

ORDINANCE NO. 100, 2017
OF THE COUNCIL OF THE CITY OF FORT COLLINS
AMENDING PORTIONS OF CHAPTER 17 OF THE CODE OF THE
CITY OF FORT COLLINS REGULATING TRESPASS AND THE
OBSTRUCTION OF A HIGHWAY OR PASSAGEWAY

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 highways; and

WHEREAS, the City currently has a Code provision regulating obstruction of a highway and passageway; and

WHEREAS, earlier this year, City Council asked staff to propose improvements to the obstruction ordinance in order to facilitate enforcement of such ordinance; and

WHEREAS, City staff recommends modifying the existing provision to prohibit obstructing not only sidewalks and highways, but also obstructing access to public fixtures, such as benches, pedestrian signal buttons, trash cans, and water fountains; and

WHEREAS, the current trespass ordinance regulates sitting or standing on public certain objects, such as sculptures or statues, but City Council believes lying on or otherwise occupying such objects should also be regulated; and

WHEREAS, in recent years there has been an increase in complaints from businesses and individuals about persons obstructing walkways near businesses; and

WHEREAS, persons obstructing walkways cause unreasonable harm and inconvenience to pedestrians and persons utilizing wheelchairs or with other mobility issues; and

WHEREAS, because City Council's concern is about the mobility of persons near businesses and not *who* is causing the obstruction, the intent of the City Council is for this Ordinance to apply to *all* people violating the Ordinance, and not certain segments of the population; and

WHEREAS, the City Council finds that the City has a compelling interest in encouraging and preserving a vital, pedestrian-friendly City; and

WHEREAS, the City Council finds that it is beneficial to encourage pedestrian-friendly and shared walkways; and

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

WHEREAS, the City Council believes it is necessary to regulate the appropriate use of walkways and public fixtures 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 Section 17-128 of the Code of the City of Fort Collins is hereby amended to read in its entirety as follows:

Sec. 17-128. Obstructing a highway or passageway.

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

Business hours shall mean the time the business is open, plus an hour before opening and an hour after closing. The hours may be posted on the business itself or on its website, or if the hours are not posted, between the hours of 8 a.m. and 6 p.m.

Entrance shall mean the frame of any door for use by the public or by employees to access the building.

Unreasonably inconvenient or hazardous shall mean potentially causing danger, trouble, difficulty, or frustration to the ordinary person.

(b) No person acting without legal privilege shall:

(1) Obstruct a highway, street, sidewalk, railway, waterway, building entrance, elevator, aisle, stairway, hallway or any other public place for the passage of persons, vehicles or conveyances to which the public or a substantial group of the public has access, or obstruct pedestrian access to fixtures intended for use by the public, including but not limited to, benches, pedestrian signal buttons, trash cans, and water fountains, whether the obstruction arises from that person's acts alone or from that person's acts and the acts of others; or

(2) Disobey a reasonable request or order to move issued by one whom the person knows to be a peace officer, a firefighter, or a person with authority to control the use of the premises, to prevent obstruction of a highway or passageway or to maintain public safety by those gathered in dangerous proximity to a fire, riot or other hazard.

(c) For purposes of this Section, the term *obstruct* shall mean to render impassable or to render passage unreasonably inconvenient or hazardous. The term unreasonably inconvenient or hazardous as defined in Subsection (a) shall include, but not be limited to, sitting, kneeling, or lying within twenty (20) feet of the entrance to any business establishment during the business hours of that establishment, whether or not a particular person's passageway has, in fact, been impeded.

(d) The foregoing prohibitions against sitting, kneeling, or lying within twenty (20) feet of the entrance to a business establishment during business hours shall not apply to any person who is:

- (1) As a result of a disability, utilizing a wheelchair, walker or similar device to move about the public sidewalk;
- (2) Sitting or lying down due a medical emergency;
- (3) Participating in or attending a parade, festival, performance, rally, demonstration, meeting or similar event conducted pursuant to a street use or other applicable permit;
- (4) Sitting on a public sidewalk within a bus stop zone while waiting for public or private transportation;
- (5) Sitting on a chair supplied by the City or the Downtown Development Authority for use in the occupied location;
- (6) Age 13 or under;
- (7) Operating a commercial establishment or vending cart, or carrying out other activities pursuant to a license, permit, or other authorization; or
- (8) An employee or agent of the City or Downtown Development Authority, acting within the scope of his or her employment.

Section 3. That Section 17-40 of the Code of the City of Fort Collins is hereby amended to read as follows:

Sec. 17-40. Trespass; trespass on railroad property.

...

(b) No person shall climb, sit, lie, stand upon, or otherwise occupy, any sculpture, statue, planter, or other object situated on public or private property, without the express consent of the owner thereof, unless and to the extent such object is designed, intended and made available to the general public for such use.

...

Introduced, considered favorably on first reading, and ordered published this 18th day of July, A.D. 2017, and to be presented for final passage on the 15th day of August, A.D. 2017.

ATTEST:

W Winkelman
City Clerk



[Signature]
Mayor Pro Tem

Passed and adopted on final reading on this 15th day of August, A.D. 2017.

[Signature]
Mayor

ATTEST:

Alyssa Calderon
City Clerk - ~~Interim~~

