



City Manager's Office

SECOND PUBLIC NOTICE

Date Posted: January 31, 2025

To: Persons Encamped on Harrison St from 10th St to 6th St and on 8th St from Gilman St to Codornices Creek

From: City of Berkeley

Subject: **SECOND NOTICE: Notice of Health Hazard and Public Nuisance and Order to Abate**

This is the Second Notice posted regarding the City's order to abate the nuisance conditions and vacate the encampment at the above-listed locations. The distribution of this second notice follows the decision of the City's Administrative Hearing Officer on the Jan 22, 2025 appeal, which is included as Attachment 3.

On December 6, 2024, the Environmental Health Division (EHD) and the Neighborhood Services Division (NS) for the City of Berkeley conducted a site visit at this location. The site visit revealed significant health and safety hazards including loose and scattered syringes; rodent harborage conditions and evidence of extensive and active rodent burrows; unmitigated human and animal waste; and open/rotting sources of food. The sidewalks and vehicular lanes of traffic were also obstructed by the accumulation of personal belongings and debris in the area.

SUMMARY

You are hereby ordered to abate the nuisances in this area by or before the Compliance Deadline of February 10, 2025. An Administrative Hearing for this order took place on January 22, 2025, at 2:00 PM (1400 hrs) at 2180 Milvia St, 1st floor – Cypress Room, Berkeley, CA 94704. **The Administrative Hearing Officer's decision is included as Attachment 3. The appeal was denied and there are no further opportunities to appeal this notice and order.** The City will abate the nuisance conditions listed in this notice by removing/storing property and discarding all hazardous or abandoned property remaining in the right-of-way after the Compliance Deadline. Vehicles subject to tow under the California Vehicle Code and Community Caretaking may be impounded at any time after the Compliance Deadline. Failure to comply with any of the orders in

this Notice may result in citation and/or arrest. **A simple description of the requirements of this notice can be found in the Fact Sheet included as Attachment 1.**

The City's primary goal is to end encampments by moving all people indoors. Those interested in shelter or permanent housing should refer to Attachment 2.

DECLARATION OF HEALTH HAZARD AND PUBLIC NUISANCE

Based on the observed conditions and associated hazards described above, the Manager of Environmental Health declared the conditions to be a public nuisance pursuant to Berkeley Municipal Code Sections 11.36.020 and 11.40.040, and the City Manager's Office declared the conditions to be a public nuisance pursuant to Berkeley Municipal Code Sections 14.48.020 and 14.48.160. To address these conditions, the City Manager ordered a full closure of the encampment on December 18, 2024.

ORDER TO CORRECT

Pursuant to BMC 11.40.040, you are hereby ordered to abate all nuisance conditions in the above listed locations by removing the health nuisance conditions and the sidewalk nuisance conditions listed below.

Pursuant to City Council Resolution No. 71,513-N.S., City Council Ordinance 7,935-N.S., and Administrative Regulations AR 10.1 and AR 10.2, this area will be declared a no-lodging area and a TNC Prohibited Area. Signage will be posted immediately after any nuisance abatement declaring the area to be off-limits to public lodging and TNCs, pursuant to California Penal Code Section 647(e) and City of Berkeley Administrative Regulation 10.2, and declaring that all personal property in the area will be subject to removal pursuant to Administrative Regulations 10.1 and 10.2. Signage will include instructions on how to retrieve stored property that has been removed.

Please comply with this notice by removing all personal property from the above listed locations no later than February 10, 2025 ("Compliance Deadline"). Pursuant to BMC 11.40.110, failure to appeal or remove the nuisance by the Compliance Deadline will result in the City abating the nuisance without further notice at any time thereafter. Please take this opportunity to ensure your vehicle is in proper working order and properly licensed and registered by or before the Compliance Deadline. Vehicles will be subject to tow and impound if they remain in the closure area, pursuant to authorized actions by the Vehicle Code and community caretaking needs. Property or debris on or around the vehicle obstructing or impeding a tow operation will be removed in accordance with the "Personal Property" section of this notice immediately below.

HEALTH NUISANCE CONDITIONS

You are notified that pursuant to **Berkeley Municipal Code 11.36.020(H)**, the following is declared a health and safety hazard: "The maintenance, ownership, or control over any sidewalk, gutter, curb, or driveway in a state of deterioration, disrepair or damage caused by tree roots, traffic, erosion, exposure to the elements, age, or any other cause whatsoever. To remedy any defective sidewalk, gutter, curb, or driveway, the Assistant City Manager for Public Works, or their designee, shall have the authority to instigate and process abatement procedures pursuant to Berkeley Municipal Code Section 11.40.010 et seq. (as amended from time to time) as if they were chief of environmental health."

You are further notified that pursuant to **Berkeley Municipal Code 11.36.030**, "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."

You are further notified that pursuant to **Berkeley Municipal Code 11.40.040**, "Whenever it comes to the attention of the chief of environmental health that any condition exists within the City which may constitute a public nuisance, as defined in this title, the chief of environmental health shall cause the matter to be investigated and, if the investigation so warrants, shall declare such condition to be a public nuisance. The declaration shall specify the nature and location of the condition, the measures necessary to abate such condition, and the date of the declaration."

You are further notified that pursuant to **Berkeley Municipal Code 11.40.110**, "If the nuisance is not abated within the time specified in the notice of decision, the chief of environmental health shall have the power to abate such nuisance without further notice including the power to condemn and destroy any property constituting the nuisance if the nuisance cannot be abated without destruction of such property."

SIDEWALK NUISANCE CONDITIONS

You are hereby notified that pursuant to **Berkeley Municipal Code 14.48.020**, "It is unlawful for any person to place or cause to be placed anywhere upon any sidewalk or roadway, any object which obstructs, restricts, or prevents the use of any portion of such sidewalk or roadway."

You are further notified that pursuant to **Berkeley Municipal Code 14.48.120 and Administrative Regulation 10.2**, (1) "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) In Commercial and Manufacturing Districts, TNC Objects shall not be "left unattended for more than 2 hours," "placed in parklets or on any portion of a streets that is not a a Sidewalk," "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"; "placed in a location that interferes with access for individuals with disabilities such as curb and wheelchair ramps", "in a location where they . . . obstruct, restrict, or hinder visibility of traffic devices or signs," "adjacent to any blue or white curb," "on a Sidewalk directly in front or within three feet of either side of a building entrance," or "within a BART Access Corridor, except objects in transit per 14.48.030." Pursuant to Administrative Regulation 10.2, enforcement may include reducing the footprint of TNC Objects to a 9-square-foot footprint and/or requesting that the TNC Objects be moved to another location.

You are further notified that pursuant to **Berkeley Municipal Code 14.48.160**, "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."

VEHICLES

You are hereby notified that pursuant to **California Vehicle Code 22651(o)**, "A peace officer...or a regularly employed and salaried employee, who is engaged in directing traffic or enforcing parking laws and regulations, of a city, county, or jurisdiction of a state agency in which a vehicle is located, may remove a vehicle located within the territorial limits in which the officer or employee may act, under the following circumstances... If a vehicle is found or operated upon a highway, public land, or an off street parking facility under any of the following circumstances... With a

registration expiration date in excess of six months before the date it is found or operated on the highway, public lands, or the off street parking facility.”

You are further notified that pursuant to **California Vehicle Code 22651(b)**, “A peace officer, as defined in Chapter 4.5 (commencing with Section 830) of Title 3 of Part 2 of the Penal Code, or a regularly employed and salaried employee who is engaged in directing traffic or enforcing parking laws and regulations of a city, county, or jurisdiction of a state agency in which a vehicle is located may remove a vehicle located within the territorial limits in which the officer or employee may act, under the following circumstances: ... (b) If a vehicle is parked or left standing upon a highway in a position so as to obstruct the normal movement of traffic or in a condition so as to create a hazard to other traffic upon the highway.”

You are further notified that pursuant to **California Vehicle Code 22669(d)**, “Motor vehicles which are parked, resting, or otherwise immobilized on any highway or public right-of-way and which lack an engine, transmission, wheels, tires, doors, windshield, or any other part or equipment necessary to operate safely on the highways of this state, are hereby declared a hazard to public health, safety, and welfare and may be removed immediately upon discovery by a peace officer or other designated employee of the state, county, or city.”

PERSONAL PROPERTY

The City can temporarily store a limited amount of certain types of personal property up to 90 days, depending on value. Personal property left unattended may be collected and stored pursuant to the City’s policy, if it meets certain requirements, described in more detail below:

- 1. Personal property that *may* be stored up to 90 days** includes property of a personal nature such as 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.
- 2. Items that will not be stored and are subject to disposal if left on public property at the time of the abatement include but are not limited to:** soiled or moldy items; loose or scattered papers; wet or damp clothing, bedding or sleeping bags; perishable food or personal products; personal hygiene products such as toothbrushes or hairbrushes; bike carcasses and parts; mattresses, futons, furniture; shopping carts (items easily identified as personal belongings and meeting the criteria for storage may be stored); broken or disassembled items or items stripped of parts; weapons; items that attract rodents or insects (containers for recycling or food storage); hazardous or explosive items such as gasoline cans, propane tanks, batteries.

Individuals who wish to reclaim their stored property may make an appointment to retrieve it. To do so, please call “311” to contact the City’s Customer Service Center during regular business hours (Monday – Friday, 9:00 AM to 3:00 PM), or call (510) 981-2489 or (510) 981-CITY. Alternatively, information regarding retrieval of unattended and stored property is available in the lobby of the Berkeley Civic Center, 2180 Milvia Street, Berkeley, during regular business hours.

DISABILITIES AND REASONABLE ACCOMMODATIONS

You have the right under the Americans with Disabilities Act to request a reasonable accommodation (i.e., a modification of standard City policy, procedure, and/or practice) if your disability prevents you from complying with this notice. To request a reasonable accommodation, please contact the City’s ADA Coordinator (email: ada@berkeleyca.gov, phone: 510-981-6418, TTY/TDD: 510-981-6347, and street address: 1947 Center St., 4th Floor, Berkeley 94704). The

City may request verification from a licensed medical professional that your disability impedes compliance with the terms of this notice. The City will work with you to identify a mutually agreeable accommodation based on your needs and the goals of this notice but may determine that the requested accommodation cannot be provided. **Please make any requests for accommodation as soon as you are able to do so. Failure to request a reasonable accommodation by February 3, 2025 may prevent the City from reaching a resolution to your request prior to the City's abatement of the nuisances.**

FAILURE TO COMPLY

Failure to comply may result in the City abating the nuisance conditions pursuant to BMC Chapter 11.40 at any time, without further notice, after the Compliance Deadline has passed.

The City prefers not to cite or arrest in order to gain your compliance with this notice. However, absent voluntary compliance, failure to comply may result in citations and/or arrest. Additionally, any abandoned or hazardous property that remains on the right of way, or on or around any vehicle obstructing a lawful tow of that vehicle, in the above-listed locations on or after the Compliance Deadline will be discarded without further notice from the City, and any other remaining property will be removed pursuant to AR 10.1.

DECISION OF APPEAL:

An appeal of this abatement pursuant to BMC 11.40.060 and BMC 11.40.090. was held by the City's Administrative Hearing Officer at 2:00 PM (1400 hours) on Wednesday, January 22 at 2180 Milvia St, 1st Floor – Cypress Room, Berkeley, CA 94704.

The Hearing Officer's Decision is included as Attachment 3 to this Second Notice. **The appeal was denied and there are no further opportunities to appeal this notice and order.**

ATTACHMENT 1

FACT SHEET

On January 7, 2024, the City of Berkeley distributed and posted a Public Notice for everyone living in this encampment area explaining that we will be closing these encampments on or after FEBRUARY 10, 2025. The full Notice has all the details as well as legal basis for the operation.

- The area has been declared a health hazard by the City's Health, Housing and Community Services Department and a Public Nuisance by the City Manager's Office. For these reasons, the City Manager ordered the encampment to be closed on December 18, 2025.
- You have until February 10, 2025 to find another location for yourself and your belongings. By or before this date, you must leave the encampment and take anything of value with you. The City may come to clean up and permanently close this encampment at any time after February 10, 2025 without further notice.
- You have until February 10, 2025 to ensure your vehicle is in working order and properly licensed and registered or remove it from the closure area. The City will be enforcing against illegally parked vehicles in this area on or after February 10, 2025. After that date, remaining vehicles may be subject to tow and impounding.
- On February 10, 2025, this area will be declared a No Lodging and No Property area. Anyone encamped in this area after that date will be subject to citation or arrest, and any personal property will be subject to immediate removal by the City.
- An administrative hearing for appeals of the January 7 notice and order was held on January 22 at 2180 Milvia Street. Numerous representatives and residents of the encampment were in attendance. The Hearing Officer's decision, to allow for the abatement, is attached as Attachment 3. There are no other appeal opportunities.
- The City can store a limited amount of personal property up to 90 days. Some property cannot be stored, and this includes:
 - 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 and parts
- Mattresses, futons, furniture
- Shopping carts (shopping carts will be returned to the identified stores where possible and clearly identifiable valuables in the carts will be stored).
- Broken or disassembled items or those stripped of parts (i.e. flat tires, electronics, torn up clothes)
- Weapons
- 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
- If your property is removed and stored, you may make an appointment to reclaim your property by:
 - Contacting 311 Customer Service Center by dialing 311 or (510) 981-2489, or
 - Visiting the lobby of the Berkeley Civic Center, 2180 Milvia St., Berkeley, during regular business hours.
- You have the right under the Americans with Disabilities Act to request a reasonable accommodation if you have a disability that prevents you from complying with this notice. To request a reasonable accommodation, please contact the City's ADA Coordinator (email: ada@berkeleyca.gov, phone: 510-981-6418, TTY/TDD: 510-981-6347, and street address: 1947 Center St., 4th Floor, Berkeley 94704).
 - **Please make requests no later than February 3, 2025.** If you wait until after that date, the City cannot guarantee we will be able to address your needs before the encampment is closed.
- The City's primary goal is to end encampments by moving all people indoors. Those interested in shelter or permanent housing should refer to Attachment 2.

ATTACHMENT 2

The City of Berkeley's primary goal is to end unsheltered homelessness by connecting those living in this encampment to interim and permanent housing.

Interim Housing

The City has a limited number of shelter beds available. Those interested in shelter can:

- Talk to a member of the Homeless Response Team (HRT) at any point during their regular outreach to this encampment.
- Call **211** or 1-800-799-7233 or 1-800-787-3224 (TTY) for services, shelter and housing information. 211 Alameda County is available 24 hours a day, seven days a week.
- Visit in person:
 - North County Housing Resource Center (homeless adults only):
 - **Bay Area Community Services**
In person drop-in hours: Mon., Wed., Fri., 9:00 am – 12:00 pm
Call-in hours: Mon. – Fri. 8:30 am – 4:30 pm
Address: 2809 Telegraph Avenue Suite 202, Berkeley, CA 94705
(510) 495-0131
 - North County Housing Resource Center (homeless families only):
 - **Women's Daytime Drop-in Center**
Food and hygiene services: Monday – Friday 9:00 am – 2:00 pm
All other services: Monday – Friday 8:00 am – 4:00 pm
Address: 2218 Acton Street, Berkeley, CA 94702
(510) 548-2884

Permanent Housing

By Federal regulation, the City of Berkeley does not control access/referrals to permanent supportive housing for people experiencing homelessness, even for those housing programs located within the City. Alameda County, through its Coordinated Entry process, oversees these referrals. However, the Homeless Response Team can assess people for eligibility and help connect anyone interested. During the Coordinated Entry assessment, the HRT will ask you about your:

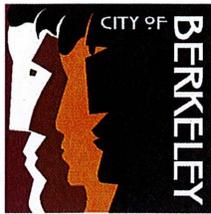
- History of homelessness
- Barriers to housing (prior evictions, length of time since last lease)
- Disability and vulnerability

Providing full and honest answers will help ensure you are matched to the most appropriate services for your needs.

Anyone interested in a Coordinated Entry Assessment should:

- Talk to a member of the Homeless Response Team (HRT) at any point during their regular outreach to this encampment.
- Email homelessresponseteam@berkeleyca.gov to request a housing assessment. Please provide a phone number and/or a location and date/time the team can use to locate you.

ATTACHMENT 3



City Manager's Office

CITY OF BERKELEY

DECISION ON OBJECTIONS TO NUISANCE DECLARATION & ORDER TO ABATE

Appellants:	Harrison encampment occupants
Alleged Violation Location:	Harrison St. (10 th St. – 6 th St.) & 8 th St. (Gilman St. – Codornices Creek)
Relevant Code:	BMC §§ 11.36.020H, 11.36.030, 11.40.040, 11.40.110
Date/Time of Hearing:	January 22, 2025, at 2:00 P.M.
Hearing Examiner:	Lester Valderas
Present at Hearing:	Lino Ancheta (Environmental Health Specialist), Ron Torres (Manager of Environmental Health), Okeya Vance-Dozier (Homeless Response Team Supervisor), Peter Radu (Neighborhood Services Manager), Brigitte Nicoletti (East Bay Community Law Center), Yesica Prado (Berkeley Homeless Union Representative, encampment occupant), Gordon Gilmore (Berkeley Homeless Union Representative, encampment occupant), various observers

Based on the documents and testimony contained in the record, the Hearing Examiner's findings of fact, reasoning, and decision are as follow.

The issue presented before this examiner is whether to allow or overrule the objections provided by the Harrison encampment occupants and/or their representatives (“Appellants”) with regards to the health hazard nuisance declaration and corresponding abatement order issued to them by the City of Berkeley (“the City”).

Introduction

The encampment located at Harrison Street, from 10th Street to 6th Street, and on 8th Street, from Gilman Street to Codornices Creek, (the “encampment”) is inhabited by dozens of unhoused individuals with tents, makeshift shelters, and/or vehicles as their refuge. For several years the City has documented the conditions that persist there and has made extensive efforts to serve the encampment to alleviate the conditions. Most recently however, the City observed what they deemed as significant health and safety hazards during a site visit in early December of 2024. As noted on the Public Notice, the health and safety hazards included “loose and scattered syringes; rodent harborage conditions and evidence of extensive and active rodent burrows; unmitigated human and animal waste; and open/rotting sources of food.” Subsequently, the City designated the health hazard to be a public nuisance and provided Appellants with orders to abate the conditions.

Relevant Chronology

- 09/10/24 – Resolution No. 71,513-N.S. adopted by City Council in an 8-1 vote prioritizing the encampment for enforcement
- 12/06/24 – The City’s Environmental Health Division and Neighborhood Services Division conduct a site visit at the encampment
- 12/12/24 – Memorandum from Neighborhood Services to City Manager Buddenhagen recommending nuisance abatement of the encampment
- 12/18/24 – City Manager Buddenhagen orders a full closure of the encampment upon recommendation by Neighborhood Services
- 01/07/25 – Approximately 50 copies of the Public Notice (Notice of Health Hazard and Public Nuisance and Order to Abate) distributed and posted at the encampment
- 01/22/25 – Administrative hearing on objections to the health hazard nuisance declaration and order to abate
- 02/10/25 – Compliance deadline to remove nuisance conditions

Discussion

Appellants pose arguments with regards to the nuisance declaration and abatement order while voicing concerns over the community members of the encampment. Firstly however, Appellants are aggrieved with the circumstances surrounding the hearing process, stating that it is meaningless and unjust, as the City plans to close the encampment regardless. It must be understood however, that the opportunity for this hearing is provided pursuant to Berkeley Municipal Code (“BMC”) § 11.40.090. As such, the scope of the hearing is limited to the health hazard conditions that were cited in the Public Notice and defined in BMC §§ 11.36.020H and 11.36.030. The separate nuisance designation based on sidewalk obstruction conditions are not within the scope of this hearing.

Appellants expressed several concerns regarding the well-being of the encampment community. Notably, they state that there is a lack of housing options available, and that displacing the encampment would break up the community that rely upon each other for support. Appellants also stress that the City has not considered the disabled and vulnerable people living at the encampment. Although legitimate concerns, these issues fall outside the purview of this hearing which is limited to the health hazard conditions at the encampment. The relevant abatement order merely seeks to eliminate the deteriorating conditions of the sidewalks, gutters, curbs or driveways, along with the discharging of sewage, garbage or any other organic filth. Nevertheless, on its January 7, 2025 Public Notice, the City provided a means for the encampment members to request for reasonable accommodations under the Americans with Disabilities Act. The City also provided a means for people to request possible interim or permanent housing. These resource requests remain available to Appellants provided that they are submitted to the City by the indicated deadlines. More information can be found under the *Disabilities and Reasonable Accommodations* section and *Attachment 2* portion of the Public Notice.

Furthermore, Appellants claim that the City's health hazard nuisance designation is a broad and unfair label, arguing that the City has not looked at each resident's situation on an individual basis. However, this situation should be considered as a single abatement action scheduled to occur over a single premises, in which there happens to be multiple occupants. When numerous and repeating violations exist throughout the encampment, such as rodent harborage conditions, open/rotting sources of food, and the discharge of sewage/garbage, it would be unreasonable for the City to attempt to distinguish property boundaries between the debris and determine who is the responsible party for the hazard(s). Moreover, it is not uncommon for debris to be scattered among a common/shared area, further adding to the difficulty in identifying responsibility. As a result, it is reasonable for the City to have the nuisance declaration and abatement order apply to the entire encampment and all of its occupants.

In addition to Appellants' *Summary of Concerns and Key Arguments for Appeal* document that was submitted at the hearing, many of the encampment occupants also submitted individual appeal forms. One of the arguments listed on the form stated that there was a lack of justification for the enforcement, contending that the City has not tried any other solutions, like dealing with the rats in order to fix the problems listed in the notice. However, an Environmental Health staff member stated during the hearing that there were a few reasons why he was unable to perform any rodent control on the encampment. He explained that on his last visit to the encampment, the corridor was littered with needles and human waste, making it dangerous to travel into the small spaces needed to access rodent burrows. Moreover, he mentioned that the litter and debris was so condensed that wiggling in the tight spaces could risk damaging the pressurized CO2 tank, resulting in increased dangerous conditions. More importantly, this situation describes the specific conditions expressly prohibited in BMC §§ 11.36.020H and 11.36.030. Appellants argued at the hearing that because of fencing that the City installed, Appellants are no longer able to mitigate the rodent issue, stating that they cannot trespass into the USPS property lot. They contend that the rats and/or their burrows are only located behind the fence and are not part of the encampment. Although it is feasible that the burrows are only located behind the fencing, based on the reports/photographs taken at the encampment, the vast amounts of debris and abundant food waste at the encampment provide excellent rodent harborage conditions for the general area. At any rate, it should be noted that the rodent issue is not the singular cause of the health hazard, but rather a symptom of the present condition.

Another objection listed in the individual forms argued that there were problems with the notice/process. The vast majority of the community designated that the notice is confusing and does not clearly explain the steps to take, what options are available, or what the consequences might be. However, this examiner disagrees. The January 7, 2025 Public Notice clearly stated that there were "significant health and safety hazards including loose and scattered syringes; rodent harborage conditions and evidence of extensive and active rodent burrows; unmitigated human and animal waste; and open/rotting sources of food." Under the *Order to Correct* section, it states that "you are hereby ordered to abate all nuisance conditions in the above listed locations by removing the health nuisance conditions and sidewalk nuisance conditions listed below". As previously mentioned, the Public Notice also gave the option of requesting reasonable accommodations under the Americans with Disabilities Act and provided the information for those interested in possible housing options. Lastly, the City stated in bold that it "prefers not to cite or arrest in order to gain your compliance with this notice. However, absent voluntary compliance, failure to comply may result in

citations and/or arrest.” These instructions/warnings, along with the Public Notice itself, seem clear. The *Attachment 1 Fact Sheet* also contains additional information and instructions in plain language.

Lastly, in addition to objecting to the City’s findings and intended abatement action, Appellants have also made efforts to mitigate the health hazard conditions at the encampment. Photographs submitted by Appellants show the results of substantial cleanup efforts that were performed in January 2025. When compared to the conditions that were present during the City’s site visit on December 6, 2024, it appears that a significant amount of trash and debris have lessened. Appellants should be commended for their efforts in removing over 3,000 pounds of waste from the encampment. However, at the hearing, the City’s Neighborhood Services division explained that despite numerous cleanups that have occurred at the encampment in the past, the health hazard conditions continue to persist. The historical documents for the encampment seem to corroborate this contention. In fact, the City’s Environmental Health division stated that “the conditions appear to have worsened from previous assessments.” Therefore, it is yet to be determined if these mitigation efforts are sufficient to fully abate the health hazard conditions that were observed.

Decision

Appellants’ objections to the City’s health hazard nuisance designation and corresponding abatement order are overruled. If the health hazard conditions, as outlined in BMC §§ 11.36.020H and 11.36.030, are still present on the compliance deadline of February 10, 2025, the City shall have authority to abate the conditions pursuant to BMC § 11.40.110.

By:



Lester Valderas
Administrative Hearing Examiner
City Manager’s Office

Date: January 29, 2025

cc:

Peter Radu, Assistant to the City Manager - Neighborhood Services
Okeya Vance-Dozier, Homeless Response Team Supervisor
Ron Torres, Environmental Health Manager
Lino Ancheta, Environmental Health Specialist