



## POLICIES AND PROCEDURES

Authorized by City Manager:

A handwritten signature in blue ink, reading 'Jack C. Davis', is written over a horizontal blue line.

Policy No. \_5100.10

Effective Date: \_\_\_April 11, 2018\_\_\_\_\_

### **TITLE: Policy and Procedures for Removal of Trash, Debris and Other Waste by the City in Off-Street Locations**

**PURPOSE:** The City of Arvada strives to provide a healthy environment for all its citizens, and to safeguard public property. The City recognizes that in order to do so, it must occasionally remediate health, safety and property damage risks presented by trash, debris and human waste existing on public and private property, which may include areas where individuals have created an encampment.

Here, the City of Arvada sets forth its policies and procedures for cleaning up areas in which these health, safety and property damage risks present themselves, and expresses its intention to implement these policies in a manner which balances the needs and rights of all of its citizens.

**POLICY:**The City of Arvada shall address conditions created by the presence of trash, debris and human waste, in a manner that protects the public health and safety and public property and which complies with applicable state and federal laws.

**PROCEDURE:** Procedures applicable to trash and debris removal, the clean-up of health and safety risks and any necessary handling of personal property during these situations are set forth below.

#### **I. Definitions.**

“City” means the City of Arvada, its Departments, employees or contractors.

“City-owned property” means any property owned or leased by the City (including any property owned or leased by Apex Park and Recreation District). For purposes of this policy, it does not include property owned by any other governmental entity.

"Encampment" means three or more tents, structures, or an assemblage of camping equipment or personal property located in an identifiable area within the City, which appears to a reasonable person as being used for overnight camping. Encampments do not include sites a reasonable person would conclude are no longer in use for camping because remaining materials are garbage, debris, or waste.

**“Immediate threat to the health or safety of the public”** means a condition occurring as a result of an encampment which creates a risk of serious injury or death beyond that caused by increased exposure to the elements to either the individuals camping outdoors or other members of the public. An immediate threat may include, but is not limited to, an encampment at a highway shoulder or off-ramp or that is exposed to moving vehicles, an encampment that physically undermines or erodes public infrastructure such as a bridge, overpass, or culvert, or that is in an area exposed to frequent rock slides, or an encampment that contains a suspected explosive device or an item preventing access to an emergency, etc.

**“Item of special importance”** means personal identification, a birth certificate, a legal document, a personal or family photograph, prescription medication, or cash.

**“Nuisance”** has the meaning set forth in section 38-122 of the Arvada City Code.

**“Obstruction”** means a tent, personal property, garbage, debris or other objects that are on a public sidewalk or street and that interfere with the pedestrian or transportation purposes of public rights-of-way, or the performance of basic services by the City.

**“Personal property”** means an item that is reasonably recognizable as belonging to a person; has apparent utility in its present condition and circumstances; and is not hazardous. Examples of personal property include but are not limited to identification, personal papers and documents, tents, clothing, shoes, jackets, tarpaulins, sleeping bags, bedrolls, blankets, backpacks, duffel bags, bicycles, tools, watches, jewelry, audio and video equipment, medications, toiletries, eyeglasses, purses, handbags, personal papers, equipment, photographs, books and baby strollers. Personal property does not include building materials such as wood products, metal, pallets, or rigid plastic.

**“Private property”** means any property not owned or leased by the City or Apex Park and Recreation District. For purposes of this policy, it includes property owned by a government entity other than the City or Apex.

**“Temporary storage area”** means any area with clearly defined boundaries specifically designated by the City as an area where personal property can temporarily be stored during the clean-up of an encampment. The storage area need not be covered, locked, or otherwise sheltered.

**“Temporary structure”** means an erected structure intended to provide cover or protection from the elements such as a tent, tarpaulin, shack, or other temporary structure or material.

**“Trash and debris”** means items that have no apparent utility or are in an insanitary condition. Trash and debris may include property that appears to have been discarded by its owner, but the fact that property is unattended does not necessarily mean that it has been discarded.

## **II. Application.**

This policy applies to: the removal of trash and debris from City-owned property outside the context of an encampment; the handling of personal property found on City-owned property outside the context of an encampment; the clean-up of an encampment located on City-owned property; and the clean-up of City-owned property immediately adjacent to an encampment located on private property.

This policy does not apply to the removal of an obstruction located on a street or highway except to the extent noted in Section VII. The City has no obligation to ensure compliance with this policy by entities other than the City.

### III. Notice.

Any written notice provided for in this policy shall be posted in a manner which is reasonably calculated to provide effective notice to those people who may be most affected by the planned clean-ups or to the owner of personal property. A notice of a planned clean up shall describe the area subject to trash and debris removal or clean-up as clearly as possible (e.g., the east side of the 5000 block of Wadsworth Boulevard).

### IV. City-Owned Property.

#### A. Process for Trash and Debris Removal Outside the Context of an Encampment.

1. Removal of Trash and Debris. The City performs sanitation and maintenance tasks at City-owned property as is necessary and appropriate. In addition, the City regularly receives requests to remove accumulated trash and debris in or around City-owned property. The City shall continue to perform these tasks and receive and act upon these requests for service consistent with its historical practice. Any trash and debris collected as part of this process may be immediately discarded.
2. Personal Property. The following procedures apply when a City employee, while acting within the course and scope of his or her duties, discovers personal property on City-owned property outside the context of an encampment:

*72 Hour Notice:* The employee shall affix on or immediately above or beside the property a notice in the form attached hereto as Exhibit A. The notice shall state that unless the property is removed within seventy-two (72) hours, the property will be considered abandoned and will be discarded. If the property remains in the same or substantially the same location after the notice has been posted for seventy-two (72) hours, the property may be treated as trash and debris and discarded.

Exception: If an item of special importance is discovered outside the context of an encampment, the employee may but is not required to deposit the item with the custodian of evidence for the Police Department for processing under Chapter 62 of the Arvada City Code. If the employee chooses instead to affix on or immediately above or beside the item of special importance a notice in the form attached hereto as Exhibit A, and if the item remains in the same or substantially the same location after the notice has been posted for seventy-two hours, and if the item is in sanitary condition, the item shall be deposited with the custodian of evidence for the Police Department for processing under Chapter 62 of the Arvada City Code.

3. Not applicable to encampments. This Section IV.A shall not apply to personal property discovered in or immediately adjacent to an encampment. Personal property discovered in or immediately adjacent to an encampment will be handled as outlined in Sections IV.B, IV.C, and V below.
4. Posting of multiple items. Nothing in this policy requires that individual items of personal property or of special importance be posted with individual or separate notices. The City may post multiple items that are found in the same area with a single notice.

#### B. Process for Clean-Up of Encampments Located on City-owned Property.

1. Initial notification. Any City employee who, while working in the course and scope of his or her duties, observes conditions believed to constitute an encampment on City-owned property shall report the conditions to the Police Department. Any employee who receives a report of possible encampment conditions from a citizen shall forward the information to the Police Department.

2. Assessment. Upon receipt of a report of encampment conditions, the Police Department shall notify Risk Management. The Police Department and Risk Management shall determine whether this policy applies to the reported conditions, whether the conditions must be remediated, and what action should be taken to remediate the conditions.
3. Work assignment. If an encampment clean-up is necessary, Risk Management will determine whether a City department or a remediation contractor will conduct the clean-up. If Risk Management determines that use of a remediation contractor is necessary or advisable, Risk Management will contract with a remediation contractor for that purpose. Risk Management shall ensure that any contractor it retains to perform remediation or abatement pursuant to this policy is provided with and is aware of the requirements of this policy, and is aware of the date, time, and location of the clean-up.
4. Notice of encampment clean-up. In situations in which the City intends to clean areas where an encampment is located, and where said clean-up involves the removal of temporary structures or the removal of personal property in order to conduct an effective clean-up, the City will provide written notice of the intended clean-up in a form substantially similar to the notice attached as Exhibit B at least seventy-two (72) hours in advance. If the items remain in the same or substantially the same location seventy-two hours after the notice has been posted or at the time the clean-up begins, whichever is later, the items may be treated as trash and debris and discarded.
5. Designation of temporary storage area. At the same time notice of a clean-up is provided, the Police Department and Risk Management will designate a temporary storage area for the temporary storage of personal property. The temporary storage area shall be a clearly marked area at or near the site of the planned clean-up. The City shall give notice of the location of the temporary storage area at the same time that notice is given of the anticipated clean-up in the form attached hereto as Exhibit C. The notice shall state that any property stored in the temporary storage area must be claimed by its owner within two weeks, and that any property stored in the temporary storage area which remains in or around the temporary storage area after the two week notice period will be destroyed.
6. Posting of notice. The Police Department shall set the date and time deadline required by the notice provisions of this policy, and shall post the required notices, including any notices required to designate a temporary storage area. The Police Department shall notify Risk Management and any other City Department which, in the Police Department's judgment, may be affected by the clean-up of the date, time, and location of the clean-up.
7. Outreach and support services. The Police Department shall coordinate outreach support services or other resources as appropriate for those affected by the clean-up of an encampment or a temporary storage area before and during the clean-up, unless there exists good cause not to do so.
8. Clean-up. Risk Management shall ensure the Department or remediation contractor designated or retained by Risk Management takes the clean-up action described on the notice at the date and time set in the notice.
9. Property stored in temporary storage area during clean-up. No property located in the temporary storage area shall be discarded during the two week notice period. Once the two week notice period has expired, the City may dispose of any property remaining in or around the temporary storage area by whatever means the City deems appropriate.

10. Items of special importance. Notwithstanding any other provision of this policy, the City will not discard an item of special importance, if readily visible and in sanitary condition, during the clean-up of an encampment or a temporary storage area. The item of special importance shall be deposited with the custodian of evidence for the Police Department for processing under Chapter 62 of the Arvada City Code.
11. Clean-up of temporary storage area. Two weeks after the clean-up of the associated encampment, Risk Management shall ensure the Department or remediation contractor designated or retained by Risk Management takes the clean-up actions described on the notice.
12. Security. The Police Department may, to the extent it deems necessary, assign one or more officers to the clean-up of an encampment or a temporary storage area to ensure the safety of all individuals present in the area during the clean-up.
13. Reports of Criminal Activity or Evidence of a Crime. Any complaint of suspected criminal activity within an encampment or a temporary storage area shall be reported to the Police Department. Any person engaged in clean-up activities under this policy who discovers any item that reasonably appears to be a firearm or an illegal weapon, stolen property, illegal drugs or evidence of a crime shall contact the Police Department for assistance.

**V. Process for Clean-up of City-owned Property Located Immediately Adjacent to an Encampment located on private property.**

The City will follow the same process and procedure to clean-up City-owned property located immediately adjacent to an encampment located on private property as it does in cleaning up an encampment located on City-owned property.

**VI. Private Property, Including Public Property Not Owned by the City.**

Private property owners are responsible for maintaining their property in accordance with applicable laws. The City will enforce compliance with property maintenance and nuisance laws, and may abate any condition deemed to be a nuisance under the City Code. Nuisance abatement activities will be conducted in accordance with relevant provisions of the City Code. Nothing in this policy limits the authority of the City Manager to abate a nuisance under A.C.C. §38-124. In the event abatement activities on private property involve handling personal property in or immediately adjacent to an encampment or the removal and clean-up of an encampment, the City will follow the procedure set forth in Section IV.B. above.

**VII. Designation of responsible staff persons.**

The Parks Department, Police Department, the Public Works Department, and the Utilities Department will each designate one position within their respective departments to serve as a homelessness assistance liaison for that department. The Risk Manager will serve as the homelessness assistance liaison for the Finance Department. Each employee serving as a homelessness assistance liaison will be responsible for ensuring that his or her department complies with this policy. Any notification made to a department or to Risk Management under this policy will be made by notifying that Department's homelessness assistance liaison. Any reference to a City department or division in this policy will be to the Department's liaison or the Risk Manager.

## **VIII. Emergency Removal.**

Nothing in this policy prevents the City from removing items or cleaning areas where City staff reasonably believe that an item or condition (1) is an obstruction to City operations or the movement of foot or vehicular traffic; or (2) an immediate threat to the health or safety of the public. The City, in its discretion, will determine whether an item or condition reasonably constitutes an obstruction or immediate threat as well as the manner in which the obstruction or immediate threat will be abated or remediated. With regard to an item or items that create an obstruction, the City shall, when practicable, remedy the obstruction by moving the item or items to a nearby area and posting a notice as required by Section IV.A.2. When necessary, the City will also post a notice in the form of Exhibit D at the initial location of the item indicating that the item has been discarded, or if moved, where the moved item is now located. In making any determination under this Section VII, the City will follow applicable local, state and federal law.