

ORDINANCE NO. \_\_\_\_\_

**AN ORDINANCE AMENDING TITLE 10 (PUBLIC PEACE, MORALS AND WELFARE), CHAPTER 10.12 (OFFENSES AGAINST PUBLIC PEACE), SECTION 10.12.050 (ALCOHOL PROHIBITED IN PUBLIC PLACES), SUBSECTION A TO DEFINE “HOMELESS SHELTER”, “POSSESSES” AND “POSSESSION”, AND SUBSECTION B TO ADD HOMELESS SHELTER TO THE AREA WHERE OFFENSE CAN OCCUR; THE PENALTY BEING PROVIDED IN SUBSECTION 10.12.050 E OF THE EL PASO CITY CODE.**

**WHEREAS**, the Texas Alcohol and Beverage Code Section 109.36 gives the City of El Paso the authority to prohibit the possession of an open container or the consumption of an alcoholic beverage on a public street, public alley, or public sidewalk within 1,000 feet of the property line of a homeless shelter not located in the central business district; and,

**WHEREAS**, the El Paso Police Department gave out the following number of citations for open container violations in the central business district: 1,443 in 2018, 1,429 in 2020, and 505 as of June, 2021; and,

**WHEREAS**, the City Council determines that the possession of an open container or the public consumption of alcoholic beverages near to homeless shelters is a public health and safety risk and should be prohibited; and

**WHEREAS**, City Council wishes to reduce that public health and safety risk in order to improve the quality of life for residents in close proximity to homeless shelters outside of the central business district and for homeless shelter residents, and to reduce nuisances related to drinking in public places.

**NOW THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF EL PASO:**

**SECTION 1.** That Title 10 (PUBLIC PEACE, MORALS AND WELFARE), Chapter 10.12 (OFFENSES AGAINST PUBLIC PEACE), Section 10.12.050 (Alcohol prohibited in public places), Subsection A is amended to add the following:

**10.12.050 Alcohol Prohibited in Public Places.**

A.

“Homeless shelter” for purposes of this Section 10.12.050 of the City Code, means a supervised publicly or privately operated shelter or other facility that is designed to provide temporary living accommodations to individuals who lack a fixed regular and adequate residence.

“Possesses” and “possession” for purposes of this Section 10.12.050 of the City Code, means actual care, custody, control, or management.

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Open Container Ordinance Amendment

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**SECTION 2.** That Title 10 (PUBLIC PEACE, MORALS AND WELFARE), Chapter 10.12 (OFFENSES AGAINST PUBLIC PEACE), Section 10.12.050 (Alcohol prohibited in public places), Subsection B is amended as follows:

**10.12.050 Alcohol Prohibited in Public Places.**

B.

1. A person commits an offense if he possesses an open container of or consumes an alcoholic beverage in or on any public street, sidewalk, alley or pedestrian way located in the El Paso central business district area as defined in this section; or
2. A person commits an offense if he possesses an open container of or consumes an alcoholic beverage in or on any public street, sidewalk, alley or pedestrian way located within 1,000 feet of the property line of a homeless shelter that is not located in a central business district.

**SECTION 3.** Except as herein amended, Chapter 10.12 of the El Paso City Code shall remain in full force and effect.

(Signatures on the following page)

**ADOPTED** this \_\_\_\_ day of \_\_\_\_\_, 2021.

**CITY OF EL PASO:**

\_\_\_\_\_  
Oscar Leeser, Mayor

**ATTEST:**

\_\_\_\_\_  
Laura D. Prine  
City Clerk

**APPROVED AS TO FORM:**

\_\_\_\_\_  
Carlos Armendariz  
Assistant City Attorney

**APPROVED AS TO CONTENT:**

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Gregory Allen  
Police Chief