



Office of the Mayor

REVISED
ACTION CALENDAR
December 13, 2016

To: Members of the City Council

From: Mayor Jesse Arreguín

Subject: Emergency Measures to Address Homeless Crisis

RECOMMENDATION:

Take the following actions to implement emergency measures to address our growing homeless population:

1. Direct the City Manager to provide an update on staff and Council actions discussed on November 1, 2016 to respond to the homeless shelter crisis.

~~2. Direct the City Manager and Chief of Police to permit camping on **designated** public property, unless conditions arise posing an imminent threat to health and safety.~~

2. To address the immediate crisis on our streets, and while long-term solutions are developed and funded, Establish an ad-hoc subcommittee to work with the City Manager to explore emergency solutions/interim measures, including short-term Navigation Centers.

By January 24, 2017 the Ad Hoc Subcommittee on Emergency/Interim Measures will also investigate and report to Council on addressing unregulated camping throughout Berkeley. The Ad-Hoc subcommittee should explore options that have been implemented in other communities throughout the nation. Options to be explored include, but are not limited to: designating **one** location on public or private property, in a location that does not impact schools or residential neighbors, for camping, with sanitary and waste facilities on-site. In addition to sanitation, a regulated encampment should also include homeless outreach, services and case management, with the goal of getting people housed.

Such short term camping, if allowed, could be modeled on regular/normal/typical camping procedures, including but not limited to applications for permission to camp, rules and regulations regarding conduct, limits on length of stay, with the goal of:

- Providing some stability of location and physical security to allow homeless individuals to rest, access sanitary facilities and connect with outreach workers, housing and services.

- Temporary, while the City works to establish Navigation Centers based on SF's successful model.
3. Refer to the City Manager and City Attorney to develop a formal city policy regarding the removal of encampments, modeled after the proposed amendment to San Francisco's Police Code ~~regarding the removal of encampments~~ (see attached).
 4. Direct the City Manager to follow these interim regulations with respect to enforcement of Penal Code Section 647(e) and/or other rules regarding lodging on public property.

Except to address a health or safety emergency, the City shall prior to enforcement of illegal encampments provide:

- 48 hours' notice to campers before removal
 - Enforcement actions to take place between 8 am and sunset
 - Only cause for enforcement action shall be illegal lodging on public property, or public health or safety
 - Any suspected violations or criminal activity should be investigated using the same policing standards and techniques applicable to all persons:
 - Police investigative work
 - Upholding reasonable suspicion standard for searches of homeless campers
 - Probable cause for arrest
 - Presumption of innocence until proven guilty
 - Fines or punishments imposed only by law against the person committing the unlawful act: no collective punishments ever
 - Comply to the letter with Berkeley's policies regarding removal and storage of Unattended Property
 - Make special efforts to coordinate with people for immediate retrieval of confiscated items
5. Adopt an Ordinance ~~amending Berkeley Municipal Code Section 14.48.170 and~~ direct City Manager to explore creation of a storage program with multiple sites, using existing service locations/providers to achieve more accessible storage at a lower cost.

~~4. repealing Ordinance No. 7,449-N.S., which restricts the placement of objects on sidewalks to a 2 square foot area.~~

6. Make the following allocations for homeless services from funding previously designated for the Homeless Locker Program: Restore \$5,722 for Berkeley Drop-In Center and ~~\$50~~ \$25,000 for the Youth Spirit Artwork's BUSD Homeless Student Program.

~~Allocate up to \$25,000 for three different Tiny Homes Pilot Projects, funding up \$10,000 each to proposals by Youth Spirit Artworks, and First They Came for the Homeless, and to up to \$5,000 to Vehicles for Change, based on staff evaluation of project feasibility and readiness.~~

BACKGROUND:

Our city is experiencing a homeless and shelter crisis. In January 2015, the nonprofit organization EveryOne Home conducted a point-in-time count of Berkeley's homeless population, which showed a 53 percent increase in the unsheltered homeless population since 2009, and a 23 percent spike in homelessness overall, from 680 to 834 homeless people in total. Currently the number of homeless individuals in Berkeley far exceeds the amount of shelter beds and transitional housing units available. Additionally, our city's Storm Shelter at the First Congregational Church was recently destroyed in a fire, greatly reducing our shelter capacity.

In response to growing homelessness locally and regionally, the City Council voted unanimously on January 19, 2016 to declare a Homeless Shelter Crisis. At its November 15, 2016 meeting, the Council renewed the Homeless Shelter Crisis resolution for another year. Although extending the Resolution was an important step needed to minimize the red tape of potential solutions, it is in and of itself not a solution.

Additionally, the Council created an ad-hoc subcommittee of Councilmembers Maio, Moore, Capitelli, and Arreguin to meet with staff to discuss the concept of a city-sanctioned tent encampment. Several short-term and intermediate actions were identified by staff and the subcommittee and are currently in progress, including expanding access to warming centers and shelter beds. (See attached)

Many items have been proposed this past year to expand services and shelter, largely in part due to recommendations made by the Berkeley Homeless Taskforce, a community-led working group established in 2013. Items referred to staff have included 1) expanding our Homeless Outreach and Mobile Crisis Team staff, 2) constructing permanent restrooms in city parks, 3) establishing a multi-departmental homelessness working group, 4) initiating a public process to develop a comprehensive homelessness plan, 5) examining the feasibility of a tiny home village on city property, 6) developing a winter shelter plan and expanding warming centers, and 7) providing storage lockers. Despite the efforts of advocates, staff, and Councilmembers, many of these items are still in process and the fact remains that our shelter capacity is grossly insufficient. And as our city's residents, service providers, and homeless individuals and families can attest to, shelter is needed now, particularly as winter conditions worsen.

Camping on Designated Public Property

As recommended by the Community Health Commission, the City should be immediately focused on saving lives, which can in part be accomplished by permitting camping on **designated** public property. This item would direct the City Manager to

permit camping in designated public spaces. California Penal Code Section 647(e) allows public and private property owners to grant permission to camp on their property.

This item would not result in a moratorium on enforcement of the no-camping statute throughout the city. This item only gives the City Manager authority to permit camping at a specific, designated location, and would not suspend enforcement of any other laws. If conditions arise which pose a threat to health and safety, the city could revoke its permission to camp and enforce.

Many cities have successfully sanctioned permanent tent encampments, which points to the feasibility of temporary camping allowances. What began as a protest in Portland, Oregon in 2000, Dignity Village has become a prohibited, self-governed community operating since 2004. In 2010, Opportunity Village began in Eugene, Oregon as a Council recommendation to establish a safe and secure place overseen by a non-profit organization. In 2012, a homeless woman asked to put her tent on the yard of Green Church of Christ in Nashville, Tennessee, a location now known as Infinity Village. And in June of this year, Oakland invested \$190,000 into their Compassionate Communities program – a new strategy that humanely and economically keeps camps in place for weeks or months, brings services to sites and makes them more livable.

Emergency Solutions Including Short-term Navigation Centers

A viable shelter possibility for the City of Berkeley is the Navigation Center model. First established in San Francisco in 2015, the unconventional shelter does not have a curfew, allows belongings and pets, and offers family living quarters. The Navigation Center also provides mental and health services, and places inhabitants on an expedited track to longer-term housing for participating. Since it opened, it has served 550 clients, 80% of whom have since moved into stable supportive housing or been reunited with family. The model has been so successful, two more have opened up throughout San Francisco. Implementing a similar solution in Berkeley could be equally impactful.

Amending Berkeley Municipal Code Section 14.48.170 and Homeless Storage Program

In December 2015, the Berkeley City Council adopted Ordinance No. 7,449-N.S. which authorizes the Traffic Engineer to adopt regulations specifying what objects may be permitted and where such objects may be permitted, as well as procedures and limitations to implement this Section. Specifically, the Council directed staff to establish a 2 square foot limitation on personal belongings on the commercial sidewalks and plazas from 7 a.m. to 10 p.m., or a wheeled mobile unit, no more than 6 square feet in size between 7 a.m. to 10 p.m.

Ordinance No. 7,449-N.S. required that prior to enforcement of the 2 square foot limitation for personal belonging or 6 square foot limitation for wheeled mobile units, that the City had to establish at least 50 storage lockers in a secured area and had warn the person first and offer a locker before they can be cited.

This limitation on the size of objects was never codified in the Traffic Engineer Regulations and was never enforced.

This item proposes to revise BMC Section 14.48.170 to remove references to requiring a secured storage program before implementation of the sidewalk law. It therefore would suspend implementation of the policy limiting objects to 2 square feet, or wheeled mobile units to 6 square feet.

Given the concerns by neighbors in the McKinley Addison Allston neighborhood regarding locating homeless storage at Old City Hall, and the cost associated with the program, City staff should re-evaluate this proposal. This item also directs the City Manager to explore the creation of a storage program with multiple sites, using existing service locations/providers to achieve more accessible storage at a lower cost.

Encampment Relocation Policy

Adopting a specific policy regarding encampment relocation will provide clear direction to our staff and to homeless residents, and will protect our most vulnerable and their possessions. San Francisco recently considered amendments to their Police Code, requiring the City to identify and offer specific shelter or housing alternatives for individuals residing in encampments before they can be cleared out. A notice of eviction must also be issued in person at least seven days before the removal takes place, unless the relocation is necessary for health or safety reasons. The ordinance also asks for the creation of a new protocol that deals with the removal, storage, and retrieval of personal property. Additionally, decisions made around removal of encampments must be reported to the Local Homeless Coordinating Board.

Introducing policies similar to what was recently brought forward in San Francisco will address the concerns raised by the homeless community and advocates around encampment evictions. This includes not having shelter after the eviction (the City does provide a phone number for services, but most of the time such services are not available or guaranteed), and difficulty retrieving belongings removed during the eviction that are essential to survival.

FINANCIAL IMPLICATIONS:

Unknown

CONTACT PERSON:

Mayor Jesse Arreguín (510) 981-7100

Attachments:

1. San Francisco Police Code Amendment "Process for Removal of Encampments and Transition to Housing"
2. Ordinance No. 7,449-N.S.
3. Proposed Ordinance
4. November 1, 2016 Staff Presentation on Ad-Hoc Committee on Encampments
5. Recommendations of Ad-Hoc Committee on Encampments

ORDINANCE NO. -N.S.

AMENDING BERKELEY MUNICIPAL CODE SECTION 14.48.170, REGULATING SIDEWALKS

~~REPEALING ORDINANCE NO. 7,449 N.S. AMENDING SECTIONS 14.48.020 AND 14.48.170 OF THE BERKELEY MUNICIPAL CODE, REGULATING SIDEWALKS~~

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

Section 1. That ~~Ordinance No. 7,449 N.S. amending Sections 14.48.020 and 14.48.170 of the Berkeley Municipal Code, is hereby repealed.~~ Berkeley Municipal Code Section 14.48.170 is hereby amended to read as follows:

14.48.170 Temporary noncommercial uses.

A. Such items not otherwise prohibited by law designed for temporary noncommercial uses at such locations and at such times as may be permitted under any regulation adopted by the Traffic Engineer.

B. The Traffic Engineer may adopt regulations specifying what objects may be permitted under this Section and where such 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 is applied in a manner that 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 cushions used for sitting. Regulations adopted by the Traffic Engineer under this Section shall not take effect until they have been presented to the City Council for review at a regularly scheduled meeting.

~~C. No limitation on the placement of objects on sidewalks contained in a traffic Engineer regulation adopted pursuant to this Section shall be enforced until the City has provided at least 50 storage lockers in a secure storage area.~~

DC. After review by the City Council, Traffic Engineer regulations adopted pursuant to this Section shall be publicized by the City in a manner substantially equivalent to the manner in which ordinances are publicized.

ED. 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 his or her conduct is in violation hereof, is allowed a reasonable opportunity to comply but refuses to do so, ~~and there is a secure storage locker available that is protected from the weather.~~

FE. Violations of this Section or the regulations adopted pursuant to it shall be charged as infractions, and not as misdemeanors.

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 Council Chambers, 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.