

CITY OF WHEAT RIDGE, COLORADO
INTRODUCED BY COUNCIL MEMBER _____
Council Bill No. 13
Ordinance No. _____
Series of 2022

TITLE: AN ORDINANCE AMENDING SECTION 16-107 OF THE WHEAT RIDGE CODE OF LAWS CONCERNING HARASSMENT AND STALKING

WHEREAS, the City of Wheat Ridge, Colorado (the “City”), is a Colorado home rule municipality, duly organized and existing pursuant to Section 6 of Article XX of the Colorado Constitution; and

WHEREAS, pursuant to its home rule authority and C.R.S. § 31-15-401, the City, acting through its City Council (the “Council”), is authorized to adopt rules and regulations prohibiting certain conduct and defining general offenses that harm or pose a threat to the public health, safety or welfare; and

WHEREAS, pursuant to such authority, the Council has previously defined and adopted certain general offenses, codified as Chapter 16 of the Wheat Ridge Code of Laws (“Code”), including a prohibition of harassment and stalking, codified as Code Section 16-107; and

WHEREAS, since the adoption of Code Section 16-107, several developments have rendered said Section out of date, including the holding of *People v. Moreno*, 2022 CO 15 (Colo. 2022) and the modernization of interpersonal communication beyond the telephone; and

WHEREAS, the City Council therefore finds that Code Section 16-107 should be amended to bring its language into compliance with both the legal requirements and technological landscape of today.

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

Section 1. Section 16-107 of the Wheat Ridge Code of Laws, concerning harassment and stalking, is hereby amended as follows:

Sec. 16-107. Harassment; stalking.

(a) It is unlawful for any person, with intent to harass, annoy or alarm another person, to:

- (1) Strike, shove, kick or otherwise touch a person or subject him to physical contact.
- (2) In a public place, direct obscene language or make an obscene gesture to or at another person.
- (3) Follow a person in or about a public place or places.
- (4) DIRECTLY OR INDIRECTLY Initiate communication with another OR DIRECT COMMUNICATION TOWARD ANOTHER PERSON, anonymously or otherwise, either in person or by telephone, TELEPHONE NETWORK, DATA NETWORK, TEXT MESSAGE, INSTANT MESSAGE, COMPUTER, COMPUTER NETWORK, COMPUTER SYSTEM, OR

OTHER INTERACTIVE ELECTRONIC OR DIGITAL MEDIUM, in a manner intended to harass or threaten bodily injury or property damage, or which includes any comment, request, suggestion, or proposal which is obscene.

- (5) Make a telephone call or cause a telephone to ring repeatedly, whether or not a conversation ensues, with no purpose of legitimate conversation.
- (6) Makes repeated communications at inconvenient hours that invade the privacy of another and interfere in the use and enjoyment of another's home or private residence or other private property.
- (7) Repeatedly insult, taunt, challenge, or make communication in offensively coarse language to another in a manner likely to provoke a violent or disorderly response.
- (8) Commit any two (2) or more of the acts specified in this section against the same person.

(b) As used in this section, unless the context otherwise requires, "obscene" means a patently offensive description of an ultimate sexual act or solicitation to commit an ultimate sexual act, whether or not said ultimate sexual act is normal or perverted, actual or simulated, including masturbation, cunnilingus, fellatio, anilingus, or excretory functions.

(c) Any act prohibited by subsections (a)(4) or (5) of this section may be deemed to have occurred or to have been committed at the place at which the telephone call OR DIGITAL OR ELECTRONIC COMMUNICATION was either made or received.

(d) A person commits harassment by stalking if directly or indirectly through another person such person knowingly makes a credible threat to another person and, in connection with such threat, repeatedly follows that person or a family or household member of that person or makes a credible threat to another person and, in connection with such threat, repeatedly communicates with that person or a family or household member of that person, whether or not a conversation ensues.

For purposes of this subsection (d):

- (1) "Credible threat" means a threat which would cause a reasonable person to be in fear for the person's life or safety or the life or safety of his/her family or household member(s);
- (2) "Family or household members(s)" is as defined in section 16-110(a)(3);
- (3) "In connection with" means acts occurring either before, during, or after the credible threat; and
- (4) "Repeatedly" means on more than one occasion.

Section 2. Safety Clause. The City Council hereby finds, determines, and declares that this Ordinance is promulgated under the general police power of the City of Wheat Ridge, that it is promulgated for the health, safety, and welfare of the public and that this Ordinance is necessary for the preservation of health and safety and for the protection of public convenience and welfare. The City Council further determines that the Ordinance bears a rational relation to the proper legislative object sought to be attained.

Section 3. 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 4. 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 _____ to _____ on this 13th day of June, 2022, 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 June 27, 2022, at 7:00 o'clock p.m., as a virtual meeting and in the Council Chambers, 7500 West 29th Avenue, Wheat Ridge, Colorado if allowed to meet in person on that date per COVID-19 restrictions.

READ, ADOPTED AND ORDERED PUBLISHED on second and final reading by a vote of _____ to _____, this _____ day of _____, 2022.

SIGNED by the Mayor on this _____ day of _____, 2022.

Bud Starker, Mayor

ATTEST:

Stephen Kirkpatrick, City Clerk

Approved As To Form

Gerald E. Dahl, City Attorney

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