

ATTACHMENT 1

8.1 Proposed Amendment to LAMC 41.18.

Current Code:

SEC. 41.18. SIDEWALKS, PEDESTRIAN SUBWAYS – LOITERING.

(a) No person shall stand in or upon any street, sidewalk or other public way open for pedestrian travel or otherwise occupy any portion thereof in such a manner as to annoy or molest any pedestrian thereon or so as to obstruct or unreasonably interfere with the free passage of pedestrians. (Amended by Ord. No. 137,269, Eff. 10/21/68.)

Whether or not a defendant's acts "in any manner hindered or obstructed the free-passage" of persons passing is clearly a question of fact for the jury.

People v. Firestone, CR A 518.

Where free-passage along sidewalks is obstructed by persons listening to what is said at a street-meeting, the persons conducting said meeting cannot be convicted of a violation of this section in the absence of other facts.

People v. Yoneda, CR A 249.

(b) No person shall loiter in any tunnel, pedestrian subway, or on any bridge overpass, or at or near the entrance thereto or exit therefrom, or at or near any abutment or retaining wall adjacent to such entrance or exit, or any retaining wall or abutment adjacent to any freeway, street or highway open and used for vehicular traffic, or adjacent to that portion thereof used for vehicular traffic, or on any public property in the proximity of such bridge, overpass, or retaining wall or abutment.

Sec. 41.18 has not been preempted by State Legislation encompassing loitering offenses.

Gleason v. Municipal Court (April 1964), 226 Cal. App. 2d-226 ACA 701.

(c) No person in or about any pedestrian subway, shall annoy or molest another or make any remark to or concerning another to the annoyance of such other person, and no person shall commit any nuisance in or about such subway.

(d) (Amended by Ord. No. 137,269, Eff. 10/21/68.) No person shall sit, lie or sleep in or upon any street, sidewalk or other public way.

The provisions of this subsection shall not apply to persons sitting on the curb portion of any sidewalk or street while attending or viewing any parade permitted under the provisions of Section 103.111 of Article 2, Chapter X of this Code; nor shall the provisions of this subsection apply to persons sitting upon benches or other seating facilities provided for such purpose by municipal authority or permitted by this Code.

Limitations to Current Code:

Current code is not specific enough to limit loitering in places used for children, recreation, business and residence.

Previous MVCC Motion:

Whereas there is a housing and homelessness crisis in our city and our neighborhood, in which thousands have been forced to live on the streets; and Whereas the City of Los Angeles adopted section 41.18 into the Los Angeles Municipal Code (LAMC) that outlaws sitting, lying or sleeping upon any street, sidewalk or other public way; and Whereas the City of Los Angeles can no longer enforce that law due to the United States Court of Appeals for the 9th Circuit ruling on Martin v. The City of Boise, which determined that unhoused persons may sleep in public spaces until there is sufficient shelter to house them; and Whereas the City of Los Angeles must therefore update LAMC Section 41.18 to allow for enforcement in a manner that is consistent with the 9th Circuit Court of Appeals ruling, which suggested that some very limited restrictions on sitting, lying, or sleeping on a public right of way might be acceptable to the Court; and Whereas Councilmember Mike Bonin has vocalized his support for housing, in accordance with the 9th circuit ruling, while also proposing sensible changes to 41.18 that may meet the requirements laid out by the Boise decision, including restrictions around sensitive use areas like schools, daycares and homeless shelter facilities; and Whereas allowing for such sensible restrictions without violating the central principle of the Boise decision is the best way to address the concerns of local residents about impacts on schools and other sensitive uses without risking another legal decision against the City that again stops enforcement of 41.18.

Now, therefore be it resolved, that the Mar Vista Community Council supports changes to LAMC 41.18 to bring it into compliance with the Boise decision while allowing for restrictions against sitting, lying, or sleeping on streets, sidewalks, and other public right of ways around sensitive uses that include schools, daycares, and homeless shelter facilities.

Limitations to Previous MVCC Motion:

The motion was too general, not specific enough, and has not helped to decrease the amount of unhoused people sleeping on the streets in Mar Vista.

Current Proposed Amendment:

Amend LAMC 41.18.

MOTION: The Mar Vista Community Council calls upon the Los Angeles City Council to Amend LAMC 41.18 as

follows: (d) No person shall sit, lie or sleep in or upon any street, sidewalk, or other public right-of way as follows:

(1) At any time in a manner that restricts fifteen feet of clearance from any utilizable and operational entrance, exit, driveway or loading dock.

(2) At any time in a manner that restricts passage to less than 36" in any and all directions, as required by the American with Disabilities Act (ADA).

(3) At any time:

(i) Within 150 feet of any structure, with a Certificate of Occupancy, that is in residential use.

(ii) Within 500 feet of a park.

(iii) Within 500 feet of a school.

(iv) Within 500 feet of a daycare center.

(v) In or upon any tunnel, bridge or pedestrian subway that is on a route designated by City Council resolution as a school route.

(vi) Within 500 feet of a facility opened after January 1, 2018 to provide housing, shelter, supportive services, safe parking, or storage to homeless persons.

(vii) Bike and other recreational paths.

(viii) Public areas (non-sidewalk) posted with No Trespass signs for safety purposes.

(ix) Public areas posted with closing times for safety and maintenance purposes.

(x) Crowded public sidewalk areas like those exempted in the citywide vending ordinance and other large venue-adjacent areas.

Upon passage this Resolution shall be presented as a Community Impact Statement to the City Council.