

**CITY OF WHEAT RIDGE, COLORADO
INTRODUCED BY COUNCIL MEMBER STITES
COUNCIL BILL NO. 26
ORDINANCE NO. 1706
Series 2020**

TITLE: AN ORDINANCE REPEALING, RETITLING AND REENACTING SECTION 16-46 OF THE WHEAT RIDGE CODE OF LAWS CONCERNING TRESPASS AND ESTABLISHING PENALTIES FOR VIOLATION OF THE SAME

WHEREAS, the City of Wheat Ridge is a home rule municipality having all powers conferred by Article XX of the Colorado Constitution; and

WHEREAS, pursuant to its home rule authority and C.R.S. § 31-23-101, the City, acting through its City Council (the "Council"), is authorized to adopt ordinances for the protection of the public health, safety or welfare; and

WHEREAS, the City Council finds that repealing and reenacting the City's trespass ordinance is necessary to protect the rights of both private and public property owners, and the health, safety, and welfare of the public.

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

Section 1. Section 16-46, Trespassing, of the Wheat Ridge Code of Laws is hereby repealed, retitled, and reenacted to read as follows:

Sec. 16-46. Criminal trespass on private or public property.

- (a) Legislative declaration; purpose. The City Council recognizes that owners of both private and public property have the right to limit, restrict, or prohibit access to that property. The City Council has determined that property owners are best situated to determine whether the property is suitable for access, use, or occupation by members of the public or by those who do not own the property. The purpose of this section is to place on notice those who enter or remain upon the premises of another, including premises owned by private entities, public entities, or individuals, that doing so without the proper license or authority, or after that license or authority has been revoked, may result in criminal liability.
- (b) Definitions. As used in this section, unless the context requires otherwise:

Premises means real property, buildings, and other improvements thereon, and the stream banks and beds of any non-navigable freshwater stream flowing through such property.

Sign or signage means any announcement or communication that is produced

in whole or in part by the construction, erection, affixing, or placing of a placard or structure or produced by painting on or posting or placing any printed, lettered, pictured, figured, or colored material on any building, structure, or surface.

- (c) Trespassing unlawful. It is unlawful for any person to unlawfully enter or to remain in or upon real property, buildings and/or other improvements, stream banks and beds of any non-navigable freshwater stream flowing through, or banks or beds of any lake, pond or other body of water situate upon real property, belonging to a person or entity other than the person so entering or remaining thereupon.
- (d) Unlawful remaining. It shall be unlawful for any person to remain in or upon the premises of another after permission, license, or authority has been terminated or revoked and the person has been notified of the termination or revocation verbally, through signage, or otherwise in writing.
- (e) Failure to obey no trespassing sign - posted premises. It shall be unlawful for any person to enter or remain in or upon the premises of another contrary to, or in violation of, any sign limiting, restricting, or prohibiting access to, use of, or occupation of the premises.
 - (1) *Posting of a no trespassing sign.* A sign that is posted or placed at the entry to or upon a premises that gives notice of a limitation, restriction, or prohibition on the access to, use of, or occupation of the premises shall be deemed a no trespassing sign. Examples of no trespassing signs that give notice of a limitation, restriction, or prohibition on the access to, use of, or occupation of a premises include, but are not limited to, signs that read "parking lot open only to customers," "area closed," "area closed to the public between 2:00 a.m. and 6:00 a.m.," "area closed except to residents and authorized guests," "keep out," "no overnight occupancy," "no trespassing," "private property -- keep out," or that contain similar language.
 - (2) *No trespassing sign constitutes prima facie evidence of notice.* The posting or placement of a no trespassing sign that is reasonably calculated to provide notice to an ordinarily observant person entering in or upon the premises shall be prima facie evidence that notice was sufficient. The prosecution is not required to prove that a no trespassing sign was visible from every location in, upon, or about the premises at the time of the alleged violation.
- (f) Penalty. Criminal trespass shall be punishable by a fine or imprisonment not to exceed the limits established in section 1-5 of this Code.

Section 2. Severability, Conflicting Ordinances Repealed. If any section, subsection or clause of this Ordinance shall be deemed to be unconstitutional or otherwise invalid, the validity of the remaining sections, subsections and clauses shall

not be affected thereby. All other ordinances or parts of ordinances in conflict with the provisions of this Ordinance are hereby repealed.

Section 3. Effective Date. This Ordinance shall take effect fifteen (15) days after final publication, as provided by Section 5.11 of the Charter.

INTRODUCED, READ, AND ADOPTED on first reading by a vote of 8 to 0 on this 14th day of December, 2020, ordered published in full in a newspaper of general circulation in the City of Wheat Ridge, and Public Hearing and consideration on final passage set for January 25, 2021 at 7:00 p.m., as a virtual meeting.

READ, ADOPTED AND ORDERED PUBLISHED on second and final reading by a vote of 8 to 0, this 25th day of January, 2021.

SIGNED by the Mayor on this 25th day of January, 2021.



Bud Starker, Mayor

ATTEST:


Steve Kirkpatrick, City Clerk



Approved as to Form


Gerald Dahl, City Attorney

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