

# COUNCIL COMMUNICATION

|  |                            |  |                 |                                   |   |
|--|----------------------------|--|-----------------|-----------------------------------|---|
| <b>Meeting Date:</b><br>October 25, 2022   | <b>Agenda Item:</b><br>10B | <b>Agenda Location:</b><br>Consent<br>Calendar | <b>Goal(s):</b> | <b>Legal Review:</b><br><i>TJ</i> | <input type="checkbox"/> 1 <sup>st</sup> Reading<br><input checked="" type="checkbox"/> 2 <sup>nd</sup> Reading |
| <b>Subject:</b> An ordinance Amending Chapter 38, Articles VI and VII by Adding Sections 38-181 (Motor Vehicle Theft), 38-216 (Interference with Staff, Faculty, or Students of Educational Institutions), and Amending Sections 38-172 (Damaging Property Prohibited) and 38-179 (Trespassing) of the Thornton City Code. |                            |  |                 |                                   |   |
| <b>Recommended by:</b> Terrence Gordon <i>TG</i> <b>Approved by:</b> Kevin S. Woods <i>RK/KW</i><br><b>Presenter(s):</b> William Farr, Administration Division Commander   |                            |  |                 |                                   | <b>Ordinance previously introduced by:</b><br><hr/> <b>Unrein</b>   |

**SYNOPSIS:**

This ordinance will create new sections and amend existing sections in Articles VI and VII of Chapter 38 of the Thornton City Code (Code). In accordance with State Statute, Section 38-181, Motor Vehicle Theft will be added to Article VI to address the 2022 State of Colorado Statute revisions making theft of a motor vehicle a misdemeanor if the value of the vehicle is under \$2,000.00. Section 38-216 will be added to Article VII prohibiting the interference with staff, faculty, or students of educational institutions. The ordinance will also amend Section 38-172 to modify the monetary value of damaged property from \$500.00 or more to \$2,000.00 or more and Section 38-179 prohibiting any person from entering any motor vehicle with intent to commit a crime therein.

Adopting the ordinance and amendments into the Code would allow for prosecution of these offenses through the municipal court.

**RECOMMENDATION:**

Staff recommends Alternative No. 1, approve the ordinance amending Chapter 38, Articles VI and VII as drafted.

**BUDGET/STAFF IMPLICATIONS:**

None.

**ALTERNATIVES:**

1. Approve the ordinance amending Chapter 38, Articles VI and VII.
2. Amend Chapter 38, Articles VI and VII in a manner directed by City Council.
3. Do not approve the ordinance amending Chapter 38, Articles VI and VII.

**BACKGROUND (ANALYSIS/NEXT STEPS/HISTORY):** (includes previous City Council action)

INTRODUCED BY: Unrein

AN ORDINANCE AMENDING CHAPTER 38, ARTICLES VI AND VII BY ADDING SECTIONS 38-181 (MOTOR VEHICLE THEFT), 38-216 (INTERFERENCE WITH STAFF, FACULTY, OR STUDENTS OF EDUCATIONAL INSTITUTIONS), AND AMENDING SECTIONS 38-172 (DAMAGING PROPERTY PROHIBITED) AND 38-179 (TRESPASSING) OF THE THORNTON CITY CODE.

WHEREAS, in accordance with State law, the City Council desires to adopt the recent changes to legislation for the Thornton City Code Sections 38-172 and 38-179 and adopt new code under C.R.S. § 18-9-109 and 18-4-409.

WHEREAS, adopting these provisions into Thornton's City Code would allow for prosecution of these offenses through the municipal court.

WHEREAS, City Council hereby finds, determines, and declares that this ordinance is necessary and in the best interest of the citizens of the City to provide for the safety, preserve the health, promote the prosperity, and improve the order, comfort, and convenience thereof.

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF THORNTON, COLORADO, AS FOLLOWS:

1. Section 38-181, Motor Vehicle Theft, is hereby added to Chapter 38, Article VI, to read as follows:

**Sec. 38-181. – Motor Vehicle Theft.**

- (a) As used in this section, unless the context otherwise requires, the term "motor vehicle" means all vehicles of whatever description propelled by any power other than muscular, except vehicles running on rails.
- (b) It shall be unlawful to commit motor vehicle theft. A person commits motor vehicle theft if he or she knowingly obtains or exercises control over a motor vehicle of another without authorization or by threat or deception and if none of the aggravating factors or other circumstances listed in C.R.S. § 18-4-409, as amended, recodified, or reenacted, that would otherwise classify the offense as a felony are present.

2. Section 38-216, Interfering with Staff, Faculty, or Students of Educational Institutions, is hereby added to Chapter 38, Article VII, to read as follows:

**Sec. 38-216. – Interfering with Staff, Faculty, or Students of Educational Institutions.**

- (a) No person shall, on or near the premises or facilities of any educational institution, willfully deny to students, school officials, employees, and invitees:
1. Lawful freedom of movement on the premises;
  2. Lawful use of the property or facilities of the institution; and
  3. The right of lawful ingress and egress to the institution's physical facilities.
- (b) No person shall, on the premises of any educational institution or at or in any building or other facility being used by any educational institution, willfully impede the staff or faculty of such institution in the lawful performance of their duties or willfully impede a student of the institution in the lawful pursuit of his educational activities through the use of restraint, abduction, coercion, or intimidation or when force and violence are present or threatened.
- (c) No person shall willfully refuse or fail to leave the property of or any building or other facility used by any educational institution upon being requested to do so by the chief administrative officer, his designee charged with maintaining order on the school premises and in its facilities, or a dean of such educational institution, if such person is committing, threatens to commit, or incites others to commit any act which would disrupt, impair, interfere with, or obstruct the lawful missions, processes, procedures, or functions of the institution.
- (d) It shall be an affirmative defense that the defendant was exercising his right to lawful assembly and peaceful and orderly petition for the redress of grievances, including any labor dispute between an educational institution and its employees, any contractor or subcontractor, or any employee thereof.
- (e) For purposes of this section, the premises, facilities, and buildings of an educational institution do not include the private residence of a student who is participating in online instruction, as defined in CRS 22-1-131(2).

State law reference(s) – Interference with staff, faculty, or students of educational institutions, C.R.S. § 18-9-109.

3. Section 38-172, Damaging Property Prohibited, is hereby amended by the addition of the words double underlined and the deletion of the words stricken, to read as follows:

**Sec. 38-172. Damaging Property Prohibited.**

It shall be unlawful for any person to intentionally, knowingly, or recklessly cause damage to or destroy the real or personal property of another without the consent of the owner whether such property is public or private; provided, however, this section shall not apply in the case of one criminal episode in which there is aggregate damage exceeding ~~\$500.00~~\$2,000.00 or more.

State law reference(s)—Criminal mischief, C.R.S. § 18-4-501.

4. Section 38-179, Trespassing, is hereby amended by the addition of the words double underlined, to read as follows

**Sec. 38-179. Trespassing.**

*(b) Trespassing prohibited.* It shall be unlawful for any person to knowingly:

- (1) Enter, remain upon or refuse to leave any premises of another when, prior to such entry, remaining or refusal to leave, oral or written notice that such entry or continuing presence is prohibited is given by the owner, tenant of the premises or any person authorized by the owner or tenant to manage, control or care for the premises.
- (2) Enter, remain upon or refuse to leave any posted premises at specified times or while engaging in specific conduct prohibited by the posted sign.
- (3) Enter or remain in or upon premises, which are fenced or enclosed in a manner designed to exclude intruders, without permission of the owner, tenant of the premises, or any person authorized by the owner or tenant to manage, control or care for the premises.
- (4) Enter any motor vehicle with intent to commit a crime therein.

State law reference(s)—Criminal trespass, C.R.S. § 18-4-502 et seq.

4. If any portion of this ordinance is held to be unconstitutional or invalid for any reason, such decision shall not affect the constitutionality or validity of the remaining portions of this ordinance. City Council hereby declares that it would have passed this ordinance and each part hereof irrespective of the fact that any one part be declared unconstitutional or invalid.
5. All other ordinances or portions thereof inconsistent or conflicting with this ordinance or any portion hereof are hereby repealed to the extent of such inconsistency or conflict.
6. The repeal or amendment of any provision of the Code by this ordinance shall

not release, extinguish, alter, modify, or change in whole or in part any penalty, forfeiture, or liability, either civil or criminal, which shall have been incurred under such provision, and each provision shall be treated and held as still remaining in force for the purpose of sustaining any and all proper actions, suits, proceedings, and prosecutions for the enforcement of the penalty, forfeiture, or liability, as well as for the purpose of sustaining any judgment, decree, or order which can or may be rendered, entered, or made in such actions, suits, proceedings, or prosecutions.

7. This ordinance shall take effect upon final passage.

INTRODUCED, READ, PASSED on first reading, ordered posted in full, and title ordered published by the City Council of the City of Thornton, Colorado, on October 11, 2022.

PASSED AND ADOPTED on second and final reading on \_\_\_\_\_, 2022.

CITY OF THORNTON, COLORADO

\_\_\_\_\_  
Jan Kulmann, Mayor

ATTEST:

\_\_\_\_\_  
Crystal Sergent, Acting City Clerk

THIS ORDINANCE IS ON FILE IN THE CITY CLERK'S OFFICE FOR PUBLIC INSPECTION.

APPROVED AS TO LEGAL FORM:

\_\_\_\_\_  
Tami Yellico, City Attorney

PUBLICATION:

Posted at City Hall, Margaret W. Carpenter Recreation Center, Thornton Active Adult Center, and Trail Winds Recreation Center after first and second readings.

Published on the City's official website after first reading on October 12, 2022, and after second and final reading on \_\_\_\_\_, 2022.