

ORDINANCE NO.

AN ORDINANCE AMENDING CITY CODE SECTIONS 9-4-11 RELATING TO PROHIBITING CAMPING IN PUBLIC AREAS, 9-4-13 RELATING TO PROHIBITING SOLICITATION, AND 9-4-14 RELATING TO PROHIBITING SITTING OR LYING DOWN ON PUBLIC SIDEWALKS OR SLEEPING OUTDOORS IN THE DOWNTOWN AUSTIN COMMUNITY COURT AREA; AND CREATING OFFENSES

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

PART 1. Subsection (B) of City Code Section 9-4-11 (Camping in Public Area Prohibited) is amended, a new subsection (C) is added, and the remaining subsections are numbered accordingly, as follows:

§ 9-4-11 CAMPING IN PUBLIC AREA PROHIBITED

(B) Except as provided in Subsection (E[~~D~~]), a person commits an offense if, after having been notified by a law enforcement officer that the conduct violates this section, the person camps in a public area that is not designated as a camping area by the City of Austin [Parks and Recreation Department] and the person is:

(1) materially endangering the health or safety of another person or of themselves; 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 peace officer must provide written notice before taking enforcement action when a person's health or safety is not imminently endangered.

PART 2. The Caption and City Code Section 9-4-13 (Solicitation Prohibited) are amended to read:

§ 9-4-13 AGGRESSIVE CONFRONTATION [~~SOLICITATION~~] PROHIBITED

(A) The council finds that:

(1) Aggressive confrontations in public areas are [~~solicitation is~~] disturbing and disruptive to residents and businesses and

38 contribute[s]to the loss of access to and enjoyment of public places
39 and to a sense of fear, intimidation and disorder.

40 (2) Aggressive confrontation [~~solicitation~~] includes people approaching
41 or following pedestrians, repetitive attempts to confront another
42 person [~~soliciting~~] despite refusals, the use of abusive or profane
43 language with the intent to cause fear and intimidation, unwanted
44 physical contact, or the intentional blocking of pedestrian and
45 vehicular traffic.

46 (3) [~~The presence of individuals who solicit money from persons at or~~
47 ~~near banks, automated teller machines, public transportation~~
48 ~~facilities, and crosswalks is especially troublesome because of the~~
49 ~~enhanced fear of crime in a place that is confined, difficult to avoid,~~
50 ~~or where a person might find it necessary to wait.~~

51 (4)—]This section is intended to protect citizens from the fear and
52 intimidation accompanying certain kinds of aggressive
53 confrontations [~~solicitation~~], and not to limit a constitutionally
54 protected activity.

55 (B) In this section:

56 (1) AGGRESSIVE MANNER means intending to cause a person to fear
57 imminent bodily harm or the commission of a criminal act upon
58 property in the person's possession by:

59 (a) [~~intentionally or recklessly~~] making any physical contact with
60 or touching another person in the course of the confrontation
61 [~~solicitation~~] without the other person's consent when the
62 person knows or should reasonably believe that the other
63 person will regard the contact as offensive or provocative;

64 (b) following the person being confronted [~~solicited~~], if that
65 conduct is:

66 (i) intended to [~~or likely to~~] cause a [~~reasonable~~] person to
67 fear imminent bodily harm or the commission of a
68 criminal act upon property in the person's possession;
69 or

70 (ii) intended to [~~or reasonably likely to~~] intimidate the
71 person being confronted [~~solicited~~] into engaging in
72 acts or behaviors the person would not otherwise do or
73 perform [~~responding affirmatively to the solicitation~~];

74 (c) continuing to confront [~~solicit~~] a person within five feet of the
75 person being confronted [~~solicited~~] after the person has
76 demanded that the confrontation cease [~~made a negative~~
77 ~~response~~];

78 (d) [~~intentionally or recklessly~~] blocking the safe or free passage
79 of the person being confronted [~~solicited~~] or requiring the
80 person, or the driver of a vehicle, to take evasive action to
81 avoid physical contact with the person initiating or continuing
82 the confrontation [~~making the solicitation~~]; or

83 (e) using obscene or abusive language or gestures toward the
84 person being confronted [~~solicited~~] in a manner that tends to
85 incite an immediate breach of the peace.[:

86 (f) ~~approaching the person being solicited in a manner that:~~

87 (i) ~~is intended to or is likely to cause a reasonable person~~
88 ~~to fear imminent bodily harm or the commission of a~~
89 ~~criminal act upon property in the person's possession;~~
90 ~~or~~

91 (ii) ~~is intended to or is reasonably likely to intimidate the~~
92 ~~person being solicited into responding affirmatively to~~
93 ~~the solicitation.~~

94 (2) ~~AUTOMATED TELLER MACHINE~~ means a device, linked to a
95 bank's account records, which is able to carry out banking
96 transactions.

97 (3) ~~AUTOMATED TELLER FACILITY~~ means the area comprised of
98 one or more automatic teller machines, and any adjacent space that
99 is made available to banking customers.

100 (4) ~~BANK~~ includes a bank, savings bank, savings and loan association,
101 credit union, trust company, or similar financial institution.

102 (5) ~~BUS~~ means a vehicle operated by a transit authority for public
103 transportation.

104 (6) ~~CHECK CASHING BUSINESS~~ means a person in the business of
105 cashing checks, drafts, or money orders for consideration.]

106 (2) CONFRONT means to approach and threaten or intimidate another
107 person by words or actions in a manner reasonably calculated to
108 detain, hinder, or delay the person.

109 (3[7]) PUBLIC AREA means an outdoor area to which the public has
110 access and includes, but is not limited to, a sidewalk, street,
111 highway, park, parking lot, alleyway, pedestrian way, or the
112 common area of a school, hospital, apartment house, office building,
113 transport facility, or shop.

114 [~~(8) SOLICIT means to request, by the spoken, written, or printed word,
115 or by other means of communication an immediate donation or
116 transfer of money or another thing of value from another person,
117 regardless of the solicitor's purpose or intended use of the money or
118 other thing of value, and regardless of whether consideration is
119 offered.~~]

120 (C) A person commits an offense if the person confronts another person in an
121 aggressive manner in a public area. [~~solicits:~~

122 (1) ~~in an aggressive manner in a public area;~~

123 (2) ~~in a bus, at a bus station or stop, or at a facility operated by a~~
124 ~~transportation authority for passengers;~~

125 (3) ~~within 25 feet of:~~

126 (a) ~~an automated teller facility;~~

127 (b) ~~the entrance or exit of a bank; or~~

128 (c) ~~the entrance or exit of a check cashing business; or~~

129 (4) ~~at a marked crosswalk.~~

130 (5) ~~on either side of the street on a block where a school attended by~~
131 ~~minors or a child care facility has an entrance or exit;~~

132 (6) ~~at a sidewalk café authorized under Chapter 14-4 (*Sidewalk Cafés*)~~
133 ~~or the patio area of a bar or restaurant; or~~

134 (7) ~~in the downtown business area described in Section 9-4-14 (*Sitting*~~
135 ~~*or Lying Down on Public Sidewalks in the Downtown Business Area*~~
136 ~~*Prohibited*) between 7:00 p.m. and 7:00 a.m.]~~

137 (D) [~~A culpable mental state is not required, and need not be proved, for an~~
138 ~~offense under this Chapter Subsection (C)(2), (3), or (4).]~~

139 (E) This section is not intended to proscribe a demand for payment for services
140 rendered or goods delivered.

141 (E) This section does not apply to a person who participates in or views a
142 parade, festival, performance, rally, demonstration, or similar event.

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144 (F) This section does not apply to a peace officer or other person making a
145 lawful detention or arrest.

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147 **PART 3.** The Caption and City Code Section 9-4-14 (*Sitting or Lying Down on*
148 *Public Sidewalks or Sleeping Outdoors in the Downtown Austin Community Court Area*
149 *Prohibited*) are amended to read:

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151 **§ 9-4-14 OBSTRUCTION [~~SITTING OR LYING DOWN ON PUBLIC~~**
152 **~~SIDEWALKS OR SLEEPING OUTDOORS~~] IN THE DOWNTOWN AUSTIN**
153 **COMMUNITY COURT AREA PROHIBITED**

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

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

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

167 (B) The council finds that the City has a compelling interest in:

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

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

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172 (3) preserving the quality of urban life [~~and in protecting its citizens~~
173 ~~from intimidating behavior~~]; and

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

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- (C) The council finds that in areas with high pedestrian traffic and a high incidence of petty crime related to public disorder, individuals obstructing [~~sitting or lying in~~] the pedestrian right-of-way:
- (1) [~~contribute to a sense of fear, intimidation, and disorder;~~
 - (~~2~~)—]are disruptive to residents, businesses, and customers;
 - (~~2~~[3]) discourage, block, or inhibit the free passage of pedestrians; and
 - (~~3~~[4]) 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:
- (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.

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

213 (1) ~~[the person is asleep outdoors; or~~

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215 ~~(2) —~~]the person is obstructing ~~[sits or lies down in]~~ the right-of-way
216 between the roadway and the abutting property line or structure, or
217 an object placed in that area; and

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219 ~~(2[3])~~ the person is:

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221 (i) materially endangering the health or safety of another person
222 or of themselves; or

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224 (ii) intentionally, knowingly, or recklessly rendering impassable
225 or impeding the reasonable use of a public area making usage
226 of such area unreasonably inconvenient or hazardous.

227 (F) A peace officer must provide written notice before taking enforcement
228 action when a person's health or safety is not imminently endangered.

229 (G[F]) This section does not apply to a person who:

230 (1) is obstructing the right-of-way ~~[sits or lies down]~~ because of a
231 medical emergency;

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233 (2) operates or patronizes a commercial establishment that conducts
234 business on the sidewalk under Title 14 (*Streets and Use of Public*
235 *Property*) of the Code;

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237 (3) participates in or views a parade, festival, performance, rally,
238 demonstration, or similar event;

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240 (4) sits on a chair or bench that is supplied by a public agency or by the
241 abutting private property owner;

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243 (5) sits within a bus stop zone while waiting for public or private
244 transportation; or

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246 (6) is waiting in a line for goods, services, or a public event.

