

Initiative 300: Reading Between the Lines

BALLOT TITLE Shall the voters of the City and County of Denver adopt a measure that secures and enforces basic rights for all people within the jurisdiction of the City and County of Denver, including the right to rest and shelter oneself from the elements in a non-obstructive manner in outdoor public spaces, to eat, share accept or give free food in any public space where food is not prohibited, to occupy one's own legally parked motor vehicle, or occupy a legally parked motor vehicle belonging to another, with the owner's permission, and to have a right and expectation of privacy and safety of or in one's person and property?

this ballot question language really over-simplifies the issue

The Denver Right to Survive Initiative

A law securing and enforcing basic rights for all people within the City and County of Denver, including the right to rest and shelter oneself from the elements in a non-obstructive manner in public spaces, to eat, share, accept or give food in any public space where food is not prohibited, to occupy one's own legally parked motor vehicle, or occupy a legally parked motor vehicle belonging to another, with the owner's permission, and to have a right and expectation of privacy and safety of or in one's person and property.

Be it enacted and ordained by people of the City and County of Denver:

Section I. The Revised Municipal Code of Denver, Colorado, Title I, Chapter 28, is hereby amended to include a new Article IX:

Chapter 28 - HUMAN RIGHTS [1]

ARTICLE IX. - RIGHT TO SURVIVE IN PUBLIC SPACES

Sec. 28-254. Protected Rights of People.

(a) *Purpose.* The purpose of this section is to secure and enforce basic rights for all people within the jurisdiction of the City and County of Denver, including the right to rest and shelter oneself from the elements in a non-obstructive manner in public spaces, to eat, share, accept or give food in any public space where food is not prohibited, to occupy one's own legally parked motor vehicle or occupy a legally parked motor vehicle belonging to another, with the owner's permission, and to have a right and expectation of privacy and safety of or in one's person and property.

Note what is left undefined, including "shelter" and "harrass, terrorize, threaten or intimidate"

(b) **Definitions.**

(1) "Public space" means any outdoor property that is owned or leased, in whole or in part, by the City and County of Denver and is accessible to the public, or any city property upon which there is an easement for public use.

This is a very broad definition that includes all parks, sidewalks, alleys, along rivers and creeks including the High Line Canal, Red Rocks and Denver's mountain parks

(2) "Rest" means the state of not moving, and holding certain postures including but not limited to sitting, standing, leaning, kneeling, squatting, sleeping or lying down.

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(3) “Non-Obstructive Manner” means a manner that does not render passageways impassable or hazardous.

— This is inconsistent with the City’s current definition and lowers the standard for public safety

(4) “Motor Vehicle” includes vehicles defined in Colorado Revised Statutes Sections 42-1-102 (58), Camper coach 42-1-102 (13), trailer coach 42-1-102 (106)(a), or noncommercial or recreational vehicle 42-1-102 (61).

(5) “Ceiling preemption” means any limitation on local law-making that limits the amount of protection local law may extend to municipal residents that exceeds state or federal protections.

(6) “Municipal Subordination” means any exercise of “Dillon’s Rule,” preemption, or other mechanism used to usurp the right of the people of Denver to use their City and County government for the protection of residents’ rights.

Allows people to occupy and camp in all outdoor public places, including parks and sidewalks, indefinitely

(c) Rights.

(1) The right to rest in a non-obstructive manner in public spaces.

(2) The right to shelter oneself from the elements in a non-obstructive manner in outdoor public spaces.

Shelter is undefined...unclear what kinds of structures allowed and what building materials could be used – potential fire and safety hazards

(3) The right to eat, share, accept, or give free food in any public space where food is not prohibited.

(4) The right to occupy one’s own legally parked motor vehicle or occupy a legally parked motor vehicle belonging to another, with the owner’s permission.

Allows people to live in cars or other vehicles in residential neighborhoods and other places without time-limited parking indefinitely

(5) The right and expectation of safety and privacy of or in one’s person and belongings while occupying public spaces.

— Practically, how can there be a right to privacy in public spaces?

(6) The right to have the City and County government of Denver enforce and defend this law on the basis that a constitutional right of initiative, which is an expression of local community self-government, exists. This law is an assertion of that right as it seeks to expand and secure the rights of the people of Denver. The exercise of the legal doctrines of Dillon’s Rule, ceiling preemption or municipal subordination to state government would unconstitutionally and illegitimately violate the right of the residents of the City and County of Denver to local community self-government.

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(d) *Prohibitions and Obligations.*

(1) It shall be unlawful for the City and County of Denver to enforce any ordinance, resolution, regulation, rule or policy that limits, prohibits or penalizes the rights secured by this ordinance.

— This language makes it impossible for the city of Denver to enforce a number of public health and safety laws including park curfews

(2) It shall be unlawful for any public law enforcement officer, private security employee or agent, corporation, business or other entities to violate the rights recognized and secured by this law.

(3) It shall be unlawful for an employee or agent of any government agency, corporation, business, or other entity to harass, terrorize, threaten, or intimidate any natural person exercising the rights secured by this ordinance.

— Does not define any of these terms and may curtail trained outreach workers and first responders from approaching people needing help out of fear of being sued

(e) *Enforcement.*

(1) Any law enforcement officer or other agent of the City and County of Denver who detains, causes to move, or violates the protected rights in Section (c) of this ordinance has committed a civil rights violation(s) under color of law. This prohibition includes, but is not limited to, requesting identification by any person unless supported by reasonable suspicion of a crime.

— This language opens the door to expensive legal action

(2) The City and County of Denver, or any resident of the City and County of Denver, may enforce the rights and prohibitions of this law through an action brought in any court possessing jurisdiction over activities occurring within the City and County. In such an action, the City and County of Denver or the resident shall be entitled to recover as a prevailing party all costs of litigation, including, without limitation, expert and attorney's fees.

(3) All laws adopted by the legislature of Colorado shall be the law of the City and County of Denver only to the extent that they do not violate the rights or prohibitions of this law. Where state or federal law is more protective of human rights and civil rights than this local law, the state or federal law controls.

(f) *Severability.*

(1) The provisions of this law are severable. If any court decides that any section, clause, sentence, part, or provision of this law is illegal, invalid, or unconstitutional, such decision shall not affect, impair, or invalidate any of the remaining sections, clauses, sentences parts, or provisions, of the law. This law would have been enacted without the invalid sections.

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(g) *Repealer.*

(1) All inconsistent provisions of prior laws adopted by the City and County of Denver are hereby repealed, but only to the extent necessary to remedy the inconsistency.

(h) *Effective Date.*

(1) All provisions of this act shall take effect immediately.

— There would be no time to sort out how to implement this unprecedented and very broad policy
The City Council can't just fix it

Initiative 300 fails to provide any new funding or programs to support people experiencing homelessness or address root causes of homelessness. It is an overly-broad and poorly written initiative that will create more problems than it solves.
NO on 300.

NO on 300

We can do better!

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