



Memorandum

TO: HONORABLE MAYOR AND
CITY COUNCIL

FROM: Jacky Morales-Ferrand

SUBJECT: SANCTIONED ENCAMPMENT

DATE: May 31, 2023

Approved

Date: 6/1/2023

BACKGROUND

At the [November 29, 2022, City Council meeting](#)¹ the City Council approved the staff recommendation to consider service enhancements surrounding Emergency Interim Housing (EIH) locations as part of the 2023-2024 budget process. As part of the approved motion, former Councilmember Peralez requested that staff provide an updated cost estimate for a City sanctioned encampment.

ANALYSIS

The Housing Department has previously reported to the City Council that there are a number of regulatory barriers to sanctioned encampments that include health and safety codes and building code requirements. There is no agreed upon definition of “sanctioned encampments.” Communities that have established some form of sanctioned encampments have done so by adopting ordinances and establishing structured programs.² Developing a sanctioned encampment is a significant amount of work, requiring staff resources from multiple departments, addressing legal considerations³, and requiring a new City ordinance to establish minimum health and safety standards. Implementing this work immediately requires additional staff to oversee the project.

¹ [11/29/2022 City Council Update, Item 8.3, File 22-1488](#)

² See Homeless Encampments: Local Responses to a National Problem, published by the Center for Evidence-Based Solutions to Homelessness, http://www.evidenceonhomelessness.com/recent_highlights/homeless-encampments-local-responses-to-a-national-problem/:

Cities with sanctioned encampments—including Portland, Honolulu, and Seattle—have passed ordinances or changed zoning to allow encampments in designated locations. These encampments typically have formal rules to manage their operation and size. They also may have some type of infrastructure, including temporary structures and hygiene facilities, as well as supportive services provided by organizations or volunteers. In some cases, the encampments are self-governing. These approaches are often taken as interim measures; there’s little evidence they reduce homelessness.

³ The City would need to address legal concerns, including the potential for liability, in creating a sanctioned encampment; moreover, depending on the site, certain permits may be necessary, including stormwater permits as well as CEQA clearance.

On September 27, 2016, AB 2176, authored by Assemblymember Nora Campos, was signed into law by Governor Jerry Brown. AB2176 amended the Shelter Crisis Act to authorize a pilot program allowing the City of San José, upon a declaration of a shelter crisis and adoption of an ordinance establishing local building, health, and safety standards, to develop and operate Bridge Housing Communities for homeless residents in new or existing structures on City-owned or City-leased property in compliance with other terms of the bill including transition plans to stable housing for each resident. “Sanctioned encampments” or “tent camping” is not within the scope authorized by AB2176. Additionally, the State Shelter Crisis Act does not provide any relief from building or housing codes; rather, the most recent amendment to the Act, sets forth certain building code requirements for tents and membrane structures used as emergency housing. The City would need to comply with any applicable building code, fire code, ADA and housing code requirements when constructing “sanctioned encampments” or “zones,” unless it adopted findings and enacted an ordinance ensuring minimal public health and safety and safety standards.⁴ The Housing Department is considering ordinance amendments to address a number of bridge housing and supportive parking items and could include sanctioned encampments in those updates. The updates will come to the City Council in the fall or winter of 2023.

Moreover, in 2018, United States Interagency Council on Homelessness (USICH) published a report, “Caution is Needed When Considering Sanctioned Encampments or Safe Zones,” which outlines four primary cautions to establishing sanctioned encampments.⁵ The report also outlines four considerations communities should take for those who decide to implement sanctioned encampments. Those actions are:

- Analyze existing emergency shelter programs: could your community also create more effective indoor shelter or crisis housing options, if needed?
- Plan and budget for exits from encampments: Plan for how people staying in sanctioned encampments will exit homelessness and access permanent housing.
- Aim High: Communities should aim as high as possible to create high-quality environments within sanctioned encampment settings.
- Measure Success: Communities should assess the outcomes, impact, and cost effectiveness of sanctioned encampments.

⁴ On January 8, 2019, City adopted Chapter 5.09 (“Emergency Bridge Housing”) of the San José Municipal Code using the authority granted to it by AB 2176; however, the City’s ordinance does not cover “sanctioned encampments” or “tent camping”. In drafting the current ordinance, the City worked extensively with the State Housing and Community Development Department. See staff report to City Council on December 8, 2018, item 4.2: <https://sanjose.legistar.com/LegislationDetail.aspx?ID=3770292&GUID=16D63F9F-7DD2-45FE-978C-AB1ADCBC9B8&Options=&Search=>

⁵ U.S. Interagency Council on Homelessness, “Caution Is Needed When Considering Sanctioned Encampments or Safe Zones.” (May 2018):

https://www.usich.gov/resources/uploads/asset_library/Caution_Sanctioned_Encampments_Safe_Zones_052318.pdf

Work Plan

If funded and directed by the City Council, the Housing Department would develop a work plan for establishing “zones” or “sanctioned encampments.” The work plan would take into account the input from those with lived experience of homelessness along with best practices and research from national organizations and other cities. The approach in this memorandum identifies singular site(s) to designate as “sanctioned encampment(s).” There is another approach where the City Council could direct the Administration to identify “zones” or larger areas where “sanctioned encampments” could be allowed (e.g. commercial corridors). This approach would be more costly to establish appropriate health and safety standards and thus is not contemplated in this cost estimate.⁶

The work plan would address the following elements:

Siting policy/Potential City ordinance: The Housing Department and other appropriate City Departments would develop a siting policy with criteria for site(s) selection that is in alignment with previous City Council direction to develop a policy where encampments are not permitted. On October 26, 2021⁷, staff presented a status report on City Council Roadmap Priority: Encampment Management and Safe Relocation Policy that included the 3S protocol system used to manage encampments throughout the City. This protocol outlines where encampments cannot be located (setbacks), what areas remain where encampments can be managed (sites), and the necessary services and service levels (services) available. The Housing Department would work with the BeautifySJ team on aligning these two policies and any potential new ordinances needed to allow “zones” or “sanctioned encampments.” It’s recommended that any encampment siting criteria be approved by City Council.

Service model and cost: The annual programmatic costs to implement “zones” or “sanctioned encampments” as outlined below include policy and program development, and varying service levels for the sanctioned encampment as described in Attachment A. Table 1 below shows the cost elements for the sanctioned encampment policy and program development. Staffing would be needed on a one-time basis to design the program, develop siting criteria, recommend ordinance amendments, identify sites and conduct community outreach. Table 2 shows the total annual cost depending on the service level selected by the City Council. The services are estimated based on a site that accommodates approximately 75 individuals.

⁶ This approach would require identifying additional legal risks and other considerations, including potential amendments to the General Plan.

⁷ Staff report to City Council on October 26, 2021 item 7.1:

<https://sanjose.legistar.com/View.ashx?M=F&ID=9894398&GUID=91CE8F70-D6EB-49A8-9891-6E2111BB4EF0>

Table 1: Policy & Program Development

Sanctioned Encampment Policy & Program Development	Annual Cost (one-time)
Project manager and analytical support equivalent to approximately 2 full-time positions	\$309,566
Communications/Facilitation Support	\$50,000
Sub-Total	\$359,566

Table 2: Total Cost (Program Development & Services Year 1)

Annual Program Costs (Policy & Program Costs + Service Levels)	Annual Cost (Ongoing)
Level 1: Basic Needs** Outcome: Individuals' basic needs are met.	\$662,000
Sanctioned Encampment Policy & Program Development	\$359,566
Level 1 Total Annual Cost	\$1,021,566*
Level 2: Supported** Outcome: Individuals assessed for housing needs + some service referrals	\$706,350
Sanctioned Encampment Policy & Program Development	\$359,566
Level 2 Total Annual Cost	\$1,065,916*
Level 3: Full Service/Onsite Service Provider/Private Security** Outcome: Individuals exit to housing	\$2,868,350
Sanctioned Encampment Policy & Program Development	\$359,566
Level 3 Total Annual Cost	\$3,227,916*

** Does not represent the complete cost. Public Works is unable to provide a cost estimate for site development until a site is selected. Cost depends on site size and existing conditions.*

***Service estimates based on services for approximately 75 individuals.*

Community engagement: Staff would develop a community engagement process soliciting feedback on the encampment siting policy or new City ordinance. Additionally, once a site(s) or zones are identified, staff would develop a neighborhood engagement plan in partnership with the Council Office prior to establishing the “sanctioned encampment.” City Council participation in the community engagement process is needed to ensure a successful and productive process.

Site(s) or Zone Identification: The City Manager’s Office has taken the lead on site identification for the Council approved goal of building 1,000 emergency interim housing beds, site identification and analysis for sanctioned encampments would be folded into this process as the Housing Department does not have staff capacity to undertake a citywide site analysis. City Council members would be able to assist staff by identifying viable sites that meet the site criteria approved by the Council.

HONORABLE MAYOR AND CITY COUNCIL

May 31, 2023

Subject: Sanctioned Encampment

Page 5 of 5

Request for Proposals for Service Provider: If the full-service Level 3 became Council direction, the Housing Department would competitively procure services for the site. The service provider would also be responsible for working with the Housing Department, homeless residents, and formerly homeless residents to develop policies and procedures for site operations.

Community Advisory Committee: Consistent with all of the temporary locations operated by the City, it is anticipated that the operator, working with the Housing Department and the Council Office, would facilitate regular neighborhood meetings once the site is operating to ensure the site is responding to any community concerns and the help integrate the residents into the neighborhood.

COORDINATION

This memorandum was coordinated with the Parks, Recreation and Neighborhood Services Department, City Attorney's Office, Public Works Department, and the City Manager's Budget Office.

/s/







JACKY MORALES-FERRAND
Director, Housing Department

Attachment A: Encampment Service Models/Costs

SANCTIONED ENCAMPMENT LEVELS

Level 1: Basic Needs

Total Annual Cost: \$662,000

Items included in level		Fencing Perimeter		Portable Toilets		Dumpsters
		Showers/Laundry		Potable Water Source		Tents

Level 2: Supported

Total Annual Cost: \$706,350*

Items included in level + All items in Level 1*		Camping Stove /Flat Griddle		Propane for Stoves		Fire Extinguishers
		Solar Power		Community Tent		Tables & Chairs
		Camping Supplies		Public Works improvement I		Light Social Services
		Light-touch social services		Maintenance Checks		

*Cost depends on site size and conditions.

Level 3: Full Service/Onsite Provider

Total Annual Cost: \$2,868,350*

Items included in level + All items in Levels 1 & 2*		Public Works improvement II		Onsite nonprofit service provider		Private Security
		Site Control				

*Cost depends on site size and conditions.