

**CITY OF WHEAT RIDGE, COLORADO
INTRODUCED BY COUNCIL MEMBER HULTIN
COUNCIL BILL NO. 10
ORDINANCE NO. 1762
Series 2023**

TITLE: AN ORDINANCE AMENDING ARTICLES I AND IV OF CHAPTER 26 OF THE WHEAT RIDGE CODE OF LAWS, CONCERNING THE CITY'S SUBDIVISION REQUIREMENTS, AND MAKING CONFORMING AMENDMENTS THEREWITH

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, the Council recognizes that from time to time the City's zoning Code needs to be updated to include modern terminology, update cross-references, remove conflicts within the Code, and to provide clarity to City staff and the public; and

WHEREAS, the Council recognizes that the City's subdivision review requirements should be contained within Article IV of Chapter 26 to the greatest extent feasible.

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

Section 1. Section 26-117.B of the Wheat Ridge Code of Laws is hereby amended as follows to provide clarity regarding property merger covenants and consolidation plats on nonconforming lots of record:

B. *Property merger covenant.* Nonconforming lots of record may be merged as a condition of a permit or other development approval by a property merger covenant, **IN LIEU OF A CONSOLIDATION PLAT**. A property merger covenant may be used in the event that ~~BY~~ an owner of two (2) or more adjacent lots which contain an existing residential use **OR ARE VACANT AND RESIDENTIALLY ZONED, PRIOR TO OBTAINING** ~~wishes to obtain~~ a building permit for **THE FOLLOWING TYPES OF DEVELOPMENT:** an accessory structure on the property, or an addition to the existing structure, **OR DEVELOPMENT OF ONE (1) NEW SINGLE-UNIT OR DUPLEX DWELLING AND CUSTOMARY ACCESSORY STRUCTURES.**

The covenant shall ensure that the property be held as one (1) parcel and shall restrict any portion from being sold separately. The covenant shall be in a form approved by the city attorney, recorded in the office of the Jefferson County Clerk and Recorder, and shall run with the land. The community development director

shall have the authority to execute any such covenant and release of the covenant on behalf of the city.

Section 2. Section 26-117.C of the Wheat Ridge Code of Laws is hereby amended as follows to be consistent with review requirements for subdivisions in Article IV of Chapter 26:

C. All consolidation plats for multi-unit dwelling development shall be accompanied by a site plan, as set forth by section 26-111. ~~Such consolidation plats, together with the site plan, shall be subject to review by the planning commission and city council following the same application procedures, notice requirements and approval procedures and standards for review as for a planned building group. The purpose of these provisions is to avoid the construction of overly large buildings which may negatively impact surrounding neighborhoods by increasing traffic, creating congestion by ingress/egress points, obstructing light and air and by making access for fire protection difficult, and to prevent construction of one (1) large building to avoid compliance with the subdivision regulations, and to encourage the construction of smaller buildings which could give opportunities for better design of setbacks, landscaping, parking, vehicular and pedestrian circulation and drainage facilities.~~

Section 3. Section 26-120.B of the Wheat Ridge Code of Laws is hereby amended as follows to provide clarity regarding property merger covenants and consolidation plats on nonconforming lots of record:

B. *Nonconforming lots of record.* In any district in which single-unit dwellings are permitted, a single-unit dwelling and customary accessory buildings may be erected on any single lot of record, provided that the lot is in separate ownership and not of continuous frontage with other lots under the same ownership. This provision shall apply even though the lot fails to meet the requirements of the district in which it is located for the area, width, or both; provided however that the requirements for the district for **SETBACKS** ~~minimum yard dimensions~~ and **BUILDING** ~~lot coverage~~ **FOR NEW DEVELOPMENT** shall be met.

If two (2) or more lots or combinations of lots and portions of lots with continuous frontage in single ownership are of record, and part or all of the lots do not meet the requirements of the district in which they are located as to minimum area or frontage or both, the lands shall be considered to be an undivided parcel and no portion of the parcel shall be sold or used in a manner which diminishes compliance with minimum lot width and area requirements. **A PROPERTY MERGER COVENANT AS DESCRIBED IN SECTION 26-117.B SHALL BE SUBMITTED AS PART OF A BUILDING PERMIT APPLICATION FOR DEVELOPMENT OF SINGLE-UNIT OR DUPLEX DWELLINGS AND CUSTOMARY ACCESSORY BUILDINGS ON NONCONFORMING LOTS OF RECORD IN SINGLE OWNERSHIP.**

Section 4. Section 26-123 (Definitions) of the Wheat Ridge Code of Laws is hereby amended as follows by adding the following definitions, in appropriate alphabetical order:

OWNERS' ASSOCIATION. A COMMUNITY ASSOCIATION WHICH IS ORGANIZED WITHIN A DEVELOPMENT IN WHICH INDIVIDUAL OWNERS SHARE COMMON INTERESTS AND RESPONSIBILITIES FOR COMMON AND/OR LIMITED PUBLIC OPEN SPACE, LANDSCAPING, TRACTS, OR FACILITIES AND WHICH SHALL HAVE THE AUTHORITY TO RAISE REVENUE AND OWN REAL PROPERTY. OWNERS' ASSOCIATION INCLUDES HOMEOWNERS' ASSOCIATIONS, PROPERTY OWNERS' ASSOCIATIONS, AND SPECIAL DISTRICTS OR METROPOLITAN DISTRICTS.

OWNERS' ASSOCIATION DECLARATION OR AGREEMENT. A DECLARATION OR AGREEMENT SIGNED BY OR ON BEHALF OF AN OWNERS' ASSOCIATION FOR THE PURPOSES OF ESTABLISHING THE RIGHTS AND RESPONSIBILITIES OF THE ASSOCIATION WITH RESPECT TO A DEVELOPMENT AND THE OWNERS AND REAL PROPERTY CONTAINED THEREIN.

Section 5. Section 26-404 (Definitions) of the Wheat Ridge Code of Laws is hereby amended as follows:

Tract: A portion of land that is part of a subdivision which is designated for some purpose other than a building site or lot, sometimes known as an outlot. **TRACTS ARE NOT COUNTED AS LOTS OR PARCELS WHEN DETERMINING THE NUMBER OF LOTS OR PARCELS INVOLVED IN A SUBDIVISION.**

Section 6. Section 26-405.A of the Wheat Ridge Code of Laws, regarding types of plats, is amended with the insertion of a new subsection 3 and renumbering the section accordingly.

A. Administrative plat.

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3. A CONSOLIDATION PLAT SUBMITTED FOR PROPERTIES CONTAINING EXISTING AND COMPLETED SITE DEVELOPMENT, FOR THE SOLE PURPOSE OF ELIMINATING UNNECESSARY LOT LINES, REGARDLESS OF THE NUMBER OF LOTS INVOLVED. THIS SHALL NOT INCLUDE ANY CONSOLIDATION PLAT SUBMITTED FOR THE PURPOSE OF PREPARING THE SITE FOR DEVELOPMENT, UNLESS THAT CONSOLIDATION PLAT IS OTHERWISE ELIGIBLE FOR ADMINISTRATIVE REVIEW.

Section 7. Section 26-406.D.4 of the Code, concerning when parkland fees in lieu are due, is hereby amended as follows to comply with the requirements from Ordinance 1693:

4. Fees in lieu of parkland dedication, if required by section 26-414, shall be paid ~~at time a recordable document is submitted~~ **PRIOR TO BUILDING PERMIT ISSUANCE.**

Section 8. Section 26-410 of the Code, concerning application contents for subdivisions, is hereby amended as follows:

A. *Application contents.* A complete subdivision application shall include:

1. Complete and notarized application form.
2. Appropriate fee.
3. Proof of ownership, such as copies of deeds.
4. Written authorization from property owner(s) where an agent acts on behalf of the owner(s).
5. A written description of the request.
6. Mineral rights certification form, **IF APPLICABLE.**
7. Commitment for title insurance, if applicable.
8. Geodetic surveying requirements checklist, completed and signed by surveyor.
9. Closure sheet(s) for the exterior boundary and all individual lots, with the area rounded to the nearest square foot and acreage to four (4) decimal places.
10. Final plat. The application shall include the appropriate number of copies and electronic files, as determined at the pre-application conference. All final plats shall comply with C.R.S. Article 51, Title 38. All form and content requirements shall be met, as described below in subsections B. and C.
11. Supplemental reports. ~~In addition to the information contained on the final plat supportive information may be required in the format of hard copies, electronic files, or both.~~ These may include, but are not limited to:
 - a. Trip generation or traffic report;
 - b. Final drainage report and plan;
 - c. Grading, drainage, and erosion control plan;
 - d. Stormwater management plan (SWMP);
 - e. Stormwater operations and maintenance manual (O&M Manual);
 - f. Civil construction plans;
 - g. Subdivision improvement agreement or development covenant agreement;
 - h. Exhibit and deed for partial right-of-way dedications;

- i. ~~Home~~Owner's association declaration or agreement (**REQUIRED IF COMMON ELEMENTS ARE INCLUDED IN THE SUBDIVISION, TO BE DETERMINED BY THE COMMUNITY DEVELOPMENT DEPARTMENT**).

B. *Form of final plat.*

1. Maps of the subdivision plat shall be drawn at not less than a scale of one (1) inch equals one hundred (100) feet.
2. Outer dimensions of the map shall be twenty-four (24) inches by thirty-six (36) inches with the following minimum margins: at least one (1) inch along the top and at least one-half ($\frac{1}{2}$) inch on the bottom and right sides.
3. Once a plat is approved, the plat shall be **PRINTED ON MYLAR MEETING JEFFERSON COUNTY CLERK AND RECORDER REQUIREMENTS.**
~~photographically reproduced or computer plotted on four millimeter (0.004) thick mylar. No sticky backs, transfer lettering, or labels shall be used on the mylar. All signatures must be permanent black ink. No ball point pens shall be used.~~
4. Maps of two (2) or more sheets shall be referenced to an index map placed on the first sheet and each sheet shall be numbered (e.g., sheet 1 of 3).

C. *Content of final plat.*

1. *Project information.*
 - a. Title of document. The title of the subdivision shall not duplicate another subdivision plat title in the records of the Jefferson County Clerk and Recorder's office.
 - b. A surveyed metes and bounds legal description of the platted boundary, with section ties to two (2) section corners in conformance with city geodetic surveying requirements. Coordinates for all section corners, and quarter-section corners, and PHAC points used shall be consistent with the City of Wheat Ridge current city datum and are available from the engineering division.
 - c. Basis of bearing statement, consistent with current city datum.
 - d. Small scale location map, with north arrow and scale.
 - e. Name, address, and phone number of architect, engineer, or surveyor associated with the project.
 - f. Appropriate signature and certification block as determined by the community development department, such as for owners, lenders, and city officials.
 - g. Signature and seal of the Colorado licensed professional land surveyor along with a statement that the survey was performed by him/her or under his/her direct responsibility, supervision, and checking, and in accordance with all City of Wheat Ridge requirements and applicable Colorado Statutes, current revised edition, as amended.

- h. Release of areas dedicated to public use by mortgage or lien holder.
- i. Standard easement notes as determined by the community development department.
- j. Dedicatory statement, if applicable.
- k. Case history box with reference case numbers; and
- l. Plat note in the form of, and if required by, Code section 26-421 declaring race or religion-based covenants on the subject property, if any, to be illegal and unenforceable.

2. *Graphical information.*

- a. All items on the City of Wheat Ridge geodetic surveying requirements for final plats shall be adhered to and provided on the plat.
- b. Graphical representation of property boundary consistent with legal description.
- c. Lot areas and dimensions for each lot, tract, and parcel.
- d. Accurate dimensions for all lines, angles, and curves used to describe boundaries, streets, alleys, easements, areas to be reserved for public use, and other important features.
 - i. Distance and bearings shall be on current city datum.
 - ii. All curves shall be circular arcs and shall be defined by all of the following: the radius, central angle, arc length, chord length, and chord bearing.
 - iii. All dimensions, both linear and angular, are to be determined by an accurate control survey in the field which must balance and close within a limit of at least one (1) in fifty thousand (50,000).
 - iv. No final plat showing plus, or minus dimensions will be approved.
 - v. Total area shall be rounded to the nearest square foot and acreage to four (4) decimal places.
- e. Monument information, including:
 - i. A description of all monuments that mark the boundaries of the property, both found and set, and a description of all control monuments used in conducting the survey.
 - ii. Right-of-way survey monuments shall be established per City of Wheat Ridge standard specifications for all new roadways or relocation of existing roadways, at all new road right-of-way centerline intersections, center of radius for cul-de-sacs, and at the end of the centerline for dead end streets. Right-of-way survey monuments may also be required at roadway centerline points of curvature, points of reverse or compound curvature, and points of tangency, as determined by the engineering division.

- iii. Coordinates for all control monuments used shall be consistent with the current city datum.
- f. Identification of all proposed lots, blocks, and street names. ~~Tentative~~ **Addresses** for each lot shall be provided by the city.
- g. Identification of existing streets, alleys, parks, and other public facilities.
- h. Identification of all easements within and abutting the subject property, including the purpose and dimensions. If any easement already of record cannot be definitely located, a statement of its existence and its recorded reference shall appear on the plat title sheet.
- i. Identification of adjacent property by subdivision name, lot, and block. If adjoining land is unplatted, it shall be identified as such.
- ~~j. Identification of zoning within and adjacent to subject property.~~
- k. Identification of areas reserved for future public acquisition.
- l. Extent of 100-year floodplain and floodway, if applicable.
- m. Legend, north arrow, and scale (not to exceed one (1) inch = one hundred (100) feet).

Section 9. Section 26-411.G of the Code, concerning subdivision design, is hereby amended as follows:

G. Easements AND TRACTS.

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2. Drainage and irrigation facilities. All proposed on-site stormwater detention facilities shall lie within a stormwater detention easement. **THE COMMUNITY DEVELOPMENT DIRECTOR, IN CONSULTATION WITH THE CITY ENGINEER, SHALL HAVE AUTHORITY TO REQUIRE THAT STORMWATER DETENTION FACILITIES SHALL BE PLACED IN AN UNBUILDABLE TRACT WHICH SHALL BE OWNED AND MAINTAINED IN PERPETUITY BY THE OWNERS' ASSOCIATION.** Where a subdivision is traversed by an irrigation ditch or channel, natural creeks or streams, an easement sufficient for drainage and to allow for maintenance of the ditch shall be provided. The width and location of this easement shall be approved by the controlling irrigation ditch company or lateral ditch users. When off-site detention, retention or conveyance is required, a recorded easement from the affected off-site property owner is required at the time of plat recordation.

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4. Access. When it is required to have circulation between adjacent properties **OR PROPERTIES WITHIN A SUBDIVISION**, cross access/ingress-egress easements **AND EMERGENCY ACCESS**

EASEMENTS IF REQUESTED BY THE FIRE DEPARTMENT shall be provided on the plat.

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6. All easement areas shall be maintained by the underlying fee simple property owner or appropriate owners' association. **THE COMMUNITY DEVELOPMENT DIRECTOR SHALL HAVE AUTHORITY TO REQUIRE THAT AN OWNERS' ASSOCIATION BE ESTABLISHED TO MAINTAIN COMMON AREA EASEMENTS AND TRACTS IN PERPETUITY.** All improvements located in, on, over or under the easements shall be maintained by the applicable and/or designated agency. Other improvements provided by the fee simple property owner shall not interrupt nor in any way interfere with the designated and continued use of the easements and improvements located thereon. The city shall not be responsible for maintenance of easements and/or improvements thereon, unless otherwise approved by the ~~city council~~ **COMMUNITY DEVELOPMENT DIRECTOR IN THE FORM OF A SUBDIVISION IMPROVEMENT AGREEMENT OR DEVELOPMENT AGREEMENT.**

Section 10. Section 26-417.3.b of the Code, concerning utility requirements for new subdivisions, is hereby amended as follows:

b. The following utilities shall be provided:

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iv. **INTERNET**, ~~t~~Telephone, cable, and other similar utility services

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 fifteen (15) days after final publication, as provided by Section 5.11 of the Charter.

INTRODUCED, READ, AND ADOPTED on first reading by a vote of 6 to 0 on this 8th day of May 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 May 22, 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 8 to 0, this 22nd day of May 2023.

SIGNED by the Mayor on this 22nd day of May 2023.



Bud Starker, Mayor

ATTEST:



Stephen Kirkpatrick, City Clerk

Approved as to Form



Gerald E. Dahl, City Attorney

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