OFFICE OF THE CHIEF OF POLICE

NOTICE
11.2

September 2, 2021

TO: All Sworn Personnel

FROM: Chief of Police

SUBJECT: ENFORCEMENT GUIDELINES FOR LOS ANGELES MUNICIPAL CODE SECTION 41.18 (AS AMENDED) – SITTING, LYING, OR SLEEPING OR STORING, USING, MAINTAINING, OR PLACING PERSONAL PROPERTY IN THE PUBLIC RIGHT-OF-WAY

The purpose of this Notice is to provide instructions to Department personnel regarding the enforcement of Los Angeles Municipal Code (LAMC) Section 41.18, *Sitting, Lying, or Sleeping or Storing, Using, Maintaining, or Placing Personal Property in the Public Right-of-Way*, which was recently amended by the Los Angeles City Council.

On July 29, 2021, the Los Angeles City Council approved revisions to LAMC Section 41.18, consistent with relevant case law. Although the City Council approved LAMC Section 41.18 in its entirety, Section 41.18 (c) shall not be enforced until the requirements set forth in Section 41.18 (d) are satisfied. The Department will provide further guidance on these subdivisions as the City Council establishes a more robust framework for their implementation.

Accordingly, effective September 3, 2021, and until further notice, Department personnel may enforce LAMC Section 41.18 (a) and (b) only under the following circumstances:

Los Angeles Municipal Code Section 41.18(a)
When an officer observes or receives a complaint of, and thereafter confirms that a person is sitting, lying, or sleeping, or storing, using, maintaining, or placing personal property in the public right-of-way:

41.18(a)(1)LAMC	That obstructs or unreasonably interferes with the minimum clearance of a continuous three-foot wide pathway as required under the Americans with Disabilities Act (ADA);
41.18(a)(2)LAMC	Within ten (10) feet of any operational or utilizable driveway or loading dock;
41.18(a)(3)LAMC	Within five (5) feet of any operational or utilizable building entrance or exit;
41.18(a)(4)LAMC	Within two (2) feet of any fire hydrant, fire plug, or other fire department connection; or,
41.18(a)(5)LAMC	Within the public right-of-way in a manner that obstructs or unreasonably interferes with the use of the right-of-way for any activity for which the City has issued a permit.

Measurement of Distances for Enforcement of Section 41.18(a)
Department personnel are advised that the required distances and areas are to be measured as follows:

- **Operational or Utilizable Driveway/Loading Dock:** Ten (10) feet measured perpendicularly from the outer edges of the opening, whether raised or not, and from those points to the curb line;
- **Operational or Utilizable Building Entrance/Exit:** Five (5) feet measured perpendicularly from the outer edges of the opening, along the exterior wall of the building, and from those points to the curb line; and,
- **Fire Hydrant, Fire Plug, or Other Fire Department Connection:** Two (2) feet measured from the outermost protrusion of the Fire Equipment in all directions.

Los Angeles Municipal Code Section 41.18(b)
When an officer observes or receives a complaint of, any person obstructing any portion of any street or other public right-of-way open to use by motor vehicles, or any portion of a bike lane, bike path, or other public right-of-way open to use by bicycles, by sitting, lying, or sleeping, or by storing, using, maintaining, or placing personal property, anywhere within the street, bike lane, bike path, or other public right-of-way.

Enforcement Protocol for Section 41.18 (a) and (b)
Officers are encouraged to obtain voluntary compliance and use discretion and good judgment, based on the totality of the circumstances, in achieving compliance with LAMC Section 41.18 (a) or (b). In furtherance of this objective, officers shall:

1. Educate the individual by describing what conduct or behavior is in violation of Section 41.18 (including which subdivision) and seek voluntary compliance, documented by means of body worn video (BWV);

   Exception: If officers have specific articulable facts that an individual is a chronic offender of Section 41.18 and was warned within a reasonable time period, the officer may elect to conduct an enforcement of the Section rather than issue another warning.

2. Allow a reasonable amount of time for the person in violation to move, or move their property (if applicable), depending on the nature of the violation observed;

   Note: If the person in violation begins to comply with such warning, such person shall be given a reasonable amount of time to fully comply.

3. If the person remains in violation after being warned of the above and afforded reasonable time to comply, or initially complies but subsequently reengages in the same violative conduct, regardless of elapsed time from the initial direction to comply, an officer may consider the following enforcement options:

- A violator may be issued an Administrative Citation Enforcement (ACE) citation or a Release from Custody (RFC) for an infraction; or,

  Note: When investigating or issuing an ACE citation for the violation, officers should attempt to obtain the most current address available through means of physical identification from the individual by requesting permanent state, federal, or foreign consulate identification, or if the violator possesses no physical identification, by a verbal representation. Where probable cause exists that a person has falsely represented or identified themselves as another person, or as a fictitious person during a lawful detention, criminal enforcement is permissible pursuant to Penal Code Section 148.9(a).

- If the violator willfully resists, delays, or obstructs any City employee from enforcing this section (i.e., Environmental Compliance Inspector, Bureau of Street Services, etc.), or willfully refuses to comply with an order by an authorized City employee, such person is subject to **misdemeanor** citation (RFC) or, if one or more of the criteria set forth in Penal Code Section 853.6 is present, misdemeanor *custodial* arrest for LAMC Section 41.18 (a) or (b). If the violator has previous contacts with City entities and has been offered services, such prior contacts and refusal of services should be included in the arrest report.

  Note: Officers shall follow the procedures set forth in Office of the Chief of Police Notice, *Procedures on the Seizure, Booking, and Storage of Personal Property Following a Custodial Arrest*, dated September 6, 2019, when determining to seize or book personal property following an arrest.

Disposition of Personal Property
When conducting enforcement pursuant to Section 41.18(a) or (b), and the violator refuses to move their offending property, or the offending property is unattended and poses an immediate safety hazard, officers may move the specific property causing the obstruction far enough to stop the ongoing violation. As part of the enforcement protocol, if officers decide to move the violator's property, officers should document the property on BWV, both before it is moved and after it is moved, officer should also note what the property is on the citation or report, if applicable.

If an officer cannot safely move the violator's property to clear the violation because of the physical characteristics of the location, the amount of personal property involved, or the presence of potential health hazards, officers shall take photographs of the property, and forward the photographs along with the location and incident number to the Unified Homelessness Response Center (UHRC) via email to uhrc@lapd.online. This will allow the UHRC to coordinate with Los Angeles Department of Sanitation and Environment (LASAN) to remove property, and once the property is removed, LASAN may advise the property owner where he or she may retrieve it.

Evidentiary Guidelines
Officers shall consider the following evidentiary guidelines in the preparation of documentation for any enforcement action:

- Describe the location of the suspect and/or the suspect's belongings. Was the suspect and/or their belongings on a public street, sidewalk, within prohibited distance of a specified location, or other public right-of-way;
- What were the suspect's actions? Describe if the suspect and/or their belongings were obstructing any of the specified locations, hindering ADA compliance, or blocking the public right-of-way;
- Describe the facts showing that the possessions were stored, used, maintained, or placed by the suspect;
- Describe when the warning or direction was provided, and who issued the warning/direction;
- If the suspect willfully resisted, delayed, or obstructed, describe how?
- What was the suspect's response when officers made contact?

Body Worn Video
Department personnel are reminded that BWV cameras shall be activated prior to the initiation of any investigative or enforcement activity with a member of the public. Accordingly, officers shall record the contact, warning, and enforcement of the provisions outlined in this Notice.

Applicable to All Personnel in All Areas of the City
This Notice applies to the enforcement of LAMC Section 41.18(a) and (b) anywhere in the City, and to all Department personnel.

If you have questions regarding this matter, please contact the Evaluation and Administration Section, Office of Operations, at (213) 486-6050.

MICHEL R. MOORE
Chief of Police

DISTRIBUTION "D"