

CITY OF WHEAT RIDGE, COLORADO
INTRODUCED BY COUNCIL MEMBER LANGWORTHY
Council Bill No. 19
Ordinance No. 1493
Series of 2011

**TITLE: AN ORDINANCE AMENDING SECTION 15-4 OF THE WHEAT
RIDGE CODE OF LAWS TO DEFINE "LANDSCAPING" FOR
NUISANCE ENFORCEMENT PURPOSES**

WHEREAS, the City of Wheat Ridge, Colorado (the "City"), acting through its City Council (the "Council"), possesses the authority to enact ordinances for the protection of the public health, safety and welfare; and

WHEREAS, pursuant to this authority, the Council has previously enacted Chapter 15 of the Wheat Ridge Code of Laws (the "Code") concerning nuisances; and

WHEREAS, Section 15-4 of said Chapter 15 provides definitions of certain terms for purposes of nuisance enforcement; and

WHEREAS, the Council finds that the deterioration of various forms of vegetation, including trees and shrubs, upon property is capable of constituting an unsightly nuisance and a detriment or danger to surrounding properties and the public; and

WHEREAS, Chapter 15 includes reference to "landscaping" for nuisance enforcement purposes without defining said term; and

WHEREAS, the Council determines that it is necessary and desirable to define the term "landscaping" within Code Section 15-4 to clearly define the scope of vegetation that may constitute a nuisance, including but not limited to, trees and shrubs.

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

Section 1. Section 15-4 of the Wheat Ridge Code of Laws, defining certain words, terms and phrases for purposes of nuisance enforcement through Chapter 15, is hereby amended as follows:

Sec. 15-4. Definitions.

The following words, terms and phrases, when used in this chapter, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning. The terms defined below shall be broadly interpreted to achieve the purposes intended. In the interpretation of the definitions of garbage, trash and junk set forth herein, it is the intent that these definitions be liberally construed to include like matters, materials, objects or substances, whether or not the same be specifically identified. It is further the intent that the definitions not be considered mutually exclusive, and that in the interpretation, it be recognized that

any substance or material or object may constitute trash, garbage and junk at the same time. Liberal construction is deemed necessary by the city council in order to fulfill the public purpose of this chapter, which is to ensure that the city is maintained in a clean, healthy and attractive condition by eliminating all outside storage of garbage, trash and junk, and related matters, objects or materials as set forth herein.

Abate shall mean to bring into compliance, halt, eliminate or remedy.

Agent means and includes any person acting on behalf of or in place of a responsible party, including tenant, manager or lessee.

Embankments of lakes, reservoirs and ponds means all land fifty (50) feet from the base of the bank, dam, dike, fill or natural barriers as defined in the official maps and plats maintained by the city engineer.

Garbage means waste resulting from the handling, preparation, cooking and consumption of food or wild animal carcasses, and wastes from handling, storage and sale of produce.

Junk means scrap brass, scrap copper, scrap iron, scrap lead, scrap tin, scrap zinc and all other scrap metals and alloys, bones, rags, used cloth, used rope, used rubber, used tinfoil, used bottles, old or used machinery of any type, used tools, used appliances, used fixtures, used utensils, used lumber, used boxes or crates (fabricated of any material), used pipe or pipe fittings, used conduit or conduit fittings, automobiles in nonoperative condition, used tires and other manufactured goods that are so worn, deteriorated or obsolete as to make them unusable in their existing condition.

Lakes, reservoirs and ponds means places where water is collected and/or stored regardless of whether water is currently being collected and/or stored there or not.

LANDSCAPING MEANS A COMBINATION OF LIVING PLANTS, SUCH AS TREES, SHRUBS, VINES, GROUNDCOVER, FLOWERS, VEGETABLE PLANTS, SOD OR GRASS; AND MAY INCLUDE NATURAL FEATURES, SUCH AS ROCK, STONE AND BARK; AND STRUCTURAL FEATURES, INCLUDING, BUT NOT LIMITED TO, FOUNTAINS, REFLECTING POOLS, ART WORK, SCREEN WALLS, FENCES AND BENCHES. UNCONTROLLED WEEDS SHALL NOT BE CONSIDERED AS LANDSCAPING; HOWEVER, MAINTAINED NATURAL GRASSES AND NATURAL FLOWERS MAY BE CONSIDERED AS LANDSCAPING. SIDEWALKS, WHETHER PAVED OR GRAVEL, WHICH SERVE AS FUNCTIONAL LINKS BETWEEN PARKING AREAS AND MAIN STRUCTURES, OR WHICH SERVE AS GENERAL PUBLIC ACCESS ROUTES AROUND A MAIN STRUCTURE, OR BETWEEN A MAIN STRUCTURE AND A PUBLIC STREET OR ALLEY, IS NOT LANDSCAPING. OTHER SIDEWALKS OR PATHS WHICH SERVE AS CASUAL ACCESS TO OR THROUGH LANDSCAPE AREAS MAY BE CONSIDERED NONLIVING LANDSCAPE FEATURES.

Litter means and includes any and every rubbish, waste material, refuse, garbage, trash, debris, excrement, urine, offal composed of animal matter or vegetable matter or both, or any noxious or offensive matter whatever, including but not limited to, any discarded dead animal, fishing line, bait, chemical, chemical compound, petroleum product or compound, automobile part or accessory, tire, wheel, junk, paper, cardboard, can, lid, bottle, cap, carton, wrapper, box, wooden object, plastic object, clothing, cloth, metal object, rubber object, leather object, hide, feathers, grass clippings, leaves, cut weeds, branches cut from trees or bushes, brick, cinderblock, building material, paint, concrete, soil, sand, gravel, stone, glass, asphalt, ashes, cigarette, cigar, food or food product, solvent, dye, beverage, and liquid except water.

Nonoperative condition, when applied to a motor vehicle, means that, in the reasonable opinion of an code officer, the motor vehicle is either legally or mechanically incapable of operating. Indicia of such conditions include any one or more of, but are not restricted to:

- (1) No current license plates;
- (2) No current motor vehicle registration;
- (3) Flat tire or tires;
- (4) Missing body parts;
- (5) Missing engine, transmission, running gear or wheels;
- (6) Missing windows;
- (7) Missing or inoperable lights;
- (8) Engine will not start or run;
- (9) Transmission will not engage;
- (10) Otherwise not legally or mechanically capable of running.

Occupant means and includes any person who occupies the whole or a part of a building, premises, or land, whether alone or with others, whether for residential or commercial purposes. "Occupant" means and includes the terms "tenant and "lessee."

Owner means and includes:

- (1) Any owner or holder of any legal or equitable estate in real property, including a dominant or servient tenement, except a future or reversionary interest and except the interest of a public trustee, lienholder, mortgagee, or beneficiary of a deed of trust.
- (2) The owner of record, as reflected by the records of the office of the county assessor.

Person includes a natural person, association, corporation, partnership, limited liability company and any other legal entity capable of owning, using, or occupying real property.

Nuisance includes, but is not limited to:

(1) The conducting or maintaining of any business, occupation or activity prohibited by statute or by this chapter, or in violation of any regulation of the city, the county, or the state.

(2) The continuous or repeated conducting or maintaining of any business, occupation, operation, activity, building, land or premises in violation of any statute or this chapter, or in violation of any regulation of the city, the county, or the state.

(3) Any building, structure or land open to or used by the general public, the condition of which presents a substantial danger or hazard to public health or safety.

(4) Any unlawful pollution or contamination of any surface or subsurface waters in this city, or of the air, or of any water intended for human consumption.

(5) Any activity, operation or condition which, after being ordered abated, corrected or discontinued by a lawful order of an agency or officer of the city or the county, continues to be conducted or continues to exist in violation of any statute or this chapter or in violation of any regulation of the city, the county, or the state.

(6) Any activity, operation, condition, building, structure, place, premises or thing which is injurious to the health or safety of the citizens of the city, or which is indecent or offensive to the senses so as to interfere with the comfortable enjoyment of life or property.

(7) Any condition which, in the reasonable judgment of a code officer, constitutes a nuisance within the scope of this chapter.

Public place means and includes:

(1) Any street, highway, public right-of-way, sidewalk, driveway or alley, school building, school grounds, public building, library, fire station, public park or any parking lot.

(2) The entire premises of any shopping center, restaurant, bar, store, service establishment, service station, theater, auditorium or place of amusement, except any portion of the premises reserved for the use of the owner or operator thereof or the employees of such owner or operator, and except any portion of the premises from which the general public is excluded.

(3) Any lobby, corridor, elevator, stairway, public room, common room or recreation room in a hotel, motel, office building or apartment building.

Responsible party means any person who makes or causes any nuisance to exist, or who has possession or control of any real property or premises, whether as owner, occupant or tenant, where any nuisance is found, or, in the case of a motor vehicle, as owner or operator of the same.

Statute means a statute of the State of Colorado.

Streams means all rivers, watercourses, creeks and canals flowing in or through the city, including but not limited to Clear Creek and Rocky Mountain Canal, as such creeks and canals are defined in the official maps of the city engineer.

Stream embankments means all publicly and privately owned land included within one hundred fifty (150) feet of the centerline of Clear Creek, as defined in the official maps and plats maintained by the city engineer; and publicly- and privately-owned land included within fifty (50) feet of the centerline of all creeks, canals and watercourses, as defined in the official maps and plats maintained by the city engineer.

Trash means combustible refuse, including, but not limited to paper, cartons, boxes, barrels, wood (except stacked firewood and stacked construction material), tree branches, yard trimmings, dead plant material, wood or upholstered furniture, or bedding; or any similar substance or material; noncombustible refuse, including but not limited to metals, tin or aluminum cans, metal furniture, dirt, rock, pieces of concrete, glass, crockery or other minerals or mineral wastes; street rubbish, including but not limited to street sweepings, dirt, leaves, catch-basin dirt and contents of litter receptacles. Trash shall not include earth and waste from building construction during the period in which a valid building or dumping permit, issued by the city, is active, nor shall it include solid wastes resulting from industrial processes and manufacturing operations so long as property is zoned for such use and such business is registered with the city, nor shall it include natural products customarily stored in an agricultural zone so long as the property is zoned agricultural and the natural products relate to an agricultural use on the property.

Watercourses means all creeks, ditches, laterals and gullies within the city, as defined in the official maps and plats maintained by the city engineer, and including, but not limited to, Clear Creek, Lena Gulch, Reno Ditch, Swadley Ditch, Slough Ditch and North Henry Lee Lateral.

Weed means weeds, grass, brush or other rank or noxious vegetation, and shall not include flower gardens, plots of shrubbery, vegetable gardens, legitimate xeriscape plants and grain plots. "Weed," as used in this chapter, shall not apply to and shall not be construed to require removal of any weeds from the city's owned or leased greenbelt natural area.

Xeriscape means a method of landscaping that uses native or low water plantings, efficient irrigation techniques, and alternative turf practices to promote water conservation.

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.

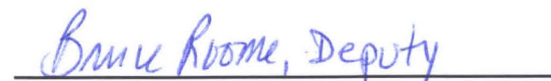
INTRODUCED, READ, AND ADOPTED on first reading by a vote of 8 to 0 on this 9th day of May, 2011, ordered published in full in a newspaper of general circulation in the City of Wheat Ridge and Public Hearing and consideration on final passage set for Monday, May 23, 2011, at 7:00 o'clock p.m., in the Council Chambers, 7500 West 29th Avenue, Wheat Ridge, Colorado.


READ, ADOPTED AND ORDERED PUBLISHED on second and final reading by a vote of 7 to 0, this 23rd day of May, 2011.

SIGNED by the Mayor on this 23rd day of May, 2011.


Jerry DiTullio, Mayor

ATTEST:


Michael Snow, City Clerk

Approved As To Form

Gerald E. Dahl, City Attorney

First Publication: May 12, 2011
Second Publication: May 26, 2011
Wheat Ridge Transcript
Effective Date: June 10, 2011