

1 **ORDINANCE NO.**

2 **AN ORDINANCE ADDING CITY CODE CHAPTER 14-12 (*USE OF CITY***
3 ***FACILITIES*)**

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

5 **PART 1.** Title 14. – USE OF STREETS AND PUBLIC PROPERTY is amended
6 to add Chapter 14-12 (*Use of City Facilities*) as follows:

7 **§ 14-12-1 PURPOSE AND INTENT.**

8 (A) The purpose and intent of this Chapter is to establish a policy for
9 allowing expressive activity on the outside grounds of City of Austin
10 Public Library facilities and the Palmer Events Center.

11 (B) The City recognizes the right of its citizens to engage in expressive
12 activity, including petitioning for initiative or referendum, under the
13 First Amendment of the United States Constitution, Article 1, Section
14 8 of the Texas Constitution, and Austin City Charter, Article IV,
15 Sections 1 and 2 reserving the power of referendum and initiative to the
16 people of Austin, which may occur in or on public facilities and lands
17 owned by the City as allowed by law or City policy.

18 (C) The City also recognizes its duty to the citizens of Austin to be a
19 responsible steward of public facilities and lands under its ownership
20 and control, to maintain these public facilities and lands in a manner
21 that promotes free speech, public safety and health, and to provide City-
22 owned facilities where the City and the public can conduct business and
23 other approved activities free from unlawful and disruptive
24 interference.

25 (D) The City recognizes the City Manager’s authority in compliance with
26 the City Charter to control and maintain the City’s public facilities and
27 lands in accordance with these interests.

28 **§ 14-12-2 APPLICABILITY.**

29 (A) This policy applies to the exterior grounds of Austin public library
30 facilities and the Palmer Events Center.

31 (B) The City’s parklands, streets, and public sidewalks are traditional
32 public forums that are open to the public for First Amendment activity

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

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

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

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

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

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

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

91 **§ 14-12-4 PERMISSIBLE ACTIVITY**

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

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

97 (C) Aggressive solicitation or communication is not permitted.

98 (D) Expressive activity is not permitted: (1) within 15 feet of an entrance or
99 exit to a building, a stairway, an elevator, or a sidewalk café; (2) within
100 a parking area or in areas where vehicles are being driven, including
101 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.

114
115 **PART 2.** This ordinance takes effect on _____.

116 **PASSED AND APPROVED**

117 _____, 2018 §
118 §
119 §

120 _____ Steve Adler
121 Mayor

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124 **APPROVED:** _____
125 Anne L. Morgan
126 City Attorney

124 **ATTEST:** _____
125 Jannette S. Goodall
126 City Clerk

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