

## Communication from Public

**Name:** Daniel Galdje  
**Date Submitted:** 11/02/2020 09:25 AM  
**Council File No:** 20-1376  
**Comments for Public Posting:** I support this motion.

## Communication from Public

**Name:** Faizah Malik  
**Date Submitted:** 11/02/2020 09:53 AM  
**Council File No:** 20-1376  
**Comments for Public Posting:** Attached please find Public Counsel's letter of opposition to the Proposed Ordinance amending sections 41.18 and 56.11 of the Los Angeles Municipal Code (CF# 20-1376).



October 28, 2020

The Honorable Nury Martinez  
President, Los Angeles City Council  
200 N. Spring Street  
Los Angeles, CA 90012

RE: CF # 20-1376: LA Alliance v City and County of Los Angeles / Martin v City of Boise / Ninth Circuit Court of Appeals / Los Angeles Municipal Code / Amendment

Dear Council President Martinez and Members of the Los Angeles City Council:

Public Counsel submits this comment in opposition to the proposed amendments to Los Angeles Municipal Code Sections 41.18 and 56.11 (the "Proposed Ordinance"). Public Counsel is the nation's largest *pro bono* public interest law firm. Our Community Development Project builds strong foundations for healthy, vibrant, economically stable communities by providing free legal services to community-based organizations, affordable housing developers and low-income entrepreneurs. We urge the City Council to vote against adopting the Proposed Ordinance.

We write to specifically object to Section 41.18(b) in the Proposed Ordinance relating to prohibitions around shelters and homeless facilities. Section 41.18(b) states:

"Upon resolution adopted by the City Council and posting of signage, at no time shall any person sit, lie, sleep or store, use, maintain, or place personal property in or upon any street, sidewalk, public right-of-way, or public property within the radius specified in the resolution (up to a maximum of 500 feet) of a designated facility, opened after January 1, 2018, that provides housing shelter, supportive services, safe parking, or storage to homeless persons where the City Council determines that the public health, safety, or welfare is served by the prohibition, including without limitation by finding that public lodging and storage of personal property adjacent to the designated facility is incompatible with the best interests of the facility, its occupants or users, or neighboring uses."

**1. The Proposed Ordinance will only make it harder to solve our homelessness crisis.**

Our unhoused neighbors are sleeping on city streets and sidewalks because the city does not have adequate affordable housing or shelter beds. The City cannot end its homelessness crisis by criminalizing or removing unhoused people from public spaces. Our homelessness crisis can only be solved by prioritizing the solutions that we know work, which include expeditiously siting and building affordable housing, permanent supportive housing (PSH), and shelters in every Council District.

The criminalization of the status of homelessness, especially when there are not enough resources to support individuals in obtaining shelter, will only make it more difficult for the City to tackle the long term crisis of homelessness. It has clearly been established that "[c]riminalization

strategies not only cost cities millions in wasted resources, they also fail to address the root causes of homelessness.”<sup>1</sup> Criminalization has a series of collateral consequences, beyond wasting valuable public dollars on incarceration and the public defender system. Criminal convictions can result in lost employment, suspended driver’s licenses, the loss of benefits, and can ultimately make it harder for people to find housing due to inability to access housing programs or find employment that will allow them to pay for housing.<sup>2</sup> Ultimately, “[w]hile such laws allow law enforcement to temporarily address complaints about homelessness, they fail to address systemic homelessness because they do nothing to address its underlying causes.”<sup>3</sup> Thus criminalizing homelessness is not only fundamentally unjust, it is terribly ineffective public policy.

**2. The Proposed Ordinance will promote the spread of a deadly disease in the midst of a pandemic for no apparent reason.**

The City Council could not have picked a worse time in modern history to propose a policy requiring thousands of people to leave their shelter. LA County has had over 300,000 confirmed cases of COVID-19 in the past half year, and more than 7,000 deaths.<sup>4</sup> Public health officials across the country have warned that we are about to enter the deadliest period of the pandemic as winter approaches and the virus runs rampant through our communities.<sup>5</sup> And in the midst of this daunting health crisis, the City is threatening to make the problem significantly worse by re-criminalizing unhoused populations and violating all health protocols for sheltering in place. Further, the City’s Proposed Ordinance will essentially ban unhoused individuals from significant parts of the city, requiring the more than 40,000 individuals<sup>6</sup> who do not have permanent shelter to crowd into increasingly smaller areas of the city or into county jails. In either scenario, this unnecessary movement and overcrowding will significantly increase the potential spread of COVID-19 and put thousands of Angelenos’ lives in danger.

**3. The Proposed Ordinance is not necessary for the City to successfully site and approve shelter and supportive housing.**

Section 41.18 allows City Council to prohibit unhoused people from sitting, lying, sleeping or storing personal property within 500 feet of a shelter or homeless facility where it determines, in its own discretion, that such activity is “incompatible with the best interests of the facility, its occupants or users, or neighboring uses.” Proponents of the Proposed Ordinance state that this is necessary to convince more neighborhoods to accept shelters. But in order to build shelters, the City must not, and is under no legal

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<sup>1</sup> [https://nlchp.org/wp-content/uploads/2019/02/No\\_Safe\\_Place.pdf](https://nlchp.org/wp-content/uploads/2019/02/No_Safe_Place.pdf) at 32.

<sup>2</sup> <https://nlchp.org/wp-content/uploads/2019/12/HOUSING-NOT-HANDCUFFS-2019-FINAL.pdf> at 64.

<sup>3</sup> Id. at 63.

<sup>4</sup>

<http://publichealth.lacounty.gov/phcommon/public/media/mediapubdetail.cfm?unit=media&ou=ph&prog=media&cur=cur&prid=2776&row=25&start=1>.

<sup>5</sup> <https://www.npr.org/sections/health-shots/2020/10/16/924240204/how-bad-will-coronavirus-be-this-winter-model-projects-170-000-more-u-s-deaths>

<sup>6</sup> Based on the Los Angeles Homeless Services Authority (LAHSA) 2020 Point in Time Count. See <https://www.lahsa.org/news?article=726-2020-greater-los-angeles-homeless-count-results>. Based on the economic fallout caused by the COVID-19 pandemic, and the city’s failure to house more than a nominal percentage of the unhoused population in the past several months, this number has likely increased.

requirement to, yield to the demands of housed neighbors or commercial businesses. Indeed, the language in the ordinance contains no objective criteria on when a shelter or homeless facility would be deemed “incompatible.” Rather, this section is ripe for abuse and discriminatory application, including fear, prejudice and bias against unhoused residents who are disproportionately BIPOC.

Proponents of the Proposed Ordinance are presenting a false choice. There is no legal requirement that the City provide assurances to neighbors in order to site shelters and homeless facilities across the city. Nor would it make legal or policy sense to bargain with discriminatory opposition or to trade criminalization for housing. What is essential for the siting of shelters is political courage.

**4. The Proposed Ordinance is inconsistent with anti-discrimination provisions of state law regarding the siting of emergency shelters.**

We remind the City Council that there are many state laws that protect the siting of affordable housing, PSH and shelters from discrimination. Senate Bill (SB) 2, effective January 2008, amended State Housing Element law and the Housing Accountability Act (HAA) to require local governments to take specific zoning actions to encourage the development of emergency shelters.<sup>7</sup> SB 2 requires that, except for a short list of enumerated objective standards, emergency shelters may only be subject to those development and management standards that apply to residential or commercial development within the same zone.<sup>8</sup> It also clarifies that under the HAA, a jurisdiction cannot deny applications for emergency shelter without making specific evidence-based findings.<sup>9</sup>

Standards applied to shelters that regulate the user, rather than the use, are not permitted under SB 2. Shelter standards must not render emergency shelters infeasible, and may only “address the use as an emergency shelter, not the perceived characteristics of potential occupants.”<sup>10</sup> Conjecture that people experiencing homelessness must be isolated from schools, parks, homes, or medical facilities is the type of subjective perception that SB 2 was designed to help jurisdictions avoid. The clear intent of these laws is to enable shelters to be sited quickly and to prohibit discrimination against the neediest Angelenos in the siting and approval of shelter facilities. Any decisions made about a proposed shelter that are not supported by objective findings – such as a decision based on the shelter’s proximity to schools and parks or the subjective concerns raised by nearby housed residents and businesses – would be inconsistent with state law. Likewise, any delays in siting shelters based on subjective concerns would be inconsistent with state law.

State fair housing laws also protect against discrimination in the siting of shelters. California Government Code section 65008 specifically prohibits discrimination by local governments against affordable housing and shelters.<sup>11</sup> Section 65008 explicitly prohibits a local government from “impos[ing] different requirements on a residential development or emergency shelter that is subsidized, financed, insured, or otherwise assisted by the federal or state government or by a local public entity...

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<sup>7</sup> Sen. Bill No. 2, approved by Governor, Oct. 13, 2007 (2007-2008 Reg. Sess.).

<sup>8</sup> Cal. Gov. Code § 65583(a)(4).

<sup>9</sup> Cal. Gov. Code § 65589.5, subd. (d).

<sup>10</sup> Cal. Dept. of Housing & Community Development, mem. to Planning Directors and Interested Parties re Sen. Bill No. 2 (2007-2008 Reg. Sess.), May 7, 2008, updated Apr. 10, 2013, at 10.

<sup>11</sup> See Cal. Gov. Code §§ 65008(b)(1)(C), §(d).

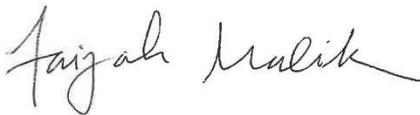
than those imposed on nonassisted developments.”<sup>12</sup> The law also prohibits a local government from imposing different requirements on residential developments and shelters based on age, sex, race, or disability of the intended occupants.<sup>13</sup>

Finally, under section 12.80 of the Los Angeles Municipal Code, “during any period... declared [as] a shelter crisis,” homeless shelters may be established and operated on City-owned land “in *any zone as a matter of right* without regard to the number of beds or number of persons served.”<sup>14</sup> LAMC Section 12.80 states that facilities must simply comply with minimum building regulations set forth in Section 91.8605. As we are still in a shelter crisis, there is no requirement for the City to obtain the approval of neighbors to site shelters and homeless facilities – the City may do this as of right on City-owned land.

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Our city’s homelessness crisis will be solved by delivering services and by investing in shelters and affordable and supportive housing, not increasing criminalization. The Council is proposing to adopt an incredibly blunt and harmful policy in the midst of a deadly pandemic and framing it as something that is required in order to site shelters. To be clear, there is no such requirement. Any choice that the Council makes in this regard would be a political decision, not one required by law. We urge the Council to reject this misguided and harmful Proposed Ordinance.

Sincerely,



Faizah Malik  
Senior Staff Attorney  
Community Development Project

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<sup>12</sup> Cal. Gov. Code § 65008(d)(1).

<sup>13</sup> Cal. Gov. Code § 65008(d)(2).

<sup>14</sup> Los Angeles Municipal Code § 12.80.

## Communication from Public

**Name:** Julia Wackenheim

**Date Submitted:** 11/02/2020 12:53 PM

**Council File No:** 20-1376

**Comments for Public Posting:** City Council Matter 20-1378 is problematic because · It criminalizes homelessness. · It provides no solutions · It encourages homeless to disperse into the community, creating more problems for residents and making it harder for service providers to reach them. · Because the government can identify which freeway overpasses/underpasses and ramps to target, it can unfairly protect upper class neighborhoods and place the burden of homelessness on poorer neighborhoods. · Sweeps to clear out these areas are expensive and money is better spent on getting services to these folks. · There are other ways to protect access for the disabled and ingress and egress from buildings. Facilities for the homeless have worked to keep the areas clear of encampments by working with the people living there and, if needed, bringing in the police. A blanket criminalization policy is not needed.