

CITY OF WHEAT RIDGE, COLORADO
INTRODUCED BY COUNCIL MEMBER _____
COUNCIL BILL NO. 13
ORDINANCE NO. _____
Series 2023

TITLE: AN ORDINANCE REPEALING AND AMENDING CERTAIN WEAPONS OFFENSES UNDER CHAPTER 16 OF THE WHEAT RIDGE CODE OF LAWS IN RESPONSE TO U.S. SUPREME COURT CASE LAW

WHEREAS, the City of Wheat Ridge (the “City”) 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, on June 23, 2022, the Supreme Court of the United States issued its opinion in *N.Y. State Rifle & Pistol Ass’n v. Bruen*, 142 S. Ct. 2111 (2022); and

WHEREAS, the *Bruen* Court significantly altered the state of Second Amendment Constitutional analysis by introducing the “historical tradition” test which requires a governmental entity to justify a firearm regulation by showing such regulation is consistent with “the Nation’s historical tradition of firearm regulation;” and

WHEREAS, the *Bruen* Court recognized the validity of laws forbidding the carrying of firearms in “sensitive places” such as schools, government buildings, legislative assemblies, polling places, courthouses, and other analogous places; and

WHEREAS, the Council has determined that Sections 16-84 and 16-87 of the Wheat Ridge Code of Laws (the “Code”) concern neither historically traditional firearm restrictions nor “sensitive places” and are therefore no longer likely constitutional and should be repealed; and

WHEREAS, pursuant to Sections 18-12-214(c)(1) and 29-11.7-104 of the Colorado Revised Statutes, the City has the authority to adopt and enforce ordinances that prohibit the concealed and open carrying of a firearm in a building or specific area within the City’s jurisdiction; and

WHEREAS, the Council finds that it is necessary and desirable to prohibit open and concealed carrying of firearms in certain designated “sensitive locations” in order to protect the safety of residents, visitors, and employees of the City; and

WHEREAS, the Council further finds that regulation of firearms in the areas identified in this ordinance is consistent with and analogous to longstanding historic laws forbidding the carrying of firearms in sensitive places such as schools, government buildings, legislative assemblies, polling places, and courthouses.

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

Section 1. Sections 16-84 and 16-87 of Article IV of Chapter 16 of the Code are hereby repealed and designated as "Reserved" as follows:

~~Sec. 16-84. - Carrying, etc., illegal weapons.~~ RESERVED.

~~(a) It is unlawful for any person to knowingly carry, conceal or cause to be concealed in any vehicle or to use any blackjack, multifixed bladed stellate throwing knife, or brass or metallic knuckles.~~

~~(b) Nothing in this section shall apply to peace officers or to members of the Armed Forces of the United States or the Colorado National Guard acting in the lawful discharge of their duties.~~

~~Sec. 16-87. - Carrying, etc., where intoxicants are sold.~~ RESERVED.

~~(a) It is unlawful for any person to carry, conceal or display any dangerous or deadly weapon while such person is on the premises of any establishment where malt, vinous or spirituous liquors are sold for consumption on the premises.~~

~~(b) The provisions of this section shall not apply to peace officers or any other person duly licensed or authorized under applicable state or federal law to carry such weapon, nor to persons carrying such weapons in their place of business or having control of the premises at the time of the act of carrying.~~

Section 2. Section 16-89 of the Code is hereby amended as follows:

Sec. 16-89. - Deadly weapons on city property prohibited.

(a) It is unlawful for any person other than a peace officer to carry, bring or possess a deadly weapon upon city property.

(b) For purposes of this section "city property" means all GOVERNMENT buildings, facilities, real property, and portions, INCLUDING CITY-OWNED PARKS AND RECREATION AREAS, thereof:

(1) Owned in whole or in part by the city or in which the city has a leasehold interest WHICH SERVE A GOVERNMENTAL PURPOSE, EXCEPT FOR CITY RIGHTS-OF-WAY ~~whether as lessor or lessee~~; and

(i) AS USED IN THIS SECTION (B)(1), "CITY RIGHTS-OF-WAY" MEANS ALL STREETS, ROADWAYS, SIDEWALKS, ALLEYS, DEDICATED TRAILS, AND ALL OTHER AREAS RESERVED FOR USE BY THE PUBLIC, AS A MATTER OF RIGHT, FOR THE PURPOSE OF VEHICULAR OR PEDESTRIAN TRAVEL.

(2) Posted by the city with a sign at the public entrances notifying the public that the carrying of deadly weapons is prohibited on the property; AND

(c) The chief of police or his or her designee is authorized and directed to post the public entrances of all city property with signs notifying the public that the carrying of deadly weapons is prohibited, unless otherwise directed by formal action of the city council.

(d) Until such time as C.R.S. § 18-12-201 et seq. is repealed or amended, this section shall not apply to persons carrying concealed deadly weapons on city property as authorized by a valid concealed carry permit except as otherwise provided under subsection (e).

(e) It is unlawful for any person to carry, bring or possess a concealed deadly weapon, carried in accordance with a valid concealed carry permit, into any city building at which the city has installed permanent electronic weapons screening devices and security personnel in accordance with C.R.S. § 18-12-214(4).

(f) IT IS UNLAWFUL TO CARRY, BRING OR POSSESS A DEADLY WEAPON WITHIN 500 FEET OF ANY POLLING LOCATION WITHIN THE CITY ON THE DAY OF AN ELECTION OR ANY PLACE WITHIN THE CITY OFFICIALLY DESIGNATED BY THE JEFFERSON COUNTY CLERK AND RECORDER FOR THE COUNTING OF BALLOTS ON ANY DAY WHEN BALLOTS ARE BEING COUNTED OR FOR CONDUCTING ACTIVITIES RELATED TO A FEDERAL, STATE, OR MUNICIPAL ELECTION. THIS PARAGRAPH DOES NOT APPLY TO A PERSON WHO CARRIES A FIREARM THAT THE PERSON OWNS ON THE PERSON'S PRIVATE PROPERTY THAT IS WITHIN THE 500-FOOT BUFFER ZONE OR WHILE TRAVELING DIRECTLY BETWEEN THE PERSON'S PRIVATE PROPERTY AND A PLACE OUTSIDE THE 500-FOOT BUFFER ZONE.

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 22nd day of May 2023, 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 12, 2023 at 6:30 p.m., in the Council Chambers, 7500 West 29th Avenue, Wheat Ridge, Colorado.

READ, ADOPTED AND ORDERED PUBLISHED on second and final reading by a vote of ___ to ___, this _____ day of _____, 2023.

SIGNED by the Mayor on this _____ day of _____, 2023.

Bud Starker, Mayor

ATTEST:

Stephen Kirkpatrick, City Clerk

Approved as to Form

Gerald E. Dahl, City Attorney

First Publication:
Second Publication:
Effective Date:

Published:
Jeffco Transcript and www.ci.wheatridge.co.us