

CITY OF WHEAT RIDGE, COLORADO
INTRODUCED BY COUNCIL MEMBER STITES
Council Bill No. 18
Ordinance No. 1521
Series of 2012

**TITLE: AN ORDINANCE AMENDING SUBSECTION 4-34(E) OF THE
WHEAT RIDGE CODE OF LAWS, CONCERNING KENNEL
LICENSE REQUIREMENTS, TO PROHIBIT VARIANCES THAT
CONFLICT WITH THE CITY'S ZONING REGULATIONS**

WHEREAS, the City of Wheat Ridge, Colorado (the "City"), is a Colorado home rule municipality, duly organized and existing pursuant to Section 6 of Article XX of the Colorado Constitution; and

WHEREAS, pursuant to its home rule authority and C.R.S. § 31-15-401(1)(m), the City, acting through its City Council (the "Council"), is authorized to regulate the keeping of animals within the City; and

WHEREAS, pursuant to this authority, the Council previously adopted dog and cat kennel license requirements, including the imposition of a maximum number of dogs and cats permitted, codified as Section 4-34 of the Wheat Ridge Code of Laws ("Code");

WHEREAS, Code Subsection 4-34(e) authorizes the Chief of Police to grant variances from the requirements of Section 4-34; and

WHEREAS, in rendering a decision on such a variance application, Code Subsection 4-34(e) does not currently authorize the Chief of Police to consider whether the keeping of animals proposed by the variance is permitted or prohibited by the City's zoning regulations, codified as Chapter 26 of the Code; and

WHEREAS, as a result, the Chief of Police could grant a kennel license variance application that authorizes a use of property that is prohibited by another portion of the Code; and

WHEREAS, while the City's zoning regulations are valid and enforceable against a property regardless of action taken by the Chief of Police on a kennel license variance application for the same property, City staff believes it would provide clarity and consistency to the Code to prohibit Chapter 4 variances that conflict with the City's zoning regulations.

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

Section 1. Subsection 4-34(e) of the Wheat Ridge Code of Laws, concerning kennel license requirements, is hereby amended as follows:

- (e) This section shall not apply to and will not be construed to require a kennel license for any pet shop which sells animals of less than six (6) months of age.

Any person or business applying for or holding a kennel license must be currently licensed by the State of Colorado. Pursuant to the Pet Animal Care and Facilities Act, C.R.S. §§ 35-80-101—35-80-117.

The issuance of a new kennel license shall be based on the following minimum requirements:

Application for a new kennel license or for transfer of an existing license shall be made to and a recommendation of approval obtained from the ANIMAL WELFARE AND CONTROL commission. The application shall include a detailed description of the property to be licensed.

The ANIMAL WELFARE AND CONTROL commission may require a public hearing before a new kennel license is recommended for approval. The hearing shall be posted and published in the same manner as in section 26-6.

The animal welfare and control commission shall have the authority to conduct a hearing to consider whether to recommend that the chief of police grant a variance to subsection (a) above as to the number of animals permitted and the ANIMAL WELFARE AND CONTROL commission shall inform the chief of police of its decision.

The recommendation of the ANIMAL WELFARE AND CONTROL commission shall be forwarded to the chief of police, who shall act to approve, approve with conditions, or deny the application within thirty (30) days of the ANIMAL WELFARE AND CONTROL commission's recommendation. **THE CHIEF OF POLICE SHALL NOT APPROVE A VARIANCE APPLICATION THAT PROPOSES THE USE OF PROPERTY IN VIOLATION OF CHAPTER 26 OF THIS CODE.**

The chief of police may promulgate rules and regulations to establish minimum standards for the care and treatment of animals at any facility licensed under this section, after review and approval by the animal welfare and control commission.

Community service officers or any agent of the chief of police have the authority to inspect any licensed facility under this section during normal posted business hours.

Violations of any of this section may be brought before the animal welfare and control commission for review, and a hearing may be initiated by the ANIMAL WELFARE AND CONTROL commission for suspension, revocation or nonrenewal of the kennel license. The animal welfare and control commission may recommend, and the chief of police may revoke, suspend or not renew a license for failure to comply with any of the requirements of this section. No such action may be taken without prior notice to the licensee and an opportunity for the licensee to present evidence and testify. No decision by the chief of police under this section shall bind, alter, or affect a subsequent decision on a subsequent application, either for a new kennel license or for renewal of an existing license. Nothing in this section shall affect the independent authority of appropriate city officials to take action with respect to vicious animals, threats to public safety, or the enforcement of any other provision of this Code of Laws.

Section 2. Safety Clause. The City Council 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 8 to 0 on this 27th day of August, 2012, 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 September 10, 2012, 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 6 to 0, this 10th day of September, 2012.

SIGNED by the Mayor on this 10th day of September, 2012.



ATTEST:

Bruce Roome, Deputy
Janelle Shaver, City Clerk

[Signature]
Jerry DiTullio, Mayor

Approved As To Form
[Signature]
Gerald E. Dahl, City Attorney

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