

CITY OF WHEAT RIDGE, COLORADO
INTRODUCED BY COUNCIL MEMBER DeMOTT
COUNCIL BILL NO. 14
ORDINANCE NO. 1468
Series 2010

**TITLE: AN ORDINANCE AMENDING ARTICLES II AND VI OF
CHAPTER 26 CONCERNING ACCESSORY BUILDINGS ON
PROPERTIES WITH COMMERCIAL OR INDUSTRIAL ZONING**

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 City Council of the City of Wheat Ridge finds that there is a need to allow for accessory buildings and structures on properties with commercial or industrial zoning,

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

Section 1: Section 26-204 of the Code is amended to read:

Sec. 26-204. Zone district use schedule.

A. The following schedule of permitted and special uses allowed within the various zone districts is hereby adopted and declared to be a part of this Code and may be amended in the same manner as any other part of this Code. In each zoning district, any uses not expressly permitted (P) or allowed as a special use (S), or as an accessory use (S) shall be deemed to be excluded. The director of community development shall render the final administrative decision concerning the scope, application and meaning of the terms in this section.

B. The director of community development has authority to determine that a use not specifically listed as permitted, allowed as a special use or an accessory use should be so permitted or allowed on the basis of its being similar to a listed use, compatible in character and impact with other uses in the zone district, consistent with the intent of the district, and which would not be objectionable to nearby property by reason of odor, dust, fumes, gas, noise, radiation, heat, glare, vibration, traffic generation, parking needs, outdoor storage or use, or is not hazardous to the health and safety of surrounding areas through danger of fire or explosion. The director's decision may be appealed to the board of adjustment.

C. Upon application or on its own initiative, the city council may by ordinance add to the uses listed for a zone district, conforming to the conditions set forth in the following special findings:

1. Such use is appropriate to the general physical and environmental character of the district to which it is proposed to be added, and
2. Such use does not create any more hazard to or alteration of the natural environment than the minimum amount normally resulting from the other uses permitted in the district to which it is added, and
3. Such use does not create any more offensive noise, vibration, dust, heat, smoke, odor, glare, or other objectionable influences or more traffic hazards than the minimum amount normally resulting from the other uses permitted in the district to which it is proposed to be added, and
4. Such use is compatible with the uses existing and permitted in the district to which it is proposed to be added at the time of adoption.

TABLE INSET:

<i>Commercial and Industrial District Accessory Uses</i>	<i>Notes</i>
Accessory buildings and structures	See § 26-625
Electric transmission or other public utility lines and poles, irrigation channels, storm drainage and water supply facilities	
Food services	Primarily for the occupants of a building containing a permitted use when located within the same building
Residential uses in commercial zones	See § 26-626
Outside storage or display	See § 26-631

Key:

P = Permitted Principal Uses

S = Special Uses

(Ord. No. 2001-1215, § 1, 2-26-01; Ord. No. 1273, § 2, 1-13-03; Ord. No. 1274, § 2, 1-13-03; Ord. No. 1288, §§ 1, 2, 5-12-03; Ord. No. 1301, §§ 2-4, 7-28-03; Ord. No. 1302, §§ 4-6, 7-28-03; Ord. No. 1313, § 10, 10-27-03; Ord. No. 1322, § 1, 5-10-04; Ord. No. 1348, § 1, 7-11-05; Ord. No. 1370, § 1, 8-28-06; Ord. No. 1375, §§ 1, 2, 10-24-06; Ord. No. 1387, § 2, 6-11-07; Ord. No. 1413, §§ 2, 3, 6-9-08)

Section 2: Section 26-625 of the Code is amended to read:

Sec. 26-625. Accessory **buildings and structures**.

A. **Purpose and scope.** The purpose of this section is to allow accessory buildings that are incidental and subordinate to the principal use and structure on a property and to set forth standards that help to minimize adverse impacts of these buildings on adjacent property. The purpose of this section is also to allow flexibility to construct accessory buildings on challenging properties relative to size and existing physical improvements while minimizing adverse impacts on surrounding properties. **The terms**

building and structure are used interchangeably in this section and all regulations herein apply to buildings and structures, irrespective of the term used.

B. *Applicability.* All accessory buildings **on residentially zoned property** shall be subject to the provisions set forth in this section, and those in sections 26-205 to **26-214 26-220 (residential and agricultural)** (zone district regulations). In the event of a conflict between the accessory building standards in this section and any other requirements of this Code, this section shall control.

C. *Accessory building standards* **for residential and agricultural zone districts**

1. *General standards.*

a. *Location.*

- i. No accessory building shall be located on a vacant lot devoid of any primary or main building.
- ii. No accessory building shall be located within any platted or recorded easement or over any utility, except as otherwise expressly agreed to in writing by the city or utility provider, as applicable.

b. *Size and height.* The size and height of accessory buildings shall be as set forth in the residential **and agricultural zone district regulations, as applicable**, in sections 26-205 to 26-214.

c. *Miscellaneous provisions.*

- i. *Metal accessory building restriction.* Metal accessory buildings over one hundred twenty (120) square feet are not permitted in any residential zoning district. Frame-built residential accessory structures over one hundred twenty (120) square feet in size may be allowed to have metal siding as long as the material has a textured wood grain appearance similar to horizontal clapboard. Vertically placed vinyl-clad siding is not allowed.
- ii. *Buildings housing animals.* Any building that houses animals, except a residence, shall be setback a minimum of fifteen (15) feet from property lines and at least thirty (30) feet from a residential structure on an adjacent property, except as otherwise specified in any zone district.
- iii. *Gates and guard houses.* Gates and guard houses are only allowed as part of an approved planned development.
- iv. *Dwelling unit restriction.* Except as otherwise expressly allowed, no dwelling unit shall be located in any accessory.

2. *Major and minor accessory buildings.* Major and minor accessory buildings shall be as defined in sections 26-205 to Section 26-214 based on size and height.

3. *Allowable setback encroachments for accessory buildings.* Accessory buildings may encroach into required setbacks as set forth below:

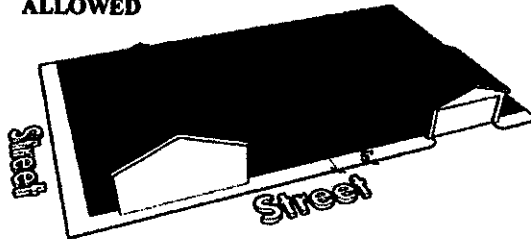
a. *Front yards and side and rear yards abutting public streets.* Where an existing principal building that lawfully existed at the time of the adoption or amendment of this section encroaches into a required front yard setback or a required side or rear yard setback abutting a public street, an accessory building may encroach into the required setback as follows, provided that there shall be no encroachment into the minimum sight distance triangle as set forth in subsection 26-603.B:

i. *Detached garages and carports.* Detached garages and carports may build in line with the nonconforming principal building, as long as the detached garage is located behind the front or street-facing facade of the principal building, except as follows:

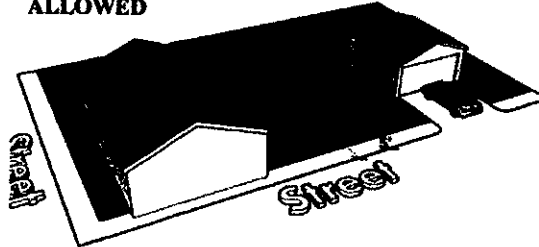
a) Where the garage door or main vehicular access is located parallel to the street, the setback cannot be between five (5) feet and eighteen (18) feet. The purpose of this regulation is to allow setback encroachments where there will be not be the possibility of vehicles parked in the driveway in conflict with public rights-of-way. (See Figure 26-625.1)

Figure 26-625.1: Allowed Setback Encroachments, Detached Garages

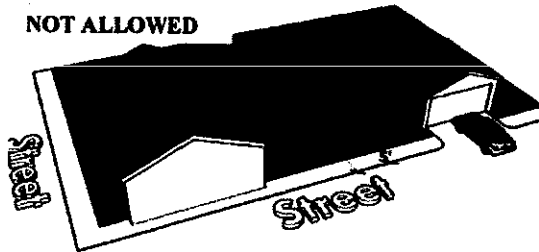
ALLOWED



ALLOWED



NOT ALLOWED



b) Where the garage door or main vehicular access is located perpendicular to the street, the detached garage or carport may be built in line with the principal building. The purpose of this regulation

is to allow setback encroachments where there will ~~be~~ not be the possibility of vehicles parked in the driveway in conflict with public rights-of-way.

c) Where the garage door or main vehicular access is located parallel to and accessed off of an arterial street, the detached garage may not encroach into the required setback.

d) The community development director may require modified setbacks in these instances where there may be potentially hazardous conditions.

ii. *All other accessory buildings.* Accessory buildings that do not have any vehicular access may build in line with the nonconforming principal structure in front yards and side and rear yards abutting public streets, as long as the accessory building is located behind the front or street-facing facade of the principal structure.

D. Accessory building standards for commercial and industrial zone districts

1. General standards.

a. Location.

i. No accessory building shall be located on a vacant lot devoid of any primary or main building.

ii. No accessory building shall be located within any platted or recorded easement or over any utility, except as otherwise expressly agreed to in writing by the city or utility provider, as applicable.

iii. Accessory buildings shall only be located in the side or rear yard. Accessory buildings may not be located in side yards that abut a public right-of-way.

b. Maximum number.

i. In commercial zone districts, a maximum of one accessory building shall be allowed.

ii. In industrial zone districts, a maximum of two accessory buildings shall be allowed.

c. **Size.** The total floor area of all accessory structures on a single property may not exceed 50 percent of the floor area of the primary structure located on that property. In no case may a single accessory structure exceed 500 square feet in floor area.

d. Setbacks.

i. The required side yard setback shall be a minimum of five feet.

ii. The required rear yard setback shall be a minimum of 10 feet.

e. **Height.** The maximum height of any accessory structure shall be twelve (12) feet.

c. Materials. The accessory structure shall have exterior materials that are architecturally compatible with the primary structure, with the following exceptions:

- i. An accessory structure that is 120 square feet or less. Such accessory structures may not be constructed of metal, but are allowed to have metal siding as long as the material has a textured wood grain appearance similar to horizontal clapboard. Vertically placed vinyl-clad siding is not allowed.
- ii. On industrial zoned properties only, one or both of the allowable accessory structures may be industrial shipping containers or storage units that do not have exterior materials compatible with the primary structure. Such containers must be screened from view of adjacent properties and streets by an opaque wall or fence that is at least as tall as the container and that does not exceed eight (8) feet in height.

E. Accessory buildings in Planned Development Districts.

1. Accessory buildings shall only be allowed in a Planned Development District if accessory structures are expressly permitted in the approved Outline Development Plan. All standards for accessory buildings in a Planned Development District shall be established in the approved Outline Development Plan.

(Ord. No. 1448, § 5, 8-24-09)

Section 3: 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.

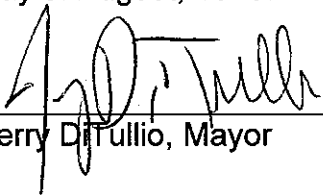
Section 4: Severability; Conflicting Ordinances Repealed. If any section, subsection or clause of the ordinance shall be deemed to be unconstitutional or otherwise invalid, the validity of the remaining sections, subsections and clauses shall not be affected thereby. All other ordinances or parts of the ordinances in conflict with the provisions of this ordinance are hereby repealed.

Section 5: 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 7 to 0 on this 26th day of July, 2010, ordered it published with Public Hearing and consideration of final passage set for **Monday, August 9th, 2010 at 7:00 p.m.**, in the Council Chambers, 7500 West 29th Avenue, Wheat Ridge, Colorado, and that it takes effect 15 days after final publication


READ, ADOPTED AND ORDERED PUBLISHED on second and final reading by a vote of 8 to 0 , this 9th day of August, 2010.

SIGNED by the Mayor on this 9th day of August, 2010.



Jerry DiPulio, Mayor

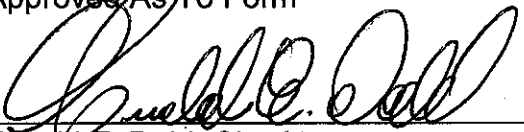
ATTEST:



Michael Snow, City Clerk



Approved As To Form



Gerald E. Dahl, City Attorney

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Wheat Ridge Transcript:
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