

Circular

Houston Police Department



May 12, 2017

NO. 17-0512-116

SUBJECT: CITY ORDINANCE PROHIBITING ENCAMPMENT IN A PUBLIC PLACE

The City of Houston recently passed an ordinance amending Chapter 21 of the Code of Ordinances to include Article III addressing encampments in a public place. This ordinance will become effective on May 12, 2017, at 12:01 a.m. This Circular is being issued to provide officers with guidance on the enforcement against encampment violations pursuant to the procedures specifically set out in the ordinance.

1) Encampment Violation

Section 21-62 of City Code of Ordinances makes encampment in a public place in the City unlawful. A public place within the city means an outdoor area owned, managed, or controlled by the City to which the public has access, including public rights-of-way, parks, streets, sidewalks, hike and bike trails, transit facilities, underpasses, and parking lots. Actions that violate the prohibition against encampment in these public places include the following:

- (a) The unauthorized use of fabric, metal, cardboard, or other materials as a tent or other temporary structure for living accommodation purposes or human habitation; or
- (b) The unauthorized use of a camp stove, grill, heater, or other container or device capable of generating or containing an open flame, or
- (c) The unauthorized accumulation of personal property (other than durable medical equipment) that would not fit in a container three feet high, three feet wide, and three feet deep.

The accumulation of personal property does not apply to durable medical equipment, which includes but is not limited to equipment such as wheelchairs, canes, crutches, and portable oxygen tanks. Officers must be able to provide testimony or other evidence [e.g. tape measure, photos] to support a determination that the amount of accumulated property would not fit in a container three feet high, three feet wide, and three feet deep.

The prohibitions on encampment apply to the very specific actions stated in the ordinance. The ordinance does not apply to persons who are merely sleeping out in the open in a public place or have placed an amount of personal property less than that prohibited by the ordinance.

Officers are advised that a person may come into compliance by dismantling the temporary structure, ceasing the use of the heating device or reducing the amount of personal property they have accumulated in the public place to items that could fit in a container three feet high, three feet wide, and three feet deep.

2) Identifying Violations and Coordinating Outreach and Enforcement Efforts

It is the City's policy that no person be cited or arrested for violation of the encampment ordinance unless the violator has been offered temporary shelter at a facility operated by a designated outreach organization or other social service provider, and the violator has declined or not responded to the offer. The offer and the violator's response should be documented.

Because of limited resources, Homeless Outreach Team [HOT] officers will assist in prioritizing necessary outreach resources and work with Differential Response Team [DRT] officers to address first the locations within the City where most violations may be occurring. Officers observing encampment violations may provide the violator with the written warning document attached to this circular; however, officers must coordinate any further outreach and enforcement actions with HOT and DRT. Only after the documented refusal or nonresponse by the violator to an offer of temporary shelter may a citation be issued or arrest made. Non-DRT officers are authorized to issue a citation; however, only DRT officers will be authorized to initiate an arrest of a person for encampment in a public place.

3) Written Warning Required Before a Citation or Arrest

City Ordinance section 21-63(a) requires that before a ticket or an arrest can be made for a violation, an officer must first provide the violator with a written warning advising the person that they are in violation of the ordinance and failure to comply with the ordinance may result in a criminal citation or arrest. Officers must allow the person reasonable time after the written warning to comply. The Department has created a written warning along with an information sheet regarding available medical and social services organizations and resources to assist the person. The written warning and medical and social services list are attached for your reference and can also be found on the HPD portal under [Documents In General/Departmental Forms/Mental Health Forms].

The Department has created a database, which can be used by officers who have issued written warnings under this new ordinance to document that a warning has been previously issued to a specific person. [REDACTED]

[REDACTED] Officers who rely on a written warning previously given to the person by another officer must clearly document on the ticket or the offense report the name and employee number of the warning officer and the date and time the warning was given. Both officers will be required to testify at time of trial on the violation. Officers should err on the side of providing a new or secondary warning to the violator to comply with the requirements of the ordinance if they have any concerns regarding the sufficiency of the warning documented in the database.

4) Procedures and Evaluation Prior to Arrest

City Ordinance section 21-63(c) establishes very specific procedural and evaluative steps that must be taken before a person may be arrested for an encampment violation. First, as stated above, an officer must have provided the written warning and given reasonable time to comply. Secondly, the officer must attempt to determine if the person may be in need of emergency

medical treatment (including emergency mental health treatment) or social services (including temporary shelter or drug or alcohol rehabilitation), and make reasonable efforts to obtain assistance from the Houston Police Department's Homeless Outreach Team (HOT) and/or designated outreach organization to informally evaluate the person's condition and needs. HPD has designated **Search** [Phone #713-739-7752] and **Star of Hope** [Phone #713-748-0700] as outreach organizations that may be contacted for assistance in conducting informal evaluations. HOT can be reached at 832-394-4200 or e-mail: HPD.HOT@HoustonPolice.org

Finally, **one** of the following circumstances must exist:

- a) The officer has concluded the person may be in need of medical treatment or social services, but, notwithstanding the officer's reasonable efforts, the officer has not been able to obtain the assistance from the Homeless Outreach Team and/or designated outreach organization.
- b) Personnel from the Houston Police Department's Homeless Outreach Team and/or a designated outreach organization have informally evaluated the person's condition and needs, and concluded the person has no immediate need for emergency medical treatment or social services; or
- c) Personnel from the Houston Police Department's Homeless Outreach Team and/or a designated outreach organization have informally evaluated the person's needs, concluded the person has an immediate need for emergency medical treatment or social services, and directed the person to an appropriate provider, but the person has not accepted the direction.

Enforcement of the encampment ordinance will focus on seeking compliance through outreach, warnings, and issuance of citations. **It is the City's policy that no person be cited or arrested for violation of the encampment ordinance unless the violator has been offered temporary shelter at a facility operated by a designated outreach organization or other social service provider, and the violator has declined or not responded to the offer. The offer and the violator's response should be documented.** As always, officers must act reasonably in their enforcement efforts taking into account the totality of the circumstances. Arrests should be made where necessary to address persons who continue to violate the law even after reasonable attempts have been made to seek compliance through outreach, warnings, and citations. An incident report will be required for all arrests made for encampment violations.

5) Property Disposition upon Arrest

Pursuant to **General Order 700-03, *Inventory of Prisoner's Property***, officers who place a person under arrest must take reasonable steps to secure the personal property the arrestee may have with them at the time of arrest. Due to the nature of encampment, persons engaged in the violation may have accumulated a large amount of personal property in the public place. Some of this personal property may include large furniture items such as couches and mattresses, or large quantities of household items. Arrestees may wish to leave these large items in the public place; however, the Department will not be responsible for any material left in the public place.

Officers who make an arrest for violation of this ordinance shall ensure that, other than durable medical equipment (wheelchairs, canes, crutches, etc.) which must be transported with the arrestee, the totality of the arrestee's property to be tagged for safekeeping could fit in a container three feet high, three feet wide, and three feet deep. The Property Division is working on the acquisition of 3'X3'X3' containers should officers want to use them.

6) Charges

Officers issuing citations or making arrests based on violations shall use the following codes and violations titles:

CC1746-ENCAMPMENT—CITATION ISSUED (SINGLE BLOCK)
CC1747-ENCAMPMENT—CITATION ISSUED (NEAR INTERSECTION)
CC1748-ENCAMPMENT—ARREST MADE (SINGLE BLOCK)
CC1749-ENCAMPMENT—ARREST MADE (NEAR INTERSECTION)

Questions regarding proper charges can be addressed to the City Prosecutor's office by calling 713-247-5474 to speak with the prosecutor on duty.



Art Acevedo
Chief of Police

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Attachment – 2 pages

Originating Party:
Wendy Baimbridge, Assistant Chief
Patrol Region 3 Command

COP # 17-62364

TO BE READ AT ALL ROLL CALLS FOR 5 DAYS



WARNING

Encampment Violation

A City of Houston law makes it **illegal** to **encamp** in a **public place** in Houston without permission from the City. **YOU ARE VIOLATING THIS LAW.**

“Encampment” means any of the following:

- **Setting up a tent or other structure.**
- **Using a grill, stove, or heater.**
- **Keeping too much property.**

Things to remember about “keeping too much property” in a public place:

- Under the law, property that would not fit in a container 3 feet high, 3 feet wide, and 3 feet deep is too much and is illegal.
- Most medical equipment is not subject to this law. Examples include oxygen tanks and wheelchairs for people who can’t walk.

If you do not stop encamping in a public place, a police officer may:

- Give you a ticket. The ticket may result in a court order that you must pay a fine of up to \$500.
- Arrest you and take you to jail. If you are arrested, the City will not protect any property you leave behind from damage or theft.

If you need help ...

On the reverse side of this warning is information about medical treatment, mental health treatment, temporary shelters, help with drug or alcohol problems, coordinated housing assessment, and other services that may be available to you.

Drop-In Centers

VA McGovern Drop-In Center*

(Veterans Only):

1418 Preston Street, Houston, TX 77002

Monday: 8:00 am – 2:30 pm

Tuesday – Friday: 8:00 am – 5:00 pm

Saturday: 8:00 am – 4:00 pm

Sunday: 9:00 am – 4:00 pm

Phone: 713-794-7533

The Beacon*

1212 Prairie Street, Houston, TX 77002

Monday, Tuesday, Thursday, Friday: 9:00 a – 4:00 p.

Closed for lunch each day from noon – 1:30 pm

Wednesday: 9:00 am – noon

Phone: 713-220-9737

Shelters

Salvation Army – Red Shield Lodge*

2401 N. Main Street, Houston, TX 77009

Intake: Monday – Friday, 4:30 – 7:30 pm

Phone: 713-224-2875

Salvation Army - Sally's House Single Women – Emergency and Transitional*

1717 Congress, Houston, TX 77002

Phone: 713.223.8889

salvationarmyhouston.org/sallyshouse

Star of Hope Men's Development Center*

1811 Ruiz, Houston, TX 77002

Monday – Saturday: 8:00 – 11:00 am, 1:00 – 3:00 pm

Sunday: 9:00 am – noon, 1:00 – 3:00 pm

Phone: 713-227-8900

Star of Hope Women and Families*

419 Dowling, Houston, TX 77003

Sunday – Saturday: 8:30 am – 2:30 pm

Phone: 713-222-2220

*** Locations where a Coordinated Access Housing Assessment can be completed**

Health Clinics

Cathedral Clinic (HHH)

1212 Prairie, Houston, TX 77002

Phone: 713-220-9730

Healthcare for the Homeless

1934 Caroline, Houston TX 77002

Phone: 713-286-6000

Harris Health System (HHS)

HHS Eligibility (Gold Card)

Phone: 713-566-6509

HHS Program: 713-634-1088

Chemical Dependencies Services

Alcoholics Anonymous

Phone: 713-686-6300

Houston Recovery Center LGC-Sobering Center:

150 Chenevert St, Houston, TX 77002

Monday-Friday, 8:00 am – 5:00 pm

Phone: 713-236-7800

Transportation

Metro

1900 Main St., Houston TX 77002

Phone: 713-635-4000

Project Access

Phone: 713-276-3073

Other Resources

The Harris Center for Mental Health and IDD

3630 W Dallas St, Houston, TX 77019

Friday-Tuesday 8:00 am -5:00 pm

Phone: 713-970-4444

VA Hospital (Veterans Only):

2002 Holcombe Blvd, Houston TX 77030

Monday- Sunday, 8:00 am – 4:30 pm

Phone: 713-791-1414