



GOVERNOR GREG ABBOTT

October 2, 2019

The Honorable Steve Adler
Mayor
City of Austin
P.O. Box 1088
Austin, Texas 78767

Dear Mayor Adler:

As you know, Texans are increasingly lodging serious complaints stemming from the City of Austin's policy about camping in public areas and sleeping on the streets. According to news reports, businesses have struggled to keep people from sleeping on sidewalks, sometimes with violent results. Growing homeless encampments adjacent to roadways put lives at risk by endangering the flow of traffic. Feces and used needles have reportedly started accumulating at alarming rates. Frankly, the list of complaints is too long to catalogue here; but, they have become so deafening that surely this cannot be news to you.

You—as the Mayor of Austin—and your colleagues are charged with maintaining “the welfare, health, morals, comfort, safety, and convenience” of your residents.¹ That charge demands a robust response to the mounting homelessness crisis in Austin. The status quo is increasingly intolerable and a swift course correction is needed to protect the health and safety of Texans, and of the many visitors to Austin.

As the Governor of Texas, I have the responsibility to protect the health and safety of all Texans, including Austin residents.² Further inaction by you and the Austin City Council will leave me no choice other than to use the tools available to the State of Texas to ensure that people are protected from health and safety concerns caused by Austin's homelessness policies.

For example, under Texas law, the following state agencies can protect against threats to public health and safety:

- The Health and Human Services Commission (HHSC) has broad and sweeping authority across the range of health and human services, including the authority to adopt rules in the areas of communicable disease, sanitation, and health protection.³

¹ AUSTIN, TEX., CITY CHARTER art. I, § 3.

² See, e.g., TEX. CONST. art. IV, § 1 (providing for “a Governor, who shall be the Chief Executive Officer of the State”).

³ See, e.g., TEX. HEALTH & SAFETY CODE, Chapters 81 & 341; TEX. GOV'T CODE, Chapter 531.

- The Department of State Health Services (DSHS) protects the health of all Texans through the prevention and control of disease and other public health risks using strategies authorized by the Texas Legislature. For example, in the event of a disease outbreak or reported infectious disease, DSHS has authority to conduct investigations and impose control measures applying to specific individuals, property, animals, and area quarantines.⁴ Due to a variety of factors, including lack of access to clean water, limited access to healthcare, and environmental and other conditions, the homeless are at a higher risk for contracting certain communicable diseases—including hepatitis B, hepatitis C, HIV, and tuberculosis. Among other things, homeless Texans are estimated to contract tuberculosis at a rate more than 70 times higher than the general population.
- The Texas Commission on Environmental Quality (TCEQ) regulates the State's water quality standards.⁵ Water quality could suffer if increased human defecation and other waste resulting from Austin's homelessness ordinance caused elevated concentrations of *E. coli* in Austin creeks or watersheds. Additionally, in reviewing Austin's stormwater management plan, TCEQ will insist on seeing a plan that addresses the effects of the crisis resulting from Austin's homelessness ordinance.
- The Department of Public Safety (DPS) has authority to act statewide—including throughout Austin—to ensure the safety of state employees and those seeking services from the State on or around state-owned or state-leased property. DPS can also enforce the state law prohibiting criminal trespassing.⁶ If necessary, DPS will add troopers in Austin areas that pose greater threats. DPS also stands ready to increase security for state agencies that are forced to respond to the homelessness crisis.
- The Department of Transportation, among its powers to ensure the safety of Texas roads and those around or traveling on them, can remove property that may block roadways or endanger public safety.⁷
- The Office of the Attorney General has the authority to seek injunctive relief and civil penalties for violations of Texas statutes and rules requiring abatement of public health nuisances.⁸ The Attorney General also has broad legal authority under countless other statutes.

This is a sampling—not an exhaustive list—of remedies available to the State to ensure the safety and welfare of people in Austin.

⁴ See, e.g., TEX. HEALTH & SAFETY CODE §§ 81.083, 81.084, 81.085.

⁵ See TEX. WATER CODE § 26.011.

⁶ See TEX. PENAL CODE § 30.05.

⁷ See TEX. TRANSP. CODE § 472.012.

⁸ See, e.g., TEX. HEALTH & SAFETY CODE §§ 341.012, 341.092(f).

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The problems caused by the Austin homelessness policies are, first and foremost, under your authority. Austin has had several opportunities to solve the problems, to no avail. Texans cannot be expected to wait further to ensure their health and safety needs are met. As a result, I will give you until November 1, 2019 to demonstrate consequential improvement in the Austin homelessness crisis and the danger it poses to the health and safety of the public. If meaningful reforms are not implemented by then, I will direct every applicable state agency to act to fulfill my responsibility to protect the health and safety of Texans in your jurisdiction.

Sincerely,

A handwritten signature in black ink, appearing to read "Greg Abbott". The signature is written in a cursive, flowing style with a horizontal line at the end.

Greg Abbott
Governor