

Proposed Amendment of City Code:

Sit-Lie Ordinance

City Council Work Session

August 24, 2015

Presentation Outline

- ▶ Background
- ▶ Existing Ordinances
- ▶ Proposed Ordinance
- ▶ Legal Review
- ▶ Stakeholder Process
- ▶ Questions

Background

- ▶ Growing number of people are sitting/lying down on the public right-of-way and street furniture in City commercial districts
- ▶ Complaints received that the conduct is deterring people from working, visiting and shopping in the commercial districts



Corner of N Tejon St. and E Pikes Peak Ave.



Corner of N Tejon St. and E Pikes Peak Ave.



Corner of E Kiowa St. and N Tejon St.

Ordinance Objectives

Restore order to the right-of-way in commercial districts to promote safety and economic vitality

▶ Safety

- Conduct impedes traffic flow
- Unsafe both for person sitting/kneeling/reclining/lying down and the person using the right-of-way

▶ Economic Vitality

- Conduct creates sense of disorder, deterring people from commercial districts
- Prohibiting the conduct increases pedestrian safety, making commercial districts more hospitable to customers and residents

Existing Ordinance – § 9.2.104

“Obstructing Passage or Assembly”

▶ Prohibits:

- intentional obstruction of ROW or entryway
- lying down or sleeping on streets/sidewalks in Downtown area “so as to interfere with the immediate, free and uninterrupted use” of ROW or entryway

▶ Limitations:

- Must prove **intent** to obstruct
- Must prove **interference** with “immediate, free and uninterrupted use”
- No prohibition on **sitting** in ROW/entryway
- No prohibition on improper use of **street furniture**
- No prohibition on sitting, lying down in **Old Colorado City**

Existing Ordinance – § 9.2.102

“Loitering”

- ▶ Prohibits: loitering “so as to warrant alarm for the safety of persons or property in the vicinity.”
- ▶ Evidence: Person
 - Flees upon appearance of police officer
 - Refuses to provide identification
 - Conceals him/herself or any object
 - Systematically checks access to building/vehicle
 - Stays close to a place with high probability of criminal activity
- ▶ Limitations: Requires more than merely lingering in a public place; requires conduct that warrants alarm

Proposed Ordinance – § 9.2.112

“Sitting and Lying Down In Commercial Districts”

Prohibits: sitting, kneeling, reclining, and lying down on

- ▶ The surface of any public ROW
- ▶ Any object placed on the surface of the public ROW
- ▶ Street furniture

Where: In the Downtown and Old Colorado City Commercial Districts

When: 7am–10pm daily
10pm–3am Friday and Saturday nights

Public ROW & Street Furniture

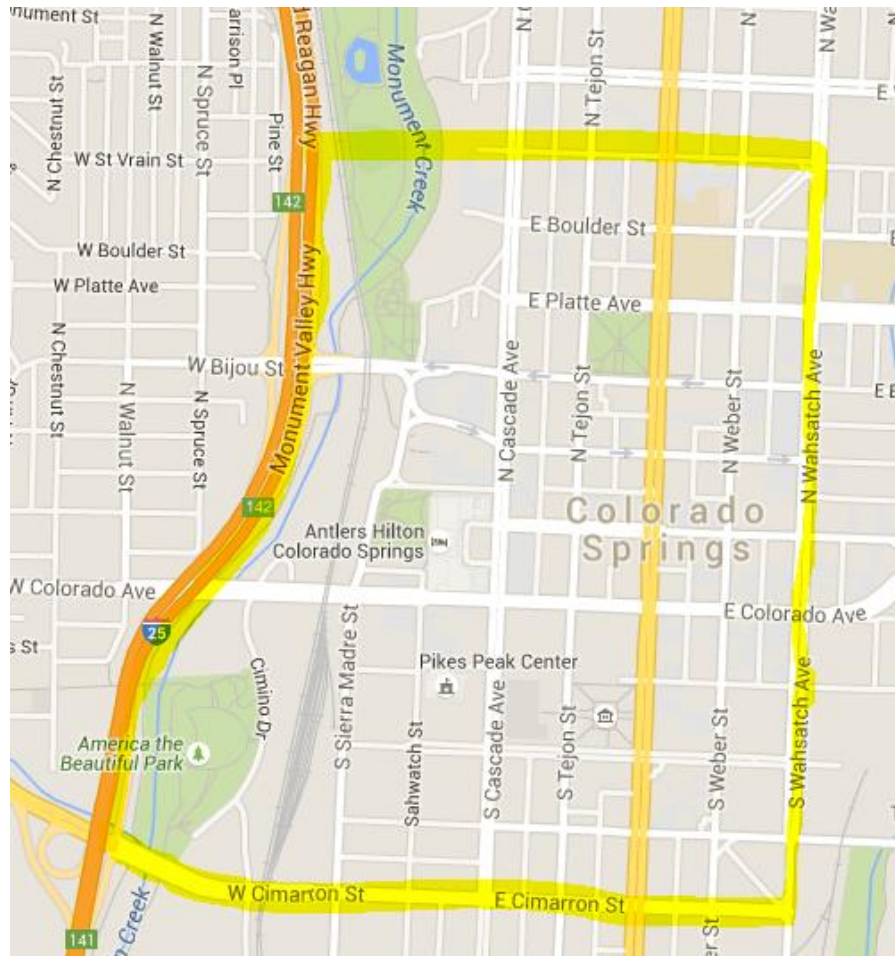
The proposed ordinance prohibits sitting, kneeling, reclining or lying down on the **public right-of-way** and **street furniture**.

Term	Definition	Examples
Public right-of-way	Publicly owned property intended or used for pedestrian, recreational or vehicular travel	Street, sidewalk, trail, pathway, alley, parkway, curb, median, traffic island, etc.
Street furniture	Any object installed on the public right-of-way	Traffic barriers, postal boxes, memorials, signs, fountains, fences, planter walls and boxes, waste receptacles, etc.

Downtown Commercial District

St. Vrain Street – north

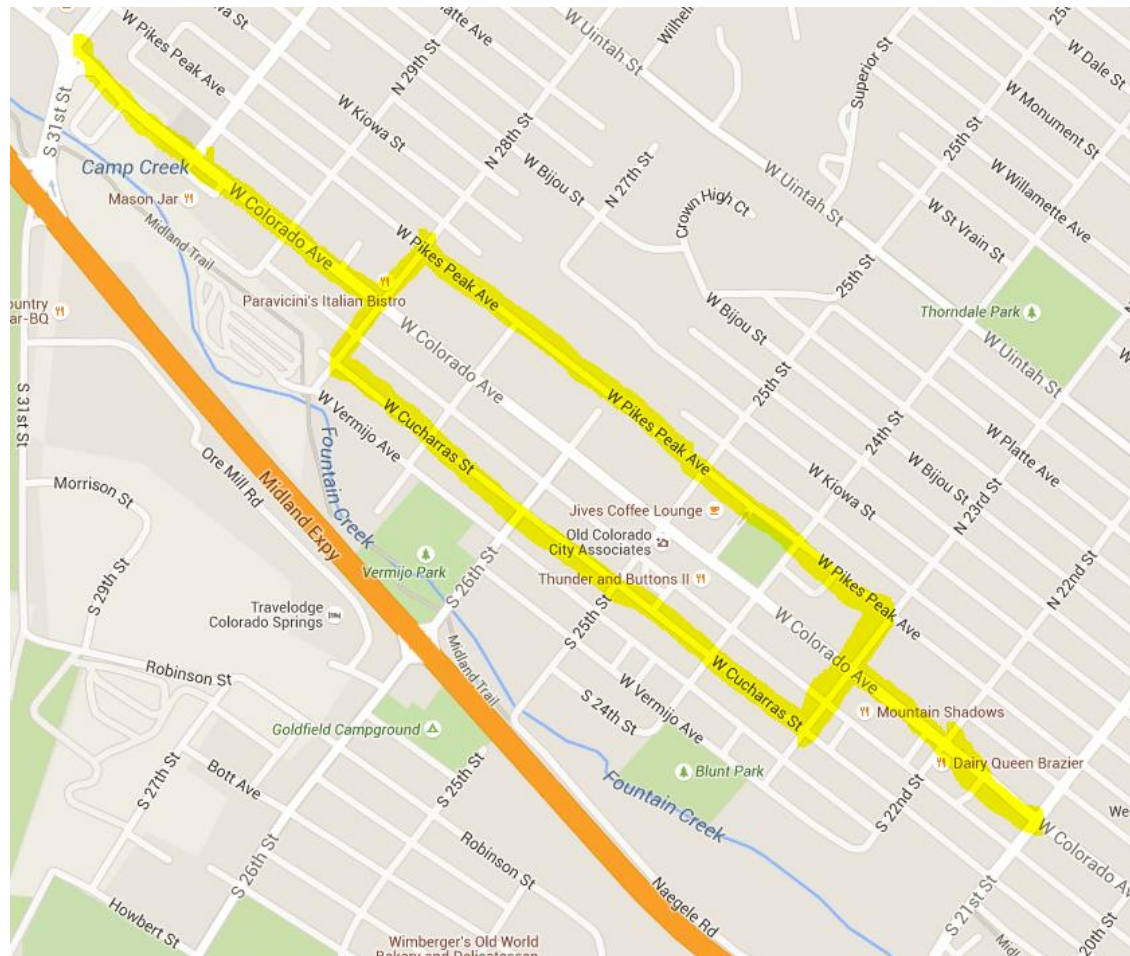
I-25 – west



Wahsatch Ave. – east

Cimarron Street – south

Old Colorado City Commercial District



Colorado Ave. between 21st and 31st Streets and
Pikes Peak to Cucharas between 23rd and 28th St.

Boundaries

- ▶ High concentration of civic, commercial, historic, recreational and residential properties
- ▶ High pedestrian, recreational, vehicular traffic
- ▶ Locations of most complained-of conduct

Time Limits

- ▶ 7am – 10pm daily
 - When most people (residents, proprietors, workers, tourists, shoppers, diners, etc.) travel in the commercial districts
- ▶ To 3 am on Friday and Saturday nights
 - Bars close at 2 am
 - Many more people traveling through the districts between 10pm and 3am on Friday and Saturday
 - People out at those hours are particularly vulnerable due to alcohol consumption and darkness

Affirmative Defenses

- ▶ Medical emergency
- ▶ Disability requiring wheelchair, walker
- ▶ Commercial establishment in ROW
- ▶ Permitted parade, special event
- ▶ Street furniture intended for sitting
- ▶ Transit stop

Street Furniture & Sitting

Intended For Sitting

- ▶ Benches & Chairs
- ▶ Seat walls
- ▶ Vault vents with concrete bench tops

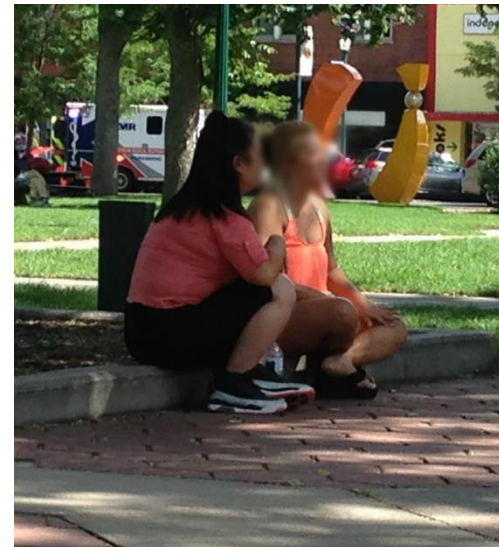
Not Intended For Sitting

- ▶ Planter retention walls
- ▶ Inside planters
- ▶ Curbs
- ▶ Park sidewalks
- ▶ Etc.

Street Furniture Intended For Sitting



NOT Intended For Sitting



PURPOSE OF PROPOSED ORDINANCE

Restore order to the right-of-way in commercial districts to promote safety and economic vitality

Do

- ▶ Sit on objects intended for sitting:
 - Benches
 - Chairs
 - Seat walls
 - Vault vents with concrete bench top

Don't

- ▶ Sit/kneel/recline/lie on objects **NOT** intended for sitting/kneeling/reclining/lying:
 - Sidewalks
 - Streets
 - Trails
 - Alleys
 - Planters
 - Curbs

Enforcement & Penalty

Enforcement

- ▶ Signage
- ▶ 30-day educational grace period
- ▶ Warning before citation
- ▶ Will not use public safety cameras

Penalty

- ▶ Like all other offenses affecting public safety:
 - Fine of up to \$2,500,
 - Imprisonment up to 189 days, and/or
 - Probation

Legal Review

- ▶ Facially constitutional
- ▶ Held not to violate
 - First Amendment
 - Substantive Due Process
 - Equal Protection
 - Privileges & Immunities Clause
 - Right to Travel
- ▶ May implicate Eighth Amendment if
 - Prohibit city-wide,
 - 24/7, and
 - Insufficient shelter beds for homeless population

Cities With Sit-Lie Ordinance

- ▶ Denver, CO
- ▶ Aurora, CO
- ▶ Seattle, WA
- ▶ Phoenix, AZ
- ▶ Santa Cruz, CA
- ▶ Virginia Beach, VA
- ▶ Houston, TX
- ▶ Orlando, FL
- ▶ Honolulu, HI

Stakeholder Process

▶ Meetings with

- Continuum of Care
- Downtown Partnership
- Downtown merchants and residents
- City Parks Board and friends group representatives
- Old Colorado City Associates (“OCCA”)
- Representatives of Organization of Westside Neighbors (“OWN”)
- Representatives of Old Colorado City Foundation
- Representatives of Old Colorado City Library

▶ Two upcoming public meetings TBD

Questions?

