

CITY OF WHEAT RIDGE, COLORADO
INTRODUCED BY COUNCIL MEMBER GOKEY
Council Bill No. 02-2009
Ordinance No. 1430

Series of 2009

TITLE: AN ORDINANCE AMENDING THE WHEAT RIDGE CODE OF LAWS
CHAPTER 26 CONCERNING ZONING DISTRICT BOUNDARY
DISCREPANCIES AND INTERPRETATIONS.

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, the Council of the City of Wheat Ridge finds that more flexibility is desirable with regards to zoning district boundary discrepancies and interpretations; and

WHEREAS, the Council of the City of Wheat Ridge finds that providing flexibility, options, and a clear procedure for dealing with zoning district boundary discrepancies and interpretations creates an incentive for making improvements to property; and

WHEREAS, the Council of the City of Wheat Ridge finds that this amended ordinance provides sufficient parameters and public involvement to deal with zoning district boundary discrepancies and interpretations.

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

Section 1: Section 26-119 of the Code is repealed and reenacted to read:

Section 26-119 Zoning and Mapping Corrections Interpretation of Zoning District Boundaries

A. Purpose

The purpose of this section is to provide flexibility for the utilization of properties that contain uncertain or multiple zoning district boundaries. The City recognizes that these properties may present a challenge for physical improvements. The intent is to accommodate adjustments and corrections to the Official Zoning Map that are minor in nature and that may result in physical improvements to property.

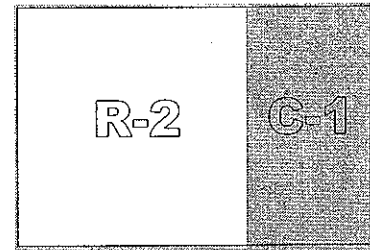
B. Zoning District Boundaries Uncertain

Where uncertainty exists as to the boundaries of zoning districts as shown on the Official Zoning Map, the following shall apply:

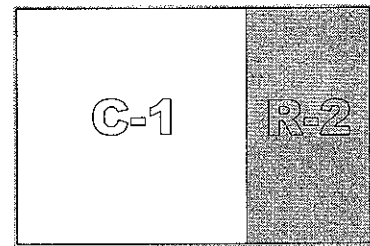
1. Boundaries indicated as approximately following the centerline of streets, highways, or alleys shall be construed to follow such centerlines.
2. Boundaries indicated as approximately following platted lot lines shall be construed as following such lot lines.

3. Boundaries indicated as approximately following city limits shall be construed as following city limits.
4. Boundaries indicated as approximately following railroad lines shall be construed to be midway between the main tracks.
5. Boundaries indicated as approximately following shorelines shall be construed to follow such shorelines. Boundaries indicated as approximately following the centerlines of streams, rivers, canals, lakes, or other bodies of water shall be construed to follow such centerlines. In the event of a natural change in the shoreline or centerline, the district boundary shall be construed as moving with the actual shoreline or centerline. In the event of a change directly or indirectly the result of human actions, the district boundary shall not be construed as following the new shoreline or centerline.
6. Boundaries indicated as parallel to or extensions of features indicated in subsections 1. through 5. shall be so construed. Distances not specifically indicated on the Official Zoning Map shall be determined by the legal description as contained in a rezoning ordinance or resolution adopted by the city council, or, if the zoning pre-dates the adoption of Ordinance No. 98, adopted on May 2, 1972, shall be determined by measurement of the Official Zoning Map currently in effect.
7. Where physical or cultural features existing on the ground are different than those shown on the Official Zoning Map, or in other circumstances not covered by ~~this section subsections A. through F. above,~~ the ~~Community Development Director~~ board of adjustment shall interpret the district boundaries in accordance with procedures set forth in ~~Section 26-119.E~~ section 26-115.
8. Boundaries indicated as approximately following section lines or division lines of sections (i.e. quarter-section lines) shall be construed to follow such land lines.

(Ord. No. 2001-1215, § 1, 2-26-01)



Example 1: Three options are available to resolve this "split zoning" subject to Section 26-119.D. 1) The entire lot may be considered R-2, 2) each portion of the lot may be used as R-2 or C-1 within the respective boundaries, or 3) an administrative adjustment to the map may be requested.



Example 2: Two options are available to resolve this "split zoning". C-1 is considered a "higher intensity" zone district; therefore it may not be utilized for the entire lot even though it encompasses the majority of the lot. 1) Each portion of the lot may be used as R-2 or C-1 within the respective boundaries, or 2) an administrative adjustment to the map may be requested.

Figure 26-119.1: Interpretation of zoning district boundaries

C. Lot Line Adjustments and Right-of-Way Vacations

1. A zoning district boundary shown on the Official Zoning Map as approximately following a property line shall be construed as following the property line as it actually existed at the time the zoning district boundary was established. If, subsequent to the establishment of the zoning district boundary, a property line is moved as a result of a legally performed property line adjustment pursuant to Articles I and IV of this Chapter, as applicable (including right-of-way dedications and vacations), the zoning district boundary line shall be construed as moving simultaneously with the property line if the Community Development Director determines that each of the following apply:
 - a. The property line adjustment is minor in nature;

- b. The corresponding adjustment in the zoning is consistent with the goals, objectives, and intent of the Comprehensive Plan; and
- c. The adjustment is consistent with the general zoning pattern in the area.

2. If the above requisite conditions are satisfied, the Community Development Director may direct that the Official Zoning Map be adjusted pursuant to Subsection E, below. If any of these conditions are not satisfied, the zoning district boundary may only be moved pursuant to the rezoning process set forth in Section 26-112.

D. Lots with Two or More Zoning Districts

Where a zoning district boundary line divides a lot that has single ownership at the time of the passage of Section 26-119 of this Code, zoning and use of the lot shall be governed by one of the following provisions, as elected by the Community Development Director (See Figure 26-119.1):

1. The lot shall be considered to be in the zoning district in which the majority of the land area of the lot falls, provided that the lower intensity zone district is utilized in accordance with Figure 26-119.2 and the zone district to be utilized is consistent with the Comprehensive Plan at the sole discretion of the Community Development Director, or until such time as a rezoning is sought pursuant to Section 26-112 of this Code; or
2. Each portion of that lot so divided may be used in conformity with and subject to the regulations applicable to the district in which it is located; or
3. The Community Development Director may make an administrative adjustment to the Official Zoning Map in accordance with the procedures set forth in Section 26-119.E below.
4. Properties under one ownership that exceed 1 acre in size may only be used in accordance with subsection 2 above.

E. Administrative and Minor Adjustments to the Official Zoning Map

Where the zoning district boundary cannot be interpreted in accordance with subsections B. through D. above, the Community Development Director may make an administrative adjustment in accordance with this Subsection E.

1. Procedure for Administrative Adjustments

An application for an adjustment to the Official Zoning Map may be made to or initiated by the Community Development Director. The Community Development Director may administratively amend the Official Zoning Map under the following conditions:

- a. The adjustment does not extend the zone district boundary more than 50 feet;
- b. The property subject to the adjustment does not exceed 1 acre in size;
- c. The adjustment is consistent with and does not violate this Code, the City Charter, the Comprehensive Plan, or any other applicable rules and regulations of the City; and
- d. The Community Development Director has notified adjacent property owners by letter notice and posting of the site at least ten (10) days prior to rendering his decision, and that no objections have been received during such ten-day period. Any objections must be received in writing and be directly related to the proposed

boundary adjustment. General objections regarding existing land use conditions or issues unrelated to the boundary adjustment will not be considered valid objections for purposes of this provision.

- e. If the Community Development Director initiates an administrative adjustment, the procedures set forth in subsections a-d above shall be followed after the following conditions are satisfied:
 - i. The Community Development Director shall notify the current property owner by certified mail of the adjustment; and
 - ii. If within 30 days of said notice the owner fails to submit a written protest to the adjustment, the Director is authorized to initiate the adjustment in accordance with subsections a-d above.
- f. Fees for administrative adjustments shall be equal to those for administrative variances as set forth in the City's fee schedule.

2. Appeals

- a. Appeals of the Community Development Director's decisions and interpretations under this Section may be taken to City Council by the subject property owner or an adjacent property owner. A written appeal must be received by the Community Development Department within ten (10) days of issuance of the appealed decision.
- b. The City Council shall conduct a public hearing on the appeal. Notice of the hearing shall be given in the manner provided in section 26-109. Council shall hear additional evidence and testimony presented and affirm, reverse or modify the Community Development Director's decision or interpretation after considering the applicable criteria and standards.

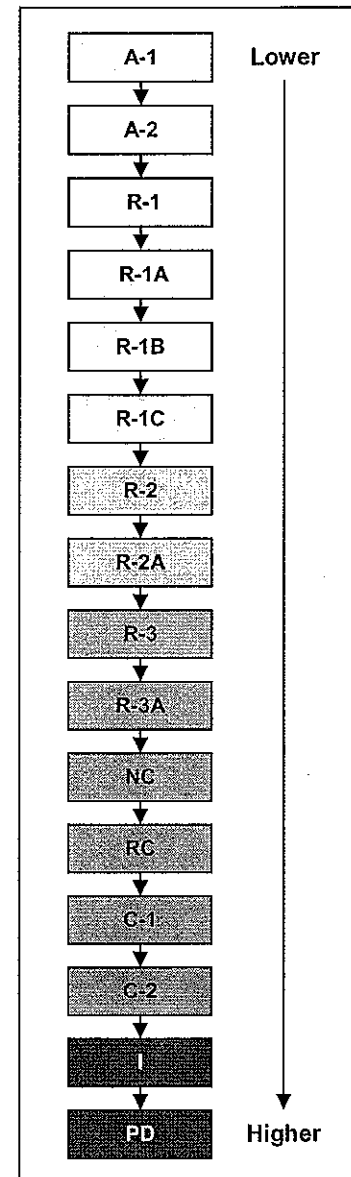


Figure 26-119.2: Zone district levels of intensity.

3. Minor corrections

The Community Development Director may, from time to time, make minor corrections to the Official Zoning Map as set forth below.

a. Subdivisions

Corrections to name of subdivisions, locations of lot lines and boundary lines, location and names of streets and alleys and railroads.

b. Base map

Corrections to watercourse locations or names, location or names of lakes, names or location of street or railroads.

c. Zoning information

Corrections to names of planned developments, case numbers, and closure of zone districts in accordance with the most recent record of zoning action where there is no zoning line separation between two (2) different zone districts.

d. Verifiable Errors

Where a verifiable error is discovered in the zone classification of any particular parcel as displayed on the Official Zoning Map, or as represented in a rezoning ordinance, the Community Development Director shall notify the current property owner by certified mail of the error and shall inform the owner of the intent to correct the error based upon the record of the last rezoning action. The Director shall also notify City Council of the proposed correction by memorandum, including documentation which supports the corrective action. If within thirty (30) days of the date of notice to the property owner, he or she fails to submit a written protest to the correction, the Director may correct the error and shall publish a legal notice of the correction. However, if the owner does file a written protest, a rezoning action shall be initiated. The rezoning action shall be subject to the provisions of section 26-112 except that no fee shall be assessed.

e. Miscellaneous Corrections

At any time minor corrections to the Official Zoning Map which do not affect the zoning of any parcel may be made with the approval of the Community Development Director and with a note added under the "revisions" box on said map, indicating that an "administrative correction" has been made, a case file shall be created with a case number assigned for each correction, with information contained in the file which gives the location and nature of the correction.

(Ord. No. 2001-1215, § 1, 2-26-01; Ord. No. 1288, §§ 1, 2, 5-12-03)

Section 2: Section 26-203 of the Code is repealed to read:

Sec. 26-203. Rules for interpretation of district boundaries
[Repealed]

Section 3: Section 26-115 of the Code is amended to read:

Sec. 26-115. Variance/waivers/temporary permits/interpretations

1. Interpretations

The board of adjustment is empowered to hold public hearings to decide upon requests for interpretation of certain of the provisions of this chapter in such a way as to carry out their intent and purpose. This authority shall extend only to the following:

- a. The basic intent and purpose of words, phrases or paragraphs as applied to a specific proposal or instance.
- b. Use of property as an "other similar use;" however in no instance shall the board make an interpretation that a particular use may be permitted in a zone district where that use is specifically enumerated in a higher; that is more intensive, zone district.
- c. ~~Relationship of physical improvements, streets, rights-of-way, streams, property boundaries, etc., where such varies or are inconsistent with the official zoning maps of the City of Wheat Ridge.~~

Section 4: Section 26-106 of the Code is amended to read:

Sec. 26-106. Review process chart.

TABLE INSET:

<i>Approval Requested</i>	<i>Pre-Application</i>		<i>Final</i>					<i>Notes</i>
	<i>Staff</i>	<i>Neighborhood</i>	<i>Staff</i>	<i>PC</i>	<i>CC</i>	<i>BOA</i>	<i>URPC</i>	
Site Plan	4 X		A				A	§ 26-111
Major Subdivision	X			H	H		URA	§ 26-404.C
Minor Subdivision (w/dedications)	X			H	H		URA	§ 26-404.B
Minor Subdivision (w/o dedications)	X			H			URA	Appeal to CC § 26- 404.B
Minor Plat Correction, Amendment, Revision	X		A					§ 26-409
Lot Line Adjustment	X		A					§ 26-410
Consolidation Plat (w/dedication)	X			H	H		URA	1 § 26- 404.D
Consolidation Plat (w/o dedication)	4 X		A				URA	§ 26-117
Planned Development: Outline Development Plan (ODP)	X	X		H	H		URA	2 ART III
Planned Development: Final Development Plan (FDP)	X		A				URA	ART III
Planned Development: Outline	X	X		H	H		URA	2 ART III

<i>Approval Requested</i>	<i>Pre-Application</i>		<i>Final</i>					<i>Notes</i>
	<i>Staff</i>	<i>Neighborhood</i>	<i>Staff</i>	<i>PC</i>	<i>CC</i>	<i>BOA</i>	<i>URPC</i>	
Development Plan Amendment								
Planned Development: Final Development Plan Amendment	X		A				URA	ART III
Rezoning, Private	X	X		H	H		URA	2 § 26-112
Rezoning, City		X		H	H		URA	2 § 26-113
Special Use	X	X	A		H		URA	§ 26-114 Appeal to CC
Variance--Administrative			A				A	Appeal to BOA § 26-115.C
Variance--Non-administrative						H	URA	§ 26-115.C
Temporary Permit						H	A	§ 26-115.D
Interpretation			A					Appeal to BOA § 26-115.E
Administrative Adjustments to the Official Zoning Map			A					Appeal to CC § 26-119.E
Historic Designation					H		URA	ART IX
Planned Bldg. Group	4 X		A	H			A	3 § 26-116
Floodplain Permit--Class I			A					§ 26-806
Floodplain Permit--Class II	4 X					H		§ 26-806
Right-of-way Vacation	X			H	H		URA	§ 26-118

Section 5: 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.

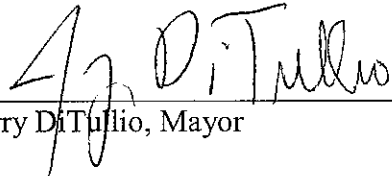
Section 6: Severability; Conflicting Ordinances Repealed. If any section, subsection or clause of the ordinance shall be deemed to be unconstitutional or otherwise invalid, the validity of the remaining sections, subsections and clauses shall not be affected thereby. All other ordinances or parts of the ordinances in conflict with the provisions of this ordinance are hereby repealed.

Section 7: Effective Date. This Ordinance shall take effect fifteen 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 9th day of February, 2009, 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, February 23, 2009, at 7:00 o'clock p.m., in the Council Chambers, 7500 West 29th Avenue, Wheat Ridge, Colorado.

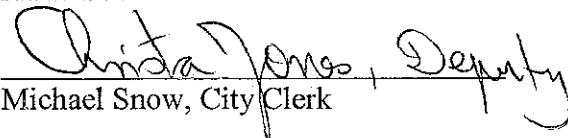
READ, ADOPTED AND ORDERED PUBLISHED on second and final reading by a vote of 8 to 0, this 23rd day of February, 2009.

SIGNED by the Mayor on this 23rd day of February, 2009.

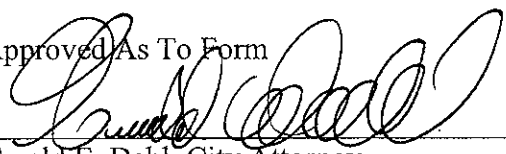


Jerry DiTullio, Mayor

ATTEST:



Michael Snow, City Clerk

Approved As To Form


Gerald E. Dahl, City Attorney

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Second Publication: February 26, 2009
Wheat Ridge Transcript:
Effective Date: March 13, 2009