

# **TRLA**

**Texas RioGrande Legal Aid**



## **Street Smart San Antonio: Know Your Rights!**



Street Smart San Antonio:  
Know Your Rights!

This is the first publication of Street Smart San Antonio. It has been prepared by Texas C-BAR, a project of Texas RioGrande Legal Aid.

We have developed this booklet to provide useful information about laws that may affect people who are homeless in San Antonio, Texas. Specific questions and incidents can be addressed by contacting Texas RioGrande Legal Aid, at 1111 N. Main Avenue, San Antonio, TX 78212 or (210) 212-3700.

**This document is not a substitute for the advice of an attorney. The materials and information contained in this document may not reflect the most current legal developments.**

This guide is made possible through the time and expertise of **Hunton and Williams**, as well as the generous donations of **NuStar Energy** and other supporters of Texas C-BAR. If you have suggestions or corrections, please contact [info@texasbar.org](mailto:info@texasbar.org).

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## **1.1 Sitting, Lying Down or Blocking a Sidewalk or Public Access Way**

**1.2** The City of San Antonio Code (the “City Code”) states that “after having been notified by a law enforcement officer that the conduct violates this section”, it is illegal “sit or lie down in the right-of-way between the roadway and the abutting property line or structure, or on an object placed in that area, in a manner that would:

- (1) Hinder the unobstructed passage of a person;
- (2) Require a person to take evasive action to avoid physical contact;
- (3) Block the passage of a person entering or leaving a building; or
- (4) Require a person entering or leaving a building to take evasive action to avoid physical contact.”<sup>1</sup>

**1.3** This ordinance applies to the “central business district of the city which is defined as the area within the boundaries set out starting from Cherry Street south from IH 35 to Durango Street, on Durango west to South Alamo Street, on South Alamo Street south and west to Frio Street, on Frio Street north to Guadalupe Street, on Guadalupe Street west to San Marcos Street, on San Marcos Street north to Martin Street, on Martin Street east to IH 35, on IH 35 north and east to Cherry Street.”<sup>2</sup>

**1.4** This ordinance does not apply to a person who:

- (1) Sits or lies down because of a medical emergency;
- (2) As the result of a disability, uses a wheelchair or similar device...;
- (3) Operates or patronizes a [sidewalk-based business] ... in compliance with the ordinances of the city;
- (4) Participates in or views a parade, festival, performance, rally, [or] demonstration...;
- (5) Sits on a chair or bench that is supplied by [the City] or by the ... private property owner; or
- (6) Sits within a bus stop zone while waiting for [the bus] or private transportation.”<sup>3</sup>

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<sup>1</sup> City of San Antonio Code § 21-26(a)-(b) (2008) (emphasis added).

<sup>2</sup> City Code § 21-26(b).

<sup>3</sup> City Code § 21-26(c).

## **2.1 Loitering**

**2.2** The City Code prohibits loitering for the purpose of “inducing, enticing, soliciting, or procuring another to commit prostitution.”<sup>4</sup>

**2.3** The following circumstances may be used in determining whether the person is loitering for prostitution-related activity: “that such person is a known prostitute or panderer, and repeatedly beckons to, or stops or attempts to stop, or engages any person passing by in conversation ... [similar to what someone would do who is] soliciting for prostitution, or repeatedly stops or attempts to stop a motor vehicle operator by hailing, waiving of arms or any other bodily gesture....”<sup>5</sup> Note: this is not an exclusive list.

**2.3** The officer may not arrest the person without giving the person an opportunity to explain what they are doing.<sup>6</sup>

## **3.1 Weapons**

**3.2** According to the City Code, you may not:

- (1) Throw stones;<sup>7</sup>
- (2) Carry a knife with a blade less than 5½ inches in length, if the knife has a “lock mechanism so that upon opening, it becomes a fixed blade knife” (unless the person carrying the knife is traveling, engaged in lawful hunting or fishing, or using the knife as part of his or her job);<sup>8</sup>
- (3) Carry a loaded rifle or shotgun on any public street;<sup>9</sup>
- (4) Carry a firearm (including an illegal knife, club, or other weapon that is prohibited under the Texas Penal Code) at a public park, public meeting of a governmental body, political rally, political parade, official political meeting, non-firearms related athletic event, or city-

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<sup>4</sup> City Code § 21-25(c)(1).

<sup>8</sup> City Code § 21-17.

<sup>5</sup> City Code § 21-25(c)(2).

<sup>9</sup> City Code § 21-16.

<sup>6</sup> City Code § 21-25(c)(3).

<sup>7</sup> City Code § 21-13.

owned premises (unless you are a peace officer or security guard);<sup>10</sup> or

- (5) Discharge a firearm (unless you are a peace officer, security guard, or at a firing range, or if the discharge was otherwise authorized under the Texas Penal Code).<sup>11</sup>

## **4.1 Sleeping and Camping**

**4.2** According to the City Code, unless you own the property, obtain permission from the owner of the property, or are in a designated camping area, you may not camp in a public place.<sup>12</sup>

**4.2** The following could be considered camping:

- (1) Storing personal belongings;
- (2) Making a camp fire;
- (3) Using any tents shelter or other structure, furniture, refuse, or vehicle for a living accommodation;
- (4) Cooking; or
- (5) Digging.<sup>13</sup>

## **5.1 Trespass**

**5.2** According to the City Code, you may not look into or peep into any dwelling on property that you do not own.<sup>14</sup>

## **6.1 Urinating or Defecating in Public / Spitting in Public Places**

**6.2** According to the City Code, unless you are in a restroom, you may not urinate and/or defecate:

- (1) In or on a street, alley, sidewalk, yard, park, building, or other public place; or
- (2) In public view.<sup>15</sup>

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<sup>10</sup> City Code §§ 21-153, -157.

<sup>11</sup> City Code § 21-152.

<sup>12</sup> City Code § 21-28(a).

<sup>13</sup> City Code § 21-28(c).

<sup>14</sup> City Code § 21-8.

<sup>15</sup> City Code § 21-27(a).

**6.3** According to the City Code, you may not spit on sidewalks, crosswalks, church floors, public halls, theaters, buses, or other public places. Spitting in streets is not prohibited by this section.<sup>16</sup>

## **7.1 Swimming / Bathing**

**7.2** According to the City Code:

- (1) You may not swim, bathe, or wade in the San Antonio River.<sup>17</sup>
- (2) In a city park or other public area, you may only swim in designated swimming pools or swimming facilities during [posted] hours.<sup>18</sup>

## **8.1 Panhandling or Begging; Distributing Advertising Material; Sales**

**8.2** According to the City Code:

- (1) Unless you have a charitable solicitation permit, you may not solicit money from vehicle occupants while standing on traffic medians, shoulders, sidewalks, or roadways.<sup>19</sup>
- (2) You may not “throw, cast or distribute...any handbill, circular, card, booklet, placard or other advertising matter whatsoever in or upon any street or public grounds...or in or on any vehicle.”<sup>20</sup>
- (3) You may not wash or attempt to wash the windshield of a vehicle without the permission of the vehicle owner.<sup>21</sup>

**8.3 Aggressive panhandling** is illegal in San Antonio.<sup>22</sup> Aggressive panhandling occurs when you:

- (1) “Make any physical contact with...another person in the course of the solicitation without the person’s consent;”

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<sup>16</sup> City Code § 21-10.

<sup>17</sup> City Code § 22-87(a).

<sup>18</sup> City Code § 22-87(b) (emphasis added).

<sup>19</sup> City Code § 19-8(a).

<sup>20</sup> City Code §§ 21-4, -5.

<sup>21</sup> City Code § 21-19.

<sup>22</sup> City Code § 21-29.



- (2) Approach or follow the person being solicited, if that conduct is likely to cause that person to fear that you are going to commit a crime against that person;
- (3) Intimidate that person;
- (4) Continue to solicit someone after that person has made a negative response;
- (5) Block “the safe or free passage of the person being solicited or [if you require] the person, or the driver of a vehicle, to take evasive action to avoid physical contact with” you;
- (6) Use “obscene or abusive language or gestures toward the person being solicited;” or
- (7) Solicit within twenty-five (25) feet of an ATM, bank entrance, check cashing business entrance, or a marked crosswalk.<sup>23</sup>

**8.4** The City Code regulates “peddlers, canvassers, hawkers, and solicitors” (those who make retail sales).

- (1) In general, with respect to retail sales, a permit is required.<sup>24</sup>
- (2) Soliciting on sidewalks and public places between 11:00 p.m.-8:00 a.m., and door-to-door soliciting at private residences between 8:00 p.m.-8:00 a.m. is prohibited.<sup>25</sup>
- (3) Also, you may not store or sell property from any “traffic island, median, or other traffic control device....”<sup>26</sup>
- (4) In addition, no sales are allowed in the area surrounding the SBC Center. “The geographic boundaries of the area covered by this prohibition...consist of the area surrounding the SBC Center described and bounded as follows: the area beginning at the 3000 block of E. Commerce; thence eastward of E. Commerce to Coca Cola Dr.; thence northward on Coca Cola Dr. to E. Houston

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<sup>23</sup> City Code § 21-29(a).

<sup>24</sup> City Code § 16-227.

<sup>25</sup> City Code § 16-239

<sup>26</sup> City Code § 16-235.

St.; thence westward on E. Houston St. to N. Walters St.; thence northward on N. Walters St. to N. Edgar Dr.; thence northward on N. Edgar Dr. to Pullman; thence eastward on Pullman to N. Walters; thence northward on N. Walters to the IH 35 northbound access road; thence eastward on IH 35 northbound access road to SBC Center Pkwy.; thence southward on SBC Center Pkwy to E. Houston St.; thence westward on E. Houston St. to Coca Cola Dr.; the area beginning at the 3130 block of E. Commerce; thence eastward on E. Commerce to E. Houston St.; thence westward on E. Houston St. to SBC Center Parkway.; and the area beginning at the 100 block of Gemblar Rd.; thence eastward on Gemblar Rd. to Paulson.”

**8.5** According to the City Code, guided tour sales are prohibited from Alamo East, within the Historic Alamo Fortress Compound.<sup>27</sup>

**8.6** This section of City Code does not prohibit: “the distribution or sale of religious publications, newspapers, handbills or other written or printed matter sold or distributed for the purpose of disseminating information or news on sidewalks or in any public place.”<sup>28</sup>

## **9.1 Public Parks**

**9.2** According to the City Code, you may not have or consume alcoholic beverages in certain city parks, and you may not have any glass beverage containers in certain city parks. The list of permitted parks is subject to change frequently.<sup>29</sup>

**9.3** Overnight camping, if authorized, requires a permit.<sup>30</sup>

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<sup>27</sup> City Code § 16-236.1

<sup>28</sup> City Code § 16-237.

<sup>29</sup> City Code §§ 22-1, -3.

<sup>30</sup> Example, Eisenhower Park; City Code §22-25.

**9.4** Parks (except for River Walk, Alamo Plaza, La Villita, Market Square, Woodlawn Lake Park, and HemisFair Park) are closed between 11:00 p.m.-5:00 a.m.;<sup>31</sup> consult park rangers or signs for the hours of all other parks.

**9.5 Penalty:** Class C Misdemeanor (max \$500 fine).<sup>32</sup>

**9.6** Comanche Lookout Park is closed “thirty (30) minutes after nightfall, or after events scheduled by the department of parks and recreation are completed, and will re-open each day at dawn.”

**9.7 Note:** “Persons found in Comanche Lookout Park in violation of this section are subject to prosecution under the state criminal trespass statute.”<sup>33</sup>

## **10.1 Alcoholic Drinks and Controlled Substances**

**10.2** According to the City Code, you may not consume any **alcoholic beverage** on any public street or public property within:

- (1) twelve (12) feet of any public street in the downtown area of San Antonio;

(for the purpose of this section, the downtown area is defined as: “Beginning at the intersection of Durango Boulevard and the east right-of-way line of IH-35; thence, east on Durango Boulevard to its intersection with the west right-of-way line of IH-37; thence, north along the west right-of-way line of IH-37 to East Market Street; thence, west on East Market Street to its intersection with Bowie Street; thence, north on Bowie Street to its intersection with Bonham and 4th Street; thence, northwest on 4th Street to its intersection with North St. Mary’s Street; thence, south on North Mary’s Street to its intersection with East Martin Street; thence, west on Martin Street to its

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<sup>31</sup> City Code § 22-28(a).

<sup>32</sup> City Code § 22-28(d).

<sup>33</sup> City Code § 22-28(e).

intersection with the east right-of-way line of IH-35; thence, south along the east right-of-way line of IH-35 to its intersection with Durango Boulevard, the place of beginning”);<sup>34</sup>

(2) in any part of Plaza Guadalupe;<sup>35</sup>

(3) within twelve (12) feet of any public area or street in the Cattleman Square Area;<sup>36</sup>

(for the purpose of this section, “‘Cattleman Square’ is the area bounded as follows: beginning at the intersection of West Martin Street and Pecos-La Trinidad Street; thence, west on West Martin Street to its intersection with South Comal Street; thence, south on South Comal Street to its intersection with Buena Vista; thence, east on Buena Vista to its intersection with Pecos-La Trinidad Street; thence, north on Pecos-La Trinidad to its intersection with West Martin Street, the place of beginning”)<sup>37</sup>

City government may grant permits for alcoholic consumption in these areas during certain events (such as Fiesta).<sup>38</sup>

**10.3** According to the City Code, you may not consume any **alcoholic beverage** or carry an “open container” on any public street or public property in the King William Area.<sup>39</sup>

“For purposes of this section, the ‘King William area’ of the central business district is defined as follows: beginning at the intersection of East Durango Boulevard and the east bank of the San Antonio River; thence, south and east following the east bank of the San Antonio River to its intersection with the Southern Pacific Railway railroad right-of-way; thence, east along the Southern Pacific Railway railroad right-of-way to its intersection with South Presa Street; thence, north on South Presa Street to its intersection with East Durango Boulevard; thence, west along East Durango Boulevard to its intersection with the east bank of the San Antonio River, the place of begin-

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<sup>34</sup> City Code § 4-4(a).

<sup>35</sup> City Code § 4-4.1

<sup>36</sup> City Code § 4-4(a).

<sup>37</sup> City Code § 4-4.3(b)

<sup>38</sup> City Code §§ 4-4(b), -4.1(a), -4.2(e).

<sup>39</sup> City Code § 4-4.3(a).

<sup>40</sup> City Code § 4-4.3(b).

ning; save and except any of the land included within the boundaries of the King William Park.”<sup>40</sup>

**10.4** According to the City Code, you may not inhale any paint spray, glue, paint thinner, etc. if, in doing so, you intend to have an “intoxicating effect”.<sup>41</sup>

## **11.1 Smoking**

**11.2** According to the City Code, smoking is prohibited in all enclosed public places, except for bar areas, enclosed dining and outdoor seating areas designated as smoking, and several unregulated areas (such as pool halls, bingo facilities, comedy clubs, certain hotel/motel rooms, outdoor bus stops, and tobacco stores).<sup>42</sup>

## **12.1 Fiesta**

**12.2** During Fiesta, you may not sell or use “liquid string”, “silly string”, “super string”, “snappers”, “throw-downs”, or “pop pops” “in any public place or private property where the general public is invited for Fiesta related events.”<sup>43</sup>

## **13.1 Tower of the Americas (located in HemisFair Park)**

**13.2** According to the City Code, you may not:

- (1) Throw any object from the observation deck;<sup>44</sup> or
- (2) Parachute from (or carry any parachute equipment to) the Tower of the Americas.

## **14.1 Destruction of Property**

**14.2** According to the City Code, you may not:

- (1) Climb **pecan trees** in any public part or street or throw sticks or stones to gather pecans.<sup>45</sup>

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<sup>41</sup> City Code § 21-35.

<sup>44</sup> City Code § 21-11.

<sup>42</sup> City Code § 36-6.

<sup>45</sup> City Code § 21-7.

<sup>43</sup> City Code § 21-21.

- (2) Wear any uniform (or parts of a uniform) identical with the uniform worn by the city police or fire departments.<sup>46</sup> Certain charities (especially near the Riverwalk and the Alamo) have been known to dress in uniforms that might be regarded as similar to the city police and fire departments;
- (3) Intentionally break any glass, window, sash, blind, door, gate, or fence or deface any house, building, or other property (unless you own it);<sup>47</sup>
- (4) “Willfully and maliciously” damage or remove any tree, shrub, or plant; or damage any fence, wall, gate, or turnstile at a park or other public building;<sup>48</sup> or
- (5) Damage “any street sign, traffic signal...street or sidewalk...emblem, ...painted logo, or public or private building, or ... public utilities....”<sup>49</sup>

## **15.1 Enforcement**

**15.2** In San Antonio, **criminal laws are enforced “to the fullest extent possible”** at performances and functions held in city-owned facilities (for example, the Convention Center Arena and Municipal Auditorium).<sup>50</sup>

## **16.1 Community Court**

**16.2** The San Antonio Community Court opened in May 2006. The Court’s jurisdiction is the entire City of San Antonio, but the focus is on non-traffic “quality-of-life” ordinances, such as sleeping or urinating in public, public intoxication, and minor offenses often associated with drug use and first two offenses of prostitution.

**16.3** The head of the Community Court is Judge Alfredo Tavera. The Court is located at 601 N. Frio St., San Antonio, TX 78207 and can be called at (210) 246-1340.

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<sup>46</sup> City Code § 21-12.

<sup>49</sup> City Code § 21-6(b)(1)-(2).

<sup>47</sup> City Code § 21-6(a).

<sup>50</sup> City Code § 21-24.

<sup>48</sup> City Code § 21-6(b)(1)-(2).





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# **TRLA**

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To apply for legal services or to make referrals, contact:

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### **Community Court**

601 N. Frio Street

San Antonio, TX 78207

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