

**ORDINANCE NO.** \_\_\_\_\_

**AN ORDINANCE AMENDING THE CITY CODE RELATING TO A CRIMINAL OFFENSE AND A PENALTY FOR CAMPING IN PUBLIC AREAS WITHOUT A PERMIT, CERTAIN TYPES OF SOLICITATION, AND SITTING, LYING, OR SLEEPING OUTDOORS IN CERTAIN PUBLIC AREAS.**

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

## PART 1. Purpose

On June 20, 2019, the Austin City Council amended provisions of the Austin City Code relating to camping and solicitation in public areas of Austin and to sitting or lying down on public sidewalks or sleeping outdoors in certain downtown areas of the city. These provisions had long been effective in maintaining safety and order throughout the city. Since and as a result of the adoption of the amended provisions, and the adoption of further amendments by the City Council, Austin has been plagued by threats to public health and safety, as camping and sleeping outdoors, sitting or lying down on public sidewalks, and solicitation during the evening and nighttime hours have expanded dramatically, notwithstanding the 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 Subsection (B) of Section 9-4-11 of the Austin City Code is hereby repealed and replaced with the following:**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 Section 9-4-13 of the Austin City Code is hereby repealed and replaced with the following:**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 avoid, or where a person might find it necessary to wait.
- (4) This section is intended to protect citizens from the fear and intimidation accompanying certain kinds of solicitation, and not to limit a constitutionally protected activity.

(B) In this section:

(1) AGGRESSIVE MANNER means:

- a. intentionally or recklessly making any physical contact with or touching another person in the course of the solicitation without the person's consent;
- b. following the person being solicited, if that conduct is:
  - i. intended to or likely to cause a reasonable person to fear imminent bodily harm or the commission of a criminal act upon property in the person's possession; or
  - ii. intended to or reasonably likely to intimidate the person being solicited into responding affirmatively to the solicitation;
- c. continuing to solicit a person within five feet of the person being solicited after the person has made a negative response;
- d. intentionally or recklessly blocking the safe or free passage of the person being solicited or requiring the person, or the driver of a vehicle, to take evasive action to avoid physical contact with the person making the solicitation;
- e. using obscene or abusive language or gestures toward the person being

- solicited;
- f. approaching the person being solicited in a manner that:
- i. is intended to or is likely to cause a reasonable person to fear imminent bodily harm or the commission of a criminal act upon property in the person's possession; or
  - ii. is intended to or is reasonably likely to intimidate the person being solicited into responding affirmatively to the solicitation.
- (2) **AUTOMATED TELLER MACHINE** means a device, linked to a bank's account records, which is able to carry out banking transactions.
- (3) **AUTOMATED TELLER FACILITY** means the area comprised of one or more automatic teller machines, and any adjacent space that is made available to banking customers.
- (4) **BANK** includes a bank, savings bank, savings and loan association, credit union, trust company, or similar financial institution.
- (5) **BUS** means a vehicle operated by a transit authority for public transportation.
- (6) **CHECK CASHING BUSINESS** means a person in the business of cashing checks, drafts, or money orders for consideration.
- (7) **PUBLIC AREA** means an outdoor area to which the public has access and includes, but is not limited to, a sidewalk, street, highway, park, parking lot, alleyway, pedestrian way, or the common area of a school, hospital, apartment house, office building, transport facility, or shop.
- (8) **SOLICIT** means to request, by the spoken, written, or printed word, or by other means of communication an immediate donation or transfer of money or another thing of value from another person, regardless of the solicitor's purpose or intended use of the money or other thing of value, and regardless of whether consideration is offered.
- (c) A person commits an offense if the person solicits:
- (1) in an aggressive manner in a public area;
  - (2) in a bus, at a bus station or stop, or at a facility operated by a transportation authority for passengers;
  - (3) within 25 feet of
    - a. an automated teller facility;
    - b. the entrance or exit of a bank; or
    - c. the entrance or exit of a check cashing business;
  - (4) at a marked crosswalk;
  - (5) on either side of the street on a block where a school attended by minors or a child care facility has an entrance or exit;
  - (6) at a sidewalk café authorized under Chapter 14-4 (Sidewalk Cafes) or the patio area of a bar or restaurant; or
  - (7) within the boundaries of the City of Austin between 7:00 p.m. and 7:00 a.m.
- (d) A culpable mental state is not required, and need not be proved, for an offense under this Chapter Subsection (C)(2), (3), or (4).

- 1 (E) This section is not intended to proscribe a demand for payment for services  
2 rendered or goods delivered.  
3

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

6 **§ 9-4-14. SITTING OR LYING DOWN ON PUBLIC SIDEWALKS OR SLEEPING**  
7 **OUTDOORS IN THE DOWNTOWN AUSTIN COMMUNITY COURT AREA**  
8 **PROHIBITED**

- 9 (A) **DISABILITY** means having a physical or mental impairment which substantially  
10 limits one of more major life activities.  
11 (1) **PHYSICAL OR MENTAL IMPAIRMENT** means any physiological  
12 disorder or condition, cosmetic disfigurement, or anatomical loss affecting  
13 one or more of the following body systems: neurological; musculoskeletal;  
14 special sense organs; respiratory, including speech organs; cardiovascular;  
15 reproductive, digestive; genitourinary; hemic and lymphatic; skin; and  
16 endocrine; or any mental or psychological disorder, such as mental  
17 retardation, organic brain syndrome, emotional or mental illness, and  
18 specific learning disabilities.  
19 (2) **MAJOR LIFE ACTIVITIES** means functions such as caring for one's  
20 self, performing manual tasks, walking, seeing, hearing, speaking,  
21 learning, breathing and working.  
22 (B) The council finds that the City has a compelling interest in:  
23 (1) encouraging and preserving a vital, pedestrian-friendly urban core;  
24 (2) assuring that the urban core remains accessible to individuals with disabilities  
25 and compliant with the provisions of the Americans with Disabilities Act;  
26 (3) promoting tourism and business in the central business district;  
27 (4) preserving the quality of urban life and in protecting its citizens from  
28 intimidating behavior; and  
29 (5) encouraging businesses and neighborhoods in the central city where walking  
30 is a realistic alternative to vehicles that use fossil fuels.  
31 (C) The council finds that in areas with high pedestrian traffic and a high incidence  
32 of petty crime related to public disorder, individuals sitting or lying in the  
33 pedestrian right-of-way:  
34 (1) contribute to a sense of fear, intimidation, and disorder;  
35 (2) are disruptive to residents, businesses, and customers;  
36 (3) discourage, block, or inhibit the free passage of pedestrians; and  
37 (4) contribute to the loss of access to and enjoyment of public places.  
38 (D) This section applies in the following area, including the streets and pedestrian  
39 rights-of-way that bound the area, but does not apply on the campus of the  
40 University of Texas:

- (1) beginning at the intersection of 30<sup>th</sup> 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 14<sup>th</sup> Street (East);
  - (9) east on 14<sup>th</sup> Street (East) to the boundary of Oakwood Cemetery;
  - (10) south and east along the boundary of Oakwood Cemetery to Leona Street;
  - (11) north on Leona Street to the intersection of Manor Road;
  - (12) east on Manor Road to the intersection of Dean Keeton Street (East);
  - (13) west on Dean Keaton Street (East) to the intersection of Red River Street;
  - (14) north on Red River Street to the intersection of 38<sup>th</sup> Street (East);
  - (15) west on 38<sup>th</sup> Street (East and West) to the intersection of Guadalupe Street;
  - (16) south on Guadalupe Street to the intersection of 30<sup>th</sup> Street (West); and
  - (17) west on 30<sup>th</sup> Street (West) to the intersection of Lamar Boulevard (North), the place of beginning.
- (E) A person commits an offense if, after having been notified by a law enforcement officer that the conduct violates this section:
- (1) the person is asleep outdoors; or
  - (2) the person sits or lies down in the right-of-way between the roadway and the abutting property line or structure, or an object placed in that area.
- (F) This section does not apply to a person who:
- (1) sits or lies down because of a medical emergency;
  - (2) operates or patronizes a commercial establishment that conducts business on the sidewalk under Title 14 (Use of Streets and Public Property) of the Code;
  - (3) participates in or views a parade, festival, performance, rally, demonstration, or similar event;
  - (4) sits on a chair or bench that is supplied by a public agency or by the abutting private property owner;
  - (5) sits within a bus stop zone while waiting for public or private transportation; or
  - (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.

1 **PART 5. Effectiveness and Severability.**

- 2 (A) The effective date of this ordinance shall be the earlier of (i) ten (10) days after  
3 the date of its final passage by the Austin City Council, as prescribed under  
4 Article IV, Section 4(a) of the Austin City Charter or (ii) the date upon which the  
5 results of an election required under Article IV, Section 4(b) are canvassed.  
6 (B) If any section, paragraph, clause, or provision of this ordinance is for any reason  
7 held to be invalid or unenforceable, the invalidity or unenforceability of that  
8 section, paragraph, clause, or provision shall not affect any of the remaining  
9 provisions of this ordinance, and to this end, the provisions of this ordinance are  
10 declared to be severable. This ordinance shall supersede the Austin City Code to  
11 the extent there are any conflicts.  
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13 **PART 6.** This ordinance takes effect on \_\_\_\_\_, 2021.

14 **PASSED AND APPROVED**

15  
16  
17 §  
18 §  
19 \_\_\_\_\_, 2021 § \_\_\_\_\_  
20 Steve Adler  
21 Mayor  
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23  
24 **APPROVED:** \_\_\_\_\_ **ATTEST:** \_\_\_\_\_  
25 Anne L. Morgan Jannette S. Goodall  
26 City Attorney City Clerk  
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