



# Memorandum

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**TO:** HONORABLE MAYOR  
AND CITY COUNCIL

**FROM:** Jennifer A. Maguire

**SUBJECT:** See Below

**DATE:** July 31, 2024

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## **INFORMATION**

**SUBJECT: Pilot Changes to Encampment Management and Framework for Shared Public Spaces**

## **SUMMARY AND OUTCOME**

This memorandum provides an overview of a proposed set of changes to be piloted prior to the creation of a Framework for Shared Public Spaces in response to the Mayor's March Budget Message for Fiscal Year 2023-2024. The ultimate goal of the framework is to establish a practical and humane approach in close collaboration with our partners for the delivery of City services that ensures safe and healthy public spaces for all members of our communities. The piloted changes are intended to explore, and in some cases clarify, the City and its partners' approach to the management and mitigation of the homelessness crisis on City-owned or leased properties.

By piloting the changes, City departments and their partners will be able to collect relevant data and learn from experiences before further investments in the approach are administered. The lessons learned will be applied to the broader Framework for Shared Public Spaces as part of the fall Consolidated Annual Homelessness Report. The pilot phase will test various components of the potential Framework for Shared Public Spaces while enabling time for data collection and analysis.

The framework will include greater clarity for where prohibitions to overnight outdoor sleeping will be enforced and where overnight sleeping will be permitted.

**BACKGROUND**

In May 2022<sup>1</sup>, the City Council adopted the encampment management setback guidelines. Setbacks are enforced areas or locations where living structures and personal belongings are not allowed and where people cannot live outside. These setbacks prohibit built structures or tents for the purpose of living within the public right-of-way (e.g., sidewalks, streets, medians, paved trails, City facilities) and within 150 feet of a school property. **Table 1** below outlines the significant risk factors that guide the setbacks for encampment locations developed in coordination with internal departments. An encampment may be subject to abatement if the location presents risk factors or due to certain conditions regardless of the location.

**Table 1: Setback Guidelines**

Locations and Conditions	Definition		
<b>School Buffer Zone</b>	Tents, built structures, or other belongings that are erected or stored within 150 feet of an elementary, middle, or high school or licensed public or private preschool property		
<b>Blocking Public Right-of-Way</b>	<ul style="list-style-type: none"> <li>▪ Sidewalks</li> <li>▪ Streets</li> <li>▪ Trails</li> <li>▪ Medians</li> <li>▪ City facility (e.g., park restroom, playground, community center, library, fire station, etc.)</li> <li>▪ Permitted events at City facilities</li> </ul>		
<b>Health and Safety Conditions</b>	<table border="0" style="width: 100%;"> <tr> <td style="vertical-align: top; width: 50%;"> <ul style="list-style-type: none"> <li>▪ Fire danger</li> <li>▪ Vehicle or pedestrian danger</li> <li>▪ Unauthorized access to electrical boxes</li> <li>▪ Potential for drowning if flooding occurs</li> </ul> </td> <td style="vertical-align: top; width: 50%;"> <ul style="list-style-type: none"> <li>▪ Significant reoccurring or unresolved unsanitary conditions</li> <li>▪ Severe vector control issue</li> <li>▪ Adjacent to residential fencing/wall</li> </ul> </td> </tr> </table>	<ul style="list-style-type: none"> <li>▪ Fire danger</li> <li>▪ Vehicle or pedestrian danger</li> <li>▪ Unauthorized access to electrical boxes</li> <li>▪ Potential for drowning if flooding occurs</li> </ul>	<ul style="list-style-type: none"> <li>▪ Significant reoccurring or unresolved unsanitary conditions</li> <li>▪ Severe vector control issue</li> <li>▪ Adjacent to residential fencing/wall</li> </ul>
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<b>Obstruction to Critical Infrastructure</b>	<ul style="list-style-type: none"> <li>▪ Infrastructure degradation</li> <li>▪ Public operations and maintenance (e.g., pump stations)</li> <li>▪ Construction projects (on land or waterways)</li> <li>▪ Hospital and trauma centers</li> </ul>		

In March 2023, City Council directed the City Manager to establish a framework to:

1. Identify spaces which are most costly/impactful to be kept clear;

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<sup>1</sup> City Roadmap – Encampment Management and Safe Relocation Policy  
<https://sanjose.legistar.com/View.ashx?M=F&ID=10860685&GUID=3BEB1411-FBEC-4F19-9163-CC120C6ED303>

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2. Explore piloting trauma-informed specialists to work with the Police Department and Parks, Recreation, and Neighborhood Services Department's BeautifySJ to keep these spaces clear; and
3. Explore creating no encampment zones.

City staff is developing a framework for the approach that supplements the above direction with well-rounded recommendations to better manage public spaces and recognize the variety of work by the BeautifySJ, Housing Department, Transportation Department, and Police Department teams. The departments and their partners are synchronizing efforts to align to a cohesive strategy of approach for engaging with our unhoused residents through various services and responsible codes of conduct for all residents in the community. The overarching Framework for Shared Public Spaces will also align with the City of San José Implementation Plan to address the root causes of homelessness, approved by City Council in January 2024, with the below four core principles. This memorandum relates to the first three of these principles:

1. Ending suffering on the streets;
2. Share and protect public spaces;
3. Expect cleanliness of each other; and
4. Create opportunity for all in San José.

In order to execute on both March 2023 and January 2024 City Council direction, the City Manager's Office is establishing the Framework for Shared Public Spaces that aligns the departmental practices and policies of engaging and servicing our unhoused residents. The framework will also encompass the existing adopted policies engaging and servicing unhoused residents, including the Encampment Management Strategy<sup>2</sup> and the Community Activity Specialist who will facilitate the "no return zones", supplementing the work of the BeautifySJ Therapeutic Specialists, the Housing Department's Homelessness Response Team, our partners from County of Santa Clara, the regional Continuum of Care, and many service provider organizations.

The coordinated and collaborative work under the framework will allow the City to comprehensively respond to the March 5, 2024 City Council direction to take several actions to ensure compliance with the San Francisco Bay Municipal Regional Stormwater National Pollutant Discharge Elimination System Permit (Stormwater Permit)<sup>3</sup>. The direction included (a) the inclusion of the waterways as a prioritization criterion for abatements, (b) prioritizing housing and services for people living along the waterway, and (c) seeking through the regional Continuum of Care to have encampments along the waterways added as a vulnerability factor for purposes of accessing the Coordinated Entry System.

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<sup>2</sup> Approaches to Managing the Homelessness Crisis in Encampments and Other Locations, August 30, 2023: <https://www.sanjoseca.gov/home/showpublisheddocument/104553/638289877961640883>

<sup>3</sup> Stormwater Permit Requirements, Homelessness and Neighborhood Considerations, March 5, 2024: <https://sanjoseca.primegov.com/meetings/ItemWithTemplateType?id=73475&meetingTemplateType=2>

## **ANALYSIS**

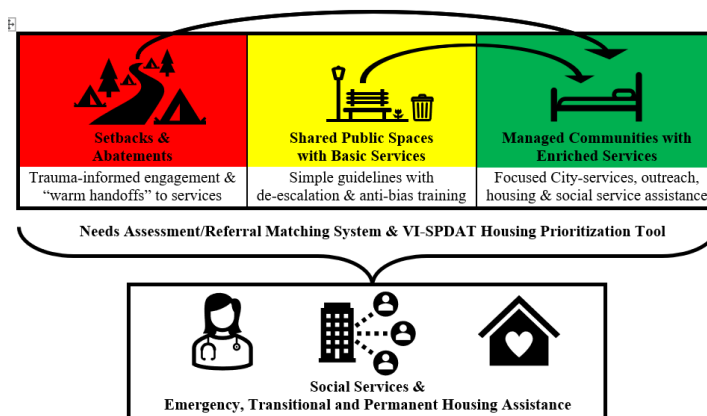
The pilot changes to encampment management detailed in this memorandum will either be tested over the next 90-120 days or implemented for longer term evaluation, where noted.

### **I. Ending Suffering on the Streets: Encampment Engagement and Safe Outdoor Sleeping and Parking**

The City is developing a network of Safe Outdoor Sleeping and Parking (SOSP) locations to supplement the existing network of emergency interim housing (EIH) sites. The SOSP locations will weave into the system of EIH sites to provide quickly established decent, safe, and habitable locations that provide basic health and safety services. The EIH sites will continue to provide intensive supportive services to assist with transition to other housing options. Occupants of the SOSP sites may transition into the EIH sites. The **Figure** below illustrates how City staff and partners will engage with unhoused people residing in encampments and will encourage relocation to a Safe Outdoor Sleeping site once the sites are operational by deploying a needs assessment/referral matching system that empowers people to conduct a self-assessment of their current needs, then recommends matching nearby and available social services, vital amenities, and opportunities for support.

In addition, the Housing Department will pilot the establishment of a site-based waiting list for each of the SOSP and EIH sites. The site-based waiting list will prioritize the placement of individuals at each SOSP and EIH sites by first prioritizing unhoused persons in the immediate area where the site is established, followed by those discharged from other locations, then other factors to be determined by policy and procedure issued by the Housing Department. The pilot initiative performance will be measured by occupancy rates and the timing of the process from selection on the waitlist to notification of person/s to residency at the site.

**Figure: Connecting People to Services and Housing Through City Staff Engagement**



## **II. Share and Protect Public Spaces**

The deployment of the SOSPs sites and continuing expansion of the Interim Housing sites will allow for a more effective administration of City Council directives on shared public spaces through encampment abatements, enhanced clean-ups, and execution of the code of conduct principles. The City's Implementation Plan includes a pillar focused both on sharing and protecting public spaces. To protect public spaces, one key component is the existing Encampment Management Strategy. There are established areas where encampments *are not* allowed (setbacks), outlined below.

- *School Buffer Zone*: No tents, built structures, or other belongings can be erected or stored within 150 feet of a licensed public or private preschool, elementary, middle, or high school property.
- *Blocking Public Right of Way*: Sidewalks, streets, trails, medians, permitted events at City facilities, or City facility (park restroom, playground, community center, library, fire station, etc.)
- *Health and Safety Conditions*<sup>4</sup>: Fire danger or violations of fire code, vehicle or pedestrian danger (such as adjacent to high-speed off ramps), unauthorized access to electrical boxes, potential for drowning if flooding occurs, significant reoccurring or unresolved unsanitary conditions, severe vector control issue, adjacent to residential fencing/wall.
- *Obstruction to Critical Infrastructure*: Infrastructure degradation, public operations and maintenance, construction projects, hospitals and trauma centers (150 feet.)

The City will pilot the following additional complementary actions to more effectively execute this strategy synchronized across the departments and in coordination with our partners in the County of Santa Clara and service providers.

- *Establishing no return zone/no encampment areas*: Including, but not limited to, within two walkable blocks of EIH and SOSPs sites or safe parking sites, and along segments of the Guadalupe Trail.
- *Prohibiting encampments*: Within 150 feet of critical infrastructure requiring routine maintenance (e.g., pump stations), encampments impeding access to trails (for bicyclists, pedestrians, maintenance staff, fire, police, or other public safety), encampments within 150 feet of an active railway, or areas of high vehicular or pedestrian danger.

Another piloted initiative will be the Housing Department Homelessness Response Team, Parks, Recreation, and Neighborhood Services BeautifySJ Team, and coordination with our partners in the County and our service providers, will overlay the Parks, Recreation, and Neighborhood Services Encampment Rating System with the

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<sup>4</sup> Documented health and safety concerns are specifically those identified or categorized by the Police Department or Fire Department and are defined as an imminent threat to life and property, such as unsafe storage of combustible materials or open flame use.

above-referenced public spaces to collectively determine an engagement and abatement strategy that results in a high placement at SOSIP or EIH sites when spaces are available. The strategy will be guided by the City’s established abatement priorities as listed in **Table 2** in order of priority, from highest to lowest. This ranking is based on issues such as clear and imminent safety concerns, legal risks, and harm to people or property.

**Table 2: Abatements Prioritization**

	<b>Order of Priority</b>
<b>1</b>	Encampments located in the right of way (e.g., sidewalk, street, line of sight).
<b>2</b>	Encampments located within 150 feet of schools (elementary, middle, high schools) and licensed public or private preschool locations.
<b>3</b>	Encampments with significant health and/or safety issues as reported by the Police Department or the Fire Department.
<b>4</b>	Encampments prioritized for abatements within the Direct Discharge project areas or other waterways (may be up to 500-foot proximity to creeks and other receiving waters, depending on circumstances).
<b>5</b>	Encampments impacting maintenance or blocking unrestricted access to City infrastructure or critical utilities (where it has the potential to disrupt operations, public access, maintenance needs, etc.) <i>Encampments blocking access to critical infrastructure, where immediate access is needed, will be prioritized for abatement.</i>
<b>6</b>	Encampments that impact City construction or infrastructure projects.

The intent of this pilot prioritization is to provide an agreed upon, equitable, objective set of criteria that enables the City Council and the public to know why one site may be responded to before another, even if that other site has existed for a longer period of time. This will also help people living in encampments understand that supporting things such as cleanliness and good order reduces or can eliminate the potential for being subject to abatement.

Additional piloted initiatives include halting abatements during the week of Thanksgiving Christmas week, and during the City’s December furlough week. This is evolving from a past practice that halted all non-priority abatements from Thanksgiving week through the new year. This extended non-abatement period led to inefficiencies in service delivery once abatement activities resumed in the new year. This new approach will allow abatement services to continue outside of the holiday weeks mentioned above and reduce overall service delivery delays.

**III. Expect Cleanliness of Each Other: Community Agreements/Code of Conduct**

An additional pillar of the City’s Implementation Plan is to expect cleanliness of each other so that everyone in San José who can do so should have ownership of keeping spaces clean. The following community agreements and code of conduct represent

principles that will be evaluated as part of the pilot test phase to better understand how to ensure clarity, accountability, and equity in enforcement across all departments engaging with the unhoused in encampments. These efforts are reflective of two distinct, but potentially related topics: conduct in encampments and conduct related to vehicles. Both topics are discussed further below.

#### **A. Encampment Code of Conduct**

Another pilot initiative is the collective and coordinated application of the Encampment Code of Conduct. Staff recognizes the importance of holding members of the public accountable for their actions when using public spaces. Key points of the Encampment Code of Conduct are outlined below. The complete Encampment Code of Conduct detail is being finalized by staff.

1. Violation of law related to violence against others will not be tolerated.
2. Documented storage of belongings, trash, or discharge in the public right of way or waterway can be grounds for enhanced clean up or abatement.
3. Violence against City employees providing encampment and/or maintenance services will subject an encampment to abatement and appropriate police actions.
4. Violation of Good Neighbor Policy (including repeat violations), which will include as part of this pilot the additional following items: vandalizing City property, excessive storage of propane tanks, storage of significant amounts of private property such as multiple bikes or frames, trash, discharges into storm drain or waterways, maintaining fires, cutting down trees, or erecting structures with building materials.

It is important to note that enforcement of the Encampment Code of Conduct is subject to departmental resource availability and prioritization and the departments will be coordinated to ensure consistency of approach and engagement. The pilot will test the impact of coordinated and collaborative action across departments, including uniform communication of these rules, achieve the outcomes of improved compliance, and the resources required to deploy these activists to the management of all encampments. The goal of this pilot is to develop a consistent approach from all departments with encampments and a shared set of agreements applicable to all residents in San José. It is anticipated that subsequent work will be done to evaluate approaches to address the use of building materials that create unpermitted and potentially dangerous structures in the public right of way. This is a serious issue with risks to all San José residents as well as City first responders and other personnel. However, additional analysis is necessary to understand the impact, resources, potential environmental considerations and other issues associated with such structures.

## **B. Obligations For Storing/Use of Vehicles**

In addition, staff will be piloting increased action to the use of public space for vehicles, regardless of whether a vehicle is being lived in or just parked. The City Council made changes to the rules regarding large vehicles<sup>5</sup> in January of this year. The departments will collaborate on engagements with occupants of the lived-in vehicles, subject to resource availability, through targeted and strategic interventions that move such vehicles successfully to the upcoming Berryessa Safe Parking Area. Additional collaborative engagement and further enforcement actions will be aimed at addressing illegally parked vehicles or those that pose risks to the health and safety of the public, subject to resource availability, such as:

1. Storage and use of vehicles on City trails/off-road;
2. Violation of posted tow-away signage;
3. Violation of illegal dumping/biowaste disposal; and
4. Abandonment of vehicles in waterways.

This pilot period will enable City staff to collect data on such activities and the occupants in order to match the person to housing and safe parking options and to use the data to inform decisions about enforcement. Updates from the data collection will be included with the Consolidated Homelessness Report coming to City Council this fall.

## **C. Keeping Existing Encampments Clean**

City Council direction via the prior budget message directed staff to consider how to keep existing encampments clean. In the time since this direction, there have been several actions by City Council that prioritized various locations for a range of reasons. This section seeks to facilitate developing objective criteria that can be applied equitably throughout San José to ensure that scarce resources are put to their most effective use.

As the City provides a range of sanitation and trash services to people while they are outside, not having to constantly relocate where people have moved after an abatement can improve staff efficiency as well. Another critical issue associated with keeping encampment locations clear is a resource issue for the cost of implementing such measures. Resources associated with keeping locations clear cannot be used for other services and supports and there are always resource constraints. Despite these constraints, as a result of the Stormwater Permit mandate, there is an urgent need to identify how best to locate and implement these “no return” zones in areas along the waterways that will support water pollution reduction efforts.

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<sup>5</sup> January 30, 2024 City Council meeting, item 8.2:

<https://sanjoseca.primegov.com/api/compilemeetingattachmenthistory/historyattachment/?historyId=8643dccd-c87d-4546-a13f-1965160f3926>



In addition, other issues previously identified by the City Council will require further analysis and data collection before implementation shifts can be piloted.

1. *Identify public spaces that are most costly and impactful to be kept clear.*  
This direction requires staff to define a comprehensive costing and impact analysis and developing effective cross-departmental approaches aligned to the no-return zones, and the identification of resources needed to implement the areas identified in perpetuity. It is valuable to take these necessary steps even before resources have been identified so that if such resources become available there is a reasonable, clear, and equitable way to proceed with implementation.
2. *Improved identification of encampments.*  
Staff has begun utilization of a new Encampment Management System tool. With a shared set of common definitions for what constitutes differing tiers of encampments, this tool will enable multiple departments to improve the unique identification of encampments across San José. Using geocoordinates and common definitions allows staff to differentiate one encampment from another and apply information about a given location to improve response.
3. *Improved costing analysis of encampments.*  
The City can and should consider the cost in delivery of services to a given encampment location as one measure of cost. In addition, there is the human cost in terms of impact to the life and safety of unhoused residents living in a given encampment which may be measured by the degree to which an unhoused person may be the victim of crime, exposed to dangerous environmental elements, or high incidence of traffic collisions. Further, the neighborhood and business cost may include the impacts to a neighborhood, business district, or the environment. Developing a rubric for what constitutes the “most costly” sites requires care to ensure a combination of efficient management and equitable treatment.

When staff returns to City Council as part of the fall annual homelessness report, the report will include an evaluation of efforts to keep locations clear based on various City Council directions and to help the City Council understand the impact of the work before considering expansion of more such enforced no return sites.

## **EVALUATION AND FOLLOW-UP**

The piloted changes to encampment management and establishing shared public spaces center around two critical considerations. First, given the scope and scale of people living on the street and along waterways, the availability of allowable places for our unhoused neighbors go is essential so that the City is not merely constantly abating encampments as people move from one location to the next. Second, applying more order to collective actions of relevant departments to abatement of encampments and keeping them clear will empower staff not to continuously return to the same or similar

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locations as people move from location to location. For unhoused people, having locations such as EIH sites and SOS sites will also reduce the trauma and disruption of constantly being forced to move while also seeking ways to get off the street or from along the waterways.

Staff will provide a status update on implementation of the Framework for Shared Public Spaces pilot approaches as part of the Consolidated Annual Homelessness Report in the fall. In addition, City Council and the public will be notified via an Information Memorandum of any changes to the framework implemented by staff as a result of changed conditions or to improve implementation.

### **COORDINATION**

This memorandum was coordinated with the City Attorney's Office, City Manager's Budget Office, City Managers' Office of Economic Development and Cultural Affairs, and the departments of Environmental Services, Fire, Housing, Information Technology, Library, Planning, Building, and Code Enforcement, Police, Public Works, and Transportation.



Lee Wilcox on behalf of  
Jennifer A. Maguire  
City Manager

For questions, please contact Omar Passons, Deputy City Manager at [omar.passons@sanjoseca.gov](mailto:omar.passons@sanjoseca.gov) or (408) 535-8194.