

**CITY OF WASILLA  
ORDINANCE SERIAL NO. 06-46**

**AN ORDINANCE OF THE WASILLA CITY COUNCIL AMENDING WMC CHAPTER 9.20, TRESPASSING, TO DESCRIBE THE OFFENSE OF TRESPASSING CONSISTENTLY WITH THE DESCRIPTION IN STATE STATUTES.**

---

\* **Section 1. Classification.** This ordinance is of a general and permanent nature and shall become part of the city code.

\* **Section 2. Amendment of section.** WMC 9.20.010, Trespass on public and private property and vehicles, is amended as follows:

9.20.010 Trespass [ON PUBLIC AND PRIVATE PROPERTY AND VEHICLES].

A. **No** [A] person may [NOT] knowingly enter or remain **in or upon a building or real property,** [ON PRIVATE RESIDENTIAL PROPERTY] or in a [PRIVATELY OWNED] vehicle [WITHOUT THE CONSENT OF THE OWNER OR OWNER'S AGENT, OR WITHOUT A LEGAL PRIVILEGE TO DO SO.];

[B. A PERSON MAY NOT KNOWINGLY ENTER OR REMAIN ON DEVELOPED OR UNDEVELOPED PUBLIC, BUSINESS, OR COMMERCIAL PROPERTY, OR IN A VEHICLE OWNED BY A PUBLIC ENTITY:]

1. **When the building, real property or vehicle, at the time of the entry or remaining,** [IN A LOCATION WHICH] is not open to the public **and when the person is not otherwise privileged to do so;**

2. In violation of a prominently posted notice against trespass, limiting or prohibiting authorized uses, or limiting hours of authorized occupancy or operation; **or**

**Bold and underline added.** [CAPS AND BRACKETS, DELETED.]

3. When the person has actual notice that the property is not open to him or her[; OR].

**B [4]. No person may fail to leave a building, real property or vehicle that is open to the public after being lawfully directed to do so personally by the person in charge** [AFTER THE PERSON HAS BEEN REQUESTED TO LEAVE BY SOMEONE WITH ACTUAL OR APPARENT AUTHORITY TO DO SO.

C. IT IS AN AFFIRMATIVE DEFENSE TO PROSECUTION FOR TRESPASS ON PUBLIC PROPERTY THAT THE PERSON CHARGED WAS ENGAGED IN THE LEGITIMATE EXPRESSION OF RIGHTS GRANTED BY THE FIRST AMENDMENT TO THE CONSTITUTION OF THE UNITED STATES OR SIMILAR RIGHTS GRANTED BY THE CONSTITUTION OF THE STATE OF ALASKA, AND THAT EXPRESSION DID NOT:

1. PHYSICALLY OBSTRUCT OR DELAY ACCESS, ENTRANCE OR EXIT TO AND FROM THE PROPERTY;

2. INTENTIONALLY, KNOWINGLY OR RECKLESSLY INTIMIDATE USERS, RESIDENTS, OWNERS, OR OCCUPANTS OF THE PROPERTY;

3. OCCUR AT AN UNREASONABLE TIME, OR IN A UNREASONABLE PLACE OR MANNER;

4. VIOLATE THE TERMS OF ANY COURT ORDER OR JUDGMENT, OFFICIAL PERMIT, OR WRITTEN AGREEMENT BETWEEN THE AFFECTED PARTIES; OR

5. ENDANGER THE PUBLIC WELFARE OR SECURITY.]

**Bold and underline added.** [CAPS AND BRACKETS, DELETED.]

\* **Section 3. Adoption of section.** WMC 9.20.015, Defense—Exercise of First Amendment rights, is adopted as follows:

**9.20.015 Defense—Exercise of First Amendment rights.**

**It is an affirmative defense to prosecution for trespass on public property that the person charged was engaged in the legitimate expression of rights granted by the First Amendment to the Constitution of the United States or similar rights granted by the Constitution of the State of Alaska, and that the expression did not:**

**1. Physically obstruct or delay access, entrance or exit to and from the property;**

**2. Intentionally, knowingly or recklessly intimidate users, residents, owners, or occupants of the property;**

**3. Occur at an unreasonable time, or in an unreasonable place or manner;**

**4. Violate the terms of any court order or judgment, official permit, or written agreement between the affected parties; or**

**5. Endanger the public welfare or security.**

\* **Section 4. Amendment of section.** WMC 9.20.020, Unauthorized entry, is amended as follows:

**9.20.020 Defense—Emergency use of building [UNAUTHORIZED ENTRY].**

**It is an affirmative defense to prosecution for trespass in a building or vehicle that [NO PERSON MAY KNOWINGLY ENTER, USE OR OCCUPY ANY**

**Bold and underline added. [CAPS AND BRACKETS, DELETED.]**

DWELLING OR OTHER STRUCTURE, OR VEHICLE, OR USE ANY PERSONAL PROPERTY THEREIN, UNLESS:

A. CONSENT TO DO SO IS GRANTED BY THE OWNER OR OWNER'S AGENT; OR

B. AN EMERGENCY EXISTS IN WHICH] the entry, use or occupancy is for an emergency in the case of [REQUIRED BY AN] immediate and dire need, and the person contacts the owner or owner's agent within fifteen (15) days after entering or using the property, or, if the owner is unknown, contacts the city police department, and makes a report of the time of entry, use or occupancy of the property and any damage to the property, unless a notice waiving the necessity for such report is posted on the property by the owner or the owners' agent.

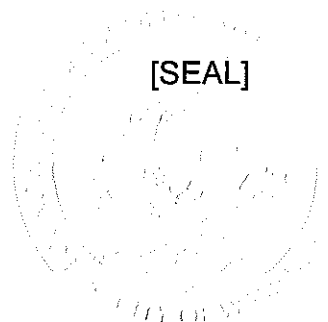
\* **Section 5. Effective date.** This ordinance shall take effect upon adoption by the Wasilla City Council.

ADOPTED by the Wasilla City Council on December 11, 2006.

  
\_\_\_\_\_  
DIANNE M. KELLER, Mayor

ATTEST:

  
\_\_\_\_\_  
KRISTIE SMITHERS, MMC  
City Clerk



**Bold and underline added.** [CAPS AND BRACKETS, DELETED.]



**CITY OF WASILLA  
LEGISLATION STAFF REPORT**

**RE: ORDINANCE 06-46: TO AMEND WMC CHAPTER 9.20, TRESPASSING, TO DESCRIBE THE OFFENSE OF TRESPASSING CONSISTENTLY WITH THE DESCRIPTION IN STATE STATUTES.**

Agenda of: November 27, 2006  
Originator: Chief John Glass

Date: October 25, 2006

Route to:	Department	Signature/Date
X	Police Chief Youth Court, Dispatch, Code Compliance	<i>John J. Glass 11/06/06</i>
	Finance, Risk Management & MIS Director Purchasing	
X	Deputy Administrator Planning, Economic Development, Human Resources	<i>J. Harley 11/07/06</i>
X	City Clerk	<i>Bonnie</i>

REVIEWED BY MAYOR DIANNE M. KELLER:

*Dianne M. Keller*

FISCAL IMPACT:  yes or  no

Attachments: Proposed Ordinance No. 06-46

**SUMMARY STATEMENT:** In order to clarify the City trespass ordinance, it has been amended to eliminate the confusing and unnecessary modifiers of the term "property" -- public, private, business, commercial, etc., and using terms consistent with the description of criminal trespass in the second degree under state law (AS 46.330-11.46.350). The Police Department has encountered some issues involving citations for trespassing that have been dismissed solely on the language describing property within this ordinance. A review by the City Attorney recommended these changes to resolve the issues with the Court.