



**CITY OF GLENDALE, CALIFORNIA
REPORT TO THE CITY COUNCIL**

AGENDA ITEM

Report: Ordinance Adding Chapter 9.19 to Glendale Municipal Code Relating to the Prohibited Items While Attending or Participating in Any Public Demonstration Protest, or Public Assembly

1. Ordinance for introduction

COUNCIL ACTION

Item Type: Ordinance

Approved for January 26, 2021 **calendar**

ADMINISTRATIVE ACTION

Submitted by:

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Reviewed by:

Michele Flynn, Director of Finance

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Approved by:

Roubik R. Golanian, P.E., Interim City Manager

RECOMMENDATION

It is recommended that the City Council adopt an ordinance adding Chapter 9.19 to the Glendale Municipal Code prohibiting the possession of specified items at public demonstrations.

BACKGROUND/ANALYSIS

The City of Glendale has a long standing commitment of supporting principles of free speech as well as policies that protect the health, safety, and welfare of the community. Over the years, the City of Glendale has successfully facilitated numerous public demonstrations and protests including events where participants have opposing viewpoints. In recent months, there has been an increase in violence during protests and demonstrations in cities throughout the country. Individuals not interested in peaceful protests have used items such as bottles, rocks, bats, pepper spray, knives, and sticks to cause injury and damage. The increase in violence is a public safety concern. Unfortunately, events in which protestors and counter-protestors use improvised weapons to harm one another are becoming more common.

Currently, the City does not have restrictions against certain items that may be brought to public demonstrations, rallies, protests, picket lines or other similar events and used as weapons. Therefore, as a matter of public safety, it is important that an ordinance prohibiting specified items from being brought to a demonstration or protests be adopted.

The proposed ordinance provides clear, objective regulations on items that are designed as, or easily converted to, weapons for use during public demonstrations. Among other items, the proposed ordinance prohibits a person from carrying or possessing any length of wood **unless** that object is one-fourth (1/4) inch or less in thickness and two (2) inches or less in width or if not generally rectangular in shape, such object shall not exceed three-fourth (3/4) inch in its thickest dimension and is blunted at the ends. The possession of bats, bricks, clubs, sling shots, projectile launchers, knives, swords, hammers, nunchucks, metal or plastic shields, aerosol sprays, open flame torches, laser pointers, and glass bottles, among other items, are also prohibited in the proposed ordinance. The proposed ordinance will make demonstrations in Glendale safer for those who protest and the police officers who monitor the protests.

The proposed ordinance provides that when feasible, excluding exigent circumstances, a warning shall be issued before enforcement action is taken. The proposed ordinance also specifies nothing in the chapter prohibits an individual from carrying a cane or using a walker or other device necessary for providing mobility so that the person may participate in a protest or demonstration.

The proposed ordinance contains a provision which states that authorized peace officers, employees, agents or representatives of the City shall be exempt from the prohibitions when such officers, employees, agents or representatives are engaged in official business of the City.

Violations of the ordinance would be misdemeanors punishable by a fine not to exceed \$1,000, or imprisonment for a term not to exceed 6 months, or both.

The proposed Ordinance has been prepared in coordination with the City Attorney's Office. Under First Amendment principles, the City has the constitutional authority to control the use of its public streets during protests and demonstrations by adopting reasonable time, place, and manner regulations that are content neutral for public safety purposes. Cities may enact such time, place and manner regulations provided that the regulations are narrowly tailored to serve a substantial governmental interest in their enactment and leave ample opportunity for communication. The City has a substantial governmental interest in preventing the use of the above items during protests and demonstrations and safeguarding its citizens against violence by ensuring that individuals do not disrupt peaceful protests by using these items to attack others or to commit vandalism. The proposed regulations leave ample opportunity for communications as they only restrict the use of certain materials that have the potential to be weaponized during peaceful protests.

The Ninth Circuit Court of Appeals has upheld the constitutionality of a similar Los Angeles ordinance. In *Vlasak v. Superior Court of California*, 329 F.3d 683 (9th Cir. 2003), the Ninth Circuit upheld the arrest and conviction of a protester who brought a bull hook to a protest in violation of a municipal code prohibition against certain items at protests, including a provision prohibiting rectangular wooden pieces more than 1/4-inch-thick and 2 inches wide, or non-rectangular pieces thicker than 3/4-inch.

The Ninth Circuit held that the ordinance:

- Was content neutral because it applied to all demonstrators, regardless of persuasion, viewpoint, or cause;
- Was narrowly tailored to meet the substantial governmental interest in public safety; and
- Did not deprive demonstrators of alternative means of communication because it did not foreclose exercise of First Amendment rights.

Although the *Vlasak* case did not specifically address possession of other items such as bats, projectile launchers, bottles and shields, the City Attorney's staff is of the opinion

that a court would likely uphold the prohibition of the items specified in the proposed ordinance given the substantial governmental interest in public safety.

FISCAL IMPACT

There is no financial impact in adopting the proposed ordinance.

ALTERNATIVES

The City Council has the following alternatives to consider associated with the proposed ordinance.

Alternative 1: Introduce the proposed ordinance attached to this staff report.

Alternative 2: Not introduce the proposed ordinance.

Alternative 3: The City Council may consider any other alternative not proposed by staff.

CAMPAIGN DISCLOSURE

Not applicable.

EXHIBITS

None.