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Via U.S. Mail

Mayor Tom Bates  
 Councilmember Linda Maio  
 Councilmember Darryl Moore  
 Councilmember Max Anderson  
 Councilmember Jesse Arreguin  
 Councilmember Laurie Capitelli  
 Councilmember Susan Wengraf  
 Councilmember Kriss Worthington  
 Councilmember Lori Droste  
 City Manager Christine Daniel  
 2180 Milvia Street  
 Berkeley, CA 94704

Re: Proposed Ordinances Criminalizing Street Behaviors

Dear Berkeley City Councilmembers:

I am writing on behalf of the American Civil Liberties Union of Northern California ("ACLU") regarding proposed ordinances that have been recommended by Councilmembers Maio and Arreguin. The ordinances would prohibit certain types of street behavior on commercial sidewalks and public spaces in Berkeley, such as panhandling within ten feet of a parking pay station, or placing personal objects three feet from a tree well, or "deployment" of any blankets or sleeping pads on sidewalks or plazas from 7:00am-10:00pm. It is clear that these ordinances target panhandlers and homeless persons. Because these punitive measures focus on behavior associated with homelessness that should not be criminalized, the ACLU urges the City Council not to adopt them.

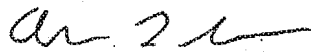
There are already state and city laws that prohibit problematic and disruptive street behavior, including obstruction of sidewalks, and the fact is that these laws will be disproportionately enforced against the poor, the young and the homeless. Berkeley should not be adding to this list with new punitive measures. If there are social and mental health problems surfacing on the streets of Berkeley, the city's response should be attempts to get at the core

issues and not by adopting more laws that will result in a cycle of citations, warrants for failure to appear and short stays in jail for our most vulnerable citizens.

The reality of laws such as this is that they are "people movers" -- they will be enforced with the goal of moving "undesirable" people away from downtown shopping areas. It may well be that the presence of panhandlers or visibly poor persons upsets some people in the business community or other members of the public. But that is not a constitutionally permissible reason to use the police power of the state to get certain people out of sight. Further, the risk of unconstitutional enforcement is heightened where private security "ambassadors" patrol public streets and are tasked with enforcing such laws against "problematic" street behaviors."

These ordinances are a step backwards. They are attempting to move a certain class of persons out of sight rather than provide additional services and support. In 2012, Berkeley voters rejected a proposal to criminalize homelessness and push homeless people out of the downtown areas when a majority disapproved a proposal to criminalize sitting or lying on public sidewalks (Measure S). The ACLU urges the City Council to not go down that same road of criminalizing behavior to move a disfavored class of persons from public streets.

Sincerely,



Alan L. Schlosser  
Senior Counsel

Cc: Mayor Tom Bates