

CITY OF CENTENNIAL,  
COLORADO

ORDINANCE NO. 2011-O-30

**AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF CENTENNIAL, COLORADO AMENDING ARTICLE 3 OF CHAPTER 10 OF THE CENTENNIAL MUNICIPAL CODE, PROHIBITING PLACEMENT, STORAGE, AND ACCUMULATION OF ITEMS, ARTICLES, GOODS, AND OBJECTS, INCLUDING BUT NOT LIMITED TO, CONSTRUCTION MATERIALS, DEBRIS, LANDSCAPE MATERIALS, SNOW, OR ICE ON PUBLIC PROPERTY, AND PROHIBITING ITEMS, ARTICLES, GOODS, OBJECTS AND MATERIALS ON PRIVATE PROPERTY FROM ENCROACHING UPON PUBLIC PROPERTY TO THE EXTENT THAT SUCH ENCROACHMENT IMPEDES PEDESTRIAN AND VEHICULAR TRAFFIC, WITH LIMITED EXCEPTIONS FOR LAWFULLY PARKED VEHICLES AND TRASH.**

WHEREAS, the City of Centennial (the "City") is a home-rule municipal corporation created and organized pursuant to Article 20 of the Colorado Constitution and the Charter of the City of Centennial; and

WHEREAS, by virtue of Article 20 of the Colorado Constitution, and as further authorized by state law, including, but not limited to, Sections 31-15-401 and 31-23-301 of the Colorado Revised Statutes, the City has broad authority to exercise its police powers to promote and protect the health, safety, and welfare of the community and its inhabitants; and

WHEREAS, pursuant to Section 31-15-702 of the Colorado Revised Statutes, municipal corporations are authorized to prevent and remove encroachments or obstructions upon streets, parks, and public grounds, to regulate the use of sidewalks along streets and alleys, to require the owner or occupant of any premises to keep sidewalks and the area along sidewalks free from obstructions, and to regulate and prevent the throwing or depositing of ashes, garbage, or any offensive matter in and to prevent any injury to any street, park, or public ground; and

WHEREAS, pursuant to the Americans with Disabilities Act, 42 U.S.C. Sections 12101 *et seq.* ("ADA"), cities are required to make all city programs, services, and activities accessible to individuals with disabilities; and

WHEREAS, maintaining public streets and sidewalks are considered a normal function of the City and thus City streets and sidewalks are subject to the ADA; and

WHEREAS, the City's visioning plan, "Our Voice. Our Vision. Centennial 2030," identifies the creation of pedestrian-friendly spaces, citizen safety, and traffic safety as key elements in affording citizens the benefits of a well-planned city and increased quality of life in the community; and

WHEREAS, the City Council is aware of recent instances in which the accumulation of snow and construction materials on City streets has obstructed the safe access and clear vision of

drivers of vehicles on those streets, thus creating an increased potential for vehicular accidents;  
and

WHEREAS, the City Council is further aware of citizen complaints about obstructions in the City rights-of-way; and

WHEREAS, the City Council has engaged in ongoing discussion regarding right-of-way obstructions since 2009 and commissioned City staff to conduct a Code Compliance Survey (the "Survey") of Centennial citizens in 2009; and

WHEREAS, the Survey results indicated an overall support for an ordinance prohibiting obstructions in the City's rights-of-way; and

WHEREAS, City Council considered the Survey results, citizen support, and negative impacts on the citizenry from the lack of such an ordinance in a Council Policy Dialogue on August 1, 2011; and

WHEREAS, the City Council finds that a substantial danger to the preservation of public health and safety exists as a result of an accumulation of construction materials, debris, landscape materials, and other materials or waste on public streets and sidewalks or other public property and as a result of the placement of snow on public property; and

WHEREAS, the City Council finds that a substantial danger to the preservation of public health and safety exists as a result of a variety of materials, and more particularly branches of trees and shrubs, interfering with pedestrian and vehicular traffic on public rights-of-way; and

WHEREAS, the City Council desires to prohibit the placement, dumping, accumulation or storage of construction materials, debris, landscape materials, and other materials or waste on public streets, sidewalks, or other public property and the encroachment of such materials on private property onto public property in order to enhance public safety and to facilitate compliance with the ADA; and

WHEREAS, the City Council recognizes that governmental entities may, from time to time, need to temporarily locate items and materials essential to the execution of their public functions on public streets, sidewalks, or other public property within the City; and

WHEREAS, occasional and temporary placement of trash containers, bagged trash, appliances, and bundled materials by citizens on public streets under prescribed conditions is necessary for the effective removal of trash; and

WHEREAS, it is in the best interests of the public health, safety, and welfare of the citizens of the City to prohibit the placement or storage of items, articles, goods, or objects, including but not limited to, construction materials, debris, landscape materials, snow, or ice, on public property, to prohibit the encroachment of items, articles, goods, or objects, including but not limited to, construction materials, debris, and landscape materials, onto public property, and to prescribe the penalties for violating such prohibitions.

**NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF CENTENNIAL, COLORADO, ORDAINS:**

**Section 1. Recitals Incorporated.** The recitals contained above are incorporated herein by reference and are adopted as findings and determinations of the City Council.

**Section 2. Amendment of Chapter 10, Article 3.** Article 3 of Chapter 10 is hereby amended to read as follows in its entirety:

**Sec. 10-3-10. Declaration.**

The City Council finds and declares that a substantial danger to the preservation of public health and safety exists as a result of the dumping of trash, construction materials, debris, landscape materials, snow, ice, and other waste on public streets and sidewalks or other public property and as a result of items, articles, goods, and objects on private property interfering with pedestrian and vehicular traffic on public rights-of-way.

**Sec. 10-3-20. Definitions.**

As used in this Article, the following words are defined as follows:

*Construction materials* means any material intended for or used in the construction of structures or buildings such as, without limitation, concrete, concrete block, brick, cement, plaster, glass, asphalt, timber, lumber, wood, shingles, pipe, cable, wire, conduit, duct, insulation, drywall, tile, fixture, or like materials.

*Debris* means any solid or liquid waste, including by way of illustration and not limited to, iron, brass, copper or other metal materials, ropes, rags, trash, garbage, cinders, fibers or fabrics, bottles or other glass, rubber materials, including without limitation tires, plastic materials, junk, paper, cardboard, machinery, motor parts, tools, equipment, appliances, household goods, furniture, firewood, cartons, boxes, pallets, barrels or other containers, animal carcasses, offal or manure, waste or discarded goods, rubbish, refuse, or like materials.

*Landscape materials* means any material used in or derived from the landscape or improvements to the landscape of real property such as, without limitation, trees, tree branches, shrubs, plants, vegetation, brush, yard trimmings, leaves, sod, dead plant material, soil, earth, dirt, sand, gravel, rock, stone, boulders, mulch, fencing, paving materials, or like materials.

*Public property* means any public street, right-of-way, road, highway, place, alley, sidewalk, easement, park, square, median, parkway, boulevard or plaza within the City limits that is dedicated to public use, owned, or maintained by the City except for those rights-of-way established by law as a state highway.

*Trash container* means any container designed or intended to be used for the periodic collection of trash, refuse, garbage, yard debris, recyclables, or other waste materials.

*Vehicle* means any device that qualifies as a vehicle under the Model Traffic Code as adopted in the Centennial Municipal Code.

**Sec. 10-3-30. Dumping on or obstruction of public property prohibited.**

(a) It shall be unlawful for any person to place, store, or maintain on public property any item, article, good, or object, including, but not limited to, any stockpile, pile, stack, stand, collection, assembly, or other accumulation of construction materials, debris, landscape materials, snow, or ice unless such person is an employee, official, or contractor of the City acting within the scope of his or her municipal functions. Nothing in this Ordinance is intended to require any person to remove naturally occurring accumulations of snow or ice from private or public sidewalks or to remove snow or ice deposited on private or public sidewalks by the State of Colorado, its political subdivisions, special districts, or other governmental entities.

(b) It shall be unlawful for any person to place, store, maintain, allow to accumulate or to permit any other person to place, store, maintain, or allow to accumulate on private property any item, article, good, or object, including, but not limited to, any stockpile, pile, stack, stand, collection, assembly, or other accumulation of construction materials, debris, or landscape materials to the extent that such item, article, good, or object encroaches:

(1) Within eight (8) vertical feet from the surface of all sidewalks and pedestrian walkways; or

(2) Within fifteen (15) vertical feet from the surface of all public property dedicated to or used for vehicular traffic.

(c) This Section shall not apply to the State of Colorado, its political subdivisions, special districts, or other governmental entities or any employee, official, or contractor of such entity acting within the scope of his or her official capacity, provided that such entity or person obtains written permission from the City to engage in any activity otherwise prohibited by this Section prior to engaging in such activity.

(d) This Section shall not apply to:

(1) Lawfully parked vehicles; or

(2) Trash containers, bagged trash, appliances, and bundled materials that are temporarily placed on public property abutting private property within the City by the owner or lawful tenant of such private property to enable such containers to be emptied by a public or private entity charged with trash collection, provided that such temporary placement is not on a sidewalk or pedestrian way and does not exceed twenty-four (24) hours in duration.

**Sec. 10-3-40. Violation.**

Any person who violates this Article commits a minor offense and, upon conviction thereof, shall be punished by a fine of not more than one thousand dollars (\$1,000.00) for each separate violation.

**Sec. 10-3-50 - 10-3-100. Reserved.**

**Section 3. Codification Amendments.** The codifier of the City's Municipal Code, Colorado Code Publishing, is hereby authorized to make such numerical and formatting changes as may be necessary to incorporate the provisions of this Ordinance within the Centennial Municipal Code.

**Section 4. Severability.** If any provision of this Ordinance, or the application of such provision to any person or circumstance, is for any reason held to be invalid, such invalidity shall not affect other provisions or applications of this Ordinance which can be given effect without the invalid provision or application, and to this end the provisions of this Ordinance are declared to be severable. The City Council hereby declares that it would have passed this Ordinance and each provision thereof, even though any one of the provisions might be declared unconstitutional or invalid. As used in this Section, the term "provision" means and includes any part, division, subdivision, section, subsection, sentence, clause or phrase; the term "application" means and includes an application of an ordinance or any part thereof, whether considered or construed alone or together with another ordinance or ordinances, or part thereof, of the City.

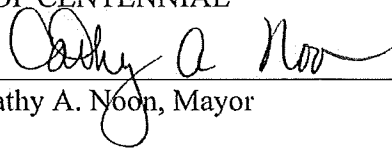
**Section 5. Effective Date.** This Ordinance shall take effect thirty (30) days after publication following final passage.

**Section 6. Safety Clause.** The City Council hereby finds, determines, and declares that this Ordinance is promulgated pursuant to the City's home rule authority and under the general police power of the City of Centennial, 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 this Ordinance bears a rational relation to the proper legislative objective sought to be obtained.

INTRODUCED, READ, AND ORDERED PUBLISHED BY THE CITY COUNCIL OF THE CITY OF CENTENNIAL, COLORADO, UPON A MOTION DULY MADE, SECONDED AND PASSED AT ITS REGULAR MEETING HELD ON THE 7<sup>th</sup> DAY OF November, 2011.

CITY OF CENTENNIAL

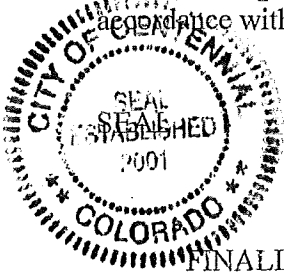
By: \_\_\_\_\_

  
Cathy A. Noon, Mayor

Approved as to Form:

Kathie B. Euklenberger  
For City Attorney's Office

I hereby certify that the above Ordinance was introduced to the City Council of the City of Centennial at its meeting of November 7, 2011 and ordered published one time by title only in The Villager newspaper on November 10, 2011, and in full on the City web site in accordance with Section 2-1-110 of the Municipal Code.



ATTEST:

By: Brenda J. Madison  
City Clerk or Deputy City Clerk

FINALLY ADOPTED, PASSED, APPROVED WITH AMENDMENTS, IF ANY, AND ORDERED PUBLISHED BY TITLE ONLY, IN THE VILLAGER NEWSPAPER AND IN FULL ON THE CITY WEB SITE IN ACCORDANCE WITH SECTION 2-1-110 OF THE MUNICIPAL CODE BY THE CITY COUNCIL OF THE CITY OF CENTENNIAL, COLORADO, UPON A MOTION DULY MADE, SECONDED AND PASSED AT ITS MEETING HELD ON THE 5<sup>th</sup> DAY OF December, 2011, BY A VOTE OF 6 IN FAVOR AND 3 AGAINST.

CITY OF CENTENNIAL

By: Cathy A. Noon  
Cathy A. Noon, Mayor

I hereby certify that the above Ordinance was finally adopted by the City Council of the City of Centennial at its meeting of December 5, 2011, and ordered published by title only, one time by The Villager newspaper on December 8, 2011 and in full on the City web site in accordance with Section 2-1-110 of the Municipal Code.



ATTEST:

By: Brenda J. Madison  
City Clerk or Deputy City Clerk