



MICHAEL N. FEUER
CITY ATTORNEY

REPORT NO. R 1 5 - 0 0 3 2
FEB 1 2 2015

**REQUEST FOR CLOSED SESSION PURSUANT TO
GOVERNMENT CODE SECTION 54956.9(d)(1)**

REPORT RE:

**SIGNIFICANT EXPOSURE TO LITIGATION REGARDING
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

Council File No. 14-1656

Honorable Members:


This Office recommends that discussions with, and advice from, legal counsel regarding pending litigation concerning the storage of personal property on City sidewalks, including the validity of Los Angeles Municipal Code Section 56.11 be scheduled and held in closed session pursuant to California Government Code Section 54956.9(d)(1).

If you have any questions regarding this matter, please contact Executive Assistant City Attorney Leela Kapur at (213) 978-8357. She 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

LAK:ac

M:\GENERAL COUNSEL DIVISION\ORDINANCES AND REPORTS\REPORTS - FINAL\Storage Closed Session Report - LAMC
56.11.docx



MICHAEL N. FEUER
CITY ATTORNEY

REPORT NO. R 1 5 - 0 0 3 2

FEB 1 2 2015

REPORT RE:

**DRAFT ORDINANCE AMENDING SECTION 56.11 OF CHAPTER V OF THE
LOS ANGELES MUNICIPAL CODE TO REGULATE 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

Council File No. 14-1656

Honorable Members:

As contemplated by the City Council motion adopted on January 21, 2015 (CF 14-1656), this Office has prepared and now transmits for your consideration, approved as to form and legality, the enclosed draft ordinance amending Section 56.11 of the Los Angeles Municipal Code (LAMC) to regulate the storage of personal property in certain public areas and to allow for the impoundment of such property, after the provision of notice.

Summary of Ordinance

So as to maintain sidewalks and other public areas in clean, sanitary and accessible condition, and to promote the public health and safety by ensuring that public areas remain readily accessible, the ordinance expands upon LAMC Section 56.11 by articulating the process to impound unauthorized stored property, including specifying

the requirements for prior and post removal notice and storage and the conditions upon which such property may be destroyed.¹

The ordinance prohibits the unauthorized storage of personal property on property that is owned, managed or maintained by the City, including sidewalks, streets, buildings and other structures. This ordinance does not govern City parks as regulation of parks will be addressed in the draft ordinance our office is preparing in response to the Council motion adopted on November 7, 2014 (CF 14-1551).

Pursuant to the ordinance, if upon 24 hours written notice, the owner of personal property situated on a public sidewalk has not removed his or her personal property, the City may impound it. Removal by the owner does not include moving the property to another location in a public area. Impounded property shall be stored by the City for 90 days after which unclaimed impounded property may be destroyed.

In certain circumstances, the ordinance allows for the immediate impoundment without prior notice, and in some instances the immediate discard of property. Specifically, property that poses an immediate health and safety risk, such as items which are unsanitary (e.g., have the potential to harbor vermin infestation or spread disease), clearly trash, flammable or hazardous materials may be removed and discarded without notice. Moreover, bulky items may be removed and discarded without notice.

Also, any property which interferes with the safe or orderly management of the public area or is 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 to the owner and such property shall be stored by the City for 90 days.

Property which constitutes evidence of a crime or contraband also may be removed without notice. The amended ordinance does not impact personal property which is stored on public property pursuant to a statute, ordinance, permit, regulation or other authorization by the City or state. Additionally, the ordinance specifically does not preclude the enforcement of any law prohibiting illegal dumping.

Under the current ordinance, it is a misdemeanor to leave personal property on a parkway or sidewalk. Pursuant to the amended ordinance, personal property may be impounded if not removed within 24 hours after notice is posted and it is a misdemeanor if an individual fails to remove his or her attended personal property within 24 hours after having being served with notice to remove.

¹ While the existing Section 56.11 prohibits persons from leaving merchandise, baggage or personal property upon a parkway or a sidewalk, it does not specify the process that the City will utilize to impound, store, and, when appropriate, discard of personal property that is stored in a public area without proper authority.

Council Rule 38 Referral

A copy of the draft ordinance was sent, pursuant to Council Rule 38, to the Department of Public Works, the General Services Department and the Los Angeles Police Department 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 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

LAK:ac
Transmittal

ORDINANCE NO. _____

An ordinance amending 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 amended to read as follows:

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, 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 section 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) **“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.

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

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

(e) **“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).

(f) **“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.

(g) **“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.

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

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

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

(k) **“Street”** includes every Highway, avenue, lane, Alley, court, place, square, Sidewalk, Parkway, curbs, 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.

3. Impoundment of Stored Personal Property; Destruction 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 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 left 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 poses an immediate threat to the health or safety of the public, it may be removed without prior notice and discarded.

(g) Bulky Items may be removed without prior notice and discarded.

(h) Evidence of a crime or contraband may be removed 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 is 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 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.

(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 is 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 is unlawful to fail to remove attended Personal Property within 24 hours of receiving written notice requiring removal.

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 Personal Property stored for longer than 90 days.
- (c) The City shall maintain a record of the date the 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 in a Public Area and providing a specific and detailed description of the Person Property. Valid, government-issued identification is not required to claim impounded Personal Property.

8. **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.

9. **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 this ordinance was passed by the Council of the City of Los Angeles, **by a vote of not less than three-fourths** of all its members, at its meeting of _____.

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 2/12/15

File No. CF 14-1656