



SAN FRANCISCO PLANNING DEPARTMENT

Executive Summary Police Code Text Change

HEARING DATE: APRIL 1, 2010

Project Name: **Prohibition on Sitting or Lying on City Sidewalks**
Case Number: 2010.0200U [Board File No. 10-0233]
Initiated by: Mayor Newsom/ Supervisor Alioto-Pier
Introduced: March 2, 2010
Staff Contact: AnMarie Rodgers, Manager Legislative Affairs
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Reviewed by: David Alumbaugh, Director Citywide Policy Planning
David.Alumbaugh@sfgov.org, 415-558-6601

Recommendation: **The Department is not recommending approval or disapproval of the proposed Ordinance. Instead, the Department recommends that the City maintain the streets and sidewalks as a vital component of the City's open space system.**

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POLICE CODE AMENDMENT

The proposed Ordinance would make it unlawful to sit or lie upon a public sidewalk, or upon a blanket, chair, stool, or any other object placed upon a public sidewalk, during the hours between 7 a.m. and 11 p.m. at night.

The Way It Is Now:

The proposed Ordinance adds a new Section to the Police Code to address quality of life crimes. Quality of life crimes include graffiti writing, sleeping or sitting in public areas, public intoxication and panhandling. According to a 2002 report by San Francisco's Legislative Analyst, the District Attorney's and City Attorney's Offices reported that "several of San Francisco's quality of life laws are difficult to prosecute due to the evidence requirements"¹. San Francisco's existing quality of life laws include:

- **Municipal Police Code Section 21- Drinking in Public**
- **Penal Code 647 (f)- Public Intoxication**
- **Municipal Police Code 97 (a) and (b)- Camping in House Car or Car**
- **Penal Code 647 (j) - Lodging in a Public or Private Place without Permission of Owner**
- **Municipal Police Code 153 – Urinating in Public**

¹ Legislative Analyst Report - San Francisco's 'Quality of Life' Laws and Seattle's 'Civility' Laws (File No. 011704), Elaine Forbes. January 11, 2002.

- **Municipal Police Code 22(a) 23(a) and Penal Code 647 – Obstructions of Streets and Sidewalks**
- **Municipal Police Code Section 120-2 (d) 1-4 – Aggressive Solicitation**
- **Municipal Police Code Section 25 – 26 Trespassing**
- **Police Code 372 Maintaining a Public Nuisance**
- **Penal Code 415 Disturbing the Peace**
- **602.1 Penal Code Interfering with a Business**
- **643.2 Loitering with Intent to Buy or Sell Drugs**
- **Associated Criminal Activity:** Assault, battery malicious mischief, theft, robbery, threats, extortion, and public intoxications.

The Way It Would Be:

The proposed Ordinance would create the following new Section 168 of the Police Code:

- **New Section 168– Prohibition on Sitting or Lying on City Sidewalks**

The proposed Ordinance would make it unlawful to sit or lie upon a public sidewalk, or upon a blanket, chair, stool, or any other object placed upon a public sidewalk, during the hours between 7 a.m. and 11 p.m. at night.

The Ordinance contains exceptions for a person: with a medical emergency, using a wheel chair or similar device due to disability, operating or patronizing a commercial establishment with a sidewalk use permit, participating in a parade, demonstration or similar event in compliance with a permit, sitting in a fixed chair or bench provided by a public agency or an abutting private property owner, sitting in line for goods or services so long as pedestrians are not impeded, or who is a child seated in a stroller.

The prohibition applies only to sidewalks. There are a number of places where the restrictions of this ordinance do not apply, including plazas, public parks, public benches, and other common areas open to the public. It is unclear if the proposed Ordinance would apply to ‘informal’ seating, i.e., seating that is not a bench or chair in the public right-of-way. By the time of the hearing the Mayor’s Office has offered to provide information clarifying if the prohibitions would apply to sidewalk bulbouts and planters or other objects serving as seating. Staff from the Mayor’s Office has stated that the Ordinance intends to allow this behavior and has offered to add clarifying language that would exclude these informal areas from the prohibition.

No person may be cited under this section unless the person continues to engage in prohibited conduct after having been warned by a peace officer. A first offense is an infraction punishable by a fine of not less than \$50 or more than \$100, and/or community service, for each provision violated. A second offense within 24 hours of being cited for a first offense is a misdemeanor punishable by a fine of not less than \$300 and not more than \$500, and/or community service, for each provision violated, or by imprisonment in the County Jail for not more than 10 days, or by both fine and imprisonment. A second offense within 120 days after being convicted of an

offense is a misdemeanor punishable by a fine of not less than \$400 and not more than \$500, and/or community service, for each provision violated, or by imprisonment in the County Jail for not more than 30 days, or by fine and imprisonment.

The Police Department must make a written report to the mayor and the Board of Supervisors, evaluating the effect of the ordinance on the City's neighborhoods, one year from the effective date of the ordinance and every two years after that.

ISSUES FOR CONSIDERATION

The Planning Commission specifically requested:

1. Analysis of how the proposed law compares with adopted policy in San Francisco's General Plan
2. Analysis of how the proposed law would affect the City's Pavement to Parks program
3. Information on cities with similar laws nationwide.

1. Pertinent General Plan Policies

The Ordinance's prohibition on sitting or lying on the sidewalk is not directed against homeless persons, but rather concerns itself with conduct – sitting or lying down on the sidewalk. The findings state that persons who sit or lie on the sidewalk create a danger to pedestrians, particularly the elderly and infirm, that they discourage people from frequenting business areas, and that they contribute to the decline of commercial neighborhoods.

Similar ordinances exist in Seattle, Portland, Houston, Los Angeles, Palo Alto, Philadelphia, Reno, Tucson, and Berkeley (lying only). The leading case on the issue involved Seattle's ordinance and was decided by the Ninth Circuit Court of Appeals. The case of *Roulette v. Roulette v. City of Seattle*, 97 F.3d 300 (1996), upheld Seattle's ordinance. Some have contended that the ordinance will most directly affect the homeless. Therefore, for discussion purposes, we include the elements of the General Plan that relate to the homeless.

Summary Housing Element: The Element of the General Plan that most directly addresses issues of the City's homeless population is the Housing Element. Regarding homelessness, the Housing Element primarily promotes long-term housing for homeless individuals, and supports shelters for interim housing needs. The Housing Element does not speak to the street's physical space as a place for housing. It does, however, support street outreach efforts (Policy 10.3 below) "in a manner that gains their trust and with a goal of integrating them into the larger health care and services systems." The new Housing Element update to the General Plan proposes similar policies. Below are existing policies from the existing Housing Element.

Specific Housing Element Policies and Text (double underline added for emphasis):

POLICY 8.6 Increase the availability of units suitable for users with supportive housing needs.

General Plan Text under Policy 8.6: Shelters and transitional housing facilities are not available in sufficient numbers to meet the needs of the city's homeless population. The mentally disabled also need housing with additional support services.

**OBJECTIVE 10 REDUCE HOMELESSNESS AND THE RISK OF HOMELESSNESS IN
COORDINATION WITH RELEVANT AGENCIES AND SERVICE PROVIDERS.**

General Plan Text under Objective 10: Homelessness has grown to a scale unprecedented in the United States since the 1930s. The legacy of the 1980s that has regarded temporary shelter as an adequate response to homelessness should be overcome. Shelters are not an acceptable alternative to decent, affordable housing. While the City should not relax its commitment to offering shelter to anyone who would otherwise be forced to live in streets, parks and doorways, the vision and the overall direction should remain fixed on the goal of creating and preserving low-cost housing, jobs and job training programs, and the necessary health and social support services that enable people to live with the greatest degree of independence possible. Such services for the homeless should be provided in a multi-lingual and multicultural context where needed. It is critical that San Francisco and other cities begin to develop a regional approach to homelessness in the Bay Area. Increased state and federal support is needed for regional efforts to succeed.

POLICY 10.3 Improve coordination among emergency assistance efforts, existing shelter programs, and health care outreach services.

General Plan Text under Objective 10.3: While the emphasis should be on provision of permanent housing, the City should provide an emergency shelter program that provides temporary shelter and links homeless people to more comprehensive services. The City should also continue to support the Department of Public Health's Direct Access to Housing Program, which has helped households transition from shelters into permanent homes.

Homeless people often have difficulty gaining access to the health care system, whether it is because the multiplicity of problems they experience overwhelms health care providers, their behavior or appearance makes them unwelcome, or they themselves regard health care as low on the survival priority list. There is need for outreach services and multi-service centers that provide health care and other services to the homeless, in a manner that gains their trust and with a goal of integrating them into the larger health care and services systems.

Summary Commerce & Industry Element: This Element considers essential functions to maintaining the City's economic base. The Commerce & Industry Element sets forth objectives and polices that address the broad range of economic activities, facilities and support systems that constitute San Francisco's employment and service base. The plan serves as a comprehensive guide for both the public and private sectors when making decisions related to economic growth and change.

POLICY 4.8 Provide for the adequate security of employees and property.

General Plan Text under Objective 10.3: Vandalism, in certain of the city's industrial areas, causes large losses for firms and threatens employee security. In some instances, firms in areas where fear of crime is a particular problem have difficulties attracting a qualified work force. Concern about security of employers and employees can affect plans for

expansion and may cause relocation. It also affects employee turnover. Measures such as increased police presence and surveillance of industrial areas and improved lighting are important in providing a sense of security for employers and employees.

Urban Design Element Summary: This Element of the General Plan addresses the physical character and order of the city, and the relationship between people and their environment. The Urban Design Element repeatedly calls for transforming underused portions of the City's rights-of-way for open space, recreational, and social purposes and not just as a space for movement. Below are existing policies from the Urban Design Element.

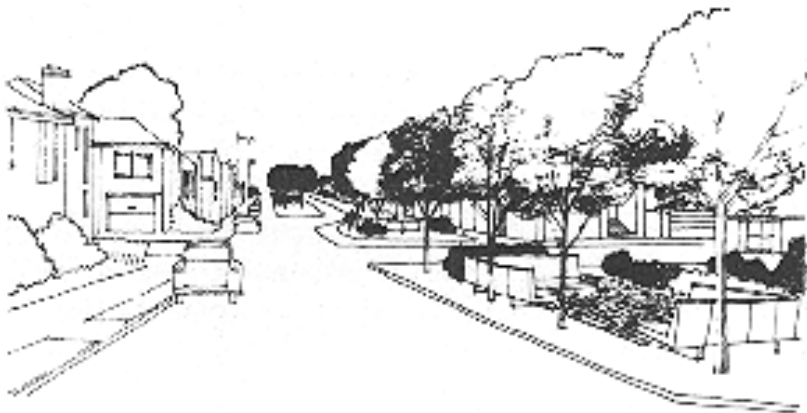
Specific Urban Design Element Policies and Text (double underline added for emphasis):

Fundamental Principles for Neighborhood Environment

These fundamental principles and their illustrations reflect the needs and characteristics with which this Plan is concerned, and describe measurable and critical urban design relationships in the neighborhood environment.

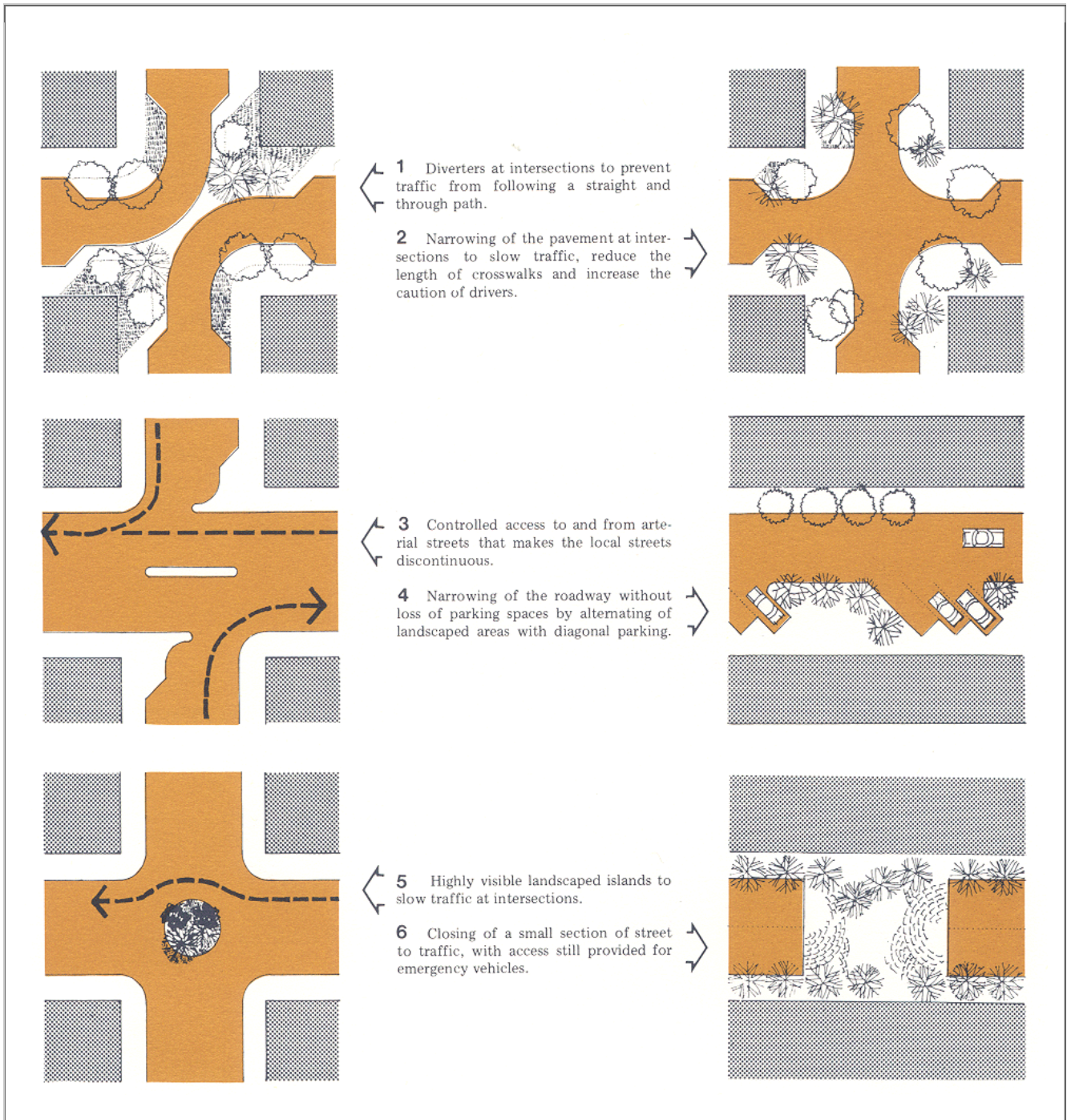
6	<p>Wide, generous sidewalk areas provide opportunities for outdoor recreation and pedestrian amenities.</p> <p>A. <u>Portions of wide sidewalks can be turned into children's play areas, and sitting areas for adults.</u></p> <p>B. In intensive shopping areas, wide sidewalks allow free pedestrian movement, and provide room for <u>benches for resting</u> and shelters for transit patrons.</p>
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8 Wide streets can be narrowed at the intersections and landscaped to provide sitting areas and visual amenity.



Plan for Protected Residential Areas

Illustrated below are some of the means by which the speed and volume of traffic can be reduced on residential streets. The designs shown are simple prototypes. When used in combination and adapted to specific streets, such methods can significantly discourage heavy, fast and through traffic and divert vehicles to arterial streets. In many cases, too, these designs can improve the visual quality of residential neighborhoods provide usable open space for landscaping, playgrounds and sitting areas.



POLICY 4.8 Provide convenient access to a variety of recreation opportunities.

General Plan Text under Policy 4.8: As many types of recreation space as possible should be provided in the city, in order to serve all age groups and interests. Some recreation space should be within walking distance of every dwelling, and in more densely developed areas some sitting and play space should be available in nearly every block.

The more visible the recreation space is in each neighborhood, the more it will be appreciated and used.

POLICY 4.11 Make use of street space and other unused public areas for recreation, particularly in dense neighborhoods, such as those close to downtown, where land for traditional open spaces is more difficult to assemble.

General Plan Text under Policy 4.11: Walking along neighborhood streets is the common form of recreation. The usefulness of streets for this purpose can in many cases be improved by widening sidewalks and installing simple improvements such as benches and landscaping. Such improvements can often be put in place without narrowing traffic lanes by use of parking bays with widened sidewalks at intersections and at other points unsuitable for parking.

Streets that have roadways wider than necessary, and streets that are not developed for traffic because of their steepness, provide exceptional opportunities for recreation. This is particularly applicable in new neighborhoods like Transbay and Rincon Hill, where traditional open spaces are more difficult to assemble because of higher densities and lack of available sites to acquire for parks. This excess street space can be developed with playgrounds, sitting areas, viewpoints and landscaping that make them neighborhood assets and increase the opportunities for recreation close to the residents' homes.

Recreation and Open Space Element (ROSE) Summary: This element seeks to convert underused public rights-of-way as a way of creating recreational space within neighborhoods. The proposed update to the ROSE Element would specifically call out San Francisco's street network as a part of the city's open space system (Obj 3), and would promote the use of public streets for passive recreational activities.

Specific Recreation and Open Space Element Policies and Text
(double-underline added for emphasis):

POLICY 4.2 Maximize joint use of other properties and facilities.

General Plan Text under Policy 4.2: Streets, alleys and undeveloped rights-of-way throughout San Francisco should be looked to for development of small outdoor open spaces for the elderly and for young children. These kinds of spaces are an important resource common to all high need neighborhoods. Streets and alleys should be considered as opportunities for providing useful recreation space which, with the installation of sitting areas and planting, can significantly improve a neighborhood at little cost to the City. Unused rights-of-way and other unused public land can be used as community gardens, providing recreation and amenities for the surrounding neighborhood.

Transportation Element Summary: The Transportation Element considers the sidewalk as an important element in the city's open space system (Obj 26) and has subsequent policies that encourage pedestrian serving uses on the sidewalk, etc (Policies 26.1-26.4).

Specific Transportation Element Policies and Text (double underline added for emphasis):

OBJECTIVE 26 CONSIDER THE SIDEWALK AREA AS AN IMPORTANT ELEMENT IN THE CITYWIDE OPEN SPACE SYSTEM.

POLICY 26.1 Retain streets and alleys not required for traffic, or portions thereof, for through pedestrian circulation and open space use.

POLICY 26.2 Partially or wholly close certain streets not required as traffic carriers for pedestrian use or open space.

POLICY 26.3 Encourage pedestrian serving uses on the sidewalk.

Summary of General Plan Policies and Proposed Sit/Lie Ordinance: In summary, the City's General Plan heralds the use of the public right-of-way as a part of the City's Open Space system whereas the proposed Ordinance allows sitting and lying in parks and plazas but prohibits the same relaxation on the City's sidewalks. The General Plan supports making the public rights-of-way (streets and sidewalks) more inviting for all people to use by adding benches and creating meeting spaces. Instead of making the public realm so bleak that only those with no choice use it, it should be a place of welcome. On our most successful sidewalks a critical density is achieved where positive behavior is the norm.

2. Analysis of Potential affect upon San Francisco's "Pavement to Parks" Program

Pavement to Parks Background: San Francisco's streets and public rights-of-way make up fully 25% of the city's land area, more space even than is found in all of the city's parks. Many of our streets are excessively wide and contain large zones of wasted space, especially at intersections. San Francisco's new "Pavement to Parks" projects seek to temporarily reclaim these unused swathes and quickly and



The temporary Guerrero Park uses non-traditional elements such as logs to both build a border and as informal seating.

inexpensively turn them into new public plazas and parks. During the temporary closure, the success of these plazas will be evaluated to understand what adjustments need to be made in the short term, and ultimately, whether the temporary closure should be a long term community investment. Each Pavement to Parks project is intended to be a public laboratory where the City can work with the

community to test the potential of the selected location to be permanently reclaimed as public open space. Materials and design interventions are meant to be temporary and easily moveable should design changes be desired during the trial-run. Seating (including informal seating on non-benches), landscaping, and treatment of the asphalt will be common features of all projects. One of the chief objectives of the Pavement to Parks projects is to demonstrate to the city's residents the opportunities for and the value in reclaiming public street space for civic use.

Summary of Potential Affect of Sit/Lie Ordinance on the Pavement to Parks Program:

The proposed Sit/Lie Ordinance proposes to allow sitting and lying in parks and plazas. By the time of the hearing, we will know from the Mayor's Office about the informal gathering places on the sidewalk. As discussed above, the City's policy and the Pavement to Parks program specifically seek to transform sidewalks and unused street space into areas for congregating and community building. If the proposed Sit/Lie Ordinance prohibits sitting on informal benches or relaxing on the public right of way, it would run counter to these efforts, even if it would serve to dampen these desirable activities.

It is unclear if this Ordinance would apply to the temporary plazas and informal seating created by Pavement to Parks. We understand from the Mayor's Office that the intent is to permit sitting on any surface provided for sitting by a public agency, which would include non-traditional seating such as the informal seating in the Pavement to Parks Program. The ordinance could be clarified to include this non-traditional seating. Even if the Ordinance is not applied to temporary and/or informal seating, the proposed Ordinance could have the unintended consequence of overburdening parks and plazas by exerting pressures that would concentrate homeless people in the City's open spaces.

3. Information on jurisdictions with similar laws nationwide.

Attached to this report is an excerpt from the report, "Homes Not Handcuffs: The Criminalization of Homelessness in U.S. Cities". The section of the report reproduced for the Planning Commission provides data regarding quality of life laws in cities around the country. According to the attached report over 50 cities in the United States have a "Sit/Lie" law on the books.

REQUIRED COMMISSION ACTION

The proposed Ordinance is before the Commission at the request of the Commission so that it may make recommendations to the Board of Supervisors.

RECOMMENDATION

Should the Planning Commission decide to make a recommendation regarding the Sit/Lie Ordinance, the Department has prepared a Draft Resolution recommending to Board of Supervisors *that the City maintain its streets and sidewalks as a vital component of the City's Open Space System.*

BASIS FOR RECOMMENDATION

Portland Oregon is currently in the process of re-examining use of its downtown sidewalks in light of the recent court decision on Portland's Sit/Lie Law². As part of their re-examination of sidewalk use, Portland cites, "three reasons [that] demand a thoughtful look at the issue of sidewalk management". Portland's stated reasons for reexamining use of the public domain are overlap with current issues for San Francisco including:

- Increasing media reports and community concerns about aggressive panhandling.
- Recent Court ruling that indicates cities must manage conflicting uses of the sidewalks rather than obstructive behavior if they wish to assert local control over sidewalks (Sit-lie law ruled unconstitutional: <http://oregonlive.twi.bz/a>).
- Significant budget cuts to government safety net and human service programs."

In addition to these considerations, in San Francisco we also have

- strong policy support for using sidewalks as a meeting place,
- a tradition of formal and informal embellishments to the public right-of-way as seen along Noe Street, and
- active programs such as Pavement to Parks that implement these policies.

Further, the current economic slow-down may also be increasing the ranks of homeless people nationally as recently reported by the Examiner:

"After years of reports claiming that homelessness had decreased across the country, the federal government released its quarterly homeless report that shows a 10 percent increase in the total number of families and an 8 percent increase in adults accessing shelters between June and September of 2009. The Third Quarter Report of the Department of Housing and Urban Development (HUD) acknowledges what shelter providers across the country have been claiming for years—more Americans are in need of homeless shelter services."³

Therefore, as the City struggles to address these problems it is important to remember that the public rights-of-way presents both challenges to and opportunities for community building. When turning our legislative 'eye' towards the use of the rights-of-way it is important that concerns over safety don't diminish our ability to use this resource as an important part of our open space system and as a needed compliment to established parks and plazas.

² The sit/lie ordinances have been upheld in other cities, specifically Seattle and most recently Palo Alto. Sit/lie ordinances have been upheld as constitutional, under both the federal and state constitutions, in the following cases: *Roulette v. City of Seattle*, 97 F.3d 300 (1996), and *City of Seattle v. McConahy*, 86 Wash. App. 557, 937 P.2d 1133 (1997).) Recently, a California court upheld Palo Alto's sit/lie ordinance in *People v. Victor Allen Frost*, Portland's ordinance was found to conflict with Oregon state statutory law.

³ The Examiner. "Federal Government Acknowledges that Homelessness is Increasing". <http://www.examiner.com/x-37705-LA-Homelessness-Examiner-y2010m3d18-Federal-government-acknowledges-homelessness-is-increasing>. March 18, 2010.

ENVIRONMENTAL REVIEW

The proposed amendment is exempt from environmental review under Section 15060(c)(2) of the CEQA Guidelines.

PUBLIC COMMENT

As of the date of this report, the Planning Department staff has received no comments in writing.

RECOMMENDATION: Maintain the City's streets and sidewalks as a vital component of the City's Open Space System
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Attachments:

- Exhibit A: Draft Planning Commission Resolution
- Exhibit B: Board of Supervisors File No. 10-0233
- Exhibit C: Comparison of Quality of Life Laws, excerpt from the report, "Homes Not Handcuffs".



SAN FRANCISCO PLANNING DEPARTMENT

Draft Planning Commission Resolution Police Code Text Change HEARING DATE: APRIL 1, 2010

Project Name: **Prohibition on Sitting or Lying on City Sidewalks**
Case Number: 2010.0200U [Board File No. 10-0233]
Initiated by: Mayor Newsom/ Supervisor Alioto-Pier
Introduced: March 2, 2010
Staff Contact: AnMarie Rodgers, Manager Legislative Affairs
anmarie.rodgers@sfgov.org, 415-558-6395
Reviewed by: David Alumbaugh, Director Citywide Policy Planning
David.Alumbaugh@sfgov.org, 415-558-6601

Recommendation: **The Commission is not recommending approval or disapproval of the proposed Ordinance. Instead, the Commission recommends that the City maintain the streets and sidewalks as a vital component of the City's open space system.**

RECOMMENDING THAT THE BOARD OF SUPERVISORS MAINTAIN THE STREETS AND SIDEWALKS AS A VITAL COMPONENT OF THE CITY'S OPEN SPACE SYSTEM WHEN CONSIDERING A PROPOSED ORDINANCE THAT WOULD AMEND THE POLICE CODE TO MAKE IT UNLAWFUL TO SIT OR LIE UPON A PUBLIC SIDEWALK, OR UPON A BLANKET, CHAIR, STOOL, OR ANY OTHER OBJECT PLACED UPON A PUBLIC SIDEWALK, DURING THE HOURS BETWEEN 7 A.M. AND 11 P.M. AT NIGHT.

PREAMBLE

Whereas, on March 2, 2010, Mayor Newsom and Supervisor Alioto-Pier introduced a proposed Ordinance under Board of Supervisors (hereinafter "Board") File Number 10-0233 which would amend the Police Code to make it unlawful to sit or lie upon a public sidewalk, or upon a blanket, chair, stool, or any other object placed upon a public sidewalk, during the hours between 7 a.m. and 11 p.m. at night; and

Whereas, on April 1, 2010, the San Francisco Planning Commission (hereinafter "Commission") conducted a duly noticed public hearing at a regularly scheduled meeting to consider the proposed Ordinance; and

Whereas, the Commission has heard and considered the testimony presented to it at the public hearing and has further considered written materials and oral testimony presented; and

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Whereas, the all pertinent documents may be found in the files of the Department, as the custodian of records, at 1650 Mission Street, Suite 400, San Francisco; and

Whereas, the Commission has reviewed the proposed Ordinance; and

MOVED, that the Commission hereby recommends that the Board of Supervisors that *the City should maintain its streets and sidewalks as a vital component of the City's open space system* and adopts the attached Draft Resolution to that effect.

FINDINGS

Having reviewed the materials identified in the preamble above, and having heard all testimony and arguments, this Commission finds, concludes, and determines as follows:

1. The proposed Ordinance seeks to make it unlawful to sit or lie upon a public sidewalk, or upon a blanket, chair, stool, or any other object placed upon a public sidewalk, during the hours between 7 a.m. and 11 p.m. at night;
2. **General Plan Compliance.** The proposed Ordinance should maintain the streets and sidewalks as a vital component of the City's open space system in order to remain consistent with the following Objectives and Policies of the General Plan:

I. HOUSING ELEMENT

POLICY 8.6 Increase the availability of units suitable for users with supportive housing needs.

General Plan Text under Policy 8.6: Shelters and transitional housing facilities are not available in sufficient numbers to meet the needs of the city's homeless population. The mentally disabled also need housing with additional support services.

OBJECTIVE 10 REDUCE HOMELESSNESS AND THE RISK OF HOMELESSNESS IN COORDINATION WITH RELEVANT AGENCIES AND SERVICE PROVIDERS.

General Plan Text under Objective 10: Homelessness has grown to a scale unprecedented in the United States since the 1930s. The legacy of the 1980s that has regarded temporary shelter as an adequate response to homelessness should be overcome. Shelters are not an acceptable alternative to decent, affordable housing. While the City should not relax its commitment to offering shelter to anyone who would otherwise be forced to live in streets, parks and doorways, the vision and the overall direction should remain fixed on the goal of creating and preserving low-cost housing, jobs and job training programs, and the necessary health and social support services that enable people to live with the greatest degree of independence possible. Such services for the homeless should

be provided in a multi-lingual and multicultural context where needed. It is critical that San Francisco and other cities begin to develop a regional approach to homelessness in the Bay Area. Increased state and federal support is needed for regional efforts to succeed.

II. COMMERCE & INDUSTRY ELEMENT

POLICY 4.8 Provide for the adequate security of employees and property.

General Plan Text under Objective 10.3: Vandalism, in certain of the city's industrial areas, causes large losses for firms and threatens employee security. In some instances, firms in areas where fear of crime is a particular problem have difficulties attracting a qualified work force. Concern about security of employers and employees can affect plans for expansion and may cause relocation. It also affects employee turnover. Measures such as increased police presence and surveillance of industrial areas and improved lighting are important in providing a sense of security for employers and employees.

III. URBAN DESIGN ELEMENT

POLICY 4.8 Provide convenient access to a variety of recreation opportunities.

General Plan Text under Policy 4.8: As many types of recreation space as possible should be provided in the city, in order to serve all age groups and interests. Some recreation space should be within walking distance of every dwelling, and in more densely developed areas some sitting and play space should be available in nearly every block. The more visible the recreation space is in each neighborhood, the more it will be appreciated and used.

POLICY 4.11 Make use of street space and other unused public areas for recreation, particularly in dense neighborhoods, such as those close to downtown, where land for traditional open spaces is more difficult to assemble.

General Plan Text under Policy 4.11: Walking along neighborhood streets is the common form of recreation. The usefulness of streets for this purpose can in many cases be improved by widening sidewalks and installing simple improvements such as benches and landscaping. Such improvements can often be put in place without narrowing traffic lanes by use of parking bays with widened sidewalks at intersections and at other points unsuitable for parking.

Streets that have roadways wider than necessary, and streets that are not developed for traffic because of their steepness, provide exceptional opportunities for recreation. This is particularly applicable in new

neighborhoods like Transbay and Rincon Hill, where traditional open spaces are more difficult to assemble because of higher densities and lack of available sites to acquire for parks. This excess street space can be developed with playgrounds, sitting areas, viewpoints and landscaping that make them neighborhood assets and increase the opportunities for recreation close to the residents' homes.

IV. RECREATION AND OPEN SPACE ELEMENT

POLICY 4.2 Maximize joint use of other properties and facilities.

General Plan Text under Policy 4.2: Streets, alleys and undeveloped rights-of-way throughout San Francisco should be looked to for development of small outdoor open spaces for the elderly and for young children. These kinds of spaces are an important resource common to all high need neighborhoods. Streets and alleys should be considered as opportunities for providing useful recreation space which, with the installation of sitting areas and planting, can significantly improve a neighborhood at little cost to the City. Unused rights-of-way and other unused public land can be used as community gardens, providing recreation and amenities for the surrounding neighborhood.

V. TRANSPORTATION ELEMENT

OBJECTIVE 26 CONSIDER THE SIDEWALK AREA AS AN IMPORTANT ELEMENT IN THE CITYWIDE OPEN SPACE SYSTEM.

POLICY 26.1 Retain streets and alleys not required for traffic, or portions thereof, for through pedestrian circulation and open space use.

POLICY 26.2 Partially or wholly close certain streets not required as traffic carriers for pedestrian use or open space.

POLICY 26.3 Encourage pedestrian serving uses on the sidewalk.

I hereby certify that the Planning Commission ADOPTED the foregoing Resolution on April 1, 2010.

Linda Avery
Commission Secretary

AYES:

NAYS:

Exhibit A: Draft Resolution
Hearing Date: April 1, 2010

CASE NO. 2010.0200U
Prohibition on Sitting or Lying on City Sidewalks

ABSENT:

ADOPTED: April 1, 2010

Homes Not Handcuffs:

The Criminalization of Homelessness in U.S. Cities



A Report by

**The National Law Center on Homelessness & Poverty
and
The National Coalition for the Homeless**

July 2009

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Prohibited Conduct Chart

The chart below provides data regarding prohibited conduct in cities around the country. With the assistance of the law firm Manatt, Phelps, Phillips, NLCHP and NCH gathered the data by examining the city codes of the cities listed in the chart and identifying laws that target or are likely to have a particularly heavy impact on homeless individuals.

Prohibited Conduct Chart																			
		Sanitation			Begging			Sleeping		Camping		Sitting/Lying		Loitering		Vagrancy		Other	
		Bathing in particular public waters	Urination/defecation in public	Begging in public places city-wide	Begging in particular public places	"Aggressive" panhandling	Sleeping in public city-wide	Sleeping in particular public places	Camping in public city-wide	Camping in particular public places	Sitting or lying in particular public places	Loitering/Loafing/Vagrancy city-wide	Loitering/Loafing in particular public places	Obstruction of Sidewalks/Public places	Closure of particular public places	See end notes for explanation of number codes for particular prohibited acts*			
Adjuntas	PR			X													X		
Aguada	PR		X											X				16, 17	
Aguas Buenas	PR			X														16	
Aibonito	PR	X		X		X							X					16	
Albany	GA		X	X	X				X			X	X					4, Note A	
Albuquerque	NM		X		X	X		X		X		X	X	X				3, 5	
Allentown	PA				X	X						X	X	X				1, 2, 12, 13	
Amarillo	TX		X		X					X							X		
Anchorage	AK	X	X		X	X				X			X	X			X	13	
Arecibo	PR																	16	
Asheville	NC	X	X		X	X		X			X	X	X	X			X	3	
Athens	GA	X	X		X	X				X			X					5, 7	
Atlanta	GA	X	X		X	X		X		X	X	X	X	X			X	1, 6, 10, 12	
Atlantic City	NJ	X			X	X	X						X	X	X		X	1, 5	

Augusta	GA	X			X				X		X	X	X	1, 3, Note B
Augusta	ME											X		3, Note C
Austin	TX	X	X		X	X		X	X	X		X	X	
Bakersfield	CA	X			X		X					X		2
Baltimore	MD		X		X	X					X		X	1, 2, 10
Bangor	ME	X							X		X	X	X	3, Note A
Barceloneta	PR	X	X									X		16
Barranquitas	PR	X	X	X						X				16
Baton Rouge	LA	X	X											1, 2, 5, 10
Bayamón	PR			X		X								16
Beaverton	OR				X							X		Note D
Berkeley	CA	X			X	X		X	X	X		X	X	12, 16
Bettendorf	IA	X	X		X	X			X			X	X	15
Billings	MT	X	X		X	X			X			X	X	1, Note E
Biloxi	MS										X	X	X	1, 3
Bloomington	IN	X	X	X			X			X		X	X	1, 3, 11
Boise	ID	X	X			X	X		X		X		X	1, 3, 9
Boston	MA				X	X		X		X		X	X	2, 7
Boulder	CO	X	X		X	X		X				X		9
Bradenton	FL		X			X		X				X	X	1, 13
Brunswick	GA				X			X		X			X	5, Note F
Buffalo	NY	X			X	X		X		X		X	X	1, 5, 7
Burlington	VT	X	X		X	X		X		X		X	X	16
Cabo Rojo	PR		X						X			X		16
Caguas	PR	X	X			X								19
Camuy	PR			X										
Carolina	PR	X	X	X		X				X		X		9,16
Cataño	PR				X									
Cayey	PR	X	X			X						X		16
Cedar Rapids	IA		X									X	X	3
Ceiba	PR			X										12,16
Charleston	SC				X	X		X			X		X	1, 9
Charleston	WV			X								X	X	1, 2
Charlotte	NC	X	X		X	X		X		X		X	X	13
Cheyenne	WY		X							X		X		1
Chicago	IL		X		X	X						X	X	2, Note G
Ciales	PR			X						X				16
Cidra	PR			X		X		X		X				
Cincinnati	OH	X	X		X	X			X		X	X	X	1
Clearwater	FL	X			X	X		X				X	X	9, 16, Note H
Cleveland	OH	X			X	X		X				X	X	10, 15 ***
Coamo	PR	X	X	X								X		16

Colorado Springs	CO	X	X		X	X		X		X	X	X	X	3, 4, 13
Columbia	SC		X		X	X				X		X	X	
Columbus	GA	X		X	X			X			X	X		
Columbus	OH	X	X		X	X		X		X	X	X	X	1, 3
Comerio	PR	X	X								X			16
Concord	NH		X		X			X			X	X		
Corozal	PR			X			X							16
Corpus Christi	TX	X	X				X	X			X	X	X	1
Corvallis	OR		X	X			X	X				X	X	9
Covington	KY	X			X	X		X	X			X	X	2, 4, 13
Dallas	TX	X	X		X	X	X		X		X	X	X	2, 3, 6
Davenport	IA	X	X		X	X			X		X	X	X	3, 6
Dayton	OH	X			X	X					X	X	X	3, 4, 5, 6, 15
Daytona Beach	FL	X			X	X	X		X		X	X	X	1, 3
Denver	CO	X	X		X	X		X	X	X	X	X	X	1, 3
Des Moines	IA	X	X		X						X	X	X	1, 3
Detroit	MI	X		X							X	X	X	1, 2, 4, 6, 16
Dorado	PR		X	X	X					X		X		6, 7
Dover	DE	X			X	X			X		X	X	X	3, 13
Eau Claire	WI		X					X	X		X	X	X	1, 4
El Cajon	CA	X			X	X	X	X	X		X	X		
El Paso	TX						X	X			X	X	X	1, 7, 10, 12
Elkton	MD		X	X		X					X	X		2, 3, 4, 6
Eugene	OR		X				X	X		X		X		3, 21
Evanston	IL	X	X		X	X		X			X	X	X	1, 3
Fairbanks	AL		X											13, 21
Fajardo	PR						X							
Fall River	MA											X	X	
Fargo	ND				X	X						X		1, 3
Fayetteville	AR	X	X		X			X			X	X	X	21
Fort Lauderdale	FL	X	X	X			X			X	X	X		1, 3, 4, 7, 9, 21
Fort Myers	FL	X			X	X		X	X	X	X	X	X	3, 12
Fort Worth	TX	X		X				X		X		X	X	3, 12, 13
Frederick	MD	X	X	X		X		X			X	X	X	1,3,9
Fresno	CA	X			X	X		X	X	X	X	X	X	2,4,13
Gainesville	FL	X	X		X	X					X	X	X	3, 12, 13
Glendale	AZ	X	X					X					X	4,9, 13
Grand Forks	ND	X	X											3, 7, 21
Gurabo	PR		X			X						X		
Hallandale Beach	FL					X		X	X			X	X	3, 4, 6, 9, 15
Hartford	CT		X	X	X	X					X	X	X	1, 3
Hatillo	PR		X		X							X		7

Honolulu	HI	X	X			X		X		X		X	1
Houston	TX	X	X		X	X			X	X		X	7
Humacao	PR	X	X		X							X	
Huntington	WV		X	X		X						X	8
Idaho Falls	ID											X	3, 4
Indianapolis	IN	X			X	X		X		X		X	1, 3, 14
Isabela	PR		X									X	7, 16, 17
Jacksonville	FL	X			X	X	X		X		X	X	1, 3, 9, 12
Jeffersonville	IN		X		X	X		X		X			2,4,6,7,9,10,21
Juneau	AK		X	X	X	X		X	X	X		X	1, 10, 21
Kalamazoo	MI		X	X				X	X			X	1
Kansas City	MO		X		X	X			X			X	1, 3
Key West	FL	X			X	X		X	X	X	X		1, 3, 10
Lafayette	LA		X	X		X					X		3, 4, 7, 14
Lajas	PR	X	X									X	16
Lake Worth	FL	X	X				X		X			X	9
Lakewood	CO		X		X	X			X			X	
Las Piedras	PR				X								
Las Vegas	NV		X		X	X		X				X	1, 2, 3, 9
Lawrence	KA		X									X	1
Lexington	KY	X		X				X				X	1, 3
Lincoln	NE	X	X	X	X	X						X	1, 3, 4, 13
Little Rock	AR	X			X			X		X		X	2, 3, 5, 15
Long Beach	CA	X	X					X	X			X	1, 2, 10
Los Angeles	CA	X	X		X	X		X	X	X		X	2, 3, 12, 14
Louisville	KY	X	X	X		X	X	X				X	3, 6, 21
Madison	WI		X		X	X		X		X		X	1, 4
Manatí	PR	X	X	X						X			16, 20
Manchester	NH					X	X		X	X	X	X	3
Maricao	PR												16
Maui County	HI		X						X			X	
Mayaguez	PR											X	16
Memphis	TN	X			X	X						X	3, 5
Mesa	AZ	X	X					X	X	X		X	1, 3, 7
Miami	FL	X			X	X	X		X			X	9, 14
Milwaukee	WI	X			X	X		X		X		X	1, 2, 4
Minneapolis	MN	X	X		X	X		X	X	X		X	1, 2, 8, 9
Mobile	AL	X		X				X		X		X	1, 3, 6, 14
Moca	PR	X	X									X	
Modesto	CA	X			X	X	X		X		X	X	2, 3, 4
Montgomery	AL	X			X			X	X	X		X	1, 3, 9
Montpelier	VT		X	X								X	14, 15

Morovis	PR	X	X									X		6, 16
Naples	FL			X			X					X		3
Naranjito	PR			X	X						X			7, 16
Nashville	TN	X			X				X			X	X	1, 4
New Haven	CT	X			X		X	X				X	X	1, 3
New Orleans	LA	X	X	X			X	X	X	X			X	1, 9, 12
New York	NY	X	X	X		X			X			X		1, 7
Newark	NJ	X	X	X	X	X			X			X	X	1, 3
Newport	RI		X				X					X	X	7
Norfolk	VA	X	X		X	X			X			X	X	1, 2, 6
North Las Vegas	NV	X	X				X	X				X	X	2, 15
North Little Rock	AR	X	X						X				X	
Norwalk	CT					X			X			X		
Oakland	CA	X		X			X	X	X	X		X	X	1, 3
Oklahoma City	OK	X		X	X	X	X	X				X	X	
Olympia	WA		X			X			X	X			X	1,3
Omaha	NE	X											X	3, 6,15
Orlando	FL	X	X		X	X	X		X	X		X	X	3, 6
Pahrump	NV				X	X	X					X	X	
Palm Bay	FL	X			X			X				X	X	
Patillas	PR													16
Philadelphia	PA		X		X	X				X		X	X	1, 2, 3
Phoenix	AZ		X		X	X	X		X	X		X	X	9
Pierre	SD			X								X	X	
Pittsburgh	PA	X			X	X			X				X	1
Pocatello	ID	X						X				X	X	1, 3
Ponce	PR	X	X	X						X				7, 16
Pontiac	MI				X	X						X	X	1
Portland	ME	X	X			X						X	X	5
Portland	OR	X	X		X			X		X		X	X	1, 6, 13
Providence	RI	X	X			X	X			X		X	X	1, 7
Raleigh	NC	X	X	X			X	X		X		X	X	3, 4, 15
Rapid City	SD				X	X		X	X	X		X	X	1, 3
Redondo Beach	CA	X						X	X			X	X	7
Reno	NV	X	X		X	X		X	X	X		X	X	3, 4, 9
Richmond	VA	X	X			X		X		X		X	X	1
Rincón	PR	X	X	X		X					X			15
Roanoke	VA	X	X		X	X				X		X	X	1, 4, 6, 12
Rochester	NY	X			X	X		X	X			X		1
Sacramento	CA		X		X	X		X		X		X	X	1, 2, 4
Salinas	PR	X	X									X		
Salt Lake City	UT	X	X					X	X	X		X	X	1, 3

San Antonio	TX	X	X			X		X	X			X	X	1, 7, 12, 13
San Bruno	CA				X	X					X	X	X	
San Diego	CA	X	X			X		X		X	X			1, 7, 13, 15
San Francisco	CA	X	X		X	X		X		X	X	X		2, 9, 3
San Germán	PR	X		X										7, 16
San Jose	CA		X							X	X	X		13, 2
San Juan	PR	X	X	X							X			16
San Lorenzo	PR	X				X					X			16
San Louis Obispo	CA		X		x	X							X	
Santa Barbara	CA	X				X		X	X	X		X	X	
Santa Cruz	CA	X	X		X	X	X		X	X		X	X	7, 9
Santa Fe	NM							X	X	X	X	X		7
Santa Isabel	PR	X	X	X						X				
Sarasota	FL	X	X		X	X	X		X		X	X	X	1, 3, 7
Savannah	GA	X	X	X	X						X	X		1, 5, 7, 9
Scottsdale	AZ	X	X					X				X	X	4, 9
Seattle	WA	X	X			X			X	X		X	X	3
Shreveport	LA	X	X		X			X	X	X		X	X	1, 2, 7
Sioux Falls	SD		X	X							X	X	X	3
South Bend	ID	X			X	X		X		X			X	1
South Lake Tahoe	CA	X			X		X	X					X	4, 9, 13
Spokane	WA	X	X			X			X		X	X	X	3, 8, 15
St. Augustine	FL				X	X					X	X		1, 3
St. Louis	MO		X			X				X		X	X	1, 2, 5, 11, 13
St. Paul	MN	X	X	X				X		X		X	X	1,4
Stamford	CT	X									X		X	1
Statesboro	GA										X	X	X	
Stone Mountain	GA						X	X			X	X		3, 9
Suffolk	VA		X		X	X						X		
Tampa	FL					X						X		2, 7
Tempe	AZ	X	X		X	X		X		X		X	X	9
Toa Baja	PR		X		X								X	7
Toledo	OH		X	X							X	X	X	3, 7
Topeka	KA		X					X				X	X	1, 6, 12
Tracy	CA		X		X			X		X		X		
Trenton	NJ	X	X		X	X	X		X		X		X	1
Tucson	AZ	X	X		X	X		X	X	X		X	X	
Tulsa	OK	X	X			X		X	X		X	X	X	1, 5, 9
Ukiah	CA		X		X	X		X	X	X		X		4, 9, 12
Union City	CA									X	X	X		9, 10, 12
Utuado	PR					X				X				12, 16
Vega Alta	PR		X	X								X		16, 18

Vega Baja	PR					X											16
Virginia Beach	VA	X	X	X	X		X	X		X		X	X				3, 9
Washington ***	DC		X		X	X		X	X	X		X		X			3, 6, 9, 12
Washington	GA		X									X	X	X			6, 7, 12
Waterloo	IA	X	X									X	X	X	X		4, 12
Wichita	KA	X			X								X	X	X		3, 4, 14
Wilmington	DE	X			X	X					X		X	X	X		3, 15
Woodinville	WA	X									X		X		X		2, 3
Woodstock	IL	X													X		
Worcester	MA	X											X				
Yauco	PR	X	X											X			16

* 1) Spitting, 2) Having/Abandoning shopping carts away from premises of owner, 3) Failure to disperse, 4) Maintaining junk or storage of property, 5) Street performer, 6) Prohibition on entering vacant building, 7) Rummaging/scavenging, 8) Creating odor, 9) Vehicular residence, 10) Walking on highway, 11) Bringing paupers/insane persons into city, 12) Washing cars or windshields, 13) Demolition of vacant property habitually inhabited by “vagrants”, 14) Prohibition to allow “vagrants” to use one’s property, 15) Prohibition on panhandling w/out permit, 16) Prohibition on helping park a car or watching over cars, 17) improper or inopportune kind of begging, 18) being without a shirt, 19) inadequate use of property, 20) required to present personal ID/information to public officers, 21) Making “unreasonable” or “improper” noise

**This information was obtained through online research, city clerk offices, and localized researchers. Some sources could only be updated every three months and so pending or recently passed resolutions may not appear in this report.

*** Sitting/lying in a particular public space is not expressly prohibited by D.C. law (which outlaws setting up a "camp or temporary abode" in a public place), but is prohibited by federal law, which applies to most of the parks in the District of Columbia.

Note A: Prohibits peddlers and transient merchants at certain times and locations

Note B: Prohibits “vagrants” – able-bodied persons with no means of supporting themselves who are not engaged in pursuit of business or occupation calculated to support themselves.

Note C: Prohibits parking on streets at night for more than one hour without a permit.

Note D: Prohibits parking of vehicular residences in commercial lots overnight.

Note E: Prohibits using recreational vehicles for living or sleeping for more than five days when parked off-street or in a residential neighborhood.

Note F: Prohibits unlawful use of any square, park, or public place for any private use.

Note G: Prohibits pick-up of hitchhikers

Note H: Prohibits hitchhiking