

TRAINING BULLETIN

A PUBLICATION OF THE SAN DIEGO POLICE DEPARTMENT

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ENFORCEMENT OF SAN DIEGO MUNICIPAL CODE SECTIONS

§63.0403- PROTECTION OF WATERWAYS

AND

§63.0404- UNAUTHORIZED ENCAMPMENTS ON PUBLIC PROPERTY

I. PURPOSE

The purpose of this bulletin is to provide information and direction on the enforcement of San Diego Municipal Code (SDMC) sections 63.0403(a), 63.0404(a), 63.0404(b), and 63.0404(c).

Enforcement of these sections shall not begin unless authorized by the Captain of the Neighborhood Policing Division. Additionally, enforcement of these sections does not preclude officers from enforcing other violations of law.

II. SCOPE

This Training Bulletin applies to all sworn members of the Department.

III. BACKGROUND

On June 27, 2023, the San Diego City Council voted to approve the “Unsafe Camping” ordinance that prohibits camping or maintaining an encampment on public property unless specifically authorized by the City Manager.

The ordinance amended San Diego Municipal Code Chapter 6, Article 3, by adding Division 4, sections 63.0401, 63.0402, 63.0403, 63.0404, 63.0405, and 63.0406 all relating to regulating encampments on public property.

IV. SAN DIEGO MUNICIPAL CODE SECTIONS

SDMC §63.0403- Protection of Waterways

- (a) It is unlawful for any person to do any of the following:
 - (1) build or erect a structure of any type along the banks of any waterway, or drive a nail or other object into any tree or other natural area vegetation for the purpose of building an encampment or any other structure, or to affix an object to any tree or other natural vegetation,
 - (2) move boulders or large rocks, destroy vegetation, paved roads or paths created by the City, or otherwise reconfigure the natural landscape in the waters of or along the banks of a waterway,
 - (3) drive, park, or bring any vehicle along the banks of a waterway, except in places specifically provided and designated for vehicular use,
 - (4) dig on the banks of a waterway, or
 - (5) discharge or store waste, including garbage, refuse, or human or animal waste, along the banks or into the waters of a waterway.
- (b) Nothing in section §63.0403 is intended to prohibit the activities of an owner of private property or other lawful user of private property that are normally associated with and incidental to the lawful and authorized use of private property; and nothing is intended to prohibit the activities of a lawful user if such activities are expressly authorized by the City Manager or by any law, regulation, permit, order, or other directive from a regulatory authority

SDMC §63.0404- Unauthorized Encampments on Public Property

- (a) It is unlawful for any person to camp or to maintain an encampment in or upon any public property, including in any street, sidewalk, park, beach, open space, waterway, and banks of a waterway, unless specifically authorized by the City Manager.
- (b) At all times, regardless of the availability of shelter space or beds, it is unlawful for any person to camp or to maintain an encampment where such activity poses:

- (1) an immediate threat or an unreasonable risk of harm to any natural person,
 - (2) an immediate threat or an unreasonable risk of harm to public health or safety, or
 - (3) disruption to vital government services.
- (c) At all times, regardless of the availability of shelter space or beds, it is unlawful for any person to camp or to maintain an encampment in the following locations:
- (1) within two blocks of a school that offers instruction on those courses of study required by the California Education Code or that is maintained pursuant to standards set by the State Board of Education provided that signs are posted prohibiting camping that are clearly visible to pedestrians. School for purposes of section §63.0404(c) does not include a vocational or professional institution of higher education, including a community or junior college, college, or university;
 - (2) within two blocks of any shelter provided that signs are posted prohibiting camping that are clearly visible to pedestrians;
 - (3) in any open space, waterway, or banks of a waterway;
 - (4) within any transit hub, on any trolley platform, or along any trolley tracks provided that signs are posted prohibiting camping that are clearly visible to pedestrians; and
 - (5) in any park where the City Manager determines there is a substantial public health and safety risk and provided that signs are posted prohibiting camping that are clearly visible to pedestrians. For purposes of this section §63.0404(c)(5), the definition of park does not include open space or beach areas, as defined in section §63.0102(b), or beaches, bays, or wetlands.

V. DEFINITIONS

The following definitions apply to encampments on public property:

Abatement- The process of documenting and collecting eligible items for storage, and removing and disposing of, recycling, or reusing of waste at an encampment according to the process in section 63.0406.

Available Shelter- Shelter that is reasonably available to the person at the time enforcement is taking place and taking into consideration any disability or other specific circumstances applicable to that person. (See SDMC § 63.0405(b)).

Beach Area- For the purposes of this sections, *Beach area* has the same meaning as SDMC 63.20 and is any beach or land (with waters immediately abutting or adjacent) under the jurisdiction and control of the Parks and Recreation Department, as set forth in paragraph (a) of this section. For example, the beach area includes the area between the boardwalk or private property to the water, but not areas controlled by private entities through ownership or agreement. The beach area does not include parks, which are separately regulated in Chapter 6, Article 3, Divisions 00 and 1 of the Code.

Camp- To pitch, erect, or occupy an encampment, or to use camp paraphernalia or both, for the purpose of, or in a way that facilitates outdoor sheltering for living accommodation purposes or for remaining outdoors overnight.

Camp paraphernalia- Personal property used to facilitate occupancy of an area and includes personal property typically associated with camping such as tarps, cots, beds, sleeping bags, hammocks, bedding, camp stoves, cooking equipment, buckets, and similar equipment, mattresses, couches, dressers, or other furniture.

Encampment- One or more temporary, makeshift, or hand-built structures not intended for long-term continuous occupancy, including tents, that are used to shelter one or more persons or their belongings and that are not authorized by the property owner. Encampment includes any camp paraphernalia and personal property associated with or located in or around the structures or tents.

Open Space- Any undeveloped public property either primarily in its natural state, including canyons, coastal bluffs, and unimproved waterways, or that is held out by the City or used by the public for passive recreational purposes, conservation, habitat preservation, or that maintains or enhances the conservation of natural or scenic resources.

Park- Any public property, whether developed or undeveloped, held out by the City or used by the public for active or passive park and recreation uses, including adjacent buffer lands and natural areas and any adjacent parking lots and perimeter sidewalks. The definition of park includes open space and all public beaches, beach areas, bays, and wetlands within the City.

Public Property- For this section, public property includes any street, sidewalk, park, beach, open space, waterway, and the banks of a waterway. (See SDMC § 63.0404(a)).

Shelter- Any City-funded shelter or shelter provided as part of the City's Coordinated Intake System for shelter placements where individuals or families

experiencing homelessness can access beds and other services or an area designated by the City Manager for use by individuals or families experiencing homelessness. A list of current shelters is provided on the City's website and is available through 2-1-1 San Diego.

Waste- Has the same definition as in San Diego Municipal Code section §54.0202: material of any nature that constitutes Rubbish, Solid Waste, Liquid Waste or Medical Waste. Waste also includes abandoned or unidentified personal property that is left unattended on public sidewalks and rights-of-way or other Public Property. Waste does not include compost piles, composting or Recyclable Material properly contained and disposed of in a timely fashion.

Waterway- All the portions of Chollas Creek, Los Peñasquitos Creek, San Diego River, San Dieguito River, and Tijuana River found within the boundaries of the City of San Diego.

VI. FACTORS TO CONSIDER PRIOR TO TAKING ENFORCEMENT

Officers shall consider the totality of the circumstances when determining what enforcement action is necessary and applicable. There are several factors to consider, which include, but are not limited to the following:

1. What is the time and location of the violation?
2. Is there available shelter?
3. Is the person camping or maintaining an encampment within two blocks of a restricted area (e.g., school, shelter, open space, waterway, banks of a waterway, or within any transit hub, on any trolley platform, along trolley tracks, or in a park where the City Manager determined there is substantial public health and safety risk.)
4. Are there signs posted, if required?
5. What is the size and type of the camp or encampment? Note any camp paraphernalia, size of physical area or square footage obstructed.
6. Have there been citizen complaints? If so, officers should document the frequency and type of the complaints.
7. Are there any known witness and/or reporting parties to the violations? If so, officers should obtain and document all available contact information and statements whenever possible.
8. Impact of camp or encampment (e.g., the camp or encampment is creating an immediate threat or an unreasonable risk of harm to natural person, public health or safety, or a disruption of government services.)

9. How long has the person's camp or encampment been at the location?
10. Has the person accepted an offer of shelter within the last 30 days?

VII. GUIDELINES FOR ENFORCING THE ORDINANCE

During each contact with a person experiencing homelessness, officers shall explain the violation, its consequences, and provide information on homeless related services including shelter space.

Acceptance of homeless related services including a shelter space does not prevent officers from taking enforcement action up to a custodial arrest when officers deem it necessary based on the totality of the circumstances, including whether the individual has accepted shelter within the past 30 days, and enforcement is in accordance with the elements of the ordinance.

A. ENFORCEMENT OF SDMC § 63.0404(a)- UNAUTHORIZED ENCAMPMENTS ON PUBLIC PROPERTY

Officers shall NOT conduct enforcement of this section between the hours of 9:00 p.m. and 5:30 a.m., or when the person is on public property and there is no available shelter. From 5:30 a.m. to 9:00 p.m., when shelter space is generally available, officers shall proceed as follows:

1. First contact for unauthorized encampment and no other violations exist:
 - a. Officers shall identify the subject, conduct a records check and confirm it is the first contact for violation of this section.
 - b. Officers should explain the violation and complete a field interview to document the contact, education of laws, and offering of homelessness related services.
 - c. Offer shelter space, shelter bed, and/or information on homelessness related services including 211sandiego.org, the safe parking program, or storage facilities.
 - d. If shelter is requested, officers should contact Neighborhood Policing Division's Homeless Outreach Team (HOT) for assistance with a shelter placement.
 - e. If HOT is not available, officers may contact the on-call HOT Sergeant via the Watch Commander for assistance.
 - f. Officers shall give the person an opportunity to deconstruct their camp, retrieve personal property, and arrange for transportation of the person to the designated shelter. The

amount and type of personal property a person is allowed is subject to shelter location regulations.

- g. If shelter space/bed is unavailable or if the person refuses shelter, officers should complete the field interview and warn the subject about future enforcement.

2. Second contact for unauthorized encampment and no other violations exist:

- a. Officers shall identify the subject, conduct a records check and confirm it is the second contact (at least one prior field interview) for violation of this section.
- b. Explain the violation, educate the subject on the law, and offer homelessness related services.
- c. Offer shelter space, shelter bed, and/or information on homelessness related services found at 211sandiego.org, the safe parking program, or storage facilities.
- d. If shelter is accepted/requested, officers should contact Neighborhood Policing Division's Homeless Outreach Team for assistance with a shelter placement.
- e. If HOT is not available, officers may contact the on-call HOT Sergeant via the Watch Commander for assistance.
- f. After receiving confirmation of an available shelter space or bed, officers should determine if the subject has accepted and been transported to a shelter in the past 30 days by SDPD personnel. If they have, the officer should complete a misdemeanor citation for the violation. If they have not, the officer shall complete a FI indicating shelter acceptance and transport.
- g. Officers shall give the person an opportunity to deconstruct their camp, retrieve personal property prior to transporting the individual to the designated shelter. The amount and type of personal property a person is allowed is subject to shelter location regulations.
- h. If the person refuses the shelter placement, officers should issue a misdemeanor citation for the violation.

- i. If HOT or shelter space/bed are unavailable, officers should complete a field interview documenting the contact, education of laws, and offering of homelessness related services and lack of available shelter.
3. Third contact for unauthorized encampment and no other violations exist:
 - a. Officers shall identify the subject, conduct a records check and confirm it is the third contact (at least one prior field interview and one misdemeanor citation) for violation of this section.
 - b. Explain the violation, educate the subject on the law, and offer homelessness related services.
 - c. Offer shelter space, shelter bed, and/or information on homelessness related services found at 211sandiego.org, the safe parking program, or storage facilities.
 - d. If shelter is accepted/requested, officers should contact Neighborhood Policing Division's Homeless Outreach Team for assistance with a shelter placement.
 - e. If HOT is not available, officers may contact the on-call HOT Sergeant via the Watch Commander for assistance.
 - f. After receiving confirmation of an available shelter space or bed, officers should issue a misdemeanor citation for this violation. Officers shall give the person an opportunity to deconstruct their camp, retrieve personal property prior to transporting the individual to the designated shelter. The amount and type of personal property a person is allowed is subject to shelter location regulations.
 - g. If the person refuses the shelter placement, officers may make a custodial arrest for the violation in compliance with Penal Code section 853.6.
 - h. If HOT or shelter space/bed are unavailable, officers should complete a field interview documenting the contact, education of laws, and offering of homelessness related services and lack of available shelter.

B. ENFORCEMENT OF SDMC § 63.0403(a)-PROTECTION OF WATERWAYS, § 63.0404(b) AND § 63.0404(c)-UNAUTHORIZED ENCAMPMENTS ON PUBLIC PROPERTY

At all times, regardless of the availability of shelter space or beds, officers may conduct enforcement of SDMC § 63.0403(a), SDMC § 63.0404(b), and SDMC § 63.0404(c).

SDMC § 63.0404(c) requires that signs are posted prohibiting camping and the signs are clearly visible to pedestrians where the person is camped or maintaining an encampment within two blocks of a school, shelter, within any transit hub, on a trolley platform, along any trolley tracks, or in any park where the City Manager has determined there is a substantial public health and safety risk.

SDMC § 63.0404(c)(3) does not require posted signs prohibiting camping in open spaces, waterways or banks of a waterway.

1. First contact for one or more of these violations and no other violations exist:
 - a. Officers shall identify the subject, conduct a records check and confirm it is the first contact for violation of one or more of these sections.
 - b. Officers should explain the violation and should complete a field interview to document the contact, education of laws, and offering of homelessness related services.
 - c. Offer shelter space, shelter bed, and/or information on homelessness related services including 211sandiego.org, the safe parking program, or storage facilities.
 - d. If shelter is requested, officers should contact Neighborhood Policing Division's Homeless Outreach Team (HOT) for assistance with a shelter placement.
 - e. If HOT is not available, officers may contact the on call HOT Sergeant via the Watch Commander's Office for further assistance.
 - f. Officers shall give the person an opportunity to deconstruct their camp, retrieve personal property, and arrange for transportation of the person to the designated shelter. The amount and type of personal property a person is allowed is subject to shelter location regulations.

- g. If shelter space/bed are unavailable or if the person refuses shelter, officers should complete a field interview and warn the subject about future enforcement.
- 2. Second contact for one or more of these violations and no other violations exist:
 - a. Officers shall identify the subject, conduct a records check and confirm it is the second contact for violation of one of more of these sections.
 - b. Explain the violation, educate the subject of the law, and offer homelessness related services. Individuals should be told a violation of one or more of these offenses does not require shelter availability since the violation is occurring in a protected area.
 - c. Offer shelter space, shelter bed, and/or information on homelessness related services found at 211sandiego.org, the safe parking program, or storage facilities. Officers should explain a citation may still be issued even if shelter placement is accepted and space is found.
 - d. If shelter is accepted/requested, officers should contact Neighborhood Policing Division's Homeless Outreach Team for assistance with a shelter placement.
 - e. If HOT is not available, officers may contact the on-call HOT Sergeant via the Watch Commander for assistance.
 - f. After receiving confirmation of an available shelter space or bed, officers should determine if the individual has accepted and been transported to a shelter in the past 30 days by SDPD personnel. If they have, the officer should complete a misdemeanor citation for the violation. If they have not, the officer should complete a FI indicating shelter acceptance and transport.
 - g. Officers shall give the person an opportunity to deconstruct their camp, retrieve personal property prior to transporting the individual to the designated shelter. The amount and type of personal property a person is allowed is subject to shelter location regulations.
 - h. If the person refuses the shelter placement, officers should issue a misdemeanor citation for the violation.
 - i. If HOT or shelter space/bed are unavailable, officers should issue a misdemeanor citation for the violation

3. Third contact for one of more of these violations and no other violations exist:
- a. Officers shall identify the subject, conduct a records check and confirm it is the third contact (at least one prior field interview and one misdemeanor citation) for violation of this section.
 - b. Explain the violation, educate the subject of the law, and offer homelessness related services. Individuals should be told a violation of one or more of these offenses does not require shelter availability since the violation is occurring in a protected area.
 - c. Offer shelter space, shelter bed, and/or information on homelessness related services found at 211sandiego.org, the safe parking program, or storage facilities. Officers should explain a citation may still be issued even if shelter placement is accepted and space is found.
 - d. If shelter is accepted/requested, officers should contact Neighborhood Policing Division's Homeless Outreach Team for assistance with a shelter placement.;
 - e. If HOT is not available, officers may contact the on-call HOT Sergeant via the Watch Commander for additional assistance.
 - f. After receiving confirmation of an available shelter space or bed, officers shall issue a misdemeanor citation for this violation. Officers shall give the person an opportunity to deconstruct their camp, retrieve personal property prior to transporting the individual to the designated shelter. The amount and type of personal property a person is allowed is subject to shelter location regulations.
 - g. If the person refuses the shelter placement, officers may make a custodial arrest for the violation in compliance with Penal Code section 853.6.
 - h. If HOT or shelter space/bed are unavailable, officers should determine when the last enforcement contact occurred for one or more of these violations.
 1. If a misdemeanor citation for one or more of these violations has been issued in the past 30 days, the officer may make a custodial arrest in compliance with Penal Code section 853.6.

2. If a misdemeanor citation for one or more of these violations was issued more than 30 days from the date of the third contact, a misdemeanor citation should be issued.

VIII. DOCUMENTATION

If enforcement action is taken, officers shall document their detailed observations in any written reports including arrest reports, Arjis-9, and field interviews, which should be submitted before the end of shift.

Observations should include the amount and type of camp paraphernalia as defined in this ordinance, a description of its purpose and use, size, waste, etc.

Officers should also document any prior contacts, enforcement, or violations the person was involved in. The documentation should include the date, location, and offense.

Officers should also take photographs of the entire camp, encampment, and/or camp paraphernalia. The photographs should depict all sides of the camp or encampment, their relation to any posted signs, and its location within prohibited area. All evidence should be processed in accordance with applicable Department Procedure 3.02.

Statements and contact information must be obtained from all witnesses and reporting parties whenever possible as well as a statement from the person found to be in violation of the ordinance.

An offer of services including shelter space or bed, must be followed up with a concerted effort to determine its availability. Officers should document in their reports whether H.O.T was contacted and if they were available.

Officers should also document if any direction was given to the person to contact 2-1-1 or visit the 2-1-1 San Diego website for assistance with shelter space or bed.

If you have any questions concerning the information provided in this bulletin, call **(Deleted – records of security)**.