CIVILITY ORDINANCE

ART. XVI, CH. 40, CODE OF ORDINANCES

Joint Meeting of Public Safety & Homeland Security and Regulation & Neighborhood Affairs

City Council Committees

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Presented by the Office of the City Attorney

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CREATION OF CIVILITY ORDINANCE

• Article XVI, Chapter 40, Code of Ordinances.
• Passed in 2002 (Ord. No. 2002-504, June 12, 2002).
• Was patterned after Seattle ordinance that was upheld by the 9th Circuit. See Roulette v. City of Seattle, 97 F.3d 300 (9th Cir. 1996).
What is the Civility Ordinance?

• City Code Section 40-352: Between the hours of 7:00 a.m. and 11:00 p.m. in a designated area, it is unlawful for any person to:
  – 1) sit or lie down on a sidewalk or on a blanket, stool, or any other object placed upon a sidewalk; or
  – 2) place or deposit any item of bedding materials or personal possessions on a sidewalk.
• Prior to enforcement, an officer observing a violation of § 40-352, must notify the person engaged in the prohibited conduct that he or she is in violation of the ordinance.

• Affirmative defense that upon notice, person stopped engaging in prohibited conduct within a reasonable time.
Affirmative Defenses

It is an affirmative defense to prosecution of § 40-352 that the person is:

• Sitting or lying down due to medical emergency;
• As the result of a disability, utilizing a wheelchair, walker, or similar device to move about the sidewalk;
• Operating or patronizing a commercial establishment or service or government function conducted on the sidewalk;
• Participating in or attending a parade, festival, performance, rally, demonstration, meeting, or similar event lawfully conducted on the public street or sidewalk;
• Sitting on a chair or bench located on a sidewalk that is supplied by a governmental agency or the abutting private property owner; or
• Sitting or has placed materials on a sidewalk while waiting for public or private transportation or waiting for access to enter any building.
Where are the “designated areas” located?
Creation of Designated Areas

- Designated areas are added through a citizen petition process pursuant to § 40-353. Petition must:
  1) Describe proposed boundaries and indicate that signers desire the proposed area to be subject to § 40-352;
  2) Contain signatures from property owners whose property represents 20 percent of the total area designated;
  3) Contain signatures of at least 100 citizens over age of 18 residing in the proposed area;
  4) Contain signatures collected within 60-day period; and
  5) Be Submitted to City Secretary within 90 days of the date of first signature.
Creation of Designated Areas

- HPD investigates proposed area and reports to City Council regarding existence of conduct prohibited by civility ordinance and other criminal misconduct in the area.
- City Council conducts public hearing within 45 days of filing of valid petition.
- City Council adds proposed designated area to civility ordinance if:
  1) petition meets all requirements;
  2) proposed area exhibits the type of conduct and adverse impact on sidewalks and adjacent properties that civility ordinance was intended to address; and
  3) designation of proposed area would best serve the health, safety, and welfare of the public.
Questions/Comments