

EXPLANATORY COVER SHEET

COUNCILMAN'S BILL NO. CB-1634

SPONSOR: COUNCIL MEMBERS LINDSEY AND PARSONS

TITLE: A BILL FOR AN ORDINANCE AMENDING VARIOUS SECTIONS OF THE NORTHGLENN MUNICIPAL CODE TO REFLECT CHANGES IN STATE LAW REGARDING VALUE BASED CRIMES

PURPOSE: THIS PROPOSED ORDINANCE EXPANDS THE NORTHGLENN MUNICIPAL COURT'S JURISDICTION REGARDING THE PROSECUTION OF VALUE BASED CRIMES TO CONFORM TO RECENT LEGISLATIVE AMENDMENTS.

ADDITIONAL EXPLANATORY REMARKS:

SPONSORED BY: COUNCIL MEMBERS LINDSEY & PARSONS

COUNCILMAN'S BILL

ORDINANCE NO.

No. CB-1634
Series of 2007

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A BILL FOR AN ORDINANCE AMENDING VARIOUS SECTIONS OF THE NORTHGLENN MUNICIPAL CODE TO REFLECT CHANGES IN STATE LAW REGARDING VALUE BASED CRIMES

WHEREAS, Senate Bill 07-260 amends the state law governing value based crimes to reflect inflationary changes in the economy;

WHEREAS, the value based crimes of the Northglenn Municipal Code correspond with the value based crime provisions under state law; and

WHEREAS, the City Council finds and determines that the value based crime provisions of the Northglenn Municipal Code should be amended to reflect the changes made to state law under Senate Bill 07-260.

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF NORTHGLENN, COLORADO, THAT:

Section 1. Section 9-2-1 of the Northglenn Municipal Code is hereby amended as follows:

Sec. 9-2-1. Criminal mischief.

It is unlawful for any person to knowingly or intentionally injure, deface, damage or destroy the real or personal property of another person, whether public or private, in the City of Northglenn. It is further provided that this section shall not apply where the aggregate damage in any one (1) criminal episode to such real or personal property is ONE THOUSAND DOLLARS (\$1,000.00) ~~five hundred dollars (\$500.00)~~ or more.

Section 2. Section 9-2-8 of the Northglenn Municipal Code is hereby amended as follows:

Sec. 9-2-8. Shoplifting.

(a) It is unlawful for any person to take or secrete with the intent to avoid payment therefore, any goods, wares or merchandise displayed or otherwise offered for sale which hAVEs a value of less than ONE THOUSAND DOLLARS (\$1,000.00) ~~five hundred dollars (\$500.00)~~.

(b) It is unlawful for any person to switch or change in any way the price tags with the intent to avoid full payment therefor, on any goods, wares or merchandise displayed or otherwise offered for sale which hAVEs a value of less than ONE THOUSAND DOLLARS (\$1,000.00) ~~five hundred dollars (\$500.00)~~.

(c) If any person willfully conceals unpurchased goods, wares or merchandise owned or held by and offered or displayed for sale by any store or other mercantile establishment, whether the concealment be on his OR HER person or otherwise and whether on or off the premises of such store or mercantile establishment, such concealment constitutes prima facie evidence that the person intended to commit the crime of shoplifting.

Section 3. Section 9-2-9 of the Northglenn Municipal Code is hereby amended as follows:

Sec. 9-2-9. Theft.

(a) It is unlawful for any person to commit theft. A person commits theft when he OR SHE knowingly obtains or exercises control over anything of value belonging to another person without the other person's consent or authorization, or when he OR SHE knowingly obtains or exercises control over anything of value belonging to another person by threat or deception; provided that the thing of value has a value or worth of less than ONE THOUSAND DOLLARS (\$1,000.00) ~~five hundred dollars (\$500.00)~~ and:

(1) The person intends to deprive the other person permanently of the use or benefit of the thing of value; or

(2) The person knowingly uses conceals or abandons the thing of value in such a manner as to deprive the other person permanently of its use or benefit; or

(3) The person uses, conceals or abandons the thing of value intending that such use, concealment or abandonment will deprive the other person permanently of its use or benefit; or

(4) The person demands any consideration to which he OR SHE is not legally entitled as a condition of restoring the thing of value to the other person.

(b) A person commits theft when he OR SHE knowingly receives or uses services available only for hire from another person with the intent to deprive the other person of the compensation or benefit that the other person ordinarily receives for providing or delivering such services; provided the service has a value or worth of less than ONE THOUSAND DOLLARS (\$1,000.00) ~~five hundred dollars (\$500.00)~~.

Section 4. Section 9-2-10 of the Northglenn Municipal Code is hereby amended as follows:

Sec. 9-2-10. Theft of rental property.

(a) It is unlawful for any person to commit theft of rental property. A person commits theft of rental property if he OR SHE:

(1) Obtains the temporary use of personal property of another person, which is available only for hire, by means of threats or deception, or with knowledge that such use is without the consent of the person providing the personal property; or

(2) Having lawfully obtained possession for temporary use of the personal property of another person, which is available only for hire, knowingly fails to reveal the whereabouts of or fails to return said property to the owner thereof, or the owner's representative, or to the person from whom he received it, within seventy-two (72) hours after the time at which he agreed to return it.

(b) This section shall not apply where the aggregate value of the property involved is ONE THOUSAND DOLLARS (\$1,000.00) ~~five hundred dollars (\$500.00)~~ or more.

Section 5. Section 9-2-11 of the Northglenn Municipal Code is hereby amended as follows:

Sec. 9-2-11. Fraud by check.

(a) Definitions. As used in this Section, the following terms shall have the definitions ascribed as follows:

(1) "Check" means a written, unconditional order to pay a sum certain in money, drawn on a bank, payable on demand, and signed by the drawer. "Check" for the purposes of this section only, also includes a negotiable order of withdrawal and a share draft.

(2) "Drawee" means the bank upon which a check is drawn or a bank savings and loan association, industrial bank, or credit union on which a negotiable order of withdrawal or a share draft is drawn.

(3) "Drawer" means a person, either real or fictitious, whose name appears on a check as the primary obligor, whether the actual signature be that of himself OR HERSELF or of a person authorized to draw a check on the account.

(4) "Insufficient Funds" means a drawer has insufficient funds with the drawee to pay a check when the drawer has no checking account, negotiable order of withdrawal account, or has no checking account, negotiable order of withdrawal account, or share draft account with the drawee or has funds in such an account with the drawee in an amount less than the amount on the check plus the amount of all other checks outstanding at the time of the issuance; and a check dishonored for "NO ACCOUNT" shall be deemed to be dishonored for "INSUFFICIENT FUNDS."

(5) "Issue" MEANS ~~A person issues a check when he~~ mak~~ING~~, draw~~ING~~, deliver~~ING~~, or pass~~ING~~ A CHECK or cause~~ING~~ it to be made, drawn, delivered or passed.

(6) "Negotiable Order of Withdrawal" and "Share Draft" means negotiable or transferable instruments drawn on a negotiable order of withdrawal account or a share draft account, as the case may be, for the purpose of making payments to third persons or otherwise.

(7) "Negotiable Order of Withdrawal Account" means an account in a bank, savings and loan association or industrial bank, ~~and~~. ~~"Share Draft Account" means an account in a credit union, on which payment of interest or dividends may be made on a deposit with respect to which the bank, savings and loan association, or industrial bank or the credit union, as the case may be, may require the depositor to give notice of an intended withdrawal not less than thirty (30) days before the withdrawal is made, even though in practice such notice is not required and the depositor is allowed to make withdrawal by negotiable order of withdrawal or share draft.~~

(8) "SHARE DRAFT ACCOUNT" MEANS AN ACCOUNT IN A CREDIT UNION, ON WHICH PAYMENT OF INTEREST OR DIVIDENDS MAY BE MADE ON A DEPOSIT WITH RESPECT TO WHICH THE BANK, SAVINGS AND LOAN ASSOCIATION, OR INDUSTRIAL BANK OR THE CREDIT UNION, AS THE CASE MAY BE, MAY REQUIRE THE DEPOSITOR TO GIVE NOTICE OF AN INTENDED WITHDRAWAL NOT LESS THAN THIRTY (30) DAYS BEFORE THE WITHDRAWAL IS MADE, EVEN THOUGH IN PRACTICE SUCH NOTICE IS NOT REQUIRED AND THE DEPOSITOR IS ALLOWED TO MAKE WITHDRAWAL BY NEGOTIABLE ORDER OF WITHDRAWAL OR SHARE DRAFT.

(b) It is unlawful to commit fraud by check. Any person knowing he has insufficient funds with the drawee, who, with intent to defraud issues a check in an amount less than ONE THOUSAND DOLLARS (\$1,000.00) ~~five hundred~~

~~dollars (\$500.00)~~ for the payment of services, wages, salary, commissions, labor, rent, money, property, or other thing of value commits fraud by check.

(c) Any person who opens a checking account, negotiable order of withdrawal account, or share draft account using false identification or an assumed name for the purpose of issuing fraudulent checks commits a violation of this subsection.

(d) If deferred prosecution or judgment or probation is ordered, the Court as a condition may require the defendant to make restitution on all checks issued by the defendant which are unpaid as of the date of commencement of the deferred prosecution, judgment or probation in addition to other terms and conditions appropriate for the treatment or rehabilitation of the defendant.

(e) This Section does not relieve the prosecution from the necessity of establishing the required culpable mental state. However, for purposes of this Section, the issuer's knowledge of insufficient funds is presumed, except in the case of A postdated check or order, if:

(1) He OR SHE has no account upon which the check or order is drawn with the bank or other drawee at the time he OR SHE issues the check or order; or

(2) He OR SHE has insufficient funds upon deposit with the bank or other drawee to pay the check or order, on presentation within thirty (30) days after issue.

(F) ANY PERSON HAVING ACQUIRED RIGHTS WITH RESPECT TO A CHECK WHICH IS NOT PAID BECAUSE THE DRAWER HAS INSUFFICIENT FUNDS SHALL HAVE STANDING TO FILE A COMPLAINT UNDER THIS SECTION, WHETHER OR NOT HE OR SHE IS THE PAYEE, HOLDER OR BEARER OF THE CHECK.

(G) A BANK, SAVINGS AND LOAN ASSOCIATION, INDUSTRIAL BANK OR A CREDIT UNION SHALL NOT BE CIVILLY OR CRIMINALLY LIABLE FOR RELEASING INFORMATION RELATING TO THE DRAWER'S ACCOUNT TO A POLICE OFFICER OR AUTHORIZED INVESTIGATOR FOR THE POLICE DEPARTMENT INVESTIGATING OR PROSECUTING A CHARGE UNDER THIS SECTION.

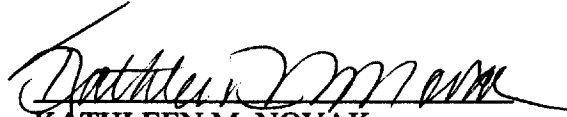
Section 6. Section 9-2-12 of the Northglenn Municipal Code is hereby amended as follows:

Sec. 9-2-12. Theft by receiving.

It is unlawful for any person to knowingly receive, retain or loan money

by pawn or pledge on, or dispose of anything having a value of less than ONE THOUSAND DOLLARS (\$1,000.00) ~~five hundred dollars (\$500.00)~~ belonging to another, knowing or believing that said thing of value has been stolen, and when he OR SHE intends to deprive the lawful owner permanently of the use or benefit of the thing of value.

INTRODUCED, READ AND ORDERED POSTED this 13th day of Sept., 2007.


KATHLEEN M. NOVAK
Mayor

ATTEST:


DIANA L. LENTZ, CMC
City Clerk

PASSED ON SECOND AND FINAL READING this ____ day of _____, 2007.

KATHLEEN M. NOVAK
Mayor

ATTEST:

DIANA L. LENTZ, CMC
City Clerk

APPROVED AS TO FORM:


COREY Y. HOFFMANN
City Attorney