



**MICHAEL N. FEUER**  
CITY ATTORNEY

REPORT NO. R 1 6 - 0 0 2 4  
JAN 2 2 2016

**REPORT RE:**

**DRAFT ORDINANCES AMENDING SECTION 56.11 OF CHAPTER V OF THE  
LOS ANGELES MUNICIPAL CODE TO ADDRESS THE STORAGE OF PERSONAL  
PROPERTY IN PUBLIC AREAS**

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

Honorable Members:

On November 17, 2015, Council requested the City Attorney to prepare an ordinance to amend Section 56.11 of the Los Angeles Municipal Code which addresses the storage of personal property in public areas. In response to that request, we now transmit the enclosed amended draft ordinances for Council's consideration.<sup>1</sup> As part of its request, Council also asked that we prepare and present a separate ordinance which addresses commercial property stored in public areas. That draft ordinance is being transmitted concurrently via a separate report.

Maintenance of a Specified Quantity of Personal Property in Public Areas

In furtherance of its goal of balancing the needs of City residents to access and use clean and sanitary public areas with the needs of the homeless individuals, who have limited storage alternatives, Council's motion directed that the amended ordinance

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<sup>1</sup> Enclosed are two alternative draft ordinances which present alternative policy options to address the volume of personal property that a homeless person may store in a public area if the City enhances voluntary storage capacity or access thereto through subsidized transportation. These alternatives are discussed in this report.

allow for individuals to maintain a specified amount of personal belongings in public areas. In accordance with this direction, the draft amendment:

- (1) Allows individuals to store personal property in a public area, up to the equivalent of what could fit into a 60 gallon container with the lid closed;
- (2) Provides that with 24-hour notice, the City may remove and impound unattended property of any amount and attended property that exceeds the specified amount;
- (3) Provides that personal property is unattended when no person is present who claims ownership of the property;
- (4) Provides that the City shall store impounded personal property for 90 days during which time it may be reclaimed by its owner but if not claimed within 90 days, the City may discard of it;
- (5) Sets forth the requirements for pre-removal and post-removal notices which the City shall use when impounding personal property; and
- (6) Designates the Bureau of Sanitation as the Designated Administrative Agency allowing for it to promulgate rules, protocols and procedures for the implementation and enforcement of the ordinance.

Also, in accordance with the Council's motion, the draft ordinance includes limited specific instances when the City may remove, impound and/or dispose of personal property without prior notice. Specifically, the draft ordinance allows that the City, without prior notice:

- (1) May temporarily move personal property that is obstructing the City's maintenance, cleaning or other operations in public areas;
- (2) May move and may impound personal property in a public area that does not allow for passage as required by the ADA;
- (3) May move and may impound personal property in a public area which is within ten feet of an operational, utilizable entrance, exit, driveway or loading dock;
- (4) May remove and may impound personal property left in a public area after a clearly posted closure time;
- (5) May remove and may discard personal property in a public area that poses an immediate threat to the public health or safety; and

(6) May remove and may discard personal property that constitutes evidence of a crime or contraband.

### Tents and Attachments

Consistent with the current law, the draft amendment provides that no person shall erect a tent in any public area from 6:00 a.m. to 9:00 p.m. However, for your Council's consideration, we have included language in the draft amendment that provides for an exception to this prohibition during rainfall or when the temperature falls below 50 degrees. The draft ordinance provides that the City may deconstruct and may impound any tent erected in a public area in violation of the ordinance.

### Bulky Items

Consistent with the current law, Bulky Items are defined in the draft ordinance as any item that is too large to fit in a 60 gallon container with the lid closed. We have written into the draft amendment for Council's consideration the following exceptions to Bulky Items -- constructed tents, operational bicycles and operational walkers, crutches or wheelchairs.

The current law provides that the City, without prior notice, may remove and may discard of any Bulky Item placed in a public area. In drafting the amendment, we took into consideration the specific legal issues presented by Bulky Items which are used for shelter, such as tiny houses. For those items, the draft amendment provides that pre-removal notice of 24 hours is required, after which time the City may remove and may dispose of the item. This 24 hour notice requirement does not apply to such items which obstruct passage as required by the ADA, are placed within ten feet of a utilizable entrance, exit, driveway, or loading dock, or are left in a public area after a posted closure time.

### Limited Enforcement

Council was clear that its intent was not to criminalize homelessness and as such enforcement should be limited to maintaining the City's ability, as needed, to assure clean, accessible public areas and address specific safety issues. As directed by Council, the draft amendment narrowly limits unlawful conduct to an individual willfully resisting, delaying or obstructing a City employee from moving, removing, impounding or discarding personal property stored in a public area, as allowed for by the ordinance. As an example, in order to establish unlawful conduct, it would have to be shown that the person stored property in excess of the allowable limit, failed to move it after the applicable notice period, and willfully resisted, delayed or obstructed a City employee from impounding the excess property.

Stricter Restrictions as to the Volume of Stored Personal Property upon the Establishment of Additional Accessibility to Voluntary Storage

Council requested that in drafting the amended ordinance, we consult with the CAO and recommend a specific amount of additional voluntary storage capacity, which if established, would permit the City to reduce the amount of personal property an individual may store in public areas to essential items of a limited quantity. In addressing this concept, we present two alternatives for Council's consideration.

Version A

In the first alternative, Version A, the draft ordinance provides that if the City increases voluntary storage capacity to offer at least one 60 gallon storage bin for every three homeless persons, a person within 2 miles of a storage facility will be allowed to maintain only up to two cubic feet (approximately the size of a back pack) of belongings. In suggesting the threshold of at least one 60 gallon storage bin for every three homeless persons in the City, we compared the amount of voluntary storage currently in use in the City's Skid Row storage facility to the number of homeless individuals residing in the Skid Row area, according to The Greater Los Angeles Homeless Count, conducted biennially by the Los Angeles Homeless Services Authority. The three to one ratio is a threshold for the implementation of a more restrictive storage limit that is made contingent upon actual capacity.

Additionally, in Version A, the draft ordinance provides that if the City establishes a system of subsidized transportation which enables an individual to reach a storage facility in an average travel time of 60 minutes, a person within ten miles of a storage facility will be allowed to maintain only two cubic feet (approximately a back pack) of belongings. In suggesting the ten mile radius, we relied upon the average number of miles traveled in a 60 minute period by the City's DASH shuttle buses over 20 different routes, at different times of the day.

Version B

The second alternative, Version B, is presented for the Council's consideration by the CAO and our Office because we believe it provides the City with greater flexibility in locating and addressing the needs of specific communities. Version B provides that the CAO shall report to Council upon the creation of any new voluntary storage facility or subsidized transportation to a storage facility. That report will assist Council in determining whether to implement the stricter restrictions on the volume of personal property which may be stored in public places, based upon the additional storage capacity and accessibility to it. With that information, Council may, by resolution, limit the volume of property persons within a specified area may store to two cubic feet. Version B would allow Council to evaluate the situation as new additional voluntary storage is established, and on a case by case basis determine if volume limits in the

impacted geographical area should be modified based on the increased access to voluntary storage.

Urgency Clause

Each of the alternative draft ordinances contains an urgency clause, which would make the ordinance effective upon publication, pursuant to Charter Section 253.

Council Rule 38 Referral

The amended draft ordinances were sent to the Department of Public Works, the General Services Department and the Los Angeles Police Department for their comments.

If you have any questions regarding this matter, please contact Executive Assistant City Attorney Leela Kapur at (213) 978-8357 or Senior Assistant City Attorney Valerie Flores at (213) 978- 8149. They or another member of this Office will be present when you consider this matter to answer any questions you may have.

Very truly yours,

MICHAEL N. FEUER, City Attorney

By   
LEELA A. KAPUR  
Executive Assistant City Attorney

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Transmittal

cc: Eric Garcetti, Mayor  
Sharon Tso, Chief Legislative Analyst  
Miguel Santana, City Administrative Officer