

Ordinance adding Section 49 - 16 to the Corpus Christi Code to prohibit sitting or lying in public right-of-way within the Corpus Christi Central Business District, North Beach, and Flour Bluff; and providing for penalty of up to \$500 per violation.

Whereas, citizens have a fundamental right of free movement and interstate travel;

Whereas, sidewalks and parkways are part of the public transportation system;

Whereas, sitting or lying in the public right of way interferes with citizens right to travel and creates a threat to public safety;

Whereas, pedestrians sitting or lying in the right of way are less visible to vehicular traffic;

Whereas, sitting or lying in the public right of way increases the risk of pedestrian related accidents;

Whereas, sitting and lying in the public right of way is a deterrent to the use and enjoyment of the neighboring property owner; and

Whereas, City Council finds it necessary to utilize the City's police power to protect the public safety and rights of citizens from traveling unmolested and to prevent pedestrian related accidents.

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF CORPUS CHRISTI, TEXAS, THAT:

SECTION 1. That Chapter 49, "Streets and Sidewalks," Article I, will be amended to add a new section, Section 49-16, to read as follows:

Sec. 49-16. - Sitting or lying down in the right-of-way.

- (a) This section applies in the Central Business District as defined in Section 4-8 of this Code, North Beach as defined in Section 38-40 of this Code, and Flour Bluff as defined by City Ordinance #021746.
- (b) A person commits an offense if, after having been notified by a law enforcement officer that the conduct violates this section, the person continues to sit or lie down in the right-of-way or on an object placed in the right-of-way.
- (c) For purpose of this Section, right-of-way includes the sidewalk, the street curb and gutter, the parkway between the sidewalk and the street, and any street median.
- (d) Enforcement. No person shall be cited or arrested under this section for a first violation unless the person continues to engage in conduct prohibited by this section after having been:
 - (1) Notified, orally or in writing, by a law enforcement officer to refrain from the alleged violation of this section; and

- (2) Provided an opportunity to relocate to another place where such related conduct would be lawful.

A person in violation of this section is entitled to no more than one oral or written warning from a law enforcement officer.

- (e) Affirmative Defenses. It is an affirmative defense to prosecution under subsection (b) of this section that at the time of the alleged violation:
 - (1) the person was sitting or lying down because of a medical emergency;
 - (2) the person was sitting or lying down because of a disability;
 - (3) the person was operating or patronizing a commercial establishment that conducts business on the sidewalk in compliance with the ordinances of the city;
 - (4) the person was a participant in or was viewing a legally permitted parade, festival, performance, rally, demonstration, or similar event;
 - (5) the person was sitting on a chair or bench that is supplied by a public agency or by the abutting private property owner;
 - (6) the person was sitting within a bus stop zone while waiting for public or private transportation;
 - (7) there was no available overnight shelter in the City; or
 - (8) the person was sitting or lying while performing emergency automotive repair.
- (f) A culpable mental state is not required, and need not be proven, for an offense under this section.

SECTION 2. If for any reason any section, paragraph, subdivision, clause, phrase, word or provision of this ordinance shall be held invalid or unconstitutional by final judgment of a court of competent jurisdiction, it shall not affect any other section, paragraph, subdivision, clause, phrase, word or provision of this ordinance, for it is the definite intent of this City Council that every section, paragraph, subdivision, clause, phrase, word or provision hereof be given full force and effect for its purpose.

SECTION 3. Penalties are as provided in Section 1-6 of the Code of Ordinances.

SECTION 4. Publication shall be made one time in the official publication of the City of Corpus Christi as required by the City Charter of the City of Corpus Christi.

SECTION 5. This ordinance takes effect after official publication.

That the foregoing ordinance was read for the first time and passed to its second reading on this the ____ day of _____, 2021, by the following vote:

Paulette M. Guajardo _____

John Martinez _____

Roland Barrera _____

Ben Molina _____

Gil Hernandez _____

Mike Pusley _____

Michael Hunter _____

Greg Smith _____

Billy Lerma _____

That the foregoing ordinance was read for the second time and passed finally on this the ____ day of _____ 2021, by the following vote:

Paulette M. Guajardo _____

John Martinez _____

Roland Barrera _____

Ben Molina _____

Gil Hernandez _____

Mike Pusley _____

Michael Hunter _____

Greg Smith _____

Billy Lerma _____

PASSED AND APPROVED on this the ____ day of _____, 2021.

ATTEST:

Rebecca Huerta
City Secretary

Paulette M. Guajardo
Mayor