

## Staff Report

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**File #:** 19-548**Version:** 1**Date:** 11/18/2019**Item #:** 2.a.

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**TO:** Mayor and City Council**FROM:** Steve Powers, City Manager**SUBJECT:**

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

**ISSUE:**

City Council work session to discuss draft Ordinance Bill No. 10-19.

**RECOMMENDATION:**

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

**SUMMARY:**

The draft ordinance restricts sitting or lying on public sidewalks between 7:30 a.m. and 9:00 p.m. with certain exceptions, imposes a 24-hour restriction on maintaining a campsite on public sidewalks or public property, and restricts leaving personal property unattended on public sidewalks

On November 12, Mayor Bennett called for a work session for City Council to review the draft and potential amendments. First reading of Ordinance Bill No. 10-19 is scheduled for the November 25 City Council meeting.

**FACTS AND FINDINGS:**

To assist City Council's discussion, the draft ordinance is attached (Attachments 1 and 2). Also attached is the staff report that will accompany the ordinance as currently drafted (Attachment 3).

The draft ordinance has been provided to councilors and the public. The City conducted three public forums to share information regarding the ordinance and to receive input. A compilation of the comments and input is attached (Attachment 4).

Following the public forums, questions have been received regarding the status of the Downtown Homeless Solutions Task Force's recommendations. A status report is attached (Attachment 5).

The work session is an opportunity for City Council to discuss the ordinance and whether changes should be made to the draft. Specific changes received by staff include:

**1. Revise camping restrictions to address repeat violations.**

- a. Under current City Code, camping on the sidewalk is not prohibited, unless the campsite becomes a public nuisance, or the persons intentionally and interfere with a pedestrian.
- b. Current proposal would prohibit the activity of camping on sidewalks and public places.
- c. If the campsite is occupied, the campers may be issued a civil citation (fine) with no criminal sanction, and the campsite must be removed. If the camper refuses, or if no campers are present when police address the camp, the camp must be posted for a minimum of 24 hours prior to removal of the campsite. The City must maintain and protect the personal property for a minimum of 90 days and give the owner an opportunity to retrieve their property. Salem Police Department directive 9.12.
- d. Issue arises when someone has been warned or issued a citation for one campsite, and simply moves to another street/down the block and reestablishes the campsite and evades the 24-hour notice.
- e. REMEDY: Salem Police Department may issue separate citations for each infraction (\$250 each).
- f. City must continue to post each campsite and give a new 24-hour notice period before removal. This is a constitutional due process requirement before the City "takes" property. The only exception to the notice requirement is if the campsite constitutes a public nuisance, or threat to public health or safety.

**2. Uncouple the restrictions on sit/lie, camping, and unattended property from the two civil exclusion zones (Downtown Crime Prevention District and North Salem Crime Prevention District).**

- a. To uncouple the civil exclusion from violation of these regulations, remove the proposed renumbering and amendments to *Salem Revised Code* 95.735 and 95.736.

**3. Change hours of enforcement from 7:00 a.m. to 9:00 p.m. to 7:00 a.m. to 7:00 p.m.**

- a. Changing the hours of enforcement to 7:00 a.m. to 7:00 p.m. would align the ordinance with the hours of existing day centers.

#### **4. Sunset Clause:**

- a. Option 1: Move to engross the ordinance bill to include new section 3 to provide that the regulations created through the ordinance will be of no further effect on or after June 1, 2020, unless Council votes to continue the ordinance for an additional period.
- b. Option 2: Move to direct staff to report back to City Council on or before June 1, 2020 regarding the effect of the ordinance, including the following information:
  - (1) The number of citations issued,
  - (2) The number of individuals cited,
  - (3) The number of individuals issued civil exclusion orders,
  - (4) The number of individuals that were issued civil exclusion orders as a result of violation of this ordinance, that we cited for trespass for violation of the exclusion order.

Staff will be prepared at the work session to provide additional detail regarding the proposed ordinance and answer questions regarding potential changes to the ordinance.

#### **BACKGROUND:**

Over the past several years, the City, the Urban Renewal Agency, and Salem Housing Authority have responded to the problem of homelessness through starting the Homeless Rental Assistance Program, adding affordable housing, assisting the Union Gospel Mission with expansion and relocation, assisting ARCHES with expanding services to the homeless, and other assistance.

Residents, employees, and visitors have reported feeling unsafe using public sidewalks. Businesses report customer concerns and economic harm from behaviors that discourage use of the public sidewalks, such as camping, lying or sitting.

Steve Powers  
City Manager

#### **Attachments:**

- 1. Draft Ordinance Bill No. 10-19
- 2. Exhibit A - Proposed Text
- 3. Draft Staff Report for November 25 First Reading
- 4. Summary of Public Outreach and Comments
- 5. Status Report - Recommendations from Downtown Homeless Solutions Task Force