Smoking Ordinance Violation Complaints

401.1 PURPOSE

The purpose of this Procedure is to provide direction to Department personnel on the receipt, handling, and documenting of complaints of alleged violations of San Mateo Municipal Code 7.40.010, which prohibits smoking in certain locations and instances in the City of San Mateo.

401.2 SCREENING OF COMPLAINTS BY DISPATCH

Complaints of Smoking Ordinance violations are usually first received by Dispatch. Upon receiving a Smoking Ordinance complaint, the dispatcher shall determine if the complaint is in-progress or not:

- REPORTED, IN-PROGRESS - If the reporting party (RP) states the violation is actively occurring, the dispatcher will obtain specific detailed information to create a call for service, to include:
  - When (happening now, or within the last 5 minutes)
  - Who
  - What
  - Where (if multi-residential complex – IMPORTANT added additional detail below)
  - Standard officer safety questions.
- REPORTED, NOT IN-PROGRESS - If the RP states a violation occurred longer than 5 minutes prior, a CAD incident shall be created and the officer dispatched to contact the RP via phone.
- If information indicates that there may have been a violation such as “smell of smoke coming from apartment” or vague information about who and where, an Incident should still be generated, and the officer dispatched to contact the RP by phone.

IMPORTANT – Multi-residential locations (apartment / condo complexes) – Dispatch should ALWAYS ask the RP if they have reported the issue to the owner/property management and document in CAD (“has/has not reported to apt. manager”). Additionally Dispatch should ask the RP for whatever contact information they have for the owner/property management.

CALL HISTORY (ALPHA) SHALL ALWAYS BE CHECKED – On repeat calls to a location, an officer shall be sent and shall document the incident in either a police report or with detailed CAD notes.

Dispatch will create a call for service in RIMs with the type code of "SMOKE."

401.3 OFFICER RESPONSE TO IN-PROGRESS COMPLAINTS OF ON-VIEW VIOLATIONS

Officers should issue a citation or document a warning in RIMS

- For On-View Violations of engaging in a smoking activity:
  - in all buildings, vehicles owned, leased or operated by the City of San Mateo

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- in all outdoor areas owned or leased by the City of San Mateo, including parking lots, park properties and facilities, golf courses, and any of the grounds surrounding the buildings, facilities or areas owned or leased by the City of San Mateo, excluding streets and sidewalks
- in all enclosed public places except hotel and motel lodging rooms
- in the following unenclosed public places:

  Service Areas (including, automatic teller machines (ATMs), ticket lines, bus stops, train stations, mobile vendor lines or taxi stands)

  Dining Areas (any indoor or outdoor area which is available to the general public used for consuming food or drink)
- inside any multi-unit residence or within 40 feet of a multi-unit residence.
- within any enclosed or unenclosed multi-unit residence common area.

  A multi-unit residence does not include.
- A hotel or motel
- A residential care facility or assisted living facility
- A detached single-family residence

  Until interpreted otherwise, backyards of single family residences are also not included

401.4 OFFICER RESPONSE TO COMPLAINTS OF NOT IN-PROGRESS OR ON-VIEW VIOLATIONS

Documentation and Referral:

- Officers shall document all smoking ordinance violations.
  - Documentation can be as minimal as a few notes in RIMs, but this documentation is essential to tracking the effectiveness of this ordinance.
- Officers are encouraged to educate all involved subjects of the City's municipal code on smoking violations and to share educational information (brochure, referral to the City's municipal code, etc).
- Officers should always attempt contact with the alleged smoker. If the officer believes there is enough information to establish the violation (i.e. smell of smoke, and subject is the only one who could have been smoking) – consider a police report for the violation, forwarded to the City Attorney for action.
- If the circumstances indicate a violation occurred (smell of smoke), but a violation cannot be established (who was smoking in prohibited area), document this detail in RIMs, identify the RP, ensure that the violation location and appropriate Ordinance section are correct in RIMS, and conduct any appropriate investigative steps.

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401.5 REFERRAL TO AREA LIEUTENANTS

Responding Officers should always check RIMs for prior complaints. If there are multiple calls for Smoking Ordinance at a location (generally considered to be 5 or more), the officer should provide this information to the assigned Area Lieutenant via email (with a copy to their chain-of-command).

Area Lieutenants – (This may be assigned out to a Sergeant):

- When notified of multiple (generally considered to be 5 or more) reported smoking violations, evaluate the totality of the overall situation for consultation with and possible referral to Code Enforcement management and/or referral to the City Attorney for Review.
- If the evidence is sufficient to forward for City Attorney review, prepare a report for City Attorney review, summarizing the investigation attempts to date, and attaching any incidents documented in RIMS.
- If smoking violations occurred in a multi-residential complex, ensure that the owner/ property management has been notified of the violations and of the municipal code. These notifications should be documented.

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