



City of Austin

Gregorio “Greg” Casar, Council Member District 4

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Frequently Asked Questions for Homelessness Decriminalization Ordinances Commonly Known as Panhandling, Sit/Lie, and Camping.

QUESTION 1: How do these ordinances currently work? What do the proposed changes ultimately do?

ANSWER: Currently, we know that many people sleep in their cars, on the streets, in parks, and in waterways because they have nowhere else to go. People experiencing homelessness are barred from being able to sit or lie downtown or sleeping in their cars or in public—but we know that people experiencing homelessness have to do so anyway. According to the City Auditor, this results in large expenditures of police resources, jailing people waiting for housing, longer criminal records for people in need of housing and opportunity, and ultimately extends and expands people’s experience with homelessness.

The three ordinances posted for repeal or amendment are more commonly known as panhandling, no sit/no lie, and camping. The changes proposed on the Council agenda curb these ordinances, which criminalize behaviors that are largely unavoidable to those in poverty and without shelter, while maintaining: (1) existing bans on aggressive or harassing behavior; (2) bans on camping or lying in down in a way that endangers any person; and (3) bans on impeding reasonable use of public space; and (4) existing rules related to parks, open space, waterways, schools, etc.

Q2: There have been claims that the existing ordinances are unconstitutional. What are these claims?

A: The City Auditor found that these ordinances increase the City’s legal risk. A recent 9th Circuit Court of Appeals case, *Martin v. Boise*, found that their camping ordinance was unconstitutional based on the 8th Amendment because it is cruel and unusual to punish people for sleeping outside if there are no other options. A 2015 Supreme Court case has also recently been used to strike down various panhandling ordinances in other cities that are similar to Austin’s ordinances.

Q3: Changing these ordinances on its own doesn’t get people homes and housing—what is Council doing to address this?

A: Council has dedicated unprecedented amounts of funds to homeless services and low income housing. But there is much more to be done. In May, Council began deploying the 2018 housing bond which was historic in its scope—and that bond already is funding permanent supportive housing to keep people off the streets. On June 6th alone, we have a resolution before us to expand shelter beds, a vote to add more than \$8 million more to addressing homelessness, and there is a ribbon cutting for the new Salvation Army Rathgaber Center which is a shelter for homeless families. By changing the ordinances, we can reduce unnecessary arrest warrants caused by poverty (not by behavior), and not having these warrants increases the chances we can get someone into housing.



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Q4: What effects would the proposed amendment to the camping ordinance have related to people camping or pitching tents on public sidewalks, in parks and other public spaces?

A: Current city policy has a discriminatory impact against people based on housing status. We believe the camping and sit/lie ordinances can exist in a non-discriminatory way if, instead of targeting homelessness, they specifically address: (1) health and safety concerns; and (2) obstruction of pathways/public use. Specifying these criteria helps focus our efforts on solving the problems identified in the question above, rather than targeting any particular population. The rules would still allow for addressing health and safety concerns. Additionally, all residents must still follow city rules as it relates to parks, sidewalks, waterways, etc. Park curfews and park rules about not camping, for example, would still apply. Rules that prevent unauthorized people from being on school property, for example, would still apply.

Q5: Will police and social service providers still be able to interact with those experiencing homelessness if these changes go into effect?

A: Yes. People can still be interacted with and offered services, even if they're not violating a law. If a person winds up in Downtown Austin Community Court, they can still be offered services. However, it is not good policy to create criminal violations with the purpose of getting someone to services. Rather, we should 1) voluntarily offer services on the front end and 2) provide services at court in the scenario that someone indeed commits a violation-as a backstop, not as the front-line service delivery strategy.

Q6: What was the community process behind this discussion around these three ordinances?

A: For years, Council Members have been in public conversation about homelessness generally, as well as these ordinances specifically. In response to the call from the community to take homelessness seriously, the City named this issue as its top strategic priority for this year and for the coming years. The Council has passed many resolutions this year,¹ budget amendments, funding allocations, and other directions in support of ending homelessness and better caring for those experiencing homelessness. In the month of June alone, we are slated to allocate an additional \$8 million toward homeless assistance and shelter (on the agenda for Council approval 6/6/19), at a minimum. The \$250 million housing bond passed in 2018 will build permanent supportive housing units. At the first round of housing bond expenditures, Austin City Council has already funded a housing project entirely for formerly homeless individuals at Project Transitions. Council has also received public testimony on – and approved an Action Plan to – end homelessness that identified these ordinances as an impediment to ending homelessness.

The City of Austin also conducted an audit in 2017 that found the ordinances legally, ethically, and practically troubled. Members of the Austin City Council have met with experts on homelessness – including national experts in open session this month – about the issue generally and the consequences stemming from these ordinances. After years of discussion Council has the option to make a decision about whether or not to keep the ordinances as they are or to change them. Some cases when the ordinances were discussed publicly include: November 15th 2017 Audit and Finance Committee; April 26th 2018 Council Meeting on Homelessness Action Plan; June 5th 2018 Public Safety Commission; May 21st 2019 Council Work Session with the National Alliance To End Homelessness; and other executive sessions. There have also been community stakeholder meetings on the panhandling ordinance.

¹ According to City Staff, Council has passed over 30 resolutions relating to homelessness, including: Resolutions No. 20170831-103; 20180614-066; 20190131-078; and 20190411-026.



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Q7: I’ve heard that repealing the Solicitation Ordinance will allow people to aggressively panhandle. Is this true?

A: Existing laws already prohibit threatening and aggressive behavior, such as statutes prohibiting simple assault or disorderly conduct. These existing laws are used and will continue to be used against those who threateningly or aggressively do anything – whether asking for money or not. Screaming, stalking, unwanted touching, etc., by anyone and for any reason is already against the law. Amending or repealing this ordinance does not change that. This has been confirmed by city attorneys on multiple occasions since the 2017 audit.

Q8: Is this eliminating the option for police to issue Class C tickets for low-level offenses?

A: No. If someone is camping or obstructing the use of public space in an inappropriate manner, a Class C ticket can still be used. If someone is acting aggressively, Class C tickets remain an option under state law, if and as appropriate. The changes to the ordinances make it so that if a person is not blocking public space, is not threatening or harassing to anyone, and/or is not causing any issue (i.e. they are doing nothing that can be interpreted as wrong), and are not breaking other rules such as parks rules, then they should not face criminal repercussions.

Q9: Will changing these ordinances cause more people to be homeless?

A: The experience of homelessness is very difficult, and has devastating impacts to health, well-being, and safety to those experiencing it. Maintaining extra criminal laws that apply to peaceful, everyday behavior does not discourage homelessness. In fact, it can further exacerbate the issue by creating a cycle of homelessness, making it harder for people to be housed. People are homeless because they have nowhere to live, and oftentimes have other significant challenges.