

New Orleans Health Department Regulations Governing Public Place/Right-of-Way Obstructions and Encampments

- I. Authority: Pursuant to Section 4-107(3) of the Home Rule Charter of the City of New Orleans, Section 2-1000 of the City code, Section 146-493 of the City Code, and Chapter 82, Article XII of the City Code, the Department of Health (“Department”) of the City of New Orleans proposes the following regulations relative to (a) public health warnings and advisories and (b) public place/right of way obstructions and encampments, including but not limited to regulations on notice, clearing and cleaning of affected areas, the storage of certain personal property of affected residents, reporting of data, and monitoring of affected areas.
 - i. The Department is responsible for protecting the health and safety of all residents and visitors in the City of New Orleans. When the Department determines it to be necessary, it may issue warnings and command any actions needed to protect the health and welfare of the general public.
 - ii. The Department can issue a statement finding that contamination or an environmental hazard within a geographically defined area poses an immediate and significant risk to human health. The Department can recommend measures to be taken to decrease exposure and eliminate or substantially mitigate the risk to human health.
- II. Definitions
 - a. Public Health Advisory and Warnings
 - i. Public Health Warning: A warning issued when an immediate life threatening danger is present.
 - 1. No notice shall be required before removing contamination or hazards that present an immediate life threatening danger and/or to prevent people from entering the declared area.
 - 2. The Department, in conjunction with the appropriate City or Governmental Agency, may immediately remove and dispose of items and can prevent individuals from returning to the area until it is deemed safe to do so.
 - 3. Examples of contamination or hazards for which a Public Health Warning can be issued include but are not limited to: Class A reportable diseases as defined by the Louisiana Sanitary Code, items dropped in the middle of the roadway that impede the flow of traffic.
 - ii. Public Health Advisory: An advisory issued when there is an impending or high possibility of impending grave danger.

1. Notice shall be required to remove items that present an impending or possibility of an impending grave danger and to prevent people from entering the declared area.
 2. The Department, in conjunction with the appropriate City or Governmental Agency, may remove offending items and prevent people from entering the declared area.
 - a. Examples include but are not limited to remediation of a site with extensive contamination or infestation of rodents or insects, requiring application of poison and other such emergencies.
 - iii. Public Health Maintenance: Preventive and/or routine cleaning and maintenance of public sites that pose public health risks.
 1. Preventative and routine cleaning or maintenance of public sites shall be properly noticed.
 2. Examples of public sites that pose public health risks include but not limited to encampments with repeated significant human and/or food waste.
- III. Applicability. These Regulations have been developed in conjunction with Section 82-693 through 82-703 of the Code of the City of New Orleans and shall apply when either:
- a. A public health advisory or warning has been issued pursuant to Chapter 82 of the City Code, and/or Title 51 of the Louisiana Administrative Code, Part V, Section 303; or
 - b. The public right of way is deemed to be obstructed pursuant to Section 146-493 (Obstruction of public rights-of-way, public places prohibited) of the City Code.
- IV. Notice to Public:
- a. Public Health Warnings and Advisories
 - i. Public Health Warning
 1. In the event enforcement actions are intended to be undertaken pursuant to the issuance of a public health warning in Section II. a. i, hereinabove, no prior notice is required.
 2. No notice is needed before removing contamination or hazards that present an immediate life threatening danger and/or to prevent people from entering the declared area.
 - ii. Public Health Advisory
 1. In the event enforcement actions are intended to be undertaken pursuant to the issuance of a public health advisory in Section II.a.ii., hereinabove, notice to those affected by the planned action shall be provided by the Department or other City Agency as follows:
 - a. Notice shall be in writing, using the template attached hereto as Exhibit A.
 - b. The Notice shall be written in English, Spanish and Vietnamese, as appropriate.

- c. Such Notice shall be issued, posted, and distributed in and around the affected area at least **seventy two (72) hours** prior to commencement of any enforcement or remediation actions.
- d. Such notice may be placed on or affixed to any unattended personal property located in the affected area as appropriate.

b. Encampment Management:

- i. In the event that the Department plans to engage in cleaning actions “to maintain public street, sidewalks and other areas of the city in a clean, accessible and safe condition” as described in City Code Section 146-493, notice to those affected by the planned cleaning and maintenance action shall be provided by the Department or other City Agency as follows:

1. Permanent Signage for Routine Remediation Areas

- a. The Department may place permanent and conspicuous signage that notifies the public that the area is scheduled for routine cleaning. Routine cleaning shall be defined as cleaning the same area at least once a week at regular intervals, with exceptions for extenuating circumstances, including, but not limited to: inclement weather and lack of personnel due to special events.
- b. Permanent signage shall be in writing, using the template attached hereto as Exhibit “B”.
- c. Areas with permanent signage are exempt from the temporary signage requirement unless cleaning occurs at a time not in compliance with the posted sign.
- d. Permanent signs shall be written in English, Spanish, Vietnamese, and any other language as needed.
- e. The permanent signage shall provide:
 - i. The day and time range when Routine Remediation is scheduled to occur;
 - ii. That any personal property that remains in the noticed area may be removed and stored;
 - iii. The location and operation hours where personal property can be retrieved;
 - iv. That personal property can be claimed without identification, unless controlled prescription medication, and
 - v. Contact information for an outreach provider who can assist individuals with shelter alternatives and other services

2. Temporary Signage

- a. Unless permanent signs are posted pursuant to subpart iii(1) herein, temporary signs using the template attached hereto as Exhibit C shall be posted at least twenty four (24) hours prior to commencement of any remediation actions.
- b. Notices shall be posted in a manner and quantity reasonably sufficient to notify the owners of personal property within the encampment that personal property that remains during remediation efforts may be removed and stored.
- c. The notice shall state:
 - i. The day the notice was posted;
 - ii. The date and time range that cleaning is scheduled;
 - iii. The location and operating hours where personal property can be retrieved;
 - iv. That personal property can be claimed without identification, unless controlled prescription medication; and
 - v. Contact information for an outreach provider that can provide shelter alternatives.
- d. In addition to temporary signs, in any area not affixed with permanent signs, additional notice may be placed on unattended personal property in the affected area at least twenty four (24) hours prior to commencement of any remediation actions.
- e. Temporary signs shall be written in English, Spanish, Vietnamese, and other languages as needed.
- f. Oral notice may be given to individuals present at the encampment, if possible.

ii. Public Health Maintenance

1. Because additional considerations and services are required for Public Health Maintenance of encampments, the following individuals shall be involved in the Public Health Maintenance of encampments:
 - a. Department representatives;
 - b. Public safety officer, who has undergone training in de-escalation techniques;
 - c. Employees from the Sanitation Department or other City Departments responsible for specific properties;
 - d. Employees from the Office of Community Development
2. Outreach and service providers may also participate and are encouraged to do so. These non-City agencies include but are not limited to Unity for the Homeless New Orleans and SPCA.

V. Disposition of Personal Property Remaining in Affected Areas

a. Public Health Warning:

- i. The Department or other City Agency may immediately remove and dispose of waste, debris, and contaminated items in the affected area.
- ii. If an immediate hazard is encountered during a public health warning, it may be removed immediately pursuant to the City's emergency police powers and the pre-removal noticing time requirements will not apply.
- iii. Immediate hazards will, when possible, be photographed and documented prior to removal.
- iv. The City will not store any items subject to the Public Health Warning.

b. Public Health Advisory:

- i. If an immediate hazard is encountered during a public health advisory, it may be removed immediately pursuant to the City's emergency police powers and the pre-removal noticing time requirements will apply.
- ii. Immediate hazards will, when possible, be photographed and documented prior to removal.
- iii. The City will not store any items subject to the Public Health Advisory.

c. Encampment management

- i. The Department of Sanitation or other City Departments responsible for specific properties may remove and discard the following items:
 1. Trash, debris and items that may be a health hazard due to contamination, condition, or infestation
 2. All items listed as prohibited in Section 146-493 (and/or deemed by the Department to pose a greater risk to public health than potential benefit).

ii. Storage of Personal Items

1. Voluntary Storage of Items

- a. During routine cleaning and maintenance, Department representatives shall offer residents the ability to store items.
- b. Only personal property that is free of pest infestations, not a safety/health risk and is not trash, garbage or refuse, may be stored in the designated storage area.
- c. Residents may utilize the "Storage of Personal Belongings" form attached hereto as Exhibit D to describe the items to be stored and to facilitate their claim to ownership thereof.

2. Involuntary Removal and Storage of Items

- a. Prior to cleaning actions, any personal property remaining in the affected area that is free of pest infestations, not a safety/health risk and is not trash, garbage or refuse, may be removed and stored in and at a designated city facility for a

period of at least sixty (60) days in order to afford the owner(s) of such personal property a reasonable opportunity to claim said items without identification as described in Sect. 82-696(b)(4) of the Code.

- b. If an immediate hazard is encountered during a routine cleaning, it may be removed immediately pursuant to the City's emergency police power and the pre-removal noticing time requirements will not apply. Immediate hazards will, when possible, be photographed and documented prior to removal.
- c. Upon removal and storage of personal property as in (a) hereinabove, Department personnel will record details of the property and its disposition on a description log. The log will be maintained until the property is recovered by its owner, for no less than sixty (60) days.
- d. When personal property has been removed and stored, notice shall be posted pursuant to Sect. 82-698(b) as see in Exhibit E.
- e. If the owner of unattended personal property is near the area or can be reasonably ascertained, The Department may use its discretion to reunite personal property with the proper owner in lieu of storing the item.

3. Retrieval of Involuntarily and Voluntarily Stored Items

- a. In the event that such personal property is not claimed by the rightful owner(s) within sixty (60) days, the City may dispose of such unclaimed personal property in whatever manner may be deemed appropriate.
- b. Retrieval of Stored Items:
 - i. Personal property may be retrieved without identification, with the exception of controlled prescription medication.

VI. Monitoring of Public Health Advisory and Warning Areas

- a. When a public health advisory or warning has been issued relative to a defined area, at the conclusion of remediation actions and remediation of the area (pursuant to Section II.a.ii above, signage shall be posted to provide notice that citizens may not enter the area. Police barricades may be installed around the affected area(s) by the New Orleans Police Department (NOPD) or other appropriate city agency in order to secure the affected areas and deter residents from entering the area(s).
- b. As long as the said signage remains in place, NOPD and/or other appropriate city agencies may monitor the site to ensure that residents are not entering thereon while the area may still pose an immediate public health threat.

VII. Data and Reporting

- a. The Department shall capture and provide certain information following an enforcement/remediation actions. All tracking and reporting will be designed to protect the identities and identifying information, especially of vulnerable populations (i.e. pregnant women, handicapped individuals, children, etc) as required by Sec. 82-703 of the City Code.
- b. Public Health Advisory and Warning
 - i. If an advisory or warning is issued, the Department shall report the following:
 - 1. The date and time the obstruction(s) or immediate hazard(s) were removed; and
 - 2. A photograph and brief description of the obstruction(s) or immediate hazard(s) prior to removal.
- c. Public Health Maintenance
 - i. For each routine remediation event as defined in Sec. 82-694 of the City Code, information shall be documented on forms maintained by the Department;
 - ii. No reports generated shall include any individually identifiable information.
 - iii. The report shall include the following information, in aggregate:
 - 1. Date and time of cleaning and/or remediation;
 - 2. The city departments and other organizations and number of employees within those departments that were represented, including but not limited to NOPD, DPW, Health Department, DDD and Sanitation;
 - 3. The general location and number of post-encampment remediation notices posted, or photographs thereof, if applicable;
 - 4. Location and types of notices;
 - 5. The number of individuals present at the encampment site visited, in aggregate;
 - 6. If any arrests occurred and the nature of each arrest;
 - 7. Number of individuals in special populations, in aggregate, including pregnant women handicapped individuals and wheelchairs present, and children present;
 - 8. Number of domesticated animals present, in aggregate; and outreach provided;
 - 9. If any deceased individuals were present;
 - 10. A personal property log, if any, as provided by Section 82-701
 - iv. Non City related organizations are encouraged to produce the results of any outreach including but not limited to: health screenings, medical attention, shelters, and sobering center visits as applicable.