

ORDINANCE NO. 2015-__

A BILL

FOR AN ORDINANCE OF THE CITY OF AURORA, COLORADO, AMENDING CHAPTER 94 OF THE CITY CODE RELATED TO LOITERING, AGGRESSIVE PANHANDLING, AND SOLICITATION ON OR NEAR STREET OR HIGHWAY.

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF AURORA, COLORADO:

Section 1. That Section 94-114 of the City Code of the City of Aurora, Colorado, is hereby amended to read as follows:

Sec. 94-114. - Definitions.

The following words and phrases, when used in sections 94-114 through ~~94-120~~ 94-117 shall have the meanings respectively ascribed to them:

Aggressively beg shall mean to beg with the intent of intimidating another person into giving money, goods, or alms.

Beg shall mean to ask for or solicit money or goods, or to solicit alms, whether by words, bodily gestures, signs, or other means.

~~Colfax corridor shall mean all public places including streets, medians, sidewalks, bus lanes, parking lanes, bus stops, bus shelters, and public plazas situated within that area of the City of Aurora demarcated by the midline of Yosemite Street on the western edge to the midline of Peoria Street on the eastern edge, and from the midline of 14th Avenue on the southern edge to the midline of 16th Avenue on the northern edge.~~

Intimidate shall mean to engage in conduct which would make a reasonable person fearful or apprehensive for their personal safety. It shall include the concept of coercion.

Loitering means to be dilatory, to stand idly around, to linger, delay, or wander about, or to remain, abide, or tarry ~~in a public place.~~

~~Medical necessity shall mean any physical or mental condition, which compels the subject of the condition to sit or lie down to prevent substantial or permanent harm from occurring and which condition is susceptible of consistent diagnosis by a licensed physician, or any condition which causes an involuntary reaction in the subject of the condition which forces that person to sit or lie down and which condition is verifiable by a licensed physician or is verified by emergency medical response personnel who have directly observed the condition.~~

Obstruct shall mean to WALK, STAND, SIT, LIE, OR PLACE AN OBJECT IN SUCH A MANNER AS TO hinder or slow progress, to retard progress, to make accomplishment of obtaining a goal slower or more difficult, ~~to be or come in the way of, or to wholly or partially cut off the sight of a goal or objective,~~ OR to impede ANOTHER PERSON OR VEHICLE, OR TO REQUIRE ANOTHER PERSON OR A DRIVER OF A VEHICLE TO TAKE EVASIVE ACTION TO AVOID PHYSICAL CONTACT. ~~The term shall not be taken to mean an impossibility of obtaining a goal. It shall not require that a goal or destination was in fact not ultimately obtained.~~ ACTS AUTHORIZED AS AN EXERCISE OF ONE'S CONSTITUTIONAL RIGHT TO PICKET OR LEGALLY PROTEST, OR ACTS AUTHORIZED BY PERMIT ISSUED BY THE CITY SHALL NOT CONSTITUTE OBSTRUCTION.

~~Pedestrian shall include all users of sidewalks regardless of their means of locomotion. Specifically, the term shall include those using wheelchairs.~~

Public place shall mean any place to which the general public has access and a right of resort for business, entertainment or other lawful purpose, but does not necessarily mean a place devoted solely to the uses of the public. It shall include the front, entryway, doorway, or vestibule or immediate access area to any store, shop, restaurant, tavern or other place of business, and shall also include public grounds, areas, parks, plazas, streets, sidewalks, and medians owned or maintained in whole or in part by the city.

Section 2. That Section 94-115 is hereby amended as follows:

Sec. 94-115. ~~Loitering in the Colfax Corridor, Obstructing.~~

It shall be unlawful for any person to loiter ~~between the hours of 7:00 a.m. to 9:00 p.m., at any public place, within the Colfax Corridor~~ ON STREETS, SIDEWALKS, CROSSWALKS, WALKS IN PUBLIC PARKS OR ANY OTHER PUBLIC PLACE such that they obstruct the free and uninterrupted USE OF THE STREET, SIDEWALK, CROSSWALK, OR PUBLIC PLACE BY ANY OTHER PERSON, ~~passage of vehicles or pedestrians traveling through or within the corridor, or such that they obstruct any pedestrian seeking to access any business, store, shop, restaurant, tavern, service provider, bus stop, or bus shelter situated within the Colfax Corridor.~~

Section 3. That Sections 94-116, 94-117, 94-118, and 98-120 of the City Code of the City of Aurora, Colorado, are hereby repealed in their entirety.

Sec. 94-116. ~~Loitering in the Colfax Corridor, sitting in easements.~~

~~Within the Colfax Corridor between 7:00 a.m. and 9:00 p.m., it shall be unlawful for any person to sit down upon or to kneel upon the surface of any street, sidewalk, parking lane, bus lane, or in any plaza, or upon any median, except upon benches, stools, chairs or~~

~~other seats built into and integrated into the design of the streetscape unless compelled to do so by medical necessity.~~

~~Sec. 94-117. Loitering in the Colfax Corridor, laying down or sleeping in business district.~~

~~Within the Colfax Corridor it shall be unlawful for any person to lie down upon any street, sidewalk, parking lane, bus lane, median, plaza, or in any bus shelter between the hours of 7:00 a.m. and 9:00 p.m., whether on the ground or upon benches, stools, chairs, or other seats, nor upon any other surface unless compelled to do so by medical necessity.~~

~~Sec. 94-118. Loitering in Colfax Corridor, persons in possession of alcoholic beverages.~~

~~It shall be unlawful for persons to loiter in any public place within the Colfax Corridor while in possession of alcoholic beverages.~~

~~Sec. 94-120. Loitering in Colfax Corridor, defenses~~

~~(a) Lawful order required. Prior to issuing a summons to any individual for a violation of sections 94-115 through 94-119 of the city code the issuing police officer or law enforcement officer shall order that person to, move on, or disperse. Any person who then fails to obey such order shall be guilty of violating the relevant section of the city code.~~

~~(b) Permits. City council, the city manager, the chief of police, or their official designees may authorize suspensions of this article to allow special events to occur within the Colfax Corridor.~~

~~(c) Medical necessity. Persons charged with a violation of sections 94-115 through 94-118 shall receive a dismissal of the charges upon presenting the court with credible written proof of a diagnosis from a licensed physician specifying that the charged person has a medical condition which either, renders it necessary for the person to sit or lie down or risk adverse medical consequences, or may have caused the person to sit or lie down involuntarily.~~

Section 4. That Section 94-119 of the City Code of the City of Aurora, Colorado, is hereby renumbered 94-116 and amended to read as follows:

~~Sec. 94-116. - Loitering in Colfax Corridor, Aggressive begging.~~

(a) It shall be unlawful for any person to aggressively beg ON PUBLIC PLACES within the ~~Colfax Corridor~~ THE CITY.

(b) IT SHALL BE UNLAWFUL FOR ANY PERSON TO AGGRESSIVELY BEG ON PRIVATE PROPERTY IF ASKED TO LEAVE BY THE OWNER OR OWNER'S REPRESENTATIVE, OR IF THERE IS A SIGN POSTED ON THE

PRIVATE PROPERTY THAT PROHIBITS, IN SOME MANNER, AGGRESSIVE BEGGING OR SOLICITATION.

(c) The following factors, while not dispositive of an actor's intent, shall be deemed admissible probative evidence, and may be considered in determining whether the actor intended to aggressively beg IN VIOLATION OF THIS SECTION ~~from, or intimidate another person into giving money or goods to the solicitor:~~

(1) That the actor touches the person(S) solicited without consent or express invitation to do so;

(2) That the actor follows the person(S) solicited without express invitation to do so and with the specific intent and actual effect of prolonging the solicitation encounter;

(3) That the actor directs profane or abusive language or fighting words towards persons refusing the solicitation; OR

(4) That the actor threatens the person(S) solicited with violence either verbally or through commonly understood gestures; ~~or~~

~~(5) That the actor persists in begging from a person after that person has once refused the solicitation or given a negative response during the instant encounter.~~

Section 5. That Section 134-360 of the City Code of the City of Aurora, Colorado, is hereby renumbered 94-117 and amended to read as follows:

Sec. 94-117. - Solicitation on or near street or highway.

(a) The purpose of this section is to prevent dangers to persons and property, to prevent delays, and to avoid interference with the traffic flow. ~~Roadways~~ STREETS OR HIGHWAYS that have center medians often are designed to deal with specific traffic flow problems. Any delay ~~or~~ distraction may interfere with traffic planning, FLOW, AND SAFETY. Sometimes persons stand near intersections and near traffic lights to contact drivers or passengers in cars that are passing or that are stopped temporarily due to traffic lights.

(b) It shall be unlawful for any person to solicit OR ATTEMPT TO SOLICIT employment, business, contributions, or sales of any kind or collect monies for such from the occupant of any vehicle traveling upon any street or highway when:

(1) Such solicitation or collection causes the person performing the activity to enter onto the traveled portion of a street or highway.

(2) Such solicitation or collection ~~involves~~ CAUSES the person performing the activity to be located upon any median area, WHETHER RAISED OR ON AN EVEN PLANE WITH THE STREET OR HIGHWAY, which separates traffic lanes for vehicular travel ~~in opposite directions~~.

(3) SUCH SOLICITATION OR COLLECTION CAUSES ~~the~~ person performing the activity ~~is TO located~~ LOCATE HIM OR HERSELF such that vehicles cannot move into a legal parking area to safely conduct the transaction.

~~(c) It shall be unlawful for any person to solicit or attempt to solicit employment, business, or contributions of any kind from the occupant of any vehicle on any highway included in the interstate system, including any entrance to or exit from such highway.~~

~~(d C)~~ For purposes of this section, the traveled portion of the street or highway shall mean that portion of ~~the road~~ ANY STREET OR HIGHWAY LOCATED WITHIN THE CITY ~~normally~~ WHICH CAN BE used by moving motor vehicle traffic, INCLUDING THE GUTTER ON THE EDGE OF ANY STREET OR HIGHWAY.

Section 6. *Severability.* The provisions of this Ordinance are hereby declared to be severable. If any section, paragraph, clause, or provision of this Ordinance shall, for any reason, be held to be invalid or unenforceable by a court of competent jurisdiction, the invalidity or unenforceability of such section, paragraph, clause, or provision shall not affect any of the remaining provisions of this Ordinance.

Section 7. *Repealer.* All acts, orders, resolutions, ordinances, or parts thereof, in conflict with this Ordinance or with any of the documents hereby approved, are hereby repealed only to the extent of such conflict. This repealer shall not be construed as reviving any resolution, ordinance, or part thereof, heretofore repealed.

Section 8. *Publication.* Pursuant to Section 5-5 of the City Charter, the second publication of this ordinance shall be by reference, utilizing the ordinance title. Copies of this ordinance are available at the office of the City Clerk.

INTRODUCED, READ AND ORDERED PUBLISHED this _____ day of _____, 201__.

PASSED AND ORDERED PUBLISHED BY REFERENCE this _____ day of _____, 201__.

STEPHEN D. HOGAN, Mayor

ATTEST:

JANICE NAPPER, City Clerk

APPROVED AS TO FORM:



NANCY RODGERS, Sr. Assistant City Attorney