

CITY OF INDIANAPOLIS-MARION COUNTY, INDIANA

INTRODUCED: 9/24/2018

REFERRED TO: Rules and Public Policy Committee

SPONSOR: Councillors McQuillen, Cordi and Wessler

DIGEST: amends the Code to adopt new provisions prohibiting the sitting or lying upon the surface of a public right-of-way at certain times within the Downtown Mile Square

SOURCE:

Initiated by: Councillor McQuillen


Drafted by: Ted Nolting, Counsel to the Minority Caucus

LEGAL REQUIREMENTS FOR ADOPTION:

Subject to approval or veto by Mayor

PROPOSED EFFECTIVE DATE:

Adoption and approvals

GENERAL COUNSEL APPROVAL:  Date: September 20, 2018

CITY-COUNTY GENERAL ORDINANCE NO. ____, 2018

A PROPOSAL FOR A GENERAL ORDINANCE to amend the Revised Code to adopt new provisions prohibiting the sitting or lying upon the surface of a public right-of-way at certain times within the Downtown Mile Square.

WHEREAS, in order to promote health, public safety and business within the Mile Square of the Consolidated City and County, it is the desire of the City-County Council to adopt and enforce prohibitions against individuals sitting or lying upon the surface of a public right-of-way between the hours of six a.m. and midnight; and

WHEREAS, it is the desire the Council that homeless individuals subject to enforcement under this section be directed to emergency shelters, community/drug/mental health court, or other interventional services; and

WHEREAS, it is the desire of the Council not to enforce the ordinance against homeless individuals if no shelter space is available.

BE IT ORDAINED BY THE CITY-COUNTY COUNCIL OF THE
CITY OF INDIANAPOLIS AND OF MARION COUNTY, INDIANA:

SECTION 1. Title IV, Chapter 407 of The "Revised Code of the Consolidated City and County," is hereby amended by the addition of a new Section 407-108, to read as follows:

Sec. 407-108. Sitting or Lying in a Public Right-of-Way within the Mile Square.

(a) Sitting or Lying in a Public Right-of-Way. It shall be unlawful for any person to sit or lie down upon any surface in a "public right-of-way," or upon a blanket, chair, stool, bedding, or any other object placed upon the surface of a public right-of-way between the hours of six a.m. and midnight within the Mile Square of the Consolidated City and County.

(b) As used in this Section, "public right-of-way" shall mean any public sidewalk, street, railway, alley, parking space, curb, or other publicly owned property intended primarily for pedestrian or vehicular travel.

(c) The prohibitions in this Section shall not apply to any person:

- (1) Sitting or lying down on the surface of a public right-of-way due to a medical emergency;
- (2) Using a wheelchair, walker, or similar device as the result of a disability;
- (3) Operating or patronizing a commercial establishment conducted in the public right-of-way pursuant to a use permit;
- (4) Participating in or attending a parade, festival, performance, rally, demonstration, meeting, or similar event conducted in the public right-of-way pursuant to and in compliance with a street use or other applicable permit;
- (5) Sitting on a fixed chair or bench designed primarily for the purpose of sitting, located on the surface of a public right-of-way, supplied by a public agency or by the abutting private property owner;
- (6) Sitting in line for goods or services unless the person or person's possessions impede the ability of pedestrians to travel along the length of the public right-of-way or enter a doorway or other entrance alongside the public right-of-way;
- (7) Sitting within a bus stop zone while waiting for public or private transportation;
- (8) Who is a child seated in a stroller;
- (9) Who is homeless during a timeframe when shelter space is unavailable; or
- (10) Who is engaging in constitutionally protected expressive activities which would otherwise be restricted by the limitations set forth herein.

(d) Enforcement. No person shall be subject to enforcement under this section unless the person engages in conduct prohibited by this section within the Mile Square after having been notified by a law enforcement officer that the conduct violates this section and has been given a reasonable amount of time to comply or has refused to comply. If the individual fails to comply in a reasonable time or engages in prohibited conduct in another location within the Mile Square, a law enforcement officer may then enforce this section. Homeless individuals subject to enforcement under this section should be directed to emergency shelters, community/drug/mental health court, or other interventional services.

(e) The first violation in any calendar year shall be subject to admission of violation and payment of the designated civil penalty through the ordinance violations bureau in accordance with Chapter 103 of this Code. All second and subsequent violations in the calendar year are subject to the enforcement procedures and penalties provided in section 103-3 of this Code.

SECTION 2. Should any provision (section, paragraph, sentence, clause or any other portion) of this ordinance be declared by a court of competent jurisdiction to be invalid for any reason, the remaining provision or provisions shall not be affected, if and only if such remaining provisions can, without the invalid provision or provisions, be given the effect intended by the Council in adopting this ordinance. To this end the provisions of this ordinance are severable.

SECTION 3. This ordinance shall be in full force and effect upon adoption and compliance with IC 36-3-4-14.

The foregoing was passed by the City-County Council this _____ day of _____, 2018, at _____ p.m.

ATTEST:

Vop Osili
President, City-County Council

SaRita Hughes
Clerk, City-County Council

Presented by me to the Mayor this _____ day of _____, 2018, at 10:00 a.m.

SaRita Hughes
Clerk, City-County Council

Approved and signed by me this _____ day of _____, 2018.

Joseph H. Hogsett, Mayor