

CITY OF WHEAT RIDGE, COLORADO
INTRODUCED BY COUNCIL MEMBER URBAN
COUNCIL BILL NO. 09
ORDINANCE NO. 1715
Series 2021

TITLE: AN ORDINANCE ADOPTING SECTION 16-70 OF THE WHEAT RIDGE CODE OF LAWS CONCERNING PEDESTRIAN USE OF ROADWAY CENTER MEDIANS, AND AMENDING SECTION 16-113, SALES AND SOLICITATION IN CERTAIN PLACES PROHIBITED

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, traffic safety statistics for the City demonstrate that traffic crashes involving pedestrians have increased significantly; and

WHEREAS, traffic safety statistics for the City also demonstrate that traffic crashes resulting in pedestrian fatalities occur along roadways that carry higher volumes of motorists or that are posted with higher speed limits; and

WHEREAS, conduct by a pedestrian that distracts a driver's attention from a roadway, that hinders traffic, or that otherwise obstructs a roadway, increases the dangers to both pedestrians and to those traveling in vehicles; and

WHEREAS, it is incumbent on both pedestrians and motorists to be vigilant and consider the safety of others; and

WHEREAS, the dangers associated with interactions between motorists and pedestrians increase the government's interest in controlling pedestrian interactions with motorists in the traveled portion of a roadway; and

WHEREAS, working to maximize the distance between the traveled portion of a roadway and pedestrians will increase pedestrian and traffic safety; and

WHEREAS, the primary purpose of a roadway center median is to enhance the safety of and ensure the free flow of traffic on roadways by separating opposing lanes of vehicular traffic, channeling traffic for turning purposes, and, within designated areas, to provide a temporary refuge for pedestrians crossing busy or wide roadways; and

WHEREAS, an individual who occupies or uses a roadway center median area that is not designed or suitable for pedestrian use creates a safety hazard danger for himself or herself and for traffic in the adjacent roadway; and

WHEREAS, working to reduce the circumstances and minimize the time during which pedestrians are in close proximity to motorists will increase pedestrian and traffic safety; and

WHEREAS, the use by pedestrians of entry and exit ramps along Interstate highways for sales or collection transactions with passing motorists poses a special safety hazard to the pedestrians where no safe pull-out or parking areas exist, and also creates a distraction for passing motorists which can inhibit the free flow of traffic; and

WHEREAS, alternative means and locations for sales and solicitations are available elsewhere throughout the City; and

WHEREAS, prohibiting the use of certain areas along certain highways for sales or solicitations will directly advance the safety and welfare of the public; and

WHEREAS, the City Council finds that adoption of laws relating to the regulation of pedestrians who are in close proximity to roadways within the City is necessary to protect 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 16-70, Pedestrian Use of Roadway Center Medians, is adopted within Chapter 16 of the Wheat Ridge Code of Laws, to read as follows:

Sec. 16-70. Pedestrian use of roadway center medians.

- a. Legislative declaration; purpose. The city council hereby finds that collisions between pedestrians and motorists in Wheat Ridge have increased and declares it necessary to clearly delineate the responsibilities of pedestrians to allow for safer pedestrian and motorist interactions throughout the city. Certain higher speed roadways in Wheat Ridge have center medians that are designed to separate traffic and channel the flow of traffic through turns and intersections. Except for crosswalk refuge areas, such center medians were not designed and are not suitable for access, occupation, or use by pedestrians. Pedestrians who use center medians not designed for pedestrian use may distract or even startle drivers, especially along higher speed roadways. This endangers the pedestrian as well as drivers and their passengers. The purpose of this section is to reduce the number of situations during which pedestrians are in close proximity to the traveled portion of a higher speed roadway. The city council finds this ordinance will promote pedestrian and traffic safety and is necessary to protect the health, safety, and welfare of the public.
- b. Definitions. The following words or phrases, when used in this section, shall have the meaning ascribed to them in this section, except where the context otherwise indicates:

Higher speed roadway means a roadway within the city within which a center median is present.

Center median means the area that divides a roadway carrying traffic in

opposite directions, and which is defined by signage, painting, curbing, landscaping, or other obstacles.

Temporary pedestrian refuge area means that part of a crosswalk that is located within or at the end of a center median that is designed to allow a pedestrian to safely pause before continuing to cross from one side of a roadway to the other.

Traffic calming device means a speed bump or speed bump placed upon the roadway, as well as landscaped or other median located on side of pedestrian crosswalks, the purpose of which is to slow traffic.

- c. Unlawful act. It shall be unlawful for any person to access, occupy, use, assemble or congregate on or about any center median not designed or suitable for pedestrian use that has been posted, either on such center median not designed or suitable for pedestrian use or at the crosswalk access points to such center median, with a sign pursuant to this section prohibiting such access, occupancy, use, assembly, or congregation.

Exceptions: This section shall not apply to:

1. A person using that portion of a center median designed as a temporary pedestrian refuge along a crosswalk if the person was not able to safely cross the entire roadway during the traffic signal pedestrian phase or green light signal phase. This exception allows a person to occupy the pedestrian refuge area for the duration of one traffic signal cycle before crossing the entire roadway;
 2. A local, state, or federal law enforcement officer or authorized first responder engaged in the performance of his or her official duties;
 3. A city or state employee or contractor authorized by the city manager or designee thereof, or by the state, to access the center median to perform construction, landscaping, maintenance, repair, or similar duties thereon; or
 4. An employee or contractor of a utility company authorized by the city or the state to access the center median to perform construction, landscaping, maintenance, repair, or similar duties thereon.
- d. Determination. The traffic engineer may prohibit pedestrian access, occupancy, use, assembly, or congregation on or about any center median not designed or suitable for pedestrian use by having posted or placed upon, or at the crosswalk access points to, such center median not designed or suitable for pedestrian use a sign that reads "unlawful to occupy center median," or that contains similar language. Only a center median that lies along a higher speed roadway may be posted under this section. A sign posted or placed under this section must be posted or placed in a way that is reasonably calculated to provide effective notice to an ordinarily observant person entering upon the center median. However, there is no requirement that the sign be visible from every position on or about the center median or from every position at or about the crosswalk access points to such center median.

- e. Sign constitutes prima facie evidence of notice. The posting or placement of a sign reading “unlawful to occupy center median” or similar language upon a center median or at the crosswalk access points to such center median shall be prima facie evidence that the notice was sufficient. The prosecution is not required to prove that the sign was visible from every position on or about the center median or at the crosswalk access points to such center median.
- f. Strict liability. A violation of any provision of this section is strict liability in nature. No culpable mental state or *mens rea* of any type or degree shall be required to prove a violation of this section.
- g. Penalty. Any violation of this section may be punished by a fine not to exceed the limits in section 1-5 of this Code or such alternative sentence as the Municipal Judge shall determine.

Section 2. Section 16-113, Sales and solicitation in certain places prohibited, of the Wheat Ridge Code of Laws is hereby amended as follows:

Sec. 16-113. Sales and solicitation in certain places prohibited.

- a. LEGISLATIVE DECLARATION; PURPOSE. UNDER CERTAIN CIRCUMSTANCES, PEDESTRIAN SOLICITATION DIRECTED AT MOTORISTS OPERATING ON A ROADWAY CREATES SAFETY HAZARDS TO THE PUBLIC. IN ADDITION, THE PRESENCE OF PEDESTRIANS ON INTERSTATES 70 AND 76, AND ON ENTRANCE AND EXIT RAMPs THERETO CAUSES SAFETY CONCERNS AS A RESULT OF THE HIGH RATES OF SPEED PERMITTED AND THE LACK OF PULL-OFF LOCATIONS OR VEHICLE PARKING AREAS THAT WOULD OTHERWISE FACILITATE TRANSACTIONS IN THESE AREAS. THE PURPOSE OF THIS SECTION IS TO PROVIDE FOR THE SAFETY OF THE PUBLIC RELATED TO SOLICITATION ACTIVITY AS DESCRIBED BELOW. THE CITY COUNCIL FINDS THIS ORDINANCE WILL PROMOTE PEDESTRIAN AND TRAFFIC SAFETY AND IS NECESSARY TO PROTECT THE HEALTH, SAFETY, AND WELFARE OF THE PUBLIC.
- b. It shall be unlawful for any person to solicit employment, business, contributions, or sales of any kind, or collect monies for same, from the occupant of any vehicle traveling upon any street or highway or entrance to or exit from any highway included in the interstate highway system within the city when such solicitation or collection:
 - (1) causes the person performing the activity to enter onto the traveled portion of a street or highway; or
 - (2) Involves the person performing the activity to be located upon any median area which separates traffic lanes for vehicular travel in opposite directions; or
 - (3) The person performing the activity is located such that motorists cannot move their vehicle into a legal parking area to safely conduct the transaction.
- c. No person shall solicit on private property if the owner, tenant, or person in

lawful control of the property has asked the person to leave or has asked the person to refrain from soliciting on the property or has posted a sign clearly indicating that solicitations are not welcome on the property.

- d. The words and phrases used herein, unless the context otherwise indicates, shall have the following meaning:

Soliciting shall mean any solicitation made in person requesting an immediate donation of money or other thing of value. Purchase of an item for an amount far exceeding its value, under circumstances where a reasonable person would understand that the purchase is in substance a donation, is a donation for the purpose of this section.

Traveled portion of the street or highway shall mean that portion of the road normally used by moving motor vehicle traffic.

INTERSTATE HIGHWAY MEANS ANY PORTION OF A ROADWAY WITHIN THE CITY THAT HAS BEEN DESIGNATED BY THE FEDERAL GOVERNMENT AS PART OF THE INTERSTATE HIGHWAY SYSTEM, OR THAT IS A CONTROLLED ACCESS HIGHWAY OR BELTWAY, AND INCLUDES ANY ENTRANCE TO OR EXIT FROM THAT ROADWAY.

- e. Penalty. Any violation of this section may be punished by a fine not to exceed the limits established in section 1-5 of this Code or such alternative sentence as the Municipal Judge shall determine.

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 immediately upon adoption, 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 24th day of May, 2021, 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 14, 2021 at 7:00 o'clock p.m., as a virtual meeting and in City Council Chambers, 7500 W. 29th Avenue, if allowed to meet in person on that date per COVID-19 restrictions, and that it takes effect immediately upon adoption.


READ, ADOPTED AND ORDERED PUBLISHED on second and final reading by a vote of 7 to 0, this 14th day of June 2021.

SIGNED by the Mayor on this 14th day of June 2021



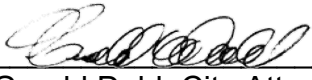
Bud Starker, Mayor

ATTEST:



Steve Kirkpatrick, City Clerk

Approved as to Form



Gerald Dahl, City Attorney

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