



Denver Right to Survive Initiative Legal Impacts FAQ

Would this initiative allow people to be in parks all night?

No. This initiative only allows non-obstructive resting in public space that is “accessible to the public.” Parks that are closed overnight are not accessible to the public, and thus are not available for overnight resting activities. This is true for all public space that is closed to the general public.

Would this initiative allow people to sleep, sit, set up tents, etc., on sidewalks?

Yes, but with restrictions. This initiative only protects resting or sheltering oneself from the elements in a “non-obstructive manner”, which means, “a manner that does not render passageways impassable or hazardous.” People and their belongings cannot block the sidewalk or cause hazardous conditions for others using the same public space. The “non-obstructive manner” requirement applies to all public space, not just sidewalks.

Would this initiative exempt homeless people from law enforcement?

No. Police retain full authority to enforce laws against homeless people, including those related to violence, theft, drug possession, vandalism, littering, public urination, operation of vehicles, and park closure. Instead, the initiative only prohibits enforcement of laws that punish or violate the resting, sheltering, food sharing, and privacy rights secured by the initiative. Examples of laws subject to enforcement limitations under the initiative include:

- Unauthorized camping under Sec. 38-86.2
- Sitting or lying down under Sec. 38-86.1

Would this initiative negatively impact people with disabilities due to blocking passageways?

Since obstruction is not allowed, sidewalks and other passageways will remain physically accessible to people with and without disabilities. People with disabilities are also significantly more likely to experience homelessness and to struggle for survival in public space. They will benefit from protections offered by the initiative, such as the right to rest in a non-obstructive manner in public space without being subject to punishment.

Would this initiative allow public food sharing in all public places?

No, the initiative does not require the city to permit food sharing in all public space. Instead, it allows eating, sharing, accepting, or giving free food only in places where food is not prohibited. It also has no impact on the city's ability to address related public health and safety concerns, such as those related to trash disposal.

Would this initiative allow homeless people to park wherever they want?

No, the initiative does not limit the city's authority to regulate parking. The initiative only protects a person's 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."

Would this initiative prevent the city from closing areas for repair?

No. Nothing in this initiative prevents the city from closing areas for repair. The initiative only applies to areas that are accessible to the public.

Would this initiative allow people to access park space that is closed during permitted events?

No. This initiative only allows people to be in areas that are accessible to the public. Public areas that are closed for events are not accessible to the public, and thus are not implicated by the initiative. This is true for all areas that are not accessible to the public.

Would this initiative prevent police from searching people and property when they investigate crime?

No. The police have authority to search people and their property when there is probable cause to believe that a crime has been committed. This initiative has no effect on that authority.

Would this initiative prevent police from requesting identification from people?

No. Police have full authority to request identification from anyone when there is reasonable suspicion of a crime.

Would this initiative limit city authority to clean public space or address public health concerns?

No, this initiative does not affect the city's authority to clean public spaces, including areas where people are permitted to rest. Colorado state law authorizes local governments to clean public spaces by removing trash and/or destroying sources of filth or sickness. Colorado law also authorizes cities to abate public nuisances, like areas that are unsanitary or a menace to public health. The initiative does not invalidate any those laws.

Would allowing people to share free food prevent the city from dealing with rats or other health risks?

No. The city can and should still ensure sanitary public spaces. This is the current state of the law and people will continue to share food with those in need as they do now. This initiative only makes clear that any laws banning food sharing are prohibited.

Would this initiative harm outreach and other homeless services?

No. This initiative has no impact on the authority of any entity to conduct outreach or perform services for those in need. Indeed, the initiative is likely to have a positive impact on outreach and service outcomes. By reducing displacement of homeless people from public space, homeless people and their service providers are better able to stay stably connected, increasing the likelihood of success. The initiative only prohibits harassing, terrorizing, threatening, or intimidating any person exercising their rights under the initiative, or violating those rights.

Would this law create civil rights outside the U.S. Constitution?

This law does not create new constitutional rights. This initiative follows U.S. Supreme Court precedent forbidding the criminalization of a person's status, and it offers needed protection to people who are subject to the city's laws punishing homeless status. Local laws can provide higher protections for its citizens beyond what the federal laws protects. For example, Colorado counties expanded protection to prohibit discrimination based on sexual orientation or marital status before federal law did. This initiative follows in that tradition.

Will this initiative subject private property owners to lawsuits?

No, the initiative does not affect private property. The initiative only pertains to resting activities in *public space* defined as, "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."

Will this initiative subject regular citizens to lawsuits?

No, this initiative does not subject regular citizens to liability. Instead, this initiative prohibits, "any public law enforcement officer, private security employee or agent, corporation, business, or other entities" from violating rights secured by the initiative. In this context, "other entities" means entities similar to the government agents, corporations, and businesses explicitly named in the initiative language. "Other entities" does not extend to regular citizens.

How would this initiative be enforced?

Like many other laws prohibiting discrimination, this initiative is enforceable in court. Any person who alleges a violation of this initiative would have to file a lawsuit and prove the violation to a judge.

For more information see denverrighttosurvive.org

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