

**CITY OF WHEAT RIDGE, COLORADO  
INTRODUCED BY COUNCIL MEMBER OHM  
COUNCIL BILL NO. 23  
ORDINANCE NO. 1774  
Series 2023**

**TITLE: AN ORDINANCE AMENDING CHAPTER 2 AND CHAPTER 26 OF THE WHEAT RIDGE CODE OF LAWS, CONCERNING THE CITY'S SUBDIVISION AND DEVELOPMENT REVIEW 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 has prioritized meaningful public engagement and education including the implementation of the Wheat Ridge Speaks online engagement platform, the Let's Talk Neighborhood Engagement program, and the support of staff's efforts to create and implement the Community Involvement Strategy; and

**WHEREAS**, the Council recognizes that the current subdivision review processes and public hearing requirements often conflict with the desire to inform rather than consult the public regarding development activities when the proposed uses are already permitted by the underlying zoning; and

**WHEREAS**, the Council recognizes the need to reduce duplication and unnecessary cross-references within the Code of Laws to ensure codes are easy to understand and administer; and

**WHEREAS**, the Council recognizes that there is the need to inform the public of larger subdivision applications that will result in greater impacts to the community and to provide balanced information in plain language.

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

**Section 1.** Section 2-53 of the Wheat Ridge Code of Laws, concerning boards and commissions, is hereby amended as follows:

...

(d) Notwithstanding any other provision in this section, the following voting rules shall be in effect for all matters requiring decision by the board of adjustment, **or, where appropriate, the planning commission,** to grant any variance, waiver, temporary building or use permit, or any interpretation ~~(or for any matter requiring decision by the~~

planning commission or the city council under subsection 26-6(D) or the zoning ordinance of the city):

...

**Section 2.** Section 2-60 of the Wheat Ridge Code of Laws, concerning responsibilities of the planning commission, is hereby amended as follows in subsections (e), (h), (i), and (j):

...

(e) ~~The planning commission shall hold a public hearing on all land use cases as prescribed by chapter 26. The staff shall provide a written staff report to the planning commission prior to the meeting, which shall contain a staff recommendation on the case which will be based in part on how the requested change conforms to the adopted comprehensive plan. The planning commission shall pass a resolution which makes a recommendation to the city council.~~

...

(h) ~~After holding a public hearing on major subdivision plats, the planning commission shall make a recommendation to the city council, with final action taking place at the city council. Public hearings shall be conducted following procedures outlined in the subdivision regulations.~~

(i) ~~Minor subdivision plats shall be heard and approved by the planning commission at a public hearing. Public hearings shall be conducted following procedures outlines in the subdivision regulations.~~

(j) ~~Wherein the planning commission has denied a minor subdivision, an applicant may appeal that decision to city council.~~

**Section 3.** Section 26-106 of the Wheat Ridge Code of Laws, containing the review process chart for land use approvals, is hereby amended as follows, including a new column for appeal processes and new footnotes:

Approval Requested	Pre-Application		Final				Notes Reference	Appeal	
	Staff	Neighborhood	Staff	PC	CC	BOA			URPC
Site Plan	<sup>4</sup> X		A				A	§ 26-111	
Mixed Use Concept Plan	X	<sup>5</sup> X	A					§ 26-1116	
Mixed Use Conditional Use Permit	X		A					§ 26-1118	<b>BOA</b>
Major Subdivision	X			H	H		URA	ART IV	
Minor Subdivision <b>Type II Subdivision</b>	X			H			URA	Appeal to CG ART IV	<b>CC</b>

Administrative Subdivision <b><u>Type I Subdivision</u></b>	X		A					ART IV	
Planned Development: Outline Development Plan (ODP)	X	X		H	H		URA	<sup>2</sup> ART III	
Planned Development: Specific Development Plan (SDP)	X			H	H <sup>6</sup>		URA	ART III	<b><u>CC</u></b>
Planned Development: Outline Development Plan Amendment	X	X		H	H		URA	<sup>2</sup> ART III	
Planned Development: Specific Development Plan Amendment	X		A	H <sup>7</sup>			A	ART III	
Rezoning, Private	X	X		H	H		URA	<sup>2</sup> § 26-112	
Rezoning, City		X		H	H		URA	<sup>2</sup> § 26-113	
Special Use	X	X	A		H <sup>8</sup>		URA <b><u>A</u></b>	§ 26-114 Appeal to CC	<b><u>CC</u></b>
Variance— Administrative			A				A	Appeal to BOA § 26- 115.C	<b><u>BOA</u></b>
Variance— Non-administrative						H	URA	§ 26- 115.C	
Temporary Permit						H	A	§ 26- 115.D	
Interpretation			A					Appeal <sup>1</sup> to BOA § 26- 115.E	<b><u>BOA</u></b>
Administrative Adjustments to the Official Zoning Map			A					Appeal to CC § 26- 119.E	<b><u>CC</u></b>
Historic Designation					H		URA	ART IX	

Planned Bldg. Group	<sup>4</sup> X		A	H <sup>9</sup>			A	<sup>3</sup> § 26-116	<u>Varies</u> <sup>10</sup>
Floodplain Permit— Class I			A					§ 26-806 <del>8</del>	<u>BCAB</u>
Floodplain Permit— Class II	<sup>4</sup> X		A					§ 26-806 <del>8</del>	<u>BCAB</u>
Right-of-way Vacation, <u>by ordinance</u>	X			H	H		URA	§ 26-118	
<u>Right-of-way Vacation, by plat</u>	<u>X</u>			<u>H</u>	<u>H</u>			<u>§ 26-118</u>	

<sup>1</sup> Reserved.

<sup>2</sup> Right of protest applies: See section 5-10 of the Home Rule Charter and Code subsection 26-112.C.7.

<sup>3</sup> If four (4) or more buildings are proposed, planning commission review is required.

<sup>4</sup> A pre-application may not be required based on the complexity of the project.

<sup>5</sup> Neighborhood meetings for mixed use concept plan applications are required only for sites of ten (10) acres in size or larger. ~~hg0;~~

<sup>6</sup> City council review is required for a specific development plan only if ODP and SDP applications are submitted concurrently. Planning commission is the final authority for an SDP submitted separate from and subsequent to ODP approval.

<sup>7</sup> Planning commission review of SDP amendments only required in some circumstances. Refer to section 26-307.

<sup>8</sup> City council review for special use permits is only required upon appeal by an applicant of a decision of denial by the community development director, or the receipt of an objection by adjacent property owners. Refer to section 26-114.

<sup>9</sup> Planning commission review for planned building group only required in some circumstances. Refer to section 26-116.

<sup>10</sup> If reviewed administratively, appeal to PC. If reviewed by PC, appeal to Jefferson County District Court.

Key:

PC: Planning commission

CC: City council

BOA: Board of adjustment

X: Meeting required

H: Public hearing required

A: Administrative review

URPC: Urban Renewal Plan compliance required: If "A" is noted, administrative review; if "URA" is noted, review by Wheat Ridge Urban Renewal Authority is required — see section 26-226.

BCAB: Building Code Advisory Board

**Section 4.** Section 26-111.A of the Wheat Ridge Code of Laws, describing application of site plan review requirements, is hereby amended as follows:

- A. *Application.* The requirements of this section apply to site development on property for which the use proposed is a use by right, is other than a single-unit dwelling or two-unit dwelling, and for which ~~subdivision or~~ planned development district approval is not sought. The requirements for site plans required in planned development zone districts are found in those district regulations. This section establishes the purpose, graphic and informational requirements for site development review required in instances other than planned development districts, including all site development within any mixed-use zone district established in article XI.

**Section 5.** Section 26-115.C of the Wheat Ridge Code of Laws, regarding variances, is hereby amended as follows with the insertion of a new subsection 4 and the appropriate renumbering of the current subsections 4 and 5 to 5 and 6:

...

**4. Variances and waivers for subdivision applications. The planning commission is empowered to hold public hearings to hear and decide upon subdivision applications which include variance or waiver requests as described in section 26-409 and defined herein as Type II Subdivisions.**

...

**Section 6.** Section 26-118 of the Wheat Ridge Code of Laws, concerning right-of-way vacations, is amended as follows:

Street right-of-way vacations can occur by ordinance or by final plat and can be initiated by either the City of Wheat Ridge or by a private party.

- A. *Vacation by plat.* When a **right-of-way** street is being vacated as part of the platting process it shall be graphically shown and shall be designated as being “hereby vacated **by this plat.**” The document for vacation in this instance shall follow the form and content of a final plat ~~and shall be processed as a major subdivision~~ in accordance with article IV. All submittal requirements of the platting process shall be provided by the applicant. ~~There shall not be an additional charge for processing of the vacation in this instance.~~ **When a right-of-way was previously dedicated by a plat, it shall be vacated by plat.**
- B. *Vacation by ordinance.* Applications for vacation by ordinance may also be originated by the City of Wheat Ridge or by a private property owner. **When a right-of-way was previously dedicated by separate instrument, it can be vacated by ordinance or by plat.** If a city-initiated vacation, the ~~engineering division~~ **city** shall prepare a legal description of the right-of-way proposed to be vacated attached to an administrative process application signed by the

mayor of the City of Wheat Ridge or his or her representative. The filing fee in this instance shall be waived. The city will provide all other supplemental information required to process the city-initiated application. If a private party is applying for the vacation, he or she will be responsible for the preparation and submittal of an application package including the following items:

1. ...

...

**Section 7.** Section 26-404 of the Wheat Ridge Code of Laws, concerning definitions for the subdivision regulations in Article IV, is amended as follows, with new definitions added in the appropriate alphabetical order:

...

~~Administrative subdivision: See subdivision, administrative.~~

...

~~Major subdivision: See subdivision, major.~~

~~Minor subdivision: See subdivision, minor.~~

...

~~Subdivision, administrative: Any subdivision, consolidation, or lot line adjustment that involves three (3) or fewer lots or parcels, conforms to all subdivision and zoning regulations, and does not include the dedication of a public street. See section 26-405.~~

~~Subdivision, major: Any subdivision, consolidation, or lot line adjustment that does not meet the definition of an administrative or minor plat, including any plat with a right-of-way vacation or the dedication of public streets. See section 26-405.~~

~~Subdivision, minor: Any subdivision, consolidation, or lot line adjustment that involves four (4) or five (5) lots or parcels, conforms to all subdivision and zoning regulations, and does not include the dedication of a public street. See section 26-405.~~

**Subdivision, Type I: Any subdivision, consolidation, or lot line adjustment that conforms to all subdivision and zoning regulations, and does not include right-of-way vacation, waiver, or variance. This subdivision type shall be reviewed and approved administratively.**

**Subdivision, Type II: Any subdivision, consolidation, or lot line adjustment that requires a waiver or variance for approval and does not include right-of-way vacation. This type of subdivision requires planning commission approval.**

...

**Section 8.** Section 26-405 of the Wheat Ridge Code of Laws is hereby repealed and the section number reserved.

**Section 9.** Section 26-406 of the Wheat Ridge Code of Laws, regarding review procedures for subdivisions, is amended as follows, including the addition of new subsections G and H:

...

**B. ~~Administrative plat review procedure.~~ Type I Subdivision review procedure.**

1. *Application filing.* An application packet shall be submitted to the community development department. Staff will review the application for completeness in accordance with the submittal requirements in section 26-410. If staff determines the application is not complete, it will be returned to the applicant and not further processed until the incomplete items have been supplied.
2. *Review and referral.* Upon receipt of a complete application packet the community development department will review the application and refer the application to affected departments and agencies for review and comment. The applicant must address all comments and resubmit relevant documents.
3. *Decision.* After the review period, staff will prepare written findings with a recommendation. The community development director shall review the plat and approve, approve with conditions, or deny the plat.

**C. ~~Minor and major plat review procedure.~~ Type II Subdivision review procedure.**

1. *Application filing.* An application packet shall be submitted to the community development department. Staff will review the application for completeness in accordance with the submittal requirements in section 26-410. If staff determines the application is not complete, it will be returned to the applicant and not further processed until the incomplete items have been supplied.
2. *Review and referral.* Upon receipt of a complete application packet the community development department shall proceed with the following process:
  - a. Staff will review the application and refer the application to affected departments and agencies for review and comment. The applicant must address all comments and resubmit relevant documents.
  - b. After the review period, staff will give notice of scheduled public hearings on the application before the planning commission, ~~and if needed, the city council.~~ Notice shall be by publication, letter, and site posting in the manner provided in section 26-109.
  - c. Staff will prepare a written report to the planning commission which evaluates the proposal, makes findings, and makes a recommendation.
3. ~~*Public hearing.*~~ **Planning commission public hearing. The planning commission shall hold a public hearing to review the plat and to hear and consider any evidence or statement presented by the applicant, city staff, or by any person in attendance at the public hearing. The**

**decision shall be based upon the facts presented in the public hearing pursuant to the procedures and review criteria for variances and waivers in section 26-409 and/or 26-115, whichever is applicable.**

- a. ~~Planning commission review.~~ The planning commission shall hold a public hearing to review the plat and to hear and consider any evidence or statement presented by the applicant, city staff, or by any person in attendance at the public hearing. Any recommendation or decision shall be based upon the facts presented in the public hearing and in consideration of the regulations and standards of this article and article II of this chapter.
  - i. ~~Minor subdivision.~~ The planning commission shall make a decision to either approve, approve with conditions, or deny the application. The decision by the planning commission is final for minor subdivisions.
  - ii. ~~Major subdivision.~~ The planning commission shall make a recommendation of approval, approval with conditions, or denial of the application. The recommendation shall be forwarded to city council for final action.
- b. ~~City council review.~~ City council shall review and decide upon all major subdivision applications at a public hearing. Upon receipt of the final plat and accompanying recommendations, the city council shall either approve, approve with conditions, deny, or refer the plat back to planning commission for further review. City council shall base its decision upon all evidence presented, with due consideration of the regulations and standards of this article and article II of this chapter.

...

E. ~~Review considerations.~~ Decisions on subdivision applications are technical and non-discretionary in nature. The regulations and standards of this article shall be used by the city council, planning commission, and community development director in judging the merits of the application submitted for review. **Because variance and waiver applications are discretionary in nature, for Type II subdivisions the planning commission shall base its decision in consideration of the extent to which the review criteria within sections 26-115 and 26-409 have been met.**

F. ~~Appeal.~~ Because of the technical and non-discretionary nature of subdivision decisions, and appeal may be filed only when a decision is based in whole or in part on an incorrect finding of compliance with these regulations. **Type I subdivisions are not eligible for appeal because of their technical and non-discretionary nature. The planning commission's decision on Type II subdivisions may be appealed to the City Council at a public hearing in accordance with section 26-109 only as follows:**

1. Appeals may be filed **only** by the applicant or property owner.



2. A written appeal shall be submitted to the community development department within ten (10) days of a decision.
3. Any appeal of the community development director's decision shall be heard by the planning commission at a public hearing in accordance with section 26-109.
4. Any appeal of the planning commission's decision shall be heard by the city council at a public hearing in accordance with section 26-109.

**G. Notice of subdivision approval.**

- 1. Upon approval of a subdivision in which the total gross size is two (2) acres or greater, the community development department shall send by first class mail, a notice of subdivision approval to adjacent property owners and occupants within six hundred (600) feet of the subject property.**
- 2. The letter shall include a description of the approved subdivision, zone district information, and information regarding construction hours and requirements, in a form determined by the community development director.**
- 3. This notice of subdivision approval shall be mailed within fifteen (15) days of subdivision approval by the community development director.**
- 4. Failure of a property owner or occupant to receive a mailed notice shall not invalidate the approval of the subdivision and shall not be regarded as constituting inadequate notice.**
- 5. The notice requirements of this subsection G shall not apply to plats of any size that are described by one of the following: 1) lot line adjustments where only existing lot lines are shifting, including lot line adjustments for previously-approved townhouse plats; or, 2) consolidation plats for properties which contain existing and completed development for the sole purpose of eliminating unnecessary lot lines and which will not result in the creation of additional new lots for development.**

**H. Right-of-way vacation. Any plat containing a right-of-way vacation shall be processed as a right-of-way vacation by plat pursuant to the requirements in section 26-118.**

**Section 10.** Section 26-409 of the Wheat Ridge Code of Laws, regarding variances and waivers for subdivisions, is amended as follows:

- A. *Review procedure.* Any subdivision application that includes a request for a variance or waiver shall be processed as a major **Type II** subdivision and reviewed by planning commission and city council.

- B. *Variance*. Where a subdivider proposes a plat that does not fully comply with the development standards contained in these regulations or the zoning code, the subdivider must provide a written variance request as part of the application contents. The variance request shall be considered pursuant to the procedures, review criteria, and voting ratios set forth in sections 26-115 and 2-53(d).
- C. *Waiver*. A waiver is a permitted exemption or reduction from a design principle or required improvement based on the specific conditions, circumstances or design context of a development proposal. The burden of demonstrating that a waiver is justified falls on the applicant.
  - 1. *Process*. The applicant shall submit to the community development department a letter requesting the waiver and providing justification addressing the review criteria in subsection 2. below. The waiver shall be considered concurrently with the review of the final plat. Final action on the request shall be made by planning commission~~city council~~. **The waiver request shall be considered pursuant to the voting ratios set forth in section 2-53(d).**

...

**Section 11.** Section 26-411.G of the Wheat Ridge Code of Laws, regarding easements and tracts, is amended as follows, by addition of a new subsection 7:

G. *Easements and tracts*.

...

**7. Easement removal.**

**a. Easements vacated by plat shall be noted as being “hereby vacated and released by this plat.”**

**b. Easements requested to be vacated or modified separately from a plat application may be processed as an affidavit of easement amendment or affidavit of easement vacation. The applicant shall include written and notarized approval from affected property owners and utility agencies.**

**c. Separate sheets for vacation and rededication may be necessary.**

**Section 12.** Section 26-415.A of the Wheat Ridge Code of Laws, regarding dedication of public streets, is amended as follows:

- A. *Dedication*. Street dedication requirements shall be based on the city’s adopted **and most current guiding documents, including, but not limited to, the Comprehensive Plan**, the Bicycle and Pedestrian Master Plan, and the Streetscape Design Manual of the City of Wheat Ridge.

1. *Full.* Dedication of a public street shall be by plat and shall be processed as a major a Type I subdivision unless other proposed conditions qualify the subdivision as a Type II subdivision or right-of-way vacation.
2. *Partial.* A partial right-of-way dedication is acceptable if it is required to complete a substandard street already in existence.
  - a. *Half streets.* For streets on the perimeter of a subdivision, the subdivider may be permitted to dedicate sufficient right-of-way to provide an adequate street width for two (2) lanes of traffic in accordance with the city's standards and specifications. In such instances, the subdivider shall be required to construct one-half (1/2) of the street width plus six (6) feet or other design as determined and approved by the community development department. If on street parking is desired, ~~more~~ **additional** right-of-way will be required.
  - b. ~~Administrative or minor subdivision~~ **Type of dedication.** Where partial right-of-way dedication is required as part of ~~an~~ administrative or minor subdivision application, the right-of-way **shall be dedicated to the city by plat.** ~~may be dedicated to the city by separate document. On the plat, the right-of-way to be designated shall be labeled as a tract~~ **hereby dedicated.**, ~~and a plat note shall indicate that the dedication of the tract will be by separate instrument. An exhibit and deed shall be prepared, signed and sealed by the professional land surveyor of record and submitted to the community development department as part of the application packet.~~
  - c. **Where partial right-of-way is being dedicated apart from a plat, the city may accept the dedication by deed.**

...

**Section 13.** Section 26-416 of the Wheat Ridge Code of Laws is hereby repealed and the section number reserved.

**Section 14. 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 15. 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 7 to 0 on this 28<sup>th</sup> day of August 2023, ordered published by title and in full on the City's website as provided by the Home Rule Charter, and Public Hearing and consideration on final

passage set for September 11, 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 6 to 0, this 11th day of September 2023.

SIGNED by the Mayor on this 12<sup>th</sup> day of September 2023.



Bud Starker, Mayor

ATTEST:

  
Stephen Kirkpatrick, City Clerk

Approved as to Form:



Gerald E. Dahl, City Attorney

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