

ORDINANCE NO. 20191017-029

AN ORDINANCE REPEALING AND REPLACING CITY CODE SECTION 9-4-11 RELATING TO CAMPING IN PUBLIC AREA PROHIBITED; AND CREATING OFFENSES

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

PART 1. The caption and City Code Section 9-4-11 (*Camping in Public Area Prohibited*) are repealed and replaced to read as follows:

§ 9-4-11 CAMPING AND OBSTRUCTION IN CERTAIN PUBLIC AREAS PROHIBITED

(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 for an extended period of time;
- (b) making a camp fire;
- (c) using a tent or shelter or other structure for a living accommodation;
- (d) carrying on cooking activities; or
- (e) digging or earth breaking activities.

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

(B) Except as provided in Subsection (F), 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:

(1) camps in a public area that is not designated as a camping area by the City of Austin and the person is:

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

(2) camps, sits or lies down in a public area and the person is located:

- (a) within the area of the Austin Resource Center for Homelessness (ARCH) and Salvation Army Downtown Shelter, so long as either is an operating homeless shelter, bordered by East Fourth Street (South), South Bound I-35 Frontage Road (East), East 11th Street (North), and Brazos Street (West); or
- (b) within approximately one-quarter mile, with boundaries set by the City Manager and posted with signage, of an operating homeless shelter located outside of the Central Business District; or
- (c) within 15 feet of a door jamb of a residence or a business during the business' operating hours.

(3) camps in an area that the city designates as a high wildfire risk area.

(C) Unless a law enforcement officer determines that there is an imminent health or safety threat, a law enforcement officer must, before citing a person for a violation of this section, make a reasonable effort to:

- (1) advise the person of a lawful alternative place to camp;
- (2) advise the person, to the best of the law enforcement officer's knowledge, of available shelter or housing; and
- (3) contact, if reasonable and appropriate, a city designee who has the authority to offer to transport the person or provide the person with services.

(D) A person is materially endangering the health or safety of another person or of themselves, or is rendering impassable or impeding the reasonable use of a public area making usage of such area unreasonably inconvenient or hazardous if the person is camping on a sidewalk.

(E) 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.

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

(G) Subsection (B)(2) does not apply to a person who is sitting or lying if the person is:

- (1) in the right-of-way because of a medical emergency;
- (2) operating or patronizing a commercial establishment that conducts business on the sidewalk under Title 14 (*Streets and Use of Public Property*) of the Code;
- (3) participating in or viewing a parade, festival, performance, rally, demonstration, or similar event;
- (4) sitting on a chair or bench that is supplied by a public agency or by the abutting private property owner;
- (5) sitting within a bus stop zone while waiting for public or private transportation; or
- (6) waiting in a line for goods, services, or a public event.

(H) It is an affirmative defense to prosecution for a violation of Subsection (B)(2) for sitting or lying if a person is sitting or lying and is obstructing the right-of-way, but is seated or lying down as the result of a physical manifestation of a disability, not limited to visual observation.

- (I) 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 2. INSTRUCTIONS TO CITY MANAGER.

The City Manager is directed not to enforce Subsection (B)(2) of City Code Section 9-4-11 (*Camping and Obstruction in Certain Public Areas Prohibited*) against individuals who are alleged to be in violation of these City Code provisions and who are, on the effective date of this ordinance, within the area around a homeless shelter as defined in Subsection (A)(3) of City Code Section 9-4-11 (*Camping and Obstruction in Certain Public Areas Prohibited*) beginning when the effort to relocate is initiated and ending when the following events occur:

- (1) The City Manager certifies that the City has offered appropriate services and non-shelter housing to these individuals; and
- (2) the City Manager posts on the city website a report documenting that the city has given these individuals an adequate opportunity to participate in non-shelter housing and services, that the non-shelter housing and services being offered to individuals are appropriate based on the assessments completed; and
- (3) that these individuals have been adequately educated about city rules related to camping or sitting or lying in the prohibited area around homeless shelters, and that individuals have been granted sufficient time to participate in non-shelter housing and service programs.

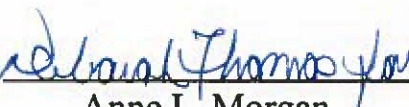
PART 3. This ordinance takes effect on October 28, 2019.

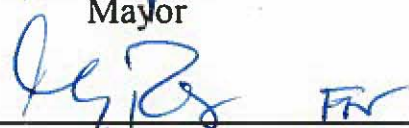
PASSED AND APPROVED

October 17, 2019

§
§
§

Steve Adler
Mayor

APPROVED: 
Anne L. Morgan
City Attorney

ATTEST: 
Jannette S. Goodall
City Clerk