



# Frequently Asked Questions Regarding Homelessness and Encampments

*Prepared by the City of San Clemente*

In San Clemente and neighboring communities, the increase in the homeless/transient population and associated activity has residents and city leaders concerned. Homelessness is a very complex social problem that presents no easy solutions. The homeless crisis is impacting the quality of life of everyone it touches and the City recognizes that many of those on the street are there because of circumstances beyond their control. Most recently, the City has heard outcries by residents who have homeless encampments within close proximity of their neighborhoods and are concerned about fires, litter, sanitary concerns and public health issues. It is important that the property owners follow proper protocols for removal of encampments on private and public property. Below are answers to frequently asked questions about homelessness and encampments.

*Is being homeless a crime?*

No. Being homeless is NOT a crime. The City does have laws that address camping outside of legal campsites and sleeping in cars or on the street. These laws apply to sleeping on public property such as beaches, parks, sidewalks, or alleys and in vehicles or temporary structures outside of approved campsites (City of San Clemente Municipal Ordinance (SCMC) 9.04.010 (B) and 9.04.100).

*Are homeless encampments illegal?*

Technically, it's illegal to pitch a tent on a sidewalk or other places that encroach on public property. Encampments on private property are also illegal outside of approved campgrounds and it is the property owner's responsibility to clean up illegal encampments. This can include following the process to remove any trespassers, their belongings and any trash/debris. Though, seeing homeless encampments in San Clemente and other communities, it is apparent there is a gray area of the law. No one is allowed to reside on someone's property without permission, nor can he or she reside on public property like a sidewalk, alley, park or beach.

*What can I do if I discover a homeless encampment?*

Should an encampment be discovered in town, notify the police/city who can help determine ownership of the property and work with the property owner to determine their next steps. There are numerous state and federal laws that local municipalities must abide by when clearing encampments which homeless people create for temporary housing. When a decision has been made to clean up the encampment, it is imperative that warning be provided verbally and in writing via posted signage that provides ample warning they will need to move within 72 hours. Any personal property seized by the City must be stored to allow the person an opportunity to retrieve his/her belongings. The American Civil Liberties Union has challenged cities who have removed property that belong to homeless people left in encampments. The Fourth and Fourteenth Amendments of the U.S. Constitution protect an individual's right to keep his or her unattended but unabandoned property.

*What to do if confronted by a person panhandling*

When you come into contact with anyone, and do not feel safe, maintain a safe distance and exercise caution. Aggressive Panhandling was recently specifically addressed by the City in the adoption of SCMC 09.04.095 – Aggressive and Other Prohibited Solicitation. If you witness any of these, or are a victim, call the non-emergency dispatch at (949) 770-6011 or call 9-1-1 in the event of an emergency. If you are asked for money or food, it is not advisable that you give the person money as it only encourages more panhandling. If you would like to help the homeless, we suggest donating to local charities, missions or food banks like Family Assistance Ministries (FAM) in San Clemente which are successful at finding housing for homeless and providing resources, food and toiletries.

*Outreach and enforcement*

The San Clemente Police Services deputies interact with the homeless regularly. In establishing rapport with the homeless population, they identify those who are chronically homeless in San Clemente and provide this information to the County of Orange which is the entity tasked with providing social services. Deputies also provide social service outreach referrals, direct them to resources, and also ensure they are following the law, and in doing so they can identify crime and public safety issues and address these matters. It is important to make the homeless aware of available resources, especially if their encampment is removed, so they have options of where they can go.

*For more information*

To learn more about this topic, here is an article that cites case law on the subject of encampments by Stephen A. McEwen who is a partner with the law firm of Burke, Williams & Sorensen LLP published in Western City magazine: <http://www.westerncity.com/Western-City/December-2014/Addressing-Health-and-Safety-Issues-Related-to-Public-Encampments-and-Vehicle-Habitation/>