

For the Lived Experience Coalition

# Know Your Rights

Based on Seattle's MDARs & FAS rules

Created by students in the Homeless Rights Advocacy Clinic

\*not legal advice\*

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# BEFORE A SWEEP

## **Know risk factors**

- Seattle considers lots of factors when deciding whether to sweep. (FAS 5).
- Larger groups are more likely to attract attention, but the City still might sweep even a lone camper. (MDAR 3.9).
- The City sweeps all kinds of temporary shelters, including tents, lean-tos, awnings, pallets, tarps, sleeping bags, etc. (MDAR 3.9; MDAR 3.17).
- Evidence of “obstructions” or “hazards” can make a sweep more likely and may result in fewer or zero protections. (FAS 5).

## **Avoid obstructions & hazards**

- If the City calls an encampment an “obstruction,” it can be swept immediately without prior notice. (FAS 3.4). The City need only give verbal notice of an obstruction sweep if you are present. (FAS 4.3). An encampment is more likely called an “obstruction” if it:
  - blocks a public sidewalk
  - is near a walkway or area the public regularly uses
  - is near water
  - is near a freeway
  - appears to be “hazardous”
- The City broadly defines “hazardous.” Hazardous stuff can be swept immediately, without notice. Something is more likely to be “hazardous” (FAS 3.3) if the City says it
  - is wet
  - poses a risk of serious injury or death
  - presents a risk of landslide
  - is contraband (illegal stuff like non-prescription drugs)

## **Protect your stuff**

- The City will only store personal property from “obstruction” sweeps if it
  - Is not hazardous
  - Is “reasonably” recognized as belonging to a person
  - looks like it has apparent use left (not trash)
- Examples of personal property can include
  - tents, bicycles, electronics, eyeglasses, prescription medication, photographs, jewelry, crutches, and wheelchairs.

- Examples of personal property do NOT include “building materials,” such as wood products, metal, pallets, or rigid plastic. (FAS 11.1).
- Overall, your stuff is more likely to be removed and destroyed if the City calls it:
  - garbage;
  - hazardous;
  - building materials;
  - contraband (illegal stuff);
  - evidence of a crime (MDAR 8.2) or
  - “abandoned” (MDAR 3.1).
- However, in general, the City has a duty to collect and store personal items that are NOT dangerous to the public or city staff. (MDAR 9.4).
- To best protect your stuff:
  - Keep a list of each item, put your name on everything, and photograph everything. (MDAR 3.1c & FAS 12.2). If possible, keep these records in a safe place, separate from the rest of your stuff.
  - Avoid leaving your items on City properties like sidewalks or roads. (MDAR 3.1b).
  - Keep items inside shelter from the weather. (MDAR 3.1b).
  - If you have to be away from your tent, try to stay as close as possible to minimize the amount of time you are away. (MDAR 3.1b).
  - Do not leave your stuff on or with the property of someone you don’t know. (MDAR 3.1c).
  - Keep it dry. (The City treats all wet material as hazardous. See *Hooper v. City of Seattle* (2017) at \*10)
  - Don’t keep valuable items near contraband. (The city considers items near contraband hazardous. See *Hooper v. City of Seattle* (2017) at \*10)

### **Watch for sweep notices**

- Before most sweeps, the City is supposed to post a notice.
- Every sweep notice must be posted nearby.
- Each notice must include
  - notice posting date
  - sweep date
  - sweep time range
  - details for retrieving any property taken during the sweep and
  - contact info to find other shelter (FAS 6.1) (FAS 4.2)
- If the City fails to start the sweep at the posted date and time range, it has to repost a new notice. (FAS 6.1 & FAS 6.3)

## DURING A SWEEP

- If the police, parks' employees, or a property owner tells you to leave, you should leave or you might be arrested. (MDAR 6.1.1; MDAR 6.2)
- If you have a disability and you need more time during a sweep, you can follow this guide [cross reference NWJ project handout for ADA accommodations].
- Sweepers must offer shelter to each encampment resident during a sweep (FAS 8.1; FAS 8.2).
- Special advocacy issues: If you want to advocate, consider the following and take notes as proof, then speak to an attorney. Do NOT get into an argument with any sweeper and, for your safety, follow their demands.
  - If you don't recall seeing notice for the sweep, ask if they ever provided notice. If they say yes, ask for proof.
  - If they don't offer you shelter, ask them for that information. If they don't give you that information, you may ask them why.
  - If you hear they don't offer shelter to everyone, create a list of who didn't get offered shelter.
  - If you are around when the sweep occurs and you have important items you can't move but don't want to lose, show the sweepers a *copy* of the list (do not give them your original copy) of your property. Tell them it's yours, but you cannot move it, they should not destroy it, and you want it stored by the City. Take notes on how they treat your property.

## AFTER A SWEEP

### **Consider whether your rights were violated**

- If you experienced anything inconsistent with this zine, contact an attorney.
- If you experienced any of the advocacy issues flagged above, contact an attorney.
- If you had personal property taken during a sweep and need help getting it back, contact an outreach worker or an attorney.
- If you do find a notice for the sweep, check to see if it contains:
  - WHEN it was posted;
  - WHEN the removal occurred;
  - IF the city will store any of your items as personal property;
  - WHERE such items will be stored;
  - HOW to claim your items;
  - CONTACT information for outreach staff that can help find other living alternatives;
  - The notice should remain posted there for 10 days after removal (FAS 10.2/11.4)

## **Get your stuff back**

- You only have 70 days including the sweep date to get your property back. (FAS 11.6)
- To get your stuff back after a sweep, call the City’s personal items recovery line at (206)459-9949 and describe your stuff accurately. (MDAR 9.4).
- The City is supposed to photograph and make a list of any property taken at a sweep. Acceptable descriptions may be based on those City records. (FAS 11.3)
- You don’t need proof of your identity to get your stuff back. However, the City will record the name of whoever reclaims it. (FAS 12.2).
- Items are stored for up to 70 days at SDOT’s Sunny Jim facility, 4200 Airport Way S. (FAS 12.1), which is supposed to be accessible by public transportation. (FAS 11.2/11.4).
- Storage, recovery, and delivery of your property is free of charge. (FAS 12.5)
- Once you have requested your stuff, the City must give it back by the end of the next business day. (12.4)
- You can go to the place where your stuff is stored to collect it, or you can have your stuff delivered to you instead. It must be possible for the delivery truck to reach your requested drop-off point. (FAS 12.3)

## **Be aware of special situations**

- If you’re camping on Seattle Department of Transportation (SDOT) property, you and your belongings may be swept through different rules. (MDAR 5.3.2.2; SMC 15.04.012).
- If you’re camping in or even near a park, authorities can remove you and your stuff using different rules if you remain there outside of park operating hours. (MDAR 5).
  - It is against the law to enter or remain in a city-owned property or park that is closed to the public (MDAR 5).
  - General Park operating hours are 4AM to 11:30PM, but other operating hours might be posted on the property. (MDAR 5).
  - Some park areas are always closed to the public (everyone). They should be marked as closed to the public, so stay out of these areas to avoid problems (MDAR 5.1.1).
  - If someone breaks a park rule, authorities can give them notice requiring them to leave the park and even prohibiting them from returning. (MDAR 7.1.1).

## **Additional Resources**

Seattle & King County Emergency Food Resource Interactive Map

<https://public.tableau.com/app/profile/city.of.seattle.human.services/viz/Covid-19Seattle-AreaEmergencyFoodResources/InfoPage>

Seattle Portable Restroom, Showers, Laundry, and Day Centers Interactive Map

<https://www.seattle.gov/human-services/reports-and-data/addressing-homelessness>