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May 27, 2010

City of Austin Health and Human Services Department
Attention: Ms. Susan Gehring, Manager
PO Box 1088
Austin, TX 78767-1088

Dear Susan:

The Downtown Austin Alliance appreciates having the opportunity to participate in the dialogue pertaining to recommendations being made to amend city ordinance 9-4-14 *Sitting or Lying Down on Public Sidewalks in the Downtown Business Area*.

We do not believe that amending the ordinance in a way that would allow people who are in desperate need of services to sit or lie-down on a sidewalk is a dignified or effective way to address the offenders' needs or downtown's public order problems.

The current ordinance provides exceptions for medical emergencies and disabilities and allows the police broad discretion with regard to enforcement involving individuals with physical or mental health needs. The information provided yesterday by APD gives us no reason to believe that the current ordinance is being enforced unreasonably; and the statistics presented by Community Court demonstrate that offenders are being adjudicated fairly. It is clear, however, that adding the proposed recommendations would render the ordinance virtually unenforceable, thereby, increasing public order problems for the downtown neighborhood.

We recognize that the Downtown Community Court is often a gateway to services for many people who are homeless or in need of medical, mental health or substance abuse treatment. This is precisely the reason this problem-solving court was created more than ten years ago.

As Community Court statistics demonstrate, enforcement of the Sit-Lie Ordinance provided 2,214 opportunities in the past year for 536 homeless people to engage in services available through the Community Court.

Because the proposed amendments in no way help to address the treatment and services needs of many people who violate the Sit-Lie Ordinance, the DAA opposes amending the current ordinance to include any additional exceptions.

Sincerely,

Charlie Betts
Executive Director

CC: Mayor Leffingwell and Austin City Council
City Manager, Marc Ott
Assistant City Manager, Bert Lumbreras
Assistant City Manager, Michael McDonald
Health and Human Services Director, David Lurie
Austin Police Chief, Art Acevedo

RESOLUTION NO. _____

WHEREAS, § 9-4-14 of the City Code generally prohibits sleeping outdoors and sitting or lying down in the right-of-way within an area referred to as the Downtown Business Area and is commonly referred to as the Sit/Lie Ordinance; and

WHEREAS, while this particular ordinance was aimed at promoting safety and passage within highly-trafficked pedestrian areas, § 9-4-14(E) creates an exception to the Sit/Lie Ordinance for medical emergencies or if someone uses a wheelchair or similar device as a result of disability; and

WHEREAS, § 9-4-14 does not contemplate other conditions that provide a similar medical justification for an exemption to the Sit/Lie Ordinance; and

WHEREAS, a recent survey by House the Homeless found a range of medical conditions that could be considered for exemption similar to disability that requires the use of a wheelchair or similar device; and

WHEREAS, the council finds that, given this evidence, it is reasonable to study what other humane exemptions could be included in § 9-4-14; **NOW, THEREFORE**,

BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF AUSTIN:

The City Manager is directed to work with homeless advocates and stakeholders, including House the Homeless, to consider additional possible medical exemptions to § 9-4-14 of the City Code. The possible exemptions may include, among others:

- Official documentation from local, state or federal agencies stating disability;
- Official documentation from a doctor or a hospital stating disability;
- Waiting in line for health clinics; or
- Utilization of other mobility aides besides wheelchairs like canes, crutches or walkers.

BE IT FURTHER RESOLVED:

The City Manager is directed to return to the Austin City Council Public Health and Human Services Subcommittee with a recommendation for additional possible exemptions to § 9-4-14 of the City Code within 60 days.

ADOPTED: _____, 2010

ATTEST: _____
Shirley A. Gentry
City Clerk

§ 9-4-14 SITTING OR LYING DOWN ON PUBLIC SIDEWALKS IN THE DOWNTOWN BUSINESS AREA PROHIBITED.

(A) The council finds that the City has a compelling interest in:

- (1) encouraging and preserving a vital, pedestrian-friendly urban core;
- (2) promoting tourism and business in the central business district;
- (3) preserving the quality of urban life and in protecting its citizens from intimidating behavior; and
- (4) encouraging businesses and neighborhoods in the central city where walking is a realistic alternative to vehicles that use fossil fuels.

(B) The council finds that in areas with high pedestrian traffic and a high incidence of petty crime related to public disorder, individuals sitting or lying in the pedestrian right-of-way:

- (1) contribute to a sense of fear, intimidation, and disorder;
- (2) are disruptive to residents, businesses, and customers;
- (3) discourage, block, or inhibit the free passage of pedestrians; and
- (4) contribute to the loss of access to and enjoyment of public places.

(C) This section applies in the following area, including the streets and pedestrian rights-of-way that bound the area, but does not apply on the campus of the University of Texas:

- (1) beginning at the intersection of Cesar Chavez Street and Lamar Boulevard (North);
- (2) north on Lamar Boulevard (North) to 29th Street (West);
- (3) east on 29th Street (West) to Guadalupe Street;
- (4) south on Guadalupe Street to Dean Keeton Street (West/East);
- (5) east on Dean Keeton Street (West/East) to IH-35;
- (6) south on IH-35 from Dean Keeton Street (East) to Cesar Chavez Street (East); and
- (7) west on Cesar Chavez (East/West) from IH-35 to Lamar Boulevard (North), the point of beginning.

(D) A person commits an offense if, after having been notified by a law enforcement officer that the conduct violates this section:

- (1) the person is asleep outdoors; or
- (2) the person sits or lies down in the right-of-way between the roadway and the abutting property line or structure, or on an object placed in that area.

(E) This section does not apply to a person who:

- (1) sits or lies down because of a medical emergency;
 - (2) as the result of a disability, uses a wheelchair or similar device to move about;
 - (3) operates or patronizes a commercial establishment that conducts business on the sidewalk under Article 11 (Streets and Use of Public Property) of the Code;
 - (4) participates in or views a parade, festival, performance, rally, demonstration, or similar event;
 - (5) sits on a chair or bench that is supplied by a public agency or by the abutting private property owner;
 - (6) sits within a bus stop zone while waiting for public or private transportation;
- or

March 2010 Action Response to the 2010 House the Homeless Health Survey, above, Addressing Necessary Exceptions to the City of Austin No Sitting/Lying Down Ordinance by Richard R. Troxell

House the Homeless wishes to respond to the health needs expressed by people experiencing homelessness in the 2010 Health Survey to sit down when necessary. We have sent the following recommendations to the Austin City Council for recommendation by the Health and Human Services City Council Committee. We anticipate "consent" passage on April 8th with return and recommendations to Council within 60 days.

Presently, the No Sitting/No Lying Down Ordinance forbids sitting in the downtown area with the only health exceptions being for people relegated to wheel-chairs. however, there are other people with significant health issues who should also be exempted from the ordinance.

Whereas 501 people experiencing homelessness were surveyed exposing the fact that 241 of them have dire health conditions severe enough to keep them from working ranging from degenerative nerve disease to bone cancer to debilitating, chronic back pain, and

Whereas, 145 of them expressed severe shortness of breath, and

Whereas, 472 of the 501 surveyed stated when they needed to sit down, they were unable to locate a bench.

Should Therefore be permitted to sit down without fear of reprisal or of being ticketed when presenting any of the following documents or evidence-

- A Mobility Impaired Bus Pass
- Documentation of Hospital Care within the previous two weeks
- Documentation of Food Stamp Work exemption
- An Award letter from the Social Security Administration for Disability
- Documentation of Recuperative-Care within the previous two weeks
- A doctor's note of disability
- A Letter of disability from DARS
- A letter of participation at the David Powell Clinic
- A letter of participation f/t Community Court for Court Ordered Substance Abuse Treatment
- A letter of participation with the Austin Recovery Center
- Evidence of participation in a Physical or Occupational Therapy Program
- Any person in line to get health services
- Any person using a cane, crutches, or walker

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