



AGENDA REPORT


TO: Jestin D. Johnson
City Administrator

FROM: LaTonda Simmons
Assistant City Administrator

SUBJECT: Encampment Management Policy
Update

DATE: April 23, 2024

City Administrator Approval


Jestin Johnson (Apr 11, 2024 21:48 PDT)

Date: Apr 11, 2024

RECOMMENDATION

Staff Recommends That The City Council Receive A Report On The Implementation On The Update Of The 2020 Encampment Management Policy.

EXECUTIVE SUMMARY

On October 20, 2020, the Oakland City Council adopted resolution [88341 C.M.S.](#) referred to as the 2020 Encampment Management Policy to establish the methods for addressing homeless encampments located in the City of Oakland's public rights of ways. In January 2021, the Encampment Management Team (EMT) began operations under the 2020 Encampment Management Policy as authorized by the City Council. In October 2022, the City's encampment operations would be modified by the terms of the Miralle settlement agreement adopted by the City Council.

The Rules and Legislation Committee requested staff to provide an Informational Report to the Life Enrichment Committee on the activities of the 2020 Encampment Management Policy. This report provides the first part of a two-part update on the activities of the 2020 Encampment Management Policy and presents high-level data on operations conducted from the period of January 2021 through December 2023. In recognizing that encampment response is not solely driven by resolution 88341 C.M.S., this report references other relevant policies that obligate the City of Oakland to undertake specific actions for planning and execution of encampment responses.

The second part of the report will include additional analysis that will aid in developing synergized recommendations for amendments to the 2020 Encampment Management Policy. These recommendations will be informed by members of the Department of Housing and Urban Development's Technical Assistance team (HUD), an equity analysis, the departments that form the Encampment Management Team (EMT), and the Office of the City Attorney.

BACKGROUND / LEGISLATIVE HISTORY

On October 20, 2020, the Oakland City Council adopted resolution 88341 C.M.S. referred to as the 2020 Encampment Management Policy (EMP). In general, the policy designates public

Life Enrichment Committee
April 23, 2024

areas where homeless encampments are located for a prioritized response, establishes standards and findings that prompt action, and specific interventions to be used to mitigate the harmful impacts of encampments in the City.

On August 9, 2022, the City Council approved resolution 89382 C.M.S., known as the Miralle Settlement Agreement (Miralle) which modifies EMP elements and adds new requirements and considerations for the conduct of encampment operations. The Miralle changes posting requirements, planning considerations during periods of inclement weather, and sets standards for the storage of personal belongings and property access, and other elements. The conditions became effective in October 2022.

In addition, encampment operations in the City of Oakland are subject to the 9th Circuit Court's decisions in *Martin v. Boise* (2018) and *Johnson v. City of Grants Pass* (2022). These federal decisions direct the pace of encampment closures by instituting the requirement to offer adequate shelter to all residents of an encampment for each closure and suspends the ability to arrest or cite homeless individuals for sitting, lying, and sleeping on public streets or in their cars.

These policies significantly contribute to the framework of mandatory conditions and procedures for planning the operations of the Encampment Management Team and are necessary to provide context to encampment operations.

ANALYSIS AND POLICY ALTERNATIVES

This report reviews encampment operations within the context of three major policies that profoundly impact the coordination and execution of encampment responses. This analysis will highlight important intersections of the policies to demonstrate how, as a combined force, these policies dictate the pace of closures and conduct of operations, challenging the expectations of work.

The 2020 Encampment Policy prescribes a portion of the actions to be undertaken to address encampments in the public rights of way depending upon where encampments are located. The policy identifies the health and safety standards that prompt action on encampments in specific areas. The EMP further establishes the actions to be taken, which are also governed by conditions of the 2018 9th Circuit Court decision of *Martin v. Boise*, and the additional conditions of the Miralle settlement agreement as adopted by the City Council.

Designated Areas

The 2020 EMP designates High and Low Sensitivity Zones.

High-sensitivity Zones: Encampments located in high-sensitivity areas are always subject to EMT intervention. The locations include:

- All vehicular traffic lanes, bike lanes, and sidewalks (at least on one side of the street) must comply with American Disabilities Act (ADA) sidewalk and street requirements and must allow for the passage of emergency vehicles.
- Locations designated as High Fire Severity Zones (HFSZ) by the Oakland Fire

- Department and/or CalFIRE.
- Within 150 feet of an elementary, middle, preschool, or childcare center, and 100 feet from a high school.
- Within 50 feet of a protected waterway as established by any governing body.
- Within 50 feet of a residence.
- Within 50 feet of a retail business, and 50 feet from the main entrance and any emergency exits from all other businesses, including places of worship.
- Within 50 feet of a city park or other public land that has a children's playground, play structure, tot lot, or recreation center in which children participate in city-sponsored programs/classes*
- Areas directly adjacent (within 25 feet) to emergency shelter interventions.

According to the policy, the City's highest priority of high-sensitivity zones are Parks with playground structures, tot lots, or programs that host City-sponsored classes for children shall be.

Low Sensitivity Zones: Encampments in low-sensitivity zones are of a lower priority and are to be monitored according to the below requirements. Low-sensitivity areas are all other areas not in High-sensitivity areas. The below standards apply to encampments in these locations:

- Shall be limited to one side of the street.
- Shall not impede vehicle, bike, or pedestrian traffic (on at least one side of the street).
- Shall not impede ADA access points, consistent with the goal of limiting encampments to one side of the street.
- Shall not impede emergency ingress/egress routes.
- Compliance with applicable and generally enforced state codes and local ordinances.
- Encampment footprint shall not exceed 12 x 12 sq. ft per person.
- Area directly adjacent to a vehicle dwelling must remain clear at all times.
- No gray or black water dumping.
- No illegal electrical or water taps.
- No storage of tires, gasoline, generators, or propane tanks, or unsafe storage of combustible materials or accumulation of combustible waste.
- Structures, tents, and vehicle dwellings shall maintain not less than six (6) feet distance between one another. **

Health and Safety Findings for Low Sensitivity Areas

For encampments located in low-sensitivity areas that do not meet the standards outlined above, the EMT will consider the conditions of the encampments according to the below eight Public Health and Public Safety findings in deciding what level of intervention is appropriate.

The Public Health findings are:

- Confirmed case(s) of infectious disease(s) (e.g., Bubonic plague, Tuberculosis, Zika, COVID-19);
- Confirmed exposure(s) to case(s) of infectious disease(s) (e.g., Bubonic plague, Tuberculosis, Zika, COVID-19);
- Excessive animal or vermin vector hazards (e.g., rats, other vector vermin);

- Presence of biological vector hazards (e.g., blood, fecal matter);
- Notice of public health emergency at an encampment site declared by a county, state, or federal public health entity;
- Need for encampment decompression as identified by public health officials; and/or
- Location of encampment in a public recreational area, or shared facility for recreational activity should such facility require repurposing, according to the Order of the Alameda County Health Officer to Shelter in Place No. 20-04 or other similar subsequent orders.

The Public Safety findings are:

- Location of encampment impedes the right-of-way, lane of traffic, bike lane, or ADA access;
- Location of encampment such that First Responders (including, but not limited to, Fire, Police, and any health care workers), are impeded in performing their essential government functions;
- Pervasive criminal activity (as determined by law enforcement);
- Damage to essential infrastructure (e.g., reservoirs, bridges, public utilities, drainage and sewer systems);
- Excessive amounts of waste/garbage/debris as determined by OPW.
- Proximity of encampment to objective dangers (e.g., edge of a steep slope, on an in-use train track, in a vehicular lane of traffic).
- Excessive fire hazards and/or calls for service as determined by OFD.
- Unpermitted outside fires burning less than 30 feet away from any structure, tent, or vehicle.
- Presence of open electrical splices or illegal wiring.
- Roadway does not have 20' unobstructed width for Fire Apparatus Access
- Fire hydrant obstructions with less than three (3) feet radial clearance around hydrants.
- Storage of tires, gasoline, or propane tanks, and unsafe storage of combustible materials or accumulation of combustible waste.

EMP Interventions and Posting of Notice of Operations

The 2020 Encampment Management Policy outlines four ways to address homeless encampments. They are Health and Safety, Deep Cleaning, Partial Closure, and Closure. Health and Safety is focused on regular garbage pickups, provision of porta-potties, and handwashing stations at specific encampment locations for sanitation purposes. This intervention is recurring support focused on encampment dumping locations and does not require any prior notice.

On the other hand, Deep Cleaning, Partial Closure, and Closure are planned actions that require notice to be posted in advance of an operation at the location. According to the 2020 EMP, a notice of 72 hours was required. However, under the terms of the Miralle settlement agreement, the noticing requirements were changed in October 2022 to require posted notice of Closures and Partial Closures to be not less than 7 days. For Deep Cleanings, urgent operations, and re-encampments previously closed within the past 60 days, a notice of not less than 72 hours is required.

Although most of the EMT postings are performed 10 to 14 days before operations, the Homelessness Division works diligently to adhere to the prescribed notice requirements.

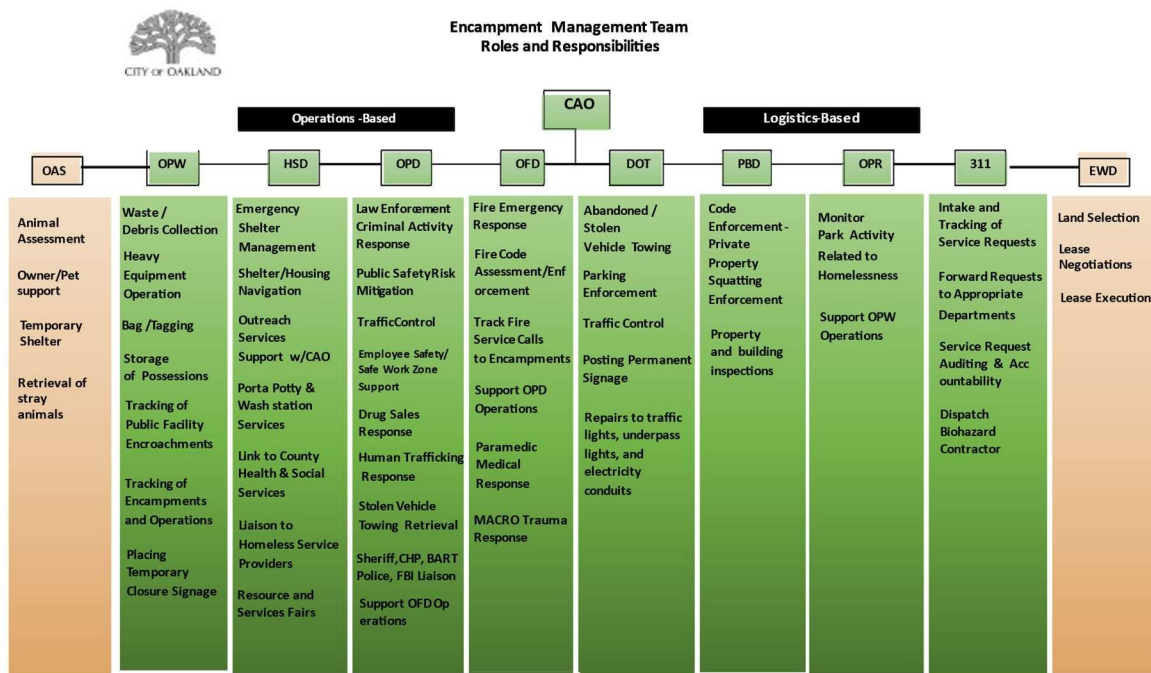
Additionally, all closures are subject to the shelter offer requirements of Martin v. Boise and elements of the Miralle settlement agreement.

In the case of an emergency, depending upon the dangerous conditions, it may be necessary to perform an unscheduled closure without posted notice. In these cases, the City will make best efforts to notify impacted residents in advance and offer available shelter, subject to available resources.

Encampment Management Team (EMT)

The Encampment Management Policy of 2020 designates the Encampment Management Team (EMT), as an interdepartmental working group responsible for planning and conducting encampment operations. Initially consisting of eight departments, the EMT now includes up to 10 departments due to the increasing number of encampments and complexities of the work. The EMT's primary responsibility is to ensure that the encampment policies are executed efficiently and in compliance with the law, including conducting outreach, coordinating shelter, providing access to resources, ensuring safety, and addressing environmental or health concerns. **Figure 1** depicts the EMT Departments and their related duties.

Figure 1 EMT Roles & Responsibilities



Though not pictured, the Office of the City Attorney is a critical contributor to the Encampment Management Team in the planning of operations and interpretation of all relevant encampment policies.

Encampment Service Requests

Encampment service requests are received through two methods: the City’s 311 system (SeeClickFix) and the homelessness email. From January 2021 through December 2023, the Homelessness Division received a total of 9,608 requests through both reporting methods. The average number of encampment service requests per month in 2021 was 201. In 2022, the average number of requests per month increased to 289, and in 2023, the average number of requests per month further increased to 310.

The increase in encampment requests has been significant over the last three years. In 2022, the number of requests increased by about 43.7% from the baseline number of requests in 2021. In 2023, the number of requests increased by about 7.38% from the baseline number of requests in 2022. Over the three years of 2021 to 2023, the total increase in the number of encampment service requests was 54.31%. As shown below in **Table 1**.

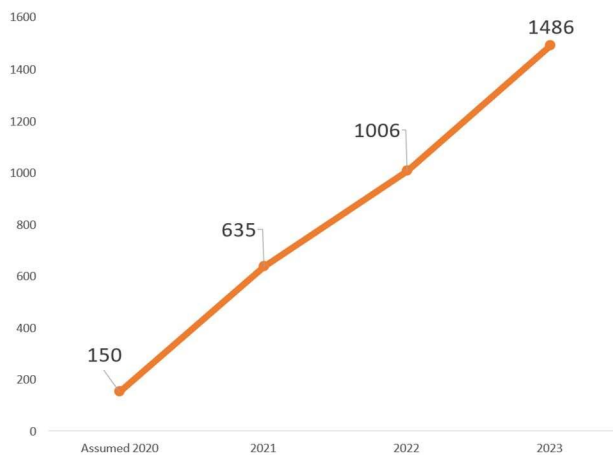
Table 1 Encampment Service Requests

Year	2021	2022	2023	All years
# of Requests	2,414	3,469	3725*	9,608

Encampment Numbers

In 2020, there were 140-150 estimated encampments citywide. Using reported service requests and eliminating duplicates, staff generated a list of unique encampment locations. This method was continued in the following years, identifying new encampments by comparing the list to EMT closures and reports of re-encampments. Using the referenced methods, staff were able to document trends in the reported growth of encampments for the past three years. As an important note, from 2020 EMP assumptions to December 2023, the reports of unique encampments increased by nearly 10-fold. The distribution of encampments by district is provided in **Figure 2** below.

Figure 2 Growth of Reported Encampment

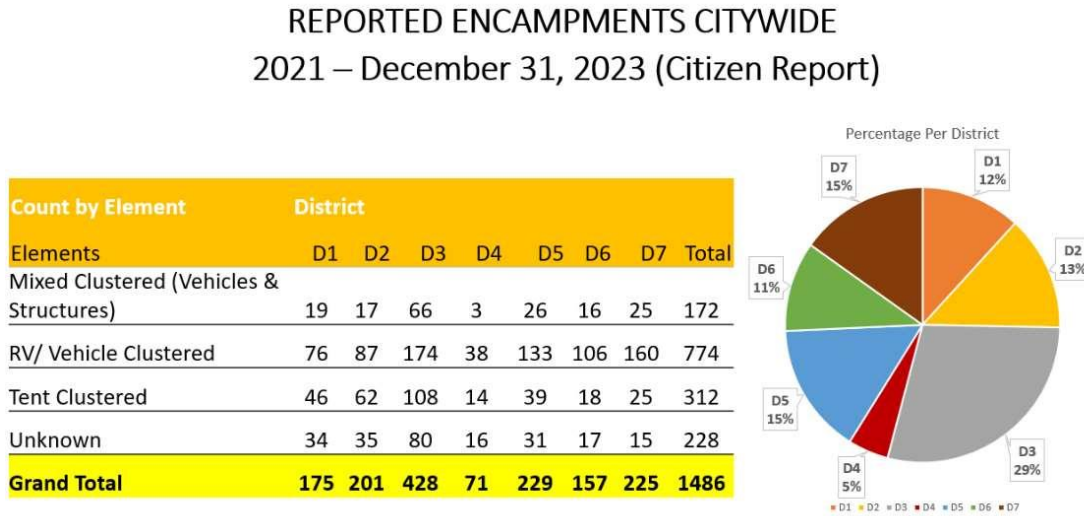


GROWTH OF REPORTED ENCAMPMENT

Year	Reported Encampments
Assumed 2020	150
YE 2021	635
YE 2022	1006
YE 2023	1486

The breakdown of encampments by district shows District 3 at 29%, District 7 at 15%, District 5 at 15%, District 2 at 13%, District 1 at 12%, District 6 at 11%, & District 4 at 5% as shown in **Figure 3** below.

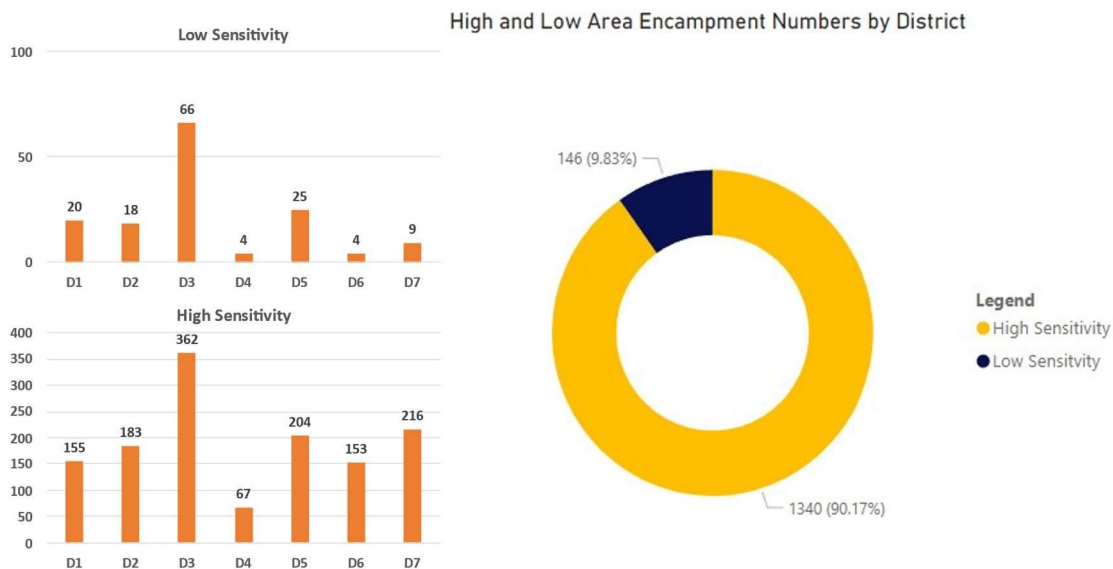
Figure 3 Reported Encampments Citywide



Encampments in Sensitivity Areas

As per the Encampment Management Policy, all encampments in high-sensitivity areas are subject to closure, and low-sensitivity areas are designated as a lower priority. Out of the 1,486 reported encampments in the city, 1,340, or 90.17% are designated as high-sensitivity areas, while only 146, or 9.83% are designated as low-sensitivity areas as shown below in **Figure 4**.

Figure 4 High & Low Area Encampment Numbers



According to the ratios of high and low sensitivity areas, the number of high-sensitivity areas is over nine times the amount or 917% higher than the number of low-sensitivity areas, which provides for urgent need to address encampments in high-sensitivity areas.

Service Request Workflow

To manage the large number of service requests and coordinate operations, EMT service requests are processed through four stages of work. Shown below in **Figure 5**.



Figure 5 This figure shows the flow of an encampment service request from intake to a scheduled operation.

During the Intake phase, service requests are sent out to outreach teams and departments to verify the reported encampment elements. At this stage, outreach teams engage with the unhoused to communicate the need for future EMT action, begin assessments, coordinate services such as County Health Department support or EMS response, and identify shelter needs. EMT subject matter departments visit the site to verify and assess reported environmental conditions and to determine what work could be performed. Departments report back on tasks that require formal EMT notice to proceed. Simultaneously, outreach teams continue visiting the site to offer services, assessments, and housing and shelter matches. At this phase, shelter matching becomes critical to meeting *Martin v. Boise* requirements in order to reduce encampment numbers.

Shelter and Housing Availability

The City of Oakland provides housing and shelter for the homeless population by maintaining over 1,300 beds across 24 program sites. The program models include community cabins, transitional housing, family shelter/housing, safe RV parking, rapid re-housing, Youth and Transitional Aged Youth (TAY), single adult shelters, and specialized shelter/housing sites. The Department of Human Services, Division of Community Housing Services oversees the programs. The programs cater to a range of needs targeting sub-populations of the homeless community such as youth exiting the foster care system, individuals over 60 who are medically frail or vulnerable, families, and homeless individuals who are not within the above categories. These programs provide shelter and longer-term housing as an interim solution to transition participants into permanent housing.

The EMT relies on these program vacancies to plan operations to provide shelter offers to encampment residents. However, it is important to note that not all program beds are exclusively for or accessible for EMT operations. In many instances, programs may experience daily changes to the vacancies due to walk-ins, emergency operations, and placements that occur during general outreach activities. Therefore, the EMT closely monitors occupancy and vacancy trends to encampment closures based on the tremendous need for these resources.

For example, programs with low-barrier entry such as community cabins, overnight shelters, and RV parking are more accessible for encampment operations. Those programs have utilization that fluctuates from about 94% to 100%, with vacancy rates that range from 6% to 0% in a given month. Out of an inventory of about 729 beds, the average number of available beds can fluctuate from a high of 40 to as low as zero. Due to these rates, the EMT often struggles to schedule encampment closures for weeks or even months. These factors demonstrate the challenges of providing shelter to 3,000 individuals and swiftly closing over 1,000 encampments. Without question, bed resources significantly influence the pace of encampment closures. If shelter availability is insufficient in number and the specific shelter needed for the community, generally closure of an encampment must wait until the appropriate resources accumulate.

Homeless Population

When addressing the issue of encampments, it is important to consider changes in the homeless population. The 2020 Encampment Management Policy used data from the 2019 Point In Time (PIT) count to establish the body of work for the EMP. In 2019, the number of unsheltered homeless individuals in the County of Alameda was 8,022, while in the City of Oakland, it was 4,071. According to the 2022 PIT count, the number of homeless people in the County of Alameda increased to 9,747, and in the City of Oakland, it increased to 5,055, representing a 24.17% increase since the 2019 PIT Count. The data for the January 2024 PIT count has not yet been released. However, population changes are expected and must be evaluated against changes in the PIT County methodology and other economic trends.

EMT Operations

From January 2021 to December 2023 the EMT completed 844 encampment operations, performing up to eight scheduled operations weekly based on the size of an encampment. Before 2021 there were 2 to 3 operations weekly, notably less. Shown below in **Figure 6 & 7**.

Figure 6 EMT Operations by Year & by District

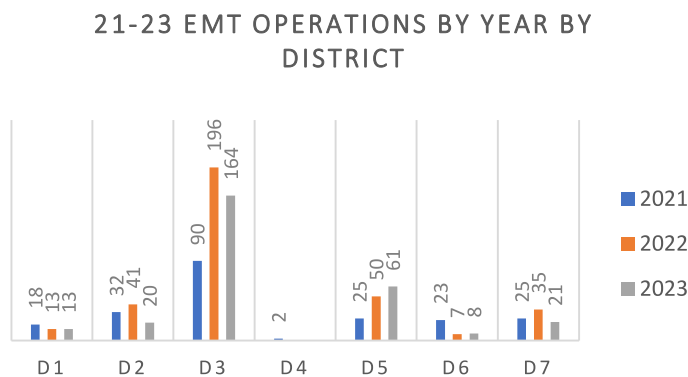
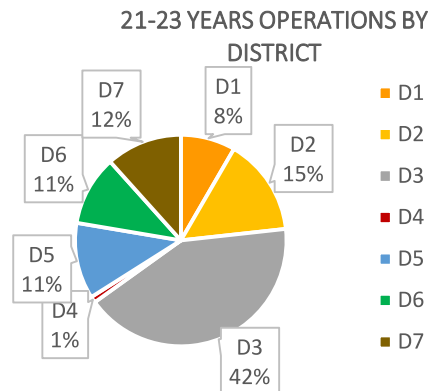


Figure 7 21-23 Years Operations by District



In comparing the district encampment numbers to the operations performed in each district, staff were able to see that EMT operations were not comparable to the number of encampments per district. To assess the basis of the inequity in services, staff would need to examine many key factors that could include patterns of re-encampment for specific locations based on geographic properties, the properties of the encampments, the associated health and safety impacts in the encampment, the resident needs in the encampment, and other enforcement obligations. The Division is working with the Department of Housing and Urban Development Technical Assistance team, the Department of Race and Equity, and City Department members to assess the above information for recommendations to the policy. Shown below in **Figure 8 & 9**.

Figure 8 All Encampments by District

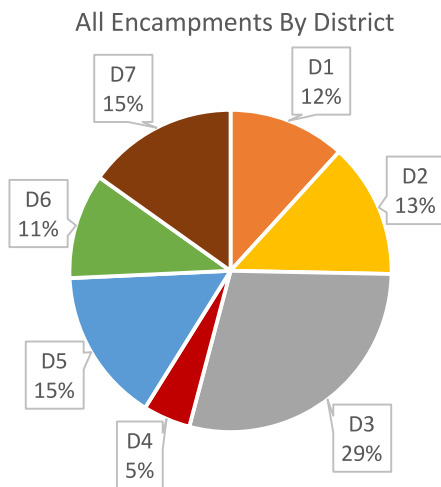
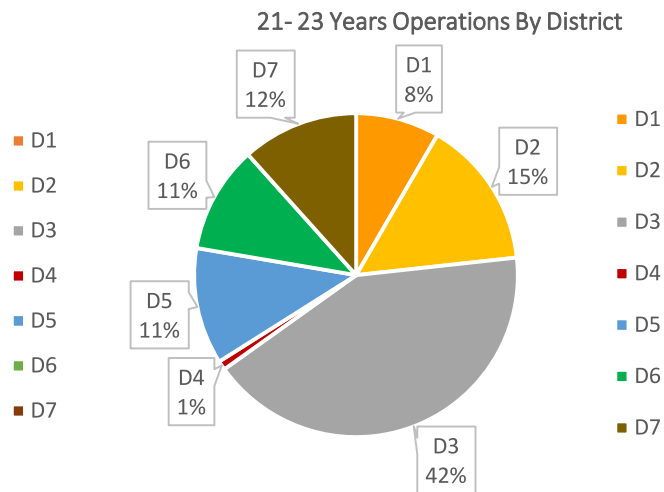


Figure 9 21-23 Operations by District



EMT Performance

The Homelessness Division compared all the years of EMT operations to the intervention goals in the division's 2023-2025 budget. The performance goals were developed by using interventions as a unit of measure since interventions are mitigation actions prescribed in the 2020 Encampment Management Policy. Shown below in **Figure 10 & 11**.

Figure 10 Count of Full Closure & Partial Closure by Year

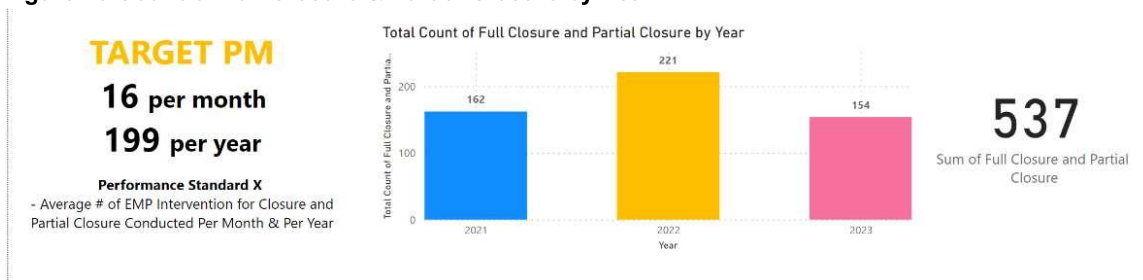
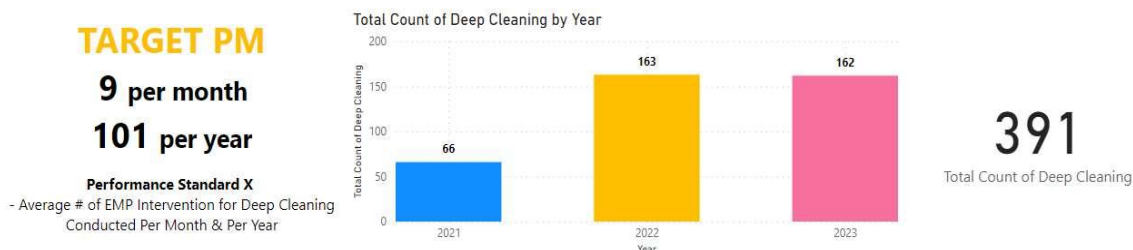


Figure 11 Count of Deep Cleaning by Year



As an important context, an EMT operation can be comprised of more than one intervention. For example, an operation could include a deep cleaning and partial closure within a single operation. As a result, the number of interventions over a period will naturally exceed the number of overall operations that are conducted.

From January 2021 to December 2023, the EMT conducted 844 encampment operations and during the operations, the team executed 928 interventions. On average, the EMT performed 26 interventions per month over the 36 months. In 2021 the EMT conducted 228 interventions at an average of 19 operations per month. In 2022, the EMT executed 384 interventions for an average of 32 interventions per month. In 2023, the EMT performed 316 interventions for an average of 26 interventions per month.

The applications of interventions are dictated by many critical factors, leading with shelter bed availability as prescribed by federal mandate, the severity of the conditions with consideration of emergency and urgent response, construction and infrastructure improvements that could result in failure to deliver a project or the loss of funding, limitations on operations as prescribed under the Miralle Settlement Agreement, compliance with regulatory requirements, and available staff resources.

Key Observations

An overview of this data was presented to and shared with the EMT, the Commission on Homelessness, and Department Directors to create awareness of how encampment management impacts residents, the unhoused within the encampments, and all City Departments to encourage deeper discussion among departments. The City Administrator's office will also be involved in these discussions to consider changes to the scope of work for EMT support and department authorities.

With 844 operations, the team has performed a significant amount of work under the conditions of all encampment response requirements. However, a significant amount of work remains. As indicated in the 2020 Encampment Management Policy, the policy itself was never intended to be the strategic instrument that increases the production of affordable housing and provides a comprehensive homelessness strategy to respond to Oakland's homelessness crisis. The objectives of this policy serve to provide systematic methodologies to address encampments in the City of Oakland that indirectly and directly rely upon housing and shelter resources to achieve the goal of reducing encampments in the City of Oakland.

Key observations include:

- As exemplified by the shelter bed occupancy and vacancy ratios, the lack of sufficient shelter and housing for the unsheltered population limits the EMT's capacity to close more encampments.
- In noting the nine-fold increase of reported encampments in the City of Oakland and noting an inequitable increase in the number of beds and staffing, even with the increase of up to 8 operations per week, the EMT in its current form is challenged to reduce the number of homeless encampments in the City of Oakland.
- In examining operations data more and noting the increased complexities to resolving homeless encampments the City as a whole must develop strategies for those exigent circumstances that will aid in improving the effectiveness of encampment operations. More on this will be provided in a supplemental report.
- Oakland's Homelessness continues to be disproportionately African American. Unhoused residents need additional support to transition from encampments to shelter. The City needs additional tools that assist the African American community in addressing their challenges, accessing shelter and attaining permanent housing.

These issues compound challenges to the work and must be incorporated into the study of this work.

Conclusion

This is the first of a two-part report that summarizes EMT encampment operations activity as prescribed under the 2020 Encampment Management Policy. The 2nd portion of the report will include contributions for HUD, EMT Departments, the Department of Race and Equity, Housing and Community Development, as well as the Office of the City Attorney.

The HUD TA team is currently examining the elements and systems that support the work presented in this report. As an independent authority, the HUD TA group brings expertise in program management, systems mapping, equity, and regulatory authority to review the City's processes and resources in this regard. The Administration is working closely with the division to review the data and strategies used to reduce homelessness on City streets. The objective is to inform changes that can lead to improved policies.

FISCAL IMPACT

This is an informational report and has no direct fiscal impact.

SUSTAINABLE OPPORTUNITIES

Economic: There is no direct economic impact connected to the preparation of this report.

Environmental: *There is no direct environmental impact connected to the preparation of this report.*

Race & Equity:

According to the 2022 PIT Count, homelessness in the City of Oakland continues to disproportionately impact the African American community. In addition, Oakland continues to be home to more than 50% of the homeless in the County of Alameda. Though Encampment Management policy states “Prevention strategies and affordable housing development strategies are not addressed in this particular policy,...”, it is essential to the needs of the homeless community and the efficacy of this policy, that systems resources on every level continue to be examined to identify the resources that will change the outcomes of those experiencing homeless. The equity analysis for this work is underway with HUD, HSD, Community Housing Services, the Department of Race and Equity, and the Office of the City Administrator.

ACTION REQUESTED OF THE CITY COUNCIL

Staff Recommends That The City Council Receive A Report On The Implementation On The Update Of The 2020 Encampment Management Policy.

For questions regarding this report, please contact LaTonda Simmons, Assistant City Administrator, Homelessness Division Operations, at (510) 238-6903.

Respectfully submitted,

LaTonda Simmons
LaTonda Simmons (Apr 11, 2024 16:47 PDT)

LaTonda Simmons
Assistant City Administrator, City
Administrator’s Office

Prepared by:

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City Administrator’s Office

FILED
OFFICE OF THE CITY CLERK
OAKLAND

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APPROVED AS TO FORM AND LEGALITY


CITY ATTORNEY'S OFFICE

OAKLAND CITY COUNCIL

RESOLUTION NO. 89382 C.M.S.

RESOLUTION AUTHORIZING AND DIRECTING THE CITY ATTORNEY TO COMPROMISE AND SETTLE THE CASE OF ANITA MIRALLE, JODII LE'GRAND EVERETT, I, TINA SCOTT, AIYAHNNA JOHNSON; IRVIN JOSUE HERNANDEZ ORTEGA; AND AYAT JALAL V. CITY OF OAKLAND; LIBBY SCHAAF; JOE DEVRIES; ANNE KIRKPATRICK; AND SABRINA LANDRETH, UNITED STATES DISTRICT COURT CASE NO. C18-06823-HSG, (CITY ATTORNEY'S FILE NO. X04613) IN THE AMOUNT OF TWO HUNDRED FIFTY THOUSAND DOLLARS AND ZERO CENTS (\$250,000.00) AND SUBSTANTIVE INJUNCTIVE RELIEF (CITY ADMINISTRATOR'S OFFICE – CIVIL RIGHTS VIOLATIONS UNDER THE FIRST, FOURTH, EIGHTH, FOURTEENTH CONSTITUTIONAL AMENDMENTS)

WHEREAS, Plaintiffs Anita Miralle, Jodii Le'Grand Everett, I, Tina Scott, Aiyahnna Johnson, Irvin Josue Hernandez Ortega, and Ayat Jalal (collectively, "Plaintiffs") allege that the City of Oakland violated their constitutional rights when the City closed the homeless encampment in which they were living and subsequently collected and/or stored and/or destroyed their personal belongings during the closure; and

WHEREAS, On November 9, 2018, Plaintiffs filed an application for temporary restraining order, request for preliminary injunction, and complaint in federal court for damages and injunctive relief against the City, Joe DeVries, Mayor Libby SchAAF, (former) City Administrator Sabrina Landreth, and (former) Oakland Police Chief Anne Kirkpatrick alleging violations of their rights under the First, Fourth, Eighth, and Fourteenth Amendments to the United States Constitution; and

WHEREAS, the City has considered all evidence, litigation costs, and risk; and

WHEREAS, without admitting any fault or wrongdoing, the City has determined to compromise and settle Plaintiffs' claims against the City and individual defendants for the sum of Two Hundred and Fifty Thousand Dollars and Zero Cents (\$250,000.00) and substantive injunctive relief related to the City's Encampment Management Policy which the Oakland City Council passed on October 20, 2020, as set forth in the Injunctive and Monetary Relief Agreement, attached to this Resolution as Exhibit A; now, therefore, be it

RESOLVED: That the Council hereby authorizes and directs the City Attorney hereby to compromise and settle the case of Anita Miralle, Jodii Le'Grand Everett, I, Tina Scott, Aiyahna Johnson; Irvin Josue Hernandez Ortega; and Ayat Jalal v. City of Oakland; Libby Schaaf; Joe DeVries; Anne Kirkpatrick; and Sabrina Landreth, United States District Court Case No. C18-06823-HSG, City Attorney's File No. X04613, for a sum not to exceed Two Hundred and Fifty Thousand Dollars and Zero Cents (\$250,000.00) payable by the City of Oakland; and be it

FURTHER RESOLVED: That the City Attorney is further authorized and directed to take whatever steps may be necessary to effect said settlement; and be it

FURTHER RESOLVED: That the sum of Two Hundred and Fifty Thousand Dollars and Zero Cents (\$250,000.00) shall be made payable to Siegel, Yee, Brunner, and Mehta Client Trust Account.

IN COUNCIL, OAKLAND, CALIFORNIA,

AUG 09 2022

PASSED BY THE FOLLOWING VOTE:

AYES - FIFE, GALLO, KALB, KAPLAN, ~~MINIMON~~ THAO AND
PRESIDENT FORTUNATO BAS - 6

NOES - 0

ABSENT - 0

ABSTENTION - 0

2 Excused - Reed & Taylor

ATTEST:



ASHA REED

City Clerk and Clerk of the Council of the
City of Oakland, California

EXHIBIT A

EXHIBIT A

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Attorneys for Defendants

17 **UNITED STATES DISTRICT COURT**
18 **NORTHERN DISTRICT OF CALIFORNIA**

17 ANITA MIRALLE, JODII LE'GRAND
18 EVERETT, I, TINA SCOTT, AIYAHNNA
19 JOHNSON; IRVIN JOSUE HERNANDEZ
20 ORTEGA; and AYAT JALAL,

21 Plaintiff,

22 vs.

23 CITY OF OAKLAND, a subdivision of the State
24 of California; LIBBY SCHAAF; JOE DEVRIES;
25 ANNE KIRKPATRICK; and SABRINA
26 LANDRETH,

27 Defendants.

) Case No. 4:18-cv-06823-HSG
)
) [Assigned to the Honorable Haywood S.
) Gilliam, Jr. - Courtroom 2]
)
) **INJUNCTIVE & MONETARY RELIEF**
) **AGREEMENT**
)
) Date:
) Time:
)
) Case Filed: November 9, 2018
)
)
)

1 The parties agree to the following explicit terms:

2 **A. Definitions**

- 3 1. The Encampment Management Team (“EMT”) is an interdepartmental working
4 group tasked with implementing and administering the Encampment Management
5 Policy (“EMP”). It consists of representatives from the City’s Public Works
6 Department, Human Services Department, Oakland Police Department, Oakland
7 Fire Department, the City Administrator’s Office, and other consulted departments
8 as necessary. The EMT is facilitated by the City Administrator’s Office through the
9 Homelessness Administrator. The terms of this Injunctive & Monetary Relief
10 Agreement are applicable to City action taken through or at the initiation of the City
11 Administrator’s Office through the Homelessness Administrator and/or the EMT.
12
- 13 2. For purposes of this agreement, “emergency” is defined as a situation in which
14 advance notice is essentially impossible, serious injury or death is imminent, an
15 immediate response is required by the Oakland Fire Department or the Oakland
16 Police Department or another City department, a state code, statute, or ordinance
17 mandates immediate abatement, and/or there is a public health crisis where health
18 is impacted to the point of imminent serious injury or death. Examples can include,
19 but are not limited to, a fire, a red-tagged building, as defined in section 130025 of
20 the California Health and Safety Code or the Fire Code, contamination by dumping
21 of hazardous materials, as defined by the California Department of Toxic Substances
22 Control or by the federal Environmental Protection Agency, and/or dumping waste
23 or debris into the sewer system or waterway such that immediate access is required
24 for repair or abatement.
25
- 26 3. For purposes of this agreement, “urgent health and safety concern” is defined as
27 either (a) a situation in which closure is necessary due to risk of serious injury or
28 death or (b) a situation in which 72-hour notice is inadvisable, impractical, or

1 impossible due to public health or safety concerns. Examples can include a vermin
2 infestation or the obstruction of a waterway. Where there is an outbreak of a
3 contagious disease, such as COVID-19, the City will determine, in its discretion, the
4 applicable health mandates that it must follow from the Governor and State of
5 California, Centers for Disease Control and Prevention, Health Officer of the County
6 of Alameda, and health measures ordered by local emergency orders and/or local
7 ordinances. After determining which mandates it must follow, the City shall follow
8 those mandates during operations initiated by the City Administrator's Office
9 through the Homelessness Administrator and/or the EMT.
10

11 **B. Notice**

- 12 1. All postings will:
- 13 a. State the date of the intervention;
- 14 b. State the date of the posting;
- 15 c. Identify whether the intervention will take place over multiple days by stating
16 the days on which the intervention will occur;
- 17 d. Be reposted if the intervention does not occur on the day (or time) as posted;
- 18 e. Include a 4-hour window for the intervention start time; and
- 19 f. Include contact information for homelessness services outreach.
- 20
- 21 2. Notices of closures will:
- 22 a. Be posted 7 days prior to an encampment closure (with exceptions for
23 emergencies/urgent health and safety concerns – where less than 7-day
24 notice, but as much notice as reasonably possible, will be given); unless the
25 closure is a re-closure, defined as a subsequent closures of the same site that
26 occur within 60 days of the initial 7-day notice of closure.
- 27 3. Notices of re-closures will:
- 28

1 a. Be posted 72-hours prior to an encampment re-closure, defined as
2 subsequent closures of the same site that occur within 60 days of the initial 7-
3 day notice of closure.

4
5 4. Notices of all other interventions (e.g., deep cleanings) will:

6 a. Be posted 72-hours prior to the intervention (with exceptions for
7 emergencies/urgent health and safety concerns – where less than 72-hour
8 notice, but as much notice as reasonably possible, will be given).

9
10 **C. Property Retrieval**

11 1. If the City collects property at a closure or intervention, the City will do the
12 following:

13 a. Post a notice of collected property at the closure/intervention site. The notice
14 of collected property must:

- 15 i. State the address where the collected property will be stored,
16 ii. Direct individuals to call 311 to retrieve vital property, which is defined
17 as identification (including social security cards) or medication, and
18 iii. State the hours of operation of the location where the collected
19 property will be stored.
20 iv. When storing collected property, the City must inventory and label
21 collected property at the storage site, which includes labeling all stored
22 property from a particular intervention site using the notice of
23 intervention or notice of collected property that was posted at the
24 intervention site at the time of collection.

25 b. The City will make reasonable efforts to store collected property pursuant to
26 the guidelines in the City's Standard Operating Procedures and maintain
27 property in the condition it was in when it was collected with one exception:
28 where practical, City employees who collect property will disassemble items

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prior to storing them where the items would be damaged if stored in an assembled state and make reasonable efforts to ensure that, when collected, usable property continues to be usable after retrieval.

2. The City must record collected or discarded property during or immediately after an intervention in the “Homeless Encampment Clean-up Checklist,” created by the Public Works Department or any subsequent version of this log for collected and discarded property.

3. The City will make all property collected and/or stored from an intervention available for retrieval:
 - a. Within 48 hours from the end time of the intervention where it was collected;
 - b. At one of two locations in the City that will be identified on the notice of collected property;
 - c. In-person, with general information available by contacting the telephone number on the notice of collected property;
 - d. In-person without appointment, during a TO BE DETERMINED set of business hours and a TO BE DETERMINED set of after business hours and weekend hours. The City will identify the locations of storage and both sets of “TO BE DETERMINED” hours within 90 days of execution of this settlement agreement. The enforcement period for this provision begins the day after the City identifies both sets of “TO BE DETERMINED” hours; and
 - e. Within 24 hours if an individual indicates by contacting 311 that their vital property, as defined above, was inadvertently collected.

D. Weather

1. City will make reasonable efforts to:

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- a. Avoid closures in rain – if the rainfall will be 1.0. inches or more on the day of the intervention (with exceptions for emergencies/urgent health and safety concerns);
 - b. Avoid closures in extreme heat or extreme cold – between 8 a.m. and 8 p.m. on the day of the intervention, if the high temperature is at or exceeds 90 degrees or the low temperature is at or below 42 degrees as determined by the National Weather Service (with exceptions for emergencies/urgent health and safety concerns);
 - c. Avoid closures with poor air quality – if the air quality index on the day of the intervention is 201 or higher [“very unhealthy”] as determined by the official U.S. Air Quality Index, reported on www.airnow.gov (with exceptions for emergencies/urgent health and safety concerns).
2. The decision about whether an intervention will proceed based on the forecasted weather conditions will be made:
- a. 48 hours prior to the start time of a closure on a Wednesday, Thursday, or Friday; and
 - b. 96 hours prior to the start time of a closure on a Monday or a Tuesday.
3. If a closure is canceled because of a weather-related decision, the City will inform impacted individuals of the cancelation with verbal or written notice.
4. If the City commences a closure, it will continue to perform the closure despite changes in weather conditions that would have prevented the initial commencement of the intervention, unless weather and working conditions are deemed unsafe for staff by the City Administrator’s Office or the person(s) with designated authority.

1 **E. Mitigation**

- 2 1. The City will continue to mitigate conditions in encampments – e.g. provide garbage
3 run, porta-potties, hygiene stations, deep cleanings, outreach, etc. – to address
4 health/safety concerns. The City will make reasonable efforts to provide mitigations
5 that it deems beneficial for an encampment. The City’s mitigation efforts may be
6 limited by financial and personnel resources, or policy considerations.

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8 **F. Oakland Police Department (“OPD”) Involvement**

- 9 1. OPD officers will use a Portable Digital Recording Device (“PDRD”) at interventions
10 per their current OPD policy.

11
12 **G. Monetary Terms**

- 13 1. City will pay Plaintiffs through their attorney’s the total sum of \$250,000.
14

15 **H. Continuing Court Jurisdiction**

- 16 1. This Injunctive & Monetary Relief Agreement is effective for four (4) years from the
17 date of execution (the “Effective Period”). During the Effective Period, either party
18 may seek judicial assistance to enforce the terms of the agreement.
- 19 2. The Court will retain jurisdiction for a period of one (1) year to enforce the terms of
20 the Injunctive & Monetary Relief Agreement (the “Enforcement Period”). Pursuant
21 to 28 U.S.C. § 636(c), the parties agree that Chief Magistrate Judge Joseph C. Spero
22 will serve as the enforcement judge.
- 23 3. At any point during the Effective Period, the party seeking to enforce a term in the
24 underlying Injunctive & Monetary Relief Agreement will meet and confer by phone
25 or in person with the opposing party to meaningfully and in good faith attempt to
26 resolve the dispute in writing at least 30 days prior to seeking judicial assistance.
- 27 4. During the Enforcement Period, if meet and confer efforts are unsuccessful, the
28 party seeking to enforce a term in the underlying Injunctive & Monetary Relief

1 Agreement will request an informal “conference” before a Magistrate Judge assigned
2 by Judge Spero to meaningfully and in good faith further attempt to resolve the
3 dispute.

- 4 5. If meet and confer efforts and the informal “conference” are unsuccessful, the party
5 seeking to enforce a term in the underlying Injunctive & Monetary Relief Agreement
6 will file and serve a noticed motion, with a briefing schedule and hearing date
7 stipulated by the parties.
- 8 6. If the City breaches the Injunctive & Monetary Relief Agreement and the Court must
9 force compliance, Plaintiffs will be entitled to reasonable attorneys’ fees in an
10 amount to be decided by the Court.
- 11 7. If Plaintiffs bring a frivolous challenge or continue to pursue a challenge after it
12 becomes clear the challenge is frivolous, the City will be entitled to reasonable
13 attorneys’ fees in an amount to be decided by the Court.
- 14 8. Neither party will be entitled to seek attorney’s fees for enforcement of the Injunctive
15 & Monetary Relief Agreement after the conclusion of the Enforcement Period.
- 16 9. After the Enforcement Period and during the remainder of the Effective Period, if
17 meet-and-confer efforts are unsuccessful, the party seeking to enforce a term in the
18 underlying Injunctive & Monetary Relief Agreement may bring a civil action to
19 enforce the terms of the agreement.

20
21 Dated: July ____, 2022

SIEGEL, YEE, BRUNNER & MEHTA

22
23 By /s/ EmilyRose Johns

24 EmilyRose Johns

25 Attorneys for Plaintiff

26 Dated: July ____, 2022

HADSELL STORMER RENICK & DAI LLP

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28 By /s/ Hanna Chandoo

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Hanna Chandoo
Attorneys for Plaintiff

Dated: July ____, 2022

OAKLAND CITY ATTORNEY'S OFFICE

By: /s/Jamilah Jefferson
Jamilah Jefferson

Attorneys for Defendants

2020 OCT 29 AM 10:26



City Attorney's Office

REVISED AT 10/20/2020 CITY COUNCIL MEETING

OAKLAND CITY COUNCIL

RESOLUTION NO. 88341 C.M.S.

A RESOLUTION ADOPTING THE 2020 ENCAMPMENT MANAGEMENT POLICY, TO BE IMPLEMENTED BY THE ADMINISTRATION UPON ADOPTION

WHEREAS, the City of Oakland has experienced a 47 percent increase in its homeless population between 2017 and 2019, the majority of whom live in tents, make-shift structures, vehicles, and places not meant for human habitation; and

WHEREAS, the number of tent and vehicle encampments tracked in Oakland currently exceeds 140, with over half of these encampments considered of significant size; and

WHEREAS, the adverse impacts of tent and vehicle encampments in Oakland continue to increase significantly, including a rise in service calls for fire, assault, robbery, drug trafficking, right-of-way obstructions, storage of combustible materials, and illegal electrical wiring, all of which jeopardizes housed and unhoused residents safety and health; and

WHEREAS, similar increases have been reported throughout the State of California, prompting the creation of statewide homelessness task force by Governor Gavin Newsom; and

WHEREAS, the City of Oakland voters passed the 2020 Oakland Parks and Recreation Preservation, Litter Reduction, and Homelessness Support Act (Measure Q) in March 2020 to support the maintenance of parks, water quality, and homelessness services; and

WHEREAS, this encampment management policy is related to the second prong of the City's three-prong approach to addressing our homelessness crisis, which includes: (1) prevention incorporating our Keep Oakland House programs, (2) crisis management and response, and (3) long-term housing for our unhoused residents; and

WHEREAS, the City recognizes the need for varied interventions to address the need of unsheltered residents or those at risk of homelessness, including but not limited to shelter services, emergency beds, safe parking sites, hygiene services, prevention services, and employment services;

WHEREAS, at the request of the City Council, the City Administrator undertook the development of a new encampment management policy in coordination with multiple City departments; and

WHEREAS, a draft policy was presented to the Life Enrichment Committee on September 21, 2020, and feedback from the committee members and the public was received and considered; and

WHEREAS, the City Administrator has set forth in its entirety the policy that was developed in coordination with multiple City departments as the "2020 Encampment Management Policy" in Exhibit A to this resolution; and

WHEREAS, it is understood that staff will implement the 2020 Encampment Management Policy as written, and shall not deviate from the principles set forth therein without returning to Council, except that it is understood that during the current COVID-19 emergency, increased risk of exposure to the virus shall be a vital consideration as part of implementation of this Policy; now, therefore, be it

RESOLVED: That the City Council adopts the proposed 2020 Encampment Management Policy (EMP), set forth in its entirety in Exhibit A to this resolution (document #2987429v1), which outlines a comprehensive process to mitigate the adverse impacts of tent and vehicle encampments on housed and unhoused residents, focusing encampment interventions on the mitigation of negative outcomes related to public safety and public health hazards; and be it

FURTHER RESOLVED: That the City Administrator or their designee shall provide an implementation update to the Council's Life Enrichment Committee within four month of Council adoption followed by semi-annual updates to the City Council and the public by issuing informational memoranda that reports EMP outcomes and analyses; and be it

FURTHER RESOLVED: That the Homeless Advisory Commission shall review the policy and implementation plan, and provide recommendations to the Life Enrichment Committee within four months after Council adoption and annually thereafter; and be it

FURTHER RESOLVED: That, in accordance with the City Charter, the City Administrator or their designee, shall be responsible for overall implementation of this policy and for directing coordination among city departments, and shall engage the new Homeless Advisory Commission for input and advice on implementation of this policy; and be it

FURTHER RESOLVED: That the Homeless Audit findings shall be incorporated into the informational report to the Life Enrichment Committee four months after Council adoption of the policy; and be it

FURTHER RESOLVED: That any recommendations from the Reimagining Public Safety Task Force regarding police response or involvement in homeless issues and police alternatives related to homeless issues shall be considered for incorporation into the policy and for adoption in the FY 2021 - 2023 budget process; and be it

FURTHER RESOLVED: The City Administration shall immediately work to establish part of the currently unused acreage of the Army Base Site as a place to be for homeless residents living in high sensitivity areas of District 3. This should accommodate both RVs and people living in tents on an emergency basis until negotiations with future tenants are completed; and be it

FURTHER RESOLVED: The City Administration shall work to identify comparable areas across all seven council districts to host encampments. Where public spaces are not available, the City may work with private organizations, such as churches to use their site for camping; and be it

FURTHER RESOLVED: The City Administration shall prioritize the encampment on Martin Luther King Jr. Way heading north from Grand Avenue for immediate services, disallowing camping along the west side of that stretch of Martin Luther King Jr. Way and in the bike lane on both sides of the street, and be it

FURTHER RESOLVED: That the City Administrator is hereby authorized to negotiate, submit and execute all documents, including, but not limited to, applications, contracts, grant agreements, amendments, payment requests, reports, and to take all related actions necessary to carry out the implementation of the EMP; and be it,

FURTHER RESOLVED: That any corresponding agreements shall be reviewed and approved by the Office of the City Attorney for form and legality prior to execution and executed copies placed on file in the Office of the City Clerk.

IN COUNCIL, OAKLAND, CALIFORNIA,

OCT 20 2020

PASSED BY THE FOLLOWING VOTE:

AYES - FORTUNATO BAS, GALLO, GIBSON MCELHANEY, KALB, REID, TAYLOR, THAO AND PRESIDENT KAPLAN - 8

NOES - 0

ABSENT - 0

ABSTENTION - 0

ATTEST:


ASHA REED

Acting City Clerk and Clerk of the Council
of the City of Oakland, California

Exhibit A:
2020 Encampment Management Policy
City of Oakland
REVISED AT 10/20/2020 CITY COUNCIL MEETING

I. INTRODUCTION

In December 2019, the Oakland City Council adopted the Permanent Access to Housing (PATH) Framework, which among other things, recommended strategies and interventions to address the growing homelessness crisis in Oakland.

The PATH Framework groups response strategies into three major categories:

1. **Prevention:** to protect vulnerable tenants from losing the housing they have and stabilizing those most at risk of becoming homeless;
2. **Emergency Response:** to shelter and rehouse households and improve health and safety on the street.
3. **Housing Development:** to expand the number of Extremely Low Income (ELI) and Permanent Supportive Housing (PSH) units prioritized for individuals and families experiencing homelessness.

Prevention strategies and affordable housing development strategies are not addressed in this particular policy; however, it is important to acknowledge that the emergency response strategies outlined in this policy fall within a broader framework to ultimately exit unhoused individuals and families from the homelessness system to permanent housing.

The PATH Framework specifically called for the development of an Encampment Management Policy to address the adverse health and safety impacts of unsheltered homelessness, with compassion and care to not criminalize poverty. Additionally, the PATH Framework highlights the importance of developing an encampment policy through a race and equity lens, given the disproportionate impact of homelessness on African Americans in Oakland, as well as disproportionate health and safety impacts from encampments on low income communities of color.

A. Equity Considerations

African Americans are disproportionately impacted by unsheltered homelessness. In Oakland, 70 percent of the homeless population are African American and the vast majority of known encampments at this time are located within communities of concern. For these reasons, this policy was developed with an intentional focus on the following equity outcomes:

- Health and safety standards are achieved and maintained for encampment residents who are disproportionately Black, Indigenous, and Persons of Color (BIPOC)
- BIPOC neighborhoods and businesses are not disproportionately impacted by vehicle and street encampments
- Service provisions close disparities in BIPOC groups' representation in homelessness

An equity impact analysis will be conducted in coordination with the City's Department of Race and Equity after the adoption and implementation of this policy to ensure the stated outcomes above are achieved and maintained.

It is important to note that an equity impact analysis is a comprehensive process that begins during the policy development stage and extends well into the implementation and evaluation stage of the policy process.

Exhibit A:
2020 Encampment Management Policy
City of Oakland
REVISED AT 10/20/2020 CITY COUNCIL MEETING

To this end, this policy will undergo a semi-annual equity review to determine its effectiveness in relation to the equity indicators and outcomes consistent with the guidance and best practices promoted by the City's Department of Race and Equity.

B. Public Safety Considerations

It is important to distinguish between public safety "emergencies" and public safety "factors" to determine the appropriate encampment intervention. **Public safety emergencies requiring a fire, medical, and/or police response should be immediately reported to 911, and those departments shall respond according to the ordinances, codes, statutes, and/or regulations under which they operate and are authorized to enforce (e.g. Health & Safety Code, Fire Code, Penal Code, etc.). The status of being unsheltered does not create immunity from generally enforced state codes and local ordinances.** For example, the investigation of crimes committed at encampments, especially violent crimes, arson, and narcotics trafficking, shall be conducted consistent with the laws and policies that currently govern all other criminal investigations, irrespective of location or whether the suspect is sheltered or unsheltered. Although the City does not enforce ordinances or policies that criminalize the "status" of being homeless (e.g. citing or arresting for sitting, lying, or sleeping outdoors), the City will enforce ordinances and policies aimed at punishing criminal conduct unrelated to the status of being homeless (e.g. drug and sex trafficking, arson, assault, vandalism, etc.). The City shall enforce against all criminal activities in encampments regardless of housing status.

Regarding public safety factors that are not necessarily public safety emergencies (e.g. accumulation of trash/debris, right-of-way obstructions, distancing of tents/vehicles/structures, etc.), the Encampment Management Team shall determine the level of intervention depending on specific findings, which are presented later in this policy.

C. Encampment Management Team

The Encampment Management Team (EMT) is an interdepartmental working group tasked with implementing and administering this policy, consisting of representatives from Oakland's Public Works Department ("OPW"), Human Services Department ("HSD"), Oakland Police Department ("OPD"), Oakland Fire Department ("OFD"), the City Administrator's Office ("CAO"), and other consulted departments as necessary (e.g., the Mayor's Office, the City Attorney's Office, Parks and Recreation). The EMT is facilitated by the CAO via the Homelessness Administrator.

The division of responsibilities between each member department of the EMT may be adjusted as necessary depending on available resources, capacity, and emergency responsiveness. Each department may, from time to time, promulgate additional specific procedures necessary to effectuate the roles and duties described in this policy under department specific Standard Operating Procedures (SOPs). The CAO may also promulgate guidance to all EMT member departments that further defines each department's roles and responsibilities.

**Exhibit A:
2020 Encampment Management Policy
City of Oakland**

REVISED AT 10/20/2020 CITY COUNCIL MEETING

Each stakeholder department:

- Provides regular input on issues governed by this policy, based in their departmental expertise;
- Participates in collective decision-making for any intervention proposed under this policy;
- Performs any aspect(s) of an intervention delegated to their department once the intervention is approved by the EMT under this policy; and
- Participates as needed in developing procedure(s) to effectuate this policy.

The purpose of this policy is to protect and serve all Oaklanders, sheltered and unsheltered, and to manage the adverse impacts of homeless encampments by balancing the interests of all residents (i.e. unhoused, housed, business community), focusing encampment actions on mitigating negative outcomes as they pertain to public safety, public health, and equity outcomes. This policy aims to:

1. Designate high-sensitivity areas, where unmanaged encampments are presumed to cause unreasonably high levels of health and safety impacts due to the nature of the location;
2. Designate low-sensitivity areas, where enforcement will not be prioritized.
3. Determine findings that will prompt EMT intervention;
4. Provide guidance on addressing unreasonable health and safety risks, promoting voluntary compliance, and strategies to address non-compliance.

II. DESIGNATION OF ENCAMPMENT SENSITIVITY AREAS

This policy designates two distinct areas – high and low sensitivity - with respect to presumed health and safety concerns related to vehicle and street encampments.

A. High-Sensitivity Areas

High-Sensitivity Areas are formally designated by the City Council and can include parks, particularly those with playground structures or tot lots, protected waterways, and other public lands. High-sensitivity areas are locations where the health and safety impacts of homeless encampments are heightened due to the potential degradation of critical infrastructure, restriction of public amenities or services, or significant obstructions to residences, businesses, emergency routes and rights-of-way. In these locations, the City would prioritize maintaining the areas free of encampments. Parks with playground structures or tot lots, or that host City-sponsored programs or classes for children shall be the City's highest priority high-sensitivity areas. The City Council reserves the right to allow smaller encampments in high-sensitivity areas, however, it is recommended that the operation and management of encampments in these areas be in collaboration with a managing agency. The managing agency would work in collaboration with encampment residents and the City to mitigate safety and health hazards. The managing agency can be a nonprofit organization, advocacy group, faith-based organization, another public agency, or a grassroots collective. The managing agency must meet the City's insurance requirements (or obtain a fiscal sponsor that is able to meet the City's insurance requirements). Guidance on the implementation of this model can be found in Appendix A.

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2020 Encampment Management Policy
City of Oakland
REVISED AT 10/20/2020 CITY COUNCIL MEETING**

Adoption of this policy would establish the following public property locations as high-sensitivity areas:

- All vehicular traffic lanes, bike lanes, and sidewalks (at least on one side of the street) must comply with American Disabilities Act (ADA) sidewalk and street requirements and must allow for passage of emergency vehicles.
- Locations designated as High Fire Severity Zones (HFSZ) by the Oakland Fire Department and/or CalFIRE.
- Within 150 feet of an elementary, middle, pre-school or child care center, and 100 feet from a high school.
- Within 50 feet of a protected waterway as established by any governing body.
- Within 50 feet of a residence.
- Within 50 feet of a retail business, and 50 feet from the main entrance and any emergency exits from all other businesses, including places of worship.
- Within 50 feet of a city park or other public land that has a children's playground, play structure, tot lot, or recreation center in which children participate in city-sponsored programs/classes*
(*Other public parks that contain ball fields, basketball courts or tennis courts shall be discouraged as encampments, but not initially considered high-sensitivity locations.)
- ~~Within 50 feet of a public park, soccer field, baseball field, basketball court, tennis court, and/or golf course.~~
- Areas directly adjacent (within 25 feet) to emergency shelter interventions.

B. Low-Sensitivity Areas

Low-Sensitivity Areas are all other areas not included above, and the following standards are to apply to all encampments in these locations:

- Shall be limited to one side of the street.
- Shall not impede vehicle, bike, or pedestrian traffic (on at least one side of the street).
- Shall not impede ADA access points, consistent with goal of limiting encampments to one side of the street.
- Shall not impede emergency ingress/egress routes.
- Compliance with applicable and generally enforced state codes and local ordinances.
- Encampment footprint shall not exceed 12 x 12 sq. ft per person.
- Area directly adjacent to a vehicle dwelling must remain clear at all times.
- No gray or black water dumping.
- No illegal electrical or water taps.
- No storage of tires, gasoline, generators, or propane tanks, or unsafe storage of combustible materials or accumulation of combustible waste.
- Structures, tents, and vehicle dwellings shall maintain not less than six (6) feet distance between one another.

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Encampments in low-sensitivity areas are monitored and managed by the EMT (barring emergency situations that require a fire, medical, police, or other emergency response). In the case of a medical or public safety emergency, 911 should be called.

Encampments that do not comply with the standards outlined above as well as with applicable and generally enforced state codes and local ordinances are subject to EMT intervention, and inquiries and complaints should be forwarded to 311 and/or homelessness@oakalndca.gov for action.

III. EMT INTERVENTION

A. Findings Prompting EMT Intervention

Encampments located in high-sensitivity areas are always subject to EMT intervention (except for exceptions approved by the City Council) given the potential degradation of critical infrastructure, restriction of public amenities or services, or significant obstructions to residences, businesses, emergency routes and rights-of-way.

For encampments located in low-priority areas that do not meet the standards outlined above, the EMT will consider the following findings in deciding what level of intervention is appropriate.

Public health findings:

- Confirmed case(s) of infectious disease(s) (e.g., Bubonic plague, Tuberculosis, Zika, COVID-19);
- Confirmed exposure(s) to case(s) of infectious disease(s) (e.g., Bubonic plague, Tuberculosis, Zika, COVID-19);
- Excessive animal or vermin vector hazards (e.g., rats, other vector vermin);
- Presence of biological vector hazards (e.g., blood, fecal matter);
- Notice of public health emergency at an encampment site declared by a county, state, or federal public health entity;
- Need for encampment decompression as identified by public health officials; and/or
- Location of encampment in a public recreational area, or shared facility for recreational activity should such facility require repurposing, pursuant to the Order of the Alameda County Health Officer to Shelter in Place No. 20-04 or other similar subsequent orders.

Public safety findings:

- Location of encampment impedes the right-of-way, lane of traffic, bike lane, or ADA access;
- Location of encampment such that First Responders (including, but not limited to, Fire, Police, and any health care workers), are impeded in performing their essential government functions;
- Pervasive criminal activity;
- Damage to essential infrastructure (e.g., reservoirs, bridges, public utilities, drainage and sewer systems);
- Excessive amounts of waste/garbage/débris as determined by OPW.
- Proximity of encampment to objective dangers (e.g., edge of a steep slope, on an in-use train track, in a vehicular lane of traffic).

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- Excessive fire hazards and/or calls for service as determined by OFD.
- Unpermitted outside fires burning less than 30 feet away from any structure, tent, or vehicle.
- Presence of open electrical splices or illegal wiring.
- Roadway does not have 20' unobstructed width for Fire Apparatus Access
- Fire hydrant obstructions with less than three (3) feet radial clearance around hydrants.
- Storage of tires, gasoline, or propane tanks, and unsafe storage of combustible materials or accumulation of combustible waste.

The City will not cite or arrest any individual solely for camping, or otherwise for the status of being homeless, and will make reasonable efforts to allow and, where feasible, assist the encamped individual with gaining compliance with the encampment standards outlined in this policy.

B. Types of EMT Interventions

It is the goal of the City to provide regular and adequate trash collection from encampments, to ensure that porta-potties and hand-washing stations are serviced regularly as needed, and that encampments receive regular deep cleanings to ensure that our unhoused residents not living in conditions that threaten health and/or safety.

- **Health & Hygiene Intervention.** This intervention may include placing handwashing stations, portable toilets, mobile shower facilities, providing routine waste collection services, and/or outreach services at an encampment. This intervention may be used at as many encampments as the City can reasonably serve given its resources. When possible, this intervention will be coordinated with partner public agencies. The EMT will use the 2018 Minimum Health and Safety Standards to determine which encampments are eligible for this intervention.
- **Deep Cleaning.** This intervention may require individuals encamped at a site to temporarily relocate to mitigate public safety and/or public health risks, allowing individuals to return to the site after the intervention is complete. This intervention may be used when one or more of the public safety and/or public health findings identified above are present and, due to its presence, the EMT decides that performing this intervention is necessary to protect the public. In performing this intervention, the City will make reasonable efforts to mitigate any individual or group property loss, as outlined in OPW's SOPs, but may determine that some property must be removed to protect the public. When possible, this intervention will be coordinated with relevant public agencies.
- **Partial closure.** This intervention may include partially moving and/or closing an encampment due to construction, to provide access to a work zone, or to abate ongoing public safety and/or health hazards. Affected encamped individuals will be offered shelter and/or alternative housing (or, if located in a high-sensitivity area, an opportunity to voluntarily relocate to a low-sensitivity area). This intervention may be used when the City is alerted to an impending construction or work project, and/or one or more of the public safety and/or public health findings identified above are present and, due to its presence, the EMT decides that performing this intervention is necessary to protect the public (including, but not limited to, the health and/or safety of the individuals living in the encampment). In performing this intervention, the City will make reasonable efforts to

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mitigate any individual or group property loss, as outlined in OPW's SOPs, but may determine that some property must be removed to protect the public. Additionally, the City, on its own or in conjunction with another public agency, will make offers to all affected encamped individuals of shelter and/or alternative housing.

- **Closure.** This intervention may include fully closing an encampment due to construction, to provide access to a work zone, or to abate ongoing public safety and/or health hazards. Affected encamped individuals will be offered shelter and/or alternative housing (or, if located in a high sensitivity zone, an opportunity to voluntarily relocate to a low sensitivity zone). This intervention may be used when the City is alerted to an impending construction or work project, and/or one or more of the public health and/or public safety findings identified above are present and, due to its presence, the EMT decides that performing this intervention is necessary to protect the public (including, but not limited to, the health and/or safety of the individuals living in the encampment). In performing this intervention, the City will make reasonable efforts to mitigate any individual or group property loss, as outlined by OPW's SOPs, but may determine that some property must be removed to protect the public and/or to complete the process of closing the encampment. Additionally, the City, on its own or in conjunction with another public agency, will make offers to all affected encamped individuals of shelter and/or alternative housing.

C. Public Noticing of EMT Interventions

To the extent feasible, the City will follow the procedures stated below to provide notice prior to any encampment intervention.

Non-emergency Actions

For any non-urgent intervention, the City will provide adequate notice. For Health & Hygiene interventions, the City will work with those encamped to ensure the effectiveness of the intervention. For all Deep Cleaning, Partial Closure, and Closure interventions, the City will provide at least a 72-hour notice unless there is an emergency that prevents such notice from being provided, as described in the section below. The 72-hour notice will be provided in writing, posted around the site in multiple languages, and, as feasible, verbally to those encamped.

Emergency Actions Due To Catastrophic Events, Natural Disasters, or other Urgent Health and Safety Concerns

For any emergency Deep Cleaning, Partial Closure, or Closure, the City will make reasonable efforts to provide those encamped with some form of notice, such as outreach workers visiting the site and sharing information verbally or in writing, if such notice is feasible. For certain public health or public safety interventions, like fires, the City may be unable to provide prior notice due to the nature of the emergency.

D. Storage of Individuals' Property

In performing any intervention, the City will respect and protect individuals' rights to their property while also following applicable local, state, and federal laws.

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During the course of any EMT intervention, OPW and other EMT member departments may remove debris, trash, waste, illegal dumping, hazmat, and/or other materials, following ordinary procedures with respect to handling such materials and the disposal thereof. OPW and other EMT member departments may also encounter property that is not debris, trash, waste, illegal dumping, or hazmat. For any such property: (1) whose ownership cannot be clearly determined but does not seem abandoned; or (2) whose ownership is known but the owner cannot transport it, the City will make reasonable efforts to store up to one (1) square yard of such property per individual. Any such effort will comport with OPW's ordinary practices with respect to property storage during encampment interventions. Should OPW require additional procedures for performing these property-related functions under this policy, OPW may promulgate such additional SOPs. Note that if a law enforcement agency must effectuate an arrest, the Alameda County Sheriff's Department, which operates the County's detention and incarceration facilities, will set any and all rules regarding property storage at their facilities.

While this policy is in effect, the EMT will explore reasonable methods of safe, secure, property storage potentially available to the City, including, but not limited to, OPW's storage facility; self-storage; and partnering with other public agencies or businesses to develop storage capacity.

IV. COMPLIANCE

The City must balance the rights of encamped individuals against its fundamental duty to maintain public safety and public health, in both high- and low-sensitivity areas. Where necessary, and when voluntary compliance cannot be achieved, the EMT may perform one of the four (4) interventions described above to maintain public safety and public health. The City will not cite or arrest solely for camping, but will enforce criminal laws in an ordinary manner to protect unsheltered and sheltered residents alike.

Encampments located within a high-sensitivity area that are not approved by the City Council will be subject to a Closure intervention as outlined above. Except when urgent health and safety concerns require shorter notice, encampment residents will be given 72-hours to accept an offer of shelter or alternative housing if such referrals are available. A person is also free to voluntarily relocate to a low-sensitivity area if shelter provisions are declined. All declinations will be documented. Emergency shelter provisions cannot be reserved for greater than 72-hours at a time, given the current demand.

Encampments in low-sensitivity areas that are in compliance with the standards outlined above are not subject to EMT intervention, unless an emergency arises. Outreach efforts and service offers will continue, as resources allow, with the goal of ending the individual's unsheltered status. Encampments in compliance with the standards established for low-sensitivity areas must still abide by all relevant and generally enforced local, state and federal laws.

Encampments in low-sensitivity areas that are not in compliance with the standards established in this policy are subject to EMT intervention as follows:

- Encampment residents will be notified by the EMT of any public safety and/or public health findings and, unless urgent health and safety concerns require shorter notice, will be given 72-hours to obtain voluntary compliance. Outreach workers may assist encampment residents during this period to achieve voluntary compliance.
- If the Outreach Team is unsuccessful, the encounter is documented and scheduled for a Deep Cleaning, Partial Closure, or Closure as determined by specific findings of the EMT, adhering to all noticing and storage requirements outlined above.

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The City cannot require any individual to accept any offered form of shelter and/or alternative housing, even if such acceptance is strongly recommended for public health or public safety reasons. Instead, an individual offered shelter and/or alternative housing who declines the offer may continue to camp without risk of being issued a citation or arrested for remaining encamped, unless the encampment must be partially or fully closed as described above for public health and/or public safety reasons. In those limited circumstances, the City will not cite or arrest any individual solely for camping, or otherwise for the status of being homeless, and will make reasonable efforts to allow and, where feasible, assist the encamped individual in moving to a new location, and will avoid citation or arrest unless either is necessary to protect against imminent risks to public safety and alternative indoor shelter or housing has been offered and declined.

In an effort to create more shelter and housing options for individuals encamped in high sensitivity areas, the City shall launch at least one co-governed encampment pilot on public land within the next four months, working collaboratively with the unhoused community to design the program, advocates, housed and business neighbors and the Councilmember of the district.