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fact that Austin has shelters and other facilities that do not reach maximum capacity and that are available to individuals as an alternative to such actions. The purpose of this ordinance is to restore generally the provisions of the Austin City Code that were in effect on June 19, 2019 prior to the City Council's action, expand the area in which solicitation is prohibited during the evening and nighttime hours, and modify the boundaries of the geographic area to which the ordinance applies to encompass the area that contains the campus of The University of Texas at Austin and areas where many students at the university and through which they must move to travel to and from the campus. This will return to the effective system of management and control of the city which these provisions promoted and secured.

Part 2. Subsection (B) of Section 9-4-11 of the Austin City Code is hereby repealed and replaced with the following:

§ 9-4-11 CAMPING IN PUBLIC AREA PROHIBITED

- (B) Except as provided in Subsection (D), a person commits an offense if the person camps in a public area that is not designated as a camping area by the Parks and Recreation Department.

Part 3. Section 9-4-13 of the Austin City Code is hereby repealed and replaced with the following:

§ 9-4-13 SOLICITATION

- (A) The council finds that:
- (1) Aggressive solicitation is disturbing and disruptive to residents and businesses and contributes to the loss of access to and enjoyment of public places and to a sense of fear, intimidation and disorder.
 - (2) Aggressive solicitation includes approaching or following pedestrians, repetitive soliciting despite refusals, the use of abusive or profane language to cause fear and intimidation, unwanted physical contact, or the intentional blocking of pedestrian and vehicular traffic.
 - (3) The presence of individuals who solicit money from persons at or near banks, automated teller machines, public transportation facilities, and crosswalks is especially troublesome because of the enhanced fear of crime in a place that is confined, difficult to

75 avoid, or where a person might find it necessary to wait.

- 76 (4) This section is intended to protect citizens from the fear and
77 intimidation accompanying certain kinds of solicitation, and not
78 to limit a constitutionally protected activity.

79
80 (B) In this section:

81 (1) **AGGRESSIVE MANNER** means:

- 82 a. intentionally or recklessly making any physical contact
83 with or touching another person in the course of the
84 solicitation without the person's consent;
85 b. following the person being solicited, if that conduct is:
86 i. intended to or likely to cause a reasonable person to
87 fear imminent bodily harm or the commission of a
88 criminal act upon property in the person's
89 possession; or
90 ii. intended to or reasonably likely to intimidate the
91 person being solicited into responding affirmatively
92 to the solicitation;
93 c. continuing to solicit a person within five feet of the person
94 being solicited after the person has made a negative
95 response;
96 d. intentionally or recklessly blocking the safe or free passage
97 of the person being solicited or requiring the person, or the
98 driver of a vehicle, to take evasive action to avoid physical
99 contact with the person making the solicitation;
100 e. using obscene or abusive language or gestures toward the
101 person being solicited;
102 f. approaching the person being solicited in a manner that:
103 i. is intended to or is likely to cause a reasonable
104 person to fear imminent bodily harm or the
105 commission of a criminal act upon property in the
106 person's possession; or
107 ii. is intended to or is reasonably likely to intimidate the
108 person being solicited into responding affirmatively
109 to the solicitation.

110 (2) **AUTOMATED TELLER MACHINE** means a device, linked to a
111 bank's account records, which is able to carry out banking
112 transactions.

113 (3) **AUTOMATED TELLER FACILITY** means the area comprised
114 of one or more automatic teller machines, and any adjacent space
115 that is made available to banking customers.

- 116 (4) BANK includes a bank, savings bank, savings and loan
117 association, credit union, trust company, or similar financial
118 institution.
- 119 (5) BUS means a vehicle operated by a transit authority for public
120 transportation.
- 121 (6) CHECK CASHING BUSINESS means a person in the business
122 of cashing checks, drafts, or money orders for consideration.
- 123 (7) PUBLIC AREA means an outdoor area to which the public has
124 access and includes, but is not limited to, a sidewalk, street,
125 highway, park, parking lot, alleyway, pedestrian way, or the
126 common area of a school, hospital, apartment house, office
127 building, transport facility, or shop.
- 128 (8) SOLICIT means to request, by the spoken, written, or printed
129 word, or by other means of communication an immediate
130 donation or transfer of money or another thing of value from
131 another person, regardless of the solicitor's purpose or intended
132 use of the money or other thing of value, and regardless of
133 whether consideration is offered.
- 134 (c) A person commits an offense if the person solicits:
- 135 (1) in an aggressive manner in a public area;
- 136 (2) in a bus, at a bus station or stop, or at a facility operated by a
137 transportation authority for passengers;
- 138 (3) within 25 feet of
- 139 a. an automated teller facility;
- 140 b. the entrance or exit of a bank; or
- 141 c. the entrance or exit of a check cashing business;
- 142 (4) at a marked crosswalk;
- 143 (5) on either side of the street on a block where a school attended by
144 minors or a child care facility has an entrance or exit;
- 145 (6) at a sidewalk café authorized under Chapter 14-4 (*Sidewalk*
146 *Cafes*) or the patio area of a bar or restaurant; or
- 147 (7) within the boundaries of the City of Austin between 7:00 p.m. and
148 7:00 a.m.
- 149 (d) A culpable mental state is not required, and need not be proved, for an
150 offense under this Chapter Subsection (C)(2), (3), or (4).
- 151 (E) This section is not intended to proscribe a demand for payment for
152 services rendered or goods delivered.
- 153

154 **Part 4. Section 9-4-14 of the Austin City Code is hereby repealed and replaced**
155 **with the following:**

156 **§ 9-4-14. SITTING OR LYING DOWN ON PUBLIC SIDEWALKS OR**
157 **SLEEPING OUTDOORS IN THE DOWNTOWN AUSTIN COMMUNITY**
158 **COURT AREA PROHIBITED**

- 159 (A) **DISABILITY** means having a physical or mental impairment which
160 substantially limits one of more major life activities.
- 161 (1) **PHYSICAL OR MENTAL IMPAIRMENT** means any
162 physiological disorder or condition, cosmetic disfigurement, or
163 anatomical loss affecting one or more of the following body
164 systems: neurological; musculoskeletal; special sense organs;
165 respiratory, including speech organs; cardiovascular;
166 reproductive, digestive; genitourinary; hemic and lymphatic;
167 skin; and endocrine; or any mental or psychological disorder,
168 such as mental retardation, organic brain syndrome, emotional or
169 mental illness, and specific learning disabilities.
- 170 (2) **MAJOR LIFE ACTIVITIES** means functions such as caring
171 for one's self, performing manual tasks, walking, seeing,
172 hearing, speaking, learning, breathing and working.
- 173 (B) The council finds that the City has a compelling interest in:
174 (1) encouraging and preserving a vital, pedestrian-friendly urban core;
175 (2) assuring that the urban core remains accessible to individuals with
176 disabilities and compliant with the provisions of the Americans with
177 Disabilities Act;
178 (3) promoting tourism and business in the central business district;
179 (4) preserving the quality of urban life and in protecting its citizens from
180 intimidating behavior; and
181 (5) encouraging businesses and neighborhoods in the central city
182 where walking is a realistic alternative to vehicles that use fossil
183 fuels.
- 184 (C) The council finds that in areas with high pedestrian traffic and a high
185 incidence of petty crime related to public disorder, individuals sitting
186 or lying in the pedestrian right-of-way:
187 (1) contribute to a sense of fear, intimidation, and disorder;
188 (2) are disruptive to residents, businesses, and customers;
189 (3) discourage, block, or inhibit the free passage of pedestrians; and
190 (4) contribute to the loss of access to and enjoyment of public places.
- 191 (D) This section applies in the following area, including the streets and
192 pedestrian rights-of-way that bound the area, but does not apply on the
193 campus of the University of Texas:
194 (1) beginning at the intersection of 30th Street (West) and Lamar
195 Boulevard (North);
196 (2) south on Lamar Boulevard (North) to the north shore of Lady Bird

- 197 Lake;
- 198 (3) east along the north shore of Lady Bird Lake to the point
- 199 directly south of the curve at the intersection of Jesse E. Segovia
- 200 Street and Robert Martinez, Jr. Street;
- 201 (4) north to the curve at the intersection of Jesse E. Segovia Street and
- 202 Robert Martinez, Jr. Street;
- 203 (5) west along Jesse E. Segovia Street to the intersection of Chicon
- 204 Street;
- 205 (6) north on Chicon Street to the intersection of Seventh Street (East);
- 206 (7) west on Seventh Street (East) to the IH-35 East Frontage Road;
- 207 (8) north on the IH-35 East Frontage Road to the intersection of 14th
- 208 Street (East);
- 209 (9) east on 14th Street (East) to the boundary of Oakwood Cemetery;
- 210 (10) south and east along the boundary of Oakwood Cemetery to Leona
- 211 Street;
- 212 (11) north on Leona Street to the intersection of Manor Road;
- 213 (12) east on Manor Road to the intersection of Dean Keeton Street (East);
- 214 (13) west on Dean Keaton Street (East) to the intersection of Red River
- 215 Street;
- 216 (14) north on Red River Street to the intersection of 38th Street (East);
- 217 (15) west on 38th Street (East and West) to the intersection of Guadalupe
- 218 Street;
- 219 (16) south on Guadalupe Street to the intersection of 30th Street (West);
- 220 and
- 221 (17) west on 30th Street (West) to the intersection of Lamar Boulevard
- 222 (North), the place of beginning.
- 223 (E) A person commits an offense if, after having been notified by a law
- 224 enforcement officer that the conduct violates this section:
- 225 (1) the person is asleep outdoors; or
- 226 (2) the person sits or lies down in the right-of-way between the
- 227 roadway and the abutting property line or structure, or an object
- 228 placed in that area.
- 229 (F) This section does not apply to a person who:
- 230 (1) sits or lies down because of a medical emergency;
- 231 (2) operates or patronizes a commercial establishment that conducts
- 232 business on the sidewalk under Title 14 (*Use of Streets and*
- 233 *Public Property*) of the Code;
- 234 (3) participates in or views a parade, festival, performance, rally,
- 235 demonstration, or similar event;
- 236 (4) sits on a chair or bench that is supplied by a public agency or by the
- 237 abutting private property owner;
- 238 (5) sits within a bus stop zone while waiting for public or private
- 239 transportation; or
- 240 (6) is waiting in a line for goods, services, or a public event.

- (G) It is an affirmative defense to prosecution if a person sits or lies down as the result of a physical manifestation of a disability, not limited to visual observation.
- (H) A culpable mental state is not required, and need not be proven, for an offense under this section.

Part 5. Effectiveness and Severability.

- (A) The effective date of this ordinance shall be the earlier of (i) ten (10) days after the date of its final passage by the Austin City Council, as prescribed under Article IV, Section 4(a) of the Austin City Charter or (ii) the date upon which the results of an election required under Article IV, Section 4(b) are canvassed.
- (B) If any section, paragraph, clause, or provision of this ordinance is for any reason held to be invalid or unenforceable, the invalidity or unenforceability of that section, paragraph, clause, or provision shall not affect any of the remaining provisions of this ordinance, and to this end, the provisions of this ordinance are declared to be severable. This ordinance shall supersede the Austin City Code to the extent there are any conflicts.

PART 3. The election shall be conducted between the hours of 7:00 a.m. and 7:00 p.m. The location of the main early voting polling place, the dates and hours for early voting, and the early voting clerk's official mailing address are provided in Exhibit A, attached and incorporated as a part of this ordinance.

PART 4. A direct electronic recording voting system, as the term is defined in Title 8 of the Texas Election Code, shall be used for early voting and for voting conducted on election day. The central counting station is established at the Travis County Elections Division, 5501 Airport Boulevard, Austin, Texas.

PART 5. Notice of this election shall be posted and published in accordance with state law. The notice shall be posted, in both English and Spanish, in the office of the City Clerk and at the City Hall notice kiosk not later than the 21st day before election day. Notice of this election shall be published one time, in English and Spanish, not earlier than the 30th day before the date of the election or later than the 10th day before the date of the election, in a newspaper of general circulation in the City of Austin.

PART 6. In accordance with Chapter 271 of the Texas Election Code, the May 1, 2021 special municipal election may be held jointly with the various political

subdivisions that share territory with the City of Austin and that are holding elections on that day. The City Clerk may enter and sign joint election agreements with other political subdivisions for this purpose, and their terms as stated in the agreements are hereby adopted.

PART 7. The Council finds that the need to immediately begin required preparations for this election constitutes an emergency. Because of this emergency, this ordinance takes effect immediately on its passage for the immediate preservation of the public peace, health, and safety.

PASSED AND APPROVED

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§

_____, 2021

Steve Adler
Mayor

APPROVED: _____
Anne L. Morgan
City Attorney

ATTEST: _____
Jannette S. Goodall
City Clerk

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Exhibits A – D (to be updated)

310 *Exhibit A: Election Day Polling Places*

311 *Exhibit B: Main Early Voting Location Information*

312 *Exhibit C: Early Voting Polling Places*

313 *Exhibit D: Election Services Contract*

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