

## 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 (*Camping in Public Area Prohibited*) and 9-4-14 (*Obstruction in the Downtown Austin Community Court Area Prohibited*) 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, 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.
- (D) 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 campfire;

- (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 is presumed to be materially endangering health or safety under subsection (B)(1) or impeding the reasonable use of a public area under subsection (B)(2) if the person camps:

(1) **Casar Option:** On a sidewalk, shared use path, or trail in a manner that does not maintain a 4 foot clear zone for safety of movement;

**Adler Option:** On a sidewalk, shared use path, or trail in a manner that does not maintain a [4 or 5] foot clear zone for safety of movement;

(2) **Adler Option:** On high pedestrian traffic sidewalks that require additional clearance from obstruction given the higher amount of pedestrian traffic and are administratively designated under City Code Section 12-2-15 (*Micro-Mobility Device and Bicycle Parking*) or other ordinance by the director of the City of Austin Transportation Department and, until such designation, those streets that were formerly designated under City Code Section 12-2-13(B) (*Use of Sidewalks Restricted*), being those listed below and shown on Exhibit A, attached:

- (a) 100 to 1100 blocks of Congress Avenue
- (b) 1900 to 2500 blocks of Guadalupe Street
- (c) 100 to 1100 blocks of Brazos Street;
- (d) 200 to 1100 blocks of Colorado Street;
- (e) from the 200 block of Second Street (West) to the 300 block of Second Street (East)
- (f) from the 900 block of Fifth Street (West) to the 800 block of Fifth Street (East);
- (g) from the 700 block of Sixth Street (East) to the 1000 block of Sixth Street (West);
- (h) from the 100 block of Eighth Street (West) to the 200 block of Eighth Street (East);

- (i) from the 100 block of Ninth Street (West) to the 200 block of Ninth Street (East);
- (j) from the 200 block of 11<sup>th</sup> Street (West) to the 200 block of 11<sup>th</sup> Street (East); and
- (k) from the 200 block of 15<sup>th</sup> Street (West) to the 200 block of 15<sup>th</sup> Street (East).

- (3) 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*) or other ordinance and for which a special event permit or construction permit is issued, during preparations for the event and while the event is in progress, and which is accordingly marked with signage;.
- (4) At transit stops, transit shelters, or platforms as required by Capital Metro;
- (5) Within the right of way of a railroad or light rail track or crossing;
- (6) On a sloped area under a highway or at the top of a retaining wall under or alongside a highway overpass, where the director of the City of Austin Transportation Department has designated that camping on such area endangers public health or safety, and which is accordingly marked with signage;
- (7) On any part of an accessibility ramp for persons with disabilities or in any manner that would restrict the movement of persons with disabilities;
- (8) In designated and marked commercial service zones, passenger loading zones, customer services zones, and valet zones;
- (9) In areas within the floodplain where there is an imminent public health or public safety threat, or in areas in the floodplain that are determined to be of the greatest risk for people camping as designated by the Director of the City of Austin Watershed Department, and which is accordingly marked with signage;
- (10) In a culvert or storm drain;
- (11) Within an area designated by the Wildfire Division of the Austin Fire Department as a high fire risk and the person starts or tends a fire;
- (12) Within an area designated for conservation preservation or water protection including parks, nature preserves, Balcones Canyonlands Preserves, and water quality protection lands by the City of Austin Parks and Recreation Department, Watershed Protection, Austin Water, or other departments;
- (13) In areas around shelters:
  - (a) Within a three block area of a shelter in the Central Business District.

(b) In the area around the ARCH and the Salvation Army bordered by the southern side of 11<sup>th</sup> Street, the eastern side of Brazos Street, the northern side of 4<sup>th</sup> Street, and the western side of [IH-35 or Brushy/Branch/Embassy].

(c) **Casas Option:** Within a ¼ mile radius of a shelter outside of the Central Business District. Shelters are city designated places that provide temporary residences for individuals experiencing homelessness while providing them with social service and other assistance to find a home.

**Adler Option:** Within a [¼ to ½] mile radius of a shelter outside of the Central Business District. Shelters are city designated places that provide temporary residences for individuals experiencing homelessness while providing them with social service and other assistance to find a home.

(14) With a modification of public infrastructure that damages the public infrastructure; or with placement of furniture that obstructs pedestrian access to areas, which includes access to benches and parking pay stations;

(15) In conditions, in a manner, or with materials that endanger public safety or health as administratively determined and then published by the medical director of the City of Austin Public Health Department Medical Director.; or

(16) **Casas Option:** In a manner that renders a building entrance impassable.

**Adler Option:** Within \_\_\_ feet of a building entrance.

(~~E~~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.

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

(~~E~~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) 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, except as provided in subsection (F):
- (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) A person is presumed to be materially endangering health or safety under subsection (E)(2) or impeding the reasonable use of a public area under subsection (E)(1) if the person sits or lies:

- (1) Within the right of way of a railroad or light rail track or crossing;
- (2) **Adler Option:** Regardless of the geographic restrictions in subsection (D), it is prohibited to lie anywhere in the City 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 anywhere in the City;
- (3) **Adler Option:** Regardless of the geographic restrictions in subsection (D), it is prohibited to lie anywhere in the City on a sloped area under a highway or at the top of a retaining wall under or alongside a highway overpass, where the director of the City of Austin Transportation Department has designated that camping on such area endangers public health or safety, and which is accordingly marked with signage;
- (4) **Adler Option:** On high pedestrian traffic sidewalks that require additional clearance from obstruction given the higher amount of pedestrian traffic and are administratively designated under City Code Section 12-2-15 (*Micro-Mobility Device and Bicycle Parking*) or other ordinance by the director of the City of Austin Transportation Department and, until such designation, those streets that were formerly designated under City Code Section 12-2-13(B) (*Use of Sidewalks Restricted*), being those listed below and shown on Exhibit A, attached:
  - (a) 100 to 1100 blocks of Congress Avenue
  - (b) 1900 to 2500 blocks of Guadalupe Street

- (c) 100 to 1100 blocks of Brazos Street;
- (d) 200 to 1100 blocks of Colorado Street;
- (e) from the 200 block of Second Street (West) to the 300 block of Second Street (East)
- (f) from the 900 block of Fifth Street (West) to the 800 block of Fifth Street (East);
- (g) from the 700 block of Sixth Street (East) to the 1000 block of Sixth Street (West);
- (h) from the 100 block of Eighth Street (West) to the 200 block of Eighth Street (East);
- (i) from the 100 block of Ninth Street (West) to the 200 block of Ninth Street (East);
- (j) from the 200 block of 11th Street (West) to the 200 block of 11th Street (East); and
- (k) from the 200 block of 15th Street (West) to the 200 block of 15th Street (East).

**Casar Option:** On high pedestrian traffic sidewalks that require additional clearance from obstruction in a manner that does not maintain a 4 foot clear zone given the higher amount of pedestrian traffic and are administratively designated under City Code Section 12-2-15 (*Micro-Mobility Device and Bicycle Parking*) or other ordinance by the director of the City of Austin Transportation Department and, until such designation, those streets that were formerly designated under City Code Section 12-2-13(B) (*Use of Sidewalks Restricted*), being those listed below and shown on Exhibit A, attached:

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- (g) from the 700 block of Sixth Street (East) to the 1000 block of Sixth Street (West);
- (h) from the 100 block of Eighth Street (West) to the 200 block of Eighth Street (East);
- (i) from the 100 block of Ninth Street (West) to the 200 block of Ninth Street (East);
- (j) from the 200 block of 11th Street (West) to the 200 block of 11th Street (East); and
- (k) from the 200 block of 15th Street (West) to the 200 block of 15th Street (East).

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

- (6) In designated and marked commercial service zones, passenger loading zones, customer services zones, and valet zones;
- (7) **Casar Option:** In a manner that renders a building entrance impassable;
- Adler Option:** Within     feet of a building entrance; or
- (8) In areas around shelters:
- (a) Within a three block area of a shelter in the geographic area described in subsection (D); or
- (b) In the area around the ARCH and the Salvation Army bordered by the southern side of 11<sup>th</sup> Street, the eastern side of Brazos Street, the northern side of 4<sup>th</sup> Street, and the western side of [IH-35 or Brushy/Branch/Embassy].
- (c) **Adler Option:** Within a [¼ or ½] mile area of a shelter outside the geographic area described in subsection D. Shelters are city designated places which provide temporary residences for individuals experiencing homelessness while providing them with social service and other assistance to find a home.

(~~F~~G) 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.

(~~G~~H) 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.** A law enforcement officer may take an enforcement action for a violation of City Code Sections 9-4-11 and 9-4-14 only after having contacted, whenever reasonable, a member of a Homeless Outreach Street Team (HOST), case worker, community health paramedic or other city designee who shall have the opportunity to offer to transport a person who continues to camp, sit, or lie in violation of City Code Sections 9-4-11 and 9-4-14 to a location at which camping, sitting, or lying,



is not prohibited and, as reasonably possible, and at which case management and housing services can be received. The Police Department shall provide a quarterly report for the first year after passage of this ordinance detailing how often an offender under Sections 9-4-11 and 9-4-14 is and is not so diverted from criminal sanction.

**PART 5.** This ordinance takes effect on September 30, 2019.

**PASSED AND APPROVED**

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	§	
_____, 2019	§	
		Steve Adler
		Mayor

**APPROVED:** \_\_\_\_\_  
Anne L. Morgan  
City Attorney

**ATTEST:** \_\_\_\_\_  
Jannette S. Goodall  
City Clerk

(Map of Prior Restrictions of Bicycle on City Streets)

