

1 **ORDINANCE NO.**

2 **AN ORDINANCE ADDING CITY CODE CHAPTER 14-12 (*USE OF CITY***
3 ***FACILITIES*)**

4 **BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF AUSTIN:**

5 **PART 1.** Title 14. – USE OF STREETS AND PUBLIC PROPERTY is amended
6 to add Chapter 14-12 (*Use of City Facilities*) as follows:

7 **§ 14-12-1 PURPOSE AND INTENT.**

8 (A) The purpose and intent of this Chapter is to establish a policy for
9 allowing expressive activity on the grounds of City of Austin Public
10 Library facilities and the Palmer Events Center.

11 (B) The City recognizes the right of its citizens to engage in expressive
12 activity under the First Amendment of the United States Constitution,
13 which may occur in or on public facilities and lands owned by the City
14 as allowed by law or City policy.

15 (C) The City also recognizes its duty to the citizens of Austin to be a
16 responsible steward of public facilities and lands under its ownership
17 and control, to maintain these public facilities and lands in a manner
18 that promotes public safety and health, and to provide City-owned
19 facilities where the City and the public can conduct business and other
20 approved activities free from unlawful and disruptive interference.

21 (D) The City recognizes the City Manager’s authority under the City
22 Charter to control and maintain the City’s public facilities and lands in
23 accordance with these interests.

24 **§ 14-12-2 APPLICABILITY.**

25 (A) The City’s parklands, streets, and public sidewalks are traditional
26 public forums that are open to the public for First Amendment activity
27 subject to reasonable time, place, and manner restrictions provided by
28 City policy or rules. This policy does not apply to these historically
29 traditional public forums.

30 (B) This policy does not apply where the City restricts expressive activity
31 on public grounds to comply with Texas Election Code or local law

32 such as electioneering at polling places; campaign donations on City
33 property; or political advertising.

34 (C) This policy does not apply to use of the interior of City facilities.

35 (D) A property or portion of a property leased to a third party is a nonpublic
36 forum.

37 (E) The City's Rules for Public Use of City Properties and any department
38 rules adopted pursuant to City Code Chapter 1-2 apply where not in
39 conflict with this First Amendment policy or other law. Additionally,
40 this policy is not intended to supersede policies of the City Manager or
41 City departments where those policies are not in conflict with this
42 policy or other law.

43 § 14-12-3 DEFINITIONS.

44 In this chapter:

45 (1) "AGGRESSIVE SOLICITATION" means:

46 (a) intentionally or recklessly making physical contact with or
47 touching another person in the course of the solicitation
48 without the person's consent;

49 (b) following the person being solicited, if that conduct is (i)
50 intended to or likely to cause a reasonable person to fear
51 imminent bodily harm or the commission of a criminal act
52 upon the person or upon property in the person's
53 possession;

54 (c) continuing to solicit a person within five feet of the person
55 being solicited after the person has made a negative
56 response;

57 (d) using obscene or abusive language or gestures toward the
58 person being solicited; or

59 (e) approaching the person being solicited in a manner that is
60 intended to or is likely to cause a reasonable person to fear
61 imminent bodily harm or the commission of a criminal act
62 upon the person or property in the person's possession.

63 (2) "EXPRESSIVE ACTIVITY" means petitioning, distributing
64 information, non-disruptive picketing, and other First Amendment

65 activities subject to minimal restrictions to avoid disruption of City
66 business and use of City facilities and services.

67 (3) “OUTSIDE GROUNDS” of a public facility includes parking
68 areas, vehicular pathways, entrance ways, pathways, sidewalk
69 cafes, plazas, lawns, and landscaping.

70 (4) “PARKING AREA” means an area where vehicles are allowed
71 to park such as parking garages, parking lots, or other areas
72 identified for vehicle parking.

73 (5) “PUBLIC PROPERTY” or “PUBLIC FACILITY” means a
74 building or parcel of real property over which the City has
75 control, including buildings, parking facilities, and outside
76 grounds of a facility.

77 (6) “SOLICIT” means to request by spoken, written, or printed
78 word, or by other means of communication an immediate
79 donation or transfer of money or another thing of value from
80 another person, regardless of the solicitor’s purpose or intended
81 use of the money or other thing of value, and regardless of
82 whether consideration is offered.

83 **§ 14-12-4 PERMISSIBLE ACTIVITY**

84 (A) The City shall not prohibit peaceful expressive activity on the grounds
85 of Austin Public Library facilities or the Palmer Events Center except
86 as provided in the following subdivisions of this section or other law.

87 (B) Persons participating in expressive activity may not block or obstruct
88 the pathway of a person or vehicular traffic.

89 (C) Aggressive solicitation is not permitted.

90 (D) Expressive activity is not permitted: (1) within 15 feet of an entrance or
91 exit to a building, a stairway, an elevator, or a sidewalk café; (2) within
92 15 feet of an outdoor area that is leased to a third party; (3) within a
93 parking area or in areas where vehicles are being driven, including
94 vehicular pathways such as parking entrances, exits, or driveways, or
95 vehicular paths between a street entrance or exit and a parking area; (4)
96 in areas designated for loading and unloading of vehicle passengers or
97 for loading and unloading of goods or equipment or other areas not
98 accessible to the public; (5) in unpaved outdoor areas such as lawns or
99 landscaping.

100 (E) The City may prohibit or disband any loud expressive activity that
101 causes noise at a level that is unreasonably disruptive to the indoor use
102 of a City facility, a sidewalk café at the facility, or to an outdoor area
103 leased for use.

104 (F) The City may take additional reasonable and appropriate steps to ensure
105 that an event or activities of a lessee are not unreasonably disrupted by
106 expressive activity on City property where a lessee's event is not open
107 for admission to the general public.
108

109 **PART 2.** This ordinance takes effect on _____.

110 **PASSED AND APPROVED**

111 §
112 §
113 _____, 2018 § _____

114 Steve Adler
115 Mayor

117
118 **APPROVED:** _____
119 Anne L. Morgan
120 City Attorney

ATTEST: _____
Jannette S. Goodall
City Clerk

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