

**CITY OF WHEAT RIDGE, COLORADO
INTRODUCED BY COUNCIL MEMBER HOPPE
COUNCIL BILL NO. 19
ORDINANCE NO. 1750
Series 2022**

TITLE: AN ORDINANCE AMENDING ARTICLE IV OF CHAPTER 26 OF THE WHEAT RIDGE CODE OF LAWS, CONCERNING REQUIREMENTS FOR FINAL SUBDIVISION PLATS, AND IN CONNECTION THEREWITH, ADDRESSING RACE AND RELIGION-BASED COVENANTS ON TITLE

WHEREAS, the City of Wheat Ridge is a home rule municipality having all powers conferred by Article XX of the Colorado Constitution; and

WHEREAS, pursuant to its home rule authority and C.R.S. § 31-23-101, the City, acting through its City Council (the “Council”), is authorized to adopt ordinances for the protection of the public health, safety or welfare; and

WHEREAS, in the exercise of this authority, the Council has previously adopted Article IV of Chapter 26 of the Wheat Ridge Cde of Laws concerning subdivision regulation; and

WHEREAS, on July 25, 2022, the Council adopted Resolution No. 33, a resolution declaring race and religion-based covenants on real property within the City to be illegal and unenforceable, and in connection therewith directing City staff to take certain actions in relation thereto; and

WHEREAS, the resolution directed City staff to bring forward for Council consideration an ordinance amending the City's Land Use Code to require that a plat note be affixed on resubdivisions of property advising that race and religion-based covenants on real property are illegal and unenforceable.

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

Section 1. Section 26-410 of the Wheat Ridge Code of Laws is hereby amended by the addition of a new subparagraph C.1.I, as follows:

Sec. 26–410. Application contents.

A. *Application contents . . .*

B. *Form of final plat . . .*

C. *Content of final plat*

1. *Project information*

a. Title of document . . .

k. Case history box with reference case numbers, and

l. **PLAT NOTE IN THE FORM OF, AND IF REQUIRED BY, CODE SECTION 26-421 DECLARING RACE OR RELIGION-BASED**

COVENANTS ON THE SUBJECT PROPERTY, IF ANY, TO BE
ILLEGAL AND UNENFORCEABLE

Section 2. . The Wheat Ridge Code of Laws is amended by the addition of a new Section 26-421, to read as follows:

Sec. 26-421 Plat notes concerning race and religion-based covenants.

In the event the property which is subject to subdivision or resubdivision pursuant to this Article IV is determined by the community development director in his or her reasonable opinion to be subject to or burdened by any pre-existing race or religion-based covenants, as the same have been declared illegal and unenforceable by the United States Supreme Court in *Shelley v Kraemer*, 334 US 1 (1948), the Colorado Supreme Court in *Capital Federal Savings and Loan Association v. Smith*, 316 P2d 252 (1957), the Colorado state legislature pursuant to CRS §38-30-169, and the Wheat Ridge City Council by Resolution No. 33, Series 2022, the form of final plat required by Code Section 26-410.C shall include the following plat note:

TO THE EXTENT THE REAL PROPERTY WHICH IS THE SUBJECT OF THIS PLAT CONTAINS A RACE AND/OR RELIGION-BASED RESTRICTIVE COVENANT, PURSUANT TO *SHELLEY V KRAEMER*, 334 US 1 (1948), *CAPITAL FEDERAL SAVINGS AND LOAN ASSOCIATION V. SMITH*, 316 P2d 252 (1957), CRS §38-30-169, AND RESOLUTION NUMBER 33, SERIES 2022 OF THE WHEAT RIDGE CITY COUNCIL, ANY SUCH COVENANT IS ILLEGAL AND UNENFORCEABLE, AND MAY BE REMOVED BY PRIVATE OWNERS PURSUANT TO CRS 38-30-169-170.


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 10th day of October 2022, 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 December 12, 2022 at 7:00 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 12th day of December, 2022.

SIGNED by the Mayor on this 14th day of December, 2022.



Bud Starker, Mayor

ATTEST:



Stephen Kirkpatrick, City Clerk

Approved as to Form



Gerald E. Dahl, City Attorney

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