

**“The Public Hearing Regarding the Ordinance Relating to Panhandling in the Unincorporated Territory of Larimer County will be held Tuesday, December 4, 2012 at 9:00 am in the Commissioner’s Conference Room, 2<sup>nd</sup> Floor, Larimer County Courthouse Offices Building, 200 West Oak, Fort Collins.”**

**ORDINANCE NO. 12042012O001**

**AN ORDINANCE RELATING TO PANHANDLING**

**IN THE UNINCORPORATED TERRITORY OF LARIMER COUNTY**

**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 with aggressive panhandling, and disturbances and vandalism associated with panhandling; 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, finds and determines that regulating panhandling protects property, public safety, and the entire community; 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 Panhandling 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 caused by the activities associated with panhandling. 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 aggressively panhandle from the public and/or 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.

1.4 It is also the purpose and intent of this Ordinance to provide a procedure for safe and orderly panhandling during times and at places which allow for the expression of each individual while protecting the safety of the public within the unincorporated areas of Larimer County.

## **Section 2: Definitions.**

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

2.1 *At-risk person* shall mean a natural person who is sixty (60) years of age or older, under eighteen (18) years of age, or who is a person with a disability. *A person with a disability* shall mean, for purposes of this Paragraph (1), a natural person of any age who suffers from one (1) or more substantial physical or mental impairments that render the person significantly less able to defend against criminal acts directed toward such person than he or she would be without such physical or mental impairments. *A substantial physical or mental impairment* shall be deemed to include, without limitation, the loss of, or the loss of use of, a hand or foot; loss of, or severe diminishment of, eyesight; loss of, or severe diminishment of, hearing; loss of, or severe diminishment in, the ability to walk; and any developmental disability, psychological disorder, mental illness or neurological condition that substantially impairs a person's ability to function physically or that substantially impairs a person's judgment or capacity to recognize reality or to control behavior.

2.2 *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.

2.3 *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.

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

2.5 *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, employment or other thing of value.

2.6 "*Day*" – means any business day and shall exclude Saturday and Sunday or any legal County holiday.

2.7 "*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 Panhandling and Solicitations:**

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

4.1 Any time from one-half (1/2) hour after sunset to one-half (1/2) hour before sunrise;

4.2 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;

4.3 In a manner that involves the person panhandling knowingly directing fighting words to the person solicited;

4.4 In a manner that involves the person panhandling knowingly touching or grabbing the person solicited;

4.5 In a manner that involves the person panhandling knowingly continuing to request the person solicited for a gift of money or thing of value after the person solicited has refused the panhandler's initial request;

4.6 In a manner that involves the person panhandling knowingly soliciting an at-risk person;

4.7 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;

4.8 Within one hundred (100) feet of an automatic teller machine or of a bus stop;

4.9 On a public bus;

4.10 In a parking garage, parking lot or other parking facility;

4.11 When the person solicited is entering or exiting a parked motor vehicle, in a motor vehicle stopped on a street, or present within the patio or sidewalk serving area of a retail business establishment that serves food and/or drink; or

4.12 On, or within one hundred (100) feet of any school grounds.

### **Section 5: Panhandling and 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, or sales of any kind, or collect monies for the same, directly from the occupant of any vehicle traveling upon any public street or highway when:

a. Such panhandling, solicitation or collection involves the 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, street gutters or vehicle parking areas; or

b. Such panhandling, solicitation or collection involves the person performing the activity being located upon any median area of the traveled portion of a public street or highway which separates traffic lanes for vehicular travel; or

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

5.2 Notwithstanding the provisions of 5.1 above, it shall be unlawful for any person to

panhandle or to solicit or attempt to solicit employment, business, or contributions of any kind directly from the occupant of any vehicle on any highway included in the interstate or state highway system, including any entrance to or exit from such highway.

**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 October 23, 2012 and ordered published in full in the Coloradoan Newspaper.

**SECOND READING:**

**ADOPTED ON SECOND AND FINAL READING** on December 4, 2012.

CERTIFICATE I hereby certify that the foregoing Ordinance No. 12042012O001 was introduced, read and adopted on first reading at the regular meeting of the Board of County-Commissioners of the County of Larimer on October 23, 2012, and the same was published in full in the Coloradoan Newspaper, a newspaper of general circulation published in Larimer County, on XXXXXX, and thereafter was adopted on second and final reading at a regular meeting of the Board of County Commissioners of the County of Larimer on December 4, 2012. Said Ordinance was republished by Title with changes made by the Board of County Commissioners on XXXXXXXX.

**CERTIFICATATION AS TO AUTHENTICITY** I, \_\_\_\_\_, Larimer County Clerk and Recorder, do hereby certify that the foregoing Ordinance No. 12042012O001, entitled "An Ordinance Pertaining to Panhandling in the Unincorporated Territory of Larimer County" is a true, correct and complete copy from the records of my office, that said Ordinance was duly adopted by the Board of County Commissioners of Larimer County and is in full force and effect.