



THE CITY OF SAN DIEGO  
M E M O R A N D U M

DATE: September 29, 2022  
TO: Bernie Colon, Asst. Chief, Neighborhood Policing Division  
FROM: D. Bryan Brecht, A/Captain, Neighborhood Policing Division  
SUBJECT: Daylight Hours Encroachment Operations Plan

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**I. PURPOSE**

This operation is designed to reduce the public health and safety impacts associated with tents and makeshift structures erected on public rights of way and other public property during daylight hours. This will be accomplished by engaging individuals responsible for the structure, explaining the law (SDMC 54.0110), and requesting they take down the structure. The goal is to gain voluntary compliance in dismantling the structures during daylight hours.

**II. BACKGROUND**

This operation is based on voluntary compliance. During instances in which compliance is not achieved, enforcement may follow, consistent with Training Bulletin (TB) 19-10 (July 3, 2019).

Unauthorized Encroachments Prohibited – San Diego Municipal Code section 54.0110 (hereafter “Encroachment”) states:

It is unlawful for any person to erect, place, allow to remain, construct, establish, plant, or maintain any vegetation or object on any public street, alley, sidewalk, highway, or other public property or public right-of-way, except as otherwise provided by this Code.

The police response to areas affected by Encroachment applies to everyone whose property is blocking the public right-of-way, with the goals of:

- Allowing equal, open, and unrestricted access to the public right- of-way.
- Maintaining safe and healthy public rights of way.

### **III. DAYLIGHT HOURS ENCROACHMENT OPERATIONS PLAN**

**PRIOR TO ANY ENFORCEMENT ACTION, OFFICERS SHOULD REQUEST THOSE INDIVIDUALS WHO HAVE ERRECTED A STRUCTURE ON A PUBLIC RIGHT OF WAY OR OTHER PUBLIC PROPERTY DURING DAYLIGHT HOURS, TO VOLUNTARILY DISMANTLE THE STRUCTURE.**

**OFFICERS SHOULD EXPLAIN ENFORCEMENT WILL BE OCCURRING DURING DAYLIGHT HOURS. THOSE WHO REFUSE TO COMPLY, MAY BE SUBJECT TO ENFORCEMENT OF THE ENCROACHMENT ORDINANCE. THE BELOW STEPS SHOULD BE FOLLOWED.**

#### **IN ADDITION TO THE ENFORCEMENT FACTORS LISTED IN TB 19-10, THE FOLLOWING FACTORS WILL BE CONSIDERED DURING THIS OPERATION:**

- A. What is the size and type of property causing the obstruction? Note property type, size of physical area or square footage obstructed.
- B. Whether there have been citizen complaints? Note the frequency and type of citizen complaints.
- C. Impact of property causing obstruction (e.g., pedestrians walking in traffic lane, lack of wheelchair access). Is the property blocking the public right of way? Is the property interfering with the orderly passage of foot traffic?
- D. Does the placement of the property appear to be temporary versus indefinite?
- E. Inquire about how long the subject's property was causing the obstruction? How often is the subject's property there?
- F. Prior contacts (for what, when and where?).
- G. Take photos of the property that is encroaching. Witness and reporting party statements and information should be included in the reports.

#### **ALL ENFORCEMENT WILL FOLLOW THE PROGRESSIVE ENFORCEMENT MODEL OUTLINED IN TB 19-10**

#### **INCLEMENT WEATHER SUSPENSION POLICY**

- Inclement Weather: Enforcement of SDMC 54.0110, encroachment, will cease based on *forecasted* conditions when:
  - (a) There is a 50% or greater chance of rain; or
  - (b) The temperature will be 50 degrees or below.

#### **DAYLIGHT-ONLY**

Due to diminished daylight hours during the winter months, Officers will curtail enforcement operations by sunset as is recognized by the National Weather Service.