- F. "Reasonable efforts" must comport with ordinary practices with respect to property storage.
- G. DPW will, before the end of the cleaning, clearing or impoundment activities, post a "Notice of Collected Property" at the site, which will contain a call center telephone number to facilitate property retrieval.
- H. Storage of above listed will only occur if such storage is safe based on current public health guidance.

- I. DPW will use its ordinary form(s) or methods to record a general description of the item(s) and the date of and location from which they were removed.
- J. DPW will store them for at least ninety (90) days, and longer if such storage is feasible based on storage capacity and/or resources.
- K. DPW may use its discretion to leave rather than store any item listed here if storage would harm the item's owner or harm staff responsible for the storage
- L. If additional procedures are required, they may be promulgated by DPW.

VI. **Compliance**

- A. The City cannot require any person to accept any offered form of indoor shelter or alternative housing, even if acceptance is strongly recommended for public health or public safety reasons.
- B. The City will continue outreach efforts and service offers regardless of encampment compliance. Outreach workers may assist encampment residents to achieve voluntary compliance
- C. Notwithstanding the Municipal Code or applicable law, the City shall not cite or arrest any individual solely for overnight sleeping or camping on public property, or otherwise for the status of being homeless.
- D. The City, its officers, employees, and agents shall not be liable to the owner of impounded personal property because of any transport, handling, storage or disposal of the property made pursuant to these procedures. Additionally, the owner of impounded personal property shall bear the responsibility for the risk of any loss or damage to the impounded property.