

DRAFT

CITY ATTY'S OFFICE
CODE CHANGE REVIEW
ATTY INIT _____
DATE ____/____/____

ORDINANCE NO. 14-_____

AN ORDINANCE CREATING A NEW SECTION 112 (SITTING, KNEELING OR LYING DOWN IN THE PUBLIC RIGHT-OF-WAY) OF ARTICLE 2 (OFFENSES AFFECTING PUBLIC SAFETY) OF CHAPTER 9 (PUBLIC OFFENSES) OF THE CODE OF THE CITY OF COLORADO SPRINGS 2001, AS AMENDED, PERTAINING TO SITTING, KNEELING OR LYING DOWN IN THE PUBLIC RIGHT-OF-WAY

WHEREAS, City Council finds that the surface of a public sidewalk is primarily intended to be used for passage of pedestrians, and the surface of a public street, alley or transit way is primarily intended to be used for the passage of vehicles; and

WHEREAS, City Council finds that the act of sitting, kneeling or lying upon the surface of a sidewalk or other public right-of-way, particularly in highly-trafficked areas such as downtown Colorado Springs, conflicts with the use of the right-of-way for its intended purpose; and

WHEREAS, City Council finds that the act of sitting, kneeling or lying upon the surface of a sidewalk or other public right-of-way poses a hazard, both to the person sitting, kneeling or lying upon the surface, as well as to pedestrians and vehicles using the right-of-way for its intended purpose; and

WHEREAS, City Council finds that street furniture is not intended to be used for kneeling or lying down and that street furniture other than chairs and benches is not intended to be used for sitting; and

WHEREAS, City Council finds that the act of sitting, kneeling or lying upon street furniture not intended for such use conflicts with the intended use or purpose of the street furniture; and

WHEREAS, City Council finds that the presence of persons sitting, kneeling or lying upon the surface of the public right-of-way or on street furniture not intended for such use in downtown Colorado Springs creates a sense of public disorder, and tends to deter people from coming to the downtown commercial zone of the City; and

WHEREAS, the City Council finds that sitting, kneeling and lying down in the public right-of-way and on street furniture not intended for such use in the downtown commercial zone of the City constitutes a threat to the public health, safety and general welfare and to the zone's economic vitality.

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NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF COLORADO SPRINGS:

Section 1. A new Section 112 (Sitting, Kneeling or Lying Down in the Public Right-of-Way of Article 2 (Offenses Affecting Public Safety) of Chapter 9 (Public Offenses) of the Code of the City of Colorado Springs 2001, as amended, is created to read as follows:

9.2.112: SITTING, KNEELING OR LYING DOWN IN THE PUBLIC RIGHT-OF-WAY:

A. It shall be unlawful for any person to sit, kneel or lie down in the Downtown Commercial Zone upon the surface of any public right-of-way or upon any bedding, chair, stool, or any other object placed upon the surface of the public right-of-way or upon street furniture between the hours of 7:00 a.m. and 9:00 p.m. daily and between the hours of 9:00 p.m. and 3:00 a.m. on Friday and Saturday nights.

B. Definitions:

For purposes of this section, the terms below shall have the following meaning:

1. "Downtown Commercial Zone" shall mean the area bordering on or included within the area bordered on the north by St. Vrain Street, on the south by Rio Grande Street, on the east by Wahsatch Avenue and on the west by Interstate Highway 25.
2. "Public right-of-way" shall mean any street, sidewalk, alley, parkway, curb, median, traffic island, or any other publicly owned property intended or used for pedestrian or vehicular travel.
3. "Street furniture" shall mean any object installed on the public right-of-way, including but not limited to, traffic barriers, bollards, postal boxes, phone boxes, street lamps, traffic lights, signs, bus stops, taxi stands, public lavatories, fountains, memorials, public sculptures or artwork, planter walls and boxes and waste receptacles.

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C. It is an affirmative defense to a violation of this section that a person:

1. Sits, kneels or lies down upon the public right-of-way or street furniture due to a medical emergency.
2. As a result of a disability, utilizes a wheel chair, walker or other similar device to move about the public right-of-way.
3. Is operating or patronizing a commercial establishment located in the public right-of-way pursuant to any permit or license issued by the City.
4. Is attending a parade, festival, performance, rally, demonstration, meeting, or similar special event conducted in the public right-of-way pursuant to any permit or license issued by the City.
5. Sits upon a chair or bench in the public right-of-way furnished by the City, by any other public agency, or by the abutting private property owner pursuant to any permit or license issued by the City.
6. Sits upon a public sidewalk at a transit stop while waiting for public transportation.

D. No law enforcement officer shall issue a citation, make an arrest or otherwise enforce this section against any person unless the person engages in conduct prohibited by this section after having been notified by a law enforcement officer that the conduct violates this section.

Section 2. This ordinance shall be in full force and effect from and after its final adoption and publication as provided by Charter.

Section 3. Council deems it appropriate that this ordinance be published by title and summary prepared by the City Clerk and that this ordinance be available for inspection and acquisition in the office of the City Clerk.

Introduced, read, passed on first reading and ordered published this ____ day of _____, 2014.

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Finally passed: _____

Keith King, Council President

Delivered to Mayor on _____.

Mayor's Action:

- ☐ Approved on _____.
- ☐ Disapproved on _____, based on the following objections:

Steve Bach, Mayor

Council Action After Disapproval:

- ☐ Council did not act to override the Mayor's veto.
- ☐ Finally adopted on a vote of _____, on _____.
- ☐ Council action on _____ failed to override the Mayor's veto.

Keith King, Council President

ATTEST:

Sarah B. Johnson, City Clerk