

City of Sacramento

Legislation Text

File #: 2019-00080, **Version:** 1

Title:

Ordinance Adding Section 9.32.190 to the Sacramento City Code, Relating To The Possession of Specified Items at Public Demonstrations and Declaring the Ordinance an Emergency Measure to Take Effect Immediately Upon Adoption [Two-Thirds Vote Required]

File ID: 2018-00080

Location: Citywide

Recommendation:

Adopt an Ordinance adding section 9.32.190 to the Sacramento City Code, relating to the possession of specified items at public demonstrations and declaring the ordinance an emergency measure to take effect immediately upon adoption.

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Presenter: Dave Peletta, Deputy Chief of Police, Office of Operations, (916) 808-0800, Police Department

Attachments:

- 1-Description/Analysis
- 2-Exhibit A
- 3-Ordinance

Description/Analysis

Issue Detail: The Sacramento City Code contains several chapters and sections designed to ensure a safe, peaceful environment for residents, businesses, customers and visitors. Sacramento City Code, Chapter 9.32 contains provisions governing public peace, morals and welfare.

It is imperative that individuals within the City of Sacramento be allowed to engage in expressive public conduct without suffering injury. Likewise, it is imperative that peace officers dedicated to protecting the rights of individuals to participate in expressive public conduct be able to engage in

official duties without suffering injury.

Government entities may place reasonable time, place and manner restrictions on public conduct in order to address risks to public safety, while still enabling individuals to engage in expressive conduct.

In recent years, there have been numerous protests, demonstrations and rallies in cities throughout the country, including Sacramento, which have resulted in violence, destruction of property, and injuries to civilians and law enforcement. Specific to the City of Sacramento, individuals have used items such as bottles, rocks, bats, pepper spray, knives, and sticks, to cause injury and damage. Unfortunately, events in which protestors and counter-protestors utilize improvised weapons to harm one another are becoming commonplace, and they have been shown to occur at random and without forewarning. Therefore, as a matter of public safety, it is crucial that law enforcement be permitted to protect citizens attempting to engage in lawful, free speech.

The ability to place restrictions to regulate the possession of certain items at protests, demonstrations, rallies, and other similar public events permits law enforcement personnel to protect the safety of persons engaged in lawful, expressive conduct.

Policy Considerations: The City Council has a long-standing commitment of supporting the principles of free speech as well as policies that protect the health, safety, or welfare of the community.

Economic Impacts: None.

Environmental Considerations: Not applicable.

Sustainability: There are no sustainability considerations associated with this report.

Commission/Committee Action: The City Manager has deemed this Ordinance an urgent matter and as such, the Ordinance was not reviewed and considered by the Law and Legislation Committee.

Rationale for Recommendation: There is a significant municipal interest in protecting citizens against violence and fostering the ability for individuals to engage in lawful, free speech. Therefore, municipalities are empowered to regulate certain conduct taking place in public fora, provided applicable regulations are narrowly tailored, and alternative methods for individuals to express beliefs and ideas remain available. Pursuant to the City's commitment to protecting its residents, visitors, and businesses, the proposed addition to the Sacramento City Code to restrict certain items at public demonstrations, rallies, protests, picket lines, or similar events, will help foster open expression and free speech by protecting against injuries to members of the public and law enforcement who are

present at such events.

The proposed ordinance neither seeks to regulate spoken words nor patently expressive or communicative conduct. Rather, the proposed ordinance is designed exclusively to prohibit the possession of weapons and potential weapons. The prohibition of the specifically listed items under particularized circumstances, will not impact the ability of individuals to engage in expressive conduct, but rather create spaces for individuals to engage in lawful, expressive conduct without fear of, or incurring injuries.

Exhibit A to this report includes a list of violent protests that recently occurred across the nation, including in the City of Sacramento. The events listed in Exhibit A, as well as the weapons identified, exemplify the need for the proposed ordinance.

At present, the City does not have restrictions against certain items that can be brought to public demonstrations, rallies, protests, picket lines, or similar events and used as weapons.

However, recent events, both local and national, planned and unplanned, demonstrate the need to put provisions into place to maintain public health and safety while allowing the public to safely exercise their right to expression. Numerous cities, including but not limited to Los Angeles, Beverly Hills, and Laguna Beach have adopted similar laws.

Financial Considerations: There is no financial impact associated with implementing the proposed amendment. However, the City of Sacramento has incurred substantial costs when responding to recent protests - most notably the June 2016 Traditionalist Worker Party protest (estimated at \$68,000), and the first few weeks of protests related to the officer-involved shooting involving Stephon Clark (estimated to exceed \$800,000)-all of which involved individuals using improvised weapons and damaging property.

Local Business Enterprise (LBE): Not applicable.