

**THE CITY OF OKLAHOMA CITY
OFFICE OF
THE MUNICIPAL COUNSELOR**

Council Agenda
Item No. IV. B
11/22/2022

TO: Mayor and City Council

FROM: Kenneth Jordan, Municipal Counselor

Ordinance to be introduced, set for public hearing December 6, 2022 and final hearing January 3, 2023, relating to Miscellaneous Provisions and Offenses, Amending Article III, Offenses Against Property, of Chapter 30 of the Oklahoma City Municipal Code, 2020, by amending Section 30-31, Definitions; amending, deleting, and adding definitions with conditions that constitute a trespass; removing Section 30-34, Trespass on school property; adding conditions that constitute a trespass on private property, Section 30-35.2, Verifiable proof of right to enter or remain or do certain acts on private property; enforcement of trespass on private property; prima facie case; enforcement; adding conditions that constitute a trespass on public property, Section 30-35.3, Verifiable proof of right to enter or remain or do certain acts on public property; prima facie case; enforcement; amending and renumbering Section 30-35.2, Penalties for trespassing to be Section 30-35.4; amending and renumbering Section 30-35.3 to be Section 30-35.5, Defenses to trespassing on public or private property; adding Section 30-35.6; Construction and enforcement of article must comply with Federal and State constitutions and statutes.

Councilmembers Stonecipher, Carter and Stone.

Background:

Please be advised that Ward 8 Councilmembers Mark Stonecipher requested this office help him prepare the attached ordinance amendments to advance his goal of improving the City's current Trespass Ordinance codified in Article III of the City Code. The purpose of the amendments is to make the trespass regulations more effective and to facilitate enforcement. Councilor Stonecipher asked us to docket this Ordinance for introduction by Council on November 22, 2022.

Briefly, the Trespass Ordinance revisions will include the following significant amendments:

- Revises the definition of “public property” to specifically add “county” and “public school district” properties and to expressly include “any outdoor area to which the public has access, including, but not limited to, public rights-of-way, parks, streets, sidewalks, hike and bike trails, transit facilities, bridges, underpasses, and parking lots.” [Ref. § 30-31(6).]
- Revises the definition of “trespass” in part to define it as being upon property “without a verifiable legal right to enter and remain upon the property....” [Ref. § 30-31(7)(a)(1).]
- Further revises the definition of “trespass” to add additional acts that constitute a trespass if there is no verifiable right to do such acts. [Ref. § 30-31(7)(d) through (j).]
- Adding a definition of “Aggravated Trespass,” which is made a Class “b” offense. [Ref. § 30-31(8) and § 30-35.4(d).]

- Adds a section relating to establishment of a prima facie case of trespass on private property and on enforcement. [Ref. § 30-35.2.]
- Adds a section relating to establishment of a prima facie case of trespass on public property and on enforcement. [Ref. § 30-35.3.]
- Revises the provisions for Affirmative Defenses. [Ref. § 30-35.5.]
- Adds a section providing that: “No provision of this article may be construed or enforced in a manner that violates the legal rights of any person under the Constitution or statutes of the United States or the Constitution or statutes of the State of Oklahoma.” [Ref. § 30-35.6.]

We will be prepared to assist Councilmembers Stonecipher in addressing the questions you may have regarding the proposed amendments to the City’s Trespass Ordinance at its Introduction at the November 22, 2022, City Council meeting.

Recommendation: Ordinance to be introduced, set for public hearing and final hearing.