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REPORT NO. R 22 - 0225
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REPORT RE:

DRAFT ORDINANCE AMENDING SECTION 41.18 OF THE LOS ANGELES MUNICIPAL CODE (LAMC) TO MAKE IT UNLAWFUL FOR A PERSON TO SIT, LIE, OR SLEEP, OR TO STORE, USE, MAINTAIN, OR PLACE PERSONAL PROPERTY NEAR SCHOOLS AND DAYCARE CENTERS, AND TO AMEND SECTION 56.11 OF THE LAMC TO ALIGN IT WITH SECTION 41.18 AND TO REMOVE REFERENCES TO "BULKY ITEMS"

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. 20-1376-S1

Honorable Members:

Pursuant to the City Council's request on May 31, 2022, this Office hereby transmits a draft ordinance amending Los Angeles Municipal Code (LAMC) Section 41.18 to prohibit sitting, lying, sleeping, and storage of personal property near schools and day care centers, and to amend LAMC Section 56.11 to align it with the amended version of LAMC Section 41.18. The draft ordinance further amends LAMC Section 56.11 to reflect the outcome of a recent Ninth Circuit ruling with regard to bulky items. The enclosed draft ordinance, approved as to form and legality, is ready for your consideration.

The draft ordinance amends Section 41.18 to prohibit sitting, sleeping, lying, or storage of personal property within 500 feet of any school or day care center.

Additionally, the draft ordinance adds or amends subsections in Section 56.11 relating to the storage of personal property addressed in Section 41.18 that blocks compliance with the Americans with Disabilities Act (ADA), driveways, loading docks,

entrances, exits, fire department connections, City permitted activities, roadways, and bike lanes. The draft ordinance also adds subsections corresponding to the provisions of Section 41.18 that apply to designated and posted homeless service facilities, freeway structures, parks, libraries, and dangerous encampments. The draft ordinance clarifies provision relating to Tents, including noting that a Tent may not be erected at any time of the day or night in any area subject to LAMC Section 41.18.

The draft ordinance also makes consistent the enforcement provisions of Section 56.11 with Section 41.18.

Lastly, the enclosed draft ordinance repeals the defined term "Bulky Items," as a result of the ruling in the lawsuit entitled *Garcia v. City of Los Angeles*, Case No. 2:19-cv-06182-DSF-PLA (9th Circuit Appeal Court of Appeals Case No. 20-55522). However, the draft ordinance makes clear that other portions of Section 56.11 relating to, for example, the City's ability to resolve ADA blockages or discard hazardous items, apply to all personal property regardless of size. Therefore, the text relating to "Bulky Items" has been deleted in its entirety anywhere in LAMC Section 56.11 and enactment of this draft ordinance will, as a matter of law, repeal the "Bulky Items" provisions in Subsections 2(c), 3.(i) and 10.(d) consistent with the Court's ruling in *Garcia*. Note that those subsections have been repurposed to address different subjects, completely unrelated to "Bulky Items."

Council Rule 38 Referral

A copy of the draft ordinance was sent, pursuant to Council Rule 38, to the Los Angeles Police Department and Bureau of Sanitation requesting that all comments, if any, be presented directly to the City Council when this matter is considered.

If you have any questions regarding this matter, please contact Senior Assistant City Attorney Valerie L. Flores at (213) 978-8130. A member of this Office will be available when you consider this matter to answer questions you may have.

Sincerely,

MICHAEL N. FEUER, City Attorney

By



DAVID MICHAELSON
Chief Assistant City Attorney

DM:VF:ac
Transmittal