

ORDINANCE NO. 2025-XX-____

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF MCKINNEY, TEXAS, AMENDING THE CODE OF ORDINANCES OF THE CITY OF MCKINNEY, TEXAS, BY AMENDING CHAPTER 70, "OFFENSES AND MISCELLANEOUS PROVISIONS," BY ADDING A NEW ARTICLE XII, ENTITLED "SITTING OR LYING DOWN ON PUBLIC SIDEWALKS OR SLEEPING OUTDOORS IN THE DOWNTOWN MCKINNEY AREA," TO PROVIDE REGULATIONS TO AND CONCERNING SITTING OR LYING DOWN ON PUBLIC SIDEWALKS OR SLEEPING OUTDOORS IN THE DOWNTOWN MCKINNEY AREA; PROVIDING A PENALTY; PROVIDING FOR THE REPEAL OF CONFLICTING ORDINANCES; PROVIDING A SEVERABILITY CLAUSE; AND PROVIDING FOR AN EFFECTIVE DATE

WHEREAS, the City of McKinney, Texas (the "City") is a Home Rule City possessing the full power of local self-government pursuant to Article 11, Section 5 of the Texas Constitution, Section 51.072 of the Texas Local Government Code, and the City's Home Rule Charter; and

WHEREAS, the City Council of the City of McKinney ("City Council") finds that the City has a compelling interest in (i) encouraging and preserving a vital, pedestrian-friendly urban core; (ii) assuring that the urban core remains accessible to individuals with disabilities and compliant with the provisions of the Americans with Disabilities Act; (iii) promoting tourism and business in the downtown McKinney area; and (iv) preserving the quality of urban life; and

WHEREAS, the City Council further 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; and

WHEREAS, the City Council finds that the adoption of this ordinance is in the best interest of the health, safety and welfare of the citizens of the City.

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF MCKINNEY, TEXAS, THAT:

Section 1. All of the above premises are found to be true and correct legislative determinations and are hereby incorporated into the body of this Ordinance as if copied in their entirety.

Section 2. From and after the effective date of this Ordinance, Chapter 70, “Offenses and Miscellaneous Provisions,” of the Code of Ordinances of the City of McKinney, Texas, is hereby amended by adding a new Article XII, entitled “Sitting or Lying Down on Public Sidewalks or Sleeping Outdoors in The Downtown McKinney Area” to hereafter read as follows:

“ARTICLE XII. – SITTING OR LYING DOWN ON PUBLIC SIDEWALKS OR SLEEPING OUTDOORS IN THE DOWNTOWN MCKINNEY AREA

Sec. 70-250. - Definitions.

- (a) *Disability* shall have the meaning assigned to it by the Americans with Disabilities Act of 1990, as amended.
- (b) *Medical emergency* means an acute illness or injury requiring immediate medical intervention.

Sec. 70-251. – Area Defined.

This article applies in the following area, including the streets, sidewalks and pedestrian rights-of-way that bound the area:

[TBD]

Sec. 70-252. – Offense.

- (a) A person commits an offense if, after having been notified by a law enforcement officer within the previous twelve (12) months that the conduct violates this article:
 - (i) the person is asleep outdoors; or
 - (ii) the person sits or lies down on a street, sidewalk or pedestrian right-of-way, or any object or structure placed therein.
- (b) A culpable mental state is not required, and need not be proven, for an offense under this article.

Sec. 70-253. – Exceptions and Affirmative Defense.

- (a) This section does not apply to a person who:
 - (i) sits or lies down because of a medical emergency;
 - (ii) operates or patronizes a commercial establishment that conducts business on a parklet or sidewalk use area permitted under Chapter 90, Article VI (*Parklets and Sidewalk Use Areas*) of the City’s Code, as amended;

- (iii) participates in or views a special event permitted under Chapter 87 (*Special Events*) of the City's Code, as amended;
 - (iv) sits on a chair or bench that is supplied by the city or by the abutting private property owner; or
 - (v) is waiting in line for goods or services offered by a business or nonprofit entity located within the area described by Sec. 70-251, herein.
- (b) It is an affirmative defense to prosecution if a person sits or lies down as the result of a physical manifestation of a disability."

Section 3. Any person, firm or corporation violating or failing to comply with any of the provisions of this Ordinance shall be subject to the penalty provisions set forth in Section 1-18 of the City's Code of Ordinances; and each and every day such violation or failure to comply shall continue shall be deemed to constitute a separate offense.

Section 4. This Ordinance shall be cumulative of all other ordinances of the City and shall not repeal any of the provisions of said ordinances except in those instances where provisions of those ordinances are in direct conflict with the provisions of this Ordinance and such ordinances shall remain intact and are hereby ratified, verified and affirmed.

Section 5. If any section, article, paragraph, sentence, clause, phrase or word in this Ordinance, or application thereof to any person or circumstance, is held invalid or unconstitutional by a court of competent jurisdiction, such holding shall not affect the validity of the remaining portions of the Ordinance, and the City Council hereby declares it would have passed such remaining of the Ordinance despite such invalidity, which remaining portions shall remain in full force and effect.

Section 6. The Caption of this ordinance shall be published one (1) time in a newspaper having general circulation in the City of McKinney, Texas and shall be effective immediately upon its passage and publication.

[Signature Page Follows]

**PASSED, APPROVED AND ADOPTED BY THE CITY COUNCIL OF THE CITY OF
MCKINNEY, TEXAS, ON THIS ____ DAY OF _____, 2025.**

CITY OF MCKINNEY, TEXAS

BILL COX, Mayor

ATTEST:

EMPRESS DRANE, City Secretary
TENITRUS PARCHMAN, Deputy City Secretary

APPROVED AS TO FORM:

MARK S. HOUSER, City Attorney