

ORDINANCE NO. 043, 2017
OF THE COUNCIL OF THE CITY OF FORT COLLINS
AMENDING ARTICLE III OF CHAPTER 17 OF THE CODE OF THE
CITY OF FORT COLLINS BY ADDING A NEW SECTION 17-46
REGULATING USE OF PUBLIC FACILITIES ON SIDEWALKS,
PLAZAS, PUBLIC RESTROOMS AND TRANSIT FACILITIES

WHEREAS, pursuant to its constitutional home rule powers and Sections 31-15-401 and 31-15-702, Colorado Revised Statutes, the City has the power to regulate the conduct upon and the use of public sidewalk areas and plazas, near public restrooms, and at transit facilities; and

WHEREAS, in recent years there has been an increase in complaints from businesses and individuals about persons sitting, lying, and depositing personal items on the sidewalks and plazas in the downtown area, and a lack of clear egress and ingress near public restrooms and at transit facilities; and

WHEREAS, the City Council finds that the City has a compelling interest in encouraging and preserving a vital, pedestrian-friendly downtown center and safe, convenient access to public transit facilities and restrooms; and

WHEREAS, the City Council finds that the downtown area contains dense and highly trafficked pedestrian areas and significant vehicular traffic and parking; and

WHEREAS, the City Council finds that it is beneficial to encourage a pedestrian-friendly and shared public downtown area; and

WHEREAS, the City Council finds that the environment and economic vitality of the City benefits when citizens and visitors use public transportation; and

WHEREAS, when persons misuse public transit facilities or restrooms, it makes those facilities unavailable to others who want or need to use them; and

WHEREAS, citizens are often reticent to use public restrooms and transportation when people are sitting or lying at or near the entrance to such facilities, or have stored their belongings there; and

WHEREAS, the City Council believes it is necessary to regulate the appropriate use of public facilities, including sidewalk areas, plazas, public restrooms, and transit facilities under the circumstances set forth herein, for the preservation of the health, safety, and welfare of the City's citizens and visitors.

NOW, THEREFORE, BE IT ORDAINED BY THE COUNCIL OF THE CITY OF FORT COLLINS as follows:

Section 1. That the City Council hereby makes and adopts the determinations and findings contained in the recitals set forth above.

Section 2. That the City Council finds that the City has a compelling interest in:

- (a) encouraging and preserving vital transit facilities and a pedestrian-friendly downtown business area;
- (b) promoting business and tourism in the downtown business area;
- (c) preserving the safety of pedestrians, particularly the elderly, disabled, vision-impaired and children;
- (d) encouraging the use of public sidewalk areas and plazas for travel in and about the downtown business area as a realistic alternative to the use of motor vehicles;
- (e) keeping a clear egress and ingress to public restrooms for citizens and visitors; and
- (f) promoting the safe and efficient use of public transportation.

Section 3. That the City Council hereby finds that the transit facilities and public restrooms throughout the City, and public sidewalk areas and plazas within the downtown business area, have high pedestrian use, and individuals sitting or lying down on those areas or on objects located therein that are not intended for sitting or lying, or using those areas to store personal property:

- (a) are disruptive to residents, visitors, businesses, transit users, and customers;
- (b) discourage, block, or inhibit the free passage of pedestrians and the intended use of public restroom and transit facilities;
- (c) contribute to the loss of access to and enjoyment of businesses and public places;
- (d) impede the ability of visitors and citizens to share the public space in the downtown area;
- (e) cause residents and visitors to tend to avoid such areas, thereby threatening the vitality of the businesses within and surrounding the area, and the City's overall economic health; and
- (f) damage structures and equipment and impair use for their intended purposes.

Section 4. That Article III of Chapter 17 of the City Code is hereby amended by the addition of a new Section 17-46 which reads in its entirety as follows:

Sec. 17-46. Appropriate use of public facilities.

(a) The following words, terms and phrases, when used in this Section, shall have the meanings ascribed to them in this Subsection:

Authority means the Downtown Development Authority.

Child means any person under the age of 13.

City function means any task or job or the preparation for any task or job related to the construction, operation, or maintenance of public facilities.

Disability shall mean a physical or mental impairment that substantially limits one or more major life activities, a record of such impairment or being regarded as having such an impairment.

Downtown area shall mean within the area bounded by: the center of Mason Street from the center of Maple Street to the center of Olive Street; the center of Olive Street from the center of Mason Street to the center of Remington Street; the center of Remington Street from the center of Olive Street to the center of Oak Street; the center of Oak Street from the center of Remington Street to the center of Mathews Street; the center of Mathews Street from the center of Oak Street to the center of Mountain Avenue; the center of Mountain Avenue from the center of Mathews Street to the center of Jefferson Street; the center of Jefferson Street from the center of Mountain Avenue to the center of Maple Street; the center of Maple Street from the center of Jefferson Street to the center of Mason Street. For purposes of this definition, the *center* of any given street shall be deemed to be the midpoint between the outer boundaries of such street. For streets running north to south or approximately north to south, the center runs north to south or approximately north to south, respectively; for streets running east to west, the center runs east to west or approximately east to west, respectively; the center of Jefferson Street runs approximately southeast to northwest. A map showing the approximate area of the downtown area, called the Downtown Smoke-Free Zone, dated February 27, 2015, is on file in the Office of the City Clerk.

Major life activities shall mean functions such as, but not limited to, caring for one's self, performing manual tasks, walking, seeing, hearing, eating, sleeping, standing, lifting, bending, speaking, learning, reading, concentrating, thinking, communicating, breathing, and working.

Oak Street Plaza shall mean the property described in Ordinance No. 134, 2006.

Old Town Plaza shall have the meaning ascribed to it in § 15-381 of this Code.

Pedestrian Walkway shall mean a public alley or other public passageway that is not a sidewalk but has been improved for pedestrian access and use.

Personal property shall mean moveable, tangible property of any kind that can be seen, weighed, measured, felt, or touched, or is in any other way perceptible to the senses, not including land, interests in land, or public fixtures.

Physical or mental impairment shall mean, but is not limited to, any physiological disorder or condition, cosmetic disfigurement, or anatomical loss affecting one or more of the following body systems: neurological; musculoskeletal; special sense organs; respiratory, including speech organs; cardiovascular, reproductive, digestive; genitourinary; hemic and lymphatic; skin; and endocrine; or any mental or psychological disorder, such as mental retardation, organic brain syndrome, emotional or mental illness, and specific learning disabilities. The phrase *physical or mental impairment* includes but is not limited to such conditions as orthopedic, visual, speech and hearing impairments, cerebral palsy, epilepsy, muscular dystrophy, multiple sclerosis, cancer, heart disease, specific learning disabilities, HIV disease (whether symptomatic or asymptomatic), and tuberculosis, among other conditions.

Public plazas shall mean Old Town Plaza and Oak Street Plaza.

Public restroom shall mean any city-owned or operated restroom.

Public sidewalk shall mean any portion of a street between the curblineline and the adjacent property line, excluding parkways, which is intended for use by pedestrians.

Transit facility shall mean any bus stop, bus shelter, bus bench, transit center, or pedestrian overpass or underpass.

- (b) It shall be unlawful for any person to sit, kneel, or lie down upon any area not designed for sitting in a transit facility, or upon public property within twenty (20) feet of a transit facility, unless there are not enough fixtures designed for sitting available at such facility.
- (c) It shall be unlawful for any person to sit, kneel or lie down upon any area in a public restroom, or within ten (10) feet of the entrance or exit to a public restroom, except for areas designed for sitting, such as a toilet or a bench.
- (d) Subsections (b) and (c) shall not apply to a person who:

- (1) sits, kneels, or lies down because of, and to the extent reasonably necessary, due to, a medical emergency;
 - (2) as a result of a disability, utilizes a wheelchair or similar device to access transit facilities, or public restrooms;
 - (3) sits on a chair or bench that is supplied by the City or Authority or authorized pursuant to a City-issued or Authority-issued license, permit, or other authorization;
 - (4) is a child being transported in a stroller or similar device;
 - (5) is an employee of the City or Authority, or any party contracting with the City or Authority, who is performing work or maintenance, or conducting management or enforcement functions in or around public restrooms or transit facilities, that is within the scope and authority of his/her employment.
- (e) It shall be unlawful for any person to cause or permit the depositing of unattended personal property in the following locations:
- (1) upon a public sidewalk or pedestrian walkway, in any public plaza, or upon or in any other public fixture or furniture in the downtown area, between the hours of 9:00 a.m. and 2:00 a.m., or at any time when ordered to move by any City or Authority employee or contractor to accomplish any City or Authority function;
 - (2) in a public restroom or within ten (10) feet of the entrance or exit to a public restroom; or
 - (3) in a transit facility or on public property within twenty (20) feet of a transit facility.
- (f) The prohibition in Subsection (e) shall not apply if:
- (1) the deposited property is a wheeled device designed for the purpose of transporting a person of any age, which is temporarily stored in a location designed and designated for such storage;
 - (2) the fixture is designed, intended and made available to the public for such use, such as a trash can or recycling bin; or
 - (3) the deposited property is being moved into or out of a business or residence with consent of the occupant.
- (g) Subsections (e) shall not apply to a person who:

(1) operates a commercial establishment or vending cart, or carries out other activities on public sidewalks, pedestrian walkways or plazas pursuant to a City-issued or Authority issued license, permit, or other authorization;

(2) participates in or views a parade, festival, performance, rally, demonstration, fair, or similar event authorized pursuant to a City-issued or Authority-issued license, permit, or other authorization; or

(3) is acting under the authority of a City-issued or Authority-issued license or permit; or

(4) is an employee of the City or Authority, or any party contracting with the City or Authority, who is performing work or maintenance, or conducting management or enforcement functions, on the public sidewalks, pedestrian walkways, plazas, public restrooms or transit facilities, that is within the scope and authority of his/her employment.

(h) This Section does not permit any conduct that is prohibited by ordinances of Fort Collins regarding interference with pedestrian or vehicular traffic.

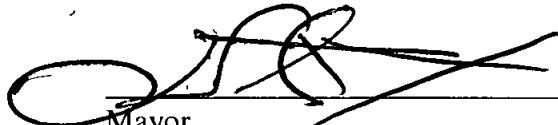
(i) A culpable mental state is not required, and need not be proven, for an offense under this Section.

(j) Nothing in this Section is intended to modify any restriction regarding obstructions or encroachments in Article III of Chapter 23 of the City Code.

Section 5. The City Council hereby directs the City Manager to report back to the City Council no later than one year from the effective date of this Ordinance on the impacts of enacting these new Code provisions, with recommended modifications to the Code, if needed.

Introduced, considered favorably on first reading, and ordered published this 7th day of March, A.D. 2017, and to be presented for final passage on the 21st day of March, A.D. 2017.



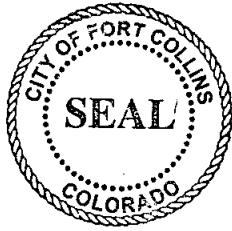

Mayor

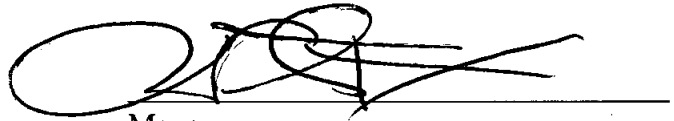
ATTEST:



City Clerk

Passed and adopted on final reading on the 21st day of March, A.D. 2017.




Mayor

ATTEST:

W Winkelmans
City Clerk