

CITY OF WHEAT RIDGE, COLORADO
INTRODUCED BY COUNCIL MEMBER LANGWORTHY
Council Bill No. 15
Ordinance No. 1470
Series of 2010

TITLE: AN ORDINANCE AMENDING ARTICLE I OF CHAPTER 26 OF THE WHEAT RIDGE CODE OF LAWS CONCERNING THE PROVISION FOR CONDITIONS OF APPROVAL IN THE ZONE CHANGE PROCESS

WHEREAS, the City Council of the City of Wheat Ridge is authorized by the Home Rule Charter and the Colorado Constitution and statutes to enact and enforce ordinances for the preservation of the public health, safety and welfare; and

WHEREAS, in the exercise of this authority, the City Council has previously enacted Article I of Chapter 26 of the Wheat Ridge Code of Laws (the "Code"), concerning zone changes; and

WHEREAS, the Council finds and determines that provisions must be in place to allow approval with conditions during the zone change process.

NOW THEREFORE BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF WHEAT RIDGE, COLORADO:

Section 1. Section 26-112 of the Code is amended to read:

Sec. 26-112. Private rezoning.

A. *Purpose.* A change of any zone district as shown on the official zoning map is permitted only when it is consistent with the goals and policies of the Wheat Ridge Comprehensive Plan and promotes the general welfare of the community. If a proposed amendment is not consistent with the comprehensive plan, then the request may only be approved if the applicant demonstrates that the request is justified because of changed or changing conditions in the particular area or in the city in general, or the rezone is necessary to correct a manifest error in the existing zone classification. A manifest error may include, but may not be limited to, one (1) or more of the following:

1. Mapping errors, including incorrect boundary location or incorrect zone designation, or
2. Ordinance errors, including incorrect zone designation, legal description error or typographical errors. The final decision on a change of zone expressly rests in the exercise of the discretion of the city council and all applicants are advised there is no right to a change of zone of property.

E. *Planning commission review.* The planning commission shall hear and consider any evidence or statement presented by the applicant, city staff, or by any person in attendance at the hearing. The planning commission shall then make a recommendation to city council to approve, **approve with conditions**, or deny the application, basing its recommendation upon the facts presented in the public hearing in consideration of the criteria for review as specified above.

F. *City council review.* City council shall review and decide upon all requests for change of zone, upon recommendation of the planning commission for approval, approval with conditions, or for denial. Change of zone may only be approved by passage of an ordinance following the city's standard ordinance adoption procedures. Notice of public hearing shall be by publication, letter and site posting in the manner provided in section 26-109 hereof. City council, in addition to consideration of the planning commission record, shall hear additional evidence and testimony presented and either approve, approve with conditions, or deny the ordinance. City council shall base its decision upon all evidence presented, with due consideration of the criteria for review.

Section 2. Safety Clause: The City of Wheat Ridge hereby finds, determines, and declares that this Ordinance is promulgated under the general police power of the City of Wheat Ridge, 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 the Ordinance bears a rational relation to the proper legislative object sought to be attained.


Section 3. Severability; Conflicting Ordinances Repealed. If any section, subsection or clause of this Ordinance shall be deemed to be unconstitutional or otherwise invalid, the validity of the remaining sections, subsections and clauses shall not be affected thereby. All other ordinances or parts of ordinances in conflict with the provisions of this Ordinance are hereby repealed.

Section 4. Effective Date. This Ordinance shall take effect fifteen (15) days after final publication, as provided by Section 5.11 of the Charter.

INTRODUCED, READ, AND ADOPTED on first reading by a vote of 7 to 0 on this 26th day of July, 2010, ordered published in full in a newspaper of general circulation in the City of Wheat Ridge and Public Hearing and consideration on final passage set for **August 23, 2010, at 7:00 o'clock p.m.**, in the Council Chambers, 7500 West 29th Avenue, Wheat Ridge, Colorado.


READ, ADOPTED AND ORDERED PUBLISHED on second and final reading by a vote of 8 to 0, this 23rd day of August, 2010.

SIGNED by the Mayor on this 23rd day of August, 2010.



Jerry DiTullio, Mayor

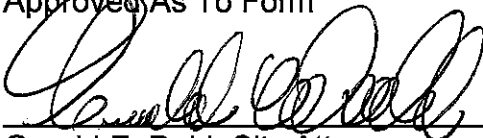
ATTEST:



Michael Snow, City Clerk



Approved As To Form



Gerald E. Dahl, City Attorney

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