

CITY OF WHEAT RIDGE, COLORADO  
INTRODUCED BY COUNCIL MEMBER STITES  
Council Bill No. 12-2008  
Ordinance No. 1416

Series of 2008

TITLE: AN ORDINANCE AMENDING ARTICLE IX OF THE WHEAT RIDGE  
CODE OF LAWS CONCERNING HISTORICAL LANDMARK  
DESIGNATION

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 IX of Chapter 26 of the Wheat Ridge Code of Laws (the "Code"), concerning the designation of historical landmarks; and

WHEREAS, the Council finds and determines that the role of the Wheat Ridge Historical Society as set forth in Article IX of Chapter 26 is unnecessary; and

WHEREAS, the Council wishes to make other conforming changes.

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

**Section 1.** Section 26-903 of the Code is amended by the deletion of the following two definitions:

**26.903. Definitions.**

~~*Preservation specialist.* The person under the supervision of the city manager who prepares presentations for city council meetings at which historic designation applications are considered and serves as the initial recipient of historic landmark designation and development applications.~~

~~*Wheat Ridge Historical Society.* A Colorado nonprofit corporation, recognized as tax exempt pursuant to section 501(c)(3) of the Internal Revenue Code, or any of its successors, the general purpose of which is to gather information about historic persons, events and places in the City of Wheat Ridge, provide for historic preservation, and to educate and stimulate interest in such persons, events and places.~~

**Section 2.** Section 26-904.B of the Code is amended to read:

B. The city, ~~in collaboration with the Wheat Ridge Historical Society,~~ in its discretion, may write recommendations for such grants or monies and/OR assist property owners in applying for state or national historic designation.

**Section 3.** Section 26-905 of the Code is amended to read:

**Sec. 26-905. Process for designation of historic landmark.**

A. Any individual structure or building within the city is eligible for designation as an historic landmark.

B. Inclusion of any property in the National Register of Historic Places as provided in the National Historic Preservation Act of 1966 shall mean that the landmark is automatically designated a local historic landmark subject to the protections of this article.

C. An application for historic designation may be submitted by the property owner. ~~by a member of the Wheat Ridge Historical Society Board of directors or by a member of city council. The application shall be on a form as provided by the city preservation specialist and shall be submitted to the city preservation specialist who shall first refer the application to the Wheat Ridge Historical Society Board of directors for review and recommendation. If the application is made by anyone other than the property owner, the city preservation specialist shall promptly send the owner a copy of the application via certified mail. The property owner may file a written objection to the application with the preservation specialist within thirty (30) days after the date the preservation specialist mails the owner a copy of the application.~~

D. ~~In accordance with its own rules and bylaws, the Wheat Ridge Historical Society board of directors shall review the application for historic designation and shall make a recommendation to city council on whether the city council should grant historic designation. Failure of the Wheat Ridge Historical Society board of directors to provide a recommendation within thirty (30) days of the date that the application is sent to it for referral shall be deemed to be a recommendation for denial.~~

DE. Upon receipt of a AN APPLICATION, ~~recommendation from the Historical Society board of directors, or after the passage of thirty (30) days from the date an application is sent to the Historical Society for referral,~~ the COMMUNITY DEVELOPMENT DEPARTMENT preservation specialist shall schedule a city council public hearing. ~~on such historic designation applications.~~ Notice of the public hearing shall be sent to the owner of the property via certified mail, shall be published in a newspaper of general circulation and be posted on the property by a sign, which conforms with the requirements of section 26-109C., at least fifteen (15) days before the date of the public hearing. ~~Such~~THE notice shall state the time and place of the public hearing, state that an application has been filed for historic designation of the structure and describe the location of the landmark by street address, legal description, map and/or other descriptive information sufficient to reasonably advise the public and/or any interested persons of the pendency of the application. ~~If the property owner files a written objection to the application, city council shall hold said hearing within forty-five (45) days of the date of receipt of the recommendation of the Historical Society board of directors or within forty-five (45) days after the passage of~~

~~thirty (30) days from the date the application is sent to Historical Society for referral.~~

**Section 4.** Section 26-906 of the Code is amended to read:

**Sec. 26-906. City council designation.**

A. Following public hearing, city council may designate by RESOLUTION ~~ordinance~~ historic landmarks in the City of Wheat Ridge to accomplish the purposes of this article. In making such designations, city council shall consider ~~the recommendation of the Wheat Ridge Historical Society Board of directors,~~ the testimony and evidence presented at the public hearing and the following criteria:

1. No structure or building shall be granted historic designation unless city council determines that the property owner will retain the ability to earn a reasonable return on the property which is the subject of the application; and
2. The city council shall consider whether the structure is of particular historical, architectural, cultural or archaeological significance which:
  - a. Exemplifies or reflects the broad cultural, political, economic or social history of the nation, state or community; or
  - b. Is identified with historic persons or with important events in national, state or local history; or
  - c. Embodies distinguishing characteristics of an architectural type inherently valuable for the study of a period, style, method of construction or of indigenous materials or craftsmanship; or
  - d. Is representative of the notable work of a master builder, designer or architect whose individual ability has been recognized; ~~or~~
  - e. ~~Is recommended as an historic landmark by the Wheat Ridge Historical Society board of directors.~~

B. The city council may grant historic designation in the presence of one (1) or more of the criteria set forth in 2.a. - 2.d., above, but need not find that all of those criteria are met.

~~C. If an application for historic designation is submitted by either a city council member or a member of the Wheat Ridge Historical Society board of directors and the property owner does not desire historic designation and so indicates by filing a written protest before the scheduled public hearing, historic designation shall be granted only upon a three-fourths vote of the entire city council.~~

C. It shall be unlawful to demolish, destroy or undertake any major change to a structure which is the subject of a pending historic designation application until such time as city council has determined whether such designation shall or shall not be granted.

~~E. The CITY planning department and the public works department shall maintain an inventory of all designated historic landmarks and all structures which are the subject of pending applications for historic designation. Upon receipt of an application for either a permit or a request to carry out any new construction, alteration, removal or demolition of a structure on or in an historic landmark or on a structure which is the subject of a pending application for historic designation, or a zoning change or development plan change, the planning COMMUNITY DEVELOPMENT or public works department shall forward such permit application, request or information to the preservation specialist within ten (10) working days. No permit shall be issued or request granted TO CARRY OUT ANY NEW EXTERIOR CONSTRUCTION, ALTERATION, REMOVAL OR DEMOLITION OF A STRUCTURE ON OR IN AN HISTORIC LANDMARK OR ON A STRUCTURE WHICH IS THE SUBJECT OF A PENDING APPLICATION FOR HISTORIC DESIGNATION by said departments before a landmark alteration permit has been issued by either the preservation specialist or city council or until a determination has been made by city council not to grant historic designation.~~

**Section 5. Section 26-908.A of the Code is amended to read:**

A. No person shall carry out or cause to be carried out on any historic landmark any EXTERIOR construction, alteration, removal or demolition, or make any changes that would impair the historic nature of the historic landmark without first obtaining a landmark alteration permit therefor in accordance with this article.

**Section 6. Section 26-909 of the Code is amended to read:**

**Sec. 26-909. Initial processing of applications for landmark alteration permits.**

A. Applications for a landmark alteration permit shall be submitted to the COMMUNITY DEVELOPMENT DEPARTMENT ~~preservation specialist on a form as provided by the preservation specialist~~ and shall contain such information as required to assure full presentation of the facts necessary for proper consideration of the permit.

B. Landmark alteration permit applications for minor changes shall be determined by the COMMUNITY DEVELOPMENT DIRECTOR ~~preservation specialist~~ in accordance with this article. Landmark alteration permit applications for major changes shall be determined by city council in accordance with this article.

C. The COMMUNITY DEVELOPMENT DIRECTOR ~~preservation specialist~~ shall determine whether the landmark alteration permit application requests a "major change" or a "minor change" to the historic landmark.

**Section 7. Section 26-910 of the Code is amended to read:**

**Sec. 26-910. Minor change landmark alteration permits.**

A. In determining whether to grant an application for a minor change landmark alteration permit, the COMMUNITY DEVELOPMENT DIRECTOR ~~preservation specialist~~ shall grant the permit if the requested alteration to a historic landmark would preserve, enhance or restore the exterior architectural features of the landmark or site. The proposed work shall not adversely affect the special character or special historical, architectural or archaeological nature of the landmark or site.

B. ~~IF THE OWNER MAY APPEAL THE~~ ~~Any person aggrieved by a~~ determination of the COMMUNITY DEVELOPMENT DIRECTOR ~~preservation specialist~~ to grant or deny a minor change landmark alteration permit ~~may appeal such determination to the city council within~~ ten (10) working days of the date of the COMMUNITY DEVELOPMENT DIRECTOR'S ~~preservation specialist's~~ determination by filing an appeal with the office of the city clerk. ~~Such appeal shall state the grounds for appeal.~~ Within thirty-five (35) days of the date the appeal is received ~~in the office of the city manager,~~ the city council shall set a date for a hearing ~~on such appeal,~~ which hearing shall be held no later than sixty (60) days after the date the appeal is received. ~~in the office of the city manager.~~ The city council shall have the power to overrule the COMMUNITY DEVELOPMENT DIRECTOR'S ~~preservation specialist's~~ decision. ~~by a vote of a majority of the city council.~~ The determination of the city council following the appeal hearing shall be issued ~~within forty five (45) days of the hearing and shall be a~~ THE final determination OF THE CITY. ~~for purposes of Rule 106, Colorado Rules of Civil Procedure.~~

**Section 8. Section 26-911 of the Code is amended to read:**

**Sec. 26-911. Major change landmark alteration permits.**

A. ~~The city preservation specialist shall schedule the permit application for a major change on the next available agenda of the Wheat Ridge Historical Society board of directors. The preservation specialist shall notify the permit applicant of the date of the historical society board of directors meeting at which the application shall be considered via first class mail at least fifteen (15) days before the date of the meeting.~~

B. ~~At the conclusion of the historical society board of directors meeting at which the society considers an application for a landmark alteration permit to make a "major change," the historical society board of directors shall forward to city council a recommendation it either grant or deny such permit.~~

AG. The city council shall schedule a hearing on ~~such~~ major change landmark alteration permit applicationS. Notice of the hearing shall be as set forth in section 26-905DE., except that the notice shall state that an application has been filed for a major change landmark alteration permit.

Such notice shall be sent to the permit applicant via first class mail and shall be published as in section 26-905DE.

~~BD. During the city council hearing on the major change landmark alteration permit application, city council shall consider the recommendation of the historical society, the evidence or testimony presented at the hearing, and whether the proposed work will materially adversely affect the special character or special historical, architectural or archaeological nature of the historic landmark. City council shall make its determination to grant or deny the major change landmark alteration permit within sixty (60) days of the date of the hearing, and shall notify the applicant of its vote within fifteen (15) days of the date of the vote in writing, including the major change landmark alteration permit if the city council has voted to grant such permit.~~

**Section 9. Section 26-913 of the Code is amended to read:**

**Sec. 26-913. Removal of historic designation.**

A. An application for removal of historic designation may be submitted by the owner of the property which holds such designation, ~~by a member of the Wheat Ridge Historical Society board of directors or by a member of city council~~ as in section 26-905C. The application shall be processed in the same manner as in section 26-905C. through 26-905DE., and section 26-906 except that the criteria for removal of historic designation shall be that:

1. The property has ceased to meet the criteria for historic designation because the qualities which caused it to be originally listed have been lost or destroyed; OR
2. Additional information shows that the structure or property no longer meets any of the criteria for historic designation contained in section 26-906; OR
3. UPON A CHANGE IN OWNERSHIP, AT THE REQUEST OF THE NEW OWNER, BUT ONLY TO THE EXTENT PUBLIC FINANCIAL ASSISTANCE HAS NOT BEEN RECEIVED TO BENEFIT THE EXTERIOR HISTORIC ELEMENTS OF THE PROPERTY.

B. Properties removed from the state register or the National Register of Historic Places shall not be considered to have been automatically removed from the city's historic inventory without formal action of the city council.

~~C. If either a city council member or a member of the Wheat Ridge Historical Society board of directors submits an application for removal of historic designation and the property owner does not desire removal of historic designation and so indicates by filing a written protest before the scheduled public hearing, historic designation shall be removed only upon a three-fourths vote of the entire city council.~~

**Section 10. Section 26-915 of the Code is amended to read:**

**Sec. 26-915. Violations and penalties.**

A. Any person who is an owner as defined in section 26-903 or a manager of property subject to any provision of this article shall be responsible for compliance with all provisions of this article. Historic designation may be subject to a review for loss of designation as a result of a conviction of the owner for a violation of this article.

B. Any person violating any provision of this article shall be subject to a fine of one thousand dollars (\$1,000.00) or by imprisonment not exceeding one (1) year, or by both such fine and imprisonment. Each and every day during which a violation continues shall be deemed a separate offense and shall be prosecutable and punishable as a separate offense.

C. The imposition of any penalty hereunder shall not preclude the city ~~or any proper person~~ from instituting any proper action or proceeding to require compliance with the provisions of this article. In case any building or structure is erected, constructed, externally reconstructed, externally altered, added to or demolished in violation of this article, the city ~~or any proper person~~ may institute an appropriate action or proceeding to prevent any unlawful erection, construction, reconstruction, exterior alteration, addition or demolition.

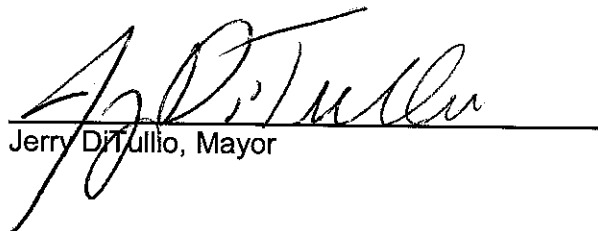
**Section 11. Severability; Conflicting Ordinances Repealed.** If any section, subsection or clause of this Ordinance shall be deemed to be unconstitutional or otherwise invalid, the validity of the remaining sections, subsections and clauses shall not be affected thereby. All other ordinances or parts of ordinances in conflict with the provisions of this Ordinance are hereby repealed.

**Section 12. Effective Date.** This Ordinance shall take effect immediately upon final adoption.

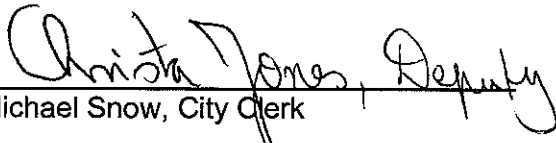
INTRODUCED, READ, AND ADOPTED on first reading by a vote of 6 to 1 on this 14<sup>th</sup> day of July, 2008, ordered published in full in a newspaper of general circulation in the City of Wheat Ridge and Public Hearing and consideration on final passage set for Monday, July 28, 2008, at 7:00 o'clock 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 1, this 28<sup>th</sup> day of July, 2008.

SIGNED by the Mayor on this 29th day of July, 2008.

  
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Jerry DiTullio, Mayor

ATTEST:

  
Michael Snow, City Clerk

Approved As To Form

  
Gerald E. Dahl, City Attorney

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Wheat Ridge Transcript

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