

CITY OF WHEAT RIDGE, COLORADO
INTRODUCED BY COUNCIL MEMBER DOZEMAN
COUNCIL BILL NO. 14
ORDINANCE NO. 1766
Series 2023

TITLE: AN ORDINANCE AMENDING ARTICLE XI OF CHAPTER 26 OF THE WHEAT RIDGE CODE OF LAWS CONCERNING REQUIREMENTS FOR MIXED USE ZONE DISTRICTS

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 XI of Chapter 26 of the Code of Laws, concerning mixed use zone district requirements;

WHEREAS, the Council recognizes that from time to time the City’s zoning code needs to be updated to establish standards not included in original regulations, to include modern terms and uses, and to provide clarity to City staff and the public;

WHEREAS, the Council finds that the mixed use code requirements in Article XI of Chapter 26 have not been comprehensively reviewed or updated since their adoption in 2010 and require revision.

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

Section 1. Section 26-1104 of the Wheat Ridge Code of Laws, concerning building height requirements for mixed use zones, is hereby revised as follows:

Sec. 26-1104. – Building height and residential density.

- A. Principle. Taller buildings allow for a range of uses within one (1) structure and encourage a compact form of development that is focused on pedestrian connections. Buildings with a similar range in height help to define the street wall and create an architectural identity for a corridor or area.
- B. The following table establishes required building heights. Whatever measurement is more restrictive—maximum stories or maximum feet—shall apply.

Building Height Requirements

	MU-C	MU-C Interstate	MU-C TOD	MU-N
Minimum height (a)	20'	20'	20'	none
Maximum height				
Mixed use building	6 stories (90')	8 stories (118')	8 stories (118')	see C. below
Single use building	4 stories (62')	6 stories (90')	6 stories (90')	<u>see C. below</u>
<u>Accessory building</u>	<u>20'</u>	<u>20'</u>	<u>20'</u>	<u>15', except detached ADUs which may be up to 25'</u>

Notes:

(a) Minimum height requirements shall not apply to accessory buildings.

- C. In the MU-N district, any building containing a residential use shall have a maximum height of thirty-five (35) feet. All other buildings shall have a maximum height of fifty (50) feet.
- D. **Building height and city charter.** Where there is conflict regarding maximum building heights between this section and the city charter, the maximums established in the city charter **section 5.10.1** shall apply.
- E. A parapet wall may be utilized to meet the minimum height requirement.
- F. For buildings over seventy-five (75) feet in height, see section 26-1106.G, Upper Story Stepbacks.
- G. Any portion of a building that is within one hundred (100) feet of a residentially or agriculturally zoned lot that has a single- or two-unit residential use shall not exceed a height of four (4) stories or sixty-two (62) feet, whichever is more restrictive. The one-hundred-foot distance shall be measured from the nearest property line of the residentially or agriculturally zoned lot. This requirement shall not apply where an arterial or collector street separates the building from the residential use.
- H. **Density of residential dwelling units and city charter.** **There shall be no density restrictions established with the mixed-use zone districts to limit the number of residential dwelling units per acre. To the extent of conflict regarding maximum residential density between this section and the city charter, the maximum of twenty-one (21) units per acre established in the city charter section 5.10.1 shall control.**
- I. **Height incentive for structured parking. Refer to Section 26-1109.G.**

Section 2. Section 26-1105 of the Wheat Ridge Code of Laws, concerning building placement and orientation for mixed use zones, is hereby revised as follows:

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B. *Public entrances.* All buildings are encouraged to have at least one (1) public entry that faces the primary or secondary street.

1. Within the MU-N **and MU-C TOD** sub-districts, each building shall have at least one (1) main public entry that faces the primary street or a public space adjacent to the building. For corner lots with more than one (1) street frontage, the public entry may be oriented toward the corner.

2. In all districts, for development sites with more than one (1) structure, those buildings that do not directly front a street shall have at least one (1) primary entrance that adjoins a pedestrian **walk of at least five (5) feet in width**. The primary entrance should be connected to the street by a walkway **at least five (5) feet in width** that is clearly defined and separated from parking areas.

C. *Building setbacks.*

Building Setbacks (Primary and Accessory)		
	MU-C	MU-N
Minimum side setback	0'	0'
Minimum rear setback	5'	5'
Where abutting a residentially or agriculturally zoned lot that contains a single- or two-unit residential use (see § 26-1106.H Residential Transitions):		
Minimum side and rear setback: 1-2 story building	10'	10'
Minimum side and rear setback: 3 story building	15'	15'
Minimum side and rear setback: 4 story building and higher	20'	20'
<u>Minimum side and rear setback: Accessory building</u>	<u>5'</u>	<u>5', except for a 2-story ADU which shall be 10'</u>

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E. *Build-to areas.* Build-to areas are intended to bring building façades toward the street. A build-to area requires that a minimum portion of each development site's street frontage is occupied by a building, encouraging an active and interesting street frontage. The following table establishes build-to requirements for each district.

Build-To Areas		
	MU-C	MU-N

Primary Street Frontage		
Build-to area	0' — 20'	0' — 12'
Linear portion of build-to area that must contain building façade (minimum) See Figures 2 and 3	50% <u>(60 % for MU-C TOD)</u>	60%
Secondary Street Frontage		
Build-to area	0' — 20'	0' — 12'
Linear portion of build-to area that must contain building façade (minimum) See Figures 2 and 3	30%	30%

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5. Accessory buildings shall not be located in the primary street frontage build-to area with the following exceptions:

- **If built in line with a primary building to allow garage access from an internal drive, provided that the site meets required primary build-to percentage without factoring in the accessory building, and that garage doors do not face public streets.**
- **If part of an outdoor gathering or dining area such as a freestanding patio cover or pergola.**
- **If a kiosk-style building that includes an active public commercial use such as retail or food and/or beverage sales.**

F. *Attached residential development.* The following requirements shall apply to single attached dwellings as defined in section 26-1119.

1. For units adjacent to public streets, front doors shall be located on the façade that faces the public right-of-way. For developments with more than one (1) building, street-facing orientation of front doors is not required for all buildings or dwelling units but shall be the predominant orientation across the overall development, **as determined by the community development director.**

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Section 3. Section 26-1106 of the Wheat Ridge Code of Laws, concerning building design requirements for mixed use zones, is hereby revised as follows:

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C. Materials.

1. Only primary building materials shall be used for all façades. Primary building materials include, but are not limited to:

- Brick.
- Stone.

- Architectural pre-cast concrete.
- Synthetic brick and masonry materials, **subject to the approval of the community development director to ensure quality.**
- Hard coat stucco.
- Integral textured colored concrete block.
- Terra-cotta.
- Architectural metal panels.
- **Cement board siding or board and batten, with the following additional requirements:**
 - **Shall only be used as a material if additional primary materials such as brick, stone, or stucco are also used on the façade.**
 - **Shall not exceed 75% of any façade facing a public street or publicly accessible open space.**
 - **Shall not be the predominant material on a public-facing ground floor façade.**

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4. Material variation: All building façades that face a street or public space shall have at least one (1) change in material for each ten (10) feet (and portion thereof) of wall height. A change in material must be at least twelve (12) inches in height. Masonry patterns, such as headers or rowlocks, can count as a change of material. Windows, canopies, and doorways will not count as a change of material.

- **As an exception, building façades may be predominantly brick or masonry materials and no material variation shall be required, provided changes in the brick pattern (such as headers or rowlocks) are included. This exception shall not apply to synthetic brick or masonry materials.**
- **For gas station canopies, primary materials such as brick or stone shall be required around the canopy poles, at least two-thirds (2/3) of the total height of the pole.**

5. Accessory buildings: Accessory structure(s) shall have exterior materials that are architecturally compatible with the primary structure(s).

D. *Ground floor transparency.*

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4. Transparent doors and window mullions shall count as part of the transparent area. Structural elements and opaque or reflective glass shall not count toward the transparency requirement, except that up to twenty (20) percent of the transparency requirement for any, one (1) façade may be fulfilled by spandrel glass. **The percentage of non-reflective spandrel glass used may be increased in limited circumstances if**

back-of-house portions of buildings must face a public street, subject to the approval of the community development director.

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7. For nonresidential uses on corner lots, the minimum transparency required for the primary street façade may be transferred to the secondary street façade provided that the primary street transparency is not less than 30%.

E. *Drive-throughs and drive-ups.*

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2. Number of drive-up lanes. The following table specifies the maximum number of drive-up lanes allowed by district and sub-district:

Maximum Number of Drive-Up Lanes Allowed				
	MU-C	MU-C Interstate	MU-C TOD	MU-N
Max drive-up lanes	3	no limit	4 <u>not permitted</u>	1

3. Location of drive-up lanes. Drive-up lanes between the building and street are discouraged. Within the MU-N district ~~and MU-C TOD sub-district~~, the drive-up lane shall not be located between the building and the primary street (Figure 6).

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Figure 6: Drive-up Lane Location. Within the MU-N district ~~and MU-C TOD sub-district~~, the drive-up lane may not be located between the building and the primary street.

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F. *Screening—Loading, service areas, and utilities.*

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2. Screening elements shall be composed of materials consistent with the primary building. Wood and vinyl fences shall not be allowed as screening materials, **with the exception of four (4) foot tall wood fences being permitted to screen ground-mounted air conditioning units for residential development.** Screen walls and fences over ten (10) feet in length shall be bordered by a four-foot-wide landscape buffer.

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5. Rooftop equipment shall be screened by parapets or enclosures. Screening elements shall be composed of forms, materials, and colors that are compatible with the architectural qualities of the building, including

materials, scale, form, and color. The screening element shall be at least as tall as the item being screened and may be shorter than the equipment only if the equipment is set back so that it is not visible from the public right-of-way, to be demonstrated by the applicant.

The community development director may reduce or waive these screening requirements in the following circumstances:

- The equipment is not visible from the public right-of-way, adjacent residential properties, or adjacent public spaces, to be demonstrated by drawings by the applicant.
- The existing condition and construction of the roof makes attaching a new enclosure impractical or would compromise the integrity of the roof membrane.
- There is existing unscreened rooftop equipment and screening new facilities would result in a more conspicuous design.

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Section 4. Section 26-1107.C.1 of the Wheat Ridge Code of Laws, concerning screening requirements for surface parking lots, is hereby revised as follows:

1. Where a surface parking lot directly abuts a street or public space (1) or more of the following screening elements shall be used:

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- A vertical screening device, thirty (30) to ~~forty-six (46)~~ **forty-two (42)** inches in height. The screening device may be a continuous masonry wall constructed of stone, brick, or split face concrete block, a combination masonry pier and decorative iron railing, or any other decorative and durable screening device that is consistent with the materials of the primary building. Wood, chain link and vinyl picket fencing shall not be permitted. The screen must meet the sight triangle requirements in section 26-603.

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Section 5. Section 26-1109.G of the Wheat Ridge Code of Laws, concerning incentives for structured parking, is hereby revised to break up the existing paragraph into two subsections as follows:

G. Incentive for structured parking. ~~Except within the MU-N district, a building that incorporates underground or structured parking qualifies for the higher building heights allowed for mixed use buildings in the height requirements table in section 26-1104.B, even if that building is not mixed use. For a development site with a freestanding parking garage, the additional building height may be applied to a building within the development site that is served by the parking~~

structure. This height bonus shall not apply for parking structures that contain parking at the ground floor without at least one (1) nonresidential use.

1. Except within the MU-N district, a single use building that incorporates underground or structured parking qualifies for the higher building height allowed for mixed use buildings in the height requirements table in section 26-1104.B, even if that building is not mixed use.

2. For a development site with a freestanding parking garage, the additional building height may be applied to a building within the development site that is served by the parking structure. This height bonus applies only to parking structures that contain at least one nonresidential use at the ground floor.

Section 6. Section 26-1109.J of the Wheat Ridge Code of Laws, concerning bicycle parking requirements for mixed use zones, is hereby revised as follows:

J. Bicycle parking.

1. For nonresidential development, or portion thereof, bicycle parking spaces shall be required at a rate of one (1) bicycle parking space for every ~~ten (10)~~ ~~twenty (20)~~ automobile parking spaces. No nonresidential development shall provide less than four (4) bicycle parking spaces. **One (1) standard “Inverted U” bicycle rack shall be considered two (2) bicycle parking spaces.**

2. For **multi-unit and single attached** residential development, or portion thereof, bicycle parking spaces shall be required at a rate of one (1) bicycle parking space for every ~~four (4)~~ ~~ten (10)~~ units. No multi-unit residential development shall provide less than three (3) ~~four (4)~~ bicycle parking spaces. **One (1) standard “Inverted U” bicycle rack shall be considered two (2) bicycle parking spaces.**

3. Parking for bicycles shall be provided on site, **in addition to any bicycle parking required in the right-of-way by the streetscape design manual.** Bicycle parking areas shall be well-lighted and located not more than fifty (50) feet from the primary building entrance. Bicycle parking for residential uses is encouraged to be sheltered and secured.

4. Secured, indoor bicycle parking and storage is encouraged in multi-unit residential development and shall count towards the total number of spaces required, although a minimum of four (4) bicycle parking spaces shall be provided outside the building. Indoor bicycle parking shall take the form of a secured bicycle storage room.

Section 7. Section 26-1110 of the Wheat Ridge Code of Laws, concerning open space requirements for mixed use zones, is hereby revised as follows:

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D. *Minimum landscaping.* At least thirty-five (35) percent of the required open space area shall be composed of landscaped materials, including trees. **The minimum plant sizes required by section 26-502.F shall apply.**

E. *Usable open space.* For all development sites, at least seventy-five (75) percent of the required open space must be usable open space.

1. Usable open space includes open space, which by its configuration, size, and design, can be used for passive or active recreation.

2. Usable open space includes plazas, parks, outdoor dining areas, courtyards, **community gardens** and **publicly accessible** green roofs. Required buffers or parking lot landscaping shall not qualify as usable open space.

3. Land with a slope steeper than one (1) foot (vertical) in three (3) feet (horizontal) shall not qualify as usable open space.

4. Drainage ways, ponds, and other areas required for stormwater quality or detention may qualify as usable open space if such areas are designed for passive or active use and are landscaped with grass, shrubs, and/or trees. A list of recommended plants for stormwater detention areas is available through the community development department.

5. Walking paths or sidewalks of at least five (5) feet in width may count towards usable open space percentages if part of a pedestrian network such as a walking loop or paths through other usable open spaces such as a common lawn or plaza.

6. Private fenced yards for the exclusive use of a single owner or occupant of a dwelling unit shall qualify as open space, but not as usable open space.

~~F. Land planted for food production, including community gardens, shall qualify as open space, but not as usable open space.~~

F. Artificial turf. Artificial turf is prohibited except in limited circumstances for common areas and outdoor dining areas, such as central plazas, patios, play areas, or ball fields (but not private yard space or required landscape buffers) within the discretion of the community development director. Artificial turf shall not qualify as landscaped materials as required by Section 26-1110.D.

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I. The requirements of section 26-502 shall not apply within any mixed-use zone, **with the exception of the minimum plant sizes in 26-502.F.**

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Section 8. Section 26-1111.B of the Wheat Ridge Code of Laws, which contains the permitted use table for mixed use zones, is hereby revised as follows:

B. Permitted and **conditional** special uses are shown in the following table. This table, and not the table in section 26-204, shall apply for all of the mixed use zone districts. Uses not listed shall be deemed excluded.

Permitted Uses				
Use Group	MU-C	MU-C Interstate	MU-C TOD	MU-N
...				
Commercial Services and Retail				
Adult entertainment	NP	NP	NP	NP
Animal daycare facility (See § 26-644)	P	P	P	P
Bail bonds (per § 26-634)	C	C	NP	NP
Banks and financial institutions, no drive-through or drive-up	P	P	P	P
Banks and financial institutions, with drive-through or drive-up	C	P	⊖ NP	C
Bars, taverns, and night clubs	P	P	P	P
Bed and breakfast	P	P	P	P
Car washes	NP	C	NP	NP
Day care center, child and adult	P	P	P	P
Drive-up or drive-through uses (per § 26-1106.E)	C	P	⊖ NP	C
Eating establishment, sit down	P	P	P	P
Eating establishment, drive-through or drive-up	C	P	⊖ NP	C
Fast food eating establishment, drive-through or drive-up	C	P	⊖ NP	C
Food truck park	P	P	P	P
Massage business (See chapter 11, article X, Code of Laws for additional restrictions)	P	P	P	P
Microbrewery, microdistillery, or microwinery; with a tap room	P	P	P	P
Microbrewery, microdistillery, or microwinery; without a tap room	NP	P	NP	NP
Motor fueling stations	C	C	NP	C
Motor vehicles sales, outdoor display	NP	NP	NP	NP
Motor vehicle sales, indoor display	P	P	C	C
Outdoor storage	NP	NP	NP	NP
Pawn brokers	NP	NP	NP	NP
Personal services	P	P	P	P
Photocopying and printing	P	P	P	P
Produce stands (See § 26-636 and § 26-613 for home occupations)	P	P	P	P
Recreation facilities, commercial	P	P	P	P
Repair, rental and servicing of automobiles, no outdoor storage	C	P	C	C
Retail sales — up to 20,000 gsf for one tenant space	P	P	P	P
Retail sales — up to 60,000 gsf for one tenant space	P	P	C	C

Retail sales — over 60,000 gsf for one tenant space	C	C	NP	NP
Urban gardens (See § 26-637)	P	P	P	P
Veterinary clinics and hospitals, no outdoor runs, play yards, pens, or training areas	P	P	P	P
Hospitality and Entertainment				
Art studios and galleries	P	P	P	P
Hotels, motels, and extended stay lodging (See ch. 11, art. XVI)	P	P	P	P
Studios, including art, music, dance, television, and radio broadcasting stations	P	P	P	P
Theaters	P	P	P	P
Office and Industrial				
<u>Maker space/workshop</u>	<u>P</u>	<u>P</u>	<u>P</u>	<u>P</u>
Medical and dental clinics	P	P	P	P
Offices	P	P	P	P
Office-warehouse, no outdoor storage	C	C	C	NP
Outdoor storage	NP	NP	NP	NP
Restricted light industrial	C	C	C	NP
Wholesale	C	C	C	C

Section 9. Section 26-1111.C of the Wheat Ridge Code of Laws, concerning separation of drive-through uses, is hereby revised as follows:

C. Separation requirements for drive-through/drive-up uses. Where drive-through and drive-up uses are permitted in the permitted use table (section 26-1111.B) the following separation requirements shall apply. These separation requirements shall not apply in the MU-C Interstate sub-district and shall not apply to any mixed-use development that has an approved concept plan (per section 26-1116).

1. There shall be a minimum five-hundred-foot separation between fast food eating establishments with a drive-through, measured **in a straight line** radially from any fast-food drive-through use **from the nearest property line of each such use to the nearest property line of the same use (without regard to intervening structures or objects)**, including existing uses, regardless of zone district.

2. There shall be a minimum five-hundred-foot separation between all other drive-through/drive-up uses, including pharmacies, banks, and non-fast food eating establishments with a drive-up window, measured **in a straight line** radially from any drive-through/drive-up use **from the nearest property line to the nearest property line (without regard to intervening structures or objects)**, including existing uses, regardless of zone district.

3. Minimum separation requirements shall only apply to properties that did not have a legal, operating drive-through/drive-up use at the time of rezoning to a mixed-use zone district.

4. Measurements shall exclude drive-through/drive-up uses located outside of the City of Wheat Ridge corporate limits.

Section 10. Section 26-1111.D of the Wheat Ridge Code of Laws, concerning separation of motor fueling stations, is hereby revised as follows:

D. Separation requirements for motor fueling stations. Where motor fueling stations are permitted in the permitted use table (section 26-1111.B), the following separation requirements shall apply. These separation requirements shall not apply in the MU-C interstate sub-district and shall not apply to any mixed-use development that has an approved concept plan (per section 26-1116).

1. There shall be a minimum one-thousand-foot separation between motor fueling stations, measured **in a straight line** radially from any motor fueling **station from the nearest property line to the nearest property line (without regard to intervening structures or objects)**, including existing uses, regardless of zone district.

2. Minimum separation requirements shall only apply to properties that did not have a legal, operating fueling station use at the time of rezoning to a mixed-use zone district.

3. Measurements shall exclude fueling station uses located outside of the City of Wheat Ridge corporate limits.

Section 11. Section 26-1119 of the Wheat Ridge Code of Laws, defining certain terms applicable to Article XI of the Code, is hereby amended by the revision of certain definitions and the addition of the following new definitions in the appropriate alphabetical location, as follows:

Food truck park. An arrangement of parking, seating, and restroom facilities for multiple mobile retail food establishments (“food trucks”) to offer food and/or beverages for sale to the public as a primary use of a property. The site shall include a permanent building containing restroom facilities at a minimum, which may also include food and/or beverage preparation and sales and indoor seating.

Makerspace/workshop. A center for peer-to-peer or self-directed learning and knowledge sharing, in the form of but not limited to workshops, presentations, and lectures, and the use of shared workshop space, tools, and equipment, often on a membership basis. The use may involve elements of machine shops, workshops, and/or studios where people can come together to share resource and knowledge to build and make things, including but not limited to works of art.

music, crafts, literature, woodworking, welding, kiln work, CNC work, plasma cutting or other intellectual property; food or beverage; software, robots, and so forth. The use may also involve co-working. The use may also include social activities for members. The use may be a principal use or it may be a component of another use with an educational mission, such as a school or library. As a principal use, it may include accessory retail sales and accessory food and/or beverage sales.

Personal services. Establishments primarily engaged in providing services involving the care of a person and his or her personal goods or apparel. Personal services usually include the following: laundry (cleaning and pressing); linen supply, diaper service, beauty shops, barbershops, shoe repair, tailor/alterations shops, body art, photocopying and printing, and similar uses.

Section 12. 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 13. Effective Date. This Ordinance shall take effect 15 days after final publication.

INTRODUCED, READ, AND ADOPTED on first reading by a vote of 7 to 0 on this 12th day of June 2023, 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 June 26, 2023, at 6:30 p.m., as a virtual meeting and 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 7 to 0, this 26th day of June 2023.

SIGNED by the Mayor on this 28th day of June, 2023.



Bud Starker, Mayor

ATTEST:



Stephen Kirkpatrick, City Clerk



Approved as to Form

A handwritten signature in black ink, appearing to read "Gerald E. Dahl", written over a horizontal line.

Gerald E. Dahl, City Attorney

First Publication: June 15, 2023
Second Publication: June 29, 2023
Effective Date: July 14, 2023

Published:
Denver Post and www.ci.wheatridge.co.us