

Downtown Austin Community Court Jurisdiction

Recommended City Code
Amendment of Section 2-10-32 –
Offenses Adjudicated

Proposition B – May 2021

On May 1, 2021, Austin voters approved Proposition B, making it a criminal offense (Class C misdemeanor punishable by a fine) for anyone to sit, lie down, or camp in public areas and prohibiting solicitation of money or other things of value at specific hours and locations.

The above law can be found in City of Austin Code, Sections 9-4-11 (Camping), 9-4-13 (Solicitation Prohibited), 9-4-14 (Sitting or Lying down on Public Sidewalks or Sleeping Outdoors in the Downtown Austin Community Court Area Prohibited).

On Sept. 1, HB 1925 took effect creating a statewide camping prohibition that is largely compatible with Austin City Code. It is Tex. Pen. Code §48.05 Prohibited Camping (Statewide).

Tex. Penal Code 48.05 - Excerpts

- “A person commits an offense if the person intentionally or knowingly camps in a public place without the effective consent of the officer or agency having the legal duty or authority to manage the public place.”
- An offense under this section is a Class C misdemeanor.

Tex. Penal Code 48.05 - Excerpts

- Before or at the time a peace officer issues a citation to a person, the peace officer must make a reasonable effort to: (1) advise the person of an alternative place to lawfully camp; and (2) contact, if reasonable and appropriate, an appropriate official of the political subdivision in which the public place is located, or an appropriate nonprofit organization operating within that political subdivision, and request the official or organization to provide the person with: ... (B) any other services that would reduce the likelihood of the person continuing to camp in the public place.
- If the person is arrested or detained solely for an offense under this section, a peace officer enforcing this section shall ensure that all of the person's personal property not designated as contraband under other law is preserved by: (1) permitting the person to remove all the property from the public place at the time of the person's departure; or (2) taking custody of the property and allowing the person to retrieve the property after the person is released from custody. A fee may not be charged for the storage or release of property.

Austin City Code

§ 2-10-1 - JURISDICTION AND AUTHORITY.

“A municipal court, including the Downtown Austin Community Court has:

- (1) the general jurisdiction provided by Chapter 30 (Municipal Courts of Record) of the Texas Government Code;....”

§ 2-10-2 - MUNICIPAL COURT CLERK.

The Council shall appoint a person to serve as the municipal court clerk as prescribed by City Charter Article VI, Section 3 (Clerk of the Municipal Court).

However, there is Section 2-10-32 of the Austin City Code.

ARTICLE 4. - DOWNTOWN AUSTIN COMMUNITY COURT (DACC)

➤ § 2-10-32 - OFFENSES ADJUDICATED.

- (A) The Downtown Austin Community Court may hear cases relating to Class C misdemeanor offenses and City Code violations that occur in the following area, including the outside curb line of a street or highway:
 - (1) beginning at the intersection of 29th Street (West) and Lamar Boulevard (North);
 - (2) south on Lamar Boulevard (North) to the north shore of Town Lake;
 - (3) east along the north shore of Town Lake to the point directly south of the curve at the intersection of Bergman Avenue and Robert Martinez, Jr. Street;
 - (4) north to the curve at the intersection of Bergman Avenue and Robert Martinez, Jr. Street;
 - (5) west along Bergman Avenue 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.

- (B) The Downtown Austin Community Court may adjudicate Class C misdemeanor offenses, including:
 - (1) Alcoholic Beverage Code Section 105.06 (Hours of Consumption);
 - (2) Code of Criminal Procedure Article 45.026 (Jury Trial; Failure to Appear);
 - (3) Government Code Section 28.031 (Failure to Appear);
 - (4) Health and Safety Code Section 481.125(a) (Offense: Possession or Delivery of Drug Paraphernalia);
 - (5) Penal Code Sections 22.01(a)(2) and (3) (Assault);
 - (6) Penal Code Section 28.03 (Criminal Mischief);
 - (7) Penal Code Section 30.02 (Failure to Identify);
 - (8) Penal Code Section 31.03 (Theft);
 - (9) Penal Code Section 31.04 (Theft of Service);
 - (10) Penal Code Section 38.10 (Bail Jumping and Failure to Appear);
 - (11) Penal Code Section 42.01 (Disorderly Conduct);
 - (12) Penal Code Section 49.02 (Public Intoxication);
 - (13) Penal Code Section 49.031 (Possession of Alcoholic Beverage in Motor Vehicle);
 - (14) Transportation Code Section 543.009. (Compliance With or Violation of Promise to Appear); and
 - (15) Transportation Code Section 552.009 (Ordinances Relating to Pedestrians).

- (C) The Downtown Austin Community Court may adjudicate violations of the City Code, including:
 - (1) Chapter 4-9 (Restrictions on Alcoholic Beverages);
 - (2) Chapter 9-2 (Noise and Amplified Sound);
 - (3) Chapter 9-3 (Non-Emergency Curfews);
 - (4) Section 9-4-11 (Camping in Public Area Prohibited);
 - (5) Section 9-4-12 (Glass Container Prohibited in Certain Areas);
 - (6) Section 9-4-13 (Solicitation Prohibited);
 - (7) Section 9-4-15 (Urinating or Defecating in Public Prohibited).
 - (8) Section 9-4-16 (Manifesting the Purpose of Engaging in Prostitution Prohibited);
 - (9) Section 9-4-17 (Damage to, Use of, or Bathing in Public Water Source Prohibited);
 - (10) Section 9-4-20 (Curfew at Water Utility Property);
 - (11) Section 9-4-22 (Solicitation Between Certain Hours Prohibited);
 - (12) Section 9-4-43 (Graffiti Prohibited);
 - (13) Section 9-4-52 (Fictitious or False Information Prohibited); and
 - (14) Article 5 (Manifesting the Purpose of Selling an Illegal Drug or Chemical) of Chapter 9-5 (Restrictions on Drugs, Chemicals, and Controlled Substances)

- ❖ Proposition B cases inside the DACC's geographical jurisdiction may be processed, heard and adjudicated by a presiding judge and clerks serving in the capacity of a DACC judge and clerk. Yet, those outside the geographical jurisdiction are being sent to Austin Municipal Court due to the jurisdictional limitation. This may pose issues of court efficiency and ability for DACC to help provide services to homeless individuals who commit a violation of one of the Proposition ordinances or related state law.
- ❖ The proposition is to amend Section 2-10-32 to expand DACC's jurisdiction so that all Proposition B cases involving the homeless can be processed, heard, and adjudicated by an AMC judge and clerk while they are serving in their capacity as a judge or clerk of DACC.

City Code Amendment Requested By DACC

Either of the following amendments are best to meet expectations of DACC hearing, adjudicating and processing Proposition B cases involving the homeless. DACC has information and/or access to services referred by the state law.

- (1) Amend to Section 2-10-32 by removing 2-10-32(A) and adding the following to the jurisdiction mentioned in 2-10-32(B) and (C): Tex. Pen. Code §48.05 Prohibited Camping (Statewide) and Section 9-4-14 (Sitting and Lying) of the Austin City Code.

OR

- (2) Amend to Section 2-10-32 (A) by adding a provision specifying stating that DACC jurisdiction is City-wide for the following City of Austin Code Sections: 9-4-11 (Camping), 9-4-13 (Solicitation Prohibited), 9-4-14 (Sitting and Lying), and Tex. Pen. Code §48.05. Section 2-10-32(B) should be amended to include Tex. Pen. Code §48.05 Prohibited Camping (Statewide), and Section 2-10-32(C) of the City Code should also be amended to include 9-4-14 (Sitting and Lying).