

CITY OF WHEAT RIDGE, COLORADO
INTRODUCED BY COUNCIL MEMBER ROTOLA
Amended Council Bill No. 01-2009
Ordinance No. 1429
Series of 2009

TITLE: AN ORDINANCE AMENDING ARTICLE IV OF CHAPTER 21 OF THE
CODE OF LAWS OF THE CITY OF WHEAT RIDGE ENTITLED
COURTESY BENCHES AND BUS STOP SHELTERS.

WHEREAS, the City of Wheat Ridge, Colorado (the "City"), is a political subdivision of the State of Colorado organized and existing as a home rule municipality pursuant to Article XX of the Colorado Constitution and the home rule charter for the City (the "Charter"); and

WHEREAS, pursuant to section 1.3 of the Charter, the City has all the power of local self-government and home rule and all the power possible for a municipality to have under the Constitution of the State of Colorado, including the power to regulate the placement of structures in and around the public rights-of-way; and

WHEREAS, pursuant to this authority, the Wheat Ridge City Council ("City Council") previously adopted a courtesy bench and bus shelter program, as Article IV of Chapter 21 of the Code of Laws of the City of Wheat Ridge ("Code of Laws"); and

WHEREAS, the courtesy bench program allows multiple individuals to participate in the program which staff finds and the City Council agrees is inefficient; and

WHEREAS, in order to improve efficiency and generate additional revenue for the City, the City Council wishes to amend Article IV of Chapter 21 to create a new provider program for courtesy benches; and

WHEREAS, upon the creation of a new provider program for courtesy benches, several existing sections in Article IV of Chapter 21 will be obsolete and the Council wishes to repeal such provisions.

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

Section 1. Section 21-121 of the Code of Law is amended to read as follows:

Sec. 21-121. Definition.

In this article "courtesy bench" means ANY BENCH OR SEAT THAT MAY OR MAY NOT CONTAIN ADVERTISING MATERIAL, WHICH IS LOCATED ON A PUBLIC RIGHT-OF-WAY OR PUBLIC OR PRIVATE PROPERTY WITHIN THE CITY AND IS ADJACENT TO AN RTD SIGN DESIGNATING A BUS STOP.

~~(1) Any bench or seat, located on public or private property within the city, which contains advertising material.~~

~~(2) Any bench or seat, not containing advertising material, which is located on a public right-of-way or on public or private property within the following rectangle adjacent to an RTD sign designating a bus stop: Twenty (20) feet either side of the RTD sign and parallel to the roadway and ten (10) feet from the RTD sign perpendicular from the roadway.~~

Section 2. Section 21-123 of the Code of Laws is repealed and reenacted to read as follows:

Sec. 21-123. CITY TO PERMIT LOCATION.

THE CITY MAY PERMIT ONE OR MORE PROVIDERS OF COURTESY BENCHES IN THE CITY . THE CITY MAY PROVIDE FOR INSTALLATION OF COURTESY BENCHES DIRECTLY BY THE CITY, BY CONTRACT, AGREEMENT OR OTHERWISE. ALL COURTESY BENCHES SHALL BE CONSTRUCTED AND INSTALLED IN COMPLIANCE WITH THE REQUIREMENTS OF THE AMERICANS WITH DISABILITIES ACT AND AS OTHERWISE PROVIDED IN THIS ARTICLE IV. IF INSTALLED BY CONTRACT OR AGREEMENT, THE TERMS OF SUCH CONTRACT OR AGREEMENT SHALL GOVERN THE PLACEMENT OF SUCH BENCHES; PROVIDED, HOWEVER, THAT ALL SUCH BENCHES SHALL COMPLY WITH THE LOCATION REQUIREMENTS DESCRIBED IN THIS ARTICLE IV. ANY CONTRACT OR AGREEMENT TO INSTALL COURTESY BENCHES CONTAINING ADVERTISING PUSUANT TO THIS SECTION MUST BE APPROVED BY AFFIRMATIVE VOTE OF THE CITY COUNCIL.

Section 3. Section 21-124 of the Code of Laws is amended by the deletion of subsections (a), (b), (c) and (f) and the designation of the existing subsections (d) and (e) as the new subsections (a) and (b), and the new subsection (b) is amended to read as follows:

Sec. 21-124. Construction—specifications; COURTESY BENCH location, maintenance.

~~(d)(a) Zones in which advertising matter on benches permitted. . .~~

~~(e)(b) Benches without advertising. For every five (5) beches allowed with adverting, each bench company shall provide one bench without advertising in a zone other than those listed above. The city specifically finds that the exclusion of benches containing advertising from the A-1, A-2, R-1, R-1A, R-1C, R-2 zone districts within the city is necessary to preserve the aesthetic character and integrity of the predominately single family residential homes and neighborhoods established therein. Because the need for benches exists within such enumerated predominately single family areas, provided such benches do not denigrate the aesthetic characteristics thereof through the presence of advertising thereon, it is required that for every five (5) benches allowed with advertising within the commercial, industrial, multifamily and hospital series identified above, each bench company shall provide one bench without advertising in one of the predominately single family residential areas enumerated in this subsection.~~

Section 4. Section 21-128 of Code of Laws is amended to read as follows:

Sec. 21-128. ~~Planning director~~ DIRECTOR OF PUBLIC WORKS authority.

Notwithstanding any other provision of this article, the director of community development PUBLIC WORKS is authorized to declare any individual bus stop, group of stops or other defined area as an area in which courtesy benches may not be located. ~~The director community development is further authorized to reduce the maximum number of benches allowed under section 21-146, as applied to any stop or area.~~

Section 5. Division 2 of Article IV of Chapter 21 of the Code of Laws is renamed Bus Stop Shelters.

Division 2. ~~PERMIT-BUS STOP SHELTERS~~

Section 6. Section 21-151 of the Code of Laws is amended by the addition of subsections and additional text to read as follows:

(a) The city may provide for the erection of bus stop shelters directly by the city, by contract, agreement, or otherwise.

(b) All such bus stop shelters shall be constructed in compliance with the requirements of the Americans With Disabilities Act.

(c) If erected by contract or agreement with a private company, the terms of such contract or agreement shall govern the placement of such shelters; provided, however, that all such shelters shall comply with the following ~~requirements of this article IV (wherein all references to "courtesy benches" shall be deemed by this reference to include "bus stop shelters")~~:

(1) Location: All bus shelters may be located on all Class 2, 3, 4 and 5 (collector, arterial or major arterial) roadways. No bus shelter may be permitted on any Class 6 or 7 (local) roadways other than at intersections of a major roadway as described above (refer to Exhibit A). Locations shall be generally as shown on attached Exhibit B, with final approval of locations determined by the city. However, the city may deny permission to locate a bus stop shelter at a specific location for any reason.

(2) Prior to construction of a bus shelter, the site shall be posted with a sign indicating a shelter is proposed at that location and anyone objecting to the location shall indicate to the city in writing, within fifteen (15) days of the posting of the sign, their objection and the reasons therefor. Any location which receives an objection shall be presented to city council at a public meeting for approval or denial. The city shall have the final determination on the locations for bus shelters.

(3) The city council may, by resolution, add or delete locations shown on Exhibit B.

(4) Bus stop removal: ~~Section 21-126.~~ IF THE BUS STOP AT WHICH A COURTESY SHELTER FOR A BUS STOP IS PLACED IS MOVED OR ELIMINATED, NOTICE BY CERTIFIED MAIL SHALL BE SENT TO THE OWNER OF THE SHELTER INFORMING HIM THAT THE SHELTER MUST BE REMOVED. THE SHELTER SHALL BE REMOVED BY THE PERMITTEE WITHIN THIRTY (30) DAYS AFTER THE NOTICE IS MAILED. PRIOR TO PLACING THE SHELTER FOR THE BUS STOP IN A NEW LOCATION, NEW APPROVAL MUST BE OBTAINED AS PROVIDED IN THIS SECTION 21-151,

(5) Application for ~~miscellaneous building~~ RIGHT-OF-WAY USE permit required: ~~Section 21-142(a)~~. AN APPLICATION FOR A RIGHT-OF-WAY USE PERMIT SHALL BE SUBMITTED TO THE PUBLIC WORKS DEPARTMENT AS PROVIDED IN ARTICLE III OF CHAPTER 21 FOR PLACEMENT OF THE COURTESY SHELTER IN THE CITY RIGHT-OF-WAY. THE DIRECTOR OF PUBLIC WORKS MAY REQUIRE THE APPLICANT TO OBTAIN A RIGHT-OF-WAY CONSTRUCTION PERMIT AS PROVIDED IN ARTICLE II OF CHAPTER 21. THE DIRECTOR OF PUBLIC WORKS MAY ALSO REQUIRE THE APPLICANT TO OBTAIN A MISCELLANEOUS BUILDING PERMIT FROM THE BUILDING DEPARTMENT OF THE CITY FOR THE PROPOSED COURTESY SHELTER.

(6) ~~Indemnity to the city and the public: Section 21-147.~~

(7) ~~Assignment or transfer: Section 21-143.~~

(8)(6) Denial, revocation: ~~Section 21-149~~. ANY PERMIT ISSUED UNDER AUTHORITY OF THIS ARTICLE MAY BE DENIED OR REVOKED BY THE DIRECTOR OF PUBLIC WORKS AT ANY TIME WITHOUT CAUSE.

(9)(7) Removal following revocation: ~~Section 21-150~~. IN THE EVENT A PERMIT IS REVOKED FOR ANY COURTESY SHELTER, NOTICE SHALL BE SENT BY CERTIFIED MAIL TO THE PERMITTEE AS LISTED IN THE MOST RECENT APPLICATION OR REAPPLICATION FOR PERMIT. WITHIN THIRTY (30) DAYS AFTER THE NOTICE IS SENT, THE PERMITTEE SHALL REMOVE OR CAUSE TO HAVE REMOVED THE PARTICULAR COURTESY SHELTER OR SHELTERS. IF THE PERMITTEE FAILS TO REMOVE THE PARTICULAR COURTESY SHELTER OR SHELTERS PURSUANT TO THE NOTICE, THE CITY SHALL HAVE THE IMMEDIATE RIGHT TO HAVE THE COURTESY SHELTER OR SHELTERS REMOVED AT THE EXPENSE OF THE PERMITTEE. THE REVOCATION OF A COURTESY SHELTER PERMIT SHALL APPLY TO THE SHELTER OR SHELTERS WHICH ARE EXPRESSLY LISTED IN THE NOTICE.

Section 7. Sections 21-125 through 21-127 and Sections 21-141 through 21-150 of the Code of Laws are hereby repealed.

Section 8. 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.

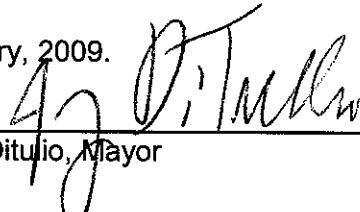
Section 9. Severability; Conflicting Ordinances Repealed. If any section, subsection or clause of this ordinance shall be deemed to be unconstitutional or otherwise invalid, the validity of the remaining sections, subsections and clauses shall not be affected thereby. All other ordinances or parts of ordinances in conflict with the provisions of this ordinance are hereby repealed.

Section 10. Effective Date. This Ordinance shall take effect fifteen days after final publication, as provided by Section 5.11 of the Charter.

INTRODUCED, READ, AND ADOPTED on first reading by a vote of 6 to 1 on this 9th day of February, 2009, 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, February 09, 2009**, 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 8 to 0, this 12th day of February, 2009.

SIGNED by the Mayor on this 12th day of February, 2009.




Jerry D'Amico, Mayor

ATTEST:



Christa Jones, Deputy
Michael Snow, City Clerk

Approved As To Form


Gerald E. Dahl, City Attorney

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