



AUSTIN POLICE DEPARTMENT

TRAINING BULLETIN

Date: May 10, 2021

COA: Camping Ordinance

This bulletin is intended to provide guidance to officers on enforcing the revised City Code § 9-4-11 (Camping in Public Area Prohibited).

This bulletin replaces all prior training bulletins regarding § 9-4-11.

On May 1, 2021 voters approved a significant change to City Code § 9-4-11 (*Camping and Obstruction in Public Areas Prohibited*). The revised ordinance will take effect on Tuesday, May 11, 2021.

The Prohibited Behavior:

The revised ordinance creates a single category of illegal behavior. Specifically, Section 9-4-11(B) prohibits a person from “camping” in a “public area” that is not designated as a camping area by the Parks and Recreation Department. Definitions of the quoted terms are discussed below.

Note that it is an affirmative defense to camp in a public place if the person is the landowner or has permission of the landowner. Accordingly, officers will not take enforcement action in these situations unless there is immediate and identifiable risk to public safety.

Because the ordinance prohibits camping in all public areas, it no longer contains any special treatment for camping: in public areas that are dangerous or obstructing; near businesses, residences, or homeless shelters; on sidewalks; or in public areas designated as high wildfire risk areas. Nonetheless, officers may use their discretion to focus on enforcement efforts when camping occurs in these areas.

Definitions:

The following is refresher on the terms “public area” and “camp.”

- The definition of “public area” is similar to the definition of “public place” in Texas Penal Code § 1.07(40). Note, however, that it is limited to any *outdoor* place that is accessible to the public. The term may include outdoor areas that are privately owned, if they are generally accessible to the public (for example, a plaza in front of an office building).

- “Camp” means using a public area for living accommodation purposes. The definition includes a list of factors that should be considered when deciding whether a person is using a public area for living accommodation purposes. Officer should be familiar with the list. Two important notes:
 - For the “storing personal belongings” provision, the Code provides that a person be “storing personal belongings for an extended period of time.” This might mean, for example, that a person is keeping their personal belongings in a tent, structure, or place where it is apparent the person is not regularly moving the items.
 - For the “using a tent or shelter” provision, the Code does not make a reference to using a “vehicle.” This does not necessarily mean that a person can never camp in a vehicle. If officers suspect a person is camping in a vehicle, they should look for other evidence that a person is camping there, including storing personal belongings for an extended period, having bedding in the vehicle, and carrying on activities of daily living in or near the vehicle.

The key factor to determine if a person is “camping” is whether, based on the totality of the circumstances, the person is using the area for a living accommodation.

Phase 1 – Outreach, Education, & Verbal Warning Period (May 11th – June 12th, 2021)

- The District Representatives are the primary group that will be carrying out the Responsible Public Space Management initiative.

Officer Requirements:

During phase one, officers should focus on outreach and education regarding the new law. Officers will issue verbal warnings and document those warnings on Field Observation Cards. Warnings should be documented using title code Violation of Camping Ordinance (3223).

Officers need to follow **APD policy 318.3 concerning detentions of person(s).**

Phase 2 – Written Warnings and Citations (June 13th – July 10th, 2021)

Officer Requirements:

During phase two, officers will issue verbal warnings to person(s) not previously warned during phase one enforcement. These contacts will follow phase one guidelines for documentation. Officers should run involvement to determine if person(s) have been previously warned. Written warnings may be given to person(s) who previously received verbal warnings during phase one enforcement. Subsequently, persons who have been previously warned **may** be issued a citation for Violation of Camping Ordinance (3223).

Officers need to follow APD policy 318.3 concerning detentions of person(s) Requirement before Issuing a Citation:

Subsection (C) provides that, unless an officer determines that there is imminent or immediate health or safety threat posed by the violation, the officer must make a reasonable effort to do the following before citing a person:

- Advise the person of a lawful alternative place to camp;
- Advise the person, to the best of the officer's knowledge, of available shelter or housing that's available to the person based on the person's individual circumstances; and
- Contact, whenever reasonable, a city designee who has the authority to offer to transport the person or provide the person with services.

Alternative lawful places to camp include city and state parks where camping is permitted (this includes, for example, Emma Long Park and McKinney Falls State Park. It may also include the state property located at 780 S Bastrop Hwy, Esperanza Community.

****Officers will be notified if the City designates additional public areas for lawful camping****

Officers should contact the on-duty Watch Lieutenant at the Real Time Crime Center (RTCC) to obtain the most recently updated information regarding available shelter space at the ARCH or another appropriate facility.

Finally, officers should be aware of when the Homeless Outreach Street Team (HOST) operates, and when other resources might be reasonably available to transport the person to a lawful alternative camp site or a shelter or might be available to offer the person access to homeless services.

Phase 3 – Citations (July 11th – August 7th, 2021)

Officer Requirements:

Any person previously warned and still in a space not designated for camping will be issued a citation for Violation of Camping Ordinance (3223).

Officers will follow **APD policy 308 Misdemeanor Citations.**

General Enforcement Considerations:

The ordinance makes it illegal in all situations to camp in a public place in the City of Austin. Nonetheless, officers are expected to use discretion. Officers should always attempt to gain voluntary compliance whenever possible. Officers should also first focus on people camping in areas that are dangerous, including near busy roadways and areas that pose a higher risk of wildfire or flooding.

As noted above, officers must provide certain information before issuing citations. Accordingly, officers should be prepared to work with HOST, Integral Care, and other resources.

Phase 4 - Arrest and Citation (August 8th – September 4, 2021)

Officer Requirements:

Person(s) remaining on site will be warned verbally to vacate immediately by the Austin Police Department. If the person refuses the final verbal warning a citation will be issued for **Violation of Camping Ordinance (3223).**

If after being issued a citation or refusing to sign a citation a person still refuses to vacate the camp site, the officer may arrest with supervisor approval **APD Policy 308 Misdemeanor Citations. (Placed in Diversion Program)**

Officers should still follow General Enforcement Guidelines referenced in phase three.

Personal Property:

Officers generally will not be making arrests for violations of § 9-4-11. In the event that an arrest is necessary, officers must ensure that a person's personal property, including their tent, bicycle, backpack, clothes, medications, identification documents, important papers, and other essential personal items are preserved and stored in a manner that the person can later retrieve those items. Officers should enlist the assistance of Public Works, PARD, and/or Austin Resource Recovery to help with cleaning campsites.

Documentation:

Officers shall document the conditions that result in the notice and any enforcement action on the citation, or in a report. The documentation shall include the approximate amount of time elapsed between the time of the initial notice of the violation and the time of enforcement action (citation or arrest). The documentation shall also include the information given to the person before a citation is issued, or whether the officer determined there was an imminent risk to health or safety. Officers will also take photographs of the observable conditions that constitute the offense.

Extra Language:

Due to the manner in which the citizen driven initiative was drafted, Section 9-4-11(A)(3), (D), (G), and (H) are no longer meaningful and may be ignored.

The Ordinance:

§ 9-4-11 Camping in Public Area 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 (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.

(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) 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.

Consult with your supervisor for additional guidance.