



Office of the Mayor

ACTION CALENDAR
June 12, 2012

To: Members of the City Council

From: Mayor Tom Bates

Subject: Civil Sidewalks Ballot Measure

RECOMMENDATION

Request the City Manager draft ballot measure language for City Council consideration on July 10, 2012 amending the Municipal Code to restrict sitting on the sidewalk in all commercial zones in the City of Berkeley.

BACKGROUND

There is a clear nexus between increased economic activity within our borders and increased resources that can be used to insure community health and safety. On November 27, 2007, the City Council adopted 15 recommendations under the Public Commons for Everyone Initiative (PCEI). The goal of the Public Commons for Everyone Initiative (PCEI) was to make the public areas of Berkeley – such as its parks, cultural venues, city sidewalks, and commercial districts – clean, safe, healthy, and welcoming environments for everyone who uses them. By working together to reinvigorate our “commons”, to bring Berkeley citizens back to socialize in our public spaces and regularly patronize our businesses, we have the ability to generate increased tax revenue that could be reattributed to providing quality of life services.

The PCEI package was designed to create a healthy public commons by:

Increasing opportunity and access to services for individuals in need.

Improving the cleanliness and accessibility of the sidewalks in the commercial areas.

Supporting merchants and businesses by promoting and marketing our commercial areas *and creating opportunities to channel street donations to local non-profit agencies that provide resources and services to low-income populations.*

Strengthening links to regional programs like the Alameda County Detoxification and Sobering program and the Everyone Home efforts to end homelessness.

Creating standardized and consistent policies and practices across the City's commercial districts, and providing clear enforcement mechanisms for BPD and the City's social services when violations occur.

The recommendations included a 25 cent increase in parking meters to cover approximately \$1.0 million in expenditures mainly for social service, outreach, housing and support programs aimed at helping individuals secure housing and services, and reduce their rate of arrest for relatively low level quality of life crimes and problematic street behavior, such as public drunkenness, open alcohol containers, public urination/defecation, lodging in public, and aggressive panhandling.

Though these programs achieved good results there has been ongoing concern raised by community members, particularly business organizations, regarding people sitting on the sidewalk. Therefore it is a logical next step to address the issue of sitting on the sidewalk in addition to lying on the sidewalk that was previously enacted.

A set of goals, principles and recommended terms to be incorporated into a new ordinance that takes into account recent court decisions on the issue and the examples of similar ordinances from other jurisdictions like San Francisco and Santa Cruz, Santa Monica and Seattle.

The goals and principles of the ordinance would be:

1. A desire to see changed behavior rather than citations and fines.
2. To improve the attractiveness and welcoming nature of all commercial districts in Berkeley.
3. Compliance with applicable court decisions.
4. With appropriate outreach and education, very few citations are written when people know the rules or need a reminder and/or warning.

The proposed ordinance should contain terms that include but are not limited to:

1. No sitting on sidewalks between the hours of 7 a.m. to 10 p.m.
2. The prohibition would be confined to commercial districts with exceptions for
 - a. Medical emergencies
 - b. Utilizing an object, placed on a commercial sidewalk by the City or other public agency, in the manner in which it was intended, such as bus stop benches.
 - c. Utilizing a wheelchair, walker, or similar device to move about the public sidewalk as a result of a disability;
 - d. Sitting while operating or patronizing a commercial establishment or business conducted on a public sidewalk pursuant to a permit, license or other City-issued authorization.
 - e. Sitting while participating in or attending a parade, festival, rally, demonstration, meeting or similar special event lawfully conducted pursuant to a City-issued permit.

3. One warning would be required before a citation is issued. The warning would not be site specific. The ordinance would have a sufficient time allowance to make it enforceable.
4. After one warning the first violation would be an infraction. Subsequent violations would be misdemeanors.
5. Definition of sitting would include no sitting on objects placed upon the sidewalk such as duffle bags, backpacks, etc.

In addition the actual ordinance, if approved by the voters, would not take effect until March 1, 2013 to allow time for public outreach and education before actual implementation.

Given the contentiousness of the City's past efforts regarding street behavior issues this item requests the City Manager return with draft ordinance and ballot language for Council consideration so the entire issue can be put before the voters for approval.

FINANCIAL IMPLICATIONS

Approximately \$26,000 depending on the Registrar of Voter costs and the number of other ballot measures.

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