



# CITY OF SALEM

## Written Testimony # 1

### City Council

555 Liberty St SE  
Salem, OR 97301

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**Monday, November 18, 2019      6:00 PM      Council Chambers**

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**City Council Work Session - Regulating Use of Sidewalks and Public Spaces**

**2.a.**    [19-548](#)                      Regulating the use of sidewalks and public spaces

Ward(s): All Wards

Councilor(s): All Councilors

Neighborhood(s): All Neighborhoods

Result Areas: Good Governance; Safe Community; Strong and Diverse

Economy; Welcoming and Livable Community

**Recommendation:**    Discuss draft Ordinance Bill No. 10-19 and potential amendments.

**Attachments:**    [Ordinance Bill No. 10-19](#)  
[EXHIBIT A - Proposed Text](#)  
[Ord. No. 10-19 - Draft staff report for 11-25-19 - File 19-348](#)  
[Summary of Public Outreach and Comments](#)  
[Status Report - Recommendations from Downtown Solutions Task Force.pdf](#)  
[19-548 Public Comments received by 3:30 p.m. 11-18-19](#)

Page  
Break

## Amy Johnson

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**From:** noreply@cityofsalem.net on behalf of Tngraneto@comcast.net  
**Sent:** Sunday, November 17, 2019 6:01 PM  
**To:** citycouncil  
**Subject:** Contact City Council  
**Attachments:** ATT00001.bin

Your Name	Nicole Graneto
Your Email	Tngraneto@comcast.net
Your Phone	503-304-8920
Street	7185 Meadowwod St Ne
City	Salem
State	OR
Zip	97303
Message	Dear City Council, I work downtown Salem and I drive Commercial Street past the Marion Street bridge to get into downtown everyday. I am shocked and appalled that the City has allowed rows of tents to stay erected on Commercial Street! This is blocking the public sidewalks and looks awful for people entering our City. Please vote YES for the Sit/Lie Ordinance! Make Salem a positive example of how to end street camping. Thank you for your consideration. -A Concerned Citizen

This email was generated by the dynamic web forms contact us form on 11/17/2019.

## Amy Johnson

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**From:** Ian Dixon-McDonald <iandxm@gmail.com>  
**Sent:** Monday, November 18, 2019 2:12 PM  
**To:** Vanessa Nordyke  
**Cc:** citycouncil  
**Subject:** Sidewalk and Public Space Ordinance

Dear Councilor Nordyke,

My name is Ian Dixon-McDonald, a resident of Ward 7 (3790 Saxon Dr. S.). I also know Sally Cook through my work (and even had the pleasure of subbing for her at Council on one occasion!). I currently serve as the Vice President of Programs at Marion Polk Food Share, and have been involved in nonprofit work in Salem for the past 9 years. I was excited to hear that you are representing our neighborhood - based on everything I read it sounds like you will represent us well. Thank you for being willing to serve.

I'm writing to urge you to oppose the proposed sit/lie ordinance being discussed this evening. I understand the desires of downtown business owners to not have homeless individuals near their businesses. However, this desire does not supersede basic human decency. Throughout my career, I've worked with many homeless individuals. They are people just like us, typically with very difficult lives and serious trauma in their background. Putting punitive ordinances in place like this does absolutely nothing to reduce homelessness or help those in crisis. It simply makes their hard lives even worse. These individuals will not be able to afford fines, and will experience even more hardship if they get wrapped up in legal consequences of breaking this ordinance.

I urge you and the Council to focus on homelessness prevention, such as supporting programs like HRAP, and other local shelters and homelessness prevention programs. The city's energy should not be focused on punishing homeless individuals for taking care of basic human needs, like sleep and shelter.

Please have compassion for our fellow humans in Salem, and do not support this ordinance.

I look forward to meeting you some time in the future. Feel free to reach out to me for any questions.

Thank you,  
Ian Dixon-McDonald  
3790 Saxon Dr. S.  
Salem, OR 97302  
[iandxm@gmail.com](mailto:iandxm@gmail.com)  
503-385-6824

## Amy Johnson

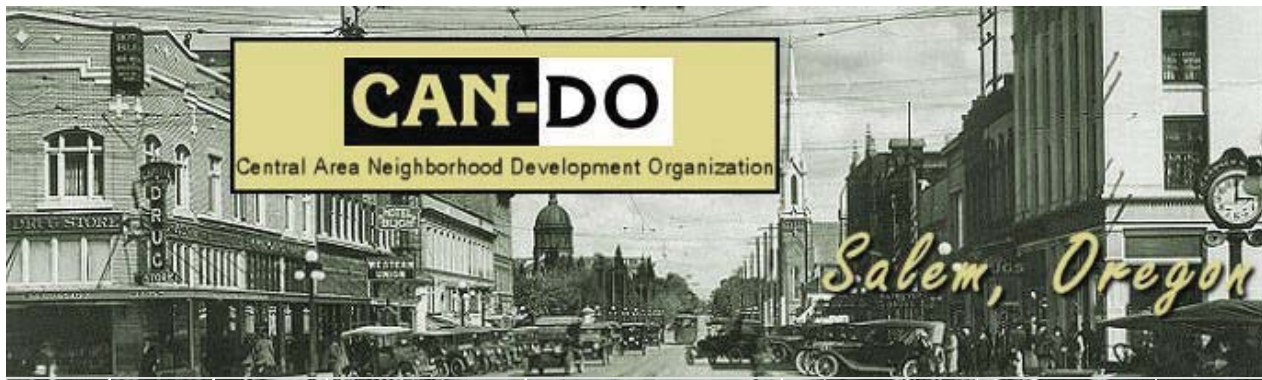
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**From:** SARAH OWENS <hlowens2@msn.com>  
**Sent:** Saturday, November 16, 2019 8:27 AM  
**To:** CityRecorder  
**Cc:** Michael Livingston  
**Subject:** Written Testimony in re Item 7.1a 11/25/19 CC Agenda (Ordinance Bill 10-19)  
**Attachments:** OwensLivingston\_Test\_1.pdf; OwensLivingston\_Test\_2.pdf; OwensLivingston\_Test\_3.pdf; OwensLivingston\_Test\_4.pdf; OwensLivingston\_Test\_5.pdf; OwensLivingston\_Test\_7.pdf

Testimony in re Ordinance Bill 10-19, which currently is scheduled to be on the Salem City Council's November 25 agenda, Item 7.1a.

Sarah Owens and Michael Livingston

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Thursday, October 10, 2019

## Is That True? Sit-Lie FAQs

By Sarah Owens and Michael Livingston



City staff at Sit-Lie Forum No. 2

**Where did sit-lie start?** Mayor Bennett took office in January 2017, and Salem's first sit-lie ordinance (Ordinance Bill 22-17, "relating to promotion and preservation of safe sidewalks") went to City Council the following fall. But, Council decided they wanted a task force instead. This made the Mayor very unhappy. However, he made the best of it, and tried to get the task force to endorse sit-lie. Despite best efforts, he was unsuccessful. So, after a year or so, he decided to give it another go by having the City Manager quietly shop around a revision ([Ordinance Bill 10-19](#) "relating to conduct on sidewalks"). Through this process, sit-lie gained the support of two councilors who had opposed it in 2017 -- enough to get the bill passed. A vote was

scheduled for July 22, 2019, but, after word got out, the bill was hastily pulled from the agenda, and it has not been rescheduled.

Since then, City officials have been making statements intended to reassure the public that sit-lie is perfectly lawful, necessary, and benign. This post examines those statements as they relate to the ordinance provisions prohibiting sitting and lying on the sidewalks. (See our previous blog posts for details on the history of Salem's sit-lie ordinance bills. Just scroll to the bottom of the blog and select the CANDO Archive topic: "stigma.")



**It will keep "sidewalks and other spaces clean."** (City info sheet) This statement *seems* to refer to the ordinance provisions that provide for the removal of unattended property, which can be and is currently handled by code enforcement. It doesn't explain why it's necessary to make sitting and lying on the sidewalk illegal in order to keep public spaces "clean."

**People sitting, lying or placing their belongings on the sidewalk prohibit its use.** (Lt. Upkes and other City officials) If this means they block the sidewalk, then so do allowed uses like cafe tables and signage. The statement begs the question why allow some blockages of public space and not others.



**It gives "police the lawful reason to make contact with people and provide them information on social services."** (Deputy Chief Miller and others) For years, police have been contacting people and providing them information on social services without benefit of an ordinance. No one believes police need an ordinance in order to contact people.

**Police "can't do anything" about people blocking the sidewalk unless the person shows the intent of pedestrian interference.** (Lt. Upkes and others) If someone truly is blocking the sidewalk or otherwise behaving in a disruptive manner, police (and providers) can and do make contact, ask for cooperation, and offer services. In the two years since the first sit-lie ordinance was defeated, the City has made no effort to collect data to show how often, if ever, sidewalks are unintentionally blocked by someone who refuses to cooperate when asked nicely to do so.



**The homeless have alternative locations to go during daylight hours, including the park and city benches, UGM, ARCHES Project, Salvation Army, and other social service agencies.** (Lt. Upkes) The restriction on sitting and lying is year-round, 7a to 9p -- not just "daylight hours." The Salvation Army offers no day shelter. UGM, ARCHES and HOAP have limited day shelter hours. UGM is the only option for weekends and holidays. There will be times of year and day when the restriction is in force, and yet there is no safe or reasonable alternative to the sidewalk.

**If someone refuses to move along, officers will "give them time." If the person is still there when the officers return, they will call social service resources.** (Deputy Chief Miller and others) *The ordinance bill* doesn't require officers to call social service resources to make sure there is somewhere safe for the person to go before issuing a citation or exclusion, and it does not affirmatively state that no one may be cited/excluded except when s/he has been offered a safe and reasonable alternative place to be. Because the statement has no basis in fact or law, it's just false.



**It "won't result in many citations or arrests."** (Deputy Chief Miller and others) Whether this is a promise or a prediction, it suggests either that police don't intend to enforce, or that they expect a lot of cooperation with enforcement, both of which call into question why the ordinance is even needed. The statement has no basis in fact or law, so must be considered false.

**"A violation is a civil offense."** (City Attorney Dan Atchison) Most people assume (wrongly) that, if a violation doesn't immediately result in arrest, then it's civil in nature. However, civil offenses involve violations of administrative matters, whereas criminal offenses arise from ordinances prohibiting certain conduct. Accordingly, a violation of the ordinance provisions prohibiting sitting, lying or leaving property on a sidewalk unattended would be a low-level *criminal* offense. For more on the civil-criminal distinction, see [here](#).

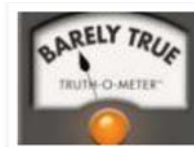


**"The problematic pieces [in the 2017 version] have been removed/altere**d." (Councilor Hoy) Ordinance Bill 10-19 is virtually identical to the 2017 version, which also made sitting and lying on sidewalks between 7a and 9p an infraction, punishable after a warning by a citation or exclusion order, both of which can have collateral effects (i.e., lead to arrest, fines, jail, etc.). The "problematic pieces" that Hoy identified in the 2017 version have certainly not been removed/altere

**"It does not criminalize homelessness."** (Deputy Chief Miller and others) In 2012, the United States Interagency Council on Homelessness (USICH), in partnership with Department of Justice and U.S. Department of Housing and Urban Development (HUD), published "Searching out Solutions: Constructive Alternatives to Criminalization", which outlined "alternatives for communities who implement local measures that criminalize 'acts of living.'" In



2014, HUD issued guidance citing a recent report by the National Law Center on Homelessness and Poverty, "No Safe Place: The Criminalization of Homelessness in U.S. Cities", finding that there had been a significant increase in city-wide bans on camping, loitering, and begging in public areas, which HUD characterized as "effectively criminalizing people's *need to survive*" (emphasis in original) and "exacerbat[ing] existing problems." Anyone who believes making sitting and lying on sidewalks illegal does not constitute "criminalizing homelessness" is uninformed or outside the mainstream.



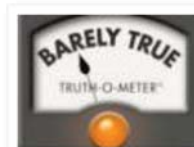
"It's much more about the behavior and

not...status." (Councilor Hoy) This *sounds* good, but the ordinance *isn't* "about the behavior", unless one accepts the City's view that merely sitting or lying on a sidewalk "threaten[s] the safety and welfare of all pedestrians" (Ordinance Bill Section 2(e)), or

reasonably deters people from going about their business (Section 2(f) and (g)). If Hoy had read the ordinance, he would have realized it still targets people of a certain status, those who tend to rest in public areas like sidewalks because they are safer there, aka, "the homeless."



"Businesses deserve compassion, too." (Chief Moore, Deputy Chief Miller and others) This argument is classic "bothsidesism" -- helpful if one wants to make it *sound* like one is taking the broader view of a controversy, but, in fact, just wants to change the subject. In this example, rather than talk about what it would take to offer shelter to all the people who need it, the City seeks to change the subject to the woes of downtown business owners, while suggesting, but not actually saying, that "the homeless" are to blame for them.



Those excluded from downtown but need access to services can easily obtain "waivers." City officials have been very glib about the ease with which excluded persons can obtain and access services with variances. However, [current SRC 95.750 \(Variances from Exclusion\)](#), which is virtually unchanged in the proposed ordinance bill, describes a much more narrow process that many in need of services are likely to find hard, if not impossible, to navigate successfully. See [here](#).

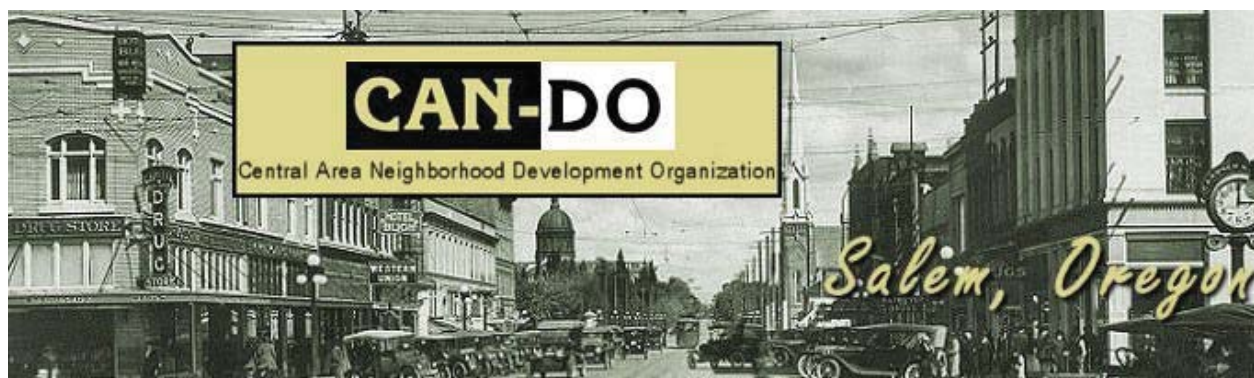
It's safe from constitutional challenge. (Implied in City info sheets) An ordinance that has the intended effect of expelling people experiencing homelessness from public places and infringes on their constitutionally protected liberty interest to be in public places of their choosing under times and conditions when those places are ordinarily available to members of the public is not safe from a facial constitutional challenge. But even an ordinance that is safe from a facial challenge still is subject to an "as applied" challenge, e.g., for interference with free speech rights to panhandle or make music. Willamette Law 1Ls were very interested in sit-lie in 2017, and there is no reason to believe such interest has waned.



Notably, the City has avoided claiming outright that **sit-lie will stabilize or increase economic activity downtown, drive people to services, and have negligible fiscal impact**. However, these claims *have* been made implicitly and/or unofficially in meetings and forums by city staff and current and former councilors. Those interested in giving full consideration to these claims might be interested in these research reports: "[Does Sit-Lie Work: Will Measure S Increase Economic Activity and Increase Services to Homeless People](#)" (Berkeley, CA) and "[Understanding the Implications of a Punitive Approach to Homelessness: A Local Case Study](#)" (Chico, CA).

Ward 1 Councilor Cara Kaser, a self-styled "progressive", says of sit-lie that "**People need to be held accountable.**" The irony is, of course, that she means only those living in the streets, *not* City or elected officials like herself who feel it necessary in an election year to cave to the "Do *something*" pressure of a few downtown business owners. That the "something" she is proposing to do is neither a proven nor promising practice for addressing the problem, which is homelessness, appears not to matter to her, or to any of the other supporters of sit-lie. For that *they* should be held to account.



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Wednesday, October 23, 2019

## Where Next for Sit-Lie Jr?

By Sarah Owens and Michael Livingston



The big sit-lie lie: the law will apply equally to everyone

So far, the City's tried to make the case for Sit-Lie, Jr. by obfuscation, deflection and avoidance, emphasizing police compassion and overstating the availability of affordable housing and homeless services.

For the City, the issue is: Are businesses not worthy of compassion? Don't we all want the City to be clean and inviting? That strategy is providing some degree of cover for those who favor sit-lie, but "don't want to be looked at as evil", as some have put it. For the most part, however, the strategy is not working. See "City's Community Forum Plan Falters", "[City to Go Solo with Sit-Lie Jr](#)", and "Sit-Lie Jr. Loses at 2d Forum."

If the City's hope was that the community would see the ordinance as (to use [Tom Hoffert's](#) phrase) a "win" and something they could "get behind", it has failed. It's also eroding the City's credibility, to the point that some are ready to believe that recent police "sweeps" of established camps near Wallace Marine Park were timed deliberately so as to drive the campers into downtown just as Sit-Lie, Jr. heads to City Council. For details on the camp clean ups, see Bach, J. and Radnovich, C. "Recent evictions, police activity could end decades of homeless camps in Wallace Marine Park." (15 September, 2019, *Statesman Journal*.) Also see Bryn Nelson, T. "[Police tactics toward homeless under fire as Salem considers new ordinance](#)." (22 September 2019, *Salem Reporter*.) (Note that "sweeps" is a word Lt. Upkes considers inapt, because the intent is not to make arrests.)

The fact that the community largely oppose sit-lie does not mean it won't be enacted. As things stand now, it's not a question whether some form of it will pass, but when. That's because a majority of Council support it -- Bennett, Hoy, Kaser, Lewis, and Nanke. Hoy and Kaser opposed enactment in 2017.

So, let's talk about when. The ordinance bill originally was slated to go before Council on July 22. It was

delayed at Councilor Andersen's request and tentatively rescheduled for September 23, but it was later removed and not rescheduled. [Councilor Hoy said in August that there would probably be a work session](#), but Councilor Kaser doesn't see the need for one, and, as Councilor Andersen put it, "it's her Ward" (proving that not even the City Council believe it will be applied city-wide). The ordinance bill is tentatively scheduled for the November 25 meeting -- the week of Thanksgiving.

Now let's talk about what form it might take. The camping ban bothers people, but Salem has long had a ban on camping or "vagrancy." The proposed ordinance bill basically replaces the old vagrancy ordinance. See ["DHSTF Misled on Need to Assess Codes"](#) and ["Vagrancy Law and Legal Definition"](#) (unconstitutionally vague vagrancy statutes have largely been replaced with camping and sidewalk ordinances, which purport to focus on "homeless" people's behavior).

Salem is almost certainly going to want to keep camping on public property illegal (proposed SRC 95.730). The provisions allowing the City to remove personal property left unattended (proposed SRC 95.740) are a logical extension of proposed SRC 95.730, and so are equally likely to be enacted. Making it a crime to leave property unattended (proposed SRC 95.740) is new (was not in the 2017 ordinance bill) and could discourage people from claiming items that have been removed.



Sit-lie would ban bench tents like this one

But what about the ordinance bill's most controversial bits? Those that make it illegal (and therefore a [crime, not a civil offense](#)) to sit or lie on sidewalks between 7a and 9p (proposed SRC 95.720)? They're what upset people the most. Here are some of the reasons why:

1. Sit-lie targets people experiencing homelessness and trying to live in public spaces.
2. Sit-lie targets people who rest on sidewalks downtown during the day because it's safer.
3. Sit-lie ignores the fact that Salem has limited day-shelter for people experiencing homelessness, especially women. See ["City to Go Solo with Sit-Lie Jr."](#)
4. Sit-lie ignores the fact that many businesses take up sidewalk space for tables, chairs and unsightly signage, yet expect people experiencing homelessness to give up their space on the sidewalk, even when they are not being disruptive, and even when they have no reasonable alternative.
5. Sit-lie drives people experiencing homelessness out of downtown and into less safe areas.
6. Sit-lie erodes, instead of builds, relationships between people experiencing homelessness and the broader community.
7. Sit-lie treats people experiencing homelessness as "the problem."
8. Sit-lie sets up the expectation that the police are the answer.
9. Sit-lie has nothing to do with compassion, balancing, or ensuring public safety.
10. Sit-lie has the effect of expelling people experiencing homelessness from public places and infringes on their constitutionally protected liberty interest to be in public places of their choosing under times and conditions when those places are ordinarily available to members of the public.
11. Sit-lie criminalizes "acts of living" and further stigmatizes homelessness.
12. Sit-lie is a public policy failure. See Golgowski, N. and Hobbes, M. ["America's Homeless Crisis Inspiring](#)



[New Acts of Cruelty.](#)" (August 2, 2019, *HuffPost*.) (Cookie wall.) Same story can be found [here](#).

Not that any of the above bother the councilors who support the ordinance bill, because they believe "people have to be held accountable" and "people have a lot of unfounded fears" (Kaser), "the problematic pieces have been removed/altered" (Hoy), and it's okay to expel people from public places as a "preventative measure" (Kaser). For a majority of Council, "separate but equal" appears to remain legitimate public policy.



Photo courtesy Travel Salem

The City insists that sit-lie is about "behavior", which is a way of distinguishing it from unconstitutionally vague "status" crimes such as vagrancy, referred to above. But no one really believes that merely sitting or lying on a sidewalk during business hours "threaten[s] the safety and welfare of all pedestrians" (Ordinance Bill Section 2(e)), or reasonably deters people from going about their business (Section 2(f) and (g)). If these statements were true, downtown would be blighted area, and -- everyone agrees -- it's very far from it. See "[29 Things You Need to Know About Salem Before You Move There](#)" and "[Downtown Salem](#)."

The fact is that sit-lie is not about "holding people accountable." For what? Sitting and lying on the sidewalk? Scaring people?

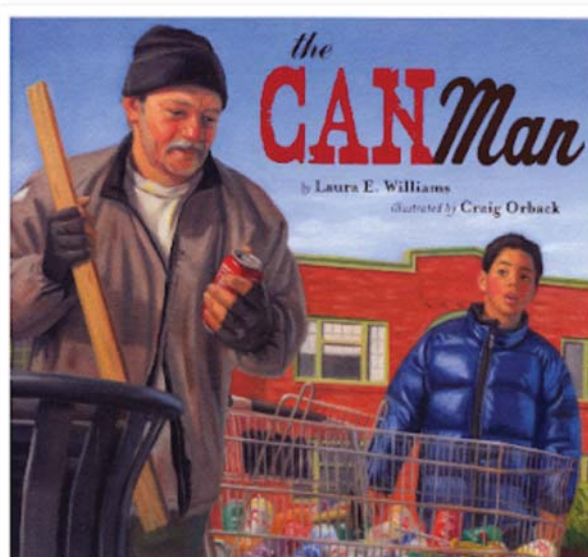
When Councilor Kaser says that sit-lie is "preventative", she is effectively admitting it's *not* about behavior, but about *preventing* behavior.

When Chief Moore says about sit-lie, "We are fooling ourselves if we don't think people are afraid..., *whether it's right or whether it's wrong*, because of some of the things they see", he's effectively admitting it's *not* about behavior.

The truth is that sit-lie is about prejudice, plain and simple. The view by some -- by no means all -- that the mere presence of "the homeless" is enough to frighten people away. The view that "homeless" people inevitably behave badly, and therefore need to be removed from the area.

Sit-lie is a classic expression of "antipathy based on faulty and inflexible generalization" (Gordon Allport, *The Nature of Prejudice*, 1954). Get the homeless out of downtown, they're bad for business -- that's the Chamber Kool-Aid the City Council is drinking.

An easy way to test for an anti-homeless bias is to suggest to a proponent that it lacks any basis in fact. The typical response will be "here's what happened to me" or to a friend or acquaintance, as if one or two or ten stories proves the general proposition that "homeless" people behave badly, and discrimination against them as a class is not only justified, but somehow necessary.



Fear is learned, so can be un-learned

People who suffer from anti-homeless bias tend to feel they "shouldn't have to deal with" the problems they associate with homelessness. Their sense of entitlement fills them with righteous indignation that prevents them from working effectively with other sectors of the community to identify and reduce harms. And, it is these people and attitudes that now appear to hold sway on City Council.



Bas relief on Council Chamber doors, depicting 1970s stereotypes

No city should enact ordinance provisions based on prejudice. A law based on prejudice is by definition arbitrary, so it's no answer to say it will be enforced with compassion. Friendly bike patrol officer Jim Crow is still Jim Crow.

Salem Police Department officials and others have argued that enacting the sit-lie provisions would be an act of compassion (as in, "I have compassion for the downtown business owners"). But only the most contorted thinking would allow one to conclude that a law based on prejudice against an oppressed class of people was ever, in any sense, an act of compassion.

Law abiding CANDO residents -- all of them -- have a constitutionally protected liberty interest to be in public places of their choosing under times and conditions when those places are ordinarily available to members of the public. It is fundamentally unfair and un-American to impose what amounts to a business-hours curfew on a class of people just because some people might fear them or what they might do. [Salem should be done with that.](#)

So, where next for Sit-Lie, Jr.? If there is any councilor left who has not drunk the Chamber Kool-Aid, s/he should propose the following compromise: direct staff to remove the provisions that make it illegal to sit or lie on sidewalks and bring back an ordinance that includes the camping ban and the rest of it, but stops short of creating any new crimes targeting people experiencing homelessness. Stops short, in other words, of acting on prejudice.

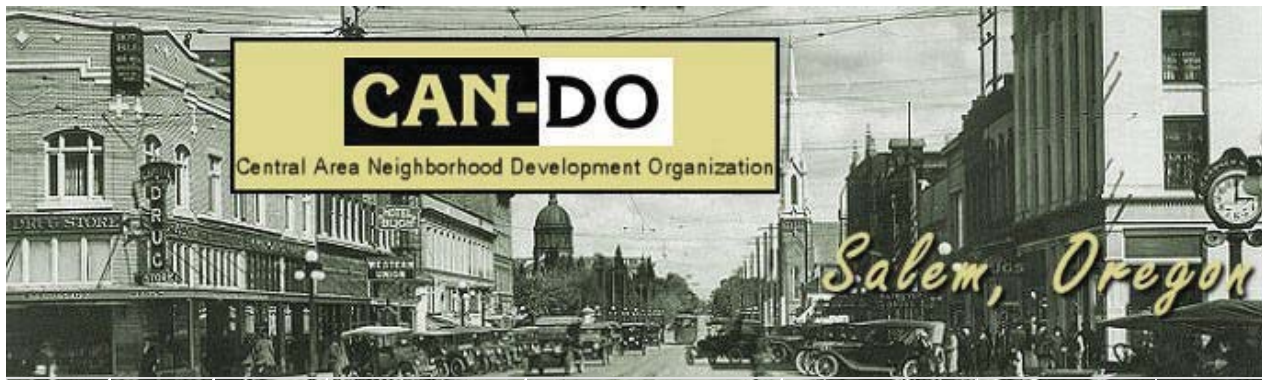
This wise councilor should also counsel that the City should get serious about its Good Neighbor Partnership work group, which could advise the City how to assist businesses that need to address disruptive behavior in humane, constructive ways, which would include knowing when to call law enforcement and mental health professionals. Many downtown businesses are already doing this on their own, and this boundary-setting, relationship-building approach is what's going to work best over the long term.



Labels: [Dtown Hless Solutions Task Force](#), [stigma](#)

No comments:

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Tuesday, October 29, 2019

## City Staff to Recommend Council Advance Sit-Lie to 2d Reading

By Sarah Owens and Michael Livingston

City Manager Steve Powers' draft staff report on proposed Ordinance Bill 10-19 (aka Sit-Lie, Jr.) (embedded below), which was obtained through a public records request, recommends that the City Council "conduct first reading...and advance to second reading for enactment."

		<b>CITY OF SALEM</b> 555 Liberty St SE Salem, OR 97301	
<b>Staff Report</b>			
<b>File #:</b> 19-348 <b>Version:</b> 1		<b>Date:</b> 11/25/2019 <b>Item #:</b> 7.1 a.	
<b>TO:</b>	Mayor and City Council		
<b>FROM:</b>	Steve Powers, City Manager		
<b>SUBJECT:</b>	Regulating the use of sidewalks and public spaces		
Ward(s): All Wards Councilor(s): All Councilors Neighborhood(s): All Neighborhoods Result Areas: Good Governance; Safe Community; Strong and Diverse Economy; Welcoming and Livable Community			
<b>ISSUE:</b>	Shall the City Council con and public spaces and ad		
Page 1 / 131		julate use of sidewalks	

The staff recommendation is likely to encourage proponents of the bill, and discourage those who oppose it, many of whom are the target of the proposed ordinance bill, which is supposed to "clean up" public spaces,

downtown in particular.

The staff report purports to summarize the "public outreach and comments" given and received during the course of three City forums, but, in fact, it just summarizes the 43 written comments received at the last "open house" style forum. Those comments would indicate that community opposition to the ordinance is roughly 3 to 2. Opposition expressed at the first two forums was substantially higher. See "[City Fumbles Sit Lie Forum](#)", "[Sit-Lie Jr Loses at 2d Forum](#)", "[City Schedules Sit-Lie Jr Round 3](#)" (for the cartoon version), and "[Salem Talks About Sit-Lie: Forum Excerpts](#)" (for a visual podcast of the voices heard at the forums).

The "for" comments summarized in the report indicate that proponents believe the ordinance will drive people experiencing homelessness out of downtown, thus putting an end to "odors, property damage, urination and defecation, panhandling, litter, and aggressive or threatening interactions." (See the staff report at page 26.)

The summary of "against" comments more or less reflects what was said at the first two forums. (See the staff report at pages 26-27.) Copies of the comments are attached to the report, but not all are legible.

CITY OF Salem  
AT YOUR SERVICE

SIDEWALKS AND PUBLIC SPACES  
SEPTEMBER 26, 2019

COMMENT ON PROPOSED ORDINANCE **YES!!!**

The new ordinance would help tremendously to keep homeless off the street sidewalks in front of businesses. There are so many programs to help these people - having police engage w/ them & direct them to these services services is key -

Comment at p. 53

Not much new in the rest of the staff report. It perpetuates the line that police somehow need a "lawful reason" or "lawful opportunity" to contact "individuals in need of services." (See the end of the summary section on page 2.) And, it reflects staff's confusion about how the ordinance will be enforced inside Crime Prevention Districts (of which there are two in Salem, one downtown and one north of downtown). (See the facts and findings section, beginning on page 2 (blue text = edits).)

The report refers to "Exclusion Zones" and "exclusion waivers", but the ordinance uses the terms "Crime Prevention Districts" (CPDs) and "variances." Readers are exhorted to examine the language of the ordinance itself and *not to rely on the City's interpretations*, which have been proven unreliable at times. See, e.g., Bryn Nelson, T. "[Citizens question legality of Salem council's appointment](#)." (October 24, 2019, *Salem Reporter*.)

### Violations

According to the language of the proposed ordinance, a person found sitting or lying on a City sidewalk in violation of the ordinance must first be told s/he is in violation. The draft staff report states that the suspect will be "encouraged to take advantage of available resources", but there is nothing about that in the ordinance. If the suspect doesn't move along within a reasonable time (15 to 20 minutes, per Deputy Chief Skip Miller), then police may take enforcement action by issuing a citation to appear in court. Failure to appear in court at the appointed time can result in an arrest warrant.

If the violation took place in one of Salem's two CPDs, an exclusion notice is required to be issued (see proposed section 95.830 at page 24 of the staff report). An exclusion notice is an order to stay out of the CPD for 30 days. City staff, including the City Attorney and police, said repeatedly at the forums that citations are issued outside a CPD, and "exclusion orders" are issued inside a CPD. The edits to the draft staff report reflect there is disagreement, or confusion, among staff as to whether an exclusion notice is required when a violation is cited in a CPD. However, both the proposed ordinance bill (proposed section 95.830 at page 24 of the staff report) and the existing ordinance (SRC Chapter 95.740) state that the person cited "shall be prohibited" from being inside the CPD. Violations of an exclusion notice can result in immediate arrest for criminal trespass and exclusion for an additional 30 days. (See proposed section 95.850 at page 22 of the staff report.)



A person who's issued an exclusion order may seek a "variance", which is formal, written permission to travel certain routes within the CPD at certain times for certain purposes. There is a notable difference in the way the staff report describes the process for seeking a variance and what's described in the ordinance, raising questions about whether current practices comport with the requirements of the ordinance. (See proposed section 95.840(b) at page 20 of the staff report.) In any event, a person who violates the terms of a variance is subject to immediate arrest for criminal trespass and "shall have the exclusion extended an additional 30 days." (See proposed section 95.850 at page 22 of the staff report.)

The penalties for failure to comply with citations and exclusion notices, often referred to as "collateral effects", typically create additional barriers to accessing housing, employment and social services. Barriers which, by the way, Salem spends General Fund and federal dollars to remove.

### Measuring Success

The draft staff report offers no evidence, assurances or predictions that the proposed ordinance will reduce the incidents of, or complaints about, "odors, property damage, urination and defecation, panhandling, litter, and aggressive or threatening interactions." Nor does it offer assurances or predictions that the City will not be sued after enactment, and the American Civil Liberties Union and Oregon Law Center are known to be monitoring the situation. Councilors who support this bill must weigh the likelihood of litigation and the certainty that the ordinance will further stigmatize and oppress the most vulnerable people in our community against...what, exactly? A vain hope that it will somehow "clean up" downtown and put an end to complaints? Hasn't happened anywhere else that sit-lie ordinances have been enacted, and Salem's not likely to be any different.

The draft staff report gives councilors no articulable, evidence-based reason for concluding that sit-lie is likely to do more good than harm. Council should therefore reject staff recommendation and the ordinance bill, just as they did in 2017.



Labels: [Dtown Hless Solutions Task Force](#), [stigma](#)

## 2 comments:



**lynelle** October 30, 2019 at 6:14 PM

Thank you so much for requesting and sharing this report! I was told it would not be available till about 4 days prior to the 11/25 City Council meeting, so having this time to review the input is so valuable. Thank you!

It's hard to see the staff implication that the compiled comments reflect input from the public forums. For the first and second forums, people came prepared to give verbal testimony. We didn't have forms for written input at the first or second forums.

It was only the 3rd open house style forum that had city and advocate forms for written input. So the city's compilation only reflects input from that one forum.

[Reply](#) [Delete](#)

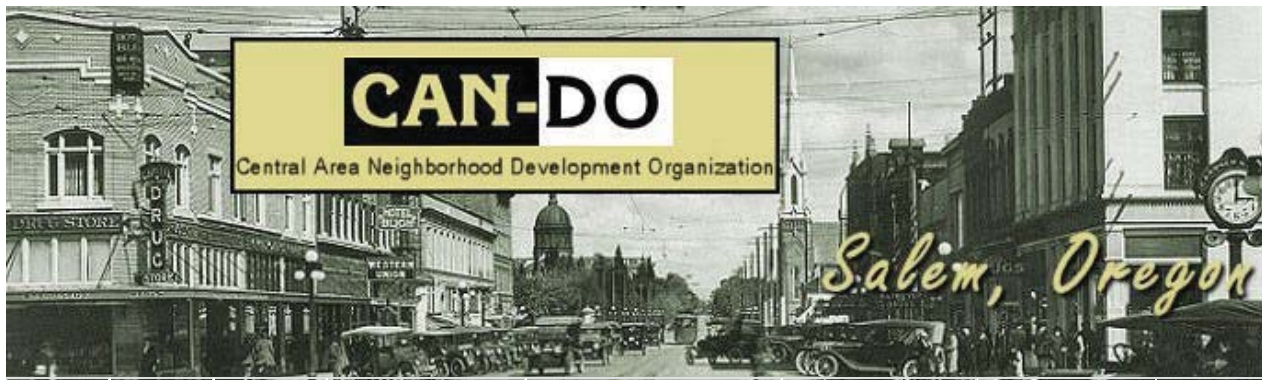


**Victor Reppeto** November 3, 2019 at 12:18 PM

Good work! Thank you for consistent reporting of issues that matter! Keep it up!

[Reply](#) [Delete](#)



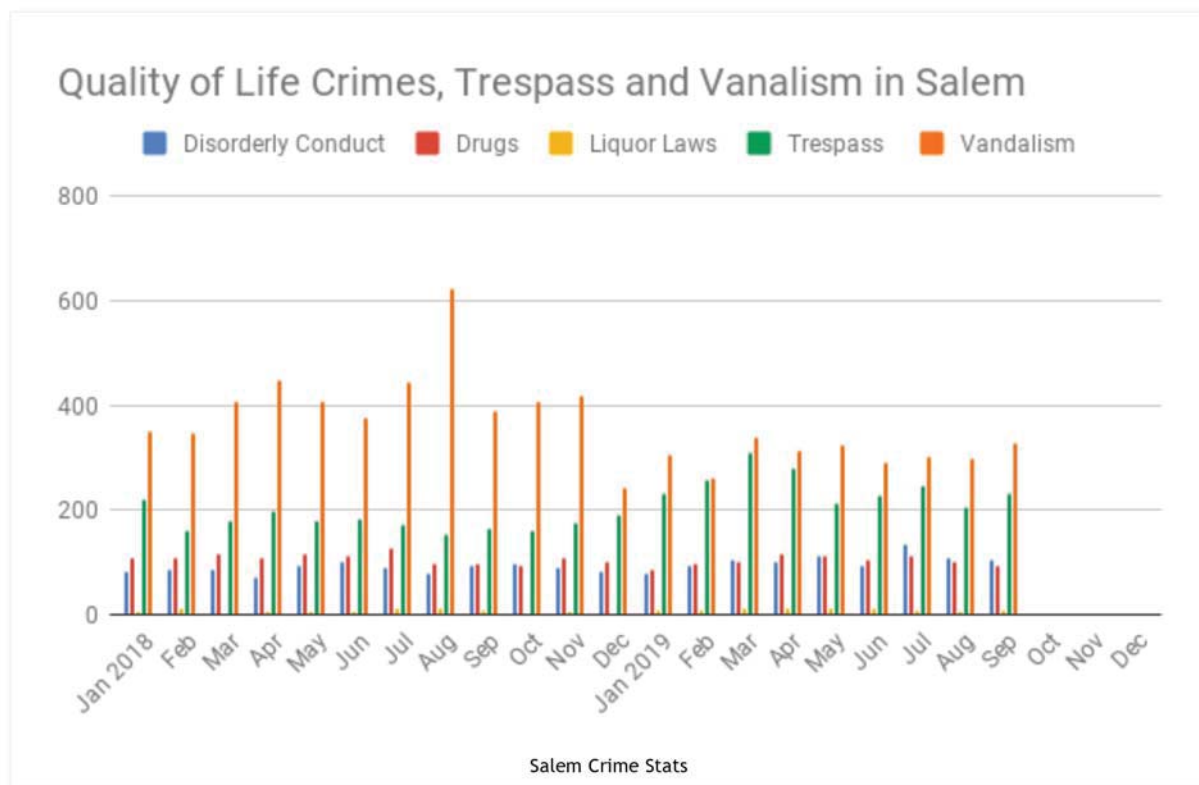
More[hlowens2@msn.com](#) [New Post](#) [Design](#) [Sign Out](#)[Home](#)[About](#)[Bylaws](#)[Board Priorities](#)[Recent Board Actions](#)[Board Positions](#)[Board History](#)

Tuesday, November 5, 2019

## Sit-Lie Business

By Sarah Owens and Michael Livingston

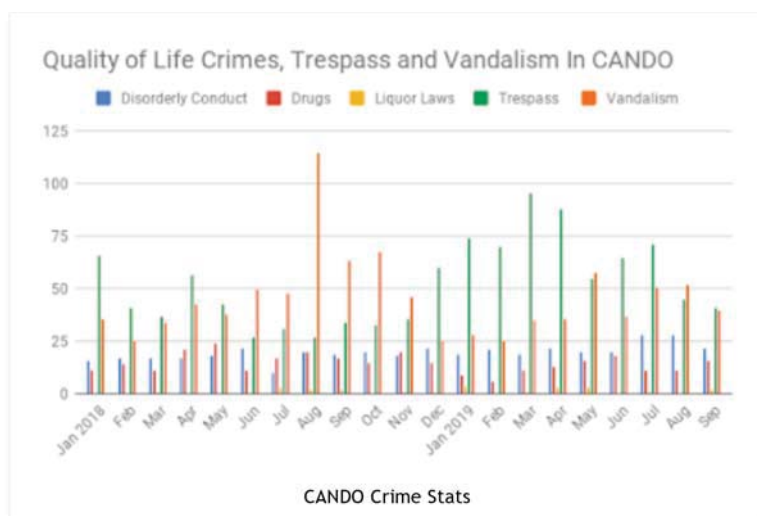
The City's stated reason for resurrecting sit-lie was increased reports of vandalism and "growing concerns and demands" from business that the City "do something." This post takes a look at the available evidence supporting these claims.



"Over the last several months, concerns and complaints from business owners have increased *as have reports of vandalism.*" (Emphasis added.) So wrote Kristin Retherford in a July 12, 2019 email, adding, "In response to these growing concerns and demands that the City take action to address behaviors, on July 22, the City Council will be considering an ordinance relating to activities within the public right of way."

As the chart above illustrates, however, reports of vandalism in the months prior to July were substantially lower than they were in most of 2018. Looking at the stats just for CANDO, May saw an increase in vandalism (about 20 incidents) over April and June, but not at the rates seen in August, September or October of 2018.

As for the alleged increase in "concerns and complaints from business owners", well, the City kept no records. Back in 2017, when the City Council was considering the first sit-lie ordinance, CANDO urged the City to keep track of complaints of downtown businesses and to share them with CANDO and/or the Downtown Advisory Board, so that the problems might be analyzed with law enforcement input, and strategies developed to address them. For whatever reason, the City chose not to honor the request.



The lack of concrete data on the number and type of complaints/problems makes it impossible to "work the problem", which is what downtown businesses say they want the City to do.

A year after the Downtown Homeless Solutions Task Force recommended that the City convene a Downtown Good Neighbor Partnership to facilitate the coordination of homeless services and assist downtown businesses to develop a set of reasonable and mutual behavioral expectations, the City "initiated collaboration meetings between staff, Salem Police Department, service providers, and downtown business and property representatives to provide updates on efforts and improve communication between parties." That work group was later dubbed the Good Neighbor Partnership.

The first item on the GNP's agenda was Sit-Lie, Jr. It was not the point from which to start a partnership. See "City's Community Forum Plan Falters" (August 20, 2019). If only it could be said that, despite the conflict over Sit-Lie, Jr., the GNP is fulfilling the purpose for which it was formed and making good progress toward service coordination in support of downtown businesses. However, unfortunately, business and law enforcement have not been cooperating. Specifically, law enforcement has no-showed all meetings so far, and business has failed repeatedly to provide a list of "scenarios" -- examples of situations they want assistance handling -- which is needed to understand the problem and coordinate an appropriate response. Might this be because business doesn't need assistance as much as some might think?

A September survey by Salem Main Street Association that some may have hoped would demonstrate widespread support in the business community for Sit-Lie, Jr. failed to make that showing. See "[SMSA Survey](#)" (October 15, 2019).

A City-sponsored gathering "to educate the downtown business and property owners about the role of the Downtown Advisory Board, key projects, and related parking fund challenges" drew 12 people who were asked "to share their vision for the future redevelopment of the UGM/Saffron sites and feedback on downtown challenges and priorities for how parking fund dollars should be used." If Sit-Lie, Jr. was discussed at that meeting, it didn't make the staff summary.

CANDO recently spent some time visiting over 70 downtown street-level storefronts and restaurants, inviting folks to come to meetings, and sharing copies of the [CANDO Good Neighborhood Guide](#), which offers businesses guidance on dealing with people who appear to be having difficulty meeting their basic needs or appear to be exhibiting disruptive symptoms of mental illness. During these visits, a few expressed frustration with the City's response to specific problems they'd had, but most did not. This was surprising, given the City's assertion this past July of "growing concerns and demands relating to activities within the public right of way." Incidentally, the response to the Guide has been consistently positive.

**Responses to Question #1 – What are your hopes for downtown?**

- Grocery Store
- Housing
- Continue to be a draw, center of the City

**Responses to Question #2 – What is the biggest challenge you face in downtown?**

- Homeless
- Lease Rates
- Vacancies

**Response to Question #3 – Priority Ranking (#1 being the highest)**  
The following are projects/services eligible to be paid with Parking Funds.

Trash Cans	(1)
Cleaning/Maintaining Public Spaces	(2)
Providing Safety & Security Measures	(3)
Flower Baskets	(4)
Advertising	(5)
Decorations	(6)
Banners	(7)
Benches	(8)
Events	(9)

Staff summary of DAB gathering

Providing safety and security measures was ranked as a high priority (#3) for the use of the City's parking funds (see above). A number of downtown businesses have taken advantage of the Riverfront Downtown Urban Renewal Area [Strategic Grant Program](#) to "address[] homelessness within the RDURA" by preventing crime through environmental design. As of the end of September, nine businesses had received grants of about \$21,000 each, on average, to purchase security cameras, lighting, fencing and trash enclosures.

Many complaints to the City concern public urination/defecation, which already is unlawful under City code. The Downtown Enforcement Team has advised CANDO to urge businesses with such concerns to install security cameras and share the footage with the police, so a detective can be assigned and the offense pursued. Given the availability of funds to purchase and install the cameras, and the willingness of police prosecute violations, the City can expect more businesses to take advantage of a CPTED (crime prevention through environmental design) approach.

Riverfront Downtown Urban Renewal Strategic Grant Program			
	Structure Type	Address	For
1	Equitable Center	530 Center St NE	security camera
2	Fork 40	440 State St	trash enclosure, security lighting
3	MW Music Co Bldg	494 State St	trash enclosure
4	Auto service-type bldg	660 Liberty St	security cam, trash enclosure
5	Cascade Capital Funding	960 Broadway	trash enclosure, security fencing
6	Alley behind Bishop Bldg	120 Commercial St	trash enclosure
7	Alley next to Wild Pear	379 State St	security gate
8	Salem Center		security cam
			security cam, lighting, trash enclosure
9	Fmr hairstyling school	305 Court St	security cam, trash enclosure
	Residence	724 High St	security cam, trash enclosure
	Residence	694 High St	cams, gate/fencing

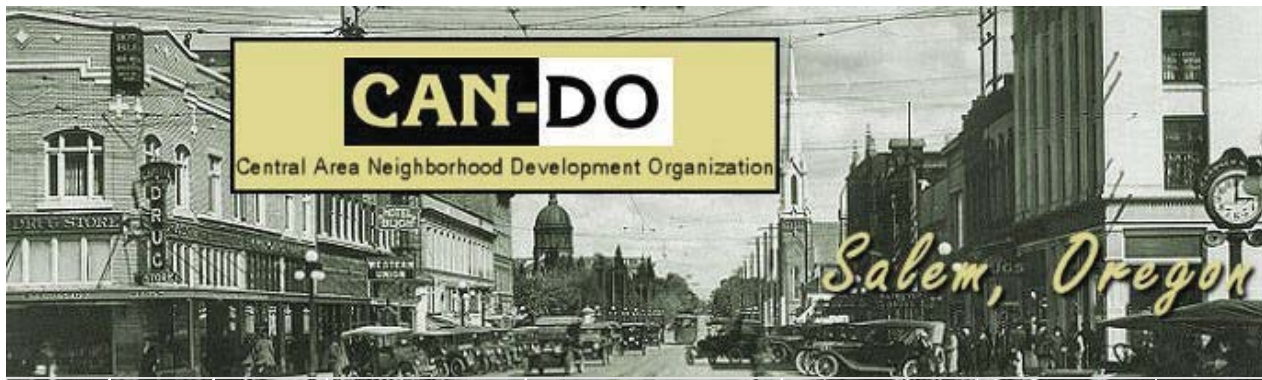
All the above begs the question what business need Sit-Lie, Jr. answers? Who, besides a hand full of local business people (e.g., Salem Area Chamber of Commerce Director Tom Hoffert has spoken in favor of it [while saying the Chamber has not taken a position], as have T.J. Sullivan of Huggins Insurance, the CPA John Hawkins, and Tyler Jackson of Jackson's Jewelers) even want it? We just don't know, and, we suspect, neither does the City Council.



No comments:

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Wednesday, November 13, 2019

## Sit-Lie: Mixed Messaging, Expectations and Trust

By Sarah Owens and Michael Livingston



### November 25: Council Will Consider Sidewalks/Public Right-of-Way Rules

At its November 25, 2019 meeting, Salem's City Council will consider a new rule to address citywide impacts of behaviors in the public right-of-way, by restricting sleeping on the sidewalk throughout Salem between 7:00 a.m. and 9:00 p.m., when parks, service provider dayrooms, and other spaces and resources are available. The new rule aims to ensure all of Salem remains welcoming to all visitors by keeping sidewalks and public spaces clean, and provides another opportunity to make contact with those in need and help direct them to the appropriate shelters or service.

Salem Connection Vol 10 Issue 31

The City's mixed messaging on sit-lie is causing everyone a good deal of confusion.

Monday, the Mayor announced that there would be a work session at 6p Monday, November 18 to try to get everyone on the same page. See Bryn Nelson, T. "Salem City Council to discuss 'sit-lie' ordinance in work session Monday."

(November 13, 2019, *Salem Reporter*.)

City propaganda has claimed sit-lie will "address citywide impacts of behaviors in the public right-of-way" and "ensure all of

Salem remains welcoming to all visitors by keeping sidewalks and public spaces clean." City staff have told the public that this means uniform and consistent enforcement throughout the City.

However, recent reports are that at least two City Councilors who support sit-lie are doing so because Chief Moore has said sit-lie is needed for about a dozen people whose behavior is causing problems -- presumably downtown -- and police lack the means to address it, and that, if sit-lie were to pass as-is, it would be applied with compassion and very selectively and rarely.

So, now people are asking, "Which is true? Will enforcement be uniform citywide? Or will it be selective and rare?"

The reports on what the Council's been told echo what Chief Moore told us when we met with him several months ago -- i.e., that he believes the vast majority will simply comply with the new law, either on their own, or when warned, and there won't be much need for enforcement (which we take to mean not many citations will need to be issued). As we didn't recall the Chief saying sit-lie was needed to deal with about a dozen people downtown, we asked him about the reports. He emailed in reply that the reports were "pretty much what I have stated, both publicly and privately, and to you and Michael, for about three years."

So, there we have it: sit-lie is intended to address the behavior of 12 individuals, and enforcement will be selective and rare.

Still curious about the dozen behavior problems, we asked Jimmy Jones whether, at any point, the City or Police Department had come to the Mid-Willamette Valley Community Action Agency (MWVCAA) and said, "Look, we've got a dozen or so people downtown who're causing problems we can't control. Here are their names. Can you target resources toward them and maybe get them stably housed so we don't have to find a reason to put them in jail?" He said no, he'd not been asked.

Police have no-showed all five Downtown Good Neighbor Partnership meetings held so far this year.

Police know MWVCAA/The ARCHES Project does all the screening for housing programs (including Salem Housing Authority's Homeless Rental Assistance Program), and police know how to ask for assistance for people living on the streets, so it's very odd that police haven't asked for assistance with this group of people. Kinda makes you wonder who these people are that the police supposedly can't deal with. Are they people with names? Or, more likely, are they merely an estimate of how few will be cited under the ordinance?

Salem's *de facto* homeless policy is "trust the police." Councilors who support sit-lie believe that if Chief Moore says he needs this ordinance, then the City Council should just give it to him. It doesn't matter what the ordinance says (which is why they haven't bothered to read it). But what if Chief Moore is wrong?

What if having sit-lie on the books *won't* be enough to elicit compliance? The City has revealed no plans to put up signs or otherwise educate the public in the event Council adopts sit-lie. What if police have to warn/cite in order to gain compliance, as seems likely? Is Chief Moore prepared to devote resources to that effort? Other cities that adopted sit-lie laws initially issued numerous citations, gradually decreasing enforcement activity over time -- not because people had got the message, but because enforcement action wasn't having the desired effect. See, e.g., [here](#) and [here](#).

But, if compliance with sit-lie *isn't* widespread, it's *not* going to have the desired effect (i.e., result in a "Salem that's welcoming to all visitors by keeping sidewalks and public spaces clean"), and it's *not* going to reduce complaints from downtown businesses.

And what if, heaven forbid, Chief Moore's cops are *not* all as caring and compassionate as he and his senior officers are? And, let's say there *is* widespread, dispassionate, enforcement. There's a substantial likelihood that sit-lie will cause even more people experiencing homelessness to avoid contact with police -- [as happened in San Francisco](#). Even now, in Salem, stories like this are not uncommon, we just don't hear about them:

My brother was on the way to work, and, as was his habit, he stopped at the Starbucks off of Salem Parkway (2505 Liberty Street, near Spin City Laundromat). He and a Salem police officer ordered their drinks around the same time and were waiting to get them. While they were waiting, the officer walked over to a disheveled man at a table quietly warming himself over a cup of coffee, with what appeared to be his belongings beside him. The officer told the man he was not allowed to loiter and should move on. My brother said something like, hey, he's not doing anything, to which the officer responded by telling him to mind his own business. My brother said that's what he's doing (motioning toward the man bent over his coffee), minding his own business. The officer asked our friend would he rather the officer come over there and talk to him, to which my brother said something like sure you can talk to me, at which point he was called to get his drink.

Trust between police and their communities is vital. But trust doesn't mean being naive, or turning a blind eye when procedures aren't followed or discretion is abused. Even with Chief Moore's reassurances, sit-lie has great potential for abuse, and very little on the up side, despite all the hype in City propaganda about keeping Salem clean and welcoming to all visitors.

Trust requires truthful, consistent messaging. In 2018, Salem police officer David Smith told the *Statesman Journal*, "You can understand how frustrating it is for [people experiencing homelessness] when everybody is

trying to help them one day, and then the next day everybody wants them to leave. So to me, I think it's important that we be more consistent in our message." See Hernandez, L. "[Salem police on front line of growing homeless crisis, urge changes](#)." (June 14, 2018, *Statesman Journal*.)

Maybe Chief Moore thinks he needs sit-lie, or maybe it's Mayor Bennett or City Manager Powers who think Chief Moore needs sit-lie. We don't really know whose bad idea it is.

What we do know is that, 18 months ago, the Downtown Enforcement Team were not asking for sit-lie. They were instead focused on a proven strategy -- building relationships. And they were asking for a safe place to take people who were intoxicated, for public storage for personal property, and for a 27/7 navigation center. See Hernandez, L. "[Salem police on front line of growing homeless crisis, urge changes](#)." (June 14, 2018, *Statesman Journal*.) To date, the City Council has given the police none of those tools. And its messaging is nothing close to consistent.

### Building relationships

These officers have a unique perspective on Salem's homeless crisis, one that often leaves them frustrated, yet spotlights needs and solutions that police say need to be adopted as soon as possible.

- ✗ Open sobering stations where people can recover from alcohol, methamphetamine or opioids and get plugged into treatment programs and transitional housing.
- ✗ Provide public storage for homeless people to safely secure their belongings so they are able to attend counseling sessions, parole and probation meetings, court hearings and housing appointments without fear of theft or having to constantly take their belongings with them.
- ✗ Open a 24-hour "clearinghouse" that can provide food, beds, showers, access to transitional programs and housing representatives to help people get into a stable place to live through the Salem Housing Authority.

When officers encounter homeless people slumped over along concrete walkways or trespassing on private property when shelters are at capacity, they face a dilemma: Do they arrest the person and push them through the revolving door of Oregon's jails and prisons? Or do they dig into their own pockets, or police donations, to pay for food or a hotel for the night?

"Salem police...urge changes" in 2018

"Trust the police" is not much of a homeless policy, but when the City can't or won't work to give police appropriate tools, tools they've said they need, and forces them to ask for rusty, unreliable substitutes like sit-lie, the City can hardly claim to be trusting the police.

San-Francisco has more than 36 "quality of life" laws, including its own sit-lie, passed in 2013. In 2019, however, the primary strategy of San Francisco police is to "[routinely steer\[\] homeless people to shelters, navigation centers and health services](#)." The proverbial pendulum has swung away from enforcement tactics like sit-lie *because experience has shown they are not effective*.

The City Council should be finding ways to support proven strategies like building relationships, not enacting outdated, inhumane and ineffective laws because they apparently can't be bothered to cooperate with providers to address the problem behaviors of twelve individuals.

Labels: [Dtown Hless Solutions Task Force](#), [stigma](#)

No comments:

Post a Comment

In re Your Staff Report for Agenda Item 7.1a 11/25 CC Mtg  
(Ordinance Bill 10-19)

Dear City Manager Powers:

In your staff report (File 19-348), under the Facts and Findings section on page 3, you state with respect to violations occurring inside a crime prevention district (referred to in the report as an "exclusion zone"):

"If the officer returns and finds the individual has not complied with the ordinance, they [*sic*] will be issued a civil citation for violating the ordinance *and they [sic] may also issue an exclusion order*, that prohibits the individual from being within the zone."  
[Emphasis added.]

Your wording implies that, for violations inside a crime prevention district, the officer has some discretion over whether or not to issue an exclusion notice in addition to the citation. In fact, Ordinance Bill 10-19 provides the officer no choice; it provides that those cited for violating the ordinance inside a crime prevention district *shall be excluded*. See Section 95.830.

Civil Exclusion. (a) Any person arrested or cited to appear in court for charging or lodged in jail for presentation to a judicial officer for charging, based upon probable cause to believe that the person has committed an enumerated offense within a crime prevention district *shall be prohibited from being present on pedestrian ways or public ways within the district for any purpose, except as allowed by a variance* granted pursuant to SRC 97.840. (Emphasis added.)

Staff's confusion over this provision was evident in the draft of this staff report obtained through a public records request several weeks ago, but it appears it has not been resolved with accuracy. The error is very concerning, given the question of the officer's discretion *or lack thereof* could be pivotal to councilors' willingness to support the ordinance as written.

Additionally, I would like to challenge the self-serving assertion in the last sentence of the penultimate paragraph of the Summary section on page 2 of your staff report which reads, "In conjunction with forming the [Good



Neighbor Partnership] staff was asked to review Salem's codes and ordinances to ensure that the City balances the rights of people that live, work and shop downtown."

I challenge it as being without factual basis, and inserted into the staff report for the sole purpose of making it appear that the City faithfully and promptly implemented Recommendation 3 of the Downtown Homeless Solutions Task Force -- which I know through direct personal experience not to be the case, having covered the meetings of the DHSTF through its final meeting 8/1/18 and participated in 4 of 5 meetings of the Good Neighbor Partnership, formed in July 2019, *after* Ordinance Bill 10-19 had been scheduled to go before the City Council on July 22, 2019. Please see "City Scrambling to Save Son of Sit-Lie"

(<https://youcandosalem.blogspot.com/2019/07/city-scrambling-to-save-son-of-sit-lie.html>) for the true facts on the Good Neighbor Partnership's non-existent role in "reviewing codes and ordinances [in conjunction with staff] to ensure that the City balances the rights of people that live work and shop downtown."

The DHSTF in fact *refused to endorse* an enforcement approach to dealing with neighbors living in the streets of downtown, and it was *staff* who insisted on including the "assess codes and ordinances" language in Recommendation 3. City staff are entirely responsible for Ordinance Bill 10-19 and the staff report should not suggest otherwise.

Sincerely,

s/ Sarah Owens

CANDO (individually and not on behalf of CANDO, which officially opposes enactment of Ordinance Bill 10-19)

Cc: Salem City Council

## Amy Johnson

---

**From:** SARAH OWENS <hlowens2@msn.com>  
**Sent:** Saturday, November 16, 2019 8:28 AM  
**To:** Chuck Bennett; Jim Lewis; Jackie Leung; Tom Andersen; Cara Kaser; Steve Powers; Sally Cook; Matthew Ausec; Chris Hoy; Brad Nanke  
**Cc:** Jerry Moore; CityRecorder; Kristin Retherford; Kern, Neal; Michael Livingston; troy@salemreporter.com  
**Subject:** CANDO Resolution 2019-1 in re Ordinance Bill 10-19  
**Attachments:** Cando Resolution.pdf

Recommending AGAINST enactment of Ordinance Bill 10-19, which currently is scheduled to be on the Salem City Council's November 25 agenda, Item 7.1a.

Sarah Owens  
CANDO Secretary

## **CANDO RESOLUTION NO. 2019-1**

### **A RESOLUTION REGARDING PROPOSED SIDEWALK BEHAVIOR ORDINANCE**

WHEREAS, between October 2016 and January 2019, more than 2,600 residents of Marion and Polk counties were identified through evidence-based assessments to be at risk due to living outdoors or in places not fit for human habitation;

WHEREAS, these "homeless" residents include children, families, veterans, and those suffering from addiction and physical and mental illnesses, some of whom have been "homeless" off and on for many years, many of whom have sought housing and been denied for lack of resources;

WHEREAS, approximately 1,800 of these residents live within Salem's Urban Growth Boundary, with as many as 700 living within one mile of Marion Square Park, including the Union Gospel Mission and Wallace Marine Park;

WHEREAS, the vast majority of these residents go out of their way not to draw attention to themselves and to avoid causing a disturbance on the sidewalk;

WHEREAS, petty offenses can lead to misdemeanor convictions that can and do have collateral consequences that create barriers to housing and employment;

WHEREAS, the Salem Revised Code includes a number of petty offenses, so-called "quality of life" crimes punishable by exclusion, such as disorderly conduct (SRC 95.120), urinating and defecating in public (SRC 95.125), trespass (SRC 95.550), drinking in public (SRC 90.020), public indecency (SRC 96.220), noise disturbance (SRC 93.010), and pedestrian interference (SRC 95.700);

WHEREAS, proposed Ordinance 10-19 seeks to expand the list of "quality of life" crimes to include sitting and lying on sidewalks during the day and evening hours;

WHEREAS, for residents living in the streets, sitting and lying on the sidewalk during the day and evening hours may reasonably be considered "acts of living";

WHEREAS, making "acts of living" illegal is cruel, stigmatizing, counterproductive and bad public policy;

WHEREAS, in 2012, the United States Interagency Council on Homelessness (USICH), in partnership with Department of Justice and U.S. Department of Housing and Urban Development (HUD), published "Searching out Solutions: Constructive Alternatives to Criminalization", which outlined "alternatives for communities who implement local measures that criminalize 'acts of living'";



WHEREAS, in 2014, HUD issued guidance citing a recent report by the National Law Center on Homelessness and Poverty, “No Safe Place: The Criminalization of Homelessness in U.S. Cities”, finding that there had been a significant increase in city-wide bans on camping, loitering, and begging in public areas, which HUD characterized as “effectively criminalizing people’s *need to survive*” (emphasis in original) and “exacerbat[ing] existing problems”;

WHEREAS, in 2015, HUD required applicants for Continuum of Care Program funding to describe “specific strategies implemented” — such as engaging local policymakers and law enforcement officials — to “ensure that homelessness is not criminalized”;

WHEREAS, in 2016, the City of Salem helped launch the Mid-Willamette Homeless Initiative “to identify and launch proven strategies to reduce homelessness” in the region;

WHEREAS, the Initiative’s strategic plan included numerous recommendations, some of which concerned code amendments specific to Salem, but none of which involved prohibitions on sidewalk conduct;

WHEREAS, in 2017, the City Council considered and refused to enact a substantially similar sit-lie ordinance for reasons including that it criminalized homelessness, failed to address “root causes”, and did not address the behaviors businesses typically complain about, many of which already are illegal;

WHEREAS, the City Council subsequently authorized the Mayor to appoint (what would become) the Downtown Homeless Solutions Task Force to identify practical solutions to the problems experienced by downtown businesses;

WHEREAS, in 2018, the Downtown Homeless Solutions Task Force repeatedly declined on policy grounds to support the enactment of a sit-lie ordinance;

WHEREAS, in 2019, the City convened the Good Neighbor Partnership in follow up to recommendations made by the Downtown Homeless Solutions Task Force;

WHEREAS, the Good Neighbor Partnership has also refused to endorse, tacitly or otherwise, a sit-lie ordinance;

WHEREAS, on September 9, 2019, the City Council authorized a Memorandum of Agreement to create a Development Council to oversee and manage the development of a local Continuum of Care for purposes of receiving much-needed homeless assistance funding through HUD’s Continuum of Care Program;

WHEREAS, to compete successfully for Continuum of Care Program funding, the

region must demonstrate compliance with HUD policy and guidance, potentially including being able to describe specific strategies implemented to ensure that within their jurisdictions, homelessness is not criminalized;

WHEREAS, insofar as proposed Ordinance 10-19 criminalizes homelessness by making what might reasonably be considered "acts of living" illegal, it is inconsistent with

- a. CANDO's goal to "Support initiatives offering practical solutions for neighbors living in the streets";
- b. the mission and purpose of organizations that CANDO supports, like the Salem Housing Authority, the Union Gospel Mission, Northwest Human Services, the Mid-Willamette Valley Community Action Agency and United Way;
- c. the mission and purpose of the Homeless Rental Assistance Program, whose activities include the expenditure of General Fund dollars to remove criminal history barriers to housing and employment;

WHEREAS, proposed Ordinance 10-19 targets people experiencing homelessness, is not designed to address the substantive complaints of downtown businesses and is likely to inflict adverse, unintended harm on Salem's most vulnerable residents, including further stigmatization of their condition, *whether or not they are found to be in violation of proposed Ordinance 10-19*;

NOW. THEREFORE, BE IT RESOLVED that CANDO recommends to the City Council AGAINST enactment of proposed Ordinance 10-19.

ADOPTED by the CANDO Board of Directors, this 17th day of September, 2019.

ATTEST:



CANDO Secretary/Treasurer

## Amy Johnson

---

**From:** pacajoyce <pacajoyce@sbcglobal.net>  
**Sent:** Saturday, November 16, 2019 1:36 PM  
**To:** Owens, Sarah; Chuck Bennett; Jim Lewis; Jackie Leung; Tom Andersen; Cara Kaser; Steve Powers; Sally Cook; Matthew Ausec; Chris Hoy; Brad Nanke  
**Cc:** Jerry Moore; CityRecorder; Kristin Retherford; Kern, Neal; Michael Livingston; troy@salemreporter.com  
**Subject:** Re: CANDO Resolution 2019-1 in re Ordinance Bill 10-19

With a Work Session on Nov. 19.

Joyce Judy

Sent from my Verizon, Samsung Galaxy smartphone

----- Original message -----

From: SARAH OWENS <hlowens2@msn.com>  
Date: 11/16/19 8:27 AM (GMT-08:00)  
To: Chuck Bennett <cbennett@cityofsalem.net>, Jim Lewis <JLewis@cityofsalem.net>, jleung@cityofsalem.net, Tom Andersen <tandersen@cityofsalem.net>, Cara Kaser <CKASER@cityofsalem.net>, Steve Powers <spowers@cityofsalem.net>, Sally Cook <scook@cityofsalem.net>, Matthew Ausec <mausec@cityofsalem.net>, Chris Hoy <choy@cityofsalem.net>, Brad Nanke <BNanke@cityofsalem.net>  
Cc: Jerry Moore <gmoore@cityofsalem.net>, cityrecorder@cityofsalem.net, Kristin Retherford <kretherford@cityofsalem.net>, Neal Kern <neal.t.kern@gmail.com>, Michael Livingston <michaellivingston1@msn.com>, troy@salemreporter.com  
Subject: CANDO Resolution 2019-1 in re Ordinance Bill 10-19

Recommending AGAINST enactment of Ordinance Bill 10-19, which currently is scheduled to be on the Salem City Council's November 25 agenda, Item 7.1a.

Sarah Owens  
CANDO Secretary

## Amy Johnson

---

**From:** Events+reedoperahouse.com <Events@reedoperahouse.com>  
**Sent:** Friday, November 15, 2019 1:37 PM  
**To:** citycouncil  
**Subject:** Letter of support for sidewalk behavior ordinance  
**Attachments:** Letter to City Council 11.15.19.pdf  
  
**Importance:** High

Please accept our letter of support for the sidewalk behavior ordinance.

The Reed  
Jodie Vaughn, Property Director  
[events@reedoperahouse.com](mailto:events@reedoperahouse.com)  
503-391-4481 office  
503-391-4482 fax





189 Liberty ST NE  
Salem, OR 97301  
503-391-4481  
TheReedOperaHouse.com

October 10, 2019

Dear Salem City Council,

As the tenants and owners of The Reed and 120 Commercial building in downtown Salem. We are writing today to express our **support for the city of Salem's proposed Sidewalk Behavior Ordinance** (also known as the "Sit and Lie" Ordinance).

Our building is located in Ward 1 and our Council is Cara Kaser, yet our tenants reside in all areas of the city.

First of all, we know all of our tenants have deep compassion for those individuals in our community who are struggling. We want to be part of a solution that helps keep our community safe and healthy. From what we know, we do not feel like the current situation is working toward that goal and need the Salem City Council to help.

We have over 70 tenants at The Reed. Our businesses, especially those with street-facing doors, have experienced several concerning trends. We have seen various persons displaying disturbing behaviors such as defecating outside the Reed, littering on the sidewalks, blocking the doorways to our businesses, panhandling, shoplifting from our stores, occupying and destroying our bathrooms, doing drugs outside our shops, and generally harassing tenants and customers. Tenants have had to clean up human waste and trash, on city property. Most concerning of all, a person loitering near The Reed assaulted one of our maintenance employees.

The current status quo frustrates us greatly. We need a safe and clean environment for our guests, tenants, and vendors to conduct business. We want to have greater control over what happens on the sidewalks and alleys surrounding the Reed Opera House and 120 Commercial. Operating a business is challenging and we cannot afford to discourage any potential customers.

We request that the Salem City Council work to pass the Sidewalk Behavior Ordinance. We believe that this ordinance will ultimately make The Reed and 120 Commercial cleaner and safer places to conduct business.

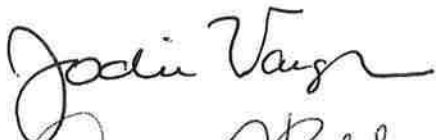
We love living and working in downtown Salem but these current problems issues threaten the health of our business and shareholders. Thank you for listening to our needs and for considering our request.

Sincerely,

**The Tenants and Owners of the Reed Opera House and 120 Commercial including those signing below:**



Jodie Vaughn, The Reed Property Manager



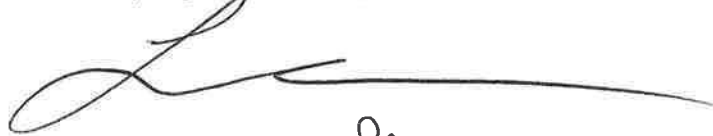
Margaret Helms Duce

Antonio Garcia

Michael Wilson



L. Keith Robb  
William H. Gault



Danuta Shivers



## Amy Johnson

---

**From:** noreply@cityofsalem.net on behalf of vreppeto@gmail.com  
**Sent:** Monday, November 18, 2019 10:37 AM  
**To:** citycouncil  
**Subject:** Contact City Council  
**Attachments:** ATT00001.bin

Your Name	Victor Reppeto
Your Email	vreppeto@gmail.com
Your Phone	5033839517
Street	615 Commercial st NE, Salem, Or 97301
City	Salem
State	OR
Zip	97301
Message	The sit lie ordinance is illegal. The SCOTUS has ruled. Kicking people out of downtown without taking them to court first is a violation of due process. Drop this witch hunt and keep your commitments to provide help for the homeless including but no limited to a sobering center and 24/7 bathroom facilities. It is apparent you are telling everyone else to use their words and conduct business peacefully while you stand there with a gun in one hand and a baton in the other. Victor Reppeto 503-383-9517

This email was generated by the dynamic web forms contact us form on 11/18/2019.

**Amy Johnson**

---

**From:** Jeff Schumacher <jeff.schumacher@gmail.com>  
**Sent:** Thursday, November 14, 2019 5:15 PM  
**To:** citycouncil; Chuck Bennett  
**Cc:** CityRecorder  
**Subject:** SCAN - letter in opposition to sit/lie ordinance  
**Attachments:** SCAN Letter to Mayor & Council Opposing Sit Lie.pdf

Mayor Bennett and City Councilors,

Please see the attached letter from the South Central Association of Neighbors. At our November meeting last night our board voted to oppose the pending sit/lie ordinance.

Thank you for your time and consideration on this very difficult issue.

Sincerely,  
Jeff Schumacher  
SCAN chair, 2019-20



November 14, 2019

Mayor Chuck Bennett & Salem City Council  
Civic Center  
555 Liberty Street SE  
Salem, Oregon 97301

**RE: PROPOSED ORDINANCE 10-19**

Dear Mayor Bennett and Members of Council:

We ask the Council (1) to refrain from the adoption of the proposed Ordinance 10-19; (2) to continue working earnestly on implementation of the recommendations of the Downtown Homeless Task Force and Good Neighbor Partnership; and (3) give full consideration to the Resolves (Resolution No.2019-1) of the Central Area Neighborhood Development Organization (CAN-DO) on the proposed municipal law and the findings of the Northeast Neighbors (NEN).

Citizens in the SCAN Neighborhood are among the volunteers that assist shelter and warming centers. Ours is a neighborhood adjacent to downtown, and downtown is where many of us shop, work, procure services, utilize restaurants, attend performances and cinema showings, educational events, and other activities.

Presently, there is a lack of sufficient or even moderate level of resources and hours of availability at facilities and programs for the homeless and mentally ill in Salem, and enactment of punitive legislation by the Council does not address what are at the core of the homeless issues: addiction, mental and physical health, poverty, lack of work, and absence of safe shelter.

We do support efforts for a more balanced response that acknowledges the full range of human need, of those without shelter, of the business community and the general public; and widening the community dialogue; and resource outreach and resource base.

We do not support the Proposed Sit-Lie or Sidewalk Behavior Ordinance 10-19.

Respectfully,

***South Central Association of Neighbors***

Adopted November 13, 2019

cc: Councilors Tom Andersen (Ward 2) and Vanessa Nordyke (Ward 7)

## Amy Johnson

---

**From:** angel villamor <avillamor9@gmail.com>  
**Sent:** Friday, November 15, 2019 3:58 PM  
**To:** citycouncil  
**Subject:** Sit/Lie City ordinance

Honorable Council Members,

In the coming weeks your decision on establishing a city ordinance commonly known as Sit-Lie, is in my view is a dishonor and a form of discrimination of homeless people and in Salem.

To my understanding there are less than two dozen individuals that may have been the ones responsible for the committee meeting and future vote on this issue. I'm sure that there are better, and more cost effective ways for handling this. As the Council knows there are many mentally ill individuals high in the community of homeless here in Salem. These individuals without medical attention will continue to act in ways that seem, to us as unsociable.

It is the reason that I am writing to you today. It is important that the city not lash out on the whole group of homeless people, because of a small number of individuals.

Passing the ordinance would take up City funding that can be used on other projects and City issues.

## Amy Johnson

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**From:** Lynelle Wilcox <lynelle@comcast.net>  
**Sent:** Monday, November 18, 2019 3:03 AM  
**To:** Chuck Bennett; Lynda Rose; Steve Powers; Tami Carpenter; Cara Kaser; Tom Andersen; Brad Nanke; Jackie Leung; Matthew Ausec; Chris Hoy; Vanessa Nordyke; Jim Lewis; Kristin Retherford; Jerry Moore; Kathy Sime; Dan Atchison; CityRecorder  
**Cc:** Steve McCoid  
**Subject:** Opposing Salem's sit-lie ordinance; sharing a Berkeley sit-lie study

A study about a sit-lie proposal in Berkeley in 2012. Although it's a different city, and years ago, the basis for many of the findings seem applicable here too. Finding #1: There is no evidence of increased economic activity in California Sit-Lie jurisdictions

Finding #2: There is no evidence that Berkeley retail sales have suffered due to homeless people

Finding #3: Implementing and enforcing Measure S will impose costs on the City

Finding #4: Defending Measure S against legal challenges is likely to be costly.

(ACLU quote: "People do not lose their right to exist in a public place when they lose a home." [https://www.aclu.org/press-releases/aclu-statement-durangos-anti-homeless-sit-lie-ordinance?fbclid=IwAR2PlomaTd2oC3FjVl\\_oPlhc7IaGkedK\\_eP4iwuMZ1hi-NAaQJNsCAgC2\\_k](https://www.aclu.org/press-releases/aclu-statement-durangos-anti-homeless-sit-lie-ordinance?fbclid=IwAR2PlomaTd2oC3FjVl_oPlhc7IaGkedK_eP4iwuMZ1hi-NAaQJNsCAgC2_k).)

Finding #5: Sit-Lie ordinances have not connected homeless people to services in other cities

Finding #6: Measure S will not connect homeless people to services in Berkeley

Finding #7: Berkeley does not have the capacity to assist more homeless people

Finding #8: Berkeley has identified better approaches to increasing economic activity

Finding #9: Supportive housing is the best way to accomplish the goals of Measure S

<file:///Users/lynelle2/Downloads/SSRN-id2165490.pdf>

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the highest art is the art of living an ordinary life in an extraordinary manner.

and...

with our thoughts, we make the world.

♥♥. \*..\* ♥. \*..\* ♥\*..\* ♥\*..\* \*..\* ♥\*..\* ♥♥. \*..\* ♥♥. \*..\* ♥♥



## THE BASICS

### Do

- Make eye contact and talk kindly to people.
- If someone appears to be struggling to meet basic needs, refer to **ARCHES (503) 399-9080** (9-4 M-F) or call Northwest Human Services **Crisis & Information Hotline 503-581-5535** (24/7).
- If someone is being disruptive, try to de-escalate the situation if comfortable.
- If someone is threatening harm to self or others, acting recklessly or violently, or having delusions, call 911.
- Install good lighting around your building; lock or turn off exterior power outlets.
- Let people know your property boundaries. If someone is doing something illegal and won't leave, call the non-emergency police line 503-588-6123 or 911 if the situation is dangerous.
- Keep the area in front of the business clean and well maintained. This encourages others to respect the area.

### Don't

- Don't assume people know your expectations.
- Don't offer food or money, unless you are equipped and willing to handle repeat requests
- Don't permit anyone to camp or store things on your property

## COMMON SCENARIOS:

### Someone is sleeping/loitering at your front door:

- Odds are, this won't be a one-off interaction, so it's good to establish a friendly relationship. Introduce yourself. Ask for the person's name.
- Politely and kindly ask them to leave in a way that deflects the request from yourself to a third party (e.g. the property owner asks them to leave, even if that person is you). This reduces the power dynamic, and will help in future interactions.
- Let them know where they can be, such as ARCHES , HOAP or Union Gospel Mission (limited hours/days), as opposed to only where they cannot be.
- If they are not cooperative, tell them you are going to call the police, *but would rather not*. Avoid confrontation and keep a safe distance if you feel threatened in any way. Call the non-emergency police line at 503-588-6123. If they become disruptive or dangerous call 911.
- If advice is needed on what to do about belongings, debris or potentially hazardous material left behind, call Public Works Dispatch (503-588-6333).

### Someone exhibiting disruptive mental health symptoms has walked into the business

- If they buy something, treat them like any other customer. If they don't, let them know this area is for customers, and politely ask them to leave, *only if you would do the same for any other customer not making a purchase*.
- If they are symptomatic and disruptive: Ask them to leave clearly and politely. Your safety, and the safety of your patrons is your priority. If they remain in the facility, call the non-emergency police line. If the situation feels dangerous, call 911.

### WHAT TO DO WHEN YOU WANT TO HELP SOMEONE:

- Get to know your neighbors living on the streets.
- Encourage/help them call services like Northwest Human Services or ARCHES.

#### Northwest Human Services:

**503-581-5535** (24/7) Info/Crisis Intervention, Emergency Rent, Utility and Prescription Assistance, Access to Food Boxes, Cherriots Day Passes, Counseling Services

**ARCHES: 503-399-9080** (9-4 M-F) Referral Services, Drop-In Day Center (8:30-3 M-F), Housing Programs.

## KEEP IN MIND:

- Many organizations help people experiencing homelessness and work to increase affordable housing. Find an organization that you want to support, and ask them what they need.
- Salem's homeless service providers know how to help our homeless neighbors. The more you support them, the more they can help people get off the streets and into stable housing.
- Avoid perpetuating stereotypes, stigma and myths. People experiencing homelessness are not defined by their housing status. It's likely they've sought housing and/or shelter and there was none available. Likewise, people are not defined by any mental or physical health conditions, including addiction, they might be experiencing. It's likely they've sought treatment, but their conditions are made worse by their lack of stable housing.
- Advocate within your circle of influence to help make things better for neighbors who are homeless. This will help the business community, too.

- Your neighborhood association is here for you. CANDO meets from 6 to 7p the 3rd Wednesday of each month at First Christian Church on the corner of Marion and Cottage Streets. Here you can speak informally with your neighbors, your City Councilor, and members of the Downtown Enforcement Team, and weigh in on problems, plans, projects and trends.

- Follow CANDO's FB page, CANDO Archive blog and Twitter account to stay up on local news and politics affecting people experiencing homelessness downtown.

- Josh Lair and Matt Maciera with **Be Bold Street Ministries** have relationships with many who live downtown, and they are ready and willing to help you and your business when you have a difficult situation that doesn't warrant a police call. Josh can be reached at 503-576-9388, Matt at 971-273-8086.

Facebook

@CANDONeighborhood

Twitter

@CANDOArchive

October 2019

## Downtown Salem GOOD NEIGHBOR GUIDE

In every city in the U.S., people are living outdoors and in places not fit for human habitation for extended periods. The vast majority are long-time residents of the area. Many suffer from addiction and poor mental and physical health. Legally, they are "homeless." They are also neighbors.

- \* Dos and Don'ts
- \* Common Scenarios
- \* How to Help



Download this Guide

<https://youcandosalem.blogspot.com/2019/10/cando-good-neighbor-guide.html>

## Amy Johnson

---

**From:** Lynelle Wilcox <lynelle@comcast.net>  
**Sent:** Monday, November 18, 2019 3:35 AM  
**To:** Chuck Bennett; Lynda Rose; Steve Powers; Tami Carpenter; Cara Kaser; Tom Andersen; Brad Nanke; Jackie Leung; Matthew Ausec; Chris Hoy; Vanessa Nordyke; Jim Lewis; Kristin Retherford; Jerry Moore; Kathy Sime; Dan Atchison; CityRecorder  
**Subject:** Opposing Salem's sit-lie ordinance; Capacity gap

### CAPACITY GAP

Between October 2016 and January 2019, more than 2,600 residents of Marion and Polk Counties were identified through evidence-based assessments to be at risk due to living outdoors or in places not fit for human habitation.

Approximately 1,800 of these residents live within Salem's Urban Growth Boundary, with about 700 living within one square mile of Marion Square Park.

Homeless residents include children, families, veterans, and those suffering from addiction and physical and mental illnesses, including trauma. Many have sought housing and been denied for lack of resources. Many are working, yet are unable to make ends meet.

### Day center capacities

UGM - <u>men only</u>	120
Arches - 8:15 am to 3:15 pm; closed on weekends	70
HOAP – closes at 2 pm on weekdays; some hours are women only. Closed on weekends.	55
Total day center capacity	245

A total capacity of 245 means that we currently have the means to provide daytime shelter to only 35% of the 700 unsheltered individuals living within a mile of Marion Square Park.

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**From:** Lynelle Wilcox <[lynellex@comcast.net](mailto:lynellex@comcast.net)>

A study about a sit-lie proposal in Berkeley in 2012. Although it's a different city, and years ago, the basis for many of the

Finding #2: There is no evidence that Berkeley retail sales have suffered due to homeless people  
Finding #3: Implementing and enforcing Measure S will impose costs on the City

**Finding #4:** Defending Measure S against legal challenges is likely to be costly.

[https://www.durangonews.com/2019/07/10/duke-releases/aclu-statement-durango-anti-homeless-sit-lie-ordinance/?fbclid=IwAR2PlomaTd2oC3FjVl\\_oPlhc7laGkedK\\_eP4iwuMZ1hi-NAaQJNsCagC2\\_k.](https://www.durangonews.com/2019/07/10/duke-releases/aclu-statement-durango-anti-homeless-sit-lie-ordinance/?fbclid=IwAR2PlomaTd2oC3FjVl_oPlhc7laGkedK_eP4iwuMZ1hi-NAaQJNsCagC2_k.))

### Finding #6: Measure S will not connect homeless people to services in Berkeley

**Finding #8: Berkeley has identified better approaches to increasing economic activity**

file:///Users/lynelle2/Downloads/SSRN-id2165490.pdf

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with our thoughts, we make the world.







# Does Sit-Lie Work:

## WILL BERKELEY'S "MEASURE S" INCREASE ECONOMIC ACTIVITY AND IMPROVE SERVICES TO HOMELESS PEOPLE?

### EXECUTIVE SUMMARY

When Berkeley voters go to the polls on November 6, 2012, they will decide whether to enact Measure S, an ordinance that would ban sitting on public sidewalks during business hours in the City's commercial districts.<sup>1</sup>

Proponents of the "Civil Sidewalks Ordinance" – called "Sit-Lie" in the municipalities which have enacted such laws in recent years – argue that it will:

- (1) increase local economic activity ("saves jobs"), and
- (2) improve services to homeless people ("helps people").<sup>2</sup>

A coalition of community groups and individuals opposed to Measure S asked the Policy Advocacy Clinic to research and analyze the economic and social service impacts of Sit-Lie laws in other jurisdictions and the potential for such an ordinance to deliver on its promises in Berkeley.<sup>3</sup>

To prepare this report, we reviewed data on economic activity and homeless services in other Sit-Lie jurisdictions nationally, statewide and locally.

We surveyed community organizations, municipal human services and economic development agencies, business groups and police departments in more than a dozen Sit-Lie jurisdictions, including seven in California.

Finally, we consulted local stakeholders about implementation challenges and opportunities.

Although there are limits to the data gathered – and more research needs to be done to answer these questions with more precision – we find no meaningful evidence to support the arguments that Sit-Lie laws increase economic activity or improve services to homeless people.

### About the Authors

This report was researched and written by Joseph Cooter, Ericka Meanor and Emily Soli, Policy Advocacy Clinic students under the supervision of Clinical Professor Jeffrey Selbin.

The authors are grateful to the community, municipal, business and law enforcement personnel who responded to our national survey, the local stakeholders who offered background and input, and School of Law faculty members who provided consultation and technical assistance.

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## Introduction

If approved, Measure S will amend the Berkeley Municipal Code to prohibit people from sitting on city sidewalks in commercial zones from 7am to 10pm. The ordinance provides certain exceptions – for example, in the case of medical emergency or for people in wheelchairs – and requires police officers to warn illegal sitters before citing them. Failure to comply with an officer's warning constitutes a crime punishable by a fine (\$75) or community service, and subsequent violations can be charged as misdemeanors. Although Measure S is silent on this issue, proponents say that citations will be erased for homeless people who enter and participate in social services.

Measure S is one of a variety of "Sit-Lie" laws that have been enacted in the last two decades, typically in response to economic downturns (Berkeley law already prohibits lying on sidewalks; Measure S would extend the ban to sitting). Measure S proponents advance two basic arguments in favor of its passage: First, they say, enactment of the ordinance will increase economic activity for struggling businesses in commercial zones. Second, they argue, the ordinance will improve services to homeless people and "transform their lives." Supporters point to similar "successful laws implemented in over 60 cities" as evidence that Measure S will work in Berkeley.

In order to test these two central arguments, we undertook the following research:

- Researched and analyzed existing Sit-Lie laws, including their history, legal challenges, and implementation;
- Conducted a national Sit-Lie literature review with a special focus on identifying evidence of the

economic and service impact of Sit-Lie ordinances;

- Surveyed key stakeholders (chambers of commerce, city economic development agencies, police departments, city human services agencies and homeless service providers) in 19 Sit-Lie jurisdictions, including 7 in California;
- Analyzed the Measure S ballot initiative, including the findings, proposed ordinance and formal statements for and against the ordinance (and rebuttals);
- Gathered and analyzed publicly-available economic data on the impact of Sit-Lie laws in California cities and in Berkeley's commercial zones; and
- Gathered and analyzed City of Berkeley reports and other documents relevant to Measure S, and interviewed local stakeholders, including service providers and city officials.

It is important to note here the limits of our methods, the scarcity of data, and the difficulty of answering these questions in light of other factors unrelated to Sit-Lie. In spite of our efforts, we found relatively limited data from other Sit-Lie jurisdictions. The only jurisdiction with a published report about the effects of Sit-Lie is San Francisco, where the ordinance is less than two years old. In addition, survey response rates from stakeholders in Sit-Lie jurisdictions were under 20%, making it difficult to draw meaningful conclusions, especially because the sample size was already small. Finally, with respect to both economic activity and social services, there are many other variables which make it hard to isolate the specific impact of Sit-Lie laws.

On the other hand, Sit-Lie ordinances purport to represent an effective and important policy intervention, and we would expect the impacts to be significant and demonstrable. Interestingly, however, we could not find any non-anecdotal evidence of positive impacts with respect to economic activity or homeless services. Our literature review did not reveal any evidence of Sit-Lie's efficacy in other jurisdictions, and of the fifteen survey responses we received, none directed us to any evidence in support of their views about the positive or negative impacts of Sit-Lie. Even as we report our findings below, therefore, we recommend that more research be conducted to inform local officials and voters when considering such ordinances.

Section I of this report provides a brief history of Sit-Lie laws and Measure S. While the origins of

Measure S in Berkeley can be traced to 1994, Sit-Lie laws are the most recent example of centuries-long efforts to address vagrancy during periods of economic hardship and uncertainty. Local authorities have used various means to “warn out” homeless people and others since the American colonies.

Section II provides an economic analysis of Sit-Lie laws in the United States. Though increased economic activity is a central argument in favor of Sit-Lie laws, there is a dearth of evidence regarding the economic benefits or costs of such laws. We present the limited available data, including from Berkeley, and find that while economic costs may be substantial, economic benefits are uncertain and perhaps illusory.

Section III analyzes the service benefits of Sit-Lie laws to homeless people. While not an argument for Sit-Lie laws everywhere, Measure S proponents in Berkeley have stressed that the ordinance will drive homeless people to much-needed services. Based on data from other jurisdictions, the text of the ordinance and Berkeley’s existing capacity, we find no evidence that Measure S will improve services to homeless people.

Section IV considers proven alternatives to Sit-Lie ordinances like Measure S. In light of evidence-based practices elsewhere – and plans developed by the City of Berkeley’s Office of Economic Development – we conclude that the City likely has better options for revitalizing commercial areas and helping those in need.

## I. The History of Sit-Lie Laws and Berkeley’s Measure S

Ordinances controlling homeless people date at least to 14<sup>th</sup> century England in the form of vagrancy laws.<sup>4</sup> Rather than criminalizing an act, such laws criminalized the status of being a vagrant.<sup>5</sup> These laws were imported to the American colonies in the 17<sup>th</sup> century, and their enactment and enforcement fluctuated with war, economic crises and demographic changes.<sup>6</sup> By the middle of the 20<sup>th</sup> century, vagrancy laws and other laws regulating homeless people were in place in every state.<sup>7</sup> By the 1960s, however, state and federal courts across the country began striking down these laws for various constitutional reasons.<sup>8</sup> In 1972, a unanimous Supreme Court rejected vagrancy laws as “archaic classifications” that are unconstitutionally vague.<sup>9</sup>

After the deinstitutionalization of people with mentally illness in the 1970s and large social service cuts during the 1980s, local officials began looking for new methods to address the sharp rise in

homelessness.<sup>10</sup> Among those methods were Sit-Lie ordinances, which cities began enacting in the early 1990s.<sup>11</sup> In 1993, Seattle passed one of the first ordinances banning people from sitting or lying on commercial sidewalks during certain hours.<sup>12</sup> Other west coast cities followed Seattle’s lead, and in November, 1994, Berkeley voters passed Measure O banning sitting and lying in commercial zones.<sup>13</sup>

The Seattle law was challenged on the grounds that it violated the First and Fourteenth Amendments to the U.S. Constitution.<sup>14</sup> The American Civil Liberties Union (ACLU) and others sued the City of Berkeley on similar grounds halting enforcement of Measure O one month before it was to go into effect.<sup>15</sup> In 1996, however, the U.S. Court of Appeals for the Ninth Circuit upheld Seattle’s ban as constitutional on its face.<sup>16</sup> The Ninth Circuit also held that Sit-Lie ordinances could be successfully challenged when enforced – so-called “as applied” challenges – and in 1997, the Berkeley City Council repealed Sit-Lie (Measure O) and settled the lawsuit with the ACLU.<sup>17</sup>

In the two decades since it was enacted, a number of cities across the country have adopted Sit-Lie bans based on the Seattle model, including Santa Cruz, Santa Barbara, Modesto, Santa Monica, San Bruno and Palo Alto.<sup>18</sup> In 2010, the San Francisco Board of Supervisors placed a Sit-Lie ban, Proposition L, on the ballot and in November of that year it passed with 54.3% of the vote.<sup>19</sup> The following year, the Berkeley City Council began discussing a full Sit-Lie ban modeled after Proposition L.<sup>20</sup> In June 2012, the City Council voted 6-3 to place Measure S on this November’s ballot.<sup>21</sup>

## II. An Economic Analysis of Sit-Lie Laws

Since the early 1990s, a dozen or more U.S. cities have enacted Sit-Lie ordinances.<sup>22</sup> Proponents of Sit-Lie ordinances argue that they will improve the business climate in commercial areas where homeless people congregate. This section presents our findings on the economic benefits and costs of Sit-Lie laws generally, including what we can glean about the possible economic impact of Measure S in Berkeley.

As described more fully below, we find no empirical evidence that Sit-Lie ordinances revitalize business districts or otherwise increase economic activity. Although rarely discussed in Sit-Lie debates, implementation of such ordinances imposes fiscal costs on jurisdictions in the form of law enforcement and punishment. Such costs are difficult to measure – and we could find no jurisdictions which attempted to do so

– but they are likely to be non-trivial if the ordinances are enforced as written. In addition, Sit-Lie ordinances can be expensive to defend against lawsuits, since they are vulnerable to “as applied” challenges.

### A. Economic Benefits of Sit-Lie Laws

Measure S proponents say it will “save jobs,” presumably by stabilizing or increasing economic activity. In addition to employment, there are several possible economic indicators of the impact of Sit-Lie laws, including retail sales tax receipts and commercial vacancy rates. We therefore conducted a national search for such data related to the enactment of Sit-Lie ordinances. In addition to conducting an extensive literature review, we requested information from municipal economic development agencies and private chambers of commerce in Sit-Lie jurisdictions across the country.

Unfortunately, we were not able to identify any jurisdictions that captured before and after data on these or other economic metrics for the purposes of analyzing the effectiveness of their Sit-Lie ordinances. However, we were able to analyze California and Berkeley-specific data as follows:

First, we analyzed data from the California Board of Equalization regarding sales tax receipts in five Sit-Lie jurisdictions before and after enactment. Second, with data the City published in 2010, we analyzed the economic impact of the presence of homeless people in Downtown Berkeley and Telegraph Avenue.

As reported below, we find: (1) no evidence supporting a link between the enactment of Sit-Lie ordinances and economic activity in California cities, and (2) no evidence that homeless people negatively impact economic activity in selected commercial zones in Berkeley.

#### ***Finding #1: There is no evidence of increased economic activity in California Sit-Lie jurisdictions***

To our knowledge, not a single study has investigated the local economic impacts of a Sit-Lie ordinance. To begin addressing this knowledge gap, we examined the taxable sales of California municipalities with Sit-Lie ordinances. The California Board of Equalization publishes information on retail taxable sales at the city and county level.<sup>23</sup> Since 1997, the date

from which such data are available, five California cities have enacted Sit-Lie ordinances.<sup>24</sup> For each of these cities, we compared the retail sales from before the ordinance to the retail sales one year after the ordinance entered into effect. To control for other economic factors, we compared each city to the county in which it is situated.

We restricted taxable sales to retail sales because we assume that the imposition of a Sit-Lie ban has little impact on other forms of business, such as industrial or agricultural sales, especially in the short term. For each city-county pairing, we looked at the retail taxable sales in the last full quarter prior to the passage of the ordinance, and compared those ratios to the fiscal quarter one year after passage of the ordinance. We included a time lag because we do not expect behavioral changes in response to new laws to be instantaneous.

For the county data, we subtracted each comparison city’s retail sales from the overall retail sales of the entire county.<sup>25</sup> We recognize the inherent limitations of comparing a city to its county, including the problem that many cities rely on different economic bases than the rest of the county. Nevertheless, these were the best publicly-available economic data on the impact of Sit-Lie.

As set forth in Table 1, we found that among these five California cities, only Santa Monica outperformed its county one year after the enactment of Sit-Lie. That is, four of the five California Sit-Lie cities economically underperformed their county one year after enactment.

**Table 1. City vs. County Retail Sales Growth Rates after Implementation of Sit-Lie**

City	City Growth Rate	County Growth Rate
Santa Barbara	3.33%	5.27%
Modesto	4.36%	5.68%
Santa Monica	5.25%	3.67%
San Bruno	(-) 4.96%	0.00%
Palo Alto	(-) 4.32%	(-) 1.99%

It is important to note that this sample size is too small and controls for too few variables to reach



definitive statistical conclusions. Nevertheless, if there were a strong causal relationship between Sit-Lie laws and improved economic performance, we would expect to see at least some evidence in these data. No such evidence exists; in fact, the data suggest that Sit-Lie ordinances do not yield substantial economic benefits.

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***Finding #2: There is no evidence that Berkeley retail sales have suffered due to homeless people***

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The text of Measure S states “the purpose of the Ordinance is solely to address the deleterious impacts of encampments on public sidewalks.”<sup>26</sup> However, we found no publicly-available empirical data to support the argument that the presence of homeless people negatively impacts economic activity in particular commercial zones.<sup>27</sup>

Measure S proponents argue that an increase in homeless people since the economic downturn in 2008 has harmed economic activity in the Downtown Berkeley and Telegraph Avenue business districts.<sup>28</sup> We would expect, therefore, to find that such districts have fared worse than other commercial zones during this time. According to the most recent available data, all commercial zones have seen declining sales since 2008. In relative terms, however, Downtown Berkeley and Telegraph Avenue have outperformed all other business districts during that time.<sup>29</sup>

Table 2 provides data on the percentage change in retail sales in Berkeley’s nine business districts from the first quarter of 2008 through the first quarter of 2010.<sup>30</sup>

**Table 2. Change in Retail Sales by District, Year Ending 03/08 to Year Ending 3/10**

Neighborhood	Change in Retail Sales
Downtown	(-) 4.6%
Telegraph	(-) 6.9%
South San Pablo	(-) 7.1%
Elmwood	(-) 7.7%
North San Pablo	(-) 13.5%

South Berkeley	(-) 13.5%
Solano	(-) 15.4%
North Shattuck	(-) 18.5%
Fourth Street	(-) 21.5%

Thus, while every commercial neighborhood in Berkeley declined during this period, the areas with the greatest concentration of homeless people outperformed all other commercial districts. Of course, it is possible that the Downtown and Telegraph Avenue areas would have performed even better in the absence of homeless people, but our research has found no evidence in support of this theory.

## **B. Economic Costs of Sit-Lie Laws**

If Measure S passes, the City will likely incur implementation, enforcement and litigation costs. Projecting these costs prior to enactment is speculative, especially because the ordinance itself does not provide funding for these expenses. Costs will depend on city expenditures before the law goes into effect, the extent to which the police department prioritizes enforcement, and litigation costs if Measure S is challenged in the courts.

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***Finding #3: Implementing and enforcing Measure S will impose costs on the City***

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Additional city police costs that result from Measure S are unlikely to be significant. On one hand, some opponents argue that the ordinance will spread Berkeley’s police force more thinly. Officers will devote time to giving warnings, issuing citations and defending them in court, rather than addressing other crimes and policing responsibilities.<sup>31</sup> On the other hand, proponents argue that a Sit-Lie law gives beat cops another tool to address public disturbances.<sup>32</sup> The San Francisco City Hall Fellows report attempted to address this question by studying “quality of life citations,” but found that San Francisco’s tracking system does not provide requisite data for an adequate comparative analysis.<sup>33</sup> Without empirical data, we do not know whether the additional benefit will outweigh the opportunity cost, although we speculate that neither effect will be especially large.



Implementation of the law will require education of the police force and the public. Educating the police force entails the creation, dissemination, and absorption of guidelines for implementing the new law.<sup>34</sup> Educating the public is likely to be a more intensive process. Measure S will not go into effect until July 1, 2013, so that “comprehensive outreach and public education can be conducted.”<sup>35</sup> The outreach and education will involve homeless and youth service providers, merchants, community agencies, city staff and the police.<sup>36</sup> Furthermore, the Measure states that other methods, including signage will be used.<sup>37</sup> Although Measure S does not make provision for these expenditures, it is clear that the City must incur some implementation costs.

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***Finding #4: Defending Measure S against legal challenges is likely to be costly***

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Proponents characterize Measure S as constitutionally sound, but this is only partly accurate. There is enough uncertainty about the constitutionality of Sit-Lie laws that the passage of Measure S would likely result in a lawsuit against the City. As described above, a similar ordinance in Seattle was upheld *on its face* by the U.S. Court of Appeals for the Ninth Circuit – which is controlling precedent in California – but the court made clear that such ordinances could run afoul of the Constitution *as applied (enforced)* in any particular jurisdiction.<sup>38</sup> In a letter to the Berkeley City Council opposing Measure S, the ACLU notes that Measure S is unconstitutional if it unnecessarily limits free speech activities, such as panhandling and playing music.<sup>39</sup>

Berkeley’s history of litigation regarding similar ordinances suggests that Measure S will be contested in the courts should it pass.<sup>40</sup> Such a lawsuit could cost the City of Berkeley hundreds of thousands of dollars or more. As noted above, in the wake of the passage of Measure O in 1995, the ACLU filed a lawsuit challenging the Sit-Lie restrictions.<sup>41</sup> The case was eventually settled when the City agreed to repeal the law, but only after paying the ACLU \$110,000 in attorneys’ fees and presumably incurring substantial legal costs of its own.<sup>42</sup>

In sum, although we find no evidence of economic benefit, there will be costs related to the implementation, enforcement and legal defense of Measure S.

### III. A Service Analysis of Sit-Lie Laws

Proponents argue that helping homeless people access social services is one of the key goals of Measure S.<sup>43</sup> In fact, proponents claim that Measure S improves upon the Sit-Lie ordinances of other cities in ways that “ensure we are helping people find services.”<sup>44</sup> In this section, we explore whether Measure S is likely to achieve this goal.

First, we sought evidence from other cities regarding Sit-Lie’s impact on services to homeless people. We surveyed homeless service providers, city human services agencies and police departments in the Sit-Lie jurisdictions nationally. Second, we analyzed Measure S to assess how it will improve upon ordinances elsewhere with respect to homeless services. We reviewed the entire ballot measure and the portion which will become law if it passes.

Finally, we investigated the City of Berkeley’s capacity to assist additional homeless people if they are directed to services by the enforcement of Sit-Lie. As a part of this investigation, we analyzed the City of Berkeley’s homelessness reports and interviewed the director of the City’s Department of Housing, Health and Community Services.

As we detail next, there is little evidence to suggest that Measure S will – or even can – improve services to homeless people in Berkeley absent a commitment of additional resources not provided for by the ordinance. Without such an investment, Measure S is likely to harm at least some homeless people, rather than help them.

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***Finding #5: Sit-Lie ordinances have not connected homeless people to services in other cities***

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The National Law Center on Homelessness and Poverty defines the criminalization of homelessness as the “[e]nactment and enforcement of laws that make it illegal to sleep, sit, or store personal belongings in the public spaces of cities without sufficient shelter or affordable housing.”<sup>45</sup> In its 2010 Federal Strategic Plan, the U.S. Interagency Council on Homelessness (USICH) strongly advised local governments to refrain from enacting laws that criminalize homelessness.<sup>46</sup> The USICH plan asserts that such criminalization fails to increase access to services and tends to create additional barriers between homeless people and access to housing, income, and employment.<sup>47</sup>

The only published study about the impact that Sit-Lie has on homeless people comes from San Francisco, which also includes a service component in its ordinance. According to a 2010 report issued by the City Hall Fellows, an independent organization hired by the City of San Francisco, Sit-Lie enforcement has been uneven with respect to getting people into services.<sup>48</sup> First, police inconsistently administer service referrals across stations.<sup>49</sup> Second, the distribution of citations falls disproportionately on a very small number of vulnerable individuals.<sup>50</sup> Whether citations have actually been accompanied by service referrals is difficult to determine, as “there was [sic] no data collected in 2011 to determine the number of service referrals made by SFPD officers enforcing Sit/Lie or a methodology for tracking the individual outcomes of such referrals.”<sup>51</sup>

Given the recommendations from federal agencies, as well as the apparent failure of San Francisco’s Sit-Lie law to push offenders off the streets and into services, we find no evidence that Sit-Lie ordinances in other cities have succeeded in connecting homeless people to services.

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***Finding #6: Measure S will not connect homeless people to services in Berkeley***

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Measure S proponents describe several ways in which the ordinance will help homeless people access social services. First, the Measure S ballot statement – but not the proposed ordinance – says that before the law goes into effect, “comprehensive outreach and education can be conducted, involving homeless and youth service providers, merchants, community agencies, and city staff including police.”<sup>52</sup>

Second, Measure S proponents argue that “Ambassadors will encourage people into services.”<sup>53</sup> The Ambassador program was created by the Downtown Berkeley Property and Business Improvement District. Duties of Ambassadors include cleaning the streets, reporting graffiti to authorities, providing information to tourists, and referring homeless people to services.<sup>54</sup> Proponents say that Berkeley’s version of Sit-Lie is better than ordinances in other cities because it includes outreach from Ambassadors.<sup>55</sup>

Third, Measure S proponents state that Sit-Lie criminal charges will be dropped if violators agree to

participate in services.<sup>56</sup> According to proponents, the waiver citation provision also distinguishes Measure S from other Sit-Lie ordinances.<sup>57</sup>

In spite of these arguments, Measure S does not contain any provisions to connect homeless people with services; in fact, the ordinance itself makes no mention of services at all.<sup>58</sup> Further, the City recently determined that “[d]espite the positive process measures associated with the Ambassadors program, there has only been a marginal change, if any, in the overall quality of life in the Telegraph and Downtown areas.” As a result, the City cut the program’s budget in half for fiscal year 2012.<sup>59</sup> Finally, the Measure is silent on the waiver of citations in exchange for participating in services, and makes no other provision to incentivize service-seeking for cited individuals.

Since there is no requirement that service referrals must be made prior to issuing citations, no evidence that the Ambassador program is effective in changing the quality of life in targeted areas, and no provision for charges to be dropped (or any other incentives) if violators enter into services, it is very unlikely that the ordinance will connect homeless people to social services.

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***Finding #7: Berkeley does not have the capacity to assist more homeless people***

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Proponents of Measure S argue that Berkeley offers comprehensive social services that “are successful in finding treatment and homes for people who participate.”<sup>60</sup> Further, they say that homeless people’s failure to participate in those services is a result of their preference to remain on the streets.<sup>61</sup> Based on our findings, however, Berkeley is currently unable to house and serve all homeless people.

The City’s affordable housing units are currently at full capacity.<sup>62</sup> Additionally, the City has fewer shelter beds than homeless people. According to a 2009 survey, 680 homeless people reside in Berkeley.<sup>63</sup> However, there are only 138 year-round shelter beds in the City.<sup>64</sup> Even with the City’s 184 seasonal shelter beds, which are only available at certain times of the year, and 172 transitional housing beds, which are only available to specific persons, the number of homeless people in Berkeley exceeds the number of available beds.<sup>65</sup> Because Measure S does not include additional funding for homeless services in the City – so capacity cannot

expand in response to need – there is no evidence that homeless people will receive more or better services if the ordinance is enacted.

In fact, some evidence suggests that Measure S will make life harder for homeless people by diminishing their ability to escape the streets.<sup>66</sup> Under the ordinance, repeat Sit-Lie violators can be charged with a misdemeanor.<sup>67</sup> If a Measure S violator fails to attend a scheduled court hearing for any reason, including mental illness, physical disability,<sup>68</sup> or inability to pay transportation costs, then an arrest warrant may be issued, and repeat offenders may be taken into custody.<sup>69</sup> An arrest record creates a myriad of problems for homeless people: their public benefits may be cut,<sup>70</sup> their application for low-income housing units may be denied,<sup>71</sup> and they will face increased barriers to employment.<sup>72</sup> Though much will depend on police enforcement and local court practices, Measure S is likely to increase the problems facing at least some homeless people in Berkeley.

#### IV. Proven Alternatives to Sit-Lie Laws

National findings, reports from other cities, and local evidence suggest that there are proven means to achieve the economic and service goals of Measure S. The City of Berkeley's own assessment of the causes of and solutions to declining economic activity are unrelated to the presence of homeless people in commercial zones. In addition, federal agencies and national service organizations recommend a supportive housing model as the most effective way both to help chronically homeless people escape life on the streets and to decrease community costs related to homelessness.

##### ***Finding #8: Berkeley has identified better approaches to increasing economic activity***

Proponents of Measure S suggest that homeless people are responsible for flagging economic activity in Berkeley's commercial districts.<sup>73</sup> But in the most comprehensive report of its kind, the City of Berkeley's Economic Development Manager recently identified three root causes for the decline in retail sales since 2000: (1) the general economic downturn since 2008, (2) the rise of e-commerce, and (3) "the shift of retail spending to new retail centers in Emeryville and elsewhere."<sup>74</sup> Although the report points out that many

people want to "support Berkeley's neighborhood shopping areas, populated as they are with many unique, independently-owned stores,"<sup>75</sup> it is clear that Berkeley's economic problems are due to larger economic forces, including some of the same forces that have increased the number of homeless people.

The Economic Development Manager recommends five actions in response to these trends, none of which involves the regulation of homeless people.<sup>76</sup> These include: (1) "Buy Local," which would educate shoppers about the benefits of patronizing Berkeley stores; (2) later business hours on Telegraph Avenue and in the Downtown area, which would encourage the large youth population to seek entertainment in Berkeley rather than San Francisco or Oakland; (3) marketing assistance to reduce commercial vacancies, which would help retailers locate in Berkeley; (4) streamlining the permitting process for new retail stores; and (5) support for business district-sponsored festivals and events, to attract additional customers and create a "brand" identity for commercial districts in Berkeley.<sup>77</sup>

##### ***Finding #9: Supportive housing is the best way to accomplish the goals of Measure S***

According to experts, supportive housing is the most cost-effective means to solve chronic homelessness.<sup>78</sup> The 2011 report of a 29-city survey conducted by the U.S. Conference of Mayors stated that "providing more mainstream assisted housing led the list of actions needed to reduce homelessness in the survey cities."<sup>79</sup> Similarly, the Searching Out Solutions Summit – convened by the U.S. Department of Justice's Access to Justice Initiative, the U.S. Interagency Council on Homelessness, and the U.S. Department of Housing and Urban Development – reported that the development of permanent supportive housing "has been proven to provide a long-term solution for those experiencing chronic homelessness."<sup>80</sup>

Several cities, including New York, Denver, and Los Angeles, have implemented "Housing First" models, which are "premised on the theory that housing provides an initial foundation and source of basic stability without which efforts at recovery and rehabilitation cannot be enduringly successful."<sup>81</sup> New York's Street to Home Project, which has been in operation since 2004, reports to have reduced street homelessness by 87% in the 20-block radius around

Times Square.<sup>82</sup> Predictions based on initial participants in Denver's Housing First program show an average cost savings to the city of \$31,545 per person.<sup>83</sup> The Housing First program in Los Angeles was equally successful, yielding a 108% return on the city's investment and providing many participants with their first real access to comprehensive services.<sup>84</sup> According to participants, the stability created by housing greatly increased their ability to succeed in service programs.<sup>85</sup> Participants further reported that possessing a key to a home allowed them to feel like true members of society, and thus incentivized their success in services.<sup>86</sup>

Berkeley has implemented a supportive housing program, called Square One, which has succeeded in keeping some of Berkeley's chronically homeless people permanently off the streets.<sup>87</sup> In addition to helping Berkeley's homeless residents, Square One has saved the community significant costs. For example, because Square One refers clients to SSI advocates, clients with disabilities are able to transition from county-funded support (General Assistance) to federally-funded SSI benefits.<sup>88</sup> Additionally, Square One's medical care and mental health referrals reduce emergency care costs that hospitals would otherwise bear.<sup>89</sup> Square One has also led to an eight-fold reduction in arrest rates in participants, which reduces law enforcement costs.<sup>90</sup>

## Conclusion

In 2010, the Searching Out Solutions Summit convened national stakeholders to discuss solutions to homelessness, including law enforcement, court personnel, city government officials, social service advocates, business improvement district leaders, and health care providers.<sup>91</sup> The resulting report made several key recommendations to governments seeking to solve problems related to homelessness, including "implementing only proven or promising practices."<sup>92</sup>

Proponents of Measure S make empirical claims about the economic and service benefits of the ordinance. In this study, we tested these claims to see if they represent proven or promising practices. Although more data are needed about Sit-Lie ordinances nationally, our findings suggest that the benefits of such laws are neither proven nor promising.

Berkeley voters may support or oppose Measure S for other reasons, but there is no evidence that it will increase economic activity or improve services to homeless people if enacted.



## Appendix: Ballot Measure S

### Ballot Question

Shall an ordinance prohibiting sitting on sidewalks in commercial districts from 7:00 am to 10:00 pm, with exceptions for: (a) medical emergencies; (b) wheelchairs and similar mobility devices; (c) bus benches; (d) street events; (e) other furniture placed on the sidewalk pursuant to a permit; requiring the City to ensure that it is applied in a constitutional manner and requiring a warning prior to citation, be approved?

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### Text of Measure S

#### ORDINANCE NO. ##### - N.S.

#### AN ORDINANCE OF THE CITY OF BERKELEY ADOPTING NEW SECTION 13.36.025 OF THE BERKELEY MUNICIPAL CODE TO PROHIBIT SITTING ON SIDEWALKS IN COMMERCIAL DISTRICTS

#### THE PEOPLE OF THE CITY OF BERKELEY ORDAIN AS FOLLOWS:

##### Section 1. Findings

The People of the City of Berkeley find as follows:

A. In FY 2012 the City of Berkeley devoted more than \$2.8 million to services for the homeless, mentally ill, and other disadvantaged residents, including meals, shelters, transitional and permanent housing with supportive services, daytime drop-in centers, health services, employment programs, alcohol and other drug treatment and rehabilitation, case management, and legal services. Residents, taxpayers, and business owners of Berkeley share the consensus that the City should continue to provide this funding subject to resource constraints and taking into account other needs such as public safety and our City's infrastructure.

B. Public spaces in commercial districts have become increasingly inhospitable due to groups of individuals, often with dogs, having created encampments on sidewalk areas on our commercial streets. These encampments obstruct pedestrian access, and result in litter, debris, and waste left on our sidewalks.

C. City parks are open and available during the day for everyone's use.

D. As a result of the sidewalk encampments, residents and visitors tend to avoid some of our commercial areas, which threatens the viability of Berkeley's businesses that are already struggling. This in turn threatens the City's overall economic health. Reduced economic activity results in fewer resources available for homeless services.

E. Although state and local laws address various specific problematic behaviors and actions associated with encampments of people and dogs on the sidewalks, enforcement of such laws to an extent sufficient to reverse the trend described above is infeasible, as it would require a level of police resources that are simply not available, and would divert public safety resources from more serious crimes.

F. The only practical solution is to limit sitting on sidewalks only in commercial districts at certain hours of the day, and to require a warning before citation.

G. The purpose of this ordinance is solely to address the deleterious impacts of encampments on public sidewalks. Accordingly, it is the intent of the voters that the ordinance be interpreted and applied in a manner that does not discriminate against homeless, mentally ill or other residents of the City based on their status.

H. Because the intent of the voters is not to criminalize persons for sitting on the sidewalk given that other options are available (permanently-affixed public benches, bus stop benches, low walls, etc.), this ordinance shall not take effect until July 1, 2013, so that comprehensive outreach and education can be conducted, involving homeless and youth service providers, merchants, community agencies and City staff including police.

Other methods, such as signage, will also be employed.

##### Section 2. Adoption of Ordinance.

That a new Section 13.36.025 is hereby added to the Berkeley Municipal Code to read as follows:

#### **Section 13.36.025 - Prohibiting Sitting on Commercial Sidewalks at Certain Times – Exceptions.**

A. Prohibiting Sitting on Commercial Sidewalks at Certain Times. No person shall sit on a Commercial Sidewalk or on any object brought or affixed to said sidewalk, from 7:00 a.m. until 10:00 p.m., except as provided in this Section.

B. Exceptions. This Section shall not apply to any



person sitting on a commercial sidewalk:

1. Due to a medical emergency;
2. On a wheelchair or other device that is needed for mobility;
3. On a public bench or bus stop bench that is permanently affixed to the sidewalk; or
4. As authorized by a City-issued permit, such as a permit for a Street Event, a permit under Sections 14.48.170 or 14.48.200, or other City permit.

This Section shall not be construed to prohibit persons from obtaining such City permits.

These exceptions shall not be construed to allow conduct that is prohibited by other laws.

C. This Section shall not be applied or enforced in a manner that violates the United States or California constitutions. Prior to enforcement of this Section, the City shall develop and adopt rules, regulations and procedures to ensure that it is not applied or enforced in a manner that violates the United States or California constitutions.

D. Necessity of Warning Prior to Citation. No person may be cited for a violation of this Section until a peace officer first warns said person that his or her conduct is unlawful and said person is given a chance to stop said conduct. One warning by a peace officer to a person who is violating this Section is sufficient for a 30-day period as to any subsequent violations of this Section by said person during said period.

E. Commercial Sidewalk - Definition. As used in this Section, "Commercial Sidewalk" means all sidewalks in front of or adjoining property designated on the City's Official Zoning Map with a "C" prefix.

F. Violation - Infraction or Misdemeanor. A first violation of this Section shall be charged only as an infraction subject to either a \$75 fine or community service.

Subsequent violations may be charged as either an infraction or a misdemeanor.

### Section 3. Amendment of Ordinance.

Section 13.36.025 of the Berkeley Municipal Code as adopted by this Ordinance may be repealed or amended by the City Council without a vote of the people.

### Section 4. Severability.

If any section, sentence, clause, phrase, or portion of this Ordinance is for any reason held to be invalid or unenforceable by a court of competent jurisdiction, the remaining sections, sentences, clauses, phrases, or portions of this ordinance shall nonetheless remain in full force and effect. The people of the City of Berkeley hereby declare that they would have adopted each section, sentence, clause, phrase, or portion of this Ordinance, irrespective of the fact that any one or more sections, sentences, clauses, phrases, or portions of this Ordinance be declared invalid or unenforceable and, to that end, the provisions of this Ordinance are severable.

### Section 5. Majority Approval; Effective Date; Execution.

This Ordinance shall be effective only if approved by a majority of the voters voting thereon and shall go into effect on July 1, 2013. The Mayor and City Clerk are hereby authorized to execute this Ordinance to give evidence of its adoption by the voters.

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### **City Attorney's Impartial Analysis**

This measure would prohibit any person from sitting on a sidewalk in a commercial zoning district from 7:00 a.m. until 10:00 p.m., subject to the following exceptions:

1. Due to a medical emergency;
2. On a wheelchair or other device that is needed for mobility;
3. On a public bench or bus stop bench that is permanently affixed to the sidewalk; or
4. As authorized by a City-issued permit, such as a permit for a Street Event, or for public benches or outside café seating.

This measure would also provide that it could not be applied or enforced in a manner that violates the United States or California constitutions, and would require the City to develop and adopt rules, regulations and procedures to ensure that it is not applied or enforced in a manner that violates the United States or California constitutions, prior to enforcement.

This measure would provide that a first violation would be an infraction subject to either a \$75 fine or community service, but that subsequent violations could be charged as either an infraction or a misdemeanor.

The measure would require that before a person could be cited he or she would have to be warned by a

peace officer and given an opportunity to comply. A single warning would be sufficient for a 30-day period.

The measure would also allow the Council to amend or repeal the prohibition without further voter approval.

If approved, the measure would not go into effect until July 1, 2013.

s/ZACH COWAN  
Berkeley City Attorney

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### Argument in Favor of Measure S

Berkeley takes pride in being a humanitarian city. Berkeley was early in setting up services for people who were forced out of State institutions. Berkeley taxpayer's yearly fund more than \$2,800,000 to those in need. Yet, there are some who resist our help, preferring to encamp on shopping streets creating unsanitary conditions for themselves and residents. **Drugs, alcohol, and/or mental illness cause behavior that can be perceived as menacing, keeping shoppers away and hurting local merchants trying to make ends meet in a tough economy.**

Living on the street is unhealthy. It sends people into a downward spiral. Berkeley offers comprehensive social services that are successful in finding treatment and homes for people who participate.

Measure S (Berkeley Civil Sidewalks) has two goals: taking the initiative to help people into services and preventing street encampments that keep shoppers away from our businesses. Measure S will prevent sitting on commercial sidewalks during the day. **Outreach will take place before implementation, and Ambassadors will encourage individuals into city services.** If the Ambassadors are repeatedly unsuccessful, citations will follow. However, Berkeley will erase those citations from the person entering and participating in services.

Measure S is supported by a broad coalition of neighborhood merchants, residents and parent groups. **Confrontational behaviors from people who block sidewalks for hours at a time create an unacceptable environment for the "mom and pop" merchants who pay the taxes that fund the services, grow local jobs and make Berkeley a special place to live.**

Measure S is based on successful laws implemented in over 60 cities, but with the addition of several improvements that ensure we are helping people find

services.

**Vote Yes on S. Help people get social services, help merchants grow local jobs, and ensure civil and welcoming sidewalks for everyone.**

Proponents:

Tom Bates	Major, City of Berkeley
James Young	Partner, Paul's Shoe Repair
Erin Rhoades	Chair, Livable Berkeley
Craig Becker	Owner, Caffè Mediterraneo
Susan Wengraf	Berkeley City Councilmember

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### Rebuttal to Argument in Favor of Measure S

Our community has a tradition of compassionate, sensible problem-solving. Where other cities scapegoat, Berkeley seeks real solutions.

**Criminalizing sitting is a proven failure:** San Francisco's law has failed "to improve merchant corridors, serve as a useful tool for SFPD, connect services to those who violate the law, and positively contribute to public safety," according to a report commissioned by the San Francisco Controller's Office. Imitating other cities' failures doesn't help businesses and hurts poor people. This is not how Berkeley solves problems.

**Measure S will divert police resources from preventing and solving real crimes.** It will push unsheltered teens into a futile cycle of warrants, jail time, and back into the streets. The ACLU calls measure S "an infringement of civil rights and civil liberties."

**Poor people do not choose to rest in public.** We have no drop-in center for homeless youth. Our youth shelter is open only six months a year. Neither the youth shelter nor the adult shelter is open during the day. There are four homeless people in Berkeley for every shelter bed. The "ambassadors" – hired to clean downtown streets – are not trained in mental health or homeless outreach.

*We can do better than this.* Instead of wasting city money on proven failures, we can fully fund a youth shelter, provide enough shelter beds, and more public restrooms. Instead of pushing people out of our shared public spaces, we can unite to create *real* solutions for the economic problems that plague small business. **Vote No on Proposition S.**

Jesse Arreguín	Berkeley City Councilmember
Elisa Della-Piana	Civil Rights Attorney, East Bay

Branden Figueroa      Community Law Center  
 Mary Dirks            Student Coordinator  
 Rabbi David Cooper    Owner, Café  
                                  Kehilla Community Synagogue

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### Argument Against Measure S

Can you imagine getting arrested for sitting down on a public sidewalk? In Berkeley? If Measure S passes, anybody could be cited or arrested for this simple act – yet another law restricting the public space we all share. But it also sets a dangerous precedent, discriminating against an entire class of people who happen to be poor. These are not Berkeley values.

The street behavior used to justify this measure is already illegal. This measure will harm public safety by diverting police resources away from solving real crimes.

Measure S won't help business. A similar law in San Francisco had no effect on improving merchant corridors, helping homeless people obtain services, reducing the number of homeless people on the street, or increasing public safety.

Throwing people in jail is no solution to homelessness. Instead, it creates a problem for all of us. The U.S. Interagency Council on Homelessness has found that when people are arrested or fined for "act of living" crimes in public spaces, it makes it *more* difficult for them to find work and receive services and housing. This measure is a step backwards.

Berkeley has the largest gap between rich and poor in the Bay Area – we need serious solutions, not laws criminalizing the act of sitting down. This measure offers no solutions for businesses, customers, or homeless people.

Join the ACLU, small businesses, Berkeley community organizations, and faith groups to VOTE NO on this extraordinary waste of money and police resources. Stand up for the simple human right to sit down, to rest, and to share our common public space.

Let's come together, as one Berkeley, and find real solutions that help our communities. Visit [www.noonsberkeley.com](http://www.noonsberkeley.com). **KEEP SITTING LEGAL. Vote NO on Measure S.**

Max Anderson  
 Kriss Worthington  
 Satinder Boona Cheema

Nolan Pack  
 Eleanor Walden

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### Rebuttal to Argument Against Measure S

**Don't believe the scare tactics being used by the opponents of Measure S the Berkeley Civil Sidewalks Ordinance.**

Ordinances like Measure S have already saved jobs in merchant areas and have slowed the downward spiral that comes with living on the sidewalks. **Yes on S will help people get the critical services they NEED to transform their lives.**

**Similar ordinances have improved commercial areas in Santa Cruz, Santa Monica, San Francisco and 60 cities.** It has passed extensive judicial review and only Berkeley's version includes both outreach from our Ambassadors and waiving citations in exchange for services.

**It is not a progressive value to watch people wither away on sidewalks day after day,** becoming more unstable and abusing their bodies with alcohol and drugs.

**It is not responsible to disregard that reality and ignore its impact on neighborhood businesses.** Local jobs are critical for working families who are barely staying afloat in an economy that has been too harsh for too long.

**It is not compassionate to do nothing** about a harmful situation and support the status quo.

**Yes on S will help people get the services they need to transform their lives.** Berkeley spends over \$2,800,000 on comprehensive social services **and we have real solutions to help people transition from the streets to stable environments. That will continue.**

**Measure S will help people and will save local jobs.** Measure S encourages alternatives to street life and safer sidewalks for everyone.

**Vote Yes on S, Berkeley Civil Sidewalks.**

[Berkeleycivilsidewalks.com](http://Berkeleycivilsidewalks.com)

Laurie Capitelli	Berkeley City Councilmember
James Young	Partner, Paul's Shoe Repair
Erin Rhoades	Chair, Livable Berkeley
Craig Becker	Owner, Caffè Mediterraneo
Tom Bates	Mayor, City of Berkeley

## Notes

<sup>1</sup> The text of Measure S, the city attorney's impartial analysis and ballot arguments are provided in an Appendix.

<sup>2</sup> The organized campaign in favor of Measure S is the "Coalition for Berkeley Civil Sidewalks, Yes on S," whose website is available at: <http://berkeleycivilsidewalks.com/>.

<sup>3</sup> The organized campaign against Measure S is the "Stand Up for the Right to Sit Down: A Committee in Opposition to Measure S," whose website is available at: <http://www.noonsberkeley.com/>.

<sup>4</sup> Paul Ocobock, CAST OUT: VAGRANCY AND HOMELESSNESS IN GLOBAL AND HISTORICAL PERSPECTIVE 6 (A.L. Beier & Paul Ocobock eds., 2008); Leonard C. Feldman, CITIZENS WITHOUT SHELTER, 27 (2004).

<sup>5</sup> Harry Simon, *Towns without Pity: A Constitutional and Historical Analysis of Official Efforts to Drive Homeless Persons from American Cities*, 66 TUL. L. REV. 631, 640 (1992).

<sup>6</sup> Feldman, *supra* note 4, at 34; Simon, *supra* note 5, at 638; Ocobock, *supra* note, 4 at 18-19.

<sup>7</sup> Simon, *supra* note 5, at 639. Other laws used to control the homeless included loitering laws and early versions of Sit-Lie bans. *Id.* at 633; Max Jacobs, *SF's Sit/Lie law: civil sidewalks or disguised discrimination?*, CROSSCURRENTS, KALW NEWS (October 26, 2010), available at:

[http://kalwnews.org/audio/2010/10/26/sfs-sitlie-law-civil-sidewalks-or-disguised-discrimination\\_658889.html](http://kalwnews.org/audio/2010/10/26/sfs-sitlie-law-civil-sidewalks-or-disguised-discrimination_658889.html).

<sup>8</sup> Simon, *supra* note 5, at 642-644. The bases for striking down vagrancy laws included discrimination, cruel and unusual punishment, impermissible restrictions on the right to travel, and impermissible punishment of innocent conduct. *Id.* In *Parker v. Municipal Judge* (1967), the Nevada Supreme Court noted, "It is simply not a crime to be unemployed, without funds, and in a public place. To punish the unfortunate for this circumstance debases society." *Id.* at 643.

<sup>9</sup> Papachristou v. City of Jacksonville, 405 U.S. 156 (1972).

<sup>10</sup> Simon, *supra* note 5, at 645-646; National Coalition for the Homeless, MENTAL ILLNESS AND HOMELESSNESS 8 (2006), available at:

[http://www.nationalhomeless.org/publications/facts/Mental\\_Illness.pdf](http://www.nationalhomeless.org/publications/facts/Mental_Illness.pdf).

<sup>11</sup> Don Mitchell, *The Annihilation of Space by Law: The Roots and Implications of Anti-homeless Laws in the United States*, 3 ANTIPODE 303, 305 (1997).

<sup>12</sup> Seattle Municipal Code 15.48.040; Heather Knight, *San Francisco Looks Like Seattle: Did Sidewalk Sitting Ban Help?*, S.F. CHRON., March 29, 2010, available at: <http://www.seattlepi.com/local/article/San-Francisco-looks-to-Seattle-Did-sidewalk-888774.php#page-3>.

<sup>13</sup> Elisabeth Traugott, *Palo Alto's Not Alone Dealing with Sit-Lie Law*, PALO ALTO ONLINE (May 21, 1997), available at: [http://www.paloaltoonline.com/news\\_features/homeless/homeless.story2.php](http://www.paloaltoonline.com/news_features/homeless/homeless.story2.php).

<sup>14</sup> *Roulette v. City of Seattle*, 97 F.3d 300, 302 (9th Cir. 1996).

<sup>15</sup> Traugott, *supra* note 13; Berkeley Community Health Project v. City of Berkeley, 902 F.Supp. 1084, 1091 (N.D. Cal. 1995) [hereinafter Community Health I].

<sup>16</sup> Roulette, *supra* note 14, at 305. Generally, when a law is facially challenged the court looks only to the text of the statute. Community Health I, *supra* note 15, at 1091-1092.

<sup>17</sup> See Roulette, *supra* note 14, at 304, 306; Berkeley Community Health Project v. City of Berkeley, 966 F. Supp. 941 (N.D. Cal. 1997) (vacating injunction, dismissing action and providing for Attorneys' Fees). In 1998, the Berkeley City Council passed an ordinance that prohibited lying on commercial sidewalks, which is still in force today. BMC 13.36.015. The ban on lying was extended to additional commercial areas in 2007 under Berkeley's "Public Commons for Everyone Initiative," which also reduced warning and complaint requirements regarding lodging in public, P.C. §647e, and prohibited smoking in commercial zones. BMC 12.07. Although the court in Community Health I believed that a challenge to the sit law was likely to prevail on the merits, the court did not believe that the Plaintiff showed a likelihood of prevailing on the merits of the ban on lying. Community Health I, *supra* note 13, at 1095.

<sup>18</sup> Santa Cruz Municipal Code § 9.50.012; Santa Barbara Municipal Code § 9.97.010; Modesto Municipal Code § 4-7.1502.1; Santa Monica Municipal Code § 3.12.350; San Bruno Municipal Code § 6.12.060; Palo Alto Municipal Code 9.48.025.

<sup>19</sup> San Francisco Municipal Code § 168 (2010); Jessica Casella Et Al., IMPLEMENTATION, ENFORCEMENT AND IMPACT: SAN FRANCISCO'S SIT/LIE ORDINANCE ONE YEAR LATER 10 (2012), available at: <http://wraphome.org/downloads/sitLieCHFRReport.pdf>. San Francisco already had a Sit-Lie ban in place in the 1960s. It was initially enforced against hippies and then challenged and repealed in the 1970s after being used to harass gay men in the Castro. Jacobs, *supra* note 7.

<sup>20</sup> Casella, *supra* note 19, at 12.

<sup>21</sup> Frances Dinkelspiel, *Berkeley Sitting Ban Progresses Toward November Ballot*, BERKELEYSIDE (June 13, 2012), available at: <http://www.berkeleyside.com/2012/06/13/sit-lie-ordinance-progresses-toward-november-ballot/>.

<sup>22</sup> Proponents regularly argue that Sit-Lie ordinances have been enacted in more than 60 cities. Our research suggests that roughly one dozen cities impose criminal or civil penalties for sitting in commercial areas during specific times of the day. Dozens of other cities impose penalties for a variety of other activities, some of which are more limited than the restrictions contained in Measure S and some of which are broader (though perhaps enforced more narrowly).

<sup>23</sup> TAXABLE SALES IN CALIFORNIA, available at: <http://boe.ca.gov/news/tsalescont.htm> (last visited Oct. 12, 2012).

<sup>24</sup> San Francisco's Sit-Lie ordinance went into effect in March 2011, so we do not have post-enactment data. San Francisco is also a single city and county, which does not allow for comparison between the two jurisdictions.



<sup>25</sup> For example, when calculating the growth of Santa Barbara County, we excluded the retail sales revenues from the City of Santa Barbara for both time periods.

<sup>26</sup> Measure S, Finding G.

<sup>27</sup> In a 2011 non-scientific survey of UC Berkeley students, a majority of respondents agreed or strongly agreed with the statement that they would frequent Telegraph Avenue and Downtown Berkeley more if “there were fewer people sitting on the sidewalk.” The ASSOCIATED STUDENTS OF THE UNIVERSITY OF CALIFORNIA AND GRADUATE ASSEMBLY POLL (October 2011), available at:

[http://www.surveymonkey.com/sr.aspx?sm=3f\\_2f3kxCPrRqbrrJmVHKISjI\\_2bnQwh4fEMhNzKQ0Z\\_2f0WA\\_3d](http://www.surveymonkey.com/sr.aspx?sm=3f_2f3kxCPrRqbrrJmVHKISjI_2bnQwh4fEMhNzKQ0Z_2f0WA_3d).

Majorities of students surveyed also said that they would frequent these areas more if “there were more retail shops I like” and “there were more restaurants I like.” *Id.* From such opinion polling, it is as difficult to infer a causal connection between the presence of homeless people and economic activity as it is between economic activity and the particular mix of services and restaurants in certain districts.

<sup>28</sup> Craig Becker, *Measure S, We Can Do Better With Civil Sidewalks*, BERKELEYSIDE (September 19, 2012), available at: <http://www.berkeleyside.com/2012/09/19/measure-s-we-can-do-better-with-civil-sidewalks/>.

<sup>29</sup> Phil Kamlarz, DECLINE IN TAXABLE RETAIL SALES IN BERKELEY WITH CORRESPONDING DECLINE IN CITY REVENUE FROM THE STATE SALES TAX 9 (October 2010).

<sup>30</sup> We contacted the City of Berkeley’s Office of Economic Development for updated data, but these are the most recent numbers we were able to obtain.

<sup>31</sup> E.g. Rebuttal to Argument in Favor of Measure S; SB 64 (The Associated Students of the University of California 2012), available at: <http://nolanpack.com/sb64/>.

<sup>32</sup> Berkeley Civil Sidewalks, *Frequently Asked Questions*, (Oct. 12, 2012, 5:30 PM), available at: <http://berkeleycivilsidewalks.com/faq/>.

<sup>33</sup> *Id.* at 26.

<sup>34</sup> See Casella, *supra* note 19, appendix C-F.

<sup>35</sup> Measure S, Finding H.

<sup>36</sup> *Id.*

<sup>37</sup> *Id.*

<sup>38</sup> Roulette, *supra* note 14, at 304, 306.

<sup>39</sup> Alan Schlosser, *ACLU Opposes Anti-Sitting Measure: Letter to the Berkeley City Council*, THE BERKELEY DAILY PLANET (July 9, 2012), available at: <http://www.berkeleydailyplanet.com/issue/2012-07-06/article/39961?headline=ACLU-Opposes-Anti-Sitting-Measure-Letter-to-the-Berkeley-City-Council--By-Alan-Schlosser-Legal-Director>.

<sup>40</sup> See note 17 and accompanying text.

<sup>41</sup> More information on this lawsuit can be found here: [https://www.aclunc.org/news/press\\_releases/berkeley\\_drops\\_anti-solicitation\\_anti-sitting\\_laws\\_council's\\_vote\\_will\\_settle\\_aclu\\_class\\_action\\_lawsuit.shtml](https://www.aclunc.org/news/press_releases/berkeley_drops_anti-solicitation_anti-sitting_laws_council's_vote_will_settle_aclu_class_action_lawsuit.shtml).

<sup>42</sup> *Id.*

<sup>43</sup> Argument in Favor of Measure S.

<sup>44</sup> *Id.*

<sup>45</sup> The National Law Center on Homelessness and Poverty. CRIMINALIZING CRISIS: THE CRIMINALIZATION OF HOMELESSNESS IN U.S. CITIES 6 (November 2011), available at:

<http://www.nlchp.org/content/pubs/11.14.11%20Criminalization%20Report%20&%20Advocacy%20Manual,%20FINAL1.pdf>.

<sup>46</sup> United States Interagency Council on Homelessness, OPENING DOORS: FEDERAL STRATEGIC PLAN TO PREVENT AND END HOMELESSNESS 49 (2010), available at: [http://www.ich.gov/PDF/OpeningDoors\\_2010\\_FSPPreventEndHomeless.pdf](http://www.ich.gov/PDF/OpeningDoors_2010_FSPPreventEndHomeless.pdf). The USICH is an independent agency within the executive branch comprised of leaders from the Veterans Association, the Social Security Administration, the Department of Housing and Urban Development, and other federal agencies.

<sup>47</sup> *Id.*

<sup>48</sup> Casella, *supra* note 19 at 14.

<sup>49</sup> *Id.*

<sup>50</sup> *Id.* at 24. At Park Station, the district at the epicenter of support for Sit-Lie, over 90% of citations were given to nineteen repeat offenders. More than 50% of those citations went to only four individuals. *Id.* at 22.

<sup>51</sup> *Id.* at 24.

<sup>52</sup> Measure S, Finding H.

<sup>53</sup> Argument in Favor of Measure S.

<sup>54</sup> Christine Daniel, ASSESSMENTS: DOWNTOWN BERKELEY PROPERTY AND BUSINESS IMPROVEMENT DISTRICT 2 (July 17, 2012), available at:

[http://www.ci.berkeley.ca.us/uploadedFiles/Clerk/Level\\_3\\_-\\_City\\_Council/2012/07Jul/2012-07-17%20Item%2029%20Assessments%20Downtown%20Berkeley.pdf](http://www.ci.berkeley.ca.us/uploadedFiles/Clerk/Level_3_-_City_Council/2012/07Jul/2012-07-17%20Item%2029%20Assessments%20Downtown%20Berkeley.pdf).

<sup>55</sup> Rebuttal to Argument Against Measure S.

<sup>56</sup> Argument in Favor of Measure S.

<sup>57</sup> Rebuttal to Argument Against Measure S.

<sup>58</sup> Section 13.36.025 - Prohibiting Sitting on Commercial Sidewalks at Certain Times.

<sup>59</sup> Phil Kamlarz, STATUS REPORT ON PUBLIC COMMONS FOR EVERYONE INITIATIVE 8 (May 17, 2011), available at: <http://www.ci.berkeley.ca.us/uploadedFiles/2011-05-17%20Item%2029%20Status%20Report%20on%20Public%20Commons%20for%20Everyone.pdf>.

<sup>60</sup> Argument in Favor of Measure S.

<sup>61</sup> *Id.*

<sup>62</sup> Jane Micallef. Director of Berkeley City Housing, Health and Community Services. Interview conducted September 4, 2012.

<sup>63</sup> Mary Kay Cluneis-Ross, City of Berkeley Public Information Officer. NUMBER OF CHRONICALLY HOMELESS IN BERKELEY DECREASES BY HALF: CITY-COMMUNITY AGENCY PARTNERSHIPS HAVE LED TO COORDINATED SERVICES AND MORE SUPPORTIVE HOUSING (July 8, 2009), available at:



<http://www.ci.berkeley.ca.us/PressReleaseMain.aspx?id=41902>.

<sup>64</sup> City of Berkeley, ANNUAL ACTION PLAN (DRAFT) 31 (March 13, 2012), available at: [http://www.ci.berkeley.ca.us/uploadedFiles/Housing/Level\\_3\\_-\\_General/AAP2\\_PY2012\\_March13PublicCommentDraftwithAttachments.pdf](http://www.ci.berkeley.ca.us/uploadedFiles/Housing/Level_3_-_General/AAP2_PY2012_March13PublicCommentDraftwithAttachments.pdf).

<sup>65</sup> *Id.*

<sup>66</sup> National Law Center on Homelessness and Poverty, *supra* note 45, at 33.

<sup>67</sup> Measure S, Section 2. F.

<sup>68</sup> United States Conference of Mayors, HUNGER AND HOMELESSNESS SURVEY 23 (December 2011), available at: <http://usmayors.org/pressreleases/uploads/2011-hhreport.pdf> (finding that 26% of homeless adults are severely mentally ill and 16% are physically disabled).

<sup>69</sup> Cal. Penal Code §§ 853.6 (i) (5)-(9) (West Supp. 2010). Police may lawfully arrest someone charged with a misdemeanor for a variety of reasons, including a person's inability to provide satisfactory proof of identification, a reasonable likelihood that the prosecution of the offense would be jeopardized by immediate release, or a reasonable likelihood that the offense would continue.

<sup>70</sup> National Law Center on Homelessness and Poverty, *supra* note 45, at 33.

<sup>71</sup> *Id.* at 31.

<sup>72</sup> Society of Human Resources Management, BACKGROUND CHECKING: CONDUCTING CRIMINAL BACKGROUND CHECKS 3 (2010), available at: <http://www.shrm.org/Research/SurveyFindings/Articles/Pages/BackgroundCheckCriminalChecks.aspx> (finding that over ninety percent of respondents conducted a criminal background check on some or all job applicants).

<sup>73</sup> Measure S, Finding D.

<sup>74</sup> Phil Kamlarz, *supra* note 29, at 2.

<sup>75</sup> *Id.* at 11.

<sup>76</sup> *Id.*

<sup>77</sup> *Id.* at 11-13.

<sup>78</sup> The Lewin Group, COSTS OF SERVING HOMELESS INDIVIDUALS IN NINE CITIES: CHARTBOOK (November 19, 2004), available at <http://www.lewin.com/publications/publication/270/> (finding that jails, prisons, and mental institutions are much more expensive solutions to homelessness than housing).

<sup>79</sup> United States Conference of Mayors, *supra* note 68 at 3.

<sup>80</sup> United States Interagency Council on Homelessness, SEARCHING OUT SOLUTIONS: CONSTRUCTIVE ALTERNATIVES TO CRIMINALIZATION 12 (2010), available at: [http://www.usich.gov/resources/uploads/asset\\_library/RPT\\_SoS\\_March2012.pdf](http://www.usich.gov/resources/uploads/asset_library/RPT_SoS_March2012.pdf).

<sup>81</sup> Halil Toros, et al., PROJECT 50: THE COST EFFECTIVENESS OF THE PERMANENT SUPPORTIVE HOUSING MODEL IN THE SKID ROW SECTION OF LOS ANGELES COUNTY 5 (June 2012), available at: [http://zev.lacounty.gov/wp-](http://zev.lacounty.gov/wp-content/uploads/Project-50-Cost-Effectiveness-report-FINAL-6-6-12.pdf)

[content/uploads/Project-50-Cost-Effectiveness-report-FINAL-6-6-12.pdf](http://zev.lacounty.gov/wp-content/uploads/Project-50-Cost-Effectiveness-report-FINAL-6-6-12.pdf).

<sup>82</sup> Common Ground, Section on Who We Serve, *Chronically Homeless*, available at: <http://www.commonground.org/who-we-serve/chronically-homeless> (last visited October 13, 2012).

<sup>83</sup> Jennifer Perlman, et al., DENVER HOUSING FIRST COLLABORATIVE, COST BENEFIT ANALYSIS AND PROGRAM OUTCOMES REPORT 2 (December 11, 2006), available at: <http://mdhi.org/download/files/Final%20DHFC%20Cost%20Study.pdf>.

<sup>84</sup> Halil Toros, et al., *supra* note 81, at 22-24.

<sup>85</sup> *Id.* at 23.

<sup>86</sup> *Id.*

<sup>87</sup> Phil Kamlarz, *supra* note 59, at 4. Of the seventeen individuals originally enrolled in Square One, fourteen remain in the housing provided by the program, one passed away due to illness, one has obtained federally subsidized housing, and one has returned to jail for violating parole but is expected to rejoin Square One upon release. *Id.* at 4.

<sup>88</sup> *Id.* at 5.

<sup>89</sup> *Id.* at 4.

<sup>90</sup> *Id.*

<sup>91</sup> United States Interagency Council on Homelessness, *supra* note 80 and accompanying text.

<sup>92</sup> *Id.* at 3.

## Amy Johnson

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**From:** Lynelle Wilcox <lynelle@comcast.net>  
**Sent:** Monday, November 18, 2019 3:46 AM  
**To:** Chuck Bennett; Lynda Rose; Steve Powers; Tami Carpenter; Cara Kaser; Tom Andersen; Brad Nanke; Jackie Leung; Matthew Ausec; Chris Hoy; Vanessa Nordyke; Jim Lewis; Kristin Retherford; Jerry Moore; Kathy Sime; Dan Atchison; CityRecorder  
**Subject:** Opposing Salem's sit-lie ordinance; time gap

The Homeless Coalition opposes the city's proposed sidewalk/sit-lie ordinance.

<p><b><u>Sit-lie compromise proposal</u></b> - Advocates are proposing a compromise - to retain the proposed ordinance's camping ban and the property ban, yet omitting the sit-lie ban from the ordinance.</p>
---

The Homeless Coalition supports the compromise proposal.

Whether a sit-lie ban would be from 7am to 9pm, or 7am to 7pm, currently, even if every unsheltered person went to permissible places during the proposed ban hours, there is a large gap in time where there is nowhere for people to be. The attached fact sheet shows the time gap.

**DID YOU KNOW**... The City of Salem is proposing a Sidewalks and Public Space sitting, sleeping, or laying on the sidewalk from 7 am to 9 pm. This is common

**WHERE CAN PEOPLE CAN GO DURING BAN HOURS?:** The City says that “Av Union Gospel Mission, Salvation Army, parks and city benches, or churches allow such activity.”

### **THE REALITY**...

- Arches day center closes at 3pm on weekdays and is closed on weekend
- Union Gospel Mission is open all day, for **men only**. (*Women can only be*
- Salvation Army doesn't have a day center. Even residents must leave after
- Many city benches have been removed.
- Salem churches don't offer day centers; some offer sack lunches, and 4 time warming shelters when weather is 32 degrees or less.
- Homeless Outreach and Advocacy Project (HOAP) day center closes at 2 weekends. *Monday and Thursday from 9 to 11 am is women only.*

Sit-Lie Ban Hours:	7am	8am	9am	10am	11am	12 noon	1pm	2pm	3pm
Arches	Red	Red	Green	Green	Green	Green	Green	Green	Green
HOAP - Monday & Thursday, 9 to 11 am is women only	Red	Red	Green	Green	Green	Green	Green	Green	Red
UGM - men only	Light green	Light green	Light green	Light green	Light green	Light green	Light green	Light green	Light green
Salvation Army	Red	Red	Red	Red	Red	Red	Red	Red	Red

**Legend:** **Green** reflects places people CAN be during sidewalk ban hours  
**Red** reflects places people CANNOT be during sidewalk ban hours  
**Light green** reflects places only MEN can be during sidewalk ban hours

**Even if sit-lie was a good idea, we don't have the capacity to implement it in a humane way.**

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the highest art is the art of living an ordinary life in an extraordinary manner.

and...

with our thoughts, we make the world.

♥♥. \*''\* . ♥. \*''\* ♥\* . \*''\* ♥\* . \*''\* ♥\* . \*''\* ♥♥. \*''\* ♥♥. \*''\* ♥♥. \*''\* ♥♥

## Amy Johnson

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**From:** Lynelle Wilcox <lynelle@comcast.net>  
**Sent:** Monday, November 18, 2019 3:50 AM  
**To:** Chuck Bennett; Lynda Rose; Steve Powers; Tami Carpenter; Cara Kaser; Tom Andersen; Brad Nanke; Jackie Leung; Matthew Ausec; Chris Hoy; Vanessa Nordyke; Jim Lewis; Kristin Retherford; Jerry Moore; Kathy Sime; Dan Atchison; CityRecorder  
**Subject:** Opposing Salem's sit-lie ordinance: Implementation disparity concern

**Concerns about the sit-lie ban:** Unsheltered individuals and advocates oppose the sit-lie ban for many reasons - it violates basic human rights, it discriminates against people with invisible disabilities, there are safety and other valid reasons some people rest/sleep during the day, the ban focuses on existence instead of behaviors, there are existing rules & cooperative ways to resolve inappropriate behaviors, more supports are available to businesses, and there is nowhere for people to go that has the capacity and hours to fit all the people who would be affected by the proposed ban.

Beyond those reasons, there is huge concern about the ordinance because **the city is sharing vastly different information about how sit-lie would be implemented.**

Whatever you think about sit-lie, implementation intentions can be a huge defining factor for supporting or opposing the ordinance, and implementation premises would understandably hugely influence how City Councilors will vote. A vote cannot have integrity if people are voting based on vastly different premises.

**What we're being told about sit-lie:**

Multiple city officials have responded to people who oppose the ban by sharing that sit-lie rules would be used rarely, selectively, for just a few people who often cause problems.

Advocates have also heard from some people who support the sit-lie ban BECAUSE they have been told that sit-lie rules would be used selectively, and would not be a sidewalk sweep situation.

Yet many sit-lie supporters convey that they support the ordinance BECAUSE they have been told, read, and believe that the sit-lie ban will get rid of anyone sitting or lying.

**What is actually written by the city about sit-lie:**

The ordinance itself speaks about sidewalks not being appropriate for sitting/lying, and city narratives speak about keeping sidewalks clean, and specifically say that the ordinance **would be** applied to all people consistently.

**Disparity:** Whichever is true, one group or the other is being set up to have their expectations dashed because of the city's duplicity about whether the sit-lie ban would be applied broadly to all, or selectively and narrowly.

**Which set of city information should we believe?** Should we believe what the city has written in the proposed ordinance and what the city has written in the narratives about the proposed ordinance?

Or should we believe the verbal assurances that sit-lie rules would be applied very selectively, rarely, and with compassion?

**Or, flipping the question... which set of city information are we supposed to NOT believe?**

~~~~~

As an example, I asked a Lieutenant Upkes this question:

Pretend sit-lie has passed. It's 5pm on a cold, windy, snowy winter night. I'm connected with services - I'm on a housing wait list with Arches; I see my mental health counselor weekly at HOAP. I've connected with Goodwill and they've helped me write a resumé. Yet even if I get job quickly, it will be a long while before I will have a place to live. (And many people experience disabilities that prevent them from working yet, or ever.)

So... it's 5 pm on a weekday, or it's a weekend. So Arches is closed; HOAP is closed; other people are on the downtown benches; I'm a female, so I can't sit and rest at Union Gospel Mission, and the park has no shelter from the wind and snow. I've been walking all day; I'm tired. I can't sit or lie down till 9pm. Where do I go?

The Lieutenant said that my options are to go to the park anyway. Or I can walk. Or I can remain standing. But he'd need to issue an exclusion order if I will still sit or lie on the sidewalk, even if I am not blocking any passage, and even if I am not behaving inappropriately.

So in this scenario, I have a 4 hour window where I need to be at a park, or standing, or walking. How is that humane?



~~~~~

Meanwhile, another advocate asked a different officer a similar question. That officer conveyed that he'd need to confirm by phone that other options are not open. And if he confirmed that, then he'd need to accept that the person CAN sit or lie because other options are not available.

~~~~~

Meanwhile, another official shared that the officer would need to not only say where the person CAN go, but the officer would need to bring the person to the other option if the person was not able to get there on their own.

~~~~~

Which is it?

Until/unless we know what's true, a real vote cannot happen with any integrity.

ACLU quote: "People do not lose their right to exist in a public place when they lose a home."

[https://www.aclu.org/press-releases/aclu-statement-durangos-anti-homeless-sit-lie-ordinance?fbclid=IwAR2PIomaTd2oC3FjVL\\_oPlhc7IaGkedK\\_eP4iwuMZ1hi-NAaQJNsCAGC2\\_k](https://www.aclu.org/press-releases/aclu-statement-durangos-anti-homeless-sit-lie-ordinance?fbclid=IwAR2PIomaTd2oC3FjVL_oPlhc7IaGkedK_eP4iwuMZ1hi-NAaQJNsCAGC2_k)

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the highest art is the art of living an ordinary life in an extraordinary manner.

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## Amy Johnson

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**From:** Lynelle Wilcox <lynelle@comcast.net>  
**Sent:** Monday, November 18, 2019 4:13 AM  
**To:** Chuck Bennett; Lynda Rose; Steve Powers; Tami Carpenter; Cara Kaser; Tom Andersen; Brad Nanke; Jackie Leung; Matthew Ausec; Chris Hoy; Vanessa Nordyke; Jim Lewis; Kristin Retherford; Jerry Moore; Kathy Sime; Dan Atchison; CityRecorder  
**Subject:** Opposing Salem's sit-lie ordinance; general questions and concerns

The Homeless Coalition opposes the city's proposed sidewalk/sit-lie ordinance.

---

**Sit-lie compromise proposal** - Advocates are proposing a compromise - to retain the proposed ordinance's camping ban and the property ban, yet omitting the sit-lie ban from the ordinance.

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### **The Homeless Coalition supports that compromise proposal.**

Homeless Coalition members ask that city officials and City Councilors consider the following questions as they discuss the proposed sit-lie ordinance:

#### **Need:**

- What problem is sit-lie solving?
- What data documents the problems?
- Why does staff want sit-lie even though very few businesses support it?

#### **Implementation:**

- How will it be implemented - consistently and broadly, or selectively and rarely? (We are hearing vastly different info about that.)

#### **Legality:**

- How is this not segregation?
- Sit-lie makes exceptions for people with visible disabilities.
- How is the proposed ordinance legal when it fails to make exceptions for invisible disabilities?

#### **Logistics:**

- Where do they expect people to go? (Even with reduced ban hours as one proposed option, there are not enough permissible places and capacity for sit-lie to be humanely implemented.)
- During the designated time periods and areas, when people are removed or told they are not allowed to sit, lie, rest or sleep, where then can they go?
- Are the available places for people to move to in order to sit, lie, rest and sleep adequate? In this case does the supply meet the demand?
- Will the City of Salem consider developing multiple structured, organized, limited size camps?

**Cost and effectiveness:**

- Some people will not understand the rule to be able to comply; how does sit-lie resolve that?
- How can the police and jails afford the time and cost to implement sit-lie?
- How much money will the sit-lie ordinance cost Salem and its taxpayers?
- Why can't this money be used to create emergency housing and additional social services to help the homeless in a real way?
- How will this ordinance tax our law enforcement system?
- Wouldn't it be more beneficial to establish a non-law enforcement approach like Corvallis?
- What does the City of Salem gain by implementing this ordinance?
- Demonstrate "real ways" that the ordinance will actually improve our homeless crisis.
- Have Salem and Keizer studied the Eugene/Springfield CAHOOTS program for direct response services and referral?
- Why incur the wrath of many good people who want something substantive done about homelessness, by passing a law that is inhumane and puts the homeless and police in potential harm?

Thank you for your consideration.

lynelle, on behalf of the Homeless Coalition

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the highest art is the art of living an ordinary life in an extraordinary manner.

and...

with our thoughts, we make the world.

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## Amy Johnson

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**From:** Lynelle Wilcox <lynelle@comcast.net>  
**Sent:** Monday, November 18, 2019 9:46 AM  
**To:** Chuck Bennett; Lynda Rose; Steve Powers; Tami Carpenter; Cara Kaser; Tom Andersen; Brad Nanke; Jackie Leung; Matthew Ausec; Chris Hoy; Vanessa Nordyke; Jim Lewis; Kristin Retherford; Jerry Moore; Kathy Sime; Dan Atchison; CityRecorder  
**Subject:** Opposing Salem's sit-lie ordinance; business outreach results so far  
**Attachments:** Business visits to share GNP brochure-1 Sheet1.pdf; CANDO Good Neighbor Guide.pdf

Attached is a spreadsheet that summarizes visits to businesses so far to share a Good Neighbor Partnership brochure (also attached) and resources for businesses to work with unsheltered neighbors in relational ways. Many more visits have been made since this one, so we are adding data and a revised spreadsheet will be shared later this week.

This outreach is done from a resource sharing and data gathering perspective, with no attempts to influence anyone's views - we value all perceptions and responses without our own biases coloring people's input. **Overall, businesses are conveying huge gratitude for the phone numbers to call, and only one business so far seems to support sit-lie.**

Other businesses conveyed that even though situations come up, people generally leave when asked, and several businesses know the difference between sit-lie and trespassing, and they have established rapport, relationships, and respect, so requests are mostly honored.

A couple of businesses (not yet added to the spreadsheet) shared that they consider the individuals by their store to be extra eyes on the street, keep litter cleaned up, and discourage inappropriate behaviors, so the businesses feel like they are extra security for them. Some businesses have problems, yet sit-lie would not resolve the issues they experience. One business owner is experiencing issues, yet laughed about it, saying sit-lie would solve nothing, yet he wishes the city would address homelessness and he would be willing to pay more in taxes so that there would be food, and safe space that individuals desperately need.

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## Business visit summary

Attached is a spreadsheet of visits to businesses so far. Additions will be made as we visit more businesses. This outreach is done from a resource sharing and data gathering perspective, with no attempts to influence anyone's views - we want to reflect accurate perceptions and responses without our own biases coloring people's input. Overall, businesses are conveying huge gratitude for the Good Neighbor brochure and the phone numbers to call, and only one business so far seems to support sit-lie. Other businesses conveyed that even though situations come up, people generally leave when asked, and several businesses know the people who generally hang out by their stores, and they have established rapport, relationships, and respect, so requests are mostly honored. A couple of businesses (not yet added to the spreadsheet) shared that they consider the individuals by their store to be extra eyes and ears - those individuals help keep litter cleaned up, and discourage inappropriate behaviors, so the businesses feel like they are extra security for them. Some businesses conveyed that there are problems, yet sit-lie would not resolve the issues they experience. One business owner is experiencing issues, yet laughed about sit lie as a resolution - he would be willing to pay more in taxes so that we can provide the shelter, food, and safe space that individuals desperately need.

Business type	Homeless Problems?	How do they handle homeless situations?	Did they know of sit-lie?	What do they think of sit-lie?
transit center	occasionally	They have security to handle situations so things are pretty good. Grateful for the GNP brochure though.	didn't ask	n/a
deli/market	too busy to ask	too busy to ask, yet he said "Thank you so much! Thi will be SO helpful!" about the GNP brochures.	too busy to ask	n/a
retail store	No issues in a long time. In the past, they had people camping in front of their store and that was fine, since the campers were tidy and left before the store opened. It became a problem when campers' friends joined them and they were messy, yet neighbor stores helped them to get the campers to leave. Since then, problems are very rare. The building has hired a maintenance/ security guy, and he is a gentle giant who helps as needed when homeless situations come up. Last Christmas time, one homeless man was upset and threw a sandwich board sign at the owner, then came into the store and threatened the owner, the volunteer staff person, and a customer. It was a little scary, yet a rare situation. She called the police non emergency number and they didn't offer help. She called 911 but police would come only if she was willing to press charges and she was not willing to do that - it was almost Christmas and she knew the person was having a hard time and didn't want an arrest to add to that. He did leave, and started staying in a cove across the street, and things were fine. He did come back to her store around New Year's, and apologized for his actions. She doesn't think that customers are too scared to come shop there. She feels that the things they sell are from people who are living in extreme poverty, and might be homeless themselves, and her heart is with them.	Local stores helped each other out as needed, and now the building has a maintenance/security person to help, yet situations are rare. VERY grateful for the GNP brochure and resources yet so far any situations have been resolved with help from the maintenance/ security person as needed.	yes.	Owner does not support sit-lie. She was very upset when the city opted to use north campus hospital grounds to build housing. She thought the existing building would have been very good to use as transitional housing for people who are homeless or for people who are released from the hospital and don't have a place to live. The old building would seem perfect for that. Owner lives across the street from that building and would be fine with living across from trnsitional housing. (NIMBY is not an issue for her.) If sit-lie is to happen at all, it should only happen if there are places for people to go. Besides transitional housing, she wishes we'd have places where people can tent camp and car camp.
restaurant	Not much. Sometimes people come in and eat; sometimes people behave inappropriately, but they leave when asked.	Ask people to leave as needed. Grateful for the GNP brochure.	too busy to ask	n/a
retail store	too busy to ask	n/a; conveyed gratitude for GNP brochure.	n/a	n/a
retail store	Occasional situations. Some people on drugs; some in alternate reality. One person recently shoplifted and went beserk when asked to leave, but the person did leave.	Ask people to leave as needed. Conveyed "Thank you! This will be SO helpful!" about the GNP brochure.	yes	Sit-lie can't solve anything. Staff person doesn't know owner's view.



Business type	Homeless Problems?	How do they handle homeless situations?	Did they know of sit-lie?	What do they think of sit-lie?
restaurant	No problems lately. In the past, their door was broken.	customers arrived; but conveyed "Thank you! this will be SO helpful!" about the GNP brochure.	n/a	n/a
retail store	Not really. Some people come in and talk sometimes; sometimes in alternate reality.	Ask people to leave as needed, and they do leave. Yet the staff person works alone, so it can feel vulnerable sometimes. Very happy to have the GNP brochure!	too busy to ask	n/a
retail store	too busy to ask		n/a	n/a
retail store	Has been here 10 years. He asked one person to leave because he was making a mess, and he 86'd that person from coming back. Yet overall, he has no problems.	Some issues come up sometimes, but it's rare, and people leave when asked. He's grateful we're sharing resources, yet he rarely has problems - he just talks to people and they listen.	yes	Some people need more supports than we have. Criminals get into mental health facilities yet people who are not doing a crime but need mental help can't get into facilities. He has seen local homeless men deteriorating during the years he's been at this store. It seems like men are at an extra disadvantage to get the help they need. Sit-lie won't solve things. People need places to go, and parks are not the answer - you want to be able to take kids to parks. Why don't we clean up the hospital for people to live there? We need other options too.
restaurant	No problems.	Sometimes people come in; if behavior isn't appropriate, they leave when asked. Conveyed "Thank you so much!" about the GNP brochure.	too busy to ask	n/a
retail store	Occasional situations; fewer now than in the past. There was an incident today, but the person left when asked. They don't mind telling people to move on. One person stops in sometimes and often smells strongly of urine. We need more help for people.	People usually leave when asked. If they need help, the building's security person is more responsive than police. Conveyed "Thank you! " about the GNP brochure.	yes	We need more help for people.
restaurant	Occasional problems; sometimes people are drunk; more people are doing drugs outside. Some people get loud and rowdy sometimes and hang out on outside café seating.	He knows many local homeless people by name. He talks to them and asks them to settle down or leave as needed, and they listen. No police help has been needed. Conveyed gratitude for the GNP brochure.	yes	Not sure how he feels. It's a small family business and we need to work together. The local businesses help each other as needed. He understands why some people want sit-lie, yet we need more help for people. He knows some customers might feel scared to come when there are homeless people outside, yet he doesn't feel he loses customers, because he knows the local homeless people, and he asks them to settle down or leave as needed, and they listen. They know him, and they respect him and they listen to him.
retail store	No problems. Someone shoplifted a hat yesterday and it looks like it might have been a homeless person, yet overall, no problems. They often have homeless people sitting on their street corner, and that doesn't seem to deter customers. Customers often try to use the store door that is right on the corner, instead of using the Opera House main entrance doors on Liberty, so it seems people are willing to walk by the homeless people and visit stores anyway.	If behavior isn't appropriate, they ask people to leave, yet that rarely comes up. Conveyed gratitude for the GNP brochure.	too busy to ask	n/a

Business type	Homeless Problems?	How do they handle homeless situations?	Did they know of sit-lie?	What do they think of sit-lie?
restaurant	too busy to ask	n/a	n/a	n/a
retail store	Occasional situations. Some people in alternate reality. People regularly try to use their restroom to take a sink-bath, yet they leave when asked. About twice a week, someone comes into the store in their birthday suit, or stripping to become naked while in the store. Asked how this affects customers, and the manager shared that customers see there is an issue, and they see that the store is handling it. No big deal.	People leave when asked. Needed to call police a few times, but that is rare. Conveyed "Thank you!" for GNP brochure and will share it with General Manager as well.	too busy to ask	n/a
restaurant	Occasional problems. People are often loud outside and sometimes inappropriate or yelling inside.	Sometimes people leave when asked. Other times he needs to call police. Police don't do much - people still come back at other times. Conveyed "Thank you" fro GNP brochure.	yes	Doesn't want us to become like Oakland.