

ORDINANCE NO. 04122016O001

AN ORDINANCE RELATING TO SOLICITATION, INCLUDING PANHANDLING IN THE UNINCORPORATED TERRITORY OF LARIMER COUNTY; REPEALING ALL ORDINANCES IN CONFLICT

WHEREAS, pursuant to Colorado Revised Statutes § 30-15-401(1)(b), the Board of County Commissioners of Larimer County has the power to adopt ordinances to prevent and suppress riots, routs, affrays, disturbances, and disorderly assemblies in any public or private place; for control or licensing of those matters of purely local concern; and

WHEREAS, pursuant to Colorado Revised Statutes § 30-15-401(1)(d), the Board of County Commissioners of Larimer County has the power to restrain and punish loiterers; and

WHEREAS, pursuant to Colorado Revised Statutes § 30-15-401(1)(h), the Board of County Commissioners of Larimer County has the power to control and regulate the movement and parking of vehicles and motor vehicles on public property; and,

WHEREAS, pursuant to Colorado Revised Statutes § 30-15-401(1)(c), the Board of County Commissioners of Larimer County has the power to suppress fraudulent devices and practices for the purpose of gaining or obtaining money or property; and

WHEREAS, it has come to the attention of the Board of County Commissioners of Larimer County, that residents have experienced problems, including personal and vehicular safety concerns, with aggressive solicitation, panhandling, disturbances and vandalism; and

WHEREAS, the Board of County Commissioners of the County of Larimer, State of Colorado, has been presented with information from law enforcement officials that panhandling within the County may be creating a public safety risk on and along public roads; and

WHEREAS, the Board of County Commissioners of the County of Larimer, State of Colorado, previously adopted Larimer County Ordinance 12042012O001, which is superseded by this Ordinance and any provision in conflict is hereby repealed; and,

NOW THEREFORE, BE IT ORDAINED, by the Board of County Commissioners of Larimer County, State of Colorado, as follows:

Section 1. Legislative Declaration:

1.1 This Ordinance shall be known and may be cited as the "Larimer County Solicitation Safety Ordinance."

1.2 The County Commissioners find and declare that it is the right of every person, regardless of race, color, creed, religion, national origin, sex, age, or handicap, to be secure and protected from intimidation and physical harm associated with aggressive conduct or soliciting in traffic areas. It is not the intent of this Ordinance to interfere with the exercise of the constitutionally protected rights of freedom of expression, speech and association. The County Commissioners hereby recognize the constitutional right of every citizen to harbor and express beliefs of any subject whatsoever and to lawfully associate with others.

1.3 The County Commissioners further find that the citizens of Larimer County are concerned as a result of behaviors by individuals and groups who create public safety risks along and on public roads. These activities, both individually and collectively, present a clear and present danger to public order and safety and are not constitutionally protected.

Section 2: Definitions.

As used in this Ordinance the following words are defined as follows:

2.1 *Obscene* shall mean a blatantly offensive description of an ultimate sexual act or solicitation to commit an ultimate sexual act, whether or not such ultimate sexual act is normal or perverted, actual or simulated, including masturbation, cunnilingus, fellatio, anilingus or excretory functions.

2.2 *Obstruct* shall mean to render impassible or to render passage unreasonably inconvenient or hazardous.

2.3 *Solicit* shall mean to knowingly approach or stop another person in a public place and request that person, whether by spoken words, bodily gestures, written signs or other means, for a gift of money (“panhandling”), employment or other thing of value, and includes seeking an exchange of money for something of value or other business transaction in public.

2.4 *"Unincorporated Larimer County"* - that portion of Larimer County, Colorado not within the corporate boundaries of a municipality.

Section 3: Applicability

This Ordinance shall apply to all portions of unincorporated Larimer County.

Section 4: General Solicitations:

It shall be unlawful for any person to solicit employment, business, contributions, or sales of any kind, panhandle or collect monies for the same, if such activity occurs:

4.1 In a manner that involves the person soliciting engaging in conduct toward the person solicited that is intimidating, threatening, coercive or obscene and that causes the person solicited to reasonably fear for his or her safety;

4.2 In a manner that involves the person soliciting directing fighting words to the person solicited;

4.3 In a manner that involves the person soliciting touching or grabbing the person solicited;

Section 5: Solicitations on or Near Public Streets and Highways:

5.1 It shall be unlawful for any persons to panhandle or to solicit employment, business, contributions, exchanges of items, seek gifts, sales of any kind, or collect monies from such activities, directly from the occupant of any vehicle traveling upon any public street, interstate or highway, including any entrance or exit from such highway or interstate, when:

a. Such panhandling, solicitation, exchange or collection involves any person performing the activity to enter onto the traveled portion of a public street or highway to complete the transaction, including, without limitation, entering onto bike lanes or street gutters; or

b. Such panhandling, solicitation or collection involves a transaction where the vehicle is stopped or stops in a lane of travel, including any entrance or exit from a highway or interstate; or

c. The person performing the activity is located such that vehicles cannot move into a legal parking area to safely complete the transaction.

Section 6: Enforcement and Penalties:

6.1 Enforcement shall be initiated by the Larimer County Sheriff, or his or her designee, or any Peace Officer.

6.2 Any person who violates any provision of this ordinance commits a Class 2 Petty Offense. The penalty assessment procedure provided in Section 16-2-201, C.R.S. may be followed by the arresting law enforcement officer for any such violation of this ordinance.

Section 7: Severability:

If any one or more of the provisions of this Ordinance are determined by a court of law to be invalid, such determination shall not affect the validity of the remaining provisions of this Ordinance.

Section 8: Effective Date:

8.1 This Ordinance shall take effect upon adoption by the Board of County Commissioners of Larimer County, State of Colorado, for the immediate preservation of the health and safety of the residents of the unincorporated portions of the County, and the Board of County Commissioners further authorizes publication of this Ordinance in book or pamphlet form.

8.2 Any future amendment to this Ordinance may be accomplished by resolution of the Board of County Commissioners and shall be effective thirty (30) days following publication of such amendment.

BOARD OF COMMISSIONERS OF LARIMER COUNTY, COLORADO

By: 
Chair

ATTEST:


Deputy Clerk of the Board



FIRST READING:

INTRODUCED, READ AND APPROVED ON FIRST READING on November 17, 2015 and ordered published in full in the Coloradoan Newspaper.

SECOND READING:

INTRODUCED, READ AND CHANGES APPROVED ON SECOND READING on December 8, 2015 and ordered published in full in the Coloradoan Newspaper.