

CITY OF WHEAT RIDGE, COLORADO
INTRODUCED BY COUNCIL MEMBER STARKER
Council Bill No. 10
Ordinance No. 1541

Series of 2013

TITLE: AN ORDINANCE ADOPTING BY REFERENCE THE 2011 EDITION OF THE NATIONAL ELECTRICAL CODE, PROVIDING PENALTIES FOR VIOLATIONS THEREOF AND AMENDING PORTIONS OF CHAPTER 5 OF THE WHEAT RIDGE CODE OF LAWS CONCERNING ELECTRICAL INSPECTIONS

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 Section 5.16 of the Wheat Ridge Home Rule Charter ("Charter") and Part 2 of Article 16 of Title 31 of the Colorado Revised Statutes, the City, acting through its City Council (the "Council"), possesses the authority to adopt standard codes by reference; and

WHEREAS, pursuant to this authority, the City previously adopted the 2005 edition of the National Electrical Code ("NEC"), as promulgated and published by the National Fire Protection Association, codified as Section 5-77 of the Wheat Ridge Code of Laws ("Code"); and

WHEREAS, the National Fire Protection Association has promulgated and published a 2011 edition of the NEC which contains updated regulations and requirements; and

WHEREAS, the Council recognizes the value of the NEC in providing minimum standards to safeguard life or limb, health, property, and public welfare by regulating and controlling the design, construction, quality of materials, use and occupancy, location and maintenance of buildings, structures, utilities and certain equipment; and

WHEREAS, the Council also previously adopted certain requirements concerning electrical inspections, which relate to NEC requirements, codified as Division 3 of Article II of Chapter 5 of the Code, also known as Sections 5-56 through 5-75; and

WHEREAS, City staff has recommended updating said Code provisions concerning electrical inspections and relocating the same to Code Section 5-77 in order to congregate all local provisions regarding electrical code requirements and inspections in one Code section; and

WHEREAS, a public hearing on this Ordinance was conducted and proper notice thereof given in accordance with C.R.S. § 31-16-203; and

WHEREAS, a certified copy of the 2011 edition of the NEC was filed with the City Clerk at least fifteen (15) days prior to public hearing on this Ordinance in accordance with C.R.S. § 31-16-206 and Charter Section 5.16 and such code remains open to public inspection and purchase from the Clerk's office; and

WHEREAS, the City wishes to adopt by reference the 2011 edition of the NEC, provide penalties for NEC violations and to update and relocate Code provisions concerning electrical inspections to Code Section 5-77, all as further set forth herein.

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

Section 1. Section 5-77 of the Wheat Ridge Code of Laws, concerning the National Electrical Code, is hereby amended as follows

Sec. 5-77. National Electrical Code; ELECTRICAL INSPECTIONS.

(a) *Adopted.* The National Electrical Code, ~~2005~~ 2011 Edition, copyright by the National Fire Protection Association, Batterymarch Park, Quincy, Massachusetts, 01269-7471, is hereby adopted by reference thereto and incorporated into this chapter as though fully set out herein as the electrical code of the city. Except as otherwise provided in this chapter, such code is adopted in full, including the index contained therein. One copy of said National Electrical Code shall be filed in the office of the city clerk and may be inspected during regular business hours.

(b) ~~*Amendments.* The National Electrical Code, adopted by this section is hereby amended as follows (section numbers refer to section numbers of the National Electrical Code):~~

~~*Article 310.2(b) is amended by adding a new sentence to read:*~~

~~*"Aluminum conductors under size 8 are not allowed."*~~

(c) *Purpose.* The purpose of this section is to provide minimum standards to safeguard life or limb, health, property, and public welfare by regulating and controlling the design, construction, quality of materials, use and occupancy, location and maintenance of all buildings, structures and utilities and certain equipment specifically regulated herein.

(d C) *Electrical permit fees.* Electrical permit fees shall be as follows: All fees shall be computed BASED on the ~~dollar value of the electrical installation, including time and material (total cost to the customer)~~ ESTIMATED PROJECT VALUATION AT THE TIME OF APPLICATION. PROJECT VALUATION SHALL INCLUDE THE VALUE OF ALL WORK, INCLUDING ALL COSTS OF LABOR AND MATERIALS RELATED TO THE PROJECT. PROJECT VALUATION SHALL BE CALCULATED BY THE BUILDING DIVISION BASED ON DATA PUBLISHED ON THE CITY WEBSITE OR OTHER REASONABLE MEANS, AND THE HIGHER OF THE APPLICANT'S STATED VALUATION AND THE DIVISION'S CALCULATED VALUATION SHALL BE USED TO DETERMINE PERMIT FEES. ~~and such f~~ Fees shall be computed based upon Table 1-A OF THE CITY'S FEE SCHEDULE, AS ADOPTED FROM TIME TO TIME BY CITY

COUNCIL RESOLUTION ("TABLE 1-A"), at time of obtaining the permit.

- (e D) *FEEs FOR WORK WITHOUT A PERMIT.* Items of work for which a permit is required under this SECTION ~~chapter~~ which are commenced before a permit is secured shall be assessed A FEE ~~fees for permits in triple the amounts~~ AS SET FORTH IN TABLE 1-A ~~prescribed in the permit's fee schedule~~. This FEE ~~penalty~~ shall be in addition to the PERMIT ~~investigation~~ fee REQUIRED FOR SUCH WORK PURSUANT TO ~~referenced in Table 1-A, City of Wheat Ridge building permit fees~~.

(E) *ELECTRICAL INSPECTIONS.*

- (1) *GENERAL.* ALL CONSTRUCTION AND WORK FOR WHICH A PERMIT IS REQUIRED BY THE CODE ADOPTED BY THIS SECTION 5-77 SHALL BE SUBJECT TO INSPECTION BY THE BUILDING OFFICIAL TO ENSURE COMPLIANCE WITH SAID CODE AND SUCH CONSTRUCTION OR WORK SHALL REMAIN ACCESSIBLE AND EXPOSED FOR INSPECTION PURPOSES UNTIL APPROVED. APPROVAL AS A RESULT OF AN INSPECTION SHALL NOT BE CONSTRUED TO BE AN APPROVAL OF A VIOLATION OF THE PROVISIONS OF THE CODE ADOPTED BY THIS SECTION OR OF OTHER ORDINANCES OF THE CITY. INSPECTIONS PRESUMING TO GIVE AUTHORITY TO VIOLATE OR CANCEL THE PROVISIONS OF THE CODE ADOPTED BY THIS SECTION OR OF OTHER ORDINANCES OF THE CITY SHALL NOT BE VALID. IT SHALL BE THE DUTY OF THE PERMIT APPLICANT TO CAUSE THE WORK TO REMAIN ACCESSIBLE AND EXPOSED FOR INSPECTION PURPOSES. NEITHER THE BUILDING OFFICIAL NOR THE CITY SHALL BE LIABLE FOR EXPENSE ENTAILED IN THE REMOVAL OR REPLACEMENT OF ANY MATERIAL REQUIRED TO ALLOW INSPECTION. APPROVAL OF ONE PORTION OF WORK UPON INSPECTION SHALL NOT CONSTITUTE APPROVAL OF ANY OTHER PORTION OF WORK REQUIRING INSPECTION.
- (2) *INSPECTION AGENCIES.* THE BUILDING OFFICIAL IS AUTHORIZED TO ACCEPT REPORTS OF INSPECTION AGENCIES, PROVIDED SUCH AGENCIES SATISFY THE BUILDING OFFICIAL'S REQUIREMENTS AS TO QUALIFICATIONS AND RELIABILITY.
- (3) *PERMIT POSTED; INSPECTION RECORDS AVAILABLE.* NO CONSTRUCTION OR WORK FOR WHICH A PERMIT IS REQUIRED BY THE CODE ADOPTED BY THIS SECTION SHALL BE COMMENCED UNTIL SUCH REQUIRED PERMIT IS POSTED AT THE WORK SITE. ADDITIONALLY, ALL INSPECTION RECORDS FOR A WORK SITE SHALL BE

MAINTAINED AND MADE AVAILABLE FOR INSPECTION BY
THE CITY ON-SITE AT ALL TIMES THAT WORK IS
OCCURRING AT SUCH SITE.

Section 2. Division 3 of Article II of Chapter 5 of the Wheat Ridge Code of Laws, concerning electrical inspections, is hereby repealed and Sections 5-56 through 5-75 of the Code are hereby designated as "Reserved."

Section 3. Penalties. Penalties for violating the 2011 Edition of the NEC, as adopted by reference by this Ordinance, are set forth in Code Sections 1-5 and 5-5, which read, in their respective entireties, as follows:

Sec. 1-5. General penalty.

Unless otherwise specifically provided, whenever in this Code or any other ordinance of the city or any section or an order, rule or regulation promulgated under the provisions of this Code or other ordinance of the city any act is prohibited, made or declared to be unlawful, an offense, nuisance or misdemeanor, where no specific penalty is provided therefor, any person who shall be convicted of the violation of any such provision of this Code or other ordinance of the city or of such orders, rules or regulations shall be punished by a fine of not more than one thousand dollars (\$1,000.00), or by imprisonment for a period not exceeding one year, or both such fine and imprisonment; provided, however, that no person under the age of eighteen (18) years shall be subjected to imprisonment for violation of any provision of this Code.

Sec. 5-5. Enforcement and remedies.

(a) *Civil actions.* When an alleged violation of this chapter has not been voluntarily abated within the time specified in the notice issued pursuant to section 2-34:

- (1) The city may bring a civil action in the municipal court to have the violation declared as such by the court and to have the court enjoin the violation or to authorize its restraint, removal, termination or abatement by the owner, agent, occupant or person who caused the violation or the person who allowed the violation to continue, or by the mayor, the director of community development, director of public works or the chief of police or their designated representatives.
- (2) The civil action to declare and abate a violation of this chapter shall be brought in the name of the City of Wheat Ridge by filing a complaint, which shall be verified or supported by an affidavit. Summonses and subpoenas shall be issued and served as in civil cases. Any employee or agent of the City of Wheat Ridge who is over the age of eighteen (18) may serve a summons and verified complaint upon the owner, agent, occupant or the person who caused or allowed the violation

(hereinafter "respondent"), or a subpoena upon any witness to the violation. Trial shall be to the court.

- (3) A notice of appearance shall be served with the summons and complaint. The appearance date shall be not less than twenty-one (21) days from the date of service of the summons and complaint. The respondent shall file a response or answer on or before the appearance date specified in the notice of appearance. The trial shall be held upon the appearance date, unless the court grants a continuance for good cause shown. No case shall be continued for more than sixty (60) days after the appearance date.
- (4) Upon the date and time specified for appearance and trial, if the respondent has filed no response and fails to appear, and if the city proves that proper service was made on respondent at least twenty-one (21) days prior to the appearance date, the court may grant such orders as are requested by the city; except that, the court shall order the enforcement by the city be stayed for ten (10) days and that a copy of the court's order be mailed to the respondent at his last known address. Failure to appear on any date set for hearing and trial shall be grounds for entering a default and default judgment against the nonappearing party. Prior to enforcement, and upon good cause shown, the court may set aside an entry of default and default judgment entered thereon.
- (5) Any disobedience to or interference with any injunction or order issued by the municipal court in an action to abate a violation of this chapter of the Wheat Ridge Code of Laws may be punished as a contempt of court or by a fine of not more than one thousand dollars (\$1,000.00). Each day's failure to comply with an injunction or order to abate shall constitute a separate act of contempt for which an additional penalty may be imposed.
- (6) In order to facilitate just, speedy, informal and inexpensive determinations of claims, the court shall follow the rules of county court civil procedure, as presently adopted and as amended hereafter from time to time, excepting Rules 302, 313, 338, 339, 347, 348, 350, 351, 351.1, 359(c)(2), 365, 383, 398, 402, 403, 404 and 406 thereof, and shall further utilize and follow the provisions of Rule 65 of the Colorado Rules of Civil Procedure in all cases wherein civil enforcement of the provisions of chapter 5 is sought. In the event of any discrepancy between any of the provisions of chapter 5 and those applicable rules of county court civil procedure, or Rule 65 of the Colorado Rules of Civil Procedure adopted hereby, the provisions of chapter 5 shall prevail and be applied.

The right is expressly reserved and delegated to the presiding judge of the Wheat Ridge Municipal Court to adopt rules of

procedure for the Wheat Ridge Municipal Court, which rules shall be applicable in any civil enforcement action brought by the city; provided, however, that said rules of procedure adopted and promulgated by the presiding judge of the municipal court shall not conflict with or contradict the authority of the city to pursue civil enforcement for violations of the provisions of this chapter 5.

- (7) In any case in which the city prevails in a civil action initiated pursuant to this subsection (a), the city may recover its reasonable costs of abating the violation, including reasonable costs of litigation, plus fifteen (15) percent in administrative costs; plus costs may be assessed against the subject property pursuant to paragraphs 16-13-313 and 16-13-314, C.R.S., (as amended). The remedies specified in this subsection (a) shall be in addition to all other remedies provided by law.

(b) Cumulative remedies. The remedies set forth herein are cumulative. In the event any building, structure or utility is erected, constructed, reconstructed, altered, repaired, converted, demolished, moved or maintained, or any building, structure or utility is used in violation of this chapter, the city or any proper city official may institute any other appropriate action or proceedings to prevent such unlawful erection, construction, reconstruction, alteration, repair, conversion, maintenance or occupancy to restrain, correct or abate such violation or to prevent the occupancy of such building, structure or land. The initiation of any action or the imposition of any penalty hereunder shall not preclude the city or any proper person from instituting any other appropriate action or proceeding to require compliance with the provisions of this chapter and with administrative orders and determinations made hereunder.

Section 4. 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 5. 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 6. Effective Date. This Ordinance shall take November 1, 2013, as authorized by Section 5.11 of the Charter.

INTRODUCED, READ, AND ADOPTED on first reading by a vote of 6 to 0 on this 22nd day of July, 2013, 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 August 12th, 2013,

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, after public hearing, by a vote of 8 to 0, this 12th day of August, 2013.

SIGNED by the Mayor on this 12th day of August, 2013.



ATTEST:

Janelle Shaver
Janelle Shaver, City Clerk

Jerry DiTullio
Jerry DiTullio, Mayor

Approved As To Form
Gerald E. Dahl
Gerald E. Dahl, City Attorney

First Publication: July 25, 2013
Second Publication: August 15, 2013
Wheat Ridge Transcript
Effective Date: November 1, 2013