

RESOLUTION NO. 20181129-043

WHEREAS, on September 21, 2015, the City of Austin's Rules for Public Use of City Properties were adopted administratively in accordance with the city's rulemaking process; and

WHEREAS, the city's rules prohibited petitioning and other free speech activities on the grounds of city properties, such as city libraries and the Palmer Events Center; and

WHEREAS, public libraries are a cornerstone of freedom of expression under the First Amendment of the U.S. Constitution; and

WHEREAS, city facilities, such as the Palmer Events Center, are gathering spaces for the public; and

WHEREAS, in February 2018, several petitioners were asked to leave Austin Public Library facilities and one individual was issued a criminal trespass notice for petitioning on library grounds, followed by the city rescinding the trespass notice and allowing petitioners to solicit signatures on library grounds in a manner that is not disruptive to library staff or patrons while potential changes to Library Use Policy were under review; and

WHEREAS, the Austin Library Commission reviewed the free speech issue during public meetings of the commission held between March and October of 2018 and considered recommendations to Council on August 27, 2018 and October 22, 2018, and both times recommended that the Austin City Council change existing rules to allow non-disruptive petitioning, distributing information, non-disruptive picketing, and other First Amendment activities on library grounds; **NOW, THEREFORE**,

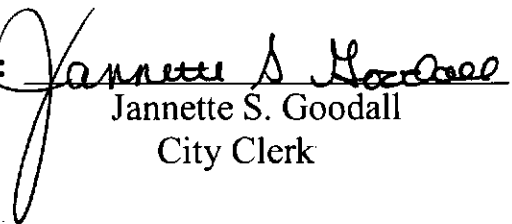
BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF AUSTIN:

The City Manager is directed to review the accompanying draft ordinance, which would add a chapter to the City Code regarding use of city facilities, and provide input to Council. The City Manager shall review best practices regarding petitioning and other free speech activities at city libraries and the Palmer Events Center and other city owned or operated property, and shall identify issues and policy considerations and shall provide information and options on any changes to rules, ordinances, or procedures that staff would recommend.

The City Manager shall report back to Council in February 2019.

ADOPTED: November 29 2018

ATTEST:


Jannette S. Goodall
City Clerk

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33 subject to reasonable time, place, and manner restrictions provided by
34 City policy or rules. This policy does not apply to these historically
35 traditional public forums.

36 (C) This policy does not apply where the City restricts expressive activity
37 on public grounds to comply with Texas Election Code or local law
38 such as electioneering at polling places; campaign donations on City
39 property; or political advertising.

40 (D) This policy does not apply to use of the interior of City facilities.

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

47 § 14-12-3 DEFINITIONS.

48 In this chapter:

49 (1) "AGGRESSIVE SOLICITATION OR COMMUNICATION"
50 means:

51 (a) intentionally or recklessly making physical contact with or
52 touching another person in the course of the solicitation or
53 communication without the other person's consent;

54 (b) following the person being solicited or communicated
55 with, if that conduct is (i) intended to or likely to cause a
56 reasonable person to fear imminent bodily harm or the
57 commission of a criminal act upon the person or upon
58 property in the person's possession;

59 (c) continuing to solicit or communicate with a person within
60 five feet of the person after the person has clearly made a
61 negative response to the attempted solicitation or
62 communication;

63 (d) using obscene, abusive, indecent, profane, or vulgar
64 language or gestures that, by their very utterance or use,
65 tend to incite an immediate breach of the peace; or

66 (e) approaching the person being solicited or communicated
67 with in a manner that is intended to or is likely to cause a

reasonable person to fear imminent bodily harm or the commission of a criminal act upon the person or property in the person's possession.

(2) "EXPRESSIVE ACTIVITY" means petitioning, distributing information, non-disruptive picketing, and other First Amendment activities subject to minimal restrictions to avoid disruption of City business and use of City facilities and services.

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

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

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

(6) "SOLICIT" means to request by spoken, written, or printed word, or by other means of communication an immediate donation or transfer of money or another thing of value from another person, regardless of the solicitor's purpose or intended use of the money or other thing of value, and regardless of whether consideration is offered.

§ 14-12-4 PERMISSIBLE ACTIVITY

(A) The City shall permit peaceful expressive activity, on the grounds of Austin Public Library facilities or the Palmer Events Center except as provided in the following subdivisions of this section or other law.

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

(C) Aggressive solicitation or communication is not permitted.

(D) Expressive activity is not permitted: (1) within 15 feet of an entrance or exit to a building, a stairway, an elevator, or a sidewalk café; (2) within a parking area or in areas where vehicles are being driven, including vehicular pathways such as parking entrances, exits, or driveways, or

102 vehicular paths between a street entrance or exit and a parking area; (4)
103 in areas designated for loading and unloading of vehicle passengers or
104 for loading and unloading of goods or equipment or other areas not
105 accessible to the public; or (5) on landscaping.

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

110 (F) The City may take additional reasonable and appropriate steps to ensure
111 that an event or activities of a lessee are not unreasonably disrupted by
112 expressive activity on City property where a lessee's event is not open
113 for admission to the general public.
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115 **PART 2.** This ordinance takes effect on _____.

116 **PASSED AND APPROVED**

117 §
118 §
119 _____, 2018 § _____

120 Steve Adler
121 Mayor
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124 **APPROVED:** _____ **ATTEST:** _____
125 Anne L. Morgan Jannette S. Goodall
126 City Attorney City Clerk
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