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REPORT NO. R 20 - 0 3 0 6

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REPORT RE:

DRAFT ORDINANCE AMENDING SECTION 41.18 OF THE LOS ANGELES MUNICIPAL CODE TO SPECIFY THE PARTICULAR TIMES AND LOCATIONS WHERE IT SHALL BE UNLAWFUL FOR A PERSON TO SIT, LIE, OR SLEEP ON PUBLIC PROPERTY, AND AMENDING SECTION 56.11 OF THE LOS ANGELES MUNICIPAL CODE TO ALIGN SECTION 56.11 WITH SECTION 41.18 AND TO NOTE THE SUSPENSION OF TWO SUBDIVISIONS IN SECTION 56.11 PENDING THE OUTCOME OF LITIGATION RELATING TO THOSE SUBDIVISIONS

The Honorable City Council
of the City of Los Angeles
Room 395, City Hall
200 North Spring Street
Los Angeles, California 90012

Council File No. 20-1376

Honorable Members:

This Office has prepared and now transmits for your consideration the enclosed draft ordinance, approved as to form and legality.¹ The draft ordinance would amend Section 41.18 of the Los Angeles Municipal Code (LAMC) to specify the particular times and locations where it shall be unlawful for a person to sit, lie, or sleep on public property. The draft ordinance also would amend Section 56.11 of the LAMC, which deals with storage of personal property in public areas, to align Section 56.11 with Section 41.18 and to note the suspension of two subdivisions in Section 56.11 pending the outcome of litigation relating to those subdivisions.

¹ Council Members are referred to confidential Report No. R20-0284, dated October 15, 2020 issued by our office when considering the draft ordinance.

The determination of what conduct is subject to criminal enforcement is one of policy for the Council. In preparing the draft ordinance, based on the motion introduced by Councilmember Blumenfield, we maintained the criminal enforcement structure of the current Sections 41.18 and 56.11, except as specified herein.

Summary of Changes to LAMC Section 41.18

The draft ordinance would make several changes to LAMC Section 41.18. Specifically, the draft ordinance would repeal Subsections (b) and (c) and restructure and amend the remaining subsections consistent with the discussion in confidential Report No. R18-0310, dated October 10, 2018.

The amendment to LAMC Section 41.18 contains four distinct subsections:

Subsection (a) addresses obstruction of the public right-of-way by (1) banning sitting, lying, sleeping, or placing personal property on pedestrian rights-of-way in a manner that would not allow for passage under the Americans with Disabilities Act (ADA), and (2) banning sitting, lying, sleeping, or placing personal property within 10 feet of any operational and utilizable entrance, exit, driveway, or loading dock.

Subsection (b) would authorize the Council, by resolution and posting of signage, to ban sitting, lying, sleeping, or placing of personal property within up to 500 feet of a facility opened after January 1, 2018, providing housing, shelter, supportive services, safe parking, or storage to homeless persons, upon findings that the ban serves the public health, safety, or welfare.

Subsection (c) would authorize the Council, by resolution and posting of signage, to ban sitting, lying, sleeping, or placing of personal property within up to 500 feet of a freeway overpass, underpass, ramp, tunnel, or pedestrian subway, upon findings that the ban serves the public health, safety, or welfare.

Subsection (d) would allow the City to enforce a ban on sitting, lying, or sleeping in any public area -- Citywide -- provided that an offer of shelter is provided before enforcement occurs.

The Council motion requested that we address these scenarios in the replacement for Section 41.18. As Section 41.18 has always been subject to criminal enforcement, the draft ordinance provides that violations of LAMC Section 41.18 would be enforceable as provided in Section 11.00 of the LAMC, including misdemeanor prosecution, infraction or referral to an appropriate prosecutorial-led diversion program.

To ensure effective and appropriate implementation of the new version of Section 41.18, this Office recommends that a working group comprised of all involved City and other agencies be convened to define the role of each agency, assure seamless

communication and coordination among the agencies, and develop implementation and enforcement protocols that are sensitive to the specific needs and circumstances of homeless individuals. This is critical not only to advance these objectives, but to assure that the ordinance is applied in a manner that can survive judicial scrutiny.

Summary of Changes to LAMC Section 56.11

While Section 41.18 focuses on when and where individuals may lodge, Section 56.11 regulates where and how people may store their personal property in public spaces. The draft ordinance would amend LAMC Section 56.11 to align with the new provisions of LAMC Section 41.18. Specifically, the draft ordinance would add a new subsection (j) to ban the storage of personal property in any area where, pursuant to the new version of LAMC Section 41.18, Council bans sitting, lying or sleeping-- namely, within up to 500 feet of any designated facility serving homeless persons or a designated freeway overpass, underpass, ramp, tunnel or pedestrian subway. Former Subsection (j) (which allows the City to limit the amount of personal property stored near homeless storage facilities opened after January 1, 2018) is deleted as superfluous, given that the Council would be able to designate an area adjacent to a homeless storage facility opened after January 1, 2018, as an area where *no* personal property may be stored.

The draft ordinance also leaves intact the Bulky Item provisions, Subsections 3(i) and 10(d), but notes that enforcement of these provisions is suspended pending the outcome of the *Garcia* litigation.

Lastly, as the Council motion requested us to align Section 56.11 with the replacement version of Section 41.18, the draft ordinance provides consistency in enforcement between the two Sections. Specifically, Section 56.11 now would provide that the storage of personal property that blocks ADA passage, entrances, exits, driveways or loading docks, or the storage of personal property near a designated homeless facility or freeway infrastructure would be enforceable as provided in LAMC Section 11.00, including misdemeanor prosecution, infraction or referral to an appropriate prosecutorial-led diversion program.

Council Rule 38 Referral

A copy of the draft ordinance was sent, pursuant to Council Rule 38, to the Los Angeles Police Department and the Bureau of Sanitation with a request that all comments, if any, be presented directly to the City Council when this matter is considered.

If you have any questions regarding this matter, please contact Senior Assistant City Attorney Valerie Flores at (213) 978-8130. She or another member of this Office will be available when you consider this matter to answer questions you may have.

Sincerely,

MICHAEL N. FEUER, City Attorney

By 

DAVID MICHAELSON
Chief Assistant City Attorney

DM:VF:ac
Transmittal