

ORDINANCE NO. 2018-041

AN ORDINANCE AMENDING CHAPTER 5.04 OF THE CASTLE ROCK MUNICIPAL CODE CONCERNING PANHANDLING

WHEREAS, Town Council desires to protect the health, safety and welfare of all citizens of the Town and those who travel through the Town by addressing aggressive panhandling; and

WHEREAS, restricting aggressive panhandling will provide a balance between the rights of panhandlers and the rights of persons who wish to decline or avoid the panhandling, and will help avoid or diminish the threat of fear and intimidation that might accompany unwarranted and unavoidable confrontations, and provide for the safety and security of the commuting public, tourists and those citizens wishing to use public places and commercial facilities; and

WHEREAS, this ordinance is timely given the pace of commercial and residential development, particularly in the historic Downtown area, and because current laws and Town regulations are insufficient to address problems associated with aggressive panhandling, and the proposed restrictions contained herein are neither overbroad nor vague and are narrowly tailored to serve a substantial government interest; and

WHEREAS, aggressive panhandling is disturbing and disruptive and can cause fear to residents and businesses and can negatively impact social harmony and economic viability; and

WHEREAS, it is not the purpose of this ordinance to prohibit lawful panhandling, but only to regulate behaviors that are intimidating, threatening, coercive or obscene, and behaviors that can contribute to the loss of, access to, or the enjoyment of public places and that might detrimentally impact the historic Downtown area and other commercial areas that are vital to the economic, cultural and social health of the Town; and

WHEREAS, it is not the intention of this ordinance to prohibit lawful panhandling which includes, passively standing or sitting with a sign, or other indication that one is seeking donations without addressing any solicitation to any specific person; and

WHEREAS, it is the intention of Town Council to impose reasonable time, place and manner restrictions on panhandling while respecting the constitutional rights of all citizens to panhandle or solicit funds, or to engage in other constitutionally protected activity in a peaceful and non-threatening manner.

NOW, THEREFORE, IT IS ORDAINED BY THE TOWN COUNCIL OF THE TOWN OF CASTLE ROCK, COLORADO:

Section 1. Amendment. Section 5.04.010 of the Castle Rock Municipal Code, entitled Definitions, is amended to add the following definitions:

Knowingly means with respect to the conduct or circumstance 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 the result of such conduct, this means that a person is aware that such person's conduct is practically certain to cause the result.

Obscene means a ~~patently~~ ~~blatantly~~ offensive description of ~~an~~ ultimate sexual act~~s~~ or solicitation to commit ~~an~~ ultimate sexual act~~s~~, whether or not ~~said~~ ~~such~~ ultimate sexual act~~s~~ ~~are~~ ~~is~~ normal or perverted.

Obstruct means ~~any act or conduct which opposes, obstructs, prevents or attempts to prevent, interferes with, hinders or impedes the actions of another. to render impassible, or to unreasonably hinder, slow or retard progress, or to render passage unreasonably inconvenient or hazardous.~~

Panhandle means to knowingly approach, accost, stop, or make a request of another person in a public place and solicit that person, whether by spoken words, bodily gesture, written signs or other means, for a gift of money or thing of value. It does not mean to passively stand or sit with a sign or other indication that one is seeking donations without addressing any solicitation to any specific person, other than in response to an inquiry by that person.

Section 2. Amendment. Chapter 5.04 of the Castle Rock Municipal Code is amended to add a new Section 5.04.065 entitled Panhandling, to read as follows:

5.04.065 Panhandling

It shall be unlawful for any person to panhandle if such panhandling occurs:

- A. 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;
- B. In a manner that involves the person panhandling knowingly directing fighting words or profane and abusive language to the person solicited or would cause a reasonable person to be fearful for his or her safety;
- C. In a manner that involves the person panhandling knowingly touching, grabbing or causing physical contact without that person's consent in the course of soliciting; or
- D. On a sidewalk or other passageway in a public place used by pedestrians and is done in a manner that blocks, obstructs or interferes with the safe or free 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.

Section 3. Severability. If any clause, sentence, paragraph, or part of this ordinance or

the application thereof to any person or circumstances shall for any reason be adjudged by a court of competent jurisdiction invalid, such judgment shall not affect the remaining provisions of this ordinance.

Section 4. Safety Clause. The Town Council finds and declares that this ordinance is promulgated and adopted for the public health, safety and welfare and this ordinance bears a rational relation to the legislative object sought to be obtained.

APPROVED ON FIRST READING this 6th day of November, 2018 by a vote of 6 for and 0 against, after publication in compliance with Section 2.02.100.C of the Castle Rock Municipal Code; and

PASSED, APPROVED AND ADOPTED ON SECOND AND FINAL READING this 4th day of December, 2018, by the Town Council of the Town of Castle Rock by a vote of _____ for and _____ against.

ATTEST:

TOWN OF CASTLE ROCK

Lisa Anderson, Town Clerk

Jennifer Green, Mayor

Approved as to form:

Approved as to content:

Robert J. Slentz, Town Attorney

Heidi Hugdahl, Deputy Town Attorney