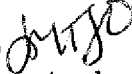
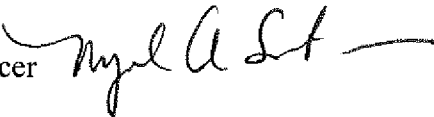


CITY OF LOS ANGELES
INTER-DEPARTMENTAL CORRESPONDENCE

DATE: August 25, 2015

TO: Honorable Members of the Homelessness and Poverty Committee

FROM: Sharon M. Tso 
Chief Legislative Analyst Assignment No: 15-08-0697

Miguel Santana 
City Administrative Officer

SUBJECT: Proposed Amendments to Municipal Code 56.11

SUMMARY

Municipal Code Section 56.11 STORAGE OF PERSONAL PROPERTY (MC 56.11), which went into effect on July 18, 2015, regulates storage of property on the City's public right-of-way defined by MC 56.11 as including sidewalks, alleys, and streets. The ordinance's Declaration of Legislative Intent states, in part, that the unauthorized use of public areas for the storage of personal property interferes with the rights of other members of the public to use public areas for their intended purposes and can create a public health or safety hazard that adversely affects residential and commercial areas. The purpose of this article is to maintain public areas in clean, sanitary and accessible condition. Please note that MC 56.11 applies to any property stored in the public right-of-way and does not make a distinction between individual property and commercial property.

On August 12, 2015, the Homelessness and Poverty Committee considered proposed amendments to MC 56.11. Amendments include those presented in Motions (Bonin – Price) and (Cedillo – Bonin) (Council Files 14-1656-S1 and S2, respectively) as well as verbal proposals made during Committee. A complete list of the proposed amendments is provided on page four. At the conclusion of the meeting, the Committee instructed the Office of the Chief Legislative Analyst (CLA) and the City Administrative Officer (CAO) to work with the City Attorney's Office to report relative to the proposed amendments and whether implementation can occur through either adjusting current City department protocols/operations or through an Ordinance amending MC 56.11.

The CAO/CLA will also transmit a report to Council under separate cover relative to increasing the provision of storage for homeless individuals in the City (CF 15-0727).

A summary of the provisions included in MC 56.11 as well as a discussion of the individual proposals and the necessary modifications to City protocols/operations or amendments to the Municipal Code to implement those proposals is provided below. Departments involved with operations relative to MC 56.11 and its enforcement are as follows: Bureau of Sanitation (Sanitation), Bureau of Street Services (BOSS), City Attorney, Los Angeles Homeless Services Authority (LAHSA), and the Los Angeles Police Department (LAPD).

RECOMMENDATIONS: Changes to Municipal Code Section 56.11 or to protocols or operations which address the Storage of Personal Property are policy matters for the Council's consideration. This report provides a discussion of each of the policy matters raised by the Homelessness and

Poverty Committee on August 12, 2015 and presents options for the Committee and Council's consideration. It should be noted that some areas will require further study and input.

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- Part 1. Summary of MC 56.11 (See Attachment A for a text of MC 56.11)
- Part 2. Listing of Proposed Amendments to MC 56.11 raised by the Homelessness and Poverty Committee
- Part 3. Discussion of Proposed Amendments

Part 1.

Summary of MC 56.11

Section 1 – Declaration of Legislative Intent - Purpose

Section 2 – Definitions

Section 3 – Impoundment and Discarding of Stored Property

The City may remove and impound all property placed in the public right-of-way, if the property was noticed for removal 24 hours prior to impoundment. Additionally, the following categories of items may be removed and discarded without notice: property that poses an immediate threat to the public's health or safety; bulky items (items too large to fit in one of the City's 60 gallon trash containers with the lid closed); and evidence of a crime or contraband.

Section 4 – Notice

The City must post notice that property will be removed. Noticing involves pre-removal and post-removal notices. The pre-removal notice must be placed 24 hours prior to removal. Both notices must include a description of the items to be removed, location of removal, and contact information relative to where the items will be stored and how to retrieve them before they are discarded after 90 days.

Section 5 – Failure to Remove Attended Personal Property

It is unlawful to fail to remove attended stored property within 24 hours of noticing.

Section 6 – Storage and Disposal

Impounded items will be stored for 90 days and, if not claimed, discarded.

Section 7 – Repossession

An owner of impounded property may retrieve their belongings by submitting satisfactory proof of ownership. Methods include describing the items and the location and date of impoundment. Valid government issued identification is not required to claim impounded property.

Section 8 – Daytime Ban on Tents

Tents are not allowed from 6 a.m. to 9 p.m. Tents erected, configured, or constructed between the hours of 9 p.m. and 6 a.m. must be taken down, folded, put away or deconstructed by 6 a.m.

Section 9 – Ban on Attachments to Public and Private Property

No person shall attach any personal property to any public property without consent. No person shall attach any personal property to any private property so as to obstruct the public from traveling on any street or area.

Section 10 – Illegal Dumping

Nothing in MC 56.11 precludes the enforcement of any law prohibiting illegal dumping.

Section 11 – Penalties

Los Angeles Municipal Code Section 11.00 shall not apply to violators of this section except as to violations of Sections 5, 8, 9, and 10 (as listed above).

Part 2.

Proposed Amendments to MC 56.11

Notice and Outreach

1. Affirm the 24-Hour Notice requirement (Homelessness and Poverty Committee) (Motion 5A); and (Page 6-7)

Affirm the importance of LAHSA's outreach in advance of property removal (Homelessness and Poverty Committee) (Page 6-7)

Property

2. Distinguish between attended and unattended property. Allow for removal of attended property only in instances where voluntary storage is available (Motion 5A) (Pages 8-10)
3. Exempt personal items from confiscation. Distinguish between general property and personal property, which should have separate standards for removal. Items include the following: luggage, backpacks, clothing, documents, medication, household items (Motion 5A) (Page 11-12)
4. Give individuals who are present with their property the opportunity to comply before having their property removed (Motion 5A) (Page 13)

Penalties

5. Amend subsection 11 Penalties to read: Los Angeles Municipal Code Section 11.00 shall not apply to violations of this section except as to violations of subsection 8, 9 and 10 (Motion 5A; and) (Page 14-15)

Alternative penalty proposals (Homelessness and Poverty Committee) (Pages 14-15)

Delete subsection 11 Penalties of the ordinance and instruct the City Attorney to report with language that only refers to citations and/or infractions as outlined in LAMC 11.00. (Motion 5B) (Page 14-15)

ADA Access

6. Specify the ability to move, with notice, property that impedes sidewalk passability or Americans With Disability (ADA) access (Motion 5A) (Page 16)

Suspension of MC 56.11

7. Report on what would be involved in suspending enforcement until either: requested changes are made or until a voluntary storage plan is in place (Homelessness and Poverty Committee) (Page 17)

Proposed Amendments Not Requested in Report Back

8. Amend subsection 3 (c) to remove "Moving Personal property to another location in a public area or returning personal property to the same block on a daily basis or regular basis shall not be considered to be removing the personal property from a public area",

and ADD "Moving stored property to another location in a public area shall not be considered to be removing property from a public area."(Motion 5A) (Page 18)

9. Add subsection 3(i) to read: Property that interferes with planned sanitation or maintenance work may be removed and impounded following pre-removal notice (Motion 5A) (Page 19)

Part 3. Discussion of Proposed Amendments to MC 56.11

1. Noticing and Outreach

This section of the report, requested by the Homelessness and Poverty Committee, provides information relative to the noticing and outreach process involved with public area clean-ups throughout the City, in particular as it relates to homeless encampments, and provides background relative to the enforcement of MC 56.11. It should be noted that MC 56.11 regulates any stored property in the public right-of-way and is applicable citywide.

It is our understanding that currently there are two scenarios for conducting a public area clean-up. The first scenario is initiated with a complaint being filed with the City. A complaint results in BOSS or Sanitation inspecting the site to ensure it is on City property. LAHSA is then notified and they begin conducting outreach to the encampment dwellers (discussed below under LAHSA Outreach). Then, Sanitation, to conduct a clean-up, follows its homeless encampment clean-up protocol, (noted below) which includes noticing that is completed by Sanitation or BOSS (not reflected in the chart below).

The second scenario involves LAHSA proactively conducting outreach before informing the City that an encampment area is ready to be cleaned. After LAHSA informs the City outreach is complete, the site is verified and noticed by BOSS/Sanitation, and Sanitation cleans the area.

Scenario 1	Scenario 2
BOSS/Sanitation - Siting	LAHSA – Outreach
LAHSA – Outreach	BOSS/Sanitation – Siting
Sanitation – Noticing+Cleaning	Sanitation – Noticing+Cleaning

Noticing

Municipal Code Section 56.11 currently includes a noticing procedure to alert owners of property that their property may be removed and impounded within 24 hours. The notice includes a general description of the property to be removed, the location from which the property will be removed, date and time of notice, notice of violation and statements indicating the properties' impending impoundment to a storage facility for 90 days. A post-removal notice affirming that property has been removed and stored is placed at the location upon removal of the property. Information on how to retrieve the property is also part of the notice procedure. Public Works staff also take photographs of the site at the time of posting in case the sign is removed. LAPD advises that they have consistently used the information provided in the City Notice to help property owners understand the City's storage process.

Sanitation Encampment Protocols are as follows:

- Post Notice;
- Make health hazard determination;
- Remove property and send to storage;
- Remove trash; and
- Sanitize the area.

LAHSA Outreach

The Department of Public Works established an authorization process to conduct a homeless encampment clean-up, which requires sign-off from three entities (LAHSA, BOSS or Sanitation, and the President of the Board of Public Works). Authorizations are valid for 90 days. LAHSA is included in the authorization process to ensure that outreach to the affected homeless community is conducted.

LAHSA advises that they will not sign off on the authorization form until they have completed their outreach and all members of the public have been informed of the pending clean-ups and how individuals should care for their belongings. According to LAHSA, it is common to conduct outreach on three separate occasions to ensure contact has been made to all homeless individuals in the designated area.

LAHSA also advises that they use this outreach as a gateway to provide additional services to help end an individual's homelessness. Services include providing shelter and emergency housing to the homeless, and coordinating outreach to other entities including the Los Angeles County Departments of Mental Health and Child and Family Services. LAHSA also advises that their outreach results in less resistance from encampment dwellers if it is known in advance that a cleaning is scheduled.

LAHSA advises that their ability to respond has significantly improved since 10 new Emergency Response Teams, exclusive to the City, were provided at the beginning of this fiscal year. LAHSA states that this improved capacity to provide services allows them more presence on site when clean-ups are performed and that these resources may be able to help them to permanently remove reoccurring encampments.

Possible Actions:

Please note that the following proposal was included in Motion (Bonin-Price) (CF 14-1656-S1), however the Homelessness and Poverty Committee did not specifically request that it be included in this report. The proposal is provided for informational purposes and possible Council action.

Action 1:

Should MC 56.11 Section 3(b) be changed to state the following: "All stored property in public areas may be impounded by the City with proper notice, or as outlined in this code."

A) If Yes, Request the City Attorney to prepare an amendment to MC 56.11 Section 3(b) to reflect this language;

(or)

B) No Change.

2. Attended and Unattended Property

During the August 12, 2015, Homelessness and Poverty Committee meeting, the Committee discussed making a distinction between attended and unattended property to allow for separate processes for their removal. Motion 5A calls for an amendment to the code to define attended and unattended property, and to link the removal of attended property with voluntary storage within a specified distance.

Definition of Attended and Unattended Property

The current definition of property in the code does not distinguish between attended property and unattended property. Also, there is no distinction between property that belongs to an individual and property belonging to a commercial establishment. The City Attorney advises that it would be possible to write an ordinance that defines attended and unattended property, however, it would be difficult in as much as there are many ways to describe property. Additionally, an amendment that defines attended property could negate the ordinance's power over commercial property stored on the sidewalk, in that commercial property, such as chairs or merchandise outside a store entrance, could be considered attended. Further, the limit on attended property is another issue to consider. Should there be a limit to the amount of property that can be considered attended property for example, can attended property be defined by what can be carried by an individual? Is standing next to an item considered attending? Can an individual have a friend attend their property on their behalf? How can the City determine ownership? The City Attorney notes that the City of Chicago limits property to three pieces of luggage.

Separating Commercial and Individual Property

As stated, MC 56.11 does not distinguish between an individual's property and commercial property. The City Attorney notes that the City may treat commercial and non-commercial property differently; that it may subject the two different types of property to different rules and penalties. Furthermore, the two types of property can be equally addressed in a single ordinance or in two separate ordinances. The City Attorney also notes that treating the two types of property differently would require the City to articulate a rational basis for the distinction in order to satisfy the Equal Protection guarantees in the Constitution. The City Attorney believes the City could articulate a rational basis for treating the personal property of individuals differently (with more notice and less severe penalties) than commercial property in public spaces. If the City regulates the property of individuals, however, it must deal with commercial property at least as stringently and ensure that enforcement is not targeted only against individual property.

The City Attorney advises that if the regulation of commercial property and individual property are separated within the code, penalties for failing to remove noticed attended property will have to be stipulated for both commercial and individual property. Also, as stated, there is no legal difference in the manner of separation, it would only be an administrative decision.

Storage for Removed Property

The proposal also provides that removal of attended property shall only be allowed if voluntary storage is available within a specified distance, for example, one mile. Currently the City has two storage facilities. One is the BIN in downtown Los Angeles operated by Chrysalis, a nonprofit dedicated to assisting the homeless attain employment. The BIN has a capacity of approximately

1,500 60-gallon containers for individual storage. A second smaller facility in Venice houses approximately 30 containers. The BIN is near capacity and staff advises that it expects the capacity to be reached in the near future. Any property impounded through MC 56.11, anywhere in the City, would currently be sent to the BIN which poses a problem for many homeless without means of transportation. The City Attorney advises that providing bus tokens or other means of transportation to allow homeless individuals access to voluntary storage would provide the City greater flexibility if the removal of attended property is contingent on access to voluntary storage.

The Homelessness and Poverty Committee has requested the CAO/CLA to report relative to expanding storage for homeless individuals (CF 15-0727). No recommendations to create a citywide system of storage have been approved by City Council, and the preliminary plans for storage are not anticipated to be as prevalent as one facility per mile citywide. Therefore, including this provision without a storage system in place would essentially prevent the City from removing attended property from the public right-of-way. The City Attorney states that the proposal to provide that property can only be removed if storage capacity exists can be implemented operationally or through an amendment to the Municipal Code.

Again, note that if the regulation of commercial property and individual property are divided into two sections of the municipal code, penalties for failing to remove noticed attended property will have to be specified for both sections. If desired, Action 2.2 listed below allows for commercial penalties, Action 5.1 in Section 5 allows for individual penalties. Section 5 also provides background on establishing penalties for individuals who fail to remove noticed property.

Please note that the following section of this report, Section 3, is relative to exempting personal items from notice and removal, except in cases to assure ADA compliance.

Possible Actions:

Action 2.1

Should attended and unattended property be defined in the Municipal Code Section 56.11?

A) Yes, Request the City Attorney to prepare and present an ordinance defining attended and unattended property;

(or)

B) No Change.

Action 2.2

Should the regulation of commercial and individual property be separated?

A) Yes into two separate ordinances.

a. Request the City Attorney to prepare and present an amendment to MC 56.11 that includes a penalty structure for failing to remove attended commercial property that is equal or greater to the penalties for failing to remove attended individual property.

(Please note that penalties for individuals is relative to Action 5.1)

(or)

B) Yes, into an Amendment to MC 56.11 that provides for separate regulation of commercial and individual property within the same ordinance.

a. Request the City Attorney to include in the amendment a penalty structure for failing to remove attended commercial property that is equal or greater to the penalties for failing to remove attended individual property.

(Please note that penalties for individuals is relative to Action 5.1)

(or)

C) No Change.

Action 2.3

Should MC 56.11 be amended to provide that Attended property cannot be removed unless voluntary storage is available within a specified distance, for example one mile, or a means of transportation is provided for those in need?

A) Yes, Request the City Attorney to prepare and present an ordinance to reflect this language;

(or)

B) No, Departments are instructed not to remove attended property, unless voluntary storage is available within a specified distance, for example one mile, or a means of transportation is provided for those in need;

(or)

C) No Change.

3. Personal Items

The current definition of Personal Property in the MC 56.11 means any and all tangible property, and includes, but is not limited to goods; materials; merchandise; tents; tarpaulins; bedding; sleeping bags; hammocks; personal items such as luggage, backpacks, clothing, documents and medication; and household items. MC 56.11 also includes a separate definition for bulky items. The City Attorney indicates that personal items were included in the code's definition for the following two reasons: 1) listing the personal items would serve as a warning to owners of property that these items could be impounded; and 2) listing the items would serve as indicator to City staff that these personal items should be impounded rather than discarded.

A proposed amendment to MC 56.11, included within Motion (Bonin – Price) (CF 14-1656-S1), recommends that the ordinance should distinguish between general property and personal property for purposes of limiting which items may be removed. The proposal states that the following personal items would not be removed: luggage, backpacks, clothing, documents, medication, and household items.

The City Attorney advises that if Council chooses to add language to MC 56.11 exempting personal property that the code should specify the following: if attended personal items can be removed; whether unattended personal items can be removed; or whether both attended and unattended personal items can be removed.

The City Attorney also advises that if personal items are exempt from removal, either through the code or through department protocols, that it is important to consider a limit on the amount of personal items that can be claimed by an individual.

LAPD advises that it is important to understand how items are housed by the owners. Briefcases, backpacks, boxes or sealed containers that are not transparent and left unattended are subject to removal and disposal by LAPD's bomb squad.

The City Attorney indicates that any prohibition on the removal and impoundment of personal items does not preclude the City from having to comply with ADA requirements (See item 6).

Possible Actions:

Action 3

Should MC 56.11 be amended to state that the following personal items cannot be removed: luggage, backpack, clothing, documents, medication, and household items?

- A) ***Yes, Request the City Attorney to draft an amendment to MC 56.11 that states that the following personal items cannot be removed: luggage, backpack, clothing, documents, medication, and household items;***
 - a. ***If Yes, should the code stipulate a limit for personal items?***
 - 1. ***Yes;***
 - 2. ***No;***
 - b. ***If Yes, which of the following applies:***
 - 1. ***Attended personal property cannot be removed; or***
 - 2. ***Unattended personal property cannot be removed; or***

3. Both attended and unattended personal property cannot be removed

(or)

- B) No, Instruct City staff not to remove the following items relative to the enforcement of MC 56.11: luggage, backpack, clothing, documents, medication, and household items;**
a. If yes, stipulate a limit for personal items.

(or)

- C) No Change.**

4. Opportunity to Comply

During the discussion of the proposed amendments to MC 56.11 at the Homelessness and Poverty Committee on August 12, 2015, the Committee discussed the reasons why the Code allowed for the removal of attended property and whether an opportunity to comply should be afforded to property owners at the time their property is being removed. Neither the code nor the proposed amendment provide a definition of opportunity to comply.

The current code does not include a provision to provide owners of property noticed for removal the opportunity to comply prior to removal of the property. In practice, though, Department of Public Works and LAPD staff advise that owners of property are currently afforded an unofficial opportunity to comply. Further, as previously noted, outreach is conducted and notice is posted prior to a clean-up. Public Works staff and LAPD state that they always provide warnings before they enforce the laws. LAPD advises that enforcement is a last resort and they actively engage the public to help ensure voluntary compliance.

The City Attorney informs that if an opportunity to comply provision is added into the Municipal Code prosecutorial issues will result. It would be difficult to prosecute people who may claim they were not afforded the opportunity to comply. In addition, the City Attorney advises that this provision could expose the City to civil litigation. However, if this action is taken, the City Attorney advises that the code should also include language that a failure to offer the opportunity to comply does not render the penalty inoperable.

The City Attorney notes that the code is defensible without language providing for an opportunity to comply.

The City Attorney also indicates that an opportunity to comply could be effectuated administratively.

Possible Actions:

Action 4

Should a voluntary opportunity to comply be provided to owners of property noticed for removal?

A) Yes, Instruct the City Attorney to prepare and present an ordinance that allows owners of property noticed for removal a voluntary “opportunity to comply” prior to their item being removed.

1. If yes, Request the City Attorney provide criteria that defines “opportunity to comply,” and add language that ensures that a failure to offer an opportunity to comply does not render the penalty inoperable;

(or)

B) Yes, Instruct staff to allow owners of property noticed for removal, an “opportunity to comply” prior to their item being removed;

(or)

C) No Action (no official “opportunity to comply” will be offered). However, staff will continue their current practice of offering an opportunity to comply until the property is removed).

5. Penalties

At the Homelessness and Poverty Committee meeting of August 12, 2015, members discussed the penalty concepts of Motions (Bonin-Price) and (Cedillo-Bonin) (CFs 14-1656-S1 and S2 respectively) which would amend Section 11 Penalties of MC 56.11. The proposed changes range from eliminating misdemeanors for failing to remove attended property to deleting all penalties completely from the code, including infractions and citations. The Committee also discussed that issuance of misdemeanors and fines could potentially result in non-United States (U.S.) citizens being permanently barred from attaining U.S. citizenship.

MC 56.11 provides that violations of Section 5, Failure to Remove Attended Personal Property may result in penalties as detailed in Municipal Code Section 11.00 Provisions Applicable to Code. Penalties can include citations, infractions, or misdemeanors. Each of these penalties can result in fines, and misdemeanors can result in jail time. Sections with penalties include the following:

- Section 5 - failure to remove attended property;
- Section 8 - tents during daytime hours;
- Section 9 - attachments to private and public property; and
- Section 10 - illegal dumping.

The City Attorney advises that articulating a lesser penalty for homeless individuals violating the code may be possible, such as graduated penalties that provide for a lesser penalty for a first offense and greater penalties for repeat offenders. However, it should be noted that the City Attorney is evaluating whether removal of criminal penalties for specified sections of MC 56.11 may prevent the City from citing for failure to follow a lawful order under California Penal Code Section 148, also known as a "148."

BOSS advises that if criminal penalties are removed, it will compromise their ability to enforce the law against either individual property or commercial property. As stated previously, LAPD advises that officers would still have the authority to effect arrest based on an individual's behavior and conduct under other codes, however, the Department does not support removing criminal penalties if it compromises another department's ability to enforce the law.

The City Attorney indicates that one reason criminal penalties were included in MC 56.11 was to ensure compliance from commercial businesses, and that no other code applies to commercial property. Public Works staff advises that removal of penalties would still allow the City to seize belongings, but it would greatly impact the amount of merchandise on the sidewalk. Commercial establishments may consider the seizure of their noticed property as a cost of doing business. BOSS advises that eliminating misdemeanors could result in property owners removing property at the end of the 24 hour noticing period, and then returning the property to the public right-of-way after the notice has been removed. Permitted uses for property on sidewalks (such as outdoor dining) would not be affected.

Sanitation advises that if misdemeanors are removed, there would be no way to issue infractions and citations to those violators without identification, as staff would not have the authority to arrest.

In response to questioning at the August 12, 2015, Homelessness and Poverty Committee meeting, the City Attorney advised that the only way to ensure that infractions and citations issued through MC 56.11 do not become misdemeanors, is to remove penalties from the code all-together. Furthermore, the City Attorney is investigating whether successful completion of a diversion program can ensure penalties are permanently removed from their record.

Possible Actions:

Action 5.1

Should MC 56.11 be amended to remove all criminal penalties and fines for individuals violating Section 5, Failure to Remove Attended Personal Property?

- A) Yes, Request the City Attorney to prepare and present an amendment to MC 56.11 that removes all criminal penalties and fines for individuals violating Section 5, Failure to Remove Attended Personal Property;***

(or)

- B) No, Instruct the City Attorney to prepare and present an amendment to MC 56.11 that includes lesser and/or graduated penalties for individuals violating Section 5, Failure to Remove Attended Personal Property;***

(or)

- C) No Change (Criminal penalties and fines will still be issued for violations of Section 5, Failure to Remove Attended Property).***

Possible Actions:

Action 5.2

- A) Instruct the City Attorney to report relative to whether successful completion of a diversion program can ensure an individual's record remains clean;***

(or)

- B) No Change.***

Please note that the following proposal was included in Motion (Cedillo-Bonin)(CF 14-1656-S2), however the Homelessness and Poverty Committee did not specifically request that it be included in this report. The following proposal is provided for informational purposes and possible action if desired. Also note that if this proposal is adopted and all penalties are removed from MC 56.11, the City Attorney advises that enforcement of illegal dumping is covered under other codes.

Possible Actions:

Action 5.3

Should Section 11 Penalties of MC 56.11, be deleted, and should the City Attorney report with language that only refers to citations and/or infractions as outlined in LAMC 11.00?

- A) Yes, Request the City Attorney to draft an amended ordinance that deletes Section 11 Penalties and Request that the City Attorney report with language that only refers to citations and/or infractions as outlined in LAMC 11.00;***

(or)

- B) No Change.***

6. ADA Access

During the Homelessness and Poverty Committee meeting of August 12, 2015, members discussed Motion (Bonin-Price) (CF 14-1656-S1) and its proposed amendment to MC 56.11 to provide that any property that interferes with sidewalk passability, including ADA access, may be removed and impounded without prior notice. The proposal also provides that post-removal notice shall be provided as set forth in Section 56.11, Subsection 4(b). This proposal would add a new section to the code.

The City Attorney advises that no action is necessary on this item. The City Attorney believes the City has the authority to move property and the ability to impound with notice under MC 56.11. The City Attorney indicates they are currently reviewing the City's authority to impound property if MC 56.11 no longer provides for that option. As previously noted, the City Attorney indicates that any prohibition on the removal and impoundment of personal items does not preclude the City from having to comply with ADA requirements.

Possible Actions:

Action 6

A) No Change.

7. Suspend MC 56.11 until a Voluntary Storage Program is in place

During the Homelessness and Poverty Committee's discussion of the proposed amendments to MC 56.11 on August 12, 2015, the Committee discussed the possibility of suspending MC 56.11 until a voluntary storage program is in place.

The City Attorney advises that suspension of MC 56.11 would remove the City's ability to authorize cleanings while the code was suspended, and that compliance for sidewalk cleanings would be voluntary. Sanitation advises, however, that if MC 56.11 is suspended, other sections of the Municipal Code and Administrative Code may allow for staff to clean any area of the City, including encampments, if those areas have pollutants or are a hazard to public safety. Sanitation advises that they need to continue ongoing discussions with the City Attorney's Office relative to this matter.

LAPD advises that if MC 56.11 is suspended officers would still have the authority to effect arrest based on an individual's behavior and conduct under other codes. LAPD advises that their role during clean-ups is to provide security for City staff and to maintain the peace. Sanitation states that they do not conduct any cleanings without the presence of the LAPD.

The City Attorney advises that they do not believe department heads can direct outright suspension of the ordinance, nor can LAPD be precluded from enforcing the ordinance.

The proposed suspension of the ordinance provides that enforcement would begin when the City has implemented a Citywide storage program. As stated, the CAO/CLA are reporting on this issue, but it is unknown at this time when a program would be implemented and, therefore, how long the ordinance would be suspended.

Suspension of the ordinance would not preclude the clean-up of illegal dumping activities.

Possible Actions:

Action 7

Should MC 56.11 be suspended?

- A) Yes, Request the City Attorney to prepare and present an ordinance to suspend MC 56.11 until proposed changes recommended in this report are implemented;***
(or)
- B) Yes, Request the City Attorney to prepare and present an ordinance to suspend MC 56.11 until a storage program is implemented citywide;***
(or)
- C) Suspend the Ordinance.***
(or)
- D) Do not suspend the ordinance, 56.11 remains enforceable.***

Please note that the following two proposals were included in Motion (Bonin-Price)(CF 14-1656-S1), however the Homelessness and Poverty Committee did not specifically request that they be included in this report. The following proposals are provided for informational purposes and possible Council action.

8. Moving property shall not be considered to be removing property

The City Attorney reports that the current language in MC 56.11, which this proposal would remove, was included in the code to emphasize that items temporarily moved from one location and returned to that same general location on a regular basis are subject to impoundment.

Possible Actions:

Action 8

Should MC 56.11 3(c) be amended to read as follows: Moving stored property to another location in a public area shall not be considered to be removing property from a public area;

A) Yes, Instruct the City Attorney to draft an ordinance that Amends subsection 3(c) as provided above.

or

B) No Change.

9. Removal of Property interfering with planned sanitation or maintenance work

Motion 5A includes a proposal that would allow for the immediate removal of property interfering with planned sanitation or maintenance work. Public Works staff and the City Attorney advise that the language currently written into MC 56.11 already allows for such property to be removed and impounded with proper notice.

Possible Actions:

Action 9

A) No Change Required.

ST:KK:IS:JW:JR
Attachment: MC 56.11

Attachment A

ORDINANCE NO. 183162

An ordinance repealing and replacing Section 56.11, Article 6, Chapter V, of the Los Angeles Municipal Code to prohibit the storage of personal property in public areas.

THE PEOPLE OF THE CITY OF LOS ANGELES SO ORDAIN AS FOLLOWS:

Section 1. Section 56.11 of the Los Angeles Municipal Code is repealed in its entirety and replaced with the following:

SEC. 56.11. STORAGE OF PERSONAL PROPERTY.

1. Declaration of Legislative Intent - Purpose.

Public areas should be accessible and available to residents and the public at large for their intended uses. The unauthorized use of public areas for the storage of personal property interferes with the rights of other members of the public to use public areas for their intended purposes and can create a public health or safety hazard that adversely affects residential and commercial areas. The purpose of this article is to maintain public areas in clean, sanitary and accessible condition to prevent the misappropriation of public areas for personal use, and to promote the public health and safety by ensuring that public areas remain readily accessible for their intended uses.

2. Definitions.

The definitions contained in this subsection shall govern the construction, meaning and application of words and phrases used in this article.

(a) **"Alley"** means any highway having a Roadway not exceeding 25 feet in width which is primarily for access to the rear or side entrances of abutting property.

(b) **"Bikeway"** means all facilities that provide primarily for, and promote, bicycle travel.

(c) **"Bulky Item or Bulky Items"** means any item, with the exception of a Tent, that is too large to fit in one of the City's 60 gallon trash containers with the lid closed, including but not limited to a mattress, couch, chair or other furniture or appliance.

(d) **"Highway"** means a way or place of whatever nature, publicly maintained and open to the use of the public for purposes of vehicular travel.

(e) **"Parkway"** means the area of the Street between the back of the curb and the Sidewalk that typically is planted and landscaped.

(f) **“Person”** means any individual, group, business, business trust, company, corporation, joint venture, joint stock company, partnership, entity, association, club or organization composed of two or more individuals (or manager, lessee, agent servant, officer or employee).

(g) **“Personal Property”** means any and all tangible property, and includes, but is not limited to, goods, materials, merchandise, Tents, tarpaulins, bedding, sleeping bags, hammocks, personal items such as luggage, backpacks, clothing, documents and medication, and household items.

(h) **“Public Area”** or **“Public Areas”** means all property that is owned, managed or maintained by the City, except property under the jurisdiction of the Department of Recreation and Parks, and shall include, but not be limited to any Street, medial strip, space, ground, building or structure.

(i) **“Roadway”** means that portion of a Highway improved, designed or ordinarily used for vehicular travel.

(j) **“Sidewalk”** means that portion of a Highway, other than the Roadway, set apart by curbs, barriers, markings or other delineation, for pedestrian travel.

(k) **“Store,” “Stored”** or **“Storing”** means to put aside or accumulate for use when needed, to put for safekeeping, and/or to place or leave in a location.

(l) **“Street”** includes every Highway, avenue, lane, Alley, court, place, square, Sidewalk, Parkway, curbs, Bikeway or other public way in this City which has been or may hereafter be dedicated and open to public use, or such other public property so designated in any law of this state.

(m) **“Tent”** means any tarp, cover, structure or shelter, made of any material that is not open on all sides and which hinders an unobstructed view behind or into the area surrounded by the tarp, cover, structure or shelter.

3. Impoundment of Stored Personal Property; Discard of Stored Personal Property.

(a) No Person shall Store Personal Property in Public Areas.

(b) All Stored Personal Property in Public Areas may be impounded by the City.

(c) Personal Property placed in Public Areas shall be deemed to be Stored Personal Property if it has not been removed from Public Areas within 24 hours of service of written notice, requiring such removal. Moving Personal Property to another location in a Public Area or returning Personal Property to the same block on a daily or regular basis shall not be considered to be removing the Personal Property from a

Public Area. The City may remove and impound such Stored Personal Property after providing 24 hours written notice. This section shall not apply to Personal Property that, pursuant to statute, ordinance, permit, regulation or other authorization by the City or state, is stored on property that is owned or controlled by the City.

(d) Personal Property placed in Public Areas within ten feet of any operational and utilizable entrance, exit, driveway or loading dock may be removed and impounded at any time without prior notice. Post-removal notice shall be provided as set forth in Section 56.11, Subsection 4(b) below.

(e) Personal Property placed in a Public Area which has a clearly posted closure time may be removed and impounded after the closure time, without prior notice. Post-removal notice shall be provided as set forth in Section 56.11, Subsection 4(b) below.

(f) In the event Personal Property placed in a Public Area poses an immediate threat to the health or safety of the public, it may be removed without prior notice and discarded.

(g) Bulky Items placed in a Public Area may be removed without prior notice and discarded.

(h) Evidence of a crime or contraband may be removed from a Public Area without prior notice.

4. Notice.

(a) **Pre-Removal Notice.** The written notice required by Subsection 3(c) shall be deemed to have been served if a written notice is served on the Person Storing the Personal Property, or is posted conspicuously on or near the Personal Property. The written notice shall contain the following:

- (1) A general description of the Personal Property to be removed.
- (2) The location from which the Personal Property will be removed.
- (3) The date and time the notice was posted.
- (4) A statement that the Personal Property has been stored in violation of Section 56.11, Subsection 3(a).
- (5) A statement that the Personal Property will be impounded if not removed from Public Areas within 24 hours.

(6) A statement that moving Stored Personal Property to another location in a Public Area shall not be considered to be removing Personal Property from a Public Area.

(7) The location where the removed Personal Property will be stored, including a telephone number and the internet website of the City through which a Person may receive information as to impounded Personal Property as well as information as to voluntary storage location(s).

(8) A statement that impounded Personal Property may be discarded if not claimed within 90 days after impoundment.

(b) **Post Removal Notice.** Upon removal of Stored Personal Property, written notice shall be conspicuously placed in the area from which the Personal Property was removed. The written notice shall contain the following:

(1) A general description of the Personal Property removed.

(2) The date and approximate time the Personal Property was removed.

(3) A statement that the Personal Property was stored in a Public Area in violation of Section 56.11, Subsection 3(a).

(4) The location where the removed Personal Property will be located, including a telephone number and internet website of the City through which a Person may receive information as to impounded Personal Property.

(5) A statement that impounded Personal Property may be discarded if not claimed within 90 days after impoundment.

5. **Failure to Remove Attended Personal Property.**

It shall be unlawful to fail to remove attended Stored Personal Property within 24 hours of receiving written notice pursuant to Subsection 3(c).

6. **Storage and Disposal.**

(a) Except as specified herein, impounded Personal Property shall be moved to a place of storage.

(b) Except as specified herein, impounded Personal Property shall be stored by the City for 90 days, after which time, if not claimed, it may be discarded. The City shall not be required to undertake any search for, or return, any impounded Personal Property stored for longer than 90 days.

(c) The City shall maintain a record of the date any impounded Personal Property was discarded.

7. Repossession.

The owner or any other Person entitled to the impounded Personal Property may repossess the Personal Property prior to its disposal upon submitting satisfactory proof of ownership. A Person may establish proof of ownership by, among other methods, describing the location and date when the Personal Property was impounded from a Public Area, and providing a reasonably specific and detailed description of the Personal Property. Valid, government-issued identification is not required to claim impounded Personal Property.

8. Ban on Erection of Tent during Certain Daytime Hours.

No Person shall erect, configure or construct a Tent in any Public Area from 6:00 a.m. to 9:00 p.m. Any Tent erected, configured or constructed between the hours of 9:00 p.m., and 6:00 a.m. must be taken down, folded, put away or deconstructed by 6:00 a.m. of each day.

9. Ban on Attachments to Public and Private Property.

No Person shall erect any barrier against or lay string or join any wires, ropes, chains or otherwise attach any Personal Property to any Public Property, including but not limited, to a building or portion or protrusion thereof, fence, bus shelter, trash can, mail box, pole, bench, newsrack, sign, tree, bush, shrub or plant, without the City's prior written consent. No Person shall erect any barrier against or lay string or join any wires, ropes, chains or otherwise attach any Personal Property to any private property in such a manner as to create an obstruction on or across any Street or area where the public may be expected to travel.

10. Illegal Dumping.

Nothing herein precludes the enforcement of any law prohibiting illegal dumping, including but not limited to California Penal Code Section 374.3, and Los Angeles Municipal Code Sections 41.14, 63.44.B.13 or 190.02, or any successor statutes proscribing illegal dumping.

11. Penalties.

Los Angeles Municipal Code Section 11.00 shall not apply to violations of this section except as to violations of Subsections 5, 8, 9 and 10.

12. **Severability.**

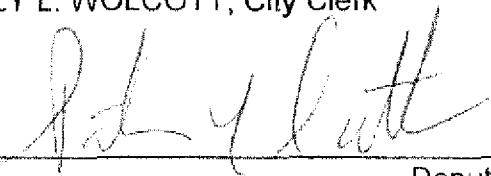
If any subsection, sentence, clause or phrase of this article is for any reason held to be invalid or unconstitutional by a court of competent jurisdiction, such decision shall not affect the validity of the remaining portions of this ordinance. The City Council hereby declares that it would have adopted this section, and each and every subsection, sentence, clause and phrase thereof not declared invalid or unconstitutional, without regard to whether any portion of the ordinance would be subsequently declared invalid or unconstitutional.

Sec. 2. **URGENCY CLAUSE.** The City Council finds and declares that this ordinance is required for the immediate protection of the public peace, health and safety for the following reason: In order for the City of Los Angeles to ensure that its public areas are in clean, sanitary and accessible condition, and to promote the public health and safety by ensuring that public areas remain readily accessible for their intended uses, it is necessary that the amendments to the Los Angeles Municipal Code as reflected in this ordinance must become effective as soon as possible. For all these reasons, the ordinance shall become effective upon publication pursuant to Los Angeles City Charter Section 253.

Sec. 3. The City Clerk shall certify to the passage of this ordinance and have it published in accordance with Council policy, either in a daily newspaper circulated in the City of Los Angeles or by posting for ten days in three public places in the City of Los Angeles: one copy on the bulletin board located at the Main Street entrance to the Los Angeles City Hall; one copy on the bulletin board located at the Main Street entrance to the Los Angeles City Hall East; and one copy on the bulletin board located at the Temple Street entrance to the Los Angeles County Hall of Records.

I hereby certify that the foregoing ordinance was introduced at the meeting of the Council of the City of Los Angeles JUN 16 2015, and was passed at its meeting of JUN 23 2015.

HOLLY L. WOLCOTT, City Clerk

By 
Deputy

Approved _____

Mayor

Approved as to Form and Legality

MICHAEL N. FEUER, City Attorney

By 
VALERIE L. FLORES
Senior Assistant City Attorney

Date May 20, 2015

File No. CF 14-1656

Said ordinance was presented to the Mayor on JUN 23 2015; the Mayor returned said ordinance to the City Clerk on JUL 07 2015 without his approval or his objections in writing, being more than ten days after the same was presented to the Mayor.

Said ordinance shall become effective and be as valid as if the Mayor had approved and signed it. (Section 250(b), City Charter)

DECLARATION OF POSTING ORDINANCE


I, VERONICA COLEMAN-WARNER, state as follows: I am, and was at all times hereinafter mentioned, a resident of the State of California, over the age of eighteen years, and a Deputy City Clerk of the City of Los Angeles, California.

Ordinance No. 183762 – Repealing and replacing Section 56.11, Article 6, Chapter V of the Los Angeles Municipal Code to prohibit the storage of personal property in public areas - a copy of which is hereto attached, was finally adopted by the Los Angeles City Council on **June 23, 2015**, and under the direction of said City Council and the City Clerk, pursuant to Section 251 of the Charter of the City of Los Angeles and Ordinance No. 172959, on **July 8, 2015** I posted a true copy of said ordinance at each of the three public places located in the City of Los Angeles, California, as follows: 1) one copy on the bulletin board located at the Main Street entrance to the Los Angeles City Hall; 2) one copy on the bulletin board located at the Main Street entrance to the Los Angeles City Hall East; 3) one copy on the bulletin board located at the Temple Street entrance to the Los Angeles County Hall of Records.

Copies of said ordinance were posted conspicuously beginning on **July 8, 2015** and will be continuously posted for ten or more days.

I declare under penalty of perjury that the foregoing is true and correct.

Signed this **8th** day of **July, 2015** at Los Angeles, California.


Veronica Coleman-Warner, Deputy City Clerk

Ordinance Effective Date: **July 18, 2015**

Council File No. **14-1656**