

CITY OF WHEAT RIDGE, COLORADO
INTRODUCED BY COUNCIL MEMBER GOKEY
Council Bill No. 08-2009
Ordinance No. 1434

Series of 2009

TITLE: AN ORDINANCE AMENDING CODE OF LAWS SECTION 113 OF CHAPTER 26 CONCERNING CITY INITIATED ZONE CHANGES (CASE NO. ZOA-08-08)

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 the proposed amendments provide a useful tool to encourage redevelopment as outlined in the adopted Neighborhood Revitalization Strategy and adopted subarea plans.

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

Section 1: Section 26-113 of the Code is amended to read:

Sec. 26-113. City-initiated rezoning.

A. *Applicability.* This rezoning procedure applies to ~~city-wide and large-area, multiple-property rezonings initiated by city council.~~ Applications for city-initiated rezonings may be made with or without consent from affected property owners. City-initiated rezonings may be to any zone district. In the event of a city-initiated zone change to a planned development district, the procedures in Section 26-308 shall be followed for the outline and final development plan, excluding the required authorization from property owners. In the event of an amendment to a planned development district, the procedures set forth in Section 26-311 shall be followed, excluding the required authorization from property owners. **To be eligible for this procedure, large-area, multiple-property rezoning must include at least five (5) separate ownership parcels or at least five (5) acres in total combined area. Large-area, multiple-property rezoning is permitted under this section only in order to rezone property to a less intensive (lower) zone category; for example, from Commercial One (C-1) to Restricted-Commercial (RC), or from Residential Three (R-3) to Residential One (R-1). Rezoning to any agricultural zone district from any other zone district shall not be considered a rezoning to a less intensive zone category.**

B. *Procedure and notice:*

1. *General.* The city council may, at a regular or special meeting, initiate this rezoning procedure by adoption of a resolution setting forth the general area of the proposed rezoning, stating the intended purpose and objectives to be achieved by the rezoning, and referring the matter to the planning commission for a public hearing and recommendation.
 - a. Prior to any public hearing before the planning commission, the city shall be required to hold a neighborhood meeting according to the requirements of section 26-109A. (See section 26-109A. for requirements).
 - b. City-wide rezoning: Where a city-wide or comprehensive rezoning has been initiated by the council, notice shall include publication of a public hearing notice in a newspaper of general

circulation at least fifteen (15) days prior to the date of the public hearing, which notice shall include a description of the proposed rezoning and a map which illustrates the geographic extent of the proposed rezoning.

c. ~~All other city-initiated rezonings~~ Large-area, multiple-property rezoning: A ~~city-initiated large area, multiple-property~~ rezoning shall, in addition to the newspaper notice required by subsection b a. ~~above of this paragraph~~, be noticed by certified mail notice sent to all owners of record of real property included within the area to be rezoned at least fifteen (15) days prior to the date of public hearing.

2. *Planning commission action.* The planning commission shall hear and consider any evidence or statement presented by city staff or by any person in attendance at the hearing. The planning commission shall make a recommendation to city council to approve, approve with modifications or deny the rezoning proposal. The commission's recommendation shall be based upon the facts presented in the public hearing in consideration of the criteria for review specified in section 26-112.D(d).

3. *City council action.* Upon receipt of the planning commission's recommendation, the city council shall hold a public hearing on the proposal. The hearing conducted on second reading of the proposed rezoning ordinance shall satisfy this requirement. Notice of the hearing shall be the same as for the planning commission hearing; however, publication of the ordinance on first reading, together with ~~any~~ the required map, shall meet the newspaper publication requirement. The city council, in addition to consideration of the planning commission record, shall hear additional evidence and testimony presented and either approve, approve with modifications, or reject the ordinance. The city council shall base its decision upon all evidence presented, with due consideration of the criteria for review set forth under section 26-112.D.

In the event of a protest against such change of zone, signed by the owners of twenty (20) percent or more of the area:

1. Of the property included within the proposed change; or
2. Of those immediately adjacent to the rear or any side of the property, extending one hundred (100) feet from the property; or
3. Of those directly opposite across the street from the property, extending one hundred (100) feet from the street frontage of such opposite property, such change shall not become effective except by the favorable vote of three-fourths (3/4) of the entire city council. Where land within the area proposed for change, or adjacent or opposite land, as defined above, is owned by the City of Wheat Ridge, such property shall be excluded in computing the required twenty (20) percent, and owners of non-city land within the one-hundred-foot limit, as defined above, shall be considered adjacent or opposite despite such intervening city land. The written protest to such change shall be submitted to the city council no later than the hearing on the proposed rezoning. (Ord. No. 2001-1215, § 1, 2-26-01; Ord. No. 1316, § 2, 1-12-04)

Section 2: 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 3: Severability; Conflicting Ordinances Repealed. If any section, subsection or clause of the ordinance shall be deemed to be unconstitutional or otherwise invalid, the validity

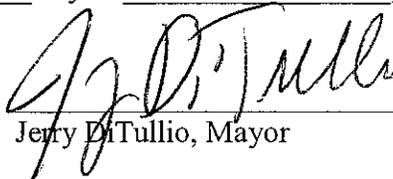
of the remaining sections, subsections and clauses shall not be affected thereby. All other ordinances or parts of the ordinances in conflict with the provisions of this ordinance are hereby repealed.

Section 4: 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 23rd 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, March 9, 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 7 to 1 , this 9th day of March , 2009.

SIGNED by the Mayor on this 9th day of March , 2009.



Jerry DiTullio, Mayor

ATTEST:



Michael Snow, City Clerk

Approved As To Form



Gerald E. Dahl, City Attorney

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