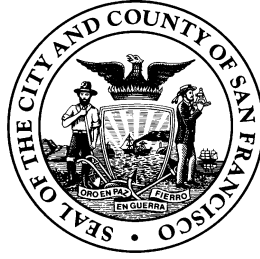


BOARD of SUPERVISORS



City Hall
Dr. Carlton B. Goodlett Place, Room 244
San Francisco 94102-4689
Tel. No. 554-5184
Fax No. 554-5163
TDD/TTY No. 554-5227

MEMORANDUM

TO: Regina Dick-Endrizzi, Director
Small Business Commission, City Hall, Room 448

FROM: Derek Evans, Clerk, Rules Committee
Board of Supervisors

DATE: June 24, 2016

SUBJECT: REFERRAL FROM BOARD OF SUPERVISORS
Rules Committee

The Board of Supervisors' Rules Committee has received the following legislation, which is being referred to the Small Business Commission for comment and recommendation. The Commission may provide any response it deems appropriate within 12 days from the date of this referral.

File No. 160731 Hearing - Initiative Ordinance - Police Code - Promotion of Safe and Open Sidewalks

Hearing to consider the proposed initiative ordinance submitted by four or more Supervisors to the voters at the November 8, 2016, Election, entitled "Ordinance amending the Police Code to prohibit the placement of tent encampments on public sidewalks."

Please return this cover sheet with the Commission's response to me at the Board of Supervisors, City Hall, Room 244, 1 Dr. Carlton B. Goodlett Place, San Francisco, CA 94102.

RESPONSE FROM SMALL BUSINESS COMMISSION - Date: _____

No Comment

Recommendation Attached

Chairperson, Small Business Commission

Submittal Form
For Proposed Initiative Measure(s)
Prior to the Submittal
to the
Department of Elections

By 4 or more Board of Supervisors or the Mayor

I, hereby submit the following proposed initiative measure(s) for hearing before the Board of Supervisors, Rules Committee prior to the submittal of the proposed initiative measure to the Department of Elections. (Prop C. Nov. 2007)

This matter is for the November 8, 2016 Election.

Sponsor(s): Supervisor Mark Farrell

Mark G. Farrell 6/21/16

Keftang 6/21/16

Malia Ober 6/21/16

Scott Wiener 6/21/16

SUBJECT: Initiative Ordinance – Police Code – Promotion of Safe and Open Sidewalks

The text is listed below or attached: **Attached**

Time Stamp by Clerk's Office:

RECEIVED
BOARD OF SUPERVISORS
SAN FRANCISCO
2016 JUN 21 PM 4:56
BY [Signature]

PROPOSED INITIATIVE ORDINANCE TO BE SUBMITTED BY FOUR OR MORE SUPERVISORS TO THE VOTERS AT THE NOVEMBER 8, 2016 ELECTION.

[Under Charter Section 2.113(b), this measure must be submitted to the Board of Supervisors and filed with the Department of Elections no less than 45 days prior to deadline for submission of such initiatives to the Department of Elections set in Municipal Elections Code Section 300(b).]

[Initiative Ordinance - Police Code - Promotion of Safe and Open Sidewalks]

Ordinance amending the Police Code to prohibit the placement of tent encampments on public sidewalks.

NOTE: **Unchanged Code text and uncodified text** are in plain font.
Additions to Codes are in *single-underline italics Times New Roman font*.
Deletions to Codes are in *strikethrough italics Times New Roman font*.
Asterisks (* * * *) indicate the omission of unchanged Code subsections or parts of tables.

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

Section 1. The Police Code is hereby amended by adding Section 169, to read as follows:

SEC. 169. PROMOTION OF SAFE AND OPEN SIDEWALKS.

(a) Findings.

(1) Homeless encampments such as tents on our sidewalks and in our neighborhoods persist and have become a major problem in the City. These encampments are unsafe and unhealthy for the people living in them, and they make our neighborhoods less safe and less healthy for families, residents, and visitors to the City. The City already prohibits encampments in public parks.

(2) San Francisco is a compassionate city and must do everything possible to transition people experiencing homelessness to stable and successful permanent housing by providing services

and low-barrier-to-entry shelters. But prolonging encampments in our neighborhoods does not help homeless individuals, nor does it make our neighborhoods safer. In one of the world's most prosperous countries and one of its most affluent cities, no one should be forced by circumstances to sleep on the streets.

(3) Maintaining accessible sidewalks for everyone is an important public safety objective. No one, especially people in wheelchairs or with strollers or walkers or sight impairments, should be forced to travel in the street due to a blocked sidewalk. Further, sidewalks blocked by encampments can obstruct fire and police personnel responding to emergencies. Encampments also often exhibit the presence of syringes, feces, urine, and uncontained food, all of which present public health risks and can become vectors for disease, illness, and rodents.

(4) San Francisco is a dense urban environment where multitudes of people use public sidewalks for travel. Maintaining pedestrian and authorized commercial activity on public sidewalks is essential to public safety, thriving neighborhoods, and a vital local economy.

(5) The placement of tents and other structures used for habitation on the sidewalk is not a customary or traditional use of this important public space.

(6) Because the placement of tents and other structures used for habitation on public sidewalks is an incompatible use of the sidewalk in residential, commercial, and industrial areas, and to prevent displacement of sidewalk encampments from one district or neighborhood to another, the prohibition in subsection (c) applies citywide.

(b) Definitions. For purposes of this Section 169:

(1) "Encampment" shall mean a tent or any structure consisting of any material with a top or roof or any other upper covering or that is otherwise enclosed by sides that is of sufficient size for a person to fit underneath or inside while sitting or lying down;

(2) "Homeless Services" shall mean the Human Services Agency's Homeward Bound program, or another program offering similar services whereby the City pays for the transportation of

homeless individuals living in the City to a destination outside the City if the City can verify with friends or family of the individual that the individual will have a place to stay and ongoing support at the destination;

(3) "Housing" shall mean placement in a Navigation Center or another housing option provided by the City;

(4) "Personal Property" shall mean any tangible property, and includes, but is not limited to, goods, materials, merchandise, tents, tarpaulins, bedding, blankets, sleeping bags, personal items such as household items, luggage, backpacks, clothing, food, documents, and medication;

(5) "Shelter" shall mean temporary shelter or another shelter option provided by the City; and

(6) "Sidewalk" shall mean the area between the fronting property line and the back of the nearest curb.

(c) Prohibition. In the City and County of San Francisco, it is unlawful to place an Encampment upon a public sidewalk. This prohibition shall not apply to the placement of an Encampment on a public sidewalk pursuant to and in compliance with a street use permit or other applicable permit.

(d) Offer of Housing, Shelter and Homeless Services. Prior to ordering a person to remove an Encampment or prior to removing the Encampment, the City officer or employee enforcing subsection (c) shall offer Housing or Shelter to all residents of the Encampment who are present. The City officer or employee shall also offer Homeless Services to residents of the Encampment who are present. The offer of Housing or Shelter and Homeless Services shall also be made through the notice required by subsection (f). The City shall not enforce the prohibition of subsection (c) unless there is available Housing or Shelter for the person or persons residing in the Encampment.

(e) Enforcement. The prohibition of subsection (c) may be enforced by: (1) the Department of Public Health, (2) the Department of Public Works, and (3) the Department of Homelessness and

Supportive Housing, if such department exists, or if it does not exist, a department the focus of which is the provision of housing and services to homeless persons. The Department of Homelessness and Supportive Housing may issue regulations or guidelines necessary or appropriate to aid in the enforcement and implementation of this Section 169 and may create any additional procedures consistent with this Section 169 necessary or appropriate to protect the property rights of individuals whose property is seized pursuant to this Section 169. If the Department of Homelessness and Supportive Housing does not exist, the City Administrator, or a department designated by the City Administrator, may issue regulations or guidelines necessary or appropriate to aid in the enforcement and implementation of this Section 169 and may create any additional procedures consistent with this Section 169 necessary or appropriate to protect the property rights of individuals whose property is seized pursuant to this Section 169.

(f) Notices. The City shall remove Encampments in accordance with the following requirements:

(1) Notice of Intent to Remove Encampment. The City shall provide residents of the Encampment notice of the City's intent to remove the Encampment 24 hours in advance of any action to remove the Encampment. Notice shall be in writing and shall be served personally on the resident or residents of the Encampment present when the City official or employee enforcing the prohibition of subsection (c) attempts to serve notice. In addition, the City official or employee shall post the notice on or near the Encampment, so as reasonably to communicate the notice to persons living at the Encampment but not present during the attempt to serve notice. The notice shall contain the following information:

(A) the location of the Encampment;

(B) the date and time notice was served or posted;

(C) a statement that the Encampment violates Section 169(c);

(D) an advisement that the City will remove the Encampment 24 hours after the date and time of the notice;

(E) an advisement that there is Housing or Shelter and Homeless Services available for residents of the Encampment and the phone number and address to contact in order to obtain the Housing or Shelter and Homeless Services;

(F) an advisement that any Personal Property remaining at the Encampment site when the City returns to remove the Encampment will be impounded for no fewer than 90 days and will be discarded thereafter if not claimed; and

(G) the address, phone number, and operating hours of the location where the Personal Property will be stored and may be retrieved and that the City will charge no fee for storage or retrieval.

(2) Notice Regarding Personal Property Seized When Encampment Removed. When the City removes an Encampment, a written notice shall be given to any residents of the Encampment present and conspicuously posted in the area from which the Encampment was removed. The notice shall contain the following information:

(A) the location of the Encampment being removed;

(B) a statement that the Encampment violated Section 169(c);

(C) a general description of any Personal Property removed;

(D) the date and time the Personal Property was removed;

(E) an advisement that the Personal Property will be stored for at least 90 days, and the address, phone number, and operating hours of the location where the Personal Property is being stored and may be retrieved and that the City will charge no fee for storage or retrieval; and

(F) an advisement that if the Personal Property is not retrieved within 90 days, it will be discarded.

(g) Personal Property. A person residing in an Encampment who is present at the time the City is removing the Encampment may retain his or her Personal Property except that items constituting an immediate threat to the health or safety of the public or items that constitute evidence of a crime or contraband may be seized, as permissible by law. Any Personal Property seized by the City pursuant to the enforcement of subsection (c) shall be stored by the Department of Public Works or another City entity for no less than 90 days, with the following exceptions:

(1) Items that present a health or safety risk if stored, such as items soiled by bodily fluids, items that are moldy, items infested by insects or vermin, and food, need not be stored and may be discarded; and

(2) Items that constitute evidence of a crime or contraband may be seized and discarded, as permissible by law.

(h) Other laws and orders. Nothing in this Section 169 shall be construed to permit any conduct prohibited by or limit the City's authority to enforce any other State or City law, including but not limited to: (1) Police Code Sections 22-24, which prohibit willfully and substantially obstructing the free passage of any person; (2) Police Code Section 168, which prohibits sitting or lying on the sidewalk during certain hours; and (3) Section 581 of the Health Code, which prohibits public health nuisances.

(i) Undertaking for the General Welfare. In enacting and implementing this Section 169, the City is assuming an undertaking only to promote the general welfare. It is not assuming, nor is it imposing on its officers and employees, an obligation for breach of which it is liable in money damages to any person who claims that such breach proximately caused injury.

(j) Severability. If any subsection, sentence, clause, phrase, or word of this Section 169, or any application thereof to any person or circumstance, is held to be invalid or unconstitutional by a decision of a court of competent jurisdiction, such decision shall not affect the validity of the remaining portions or applications of this Section. The People of the City and County of San Francisco hereby

declare that they would have adopted this Section 169 and each and every subsection, sentence, clause, phrase, and word not declared invalid or unconstitutional without regard to whether any other portion of this Section or application thereof would be subsequently declared invalid or unconstitutional.

(k) Amendment or Repeal. This Section 169 may be amended or repealed by a vote of the People at a City election. This Section may also be amended by ordinance passed by a two-thirds' vote of the Board of Supervisors and signed by the Mayor so long as such amendments are consistent with and further the intent of this Section.

Section 2. Conflicting Law. If this initiative measure and another measure addressing Encampments appear on the same ballot, and a majority of the voters vote in favor of both measures but this measure receives more votes than the other measure, this measure alone shall become valid, binding, and adopted in its entirety, and the other measure shall be null and void in its entirety. If a majority of the voters vote in favor of both measures but this measure receives fewer votes than the other measure, only those provisions of the other measure that are in direct and irreconcilable conflict with the provisions of this measure shall control, and all other provisions of this measure shall become valid, binding, and adopted. The voters expressly declare this to be their intent, regardless of any contrary language in any other ballot measure.

* * *

SUBMITTED.

Mark E. Mull

Member, Board of Supervisors

Date:

6/21/16

Scott Wiener

Date:

6/21/16

Member, Board of Supervisors

Jeff Tang

Date:

6/21/16

Member, Board of Supervisors

Melissa Chen

Date:

6/21/16

Member, Board of Supervisors

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