

- 40 (c) using a tent or shelter or other structure for a living
41 accommodation;
42 (d) carrying on cooking activities; or
43 (e) digging or earth breaking activities.
44

45 (2) HOMELESS SHELTER means a supervised publicly or
46 privately operated facility that is designed to provide
47 temporary living accommodations for individuals who lack a
48 fixed, regular, and adequate residence while providing them
49 with social service and other assistance to find a home and that
50 is designated by the city as a shelter.
51

52 (3) PARK means a parcel of land dedicated and used as parkland, or
53 city-owned land used for a park or recreational purpose that is
54 under the administrative control of the Parks and Recreation
55 Department.
56

57 (4) PUBLIC AREA means an outdoor area accessible to the public
58 including a street, highway, park, parking lot, alleyway,
59 pedestrian way, and the common areas of a school, hospital,
60 apartment building, office building, transport facility, or
61 business.
62

63 **9-4-11(2) FINDINGS:**
64

65 (A) Council finds that the city has a compelling interest in:
66

- 67 (1) Protecting the health and safety of all residents and visitors,
68 including people who are experiencing homelessness;
69 (2) Ensuring the free movement of pedestrians and vehicles without
70 undue obstruction or delay, or exposure to dangerous vehicular
71 traffic, that may be caused by people camping in areas where
72 there is high pedestrian or vehicular traffic;
73 (3) Protecting the environment, water quality and public health, and
74 mitigating fire risk in sensitive, flood-prone, or high fire risk
75 areas that may be negatively affected by people camping;

76 (4) Ensuring that parks and other public spaces are, to the greatest
77 extent possible, protected and available for equal access and use
78 by all.

79 (B) Council finds that camping in public areas can, in the areas and
80 circumstances identified in this section:

81 (1) threaten public health and safety, including the health and safety
82 of those camping;

83 (2) create substantial risks to the environment;

84 (3) block or obstruct the safe access of pedestrians and vehicles to
85 buildings and public infrastructure; and

86 **9-4-11(3) OFFENSES; EXCEPTIONS; AND AFFIRMATIVE DEFENSE**

87 (A) Except as provided in Subsection (F), a person commits an offense
88 if the person camps in a public area that is not designated as a
89 camping area by the city and the person is:

90
91 (1) materially endangering the health or safety of another person or
92 of themselves; or

93
94 (2) intentionally, knowingly, or recklessly rendering impassable, or
95 impeding, the reasonable use of a public area making usage of
96 such area unreasonably inconvenient or hazardous.

97
98 (B) Except as provided by Subsection (F), a person commits an offense
99 if the person camps in an area that is not designated as a camping
100 area by the city and the person is:

101
102 (1) on or inside a culvert or storm drain;

103
104 (2) in the bed or on the bank of a creek or river and within 5 feet of
105 the top of the bank of a creek or river;

106
107 (3) on any part of an accessibility ramp for persons with
108 disabilities, or is camping any manner that would restrict the
109 movement of persons with disabilities;

110
111 (4) on land that the city has designated as having a high fire risk;

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(5) on a sidewalk built based on transportation safety standards used by Austin Transportation Department which allow an area necessary for safe pedestrian use of the sidewalk.

(6) on high pedestrian and vehicular traffic roadways, including any sidewalks as referenced in (5) above or right-of-way, identified by the Austin Transportation Department as a roadway where camping creates a public safety risk including but not limited to the following:

- a. Guadalupe Street between Martin Luther King Jr. Blvd. and 26th Street;
- b. 24th Street between N Lamar Blvd and Guadalupe Street
- c. Congress Avenue between Oltorf Street and 11th Street;
- d. 2nd Street between Trinity Street and West Avenue;
- e. 5th Street between IH-35 and Lamar Blvd;
- f. 6th Street between IH-35 and Lamar Blvd;

(7) In areas established around shelters as follows:

- a. Within approximately one-quarter mile to one-half mile, with boundaries set by the City Manager, of a homeless shelter located outside of the area in 9-4-14(3)(A).
- b. Within the area bordered by East 4th Street (South), Brushy Street (East), East 11th Street (North), and Brazos Street (West), excluding any area under IH-35 (ARCH);
- c. At the time that the shelter becomes operational, within the area bordered by the western boundary of Manchaca Road, the eastern boundary of South 1st Street, the northern boundary of Lightsey Road, and the southern boundaries of Redd Street and West St. Elmo (South Austin Housing Center);

(8) In a floodplain that poses the greatest risk to people that are camping there as determined by the City Manager;

(9) on a traffic island, median strip, median island, intersection island or other similar area that separates opposing traffic flows with either a painted area or a raised curb;

151 (10) on the sloped area under a highway and at the top of a retaining
152 wall or alongside a highway overpass determined by the City to
153 be particularly dangerous for camping;

154
155 (C) A person commits an offense if the person camps in a manner that:

- 156
157 (1) damages, alters, or modifies public infrastructure, including
158 benches, retaining walls, or planters;
159 (2) places furniture that obstructs pedestrian access to areas,
160 including benches and parking pay stations;
161 (3) obstructs access to or egress from the entrance or exit of any
162 building by camping within six feet of the entrance or exit, as
163 measured from the door jamb; or
164 (4) obstructs normal use of and access to public infrastructure,
165 including benches or parking pay stations.

166
167 (D) Except as provided by Subsection (F), a person commits an offense if the
168 person camps in an area that is not designated as a camping area by the city and
169 the person is in an area which are prohibited under other law or rule, including:

- 170 a) in a park;
- 171 b) on land designated by the city for conservation, preservation, or
172 water protection including nature preserves, the Balcones
173 Canyonland Preserves, and Austin Water Wildlands;
- 174 c) in the right-of-way of a railroad or light rail track or crossing
- 175 d) in a city library or on the grounds of a city library;
- 176 e) on private property without the permission of the owner or
177 apparent authority to act for the owner;
- 178 f) in or on transit stops, shelters, platforms, or stations; or
- 179 g) in a designated and marked special use zone, including
180 construction zones, commercial service zones, passenger loading
181 zones, customer service zones, and valet zones;

182
183 (E) A person is camping if the person engages in any of the activities
184 listed in Subsection (A)(1) of City Code Section 9-4-11(1)

185 (*Camping in Public Area Prohibited*) if it reasonably appears, based
186 on the totality of the circumstances, that the person conducting the
187 activity is using a public area for living accommodation purposes,
188 regardless of the person's intent or engagement in other activities.

189
190 (F) This section does not apply to camping or cooking in a park that
191 complies with park regulations.

192
193 (G) It is an affirmative defense to prosecution that a person owns the
194 property or has secured the permission of the property owner to
195 camp in a public area.

196
197 **9-4-11(4) Enforcement and Engagement Process**

198
199 (A) A law enforcement officer may only issue a citation for a violation
200 of this section if, prior to issuing the citation, the law enforcement
201 officer:

202
203 (1) notified the person that the conduct violates this section,

204
205 (2) provides the person with a reasonable opportunity to comply
206 with the prohibition, but the person does not comply; and

207
208 (3) contacts, whenever reasonable, a member of a Homeless
209 Outreach Street Team (HOST), case worker, community health
210 paramedic, or other city designee who shall have the
211 opportunity to offer to transport a person who continues to camp
212 in violation of City Code Section 9-4-11(3) (*Camping in Public
213 Area Prohibited*) to a location at which camping, is not
214 prohibited and, as reasonably possible, at which case
215 management and housing services can be received.

216
217 (B) In instances where it is not reasonable for a law enforcement to
218 contact a city designee as required by subsection (A)(3) above, a law
219 enforcement officer must first issue a warning and may not issue a
220 citation unless the individual as previously been issued a warning for
221 camping in the same location.

222
223 (C) The City Manager shall provide to Council a quarterly report for the
224 first year after passage of this ordinance detailing how often an

225 accused offender under City Code Section 9-4-11(3) (*Camping in*
226 *Public Area Prohibited*) is and is not so diverted from criminal
227 sanction.
228

229
230 **PART 4.** The caption and City Code Section 9-4-14 (*Obstruction in the*
231 *Downtown Austin Community Court Area Prohibited*) are repealed and replaced to
232 read as follows:
233

234 **§ 9-4-14 OBSTRUCTION IN THE DOWNTOWN AUSTIN COMMUNITY**
235 **COURT AREA AND SITTING OR LYING IN OTHER SPECIFIED AREAS**
236 **PROHIBITED**

237
238 **9-4-14(1) DEFINITIONS:**
239

240 In this section:

- 241
- 242 (A) **DISABILITY** means having a physical or mental impairment which
243 substantially limits one or more major life activities.
244
 - 245 (1) **PHYSICAL OR MENTAL IMPAIRMENT** means any
246 physiological disorder or condition, cosmetic disfigurement, or
247 anatomical loss affecting one or more of the following body
248 systems: neurological; musculoskeletal; special sense organs;
249 respiratory, including speech organs; cardiovascular;
250 reproductive, digestive; genitourinary; hemic and lymphatic;
251 skin; and endocrine; or any mental or psychological disorder,
252 such as mental retardation, organic brain syndrome, emotional
253 or mental illness, and specific learning disabilities.
254
 - 255 (2) **MAJOR LIFE ACTIVITIES** means functions such as caring
256 for one's self, performing manual tasks, walking, seeing,
257 hearing, speaking, learning, breathing, and working.
258
 - 259
 - 260 (B) **HOMELESS SHELTER** means a supervised publicly or privately
261 operated facility that is designed to provide temporary living
262 accommodations for individuals who lack a fixed, regular, and
263 adequate residence while providing them with social service and

264 other assistance to find a home and that is designated by the city as a
265 shelter.

266

267 **9-4-14(2) FINDINGS:**

268

269 (A) The council finds that the city has a compelling interest in:

270

271 (1) encouraging and preserving a vital, pedestrian-friendly urban
272 core;

273

274 (2) promoting tourism and business in the central business district;

275

276 (3) preserving the quality of urban life; and

277

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

281

282 (B) The council finds that in areas with high pedestrian traffic and a
283 high incidence of petty crime related to public disorder, individuals
284 obstructing, sitting, or lying in the pedestrian right-of-way:

285

286 (1) are disruptive to residents, businesses, and customers;

287

288 (2) discourage, block, or inhibit the free passage of pedestrians;
289 and

290

291 (3) contribute to the loss of access to and enjoyment of public
292 places.

293

294 **9-4-14(3) OFFENSES; EXCEPTIONS; AND AFFIRMATIVE DEFENSE:**

295

296 (A) A person commits an offense if the person is:

297

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

301

302 (i) materially endangering the health or safety of another
303 person or of themselves; or

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- (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;
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311
- (2) obstructing a sidewalk, trail, or shared-use path
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- (3) obstructing access to or egress from the entrance or exit of any building by sitting or lying down within six feet of the entrance or exit, as measured from the door jamb; and
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- (4) the person is located in the following area, including the streets and pedestrian rights-of-way that bound the area, but not including the campus of the University of Texas:
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- (i) beginning at the intersection of 29th Street (West) and Lamar Boulevard (North);
 - (ii) south on Lamar Boulevard (North) to the north shore of Lady Bird Lake;
 - (iii) 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;
 - (iv) north to the curve at the intersection of Jesse E. Segovia Street and Robert Martinez, Jr. Street;
 - (v) west along Jesse E. Segovia Street to the intersection of Chicon Street;
 - (vi) north on Chicon Street to the intersection of Seventh Street (East);
 - (vii) west on Seventh Street (East) to the IH-35 East Frontage Road;
 - (viii) north on the IH-35 East Frontage Road to the intersection of Martin Luther King, Jr. Boulevard;
 - (ix) west on Martin Luther King, Jr. Boulevard to the intersection of Guadalupe Street;
 - (x) north on Guadalupe Street to the intersection of 29th Street (West); and

342 (xi) northwest on 29th Street (West) to the intersection of
343 Lamar Boulevard (North), the place of beginning.
344

345 (B) A person commits an offense if the person sits or lies down in the
346 following areas:
347

- 348 (1) in the right-of-way of a railroad or light rail track or crossing;
- 349 (2) in a designated and marked special use zone, including,
350 construction zones, commercial service zones, passenger
351 loading zones, customer service zones, and valet zones;
- 352 (3) on any part of an accessibility ramp, located in a public place,
353 for persons with disabilities, or in any manner that would
354 restrict the movement of persons with disabilities in a public
355 place;

356
357 (C) A person commits an offense if the person sits or lies down in the
358 following areas:
359

- 360 (1) Within approximately one-quarter mile to one-half mile, with
361 boundaries set by the City Manager, of a homeless shelter
362 located outside of the area identified in 9-4-14(3)(A);
- 363 (2) Within three blocks, with boundaries set by the City Manager,
364 of a homeless shelter located in the area identified in 9-4-
365 14(3)(A);
- 366 (3) Within the area bordered by East 4th Street (South), Brushy
367 Street (East), East 11th Street (North), and Brazos Street
368 (West), excluding any area under IH-35 (ARCH); or
- 369 (4) At the time that the shelter becomes operational, within the
370 area bordered by the western boundary of Manchaca Road, the
371 eastern boundary of South 1st Street, the northern boundary of
372 Lightsey Road, and the southern boundaries of Redd Street and
373 West St. Elmo (South Austin Housing Center).

374
375 (D) This section does not apply to a person who:
376

- 377 (1) is obstructing the right-of-way, or sitting or lying, because of a
378 medical emergency;
- 379 (2) operates or patronizes a commercial establishment that
380 conducts business on the sidewalk under Title 14 (*Streets and*
381 *Use of Public Property*) of the Code;

- 382 (3) participates in or views a parade, festival, performance, rally,
383 demonstration, or similar event;
384 (4) sits on a chair or bench that is supplied by a public agency or
385 by the abutting private property owner;
386 (5) sits within a bus stop zone while waiting for public or private
387 transportation; or
388 (6) is waiting in a line for goods, services, or a public event.

389
390 (E) It is an affirmative defense to prosecution if a person is obstructing
391 the right-of-way, or sitting or lying, as the result of a physical
392 manifestation of a disability, even if the manifestation of the
393 disability is not visually observable.
394

395 **9-4-14(4) Enforcement and Engagement Process**

396
397 (A) A law enforcement officer may only issue a citation for a violation
398 of this section if, prior to issuing the citation, the law enforcement
399 officer:

- 400
401 (1) notified the person that the conduct violates this section,
402
403 (2) provides the person with a reasonable opportunity to comply
404 with the prohibition, but the person does not comply, and
405
406 (3) contacts, whenever reasonable, a member of a Homeless
407 Outreach Street Team (HOST), case worker, community health
408 paramedic, or other city designee who shall have the opportunity
409 to offer to transport a person who continues to obstruct, sit, or lie
410 in violation of City Code Section 9-4-14(3) to a location at which
411 such obstructing, sitting, or lying not prohibited and, as
412 reasonably possible, at which case management and housing
413 services can be received.

414
415 (B) In instances where it is not reasonable for a law enforcement to
416 contact a city designee as required by subsection (A)(3) above, a law
417 enforcement officer must first issue a warning and may not issue a
418 citation unless the individual as previously been issued a warning for
419 sitting or lying in the same location.
420

421 (C) The City Manager shall provide to Council a quarterly report for the
422 first year after passage of this ordinance detailing how often an
423 accused offender under City Code Section 9-4-11(3) (*Camping in*
424 *Public Area Prohibited*) is and is not so diverted from criminal
425 sanction.
426

427
428 **PART 5. This ordinance takes effect 15 days of passage of the ordinance.**
429

430 **PASSED AND APPROVED**

431 §
432 §
433 _____, 2019 § _____
434 Steve Adler
435 Mayor
436

437
438 **APPROVED:** _____ **ATTEST:** _____
439 Anne L. Morgan Jannette S. Goodall
440 City Attorney City Clerk
441