

CITY OF WHEAT RIDGE, COLORADO
INTRODUCED BY COUNCIL MEMBER HOPPE
Council Bill No. 18
Ordinance No. 1630
Series of 2017

TITLE: AN ORDINANCE AMENDING CHAPTER 5 AND SECTION 16-115 OF THE WHEAT RIDGE CODE OF LAWS TO AUTHORIZE TEMPORARY WAIVERS FROM THE LIMITATION ON HOURS OF CONSTRUCTION ACTIVITY

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, the City, acting through its City Council (the "Council"), is authorized to adopt rules and regulations prohibiting certain conduct and defining general offenses that harm or pose a threat to the public health, safety or welfare; and

WHEREAS, pursuant to this authority, the Council previously established limitations on the permissible hours of construction activity within the City and provided remedies for violations of those limitations; and

WHEREAS, the Council finds that, in certain limited circumstances, permissible hours of construction activity might appropriately be broader than the general presumptive range to accommodate best construction practice if the City's authorization of such broader hours balances construction needs with potential impacts on the public welfare and the general desire to preserve residents' right to the quiet enjoyment of surrounding properties; and

WHEREAS, the Council therefore desires to establish a process by which waivers from the permissible hours of construction activity may be granted, but only after a case-specific review determines that the requested waiver has been justified as a necessary best construction practice or for other similar reason and balances builder/contractor needs with potential impacts to the general public health, safety or welfare or convenience of those residing and working in the relevant neighborhood.

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

Section 1. Section 5-38 of the Wheat Ridge Code of Laws, concerning building permit suspension and revocation, is hereby amended as follows:

Sec. 5-38. Revocation and suspension—Generally.

The building inspection division may revoke or suspend any permit or may stop the work for any of the following reasons:

- (1) Whenever there is a violation or suspicion of a violation of any provision of this chapter, OR any city ordinance which the division is empowered to enforce ~~or section 16-115 of this Code, concerning permissible hours of construction activities.~~
- (2) Whenever the continuance of any work becomes dangerous to life or property.

Section 2. Chapter 5 of the Wheat Ridge Code of Laws, concerning building regulations, is hereby amended by the addition of a new Section 5-46, to read in its entirety as follows:

SEC. 5-46. PERMISSIBLE HOURS OF CONSTRUCTION ACTIVITIES; TEMPORARY WAIVERS.

(a) CONSTRUCTION ACTIVITIES ARE LIMITED TO THE HOURS OF SEVEN (7:00) A.M. TO SEVEN (7:00) P.M. OF THE SAME CALENDAR DAY, WITH THE FOLLOWING EXCEPTIONS:

- (1) CONSTRUCTION ACTIVITIES REQUIRED TO ADDRESS AN IMMEDIATE THREAT TO THE HEALTH, SAFETY OR WELFARE OF ANY PERSON.
- (2) CONSTRUCTION ACTIVITIES THAT DO NOT OTHERWISE VIOLATE SECTION 16-103 OF THIS CODE, CONCERNING UNREASONABLE NOISE AND DISTURBING THE PEACE.

(3) CONSTRUCTION ACTIVITIES AUTHORIZED BY A TEMPORARY WAIVER FROM THE REQUIREMENTS OF THIS SECTION ISSUED BY THE COMMUNITY DEVELOPMENT DIRECTOR. ANY PERSON MAY FILE A WRITTEN REQUEST FOR A TEMPORARY WAIVER FROM THIS SECTION TO THE COMMUNITY DEVELOPMENT DIRECTOR, NO LESS THAN FOURTEEN (14) DAYS BEFORE THE FIRST DAY OF THE PROPOSED CONSTRUCTION ACTIVITY, SPECIFYING THE PROPOSED SCOPE OF WORK, DATES AND HOURS OF CONSTRUCTION ACTIVITY AND HOW THE PROPOSED ACTIVITY MEETS THE REQUIREMENTS OF THIS PARAGRAPH (3). IN AN APPLICATION FOR A WAIVER, THE BURDEN SHALL BE ON THE APPLICANT TO ESTABLISH THAT THE EXPANDED HOURS ARE NECESSARY BASED ON CONSTRUCTION RELATED BEST PRACTICE OR CONVENIENCE AND PROVIDED THAT EVERY EFFORT HAS BEEN MADE TO MINIMIZE DETRIMENTAL IMPACTS TO THE GENERAL HEALTH, WELFARE, SAFETY AND CONVENIENCE OF PERSONS RESIDING OR WORKING IN THE NEIGHBORHOOD AND THE EXPANDED HOURS WILL NOT BE INJURIOUS TO PROPERTY OR IMPROVEMENTS IN THE COMMUNITY. THE COMMUNITY DEVELOPMENT DIRECTOR IS AUTHORIZED TO IMPOSE CONDITIONS AND LIMITATIONS ON ANY GRANTED WAIVER DESIGNED TO ENSURE THAT THE REQUIREMENTS OF THIS PARAGRAPH ARE MET. UPON APPROVAL OF A TEMPORARY WAIVER THE COMMUNITY DEVELOPMENT DIRECTOR SHALL PROMPTLY PROVIDE WRITTEN NOTICE OF SAID WAIVER TO PROPERTY OWNERS WITHIN 300 FEET OF THE PROPERTY FOR WHICH THE WAIVER HAS BEEN GRANTED. THE COMMUNITY DEVELOPMENT DIRECTOR MAY REVOKE, SUSPEND OR MODIFY ANY PREVIOUSLY-GRANTED WAIVER UPON A FINDING THAT ANY ACTIVITY CONDUCTED THEREUNDER HAS FAILED TO SATISFY THE REQUIREMENTS OF THIS PARAGRAPH OR HAS VIOLATED ANY TERM OR CONDITION OF THE WAIVER. THE APPLICANT SHALL BE PROMPTLY NOTIFIED OF ANY SUCH REVOCATION, SUSPENSION OR MODIFICATION IN WRITING, WHICH NOTICE SHALL BE SENT BY CERTIFIED MAIL, RETURN RECEIPT REQUESTED, TO THE MAILING ADDRESS PROVIDED IN THE WAIVER APPLICATION, AND POSTED IN A CONSPICUOUS PLACE AT THE WORK SITE.

(B) AS USED IN THIS SECTION, "CONSTRUCTION ACTIVITIES" INCLUDES ALL ACTIVITIES RELATED TO THE BUILDING, REPAIR, MAINTENANCE OR ALTERATION OF A BUILDING OR STRUCTURE FOR WHICH A PERMIT IS REQUIRED BY THIS CHAPTER, BY WAY OF ILLUSTRATION ONLY AND NOT BY WAY OF LIMITATION: POURING CONCRETE AND IDLING OF CONCRETE MIXING TRUCKS; OPERATING CONSTRUCTION-RELATED EQUIPMENT; PERFORMING OUTSIDE CONSTRUCTION WORK FOR THE PURPOSES OF ERECTION, DEMOLITION, EXCAVATION, ALTERATION OR REPAIR OF ANY BUILDING, STRUCTURE OR PROJECT; OPERATING A PILE DRIVER, POWER SHOVEL, PNEUMATIC HAMMER, DERRICK, POWER HOIST OR OTHER CONSTRUCTION-TYPE DEVICE; AND LOADING AND UNLOADING OF CONSTRUCTION MATERIALS OR IDLING OF DELIVERY TRUCKS.

Section 3. Section 16-115 of the Wheat Ridge Code of Laws, establishing restricted construction hour activities as a general offense, is hereby amended as follows:

Sec. 16-115. Construction activities – hours restricted. EXCEPTIONS

(a) Except as otherwise provided herein, it is unlawful for any person to engage in, or cause or permit any person to be engaged in, construction activities in any residential or commercial district between the hours of seven (7:00) p.m. of one day and seven (7:00) a.m. of the following day.

(B) CONSTRUCTION ACTIVITIES EXCEPTED FROM THE SCOPE OF THIS SECTION ARE THOSE ~~Construction activities~~ required to address an immediate threat to the health, safety or welfare of any person; ~~are exempted from the provisions of this section.~~ THOSE THAT DO NOT OTHERWISE VIOLATE SECTION 16-103 OF THIS CODE, CONCERNING UNREASONABLE NOISE AND DISTURBING THE PEACE; AND THOSE AUTHORIZED BY A WAIVER ISSUED UNDER PARAGRAPH 5-46(A)(3) OF THIS CODE.

(b) As used in this section, "construction activities" includes, by way of illustration only and not by way of limitation: pouring concrete and idling of concrete mixing trucks; operating construction-related equipment; performing outside construction work for the purposes of erection, demolition, excavation, alteration or repair of any building, structure or project; operating a pile driver, power shovel, pneumatic hammer, derrick, power hoist or other construction-type device; and loading and unloading of construction materials or idling of delivery trucks, ~~specifically excluding interior construction activities that do not otherwise violate section 16-103 of this Code.~~

Section 4. 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 5. Severability; Conflicting Ordinances Repealed. If any section, subsection or clause of this Ordinance shall be deemed 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 6. 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 13th day of November, 2017, 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 November 27, 2017, 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 27th day of November, 2017.

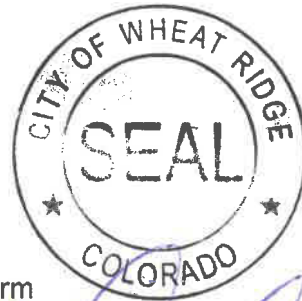
SIGNED by the Mayor on this 27th day of November, 2017.



Bud Starker, Mayor

ATTEST:



Janelle Shaver, City Clerk

Approved As To Form



Gerald E. Dahl, City Attorney

First Publication: November 16, 2017
Second Publication: November 30, 2017
Wheat Ridge Transcript
Effective Date: December 15, 2017