



MICHAEL N. FEUER
CITY ATTORNEY

REPORT NO. R21-0219
June 30, 2021

REPORT RE:

**DRAFT ORDINANCE REPLACING 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, OR TO
STORE, USE, MAINTAIN, OR PLACE PERSONAL PROPERTY IN
THE PUBLIC RIGHT-OF-WAY**

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. CF 20-1376-SX

Honorable Members:

Pursuant to your request, this Office has prepared and now transmits for your consideration the enclosed draft ordinance, approved as to form and legality. The draft ordinance amends Section 41.18 of the Los Angeles Municipal Code to specify the particular locations where it shall be unlawful for a person to sit, lie, or sleep, or to store, use, maintain, or place personal property in the public right-of-way.

The direction in the Motion creates a discrepancy between the treatment of personal property stored in the public right-of-way under this new version of Section 41.18 and the current version of Section 56.11. Section 56.11 only imposes a penalty where a person willfully resists the City's effort to remove the property. This appears to run counter to the Motion that was adopted by the City Council, which seeks to prohibit a person storing personal property in the public right-of-way in specified locations, and, presumably, impose a penalty for violating this new prohibition (and not only when a person willfully resists efforts to remove the property).

It is a policy decision of this City Council whether to maintain the existing limit on the imposition of a penalty only to those instances where a person willfully resists removal of the property, or, alternatively, to remove that limitation and, thereby, authorize imposition of a penalty for the act of storing the personal property in the public right of way. To make clear the City Council's policy direction, we recommend that the City Council choose one of two alternative additions to the draft ordinance.

Option A would maintain the current law that only allows the imposition of a penalty if the person willfully resists the City's efforts to remove the property. Option A would add the following new Subsection (e) to Section 41.18: "For purposes of enforcement under Section 11.00 of this Code, Section 56.11 of this Code governs the storage of personal property stored in violation of Section 41.18."

Option B would authorize the imposition of a penalty under Section 11.00 for the act of storing personal property in the public right of way in locations prohibited under the new Section 41.18. Option B would add the following new Subsection (e) to Section 41.18: "Section 56.11 of this Code does not limit the imposition of a penalty for any personal property stored in violation of this section."

Council Rule 38 Referral

A copy of the draft ordinance was sent, pursuant to Council Rule 38, to the Los Angeles Police Department and to the Bureau of Sanitation requesting 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 L. 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