

[Prohibition on Sitting or Lying on Public Sidewalks]

Ordinance amending San Francisco Police Code by adding Section 168 to prohibit sitting or lying down upon a public sidewalk during specified hours and with exceptions for the disabled and others.

NOTE: Additions are *single-underline italics Times New Roman*;
deletions are ~~*strike-through italics Times New Roman*~~.
Board amendment additions are double-underlined;
Board amendment deletions are ~~strikethrough normal~~.

Be it ordained by the People of the City and County of San Francisco:

Section 1. The San Francisco Police Code is hereby amended by adding Section 168 to read as follows:

SEC 168: PROHIBITION ON SITTING OR LYING ON PUBLIC SIDEWALKS.

(a) Findings. The people of the City and County of San Francisco find that maintaining pedestrian and commercial traffic on public sidewalks is essential to public safety and the encouragement of a vital economy and neighborhoods in the City. This need is greatest during the hours of operation of businesses, shops, restaurants, and other City commercial enterprises when public sidewalks are congested, and when City residents are most likely to use their neighborhood sidewalks. Persons who sit or lie down on public sidewalks during business hours threaten the safety of pedestrians, especially the elderly, disabled, vision-impaired, and children. Persons who sit or lie down also deter residents and visitors from patronizing local shops, restaurants and businesses, and deter residents from using the sidewalks in their neighborhoods. Business areas and neighborhoods become dangerous to pedestrian safety and economic vitality when individuals block the public sidewalks. This behavior causes a cycle of decline as residents and tourists go elsewhere to meet, shop and dine, and residents become intimidated from using the public sidewalks in their own neighborhoods. The prohibition applies Citywide in order to prevent displacement of violators from

1 one district or neighborhood to another.

2 The prohibition against sitting or lying on sidewalks leaves intact the individual's right to speak,
3 protest or engage in other lawful activity on any sidewalk consistent with any City permitting
4 requirements. The prohibition applies only to sidewalks. There are a number of places where the
5 restrictions of this ordinance do not apply, including plazas, public parks, public benches, and other
6 common areas open to the public. The prohibition contains exceptions for medical emergencies, those
7 in wheelchairs, and permitted activities, among others.

8 Present laws that prohibit the intentional, willful or malicious obstruction of pedestrians do not
9 adequately address the safety hazards, disruption and deterrence to pedestrian traffic caused by
10 persons sitting or lying on sidewalks.

11 (b) **Prohibition.** In the City and County of San Francisco, during the hours between seven
12 (7:00) a.m. and eleven (11:00) p.m., it is unlawful to sit or lie down upon a public sidewalk, or upon a
13 blanket, chair, stool, or any other object placed upon a public sidewalk.

14 (c) **Exceptions.** The prohibitions in Subsection (b) shall not apply to any person:

15 1. Sitting or lying down on a public sidewalk due to a medical emergency;

16 2. Utilizing a wheelchair, walker, or similar device as the result of a disability;

17 3. Operating or patronizing a commercial establishment conducted on the public sidewalk
18 pursuant to a sidewalk use permit;

19 4. Participating in or attending a parade, festival, performance, rally, demonstration, meeting,
20 or similar event conducted on the public sidewalk pursuant to and in compliance with a street use or
21 other applicable permit;

22 5. Sitting on a fixed chair or bench located on the public sidewalk supplied by a public agency
23 or by the abutting private property owner;

1 6. Sitting in line for goods or services unless the person or person's possessions impede the
2 ability of pedestrians to travel along the length of the sidewalk or enter a doorway or other entrance
3 alongside the sidewalk; or

4 7. Who is a child seated in a stroller.

5 (d) **Warning.** No person shall be cited under this Section unless the person engages in conduct
6 prohibited by this Section after having been notified by a peace officer that the conduct violates this
7 Section.

8 (e) **Other laws and orders.** Nothing in any of the exceptions listed in Subsection (c) shall be
9 construed to permit any conduct which is prohibited by Police Code Sections 22-24, which prohibit
10 willfully and substantially obstructing the free passage of any person.

11 (f) **Penalties**

12 1. **First Offense.** Any person violating any provision of this Section shall be guilty of an
13 infraction. Upon conviction, the violator shall be punished by a fine of not less than \$50 or more than
14 \$100 and/or community service, for each provision violated.

15 2. **Subsequent Offenses.** Any person violating any provision of this Section within 24 hours
16 after violating and being cited for a violation of this Section shall be guilty of a misdemeanor and shall
17 be punished by a fine of not less than \$300 and not more than \$500, and/or community service, for each
18 provision violated, or by imprisonment in the County Jail for a period of not more than ten (10) days,
19 or by both such fine and imprisonment. Any person violating any provision of this Section within 120
20 days after the date of conviction of a violation this Section shall be guilty of a misdemeanor, and shall
21 be punished by a fine of not less than \$400 and not more than \$500, and/or community service, for each
22 provision violated, or by imprisonment in the County Jail for a period of not more than thirty (30) days,
23 or by both such fine and imprisonment.

1 (g) **Reporting.** One year after the effective date of this ordinance, and every two years
2 thereafter, the Police Department shall make a written report to the Mayor and the Board of
3 Supervisors that evaluates the effect of enforcement of this ordinance on the City's neighborhoods.

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5 (h) **Severability.** If any subsection, sentence, clause, phrase, or word of this Section be for any
6 reason declared unconstitutional or invalid or ineffective by any court of competent jurisdiction, such
7 decision shall not affect the validity or the effectiveness of the remaining portions of this Section or any
8 part thereof.

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10 APPROVED AS TO FORM:
11 DENNIS J. HERRERA, City Attorney

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13 By: _____
14 Linda M. Ross
15 Deputy City Attorney