

ORDINANCE NO. 081, 2023
OF THE COUNCIL OF THE CITY OF FORT COLLINS
AMENDING ARTICLE VIII, ARTICLE XI, AND ARTICLE XIV OF CHAPTER 15 OF THE
CODE OF THE CITY OF FORT COLLINS RELATING TO PAWNBROKERS,
SECONDHAND DEALERS, AND OUTDOOR VENDORS

WHEREAS, Chapter 15, Articles VIII and XI of the City Code address the regulation and licensure of dealers of second property within the city, which includes flea markets and pawnbrokers; and

WHEREAS, Fort Collins Police Services (“FCPS”), in collaboration with City staff responsible for the administration of such matters (collectively, “City staff”), has identified that regulation is not warranted for flea markets and stores selling secondhand clothing, shoes, or furniture; and

WHEREAS, City staff bases its determination on the fact that there has never been a reported criminal or regulatory incident or violation at any flea market or secondhand clothing or furniture store within the City; and

WHEREAS, City staff recommends that flea markets and secondhand clothing, shoes, and furniture stores be excluded from the regulatory requirements for secondhand dealers in the interest of conserving the staff time and City resources that would otherwise go to administering such regulations; and

WHEREAS, in addition, City staff recommends that an expiration date be set for annual licenses for secondhand dealers and pawnbrokers to increase administrative efficiency and reduce the time and resources needed to track licenses with varying expiration dates; and

WHEREAS, Chapter 15, Article XIV addresses the regulation of outdoor vendors within the city, which includes mobile food trucks and pushcart vendors; and

WHEREAS, the Code allows that mobile food truck vendors and pushcart vendors may vend on streets in locations in non-neighborhood zone districts where parallel parking is allowed; and

WHEREAS, on August 26, 2022, the City completed the renovation of Linden Street between Jefferson Street and Walnut Street into a convertible street that can be closed to vehicular and bicycle traffic and transformed into a pedestrian gathering space during special events; and

WHEREAS, the renovation included the conversion of the diagonal parking spaces to parallel parking spaces; and

WHEREAS, it was not the City’s intention in renovating Linden Street to allow for mobile food truck vendors or pushcart vendors on the renovated section; and

WHEREAS, City staff is recommending that the Code be amended to prohibit mobile food truck vendors and pushcart vendors from operating on the renovated portion of Linden Street to conform the regulations to the City's intent and to maintain an appropriate distance from such vendors and the brick and mortar food establishments in the area, which suffered negative consequences as a result of the two-year reconstruction of Linden Street; and

WHEREAS, City staff's recommendation is to allow for such vendors on Linden Street as part of a licensed special event or as a concessionaire of the City; and

WHEREAS, the City Council hereby finds that amending the City Code as proposed in this Ordinance is in the best interests of the City and its taxpayers and promotes the health, safety, and welfare of the community by providing for the reduction in regulatory burden on certain secondhand dealers where such regulation is not warranted and also by providing for the appropriate use of the renovated portion of Linden Street.

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 15-263 of the Code of the City of Fort Collins is hereby amended to read as follows:

Sec. 15-263. Annual license fee.

The annual license fee for carrying on the business of pawnbroking shall be three hundred dollars (\$300.), which shall be submitted together with an application for such license to the Finance Officer. Said license fee is nonrefundable, unless the application is denied. Annual licenses shall expire on December 31st of each year, and a business must apply to renew its license no later than forty-five (45) days before the expiration date.

Section 3. That Section 15-316 of the Code of the City of Fort Collins is hereby amended to read as follows:

Sec. 15-316. Definitions.

...

Secondhand dealer shall mean any person who operates any portion of his or her ~~his or her~~ **their** business to buy, accept on consignment, sell or barter secondhand property; ~~and any owner or operator of a flea market~~, provided, however, that this definition and the terms of this Article shall not apply to the following:

...

(6) A flea market or An individual vendor renting a booth or space in a flea market, except that each individual vendor shall be subject to the requirements in § 15-327; and

...

Secondhand property shall mean the following items of tangible personal property previously owned and used by another person:

...

(6) Any item of tangible personal property which is marked with a serial or identification number and the selling price of which is thirty dollars (\$30.) or more, except motor vehicles, ranges, stoves, dishwashers, refrigerators, garbage disposals, airplanes, clothes washers, freezers, mobile homes, and nonprecious scrap metal and furniture.

Section 4. That Section 15-317 of the Code of the City of Fort Collins is hereby amended to read as follows:

Sec. 15-317. License required; annual fee.

(a) It shall be unlawful for any person, ~~owner or operator of a flea market~~ to engage in the business of secondhand dealing except as provided in and authorized by this Article and without first having obtained a license from the Financial Officer. Such license shall be kept current at all times, and failure to maintain a current license shall constitute a violation of this Section.

(b) The annual license fee for carrying on the business of secondhand dealing shall be one hundred dollars (\$100.), which shall be submitted together with an application to the Financial Officer. Said license fee is nonrefundable, unless the application is denied. Annual licenses shall expire on December 31st of each year, and a business must apply to renew its license no later than forty-five (45) days before the expiration date.

Section 5. That Section 15-318 of the Code of the City of Fort Collins is hereby amended by the deletion of Subsection (f) in its entirety.

Sec. 15-318. Application for secondhand dealer license; renewal; limitation on use; appeals.

...

~~(f) With respect to flea markets, an owner or operator licensed under this Article shall provide, with each application for a new or renewal license, keep a list of all persons renting a booth or space in the flea market, along with such person's date of birth, address and driver's license or other identifying number. With each application for a renewal license, an An owner or operator shall provide a list of all persons who have rented a booth or space in the flea market at any time since the owner or operator last applied for a license, together with such person's date of birth, address and driver's license or other identifying number and the dates such person rented space at the flea market. In addition, the flea market owner or operator shall keep a list upon the licensed premises,~~

~~open and available for inspection by the City during business hours, of all persons currently renting a booth or space in the flea market, along with such person's date of birth, address and driver's license or other identifying number, and the dates such person rented space at the flea market.~~

Section 6. That Section 15-322 of the Code of the City of Fort Collins is hereby amended to read as follows:

Sec. 15-322. Records for sales tax collection for flea market sales.

(a) Every secondhand dealer or any person who is a dealer of new goods who is a retailer and sells such goods at a flea market or similar facility or any nonpermanent location shall keep and preserve suitable records of consignments, barter or sales made and such other books or accounts as may be necessary to determine the amount of tax for the collection of which the dealer is liable under ~~Title 39, Article 26, Part 1, C.R.S.~~ **local, state, or federal law.**

(b) It is the duty of every such person to keep and preserve for a period of three (3) years all invoices of goods and merchandise purchased for resale. All such books, invoices and other records shall be open for examination at any time by the ~~Executive Director of the State Department of Revenue, said Director's~~ **Financial Officer, their** duly authorized agents or any peace officer.

~~(c) In the case of flea markets and similar facilities in which secondhand property is offered for sale, on consignment or barter, the operator thereof shall inform each secondhand dealer of the requirements of this Article and shall provide the form for recording the information required by § 15-320.~~

~~(d) In the case of flea markets and similar facilities in which secondhand property is offered for sale, consignment or barter, the operator thereof shall record the name and address of each secondhand dealer offering secondhand property for sale, consignment or barter at the flea market or similar facility, and the identification number of such dealer as obtained from any of the forms of identification enumerated in Paragraph 15-320(5). Such record shall be mailed or delivered by the operator to Police Services within three (3) days of the date the secondhand dealer offered secondhand property for sale, consignment or barter at the flea market or similar facility. A copy of such record shall be retained by each secondhand dealer offering secondhand property for sale, consignment or barter at the flea market or similar facility.~~

Section 7. That Section 15-323 of the Code of the City of Fort Collins is hereby amended to read as follows:

Sec. 15-323. Notice; penalties.

~~Except in the case of flea markets and similar facilities as provided in this Article, every~~ **Every** secondhand dealer shall conspicuously post a notice to be provided by Police Services in a place clearly visible to all buyers and barterers which sets forth the provisions of this Article and of Sections 18-13-114 through 18-13-116, C.R.S., and which sets forth the penalties for violating such sections and for violating Section 18-4-410, C.R.S., concerning theft by receiving. Such

notification shall include information to the effect that stolen property may be confiscated by any peace officer and returned to the rightful owner without compensation to the buyer. Said notice may also include information regarding any reimbursement policy of the dealer. ~~In the case of flea markets and similar facilities, the operator shall post the notice required by this Section in such a manner as to be obvious to all persons who enter the flea market or similar facility.~~

Section 8. That Section 15-327 of the Code of the City of Fort Collins is hereby deleted in its entirety and the remaining section be renumbered accordingly.

~~Sec. 15-327. Information required/false information.~~

~~It shall be unlawful for a vendor renting or using a space or booth in a flea market to fail to provide his or her name, address, date of birth, driver's license number and other identifying number to a flea market operator who requests such information pursuant to Subsection 15-318(f) or to provide false identifying information to such operator.~~

Section 9. That Section 15-381 of the Code of the City of Fort Collins is hereby amended by the addition of a new definition "*Linden Street*" which reads in its entirety as follows:

Sec. 15-381. Definitions.

Linden Street shall mean that portion of Linden Street bounded on the south by the northern edge of the Walnut Street right-of-way and on the north by the southern edge of the Jefferson Street right-of-way.

Section 10. That Section 15-387(p) of the Code of the City of Fort Collins is hereby amended to read as follows:

Sec. 15-387. Restrictions and operation.

...

(p) The following additional requirements shall apply to particular types of outdoor vendor licenses, as specified:

(1) Mobile food truck vendors shall:

a. Vend only on lots in non-neighborhood zone districts or on streets in locations in non-neighborhood zone districts where parallel parking is allowed, excluding Linden Street as defined in this Article except where permitted as part of licensed special event under Chapter 23.5 of this Code or as a concessionaire of the City;

...

(2) Pushcart vendors shall:

a. Vend only on lots in non-neighborhood zone districts or on streets in locations in non-neighborhood zone districts where parallel parking is allowed, excluding Linden Street as defined in this Article except where permitted as part of licensed special event under Chapter 23.5 of this Code or as a concessionaire of the City;

...

Introduced, considered favorably on first reading, and ordered published this 6th day of June, 2023, and to be presented for final passage on the 20th day of June, 2023.

Mayor

ATTEST:

Chief Deputy City Clerk

Passed and adopted on final reading on this 20th day of June, 2023.

Mayor

ATTEST:

Chief Deputy City Clerk