

ORDINANCE NO. 085, 2018
OF THE COUNCIL OF THE CITY OF FORT COLLINS
AMENDING ARTICLE VII OF CHAPTER 17 OF THE CODE OF THE
CITY OF FORT COLLINS PERTAINING TO PANHANDLING

WHEREAS, in 1995, the City Council adopted Ordinance No. 070, 1995, adding Section 17-127 to the City Code to impose reasonable time, place and manner restrictions on certain aggressive panhandling conduct that was then occurring and has continued to occur within the City; and

WHEREAS, on February 10, 2015, five individual plaintiffs and Greenpeace, Inc. (the “Plaintiffs”) filed in Colorado Federal District Court a class-action lawsuit against the City (the “Lawsuit”); and

WHEREAS, the Plaintiffs challenged in the Lawsuit the constitutionality of seven specific time, place and manner panhandling restrictions in City Code Section 17-127, and asked the Court to preliminarily and permanently enjoin the City’s enforcement of these challenged provisions (the “Challenged Provisions”); and

WHEREAS, on February 27, 2015, City Council repealed the Challenged Provisions; and

WHEREAS, the Plaintiffs did not, however, challenge the constitutionality of the four other time, place and manner panhandling restrictions in City Code Section 17-127, as currently found in subsections (b)(1), (b)(2), (b)(3) and (b)(4); and

WHEREAS, the four remaining panhandling restrictions in City Code Section 17-127 cover unlawful behaviors that are already identified as specific crimes in Chapter 17, including disorderly conduct (17-124), harassment (17-126), disturbing the peace (17-121), obstruction of a passageway (17-128) and assault (17-21); and

WHEREAS, these overlapping provisions addressing the same criminal behaviors cause confusion among Fort Collins Police Services officers when determining which provision to cite on a criminal citation; and

WHEREAS, because of this overlap and confusion, Fort Collins Police Services recommends eliminating the four remaining panhandling restrictions in (b)(1), (b)(2), (b)(3) and (b)(4), and the City Council believes that it would be in the best interests of the City to approve such changes to the City Code.

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 17-127 of the Code of the City of Fort Collins is hereby deleted in its entirety.

Sec. 17-127. -- Panhandling.

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

~~(1) *Knowingly* shall mean, with respect to the conduct or circumstances described in this Section, that a person is aware that such person's conduct is of that nature or that the circumstances exist. With respect to a result of such conduct, this means that a person is aware that such person's conduct is practically certain to cause the result.~~

~~(2) *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.~~

~~(3) *Obstruct* shall mean to render impassible or to render passage unreasonably inconvenient or hazardous.~~

~~(4) *Panhandle* shall mean to knowingly approach, accost or stop another person in a public place and solicit that person, whether by spoken words, bodily gestures, written signs or other means, for a gift of money or thing of value.~~

(b) ~~It shall be unlawful for any person to panhandle if such panhandling occurs:~~

~~(1) In a manner that involves the person panhandling knowingly 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;~~

~~(2) In a manner that involves the person panhandling knowingly directing fighting words to the person solicited;~~

~~(3) In a manner that involves the person panhandling knowingly touching or grabbing the person solicited; or~~

~~(4) On a sidewalk or other passage way in a public place used by pedestrians and is done in a manner that obstructs the passage of the person solicited or that requires the person solicited to take evasive action to avoid physical contact with the person panhandling or with any other person.~~

Introduced, considered favorably on first reading, and ordered published this 19th day of June, A.D. 2018, and to be presented for final passage on the 3rd day of July, A.D. 2018.

Mayor

ATTEST:

City Clerk

Passed and adopted on final reading on the 3rd day of July, A.D. 2018.

Mayor

ATTEST:

City Clerk