



DEPARTMENT NOTICE

20-100
06/12/20

Legal Enforcement Options for Addressing Lodging and Illegal Tents, Living Structures, and Encampments during Covid-19

During the COVID-19 pandemic, it is asked that all people in San Francisco shelter in place. The Center for Disease Control (CDC) guideline recommends to not disrupt tent encampments due to the potential spread of the COVID-19 virus during the pandemic. However, the City's Health Officer, Department of Public Health (DPH) and Healthy Streets Operations Center (HSOC) recommend that SFPD observe the following rules for tents, living structures, or encampments under the current Shelter in Place Public Health Order.

Tents, Living Structures and Encampments:

- **Cannot be within 6 feet of a doorway to a business, residence or transit stop.** (SF Health Code 581 (nuisance); SIP Order; see also DPH Guidance 5/19/2020 at p.3)
- **Cannot block a doorway or exit.** (Cal. Fire Code 504.1 - building doorways and exits)
- **Cannot make sidewalks impassable (including by people in wheelchairs or with other disabilities) or impede traffic.** (SF Pub. Works Code 723; Cal. Streets & Highways Code 1480.5 & 1483; see also DPH Guidance 5/29/2020 at p.3)
- **Must be 6 feet apart from other tents in the front (door) and three feet on the side.** (SF Health Code 581 (nuisance); SIP Order; see also DPH Guidance 5/19/2020 at p.3)
- **If unsanitary items or excess items in the encampment are creating safety or health hazards, SFPD will follow Department of Public Works (DPW) Bag and Tag Policy.** Items may present a health and safety hazard under SF Health Code 581 (nuisance); Cal Fire Code 3107.9 (combustible materials)
- **If there are fire hazards violations – such as blocking a fire escape or come within 5 feet of a fire hydrant, open flames or combustible materials – Members may ask the individual to move the tent.** Cal Fire Code 3107.9 (combustible materials); California Code of Regulations, Title 19, Division 1, §321 (general authority to eliminate hazards); SF Fire Code 1031.2.3 (fire escapes); SF Fire Code 507.5.5 (fire hydrants).

The City's strategy in addressing tents, living structures, or encampments continues to be taking a services led approach with the objective of connecting the unsheltered population with available housing and services.

However, if any of the above listed criteria is met, officers may conduct enforcement as appropriate to abate the violation. When conducting enforcement of any violations, officers will

first attempt to obtain voluntary compliance. After the request for compliance is made, the officer can issue an admonishment, followed by citation, or arrest when appropriate. Below is a list of enforcement options available to officers:

Obstructing Streets or sidewalks- S.F Municipal Police Code 25-27 - Prohibits willfully or maliciously obstructing the free movement of any person on any street, sidewalk, passageway or other public place. To constitute a violation of these laws, the person or their belongings must be obstructing the passageway such that a person using a wheelchair would be unable to pass. The individual must be warned and given an opportunity to correct their behavior.

Sit/Lie-S.F. Municipal Police Code 168 - The City's "Sit/Lie" law may apply to any person, including individuals in an encampment, who are sitting or lying on the sidewalk between 0700 hours and 2300 hours in violation of that section. (Refer to DGO 6.11- Obstruction of Streets and Sidewalks).

Public Nuisance - CA Penal Code 372 - Is injurious to health, indecent or offensive to the senses, and interferes with the comfortable enjoyment of life or property by any considerable number of persons; 2) obstructs the free passage or use of any public park, square, or street.

Enforcement of Unauthorized Lodging – CA Penal Code 647(e) - A person who erects tents, living structures, or encampments may violate Section 647(e) of the Penal Code. Section 647 (e) prohibits individuals from lodging "in any building, structure, vehicle, or place, whether public or private, without the permission of the owner or person entitled to the possession or in control of it."

There are two significant restrictions on the Department's enforcement of Section 647(e): **First, officers must offer shelter.** If there is no shelter or housing available, officers may not issue a citation or seize the tent, living structure, or encampment. **Officers shall contact HSOC, (415) 558-2723, to secure appropriate shelter before taking enforcement action under Penal Code Section 647(e).** If the person accepts shelter, officers must request that the person pack up their belongings. Officers may need DPW's assistance with the cleanup and to bag and tag property at the person's request.


Second, officers may cite for violation of Section 647(e) only when the individual to be cited has erected a tent, living structure, encampment or shelter, shelter is offered, and the person refuses to go. This is a misdemeanor violation and officers may issue a citation and seize the tent, living structure, or encampment as evidence. Officers should attempt to convince the person to accept the offer of shelter. Officers must activate Body Worn Camera and prepare an incident report that includes the name of the shelter and the representative who confirmed availability.

The goal is to mitigate health and safety violations, only using enforcement as a last resort. In many cases, City departments such as Department of Homelessness and Supportive

Housing, DPH or any other resource can be utilized to assist in mitigating these violations without enforcement.

City and County of SF Resources:

Healthy Streets Operation Center (HSOC) (415) [REDACTED] or 311
Department of Public Health (DPH) (415) 554-2500 or 311
Department of Public Works (DPW) (415) 554-8200 or 311
Department of Homelessness and Supportive Housing (415) 252-3232 or 311
SF Homeless Outreach Team (415) 355-7401 or 311


WILLIAM SCOTT
Chief of Police

Per DB 20-081, both sworn and non-sworn members are required to electronically acknowledge receipt and review of this Department Bulletin in HRMS. Any questions regarding this policy should be made to sfpd.writtendirectives@sfgov.org who will provide additional guidance about the directive.