



# AUSTIN POLICE DEPARTMENT

## TRAINING BULLETIN

Date: May 10, 2021

### **COA: Sitting or Lying Down on Sidewalks or Sleeping Outdoors in the Downtown Area Prohibited**

*This bulletin is intended to provide guidance to officers on enforcing the revised City Code § 9-4-14 (Sitting or Lying Down on Public Sidewalks or Sleeping Outdoors in the Downtown Austin Community Court Area Prohibited).*

*This bulletin replaces all prior training bulletins regarding § 9-4-14.*

On May 1, 2021, voters repealed the existing City Code § 9-4-14 (*Obstruction in the Downtown Austin Community Court Area Prohibited*) and replaced it with City Code § 9-4-14 (*Sitting or Lying Down on Public Sidewalks or Sleeping Outdoors in the Downtown Austin Community Court Area Prohibited*). The new ordinance will take effect on Tuesday, May 11, 2021.

#### **Prohibited Behaviors:**

The new ordinance creates an offense for a person who, within a defined area, after being notified by a law enforcement officer that the person is violating the law, the person is either: (1) asleep outdoors; or (2) sitting or lying down in the sidewalk or an object placed in the sidewalk.

Because the ordinance requires that a person be given notice by an officer before the person is in violation, officers are required to give violators a minimum of 30 minutes to stop the behavior before issuing a citation. People who resume the violative behavior within a short time period (3-4 hours) in a nearby area (within a few blocks) may be presumed to already have notice and may be cited without an addition 30 minute notice period.

#### **Designated Area:**

The “sit/lie” ordinance only applies in a designated area. The new ordinance enlarges the designated area beyond the traditional downtown area. The additional area is mostly east and north of the University of Texas campus. Note that the ordinance is not applicable on the Campus itself.

The specific streets covered by the ordinance are listed in the City Code (see below). A map is attached to give a rough idea of the defined area covered by the ordinance.

### **Exceptions:**

It is not a violation if a person is: (1) having a medical emergency; (2) operating or patronizing a business lawfully operating on the sidewalk; (3) participating in a parade, festival, demonstration, or similar event; (4) sitting on a chair or bench supplied by a public agency or by a private property owner; (5) sitting within or on a bus stop; or (6) waiting in line for goods, services, or a public event.

In addition, it is a defense to prosecution if a person is sitting or lying due to a disability. Therefore, officers should take enforcement action in these situations only in rare circumstances.

### **Outreach, Education, Warnings, and Enforcement:**

Officers are expected to use their good judgment and discretion when enforcing this ordinance. For an initial 30-day period, officers should focus their efforts on outreach, education, and warnings. Above all, and moving forward, officers should work to obtain voluntary compliance whenever possible. Officers should also concentrate their efforts on people sitting, lying down, or sleeping outdoors in areas that are dangerous, including near busy roadways and areas that pose a higher risk of wildfire or flooding.

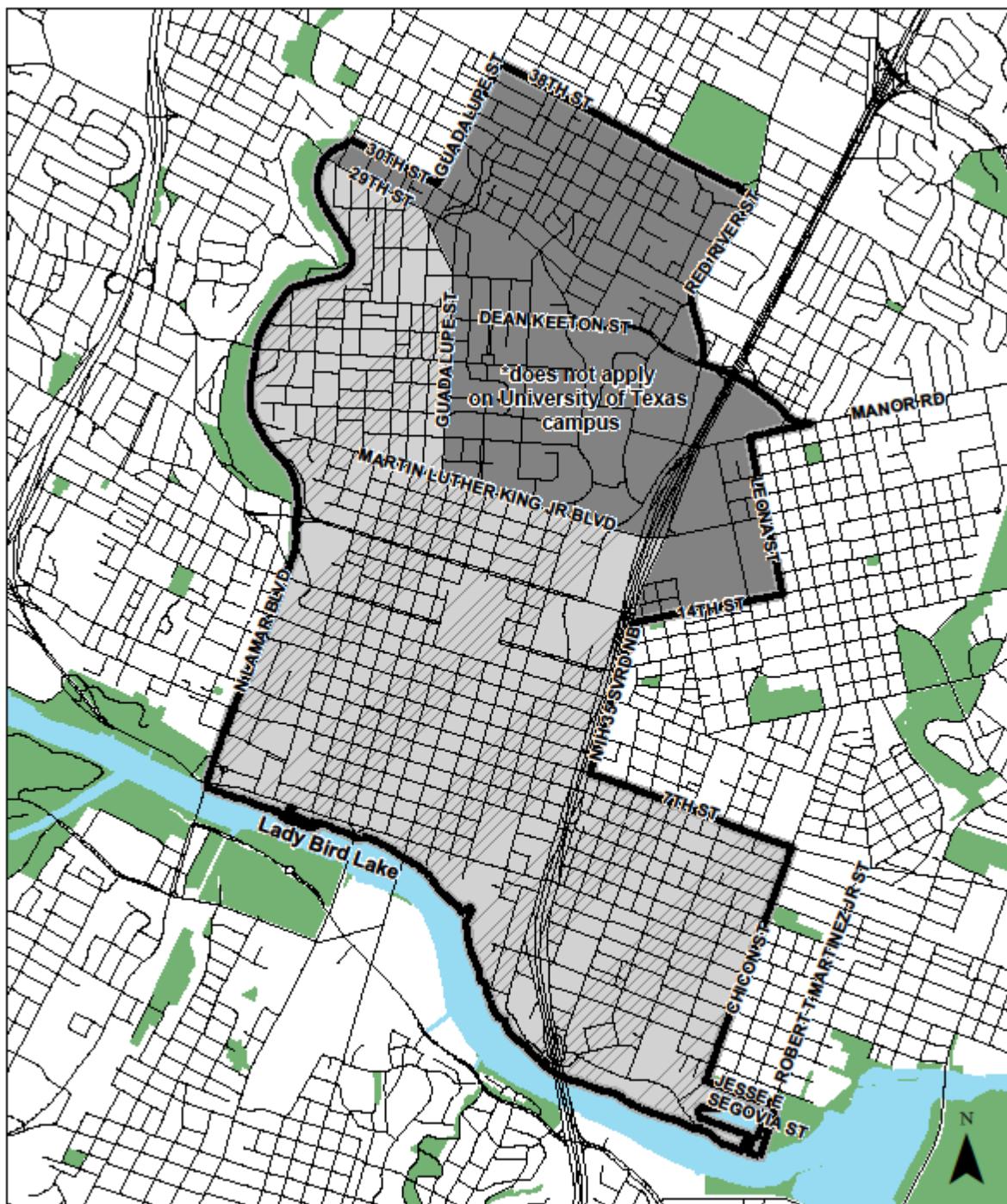
As noted above, officers are required to provide a person notice before issuing a citation or making an arrest (in rare cases). Whenever reasonable, officers should take this opportunity to educate people about the availability of shelter space or services. Officers should be prepared to work with the HOST team, Integral Care, and other resources.

### **Personal Property:**

Officers generally will not be making arrests for violations of § 9-4-13. In the event that an arrest is necessary, officers must ensure that a person's personal property, including their tent, working 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.

### **Documentation:**

Officers shall document the conditions that result in the notice and any enforcement action on the citation, or in a report (if one is written). 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).



#### Legend

- Previous Area
- Current Area

0 0.25 0.5 1 Miles

This product has been produced by for the sole purpose of geographic reference. No warranty is made by the City of Austin regarding specific accuracy or completeness.

**The language of the new ordinance is as follows:**

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

(A) **DISABILITY** means having a physical or mental impairment which substantially limits one or more major life activities.

(1) **PHYSICAL OR MENTAL IMPAIRMENT** means any physiological disorder or condition, cosmetic disfigurement, or anatomical loss affecting one or more of the following body systems: neurological; musculoskeletal; special sense organs; respiratory, including speech organs; cardiovascular; reproductive, digestive; genitourinary; hemic and lymphatic; skin; and endocrine; or any mental or psychological disorder, such as mental retardation, organic brain syndrome, emotional or mental illness, and specific learning disabilities.

(2) **MAJOR LIFE ACTIVITIES** means functions such as caring for one's self, performing manual tasks, walking, seeing, hearing, speaking, learning, breathing, and working.

(B) The council finds that the City has a compelling interest in:

- (1) encouraging and preserving a vital, pedestrian-friendly urban core;
- (2) assuring that the urban core remains accessible to individuals with disabilities and compliant with the provisions of the Americans with Disabilities Act;
- (3) promoting tourism and business in the central business district;
- (4) preserving the quality of urban life and in protecting its citizens from intimidating behavior; and
- (5) encouraging businesses and neighborhoods in the central city where walking is a realistic alternative to vehicles that use fossil fuels.

(C) The council finds that in areas with high pedestrian traffic and a high incidence of petty crime related to public disorder, individuals sitting or lying in the pedestrian right-of-way:

- (1) contribute to a sense of fear, intimidation, and disorder;
- (2) are disruptive to residents, businesses, and customers;
- (3) discourage, block, or inhibit the free passage of pedestrians; and
- (4) contribute to the loss of access to and enjoyment of public places.

(D) This section applies in the following area, including the streets and pedestrian rights-of-way that bound the area, but does not apply on the campus of the University of Texas:

- (1) beginning at the intersection of 30th 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 Street;
- (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 on 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 (*Streets and Use of 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 proved, for an offense under this section.

**Consult with your supervisor for additional guidance.**