ORDINANCE
CITY OF NEW ORLEANS

CITY HALL: April 11, 2019

CALENDAR NO. 32,626

NO. ___________ MAYOR COUNCIL SERIES

BY: COUNCILMEMBERS GIARRUSSO, MORENO, WILLIAMS, BANKS,
    GISLESON PALMER, BROSSETT AND NGUYEN

AN ORDINANCE to amend and ordain Article XII of Chapter 82 of the Code of the City of New Orleans, relative to the remediation of unauthorized encampments on public property, including the removal and storage of personal property, cleaning, and outreach; to establish notice and reporting requirements; and to provide otherwise with respect thereto.

SECTION 1. THE COUNCIL OF THE CITY OF NEW ORLEANS HEREBY ORDAINS, That Article XII of Chapter 82 of the Code of the City of New Orleans, be, and the same is hereby ordained to read as follows:

"Chapter 82 – HEALTH AND SANITATION

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Article XII – Removal of Unauthorized Encampments

Sec. 82-693 - Purpose

The City finds that: (1) unauthorized entry upon public property that is closed to the public, or is open to the public only during certain operating hours or for certain limited purposes; and (2) that the erection of unauthorized structures, tents, and other shelters in these locations can create obstructions or other immediate hazards, including unsanitary conditions that can cause disease outbreaks and other health hazards, which are a threat to the public safety and health; and (3) the
erection of unauthorized structures, tents, and other shelters interferes with the public’s ability to 
utilize public property, facilities, and rights-of-way for intended purposes. Accordingly, this 
Article centrally locates and establishes uniform rules and procedures for the remediation of 
encampments located on public property.

**Sec. 82-694 - Definitions**

*Encampment* means property that, to a reasonable person, is being utilized for camping or housing 
purposes, as evidenced by one or more tents, structures, shelters or assembly of camping 
equipment - along with other personal property, the existence of which can potentially pose a 
public health threat. Encampments do not include areas that are no longer in active use for camping 
or housing purposes, but contain garbage, debris, or other waste.

*Encampment area* means the identifiable, public area where an encampment exists, but is not 
formally designated a *Routine Cleaning Area* or a *Temporary Emphasis Area* as defined in this 
Article.

*Immediate Hazard* means an encampment where a risk of serious injury or death exists to 
inhabitants - beyond an increased exposure to the elements - or presents a risk of serious injury or 
death to others. This includes but is not limited to: encampments located upon highway shoulders 
and on/off-ramps, and areas that can only be accessed by crossing driving lanes outside of legal 
crosswalks.

*Obstruction* means people, tents, personal property, garbage, debris, or other objects related to an 
encampment that are located on City property that genuinely interfere with the free and proper use, 
impede pedestrian and vehicular transportation, or interfere with areas that are necessary for or 
essential to the intended use of public property.
**Personal Property** means an item that (1) is reasonably recognizable as belonging to a person; (2) has apparent utility in its present condition and circumstances; and (3) is not hazardous or in a hazardous condition. Examples include, but are not limited to: tents, bicycles, personal papers, photographs, jewelry, eye glasses, prescriptions, crutches, and wheelchairs. Personal property does not include building materials, such as wood, bricks, metal pallets, or rigid plastic or combustible materials, such as gasoline, cardboard boxes, and newspapers. Personal property does not include items such as trash, refuse, or garbage. If it cannot be reasonably determined if an item is personal property, the default shall be that the item be treated as personal property.

**Remediation** means maintenance and cleaning of the public rights-of-ways and public property impacted by encampments, by performing efforts that include, but are not limited to: the removal of trash, waste and debris; the cleaning or pressure washing of streets and sidewalks; and the removal and storage of personal property.

**Routine Remediation Area** means an identifiable area where the City has previously remediated an encampment, and plans to undertake routine remediation efforts by installing permanent notice signage as provided in Section 82-699.

**Temporary Emphasis Area** means an identifiable area where the City has previously remediated an encampment, and temporarily designates the area as an encampment/camping-prohibited-zone, by installing notice signage as provided in Section 82-700.

**Sec. 82-695 - Encampment Inspection – Initial Steps**

(a) Upon the Department of Health (hereafter, Department) being notified of an encampment on public property, the Department shall inspect the location.

(b) Upon inspection and a determination by the Department of the existence of an encampment, the location will be prioritized for remediation. The inspection of all reported encampments is not required before prioritizing remediation of a previously inspected encampment.
(c) Prioritization of encampment remediation by the Department shall be based on the following:

a. Objective hazards such as moving vehicles;
b. Criminal activity beyond substance abuse;
c. Quantities of garbage, debris, or waste;
d. Active and/or immediate health hazards to occupants or the surrounding neighborhood;
e. Difficulty extending emergency services to the site;
f. Imminent work scheduled at the site for which the encampment will pose an obstruction;
g. Damage to the natural environment; and/or
h. The proximity of the encampment to uses that service vulnerable populations, such as schools and facilities for the elderly.

Prioritization may be revised at any time by the Department as a result of new encampments being reported and identified, additional encampments being inspected, or new information about an encampment’s condition becomes available.

Sec. 82-696 – Designation of an Encampment Area for Remediation – Notice Requirements for Removal of Personal Property

(a) No personal property shall be removed from an encampment prior to the City providing notice.

(b) Notice shall be posted in the general area of each tent, structure, or accumulation of personal property within the encampment that is subject to removal, stating:

1. The day the notice was posted;
2. The date the removal is scheduled;
3. The time range in which that date’s removal will commence;
4. The location and operating hours where personal property can be retrieved;
5. That personal property can be claimed without identification, unless controlled, prescription medication; and

6. Contact information for an outreach provider that can provide shelter alternatives.

   (c) If individuals are present at the encampment, oral notice shall also be given if reasonably possible.

   (d) The notice shall be posted at least 24 hours before anticipated remediation efforts that include the removal and storage of personal property. If the City fails to commence remediation within the date and time frame provided in the notice, the City shall re-post notice 24 hours before the removal and storage of personal property may occur. The City may diligently pursue to completion remediation that properly commences during the removal date and time range, even if remediation efforts ultimately exceeds the anticipated range.

   (e) The notice shall be printed in English, Spanish, and Vietnamese and any other language deemed necessary by the City.

   (f) Nothing provided in this section shall prohibit the City from posting notice that the remediation of a large encampment will occur over a period of several days, provided that each day’s operation begins during the period identified in the notice. Such notice shall be posted 24 hours in advance of the initial commencement of remediation.

**Sec. 82-697 - Encampment Area Remediation - Removal of Personal Property**

(a) After proper notice, the City shall take reasonable steps to segregate personal property from material that is not personal property for storage purposes, providing the segregation does not pose a danger to the employee.

(b) The City is authorized to remove and store personal property that is not affixed with notice if:

   a. The tents, structures, and other personal property were not previously posted with notice because they were erected after noticing occurred, but are in the immediate area of personal property that is posted with notice; or

   b. Personal property that was noticed but that notice was subsequently removed by a person other than the City.

(c) The City may immediately remove and dispose of items determined to be garbage, debris, waste, hazardous items, and other similar materials.

**Sec. 82-698 - Encampment Area – Post-Remediation Notice**
(a) Immediately upon completion of an encampment remediation whereby personal property was removed and stored, notice shall be prominently posted and remain for at least 3 days thereafter.

(b) The notice shall state:

1. The date the clean-up was performed;

2. The location of all removed and stored personal property;

3. That personal property can be claimed without identification, unless controlled, prescription medication; and

4. Contact information for an outreach provider who can assist individuals with shelter alternatives and other services.

Sec. 82-699 - Routine Remediation Areas

(a) At any time after an initial inspection and properly noticed and completed remediation by the Department of an encampment area, the City may designate the area a “Routine Remediation Area”.

(b) Routine Remediation Areas shall be affixed with permanent, conspicuous signage that notifies the public that the area is subject to weekly, routine, remediation without the individualized, 24-hour notice required by Section 82-696.

(c) The permanent signage shall provide:

a. The date and time range of anticipated remediation efforts;

b. That any personal property that remains in the noticed Routine Remediation Area during remediation efforts will be removed and stored;

c. The location and operating hours where personal property can be retrieved;

d. That personal property can be claimed without identification, unless controlled, prescription medication; and

e. Contact information for an outreach provider who can assist individuals with shelter alternatives and other services.

(d) Any personal property that remains during the designated days/times shall be removed and stored in accordance with Sec. 82-702.

Sec. 82-700 – Temporary Emphasis Area
(a) At any time after an initial inspection and properly noticed and completed remediation by
the Department of an encampment area, the City may designate the area a “Temporary
Emphasis Area”.

(b) In no event shall any Temporary Emphasis Area encompass more than 500 square yards,
nor may it remain in effect for more than fourteen (14) days.

(c) The City shall identify all Temporary Emphasis Areas conspicuously on the City’s website.

(d) The City shall identify no more than ten, discrete Temporary Emphasis Areas at any one
time.

(e) A Temporary Emphasis Area shall not be identified as such until after an encampment area
is remediated. Prior to allowing any public entry after remediation, the area shall be noticed
with conspicuous signage alerting that the location is a “Temporary Emphasis Area”. The
signage shall provide:

1. The boundaries of the Temporary Emphasis Area;

2. The effective dates of the Temporary Emphasis Area;

3. That camping and encampments are prohibited within the Temporary Emphasis
Area;

4. That any personal property found in the Temporary Emphasis Area will be removed
and stored without further or additional notice;

5. The location and operating hours where personal property can be retrieved;

6. That identification is not required to claim personal property, except for controlled
prescription medication;

7. That removal and storage of personal property will occur daily; and

8. Outreach or referral to medical or social services.

(f) If an area is designated as a Temporary Emphasis Area, the area shall be inspected by the
City at least once each day.

(g) Camping within a Temporary Emphasis Area is prohibited.

(h) Any personal property that is located within a Temporary Emphasis Area may be
immediately removed without additional notice, but shall be stored in accordance with Sec.
82-702.

Sec. 82-701 - Emergency Powers – Obstructions and Immediate Hazards
(a) Encampments that are deemed obstructions or immediate hazards by the Department may be removed immediately pursuant to the City’s emergency police powers. The 24 hour notice requirement in Section 82-696 shall not apply to removing obstructions and immediate hazards.

(b) Encampments that are deemed to be obstructions or immediate hazards, which authorize immediate removal, shall be photographed and properly documented by the City prior to any removal:

1. After being photographed, the obstruction(s) can immediately be removed by the City without prior notice, but post-removal notice shall be posted near the removed obstruction(s), providing the date of removal, and the operating hours and location to claim any personal property removed by the City.

2. After being photographed, any personal property that is an immediate hazard may be disposed of by the City without prior notice, but post-disposal notice shall be posted near the disposed of hazardous personal property, providing the date of removal, describing the property, and providing the reasons for its disposal.

(c) If an obstruction is determined to be under the control of a person present where the obstruction is observed, oral notice to immediately remove the obstruction shall, if reasonably possible, be given to the individual.

(d) Physical obstructions that are personal property shall be removed, stored, and recovered as provided in Sections 82-702 and 82-703.

Sec. 82-702 - City Storage of Personal Property Removed

(a) The City shall store all personal property that is not hazardous when remediating an encampment. The City shall not store hazardous personal property, which may include, but is not limited to: a needle-strewn tent, personal documents and papers containing excrement or other waste, clothing containing fleas, or personal property that is reasonably expected to become a hazard during storage, such as wet bedding materials.

(b) Personal property shall be stored at a location commonly used by the City for storing property, which shall be accessible by public transportation.

(c) Following each encampment remediation, the City shall maintain a description log of personal property removed from each encampment site. Each logged item shall be kept until the personal property is recovered by its owner, or is discarded or donated by the City due to it not being recovered by the owner for 30 days from the post-encampment remediation notice. A disposition log shall also be maintained that provides the ultimate disposition of all personal property (if it was reclaimed, destroyed, or donated).

Sec. 82-703 - Recovering Stored Personal Property
(a) Persons claiming personal property shall describe the personal property with particularity, but no identification is required for recovery unless it is controlled prescription medication.

(b) The log of personal property shall indicate the name of the individual who received the recovered property.

Sec. 82-704 – Reporting Requirements

Each inspection of an encampment, any subsequent remediation of Encampment Areas, Routine Cleaning Areas, or Temporary Emphasis Areas, and the use of Emergency Powers, shall be documented on forms created by the Department for such a purpose.

(a) For each inspection of an encampment, the Department shall document compliance with the twenty-four hour notice requirements provided herein, and shall include at a minimum the following:

a. The date and time period the Department posted notice(s);

b. The number of tents/structures that received notice;

c. The number of individuals that received personal oral notice, if applicable; and

d. The number of individuals present that received outreach, and the type of outreach received.

(b) Upon remediation of any Encampment Area, Routine Cleaning Area, or Temporary Emphasis Area, the Department shall document its efforts as follows:

a. The date and time of the remediation;

b. The city departments and other organizations and number of employees within those departments that were represented, including but not limited NOPD, DPW, Health Department, DDD, and Sanitation;

c. The time spent remediating;

d. The general location and number of post-encampment remediation notices posted, or photographs thereof, if applicable;

e. If any arrests occurred and the nature of each arrest;

f. If any dogs were present and if so the outreach provided;

g. If any children were present, and if so the outreach provided;
h. If any deceased individuals were present;

i. The results of any outreach including but not limited to: health screenings, medical attention, shelters, and sobering center visits; and

j. A personal property log as provided in Section 82-702 (c).

(c) Upon use of the Emergency Powers to immediately remove an obstruction or immediate hazard without prior notice, the Department shall report as follows:

a. The date and time the obstruction(s) or immediate hazard(s) were removed; and

b. A photograph and brief description of the obstruction(s) or immediate hazard(s) prior to removal.

All documentation mandated herein shall be formally provided to the Clerk of Council on the first Friday of every month for the previous month for inclusion on the Council’s Regular Council Meeting Agenda.”

ADOPTED BY THE COUNCIL OF THE CITY OF NEW ORLEANS ________________

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PRESIDENT OF THE COUNCIL

DELIVERED TO THE MAYOR ON ________________

APPROVED:
DISAPPROVED: ________________

__________________________
MAYOR

RETURNED BY THE MAYOR ON ________________ AT ________________

__________________________
CLERK OF COUNCIL

ROLL CALL VOTE:
YEAS:
NAYS:
ABSENT: