



Office of the City Manager

## **REVISED AGENDA MATERIAL**

**Meeting Date:** December 1, 2015

**Item Number:** 04

**Item Description:** **Improve Conditions on Our Community Sidewalks; Amending Berkeley Municipal Code Chapters 13.36 and 14.48**

**Submitted by:** **Councilmembers Maio, Capitelli, Droste, and Mayor Bates**

This revised report contains a corrected version of Ordinance No. 7,449-N.S. amending Sections 14.48.020 and 14.48.170 of the Berkeley Municipal Code regulating use of sidewalks, which reflects the ordinance as adopted at the first reading on November 17, 2015. The motion adopted by the City Council included exemptions for dogs and cushions for sitting, but did not include an exemption for blankets, as was included in the version of the ordinance published on November 19.

ORDINANCE NO. – N.S.

AMENDING SECTIONS 14.48.020 AND 14.48.170 OF THE BERKELEY MUNICIPAL CODE, REGULATING USE OF SIDEWALKS

BE IT ORDAINED by the Council of the City of Berkeley as follows:

Section 1. Purpose. The purpose of this ordinance is to ensure that the City's sidewalks are safe and accessible for pedestrians and wheelchairs, by regulating the placement of objects on the City's sidewalks, once the City has provided free and safe storage for such objects.

Section 2. That Section 14.48.020 of the Berkeley Municipal Code is amended to read as follows:

**14.48.020 Obstructions on streets and sidewalks.**

It is unlawful for any person to place or cause to be placed anywhere upon any sidewalk or roadway, any object which obstructs, restricts, or prevents the use of any portion of such sidewalk or roadway, except as set forth in this Chapter or a regulation adopted by the Traffic Engineer.

Section 3. That Section 14.48.020 of the Berkeley Municipal Code is amended to read as follows:

**14.48.170 Temporary noncommercial uses.**

A. Such items not otherwise prohibited by law designed for temporary noncommercial uses at such locations and at such times as may be permitted under any regulation adopted by the Traffic Engineer.

B. The Traffic Engineer may adopt regulations specifying what objects may be permitted under this Section and where such objects may be permitted, as well as procedures and limitations to implement this Section. Any such regulation shall contain provisions and shall be applied in such a manner as to ensure that it is applied in a manner that does not deprive any person of rights protected by the state or federal constitutions, including freedom of expression, and any size limitation contained therein shall not apply to dogs, or cushions used for sitting. Regulations adopted by the Traffic Engineer under this Section shall not take effect until they have been presented to the City Council for review at a regularly scheduled meeting.

C. No limitation on the placement of objects on sidewalks contained in a traffic Engineer regulation adopted pursuant to this Section shall be enforced until the City has provided at least 50 storage lockers in a secure storage area.

D. After review by the City Council, Traffic Engineer regulations adopted pursuant to this Section shall be publicized by the City in a manner substantially equivalent to the manner in which ordinances are publicized.

D. No person may be cited for a violation of this Section or the regulations adopted pursuant to it unless that person has first been warned that his or her conduct is in

violation hereof, is allowed a reasonable opportunity to comply but refuses to do so, and there is a secure storage locker available that is protected from the weather.

E. Violations of this Section or the regulations adopted pursuant to it shall be charged as infractions, and not as misdemeanors.

Section 4. Copies of this Ordinance shall be posted for two days prior to adoption in the display case located near the walkway in front of Old City Hall, 2134 Martin Luther King Jr. Way. Within fifteen days of adoption, copies of this Ordinance shall be filed at each branch of the Berkeley Public Library and the title shall be published in a newspaper of general circulation.