

BY AUTHORITY

ORDINANCE NO. **3975**

COUNCILOR'S BILL NO. **8**

SERIES OF 2019

INTRODUCED BY COUNCILORS
Skulley, Voelz

A BILL

FOR AN ORDINANCE AMENDING SECTION 8-4-2 OF THE WESTMINSTER MUNICIPAL CODE
TO EXPAND THE ENFORCEMENT AGAINST PROPERTIES WHERE ILLEGAL ACTIVITIES
CREATE A NUISANCE

THE CITY OF WESTMINSTER ORDAINS:

Section 1. Section 8-4-2, W.M.C., is hereby AMENDED as follows:

8-4-2. – Nuisance Defined; Violation Subject to Contempt.

(A) The following are deemed to be a public nuisance:

(1) Any building, land, substance or personal property, the use or condition of which presents a substantial danger or hazard to the physical health or safety of the public, or used for any purpose that is in violation of the provisions of the official code of the City of Westminster.

(2) The conducting or maintaining of any business, occupation, operation, or activity in violation of the provisions of the Official Code of the City of Westminster.

(3) Any business, occupation, operation, activity, or any building, land, substance, or personal property, the use or condition of which has been identified as a public nuisance in the Official Code of the City of Westminster, the Colorado Revised Statutes, or the common law.

(4) Any parcel of real property, personal property, or motor vehicle within the City where the property owner intentionally, knowingly, recklessly, or through criminal negligence:

(a) Encourages, allows, facilitates, promotes, permits, or aids in the commission of any Proscribed Act on the property, or

(b) Encourages, allows, facilitates, promotes, permits, or aids in the immediate flight to or from the property of any person who committed any Proscribed Act, where that flight is partly for the purpose of concealing or avoiding law enforcement contact related to any Proscribed Act, or

(c) Fails to immediately make a good faith effort to prevent any property occupant, and/or the property occupant's guests, invitees, licensees, employees, or agents from re-committing any Proscribed Act upon the property, through appropriate court action or by otherwise removing and prohibiting the return of any such person, once that property owner has actual knowledge that Proscribed Acts are occurring on the property, or once that property owner has been provided reasonable notice that Proscribed Acts are being committed on the property by the property occupants, and/or their guests, invitees, licensees, employees, or agents.

(d) The following are Proscribed Acts for purposes of this section. Where a Proscribed Act references a section of the Colorado Revised Statutes (C.R.S.), the activity shall have the same meaning or definition as contained within the C.R.S. but shall not require that the activity was charged or prosecuted to a final judgment before this ordinance applies. For purposes of this chapter where a Proscribed Act references a section of the Westminster

Municipal Code (W.M.C.), the activity shall have the same meaning or definition as contained within the W.M.C. but shall not require that the activity was charged or prosecuted to a final judgment before this article applies.

- i. Prostitution, 18-7-201, C.R.S.; soliciting for prostitution, 18-7-202, C.R.S.; pandering, 18-7-203, C.R.S.; keeping a place of prostitution, 18-7-204, C.R.S.; or pimping, 18-7-206, C.R.S.;
- ii. Professional gambling, 18-10-102(8), C.R.S.; maintaining a gambling premises, 18-10-102(5), C.R.S.; or keeping of a gambling device or record, 18-10-102(3) and 18-10-102(7), C.R.S.;
- iii. Unlawful manufacture, cultivation, growth, production, processing, sale, distribution, storage, use, transportation, or possession of any controlled substance, 18-18-102, 18-18-402, 18-18-403, 18-18-404, 18-18-405, 18-18-406, C.R.S.; any imitation controlled substance, 18-18-420(3), 18-18-421, 18-18-422, C.R.S.; or any counterfeit controlled substance, 18-18-423, C.R.S. except for simple possession of less than eight (8) ounces of marijuana;
- iv. Felony or misdemeanor theft by receiving, 18-4-410, C.R.S.;
- v. Unlawful manufacture, sale, advertisement, or distribution of drug paraphernalia, 18-18-426, 18-18-427, 18-18-429, 18-18-430, C.R.S.;
- vi. Prostitution of a child, 18-7-401, C.R.S.; soliciting for child prostitution, 18-7-402, C.R.S.; pandering of a child, 18-7-403, C.R.S.; keeping a place of child prostitution, 18-7-404, C.R.S.; pimping of a child, 18-7-405, C.R.S.; or inducement of child prostitution, 18-7-405.5, C.R.S.;
- vii. Sexual exploitation of children, 18-6-403, C.R.S.;
- viii. Two (2) or more offenses of disturbing the peace within any one-hundred-eighty-day period, 6-2-3 W.M.C.;
- ix. Unlawful discharge of firearms, deadly weapons, or destructive devices, 6-2-9 W.M.C., or any offense relating to illegal weapons, 6-2-11 W.M.C.;
- x. Any drive-by crime, 16-13-301(2.2), C.R.S.;
- xi. Three (3) or more offenses within any one-year period of selling, serving, giving away, disposing of, exchanging, delivering, or permitting the sale, serving, giving or procuring of any malt, vinous, or spirituous liquor, or fermented malt beverage, to or for any person under lawful age or to a visibly intoxicated person, 12-47-901(1)(a) C.R.S.. Each incident, to be counted as a separate offense within the meaning of this section, must occur on separate dates and rely on discrete facts;
- xii. The sale at retail of any malt, vinous, or spirituous liquors, or fermented malt beverages in sealed containers, or the manufacture, sale, or possession for sale of any malt, vinous, or spirituous liquors, without holding a valid license in full force and effect to do so under title 12, article 47, C.R.S., 12-47-901(1)(f) and (g) C.R.S.;
- xiii. The unlawful transportation or storage of any property that is the subject of a felony theft, misdemeanor theft, or theft by receiving under title 18, C.R.S.;
- xiv. The storage or concealment of weapons or tools used in the commission of crimes of violence, 16-11-309, C.R.S., drive-by offenses, 16-13-301, C.R.S., unlawful discharge of firearms, deadly weapons, or destructive devices, 6-2-9 W.M.C., or any offense relating to illegal weapons, 6-2-11 W.M.C.;
- xv. Vehicular eluding, 18-9-116.5, C.R.S., or eluding or attempting to elude a police officer, 42-4-1413, C.R.S.;
- xvi. Speed contests, 42-4-1105, C.R.S.;
- xvii. Driving after revocation prohibited, 42-2-206, C.R.S.;
- xviii. Sexual assaults or attempted sexual assaults, 18-2-101, 18-3-402, 18-3-404, 18-3-405, 18-3-405.3, 18-3-405.5, C.R.S.;
- xix. Indecent exposure, 18-7-302, C.R.S.;

xx. Keeping, maintaining, controlling, renting, or making available property for unlawful distribution or manufacture of controlled substances, 18-18-411, C.R.S.; or the unlawful possession of materials to make amphetamine and methamphetamine, 18-18-412.5, C.R.S.; or, the unlawful sale or distribution of materials to manufacture controlled substances, 18-18-412.7, C.R.S.; or possession of one (1) or more chemicals or supplies or equipment with intent to manufacture a controlled substance, 18-18-405, C.R.S.;

xxi. Criminal mischief where the aggregate damage exceeds one thousand dollars (\$1,000.00), 18-4-501, C.R.S.;

xxii. Impersonation of a police officer, 18-8-112, C.R.S., 6-5-6, W.M.C.;

xxiii. Illegal dumping or littering, 6-18-1, W.M.C., household trash, junk, or debris, 8-1-11, W.M.C.;

xxiv. Possession of drug paraphernalia, 6-12-6, W.M.C.;

xxv. Disorderly conduct, 6-2-1, W.M.C.;

xxvi. Any and all acts prohibited under C.R.S. Title 18, Article 8, Part 2. Escape and Offenses Relating to Custody.

(B) Any person found guilty of violating any of the provisions of this chapter shall, upon conviction thereof, be punished by a fine or imprisonment or both, pursuant to Section 1-8-1, W.M.C. Each day that a violation of any of the provisions of this chapter continues to exist shall be deemed to be a separate and distinct violation.

(C) Whenever, in a criminal or non-criminal prosecution under this Code, the Municipal Court finds the existence of a nuisance, the court is authorized to abate the nuisance and assess costs in the same fashion as if a civil abatement proceeding had been commenced under Title VIII, Chapter 4 of this Code.

(D) Any violation of any injunction or order issued by the Municipal Court in an action to abate a public nuisance may be punished as a contempt of court or by a fine as specified in Section 1-8-1, W.M.C. Unless the violation by its nature cannot be corrected, each day's failure to comply with an injunction or order to abate shall constitute a separate violation, for which an additional penalty may be imposed.

Section 2. This ordinance shall take effect upon its passage after second reading. The title and purpose of this ordinance shall be published prior to its consideration on second reading. The full text of this ordinance shall be published within ten (10) days after its enactment after second reading.

INTRODUCED, PASSED ON FIRST READING, AND TITLE AND PURPOSE ORDERED PUBLISHED this 11th day of March, 2019.

PASSED, ENACTED ON SECOND READING, AND FULL TEXT ORDERED PUBLISHED this 25th day of March, 2019.

ATTEST:

City Clerk

Mayor

APPROVED AS TO LEGAL FORM:

City Attorney's Office