

AGENDA REQUEST FORM

Return completed form and complete agenda item to the Clerk of the Board
Yakima County Commissioners' Office, Room 232

Prepared by:

Don Anderson

Department: Corporate Counsel

Requested Agenda Date: 07/11/2023

Presenting: Joe Brusic/Don Anderson

Document Title:

Approving the Policy Regarding Unauthorized Encampments on County Property.

Action Requested: *Check Applicable Box*

- ☒ PASS RESOLUTION ☐ EXECUTE or AMEND **AGREEMENT** CONTRACT or GRANT
☐ ISSUE PROCLAMATION ☐ PASS ORDINANCE ☐ OTHER _____

Describe Fiscal Impact:

\$0

Background Information:

Summary & Recommendation:

Motion:

Department Head/ Elected Official

AGREEMENT Attached Is Approved as to Form
Corporate Counsel Initial

Signature

Board of County Commissioners Record Assigned

#

17 3 - 2023

APPROVED FOR AGENDA:

☐ Consent

☐ Regular

Board of County Commissioners Determined

Late Agenda Requests Require BOCC Chairman Signature:

BOARD OF YAKIMA COUNTY COMMISSIONERS

RESOLUTION

IN THE MATTER OF APPROVING THE POLICY REGARDING UNAUTHORIZED ENCAMPMENTS ON COUNTY PROPERTY

17 3 - 2023

WHEREAS, Yakima County owns and operates various real properties and/or has legal responsibility for real properties; and,

WHEREAS, Yakima County, like many communities around the nation, is experiencing a growing number of unauthorized encampments. Such encampments pose safety and health risks for people living in and around them, including but not limited to human and solid waste and exposure to communicable diseases. The unauthorized encampments may also substantially impair the use of County facilities; and,

WHEREAS, Yakima County finds that unauthorized encampments on County properties it owns, controls, or for which it has legal responsibility are a threat to the public safety and health and interfere with the public's ability to use County properties, facilities, and rights-of-way for their intended purposes; and,

WHEREAS, Yakima County finds it necessary to adopt a uniform policy for Yakima County Departments and Offices to address the removal of unauthorized encampments from County property, and where applicable, temporarily store personal property in a manner consistent with local, state, and federal laws; and,

NOW, THEREFORE, BE IT RESOLVED that the Board of Yakima County Commissioners hereby adopts the attached policy regarding unauthorized encampments on County property.

DONE

JUL 11 2023

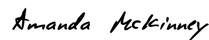
Attest:



Julie Lawrence, Clerk of the Board *or*
Erin Franklin, Deputy Clerk of the Board



LaDon Linde, Chair



Amanda McKinney, Commissioner



Kyle Curtis, Commissioner
*Constituting the Board of County Commissioners
for Yakima County, Washington*

YAKIMA COUNTY

ENCAMPMENT REMOVAL AND CLEANUP POLICY

1.0 GENERAL

1.1 PURPOSE AND INTENT

The purpose of this policy is to establish criteria and outline procedures for the removal and cleanup of encampments.

The intent of this policy is to promote the interests of public health and safety while also respecting the rights of unsheltered individuals and connecting them with available shelter services. The public health and safety concerns related to encampments have generated innumerable citizen complaints and have prompted County departments to send crews of personnel to clean up garbage and solid waste. The County's efforts have not only been costly but have brought to light far more than a problem of mere unwanted litter.

Behaviors associated with encampments have resulted in a variety of problems that include, but are not limited to: uncontained fires; damage to trees, landscaping, public lands, natural areas, conservation lands, the Yakima and Naches Rivers, riparian areas; contaminated hypodermic needles left out on open lands; biohazards such as exposed human waste; damage to critical infrastructure such as bridges and streets; and significant interference with the intended uses of public facilities. Additionally, there have been threats to the health and safety of the campers themselves and to the community.

Yakima County intends to address these issues by establishing this Encampment Removal and Cleanup Policy.

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2.0 DEPARTMENTS/DIVISIONS AFFECTED

This policy shall apply to the Yakima County Public Services Department, the Yakima County Human Services Department, and the Yakima County Sheriff's Office.

3.0 REFERENCES

Washington State Constitution, Article XI, section 11
Yakima County Code section 6.20.010
Yakima County Code sections 6.20-020(1) through 6.20.020(9)
Yakima County Code sections 8.08.010 through 8.08.060
Yakima County Code sections 21.01.010 through 21.01.050

4.0 DEFINITIONS

- 4.1 "County" means Yakima County, including its officers, employees, agents, or any contractors and sub-contractors.
- 4.2 "Emphasis Area" means an area or location designated by the County where unauthorized encampments have become a repeated or consistent problem based on the totality of the circumstances.
- 4.3 "Encampment" means one or more tents, lean-tos, structures, tarpaulins, pallets, or makeshift structures used for purposes of habitation located in an identifiable area within the County. Habitation is evidenced by the presence of bedding materials, campfires, cooking materials, storage of clothing and other personal belongings or items, gathered together in a manner where it appears to a reasonable person that the site is being used for habitation purposes. Encampments do not include sites that a reasonable person would conclude are abandoned as that term is defined below, that consist solely of solid waste as that term is defined below, or that are permitted on County Park property for recreational use. Encampments do not include sites that are sanctioned encampments by jurisdictions other than Yakima County.
- 4.4 "Immediate hazard" means an unauthorized encampment where individuals occupying the encampment are at risk of serious injury or death beyond that caused by increased exposure to the elements, or their presence creates a risk of serious injury or death to others, or the encampment is causing imminent compromise to

public lands, riparian habitat, or the structural and environmental integrity of the surrounding location. Immediate hazard encampments include, but are not limited to: encampments at roadway shoulders and off-ramps; areas exposed to moving vehicles; areas that can only be accessed by crossing driving lanes outside of a legal crosswalk; landslide or flood prone areas; areas at high risk of fire; riparian areas; areas along or on top of river levees; any portion of land within the FEMA floodway of the Yakima or Naches Rivers; and other critical areas where the lack of sanitation facilities results in human solid or liquid waste being discharged in a manner that threatens public health.

- 4.5 "Obstruction" means people, tents, personal property, solid waste or other objects related to an encampment that: 1) are in a County park or on a public sidewalk, 2) interfere with the pedestrian or purposes of public rights-of-way, or 3) interfere with areas that are necessary for or essential to the intended use of a public property or facility.
- 4.6 "Personal Property" means an item that is readily identifiable as belonging to a person, has apparent utility in its present condition, and is not hazardous. The DCP will determine whether an item is personal property, and in cases where there is reasonable doubt about the status of an item, the staff member should treat the item as personal property. -Examples of personal property include, but are not limited to, identification documents, personal papers, legal documents, tents, fully intact bicycles, radios and other electronic devices, fully intact eyeglasses, prescription medications, photographs, jewelry, and medical devices such as crutches or wheelchairs. Weapons may be considered personal property and will be handled in accordance with Section 10.3 below. For purposes of this Policy, weapons include any firearm, explosive, or other item capable of producing bodily harm. Personal property does not include items that are considered solid waste, as that term is defined below. "Readily identifiable" means the item can be identified as personal property by sight, without danger or threat of safety to Designated County Personnel, defined below.
- 4.7 "Outreach" means a provider with the competency to engage individuals experiencing homelessness.
- 4.8 "Designated County Personnel" (DCP) means County employees designated by Department Directors to undertake inspections, initiate, and oversee removal of encampments and storage of personal property, and ensure County, including subcontractors', compliance with this Policy and any applicable laws. DCP may assign administrative tasks to others when practicable.
- 4.9 "Hazardous item" means an item, including personal property, which appears to be dangerous or involves risk of harm to the health or safety of humans, animals, or the environment, either in its present form or as stored. Hazardous items include, but

are not limited to, items contaminated with bacteria, viruses, parasites, and fungi; saturated items; pollutants; poisons; flammable or explosive material; broken glass; metal staples or other sharp objects; solvents or other corrosive agents; human waste; illicit drugs; and drug paraphernalia.

- 4.10 “Solid waste” has the same meaning as in RCW 70.95.030(22) including, but not limited to, the following: bagged or loose household garbage, containers of household liquids or hazardous wastes, decaying furniture, furniture parts, machinery or appliances, household fixtures, tires, batteries, mattresses, construction debris, rotting or scrap lumber, paper and/or cardboard, rubber debris, scrap metal, vehicle parts, hardware, yard debris as defined in RCW 70.95.030(28), cut brush or wood, dead or decaying plant materials, animal carcasses or animal waste, junk vehicles, or derelict vessels.
- 4.11 “Abandoned personal property” means personal property which it appears, based on the totality of the circumstances, the owner intentionally relinquished the right to possess by action, verbal and/or written disclaimer, lapse of time, or non-use of the same.

5.0 REMOVING OBSTRUCTION AND IMMEDIATE HAZARD ENCAMPMENTS

- 5.1 DCP may remove sites which in their discretion meet the definitions of an obstruction or immediate hazard without prior notice to inhabitants. The provisions of Sections 7-10 of this Policy do not apply to removing obstructions and immediate hazard encampments as defined in Section 4.4 of this Policy. While the provisions of this section apply to both obstructions and immediate hazard encampments, for the sake of simplicity, they are hereinafter collectively referred to in subsections 5.1-5.6 herein as “obstruction.”
- 5.2 If an obstruction site is believed to be inhabited, law enforcement and outreach personnel must be contacted and law enforcement must be present for the duration of the removal efforts, or until law enforcement and DCP determine that their presence is no longer necessary. DCP will use their best efforts to remove an obstruction within 72 hours from the date of inspection. If they do not commence removal within 72 hours, they should follow the provisions of Sections 7-10.
- 5.3 DCP will provide written and/or oral notice to inhabitants that they intend to immediately remove the obstruction.
- 5.4 DCP must post the notice in Section 11, and any personal property must be removed, stored, and recovered as provided for in Sections 12 and 13.
- 5.5 DCP may immediately remove and dispose of hazardous items and solid waste.
- 5.6 DCP should document obstructions and immediate hazards and to whom the oral and/or written notices were made. Photographic documentation is recommended.

6.0 ENCAMPMENT INSPECTION AND PRIORITIZATION

- 6.1 DCP should prioritize encampments for removal after inspection of encampment locations. Where an inspection requires DCP to walk the area and potentially contact inhabitants of the encampment, law enforcement may be present for the inspection.
- 6.2 DCP must determine ownership of the real property. If the encampment is entirely on County property, encampment removal may proceed consistent with this Policy. If the encampment is entirely on private property, the process for abating public nuisances on private property should be followed. (See Section 15). If the encampment is on properties owned by the County and others, DCP should notify the other owners and seek their collaboration prior to taking further action.
- 6.3 The following criteria, in no particular order, may be considered when prioritizing encampments for removal: (1) objective perils, such as proximity to moving vehicles and steep slopes; (2) criminal activity; (3) quantities of solid waste; (4) other active health hazards to occupants or the surrounding neighborhood; (5) imminent work scheduled at the site for which the encampment will pose an obstruction; (6) size of the encampment; (7) damage to environmentally critical areas, including, but not limited to the Yakima and Naches Rivers; (8) the proximity of homeless individuals to uses of special concern, including schools or facilities for the elderly; and (9) complaints received. When prioritizing encampments for removal, consideration should be given to input from the Yakima County Sheriff's Office. DCP may reprioritize removal at any time, including, but not limited to, because new encampments have been identified or new information about an encampment's condition becomes known. Nothing in this section requires DCP to remove camps in order of priority if cost, difficulty in removal, or other considerations dictate otherwise.
- 6.4 Any of the factors enumerated in subsection 6.3 that are observed at an encampment that is the subject of removal should be documented with a specific description, which may include a law enforcement incident report, and available photographic or videographic evidence including footage from body worn cameras.
- 6.5 The DCP or other person responsible for documentation should include a statement whether such conditions place the public at risk and how removal of the encampment is related to preservation of public health or safety.

7.0 NOTIFICATION OF REMOVAL AND STORAGE OF PERSONAL PROPERTY

- 7.1 If DCP believe inhabitants are present in the encampment, law enforcement may be contacted and present for the posting of removal notices. DCP must post notices at the encampment no fewer than 72 hours prior to an encampment removal. The notice must contain the following: (1) the date and time the notice was posted; (2) the date and time that removal of the encampment is scheduled to commence; (3) a warning that hazardous items and solid waste will be disposed of immediately; (4) information on how personal property may be claimed by its owner; (5) a warning that failure to claim within 30 days may result in the destruction of said property, and (6) contact information for an outreach provider that may be able to provide services.
- 7.2 DCP should maintain and use a standard form notice and post notices in a manner reasonably calculated to be seen, preferably in multiple locations, and at encampment access points.
- 7.3 If possible, DCP should give oral notice to individuals present at the encampment as provided for in the posted notice.
- 7.4 If DCP do not commence the removal process within the date and time range provided in the notice, they must re-post notice of the encampment removal.
- 7.5 DCP will have the notice printed in a simple and legible font and English and in any other language that in their sole discretion they believe would further the purpose of the notice.
- 7.6 Nothing in this section prohibits DCP from posting notice that the removal of an encampment may occur over a period of several days, until completion, so long as removal operations commence within the time frame identified in the notice.
- 7.7 DCP should use their best efforts to document the number of shelters and the number of notices and locations posted at an encampment site. Photographic documentation is recommended.
- 8.0 PROVIDING ALTERNATIVE SHELTER OPTIONS BEFORE REMOVAL OF A NON-OBSTRUCTING OR IMMEDIATE HAZARD ENCAMPMENT
 - 8.1 Prior to removing a non-obstructing or immediate hazard encampment, the DCP or outreach provider must inform individuals in the encampment of services offered in the County.
 - 8.2 The services may include housing programs, shelter programs with or without day programs, and other authorized programs. Nothing herein should be construed to require the County to provide alternatives to individuals who have been previously

or are currently excluded from services or housing alternatives because of the individual's behavior.

9.0 OUTREACH FOR ENCAMPMENT REMOVALS

- 9.1 Subject to Section 5, if the site is inhabited, DCP must request for outreach efforts to come to the encampment site to offer services at least once between the time that notice of removal is posted and the scheduled removal date.
- 9.2 To the extent possible, and if the site is inhabited, DCP should arrange for the outreach provider to be present on the date commencement of removal activities are scheduled to begin to offer services and shelter alternatives.

10.0 ENCAMPMENT REMOVAL AND CLEANUP

- 10.1 If inhabitants are present in the encampment, DCP must contact law enforcement to be present for the duration of an encampment removal, or until law enforcement and DCP determine that their presence is no longer necessary.
- 10.2 If there are inhabitants, DCP should provide a final warning and reasonable opportunity to leave prior to commencing removal and cleanup. If an inhabitant refuses to leave, removal may proceed if it can be performed in a safe manner.
- 10.3 DCP (or the County's contractor, if any,) should take reasonable steps to separate personal property from material that is not personal property or is solid waste or hazardous, if that segregation can be accomplished without danger or threat of safety to DCP. If a firearm or explosive or an item appearing to be a firearm or explosive is found, DCP should document the item, but not handle it, and contact law enforcement personnel, who will determine if the item should be taken, stored, and disposed of consistent with their applicable policies. For all other weapons, DCP should exercise their own discretion to determine if the item should be handled.
- 10.4 DCP may remove tents and/or structures in the immediate vicinity of the encampment that appear to have been erected after the notice was posted.
- 10.5 DCP must store personal property as provided for in Section 12 and return or dispose of it as provided for in Section 13.
- 10.6 DCP may remove and dispose of all items which are not personal property, including, but not limited to, solid waste, hazardous items, and other like material. They may remove and dispose of items of personal property which may present a health and safety hazard, or are saturated in liquid, or contaminated by solid waste, filth, or a potentially infectious agent.
- 10.7 If, during the removal process, an individual on site is protesting removal of a non-hazardous item, DCP may provide a reasonable opportunity for the individual to

remove it during the removal phase. However, DCP should advise the individual that encampment removal will continue and that if the individual fails to remove the item before removal is complete, such item, if it is personal property, may be retrieved from storage, and they should offer the individual the contact information for recovering the item as provided for in Section 12.

- 10.8 DCP should thoroughly document their actions during the removal process, including to adequately corroborate disposal of personal property which is hazardous or contaminated. Photographic documentation is recommended.
- 10.9 Following clean up, DCP may take steps to prevent unauthorized use of the site in the future and should monitor the former encampment site to determine if unauthorized camping returns.

11.0 POST-ENCAMPMENT REMOVAL NOTICE

- 11.1 DCP will post a notice with the following at the site where an encampment has been removed and the site cleaned up: (1) the date the cleanup was performed; (2) whether personal property was stored by the County; (3) how any stored personal property may be claimed by its owner; (4) that property not claimed will be destroyed after 30 days, and (5) contact information for outreach workers who can assist individuals with services and shelter alternatives. Personnel should post the notice in a manner reasonably calculated to be seen, preferably in multiple locations, and at access points.
- 11.2 DCP should document each encampment cleanup and also provide information on an external County website to assist personal property owners to recover their property website. Any photos posted online shall not display individuals.

12.0 STORAGE OF PERSONAL PROPERTY REMOVED FROM ENCAMPMENT

- 12.1 Unless a written waiver has been signed by the owner of personal property on a form approved by the prosecutor, DCP must store all personal property recovered from encampments, provided the County has no obligation to store personal property that is hazardous, saturated, or contaminated with solid waste as set forth in subsection 10.6.
- 12.2 DCP should maintain a record of personal property removed from an encampment that reasonably identifies the location of the encampment from which it was removed. They should keep each personal property item until the personal property is recovered by its owner, or the property is disposed of, as provided herein.
- 12.3 DCP may dispose of personal property that is not recovered after 30 days from the date of removal from the encampment.

13.0 RECOVERING STORED PROPERTY

- 13.1 DCP will arrange to meet an individual claiming that their personal property was removed from an encampment, including to advise them about the process to recover weapons stored by law enforcement.
- 13.2 DCP need not require that the individual describe with particularity the personal property sought. Nor should they require a formal legal identification, such as a valid driver's license, as a condition of releasing the property. If there are no circumstances indicating a competing claim of ownership, DCP should release the personal property to the individual seeking its recovery. If a competing claim of ownership arises, they should not release the disputed property until the County prosecutor has been consulted. DCP should keep a record of the name of the person to whom the property was released and the date of release, or, in the event the property was not recovered, the date of disposal.
- 13.3 Storage of personal property should be at no cost to the individual.

14.0 ENCAMPMENT REMOVAL FROM AN EMPHASIS AREA

- 14.1 DCP may identify a specific area as an Emphasis Area and treat the unauthorized encampments within the area as an obstruction as provided in Section 5.
- 14.2 DCP may enforce an Emphasis Area under Section 5 only after they have posted signage designating it as an Emphasis Area. The signage should identify: (1) that trespassing is prohibited in the Emphasis Area; (2) that any material found in the Emphasis Area may be removed without further notice; and (3) how any stored personal property may be claimed by its owner.
- 14.3 If DCP designate an Emphasis Area, they should inspect and monitor the area on a regular basis. Additionally, they should consider environmental design improvements and site reclamation opportunities.
- 14.4 DCP should identify Emphasis Areas on the County's website and a County Designated Contact.

15.0 UNAUTHORIZED ENCAMPMENTS ON PRIVATE PROPERTY

This Policy applies to unauthorized encampments on County properties only. Unauthorized encampments on private property must be treated as public nuisances on private property subject to Yakima County Code §§ 6.20.020(1) through 6.20.020(9), or as hereafter amended.

16.0 AMENDMENT

This administrative Policy may be amended by the Yakima Board of County Commissioners, which may consult with Public Services, Human Services, the Yakima County Prosecuting Attorney and other appropriate Departments.