

ORDINANCE NO.

AN ORDINANCE AMENDING CITY CODE SECTIONS 9-4-11 RELATING TO CAMPING IN PUBLIC AREAS PROHIBITED, AND 9-4-14 RELATING TO SITTING OR LYING DOWN ON PUBLIC SIDEWALKS OR SLEEPING OUTDOORS PROHIBITED, AND ENFORCEMENT PROCEDURES.

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

PART 1. City Code Sections 9-4-11 and 9-4-14 are amended to add a Findings Section at the beginning of each code section to read as follows:

- (A) The City Council finds there is the need to clarify and define the prohibitions on camping, sitting, and lying in certain public areas established by revisions to City Code Sections 9-4-11(B) and 9-4-14(E) which were passed in Ordinance No. 20190620-185 on June 20, 2019.
- (B) The City Council finds that camping in certain public areas materially endangers the health or safety of another person or of the person camping; and/or makes usage of public areas unreasonably inconvenient or hazardous within the meaning of City Code Section 9-4-11(B).
- (C) The City Council finds that prohibitions on camping, sitting and lying remain an offense on any public property with established prohibitions or as curfews are imposed, including, but not limited to parks, flood buy-out areas, public libraries, community recreation centers, ceremonial buildings such as City Hall, Courthouses, Governor's mansion, and the Capitol Complex, and other areas where camping is restricted under public rules and ordinances.
- (E) The City Council finds that prohibitions on camping, sitting and lying remain an offense on any private property with established prohibitions by the property owner.

PART 2. City Code Section 9-4-11 (*Camping in Public Area Prohibited*) is amended to add a new subsection (C) as follows, and renumber subsections accordingly:

(A) In this section:

- (1) PUBLIC AREA means an outdoor area accessible to the public including a street, highway, park, parking lot, alleyway, pedestrian

way, and the common areas of a school, hospital, apartment building, office building, transport facility, or business.

(2) CAMP means the use of a public area for living accommodation purposes including:

- (a) storing personal belongings;
- (b) making a camp fire;
- (c) using a tent or shelter or other structure or vehicle for a living accommodation;
- (d) carrying on cooking activities; or
- (e) digging or earth breaking activities.

(B) Except as provided in Subsection (D), a person commits an offense if, after having been notified by a law enforcement officer that the conduct violates this section and having been given a reasonable opportunity by a law enforcement officer to correct the violating conduct, the person camps in a public area that is not designated as a camping area by the City of Austin and the person is:

- (1) materially endangering the health or safety of another person or of themselves; including but not limited to the following; or
- (2) intentionally, knowingly, or recklessly rendering impassable or impeding the reasonable use of a public area making usage of such area unreasonably inconvenient or hazardous

(C) A person commits an offense if, after having been notified by a law enforcement officer that the conduct violates this section and having been given a reasonable opportunity by a law enforcement officer to correct the violating conduct, the person camps in any of the following locations:

(1) High Pedestrian and Vehicular Traffic Areas

(a) On a sidewalk, shared use path, or trail in order to maintain a clear zone for safety of movement

(b) On high pedestrian traffic sidewalks administratively designated under City Code Section 12-2-15 (Micro-Mobility Device and Bicycle Parking) or others designated by the Director of the City of Austin Transportation Department. Until

the Austin Transportation Director has finalized this designation, those streets shall include the following:

(i) West Campus (between Martin Luther King Jr. Boulevard and 29th Street):

- Guadalupe Street
- Rio Grande Avenue
- San Antonio Avenue
- San Gabriel Street
- Nueces Street
- West 24th Street

(ii) Downtown

- 2nd Street
- 5th Street west of Guadalupe Street
- 6th Street
- Congress Avenue
- Red River Street

(iii) Central East Austin

- East 11th Street
- East 12th Street
- Manor Road

(c) In areas designated by the Director of the City of Austin Transportation Department for use for a special event under Chapter 4-20 (Special Events) and for which a permit is issued, during preparations for the event and while the event is in progress.

(d) At transit stops, transit shelters, or platforms as required by Capital Metro.

(e) Within the right of way of a railroad or light rail track or crossing, as required by existing laws and regulations [insert citation] in which trespassing onto railroad right of way is a Class C misdemeanor.

(f) On the sidewalks, on bicycle lanes, or roadways along a city-designated “Safe Route to School”

(g) On traffic islands, including median strips, median islands, and intersection islands defined as areas that temporarily provide

safety for pedestrians by separating opposing directions of traffic behind a raised curb

(h) On the sloped area under a highway and at the top of a retaining wall under or alongside a highway overpass that is determined by Austin Transportation Department to create a public safety issue and posts signage indicating the restriction

(j) On freeways and ramps, between the edge of the travel way and the edge of the freeway right of way. A freeway is defined as a limited access, high speed facility generally operated by the Texas Department of Transportation or Central Texas Regional Mobility Authority

(k) Underpasses with large flat areas are generally safe and not subject to the prohibition on camping, provided the camp is set back from the roadway a minimal distance established by the Austin Transportation Department and based on Texas Department of Transportation standards. Where possible, Austin Transportation Department will indicate a designated pathway to access the area through markings, signs, pedestrian signals or existing sidewalk.

(l) On any part of an accessibility ramp for persons with disabilities or in any manner that would restrict the movement of persons with disabilities

(m) In designated and marked special use zones, including but not limited to, constructions zones, commercial service zones, passenger loading zones, customer services zones, and valet zones.

(2) High Flood Risk Areas and Other Environmental Conditions Areas

(a) Along creeks and rivers, including the bed and bank, and around and under associated bridge structures, including those associated with Shoal Creek, Onion Creek, Waller Creek, Walnut Creek, and Williamson Creek.

(b) In a culvert or storm drain

- (c) In areas within the 100-year floodplain where there is a public health or public safety threat as defined by City of Austin Watershed Department
- (d) Within an area designated by the Wildfire Division of the Austin Fire Department as a high fire risk
- (e) Within an area designated for conservation preservation or water protection including parks, nature preserves, Balcones Canyonlands Preserves, water quality protection lands, conservation easements, and floodplain buyout properties by the City of Austin Parks and Recreation Department, Watershed Protection, Austin Water, or other departments

(3) Areas Around Shelters

- (a) Austin Resource Center for the Homeless (500 East 7th Street) and the Salvation Army (501 East 8th Street): within the area bordered by East 4th Street on the south, Brushy Street on the east, East 11th on the north, and Brazos on the west.
- (b) South Austin Housing Center: within the area bordered by the western side of Manchaca to the eastern side of South 1st; the northern side of Lightsey to the southern sides of Redd and West St. Elmo
- (c) Within a radius of the perimeter of other existing or future shelters established administratively by the City of Austin Health and Human Services Department. Shelters are defined as places which provide temporary residences for individuals experiencing homelessness while providing them with social service and other assistance to find a home

- (4) With a modification of public infrastructure that damages the public infrastructure; and/or with placement of furniture that obstructs pedestrian access to areas, which includes access to benches and parking pay stations
- (5) Camping in a manner that the City of Austin Medical Director has established is a public health hazard.

(6) Camping in a manner that obstructs entrances to residential, commercial or other building entrance

~~(B)~~ (D) A person is camping if the person engages in any of the activities listed in Subsection (A)(2) if it reasonably appears, based on the totality of the circumstances, that the person conducting the activity is using a public area for living accommodation purposes, regardless of the person's intent or engagement in other activities.

~~(C)~~ (E) This section does not apply to permitted camping or cooking in a park in compliance with park regulations.

~~(D)~~ (F) It is an affirmative defense to prosecution that a person owns the property or has secured the permission of the property owner to camp in a public area.

PART 3. City Code Section 9-4-14 (*Obstruction in the Downtown Austin Community Court Area Prohibited*) is amended to add a new subsection (F) as follows and renumber subsections accordingly:

§ 9-4-14 OBSTRUCTION IN THE DOWNTOWN AUSTIN COMMUNITY COURT AREA PROHIBITED

(A) **DISABILITY** means having a physical or mental impairment which substantially limits one or more major life activities.

(1) **PHYSICAL OR MENTAL IMPAIRMENT** means any physiological disorder or condition, cosmetic disfigurement, or anatomical loss affecting one or more of the following body systems: neurological; musculoskeletal; special sense organs; respiratory, including speech organs; cardiovascular; reproductive, digestive; genitourinary; hemic and lymphatic; skin; and endocrine; or any mental or psychological disorder, such as mental retardation, organic brain syndrome, emotional or mental illness, and specific learning disabilities.

(2) **MAJOR LIFE ACTIVITIES** means functions such as caring for one's self, performing manual tasks, walking, seeing, hearing, speaking, learning, breathing, and working.

(B) 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
- (4) encouraging businesses and neighborhoods in the central city where walking is a realistic alternative to vehicles that use fossil fuels.

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

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

(D) With the exception of subsection (F)(1)(b) and (c) [traffic islands and slopes], and (F)(2) [shelters], this section applies only 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 29th Street (West) and Lamar Boulevard (North);
- (2) south on Lamar Boulevard (North) to the north shore of Lady Bird Lake;
- (3) east along the north shore of Lady Bird Lake to the point directly south of the curve at the intersection of Jesse E. Segovia Street and Robert Martinez, Jr. Street;
- (4) north to the curve at the intersection of Jesse E. Segovia Street and Robert Martinez, Jr. Street;
- (5) west along Jesse E. Segovia Street to the intersection of Chicon Street;
- (6) north on Chicon Street to the intersection of Seventh Street (East);
- (7) west on Seventh Street (East) to the IH-35 East Frontage Road;
- (8) north on the IH-35 East Frontage Road to the intersection of Martin Luther King, Jr. Boulevard;
- (9) west on Martin Luther King, Jr. Boulevard to the intersection of Guadalupe Street;
- (10) north on Guadalupe Street to the intersection of 29th Street (West); and
- (11) northwest on 29th Street (West) to the intersection of Lamar Boulevard (North), the place of beginning.

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

given a reasonable opportunity by a law enforcement officer to correct the violating conduct:

(1) the person is obstructing the right-of-way between the roadway and the abutting property line or structure, or on an object placed in that area; and

(2) the person is:

- (i) materially endangering the health or safety of another person or of themselves;
- (ii) intentionally, knowingly, or recklessly rendering impassable or impeding the reasonable use of a public area making usage of such area unreasonably inconvenient or hazardous

(F) Unless otherwise specified, a person is restricted from obstructing a public area by sitting or lying in any of the following locations:

(1) High Pedestrian and Vehicular Traffic Areas

(a) within the right of way of a railroad or light rail track or crossing, as required by existing laws and regulations [insert citation] in which trespassing onto railroad right of way is a Class C misdemeanor.

(b) Lying on traffic islands, including median strips, median islands, and intersection islands defined as areas that temporarily provide safety for pedestrians by separating opposing directions of traffic behind a raised curb.

(c) Lying on the sloped area under a highway and at the top of a retaining wall under or alongside a highway overpass that is determined by Austin Transportation Department to create a public safety issue and signage is posted indicating the restriction

(d) On high pedestrian traffic sidewalks administratively designated under City Code Section 12-2-15 (Micro-Mobility Device and Bicycle Parking) or others designated by the Director of the City of Austin Transportation Department. Until the Austin

Transportation Director has finalized this designation, those streets shall include the following:

(i) West Campus (between Martin Luther King Jr. Boulevard and 29th Street):

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(ii) Downtown

- 2nd Street
- 5th Street west of Guadalupe Street
- 6th Street
- Congress Avenue
- Red River Street

(iii) Central East Austin

- East 11th Street
- East 12th Street
- Manor Road

(e) On any part of an accessibility ramp for persons with disabilities, or in any manner that would restrict the movement of persons with disabilities

(f) In designated and marked special use zones, including but not limited to, construction zones, commercial service zones, passenger loading zones, customer services zones, and valet zones

(g) In an area that obstructs entrances to residential, commercial or other building entrance

(2) Areas Around Shelters

(a) Austin Resource Center for the Homeless (500 East 7th Street) and the Salvation Army (501 East 8th Street): within the area bordered by East 4th Street on the south, Brushy Street on the east, East 11th on the north, and Brazos on the west.

(b) South Austin Housing Center: within the area bordered by the western side of Manchaca to the eastern side of South 1st; the northern side of Lightsey to the southern sides of Redd and West St. Elmo

(c) Within a radius of the perimeter of other existing or future shelters established administratively by the City of Austin Health and Human Services Department. Shelters are defined as places which provide temporary residences for individuals experiencing homelessness while providing them with social service and other assistance to find a home

~~(G)(F)~~ This section does not apply to a person who:

- (1) is obstructing the right-of-way because of a medical emergency;
- (2) operates or patronizes a commercial establishment that conducts business on the sidewalk under Title 14 (*Streets and Use of Public Property*) of the Code;
- (3) participates in or views a parade, festival, performance, rally, demonstration, or similar event;
- (4) sits on a chair or bench that is supplied by a public agency or by the abutting private property owner;
- (5) sits within a bus stop zone while waiting for public or private transportation; or
- (6) is waiting in a line for goods, services, or a public event.
- (7) It is an affirmative defense to prosecution if a person is obstructing the right-of-way as the result of a physical manifestation of a disability, not limited to visual observation.

PART 4. If there is no imminent health or safety threat, then a law enforcement officer shall first provide the person a reasonable opportunity to change locations to a non-restricted area. The officer shall contact a member of a Homeless Outreach Street Team (HOST), case worker, community health paramedic or other city designee who shall offer to transport a person who continues to camp in a restricted area to the appropriate location for case management and housing services.

PART 5. This ordinance takes effect on September 29, 2019.

PASSED AND APPROVED

_____, 2019 § _____
 § _____
 § _____

Steve Adler
Mayor

APPROVED: _____

Anne L. Morgan
City Attorney

ATTEST: _____

Jannette S. Goodall
City Clerk