

# **STUDY SESSION AGENDA**

## **CITY COUNCIL CITY OF WHEAT RIDGE, COLORADO**

7500 W. 29th Ave.  
Wheat Ridge CO

October 1, 2018

6:30 p.m.

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Individuals with disabilities are encouraged to participate in all public meetings sponsored by the City of Wheat Ridge. Call Sara Spaulding, Public Information Officer 303-235-2877 at least one week in advance of a meeting if you are interested in participating and need inclusion assistance.

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### Citizen Comment on Agenda Items

1. Prohibiting the Feeding of Wildlife Ordinance
2. Ordinance Amending Chapter 17- Consumption of Fermented beverages in City Parks
3. Electrical Assisted Bicycles
4. Staff Report(s)
5. Elected Officials' Report(s)

ADJOURNMENT

# Memorandum

**TO:** Mayor and City Council

**THROUGH:** Patrick Goff, City Manager

**FROM:** Joyce Manwaring, Parks and Recreation Director  
Daniel Brennan, Chief of Police

**DATE:** October 1, 2018

**SUBJECT:** Prohibiting the Feeding of Wildlife Ordinance

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**ISSUE:**

Staff is recommending that new rules and regulations concerning the feeding of wildlife and waterfowl be consolidated with existing regulations on the treatment of wild animals. This ordinance amends Chapter 4 (Animals), Chapter 16 (Miscellaneous Offenses), and Chapter 17 (Park Rules). The City Code of Laws does not currently define wildlife and waterfowl and food, or prohibit the feeding of wildlife except for specifically, foxes and coyotes.

This suggested ordinance amends Chapter 4 (Animals) and Chapter 17 (Park Rules) to include prohibiting the feeding of all wildlife and waterfowl in parks and open space, as well as throughout the City.

Exclusions include feeding domestic animals, squirrels and birds on private property.

Staff is seeking policy direction on the following items:

- 1) An ordinance expanding the Code of Laws on regulating the feeding of wildlife and waterfowl; and
- 2) Whether the scope of the ordinance should apply citywide or only to parks and open space.

**BACKGROUND:**

Due to the close proximity of open space to residential dwellings, the feeding of wildlife and waterfowl within the greenbelt creates the following issues:

- Most wildlife becomes tame and later can become aggressive in search of food. This can result in injuries or death to people, pets and livestock animals.
- By feeding wildlife, it attracts larger wildlife predators into the area.
- Wildlife can carry diseases that may affect humans, pets and livestock animals, such as rabies and the plague.
- Animals will frequent areas where food is available, which includes roadsides and the crossings of major thoroughfares to reach food sources, and may be killed by passing vehicles.

- Human food may cause health problems and chemical imbalances in wildlife. Ill health is the result of eating human food thus making the animals less likely to survive the winter months.
- Specifically, deer have unique digestive systems. They must eat enough specific plant proteins to stimulate the growth of vital intestinal bacteria. Human food does not produce these organisms, and without them, members of the deer family cannot process food. They may starve to death on a full stomach.
- Many animals will stop foraging for wild foods and become dependent on human handouts. If they fail to stash seeds, they will no longer be planting future generations of trees and bushes.
- Nutrient loading in our storm water is a major concern and serious threat to our water quality.
- When it rains, storm water carries litter from streets and parks into drains and, eventually, into our lakes and creeks.
- Nutrients in the form of organic matter from fertilizers, feces, unconsumed food scraps, and foods that are poorly digested can enter our rivers and creeks. As this organic matter breaks down, nitrogen and phosphorus compounds are released. High levels of these compounds can lead to plant overgrowth resulting in oxygen variations in the water. This variation means that fish and other aquatic animals, which depend on oxygen to live, are affected.
- Waterfowl feces not only covers parks and playing fields but also becomes a serious water contaminant.
- The City's main lakes are closed systems whatever enters these lakes stays there.
- Our lakes have restricted water entering and circulation in their systems and limited flow-through, this lack of dilution stimulates algae growth.
- An individual goose can deposit 1 to 3 pounds of feces daily.
- These feces contribute to the excessive nutrients in the lakes, which cause dense growth of plant life and death of animal life from lack of oxygen.
- A diet rich in carbohydrates will lead to more defecation.
- These feces contribute in turn dissolved oxygen becomes less available and pH increases along with the warm water temperatures of our shallow lakes and all these conditions contribute to poor water quality.
- As long as the system is overwhelmed with continual influx of excrement into the lakes water quality will suffer and no amount of treatments keep pace with this continuing effluent of fecal chloroforms, and E. coli and other nutrient loading.
- There is no movement of sediments out of the lakes and water running off from surrounding land and parking lots carries with it feces generated by congregating waterfowl is also and is captured and trapped in the lake's sediment.
- Dredging of the lakes is not practical and very costly.
- Poor water quality has negatively impacted recreation opportunities - boating and fishing in our lakes also goose feces is a mess to walk through on the city trails and sidewalks.

**RECOMMENDATIONS:**

This ordinance: (1) defines wildlife, waterfowl and food; (2) establishes rules and regulations governing the feeding of wildlife and waterfowl; (3) moves material concerning wild animals from Chapter 16 to Chapter 4; and (4) cross-references the (new) requirements to the existing Park Rules in Chapter 17.

The Parks and Recreation Commission and the Animal Welfare and Control Commission recommend amending provisions of Chapter 4 and 17 of the Wheat Ridge Code of Laws concerning animals and the feeding of wildlife and waterfowl.

Staff recommends the adoption of this ordinance for the above reasons.

**ATTACHMENTS:**

1. Council Bill
2. Supporting documentation on the effects of feeding wildlife

**CITY OF WHEAT RIDGE, COLORADO**  
**INTRODUCED BY COUNCIL MEMBER \_\_\_\_\_**  
**Council Bill No. \_\_\_\_\_**  
**Ordinance No. \_\_\_\_\_**  
**Series of 2018**

**TITLE:    AN ORDINANCE AMENDING THE WHEAT RIDGE CODE OF  
LAWS CONCERNING WILDLIFE AND WATERFOWL**

**WHEREAS**, pursuant to Article XX of the Colorado Constitution and C.R.S. §§ 31-15-401(1)(m) and 31-15-702(1)(a)(I), the City of Wheat Ridge ("City") possesses the authority to prohibit the feeding of wildlife and waterfowl; to regulate the treatment of wild animals, and to regulate the use of public parks within the City; and

**WHEREAS**, pursuant to this authority, the City, acting by and through its City Council (the "Council"), wishes to prohibit the feeding of wildlife and waterfowl within the City; and

**WHEREAS**, the Council finds and determines that the imposition of rules and regulations specific to the feeding of wildlife and waterfowl are necessary and desirable to minimize the potential impacts of feeding wildlife and waterfowl to protect all people and animals using the parks; and

**WHEREAS**, the Council further finds that feeding wildlife and waterfowl rules and regulations should be codified within the Wheat Ridge Code of Laws ("Code") to permit the violators thereof to be prosecuted in the City's Municipal Court; and

**WHEREAS**, the Council therefore desires to amend certain provisions of Chapters 4, 16 and 17 of the Code, to establish uniform rules and regulations to prohibit the feeding of wildlife and waterfowl, and the treatment of wild animals and to make other conforming amendments.

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

**Section 1.** Code Section 4-1 is amended by the addition of the following definitions:

"WILDLIFE" SHALL INCLUDE ANY ANIMAL, WHICH IS NOT NORMALLY DOMESTICATED IN THIS STATE, INCLUDING BUT NOT LIMITED TO BEARS, MOUNTAIN LIONS, ELK, COYOTES, DEER, FERAL CATS, FOXES, GROUNDHOGS, OPOSSUMS, RACCOONS, SKUNKS, SQUIRRELS AND WATERFOWL.

"WATERFOWL" SHALL INCLUDE ANY BIRD, DOMESTIC OR WILD, THAT FREQUENTS THE WATER, OR LIVES ABOUT RIVERS, LAKES, ETC., AN AQUATIC FOWL, INCLUDING BUT NOT LIMITED TO DUCKS, GEESE, SWANS, HERON, AND EGRETS.

“FOOD” SHALL INCLUDE ANY PRODUCT DESIGNATED FOR ANIMAL OR HUMAN CONSUMPTION.

“WILD BIRD” INCLUDES ALL UNDOMESTICATED BIRDS NATIVE TO NORTH AMERICA AND UNDOMESTICATED GAME BIRDS IMPLANTED IN NORTH AMERICA BY GOVERNMENTAL AGENCIES AND ANY DOMESTIC DUCK OR GOOSE RELEASED BY ANY PRIVATE PERSON OR RECREATIONAL AUTHORITY UPON ANY RECREATIONAL AREA WITHIN THIS CITY.

“WILD ANIMAL” INCLUDES ANY ANIMAL NATIVE TO THE STATE, BUT DOES NOT INCLUDE RATTLESNAKES, FISH, NORWAY RATS OR COMMON HOUSE MICE.

“HUMANE TRAP” INCLUDES ANY TRAP WHICH DOES NOT CAUSE PHYSICAL INJURY, PAIN OR SUFFERING OF A TRAPPED ANIMAL. STEEL-JAW LEG HOLD TRAPS AND SNARES ARE SPECIFICALLY EXCLUDED FROM THIS DEFINITION, BUT THE CITY SHALL NOT BE PRECLUDED FROM DETERMINING THAT ANY OTHER TYPE OF TRAP IS ALSO EXCLUDED FROM THIS DEFINITION.

“CAUSING DAMAGE ON LAND” SHALL MEAN PHYSICAL INJURY TO BUILDINGS OR IMPROVEMENTS OR DESTRUCTION OR INJURY OF DOMESTIC ANIMALS OR PETS LAWFULLY KEPT THEREON.

**Section 2.** A new Code Section 4-19 is hereby enacted to read as follows:

**SECTION 4-19. FEEDING OF WILDLIFE.**

- A. IT SHALL BE UNLAWFUL TO PURPOSELY OR KNOWINGLY PLACE OR PROVIDE ANY FOOD FOR ANY WILDLIFE ANIMAL OR WATERFOWL.
- B. NO PERSON SHALL PURPOSELY OR KNOWINGLY LEAVE OR STORE ANY REFUSE, GARBAGE, FOOD PRODUCT, PET FOOD, FORAGE PRODUCT OR SUPPLEMENT, SALT, SEED OR BIRDSEED, FRUIT, GRAIN IN A MANNER THAT WOULD CONSTITUTE AN ATTRACTANT TO ANY WILDLIFE OR WATERFOWL.
- C. THIS SECTION SHALL NOT APPLY TO FEEDING OF BIRDS, SQUIRRELS, OR DOMESTIC WATERFOWL ON PRIVATE PROPERTY OWNED OR CONTROLLED BY THE PERSON(S) ENGAGED IN SUCH FEEDING.

**Section 3.** A new Code Section 4-20 is hereby enacted to read as follows:

**SEC. 16-64. - PROTECTION OF WILDLIFE.**

(A) SHOOTING, CAPTURING, ETC., PROHIBITED. EXCEPT AS OTHERWISE PROVIDED IN THIS SECTION, IT IS UNLAWFUL TO WILLFULLY SHOOT, CAPTURE, HARASS, INJURE OR DESTROY ANY WILD BIRD OR ANIMAL OR TO ATTEMPT TO SHOOT, CAPTURE, HARASS, INJURE OR DESTROY ANY SUCH WILD BIRD OR ANIMAL ANYWHERE WITHIN THIS CITY.

(B) DISTURBING, ETC., NESTS, BURROWS, ETC., PROHIBITED. NO PERSON SHALL WILLFULLY DESTROY, ROB OR DISTURB THE NEST, NESTING PLACE, BURROW, EGGS OR YOUNG OF ANY WILD BIRD OR ANIMAL ANYWHERE WITHIN THIS CITY.

(C) APPLICATION TO CITY AND STATE EMPLOYEES. THE PROVISIONS OF THIS SECTION SHALL APPLY TO THE PERSONNEL OF ANY POLICE, FIRE OR ANIMAL CONTROL AGENCY OR TO THE STATE DIVISION OF WILDLIFE OR DEPARTMENT OF HEALTH OR OTHER STATE OR FEDERAL AGENCY, AND ALL CITY OF WHEAT RIDGE EMPLOYEES WHEN SUCH PERSONS ARE ACTING WITHIN THE SCOPE OF THEIR OFFICIAL DUTIES AS EMPLOYEES OF SUCH AGENCIES.

(D) STATE-PROTECTED BIRDS AND ANIMALS. THE PROVISIONS OF THIS SECTION ARE NOT INTENDED TO ALLOW THE DESTRUCTION OF ANY BIRD OR ANIMAL PROTECTED BY STATE OR FEDERAL LAW.

(E) WHEN TRAPPING PERMITTED. IF ANY WILD BIRD OR ANIMAL IS CAUSING DAMAGE ON LANDS WITHIN THE CITY OWNED OR LEASED BY ANY PERSON, SUCH PERSON OR ANY MEMBER OF HIS FAMILY, OR HIS AGENT, MAY TRAP SUCH WILD BIRD OR ANIMAL, SUBJECT TO THE PROVISIONS OF THIS SECTION.

(F) PROVISIONS FOR TRAPPING. TRAPPING OF ANIMALS SHALL FOLLOW THE PROVISIONS SET OUT BELOW:

(1) WHEN DEEMED NECESSARY BY POLICE OFFICERS OR THE COMMUNITY SERVICE OFFICER FOR THE HEALTH, SAFETY AND WELFARE OF THE RESIDENTS OF THE CITY, SUCH OFFICERS AND/OR THEIR AGENTS MAY PLACE A HUMANE TRAP ON CITY PROPERTY OR OTHER PROPERTY WITHIN THE CITY WHEN THE PROPERTY OWNER REQUESTS SUCH HUMANE TRAP FOR THE PURPOSE OF CAPTURING ANY WILD OR PET ANIMAL CREATING A NUISANCE IN THE CITY. PROVIDED, HOWEVER, THAT NO TRAP OF ANY KIND SHALL BE SET UPON ANY PROPERTY WITHOUT NOTIFICATION TO AND/OR PERMISSION FROM THE OWNER OF SUCH PROPERTY.

(2) ANY PERSON WHO TRAPS AN ANIMAL PURSUANT TO THE PROVISIONS OF THIS SECTION SHALL IMMEDIATELY NOTIFY POLICE DEPARTMENT OF SUCH TRAPPING. THE POLICE DEPARTMENT SHALL HAVE THE EXCLUSIVE RIGHT AND AUTHORITY TO DETERMINE THE DISPOSITION OF ANY SUCH TRAPPED ANIMAL.

(3) COMMUNITY SERVICE OFFICERS ARE AUTHORIZED TO USE ANY FIREARMS, HUMANE TRAPS OR OTHER SUITABLE DEVICES TO SUBDUE OR DESTROY ANY ANIMAL THAT IS DEEMED BY THE COMMUNITY SERVICE OFFICER, IN HIS DISCRETION, TO BE A DANGER TO ITSELF OR TO THE PUBLIC HEALTH AND SAFETY.

(4) IT SHALL BE UNLAWFUL FOR ANY PERSON TO SET OR CAUSE TO BE SET WITHIN THE CITY ANY STEEL-JAW LEG-HOLD TRAP, SNARE OR ANY

TRAP OTHER THAN A HUMANE TRAP, FOR THE PURPOSE OF CAPTURING ANY ANIMAL, WHETHER WILD OR DOMESTIC.

**Section 4.** Code Section 17-29 is amended by the addition of a new subsection (c), to read as follows:

(C) THE TREATMENT OF WILDLIFE AND WATERFOWL SHALL BE GOVERNED BY SECTIONS 4-19 AND 4-20 OF THIS CODE.

**Section 5.** Code Section 16-64 is hereby repealed.

**Section 6. 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 7. 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 8. 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 \_\_\_\_\_ to \_\_\_\_\_ on this \_\_\_\_ day of \_\_\_\_\_, 2018, 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 \_\_\_\_\_, 2018, 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 \_\_\_\_\_ to \_\_\_\_\_, this \_\_\_\_\_ day of \_\_\_\_\_, 2018.

SIGNED by the Mayor on this \_\_\_\_\_ day of \_\_\_\_\_, 2018.

\_\_\_\_\_  
Bud Starker, Mayor

ATTEST:

\_\_\_\_\_  
Janelle Shaver, City Clerk



Approved As To Form

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Gerald E. Dahl, City Attorney

First Publication:  
Second Publication:  
Wheat Ridge Transcript  
Effective Date:

# EFFECTS of FEEDING WILDLIFE

## Background

- Feeding geese can also pollute the environment. Uneaten bread is unsightly. It can rot and release noxious odors, and it can also lead to the growth of algae, which then does wash into adjacent bodies of water and endanger the health of fish and other wildlife.
- Moldy bread left on the ground can cause aspergillosis a lung infection.
- Bread, crackers, popcorn, and other high-carbohydrate foods are like junk food to birds. They provide very little nutritional content, and birds that fill up on them will not seek out other, nutritious food. This can cause the birds to become malnourished, which can contribute to a host of health problems for both adults and their offspring.
- Geese and other birds that rely on humans for food lose their natural fear and may place themselves in dangerous situations, such as crossing roads in search of food. They may also become aggressive toward humans who do not provide them with the food they want.
- Wild geese have plenty of healthy food in their habitat to sustain them. Geese can find food on their own in the environment and can stay healthy.
- The United States Geological Survey (2008) defines eutrophication as “a process whereby water bodies such as lakes, estuaries, or slow-moving streams receive excess nutrients that stimulate excessive plant growth, such as algae and nuisance plant weeds.” Rapid increases in population of algae can lead to death of organisms by limiting the amount of oxygen being dissolved in water systems as plant material decays. Water is then able to become hypoxic or “low in oxygen”

## Habitat degradation

- Large numbers of ducks and geese in a small area can have a serious impact on the surrounding environment.
- Feces generated by congregating waterfowl results in increased deposition of carbon, phosphorus, and nitrogen in the water and surrounding land.
- Nitrogen and phosphorous are the primary pollutants these over available nutrients result in algal blooms which kill other organisms requiring the use of oxygen.

- The addition of these nutrients to water (a process known as eutrophication) promotes excessive algae growth leading to decreased oxygen levels, foul-smelling green and cloudy water, fish kills, and an overall decrease in water quality.
- In addition, some common algae species (blue-green algae) produce toxins associated with illness in wildlife, humans, and pets.
- Certain species of waterfowl may also be destructive to the environment by way of their natural foraging strategies.
- Canada geese graze on grass and other low-growing plants and, when in large flocks, often destroy lawns and gardens surrounding city ponds. If these birds cannot find enough food, they often migrate short distances to golf courses, sports fields and other grassy public areas yet still use the public park as a “home base”.
- Increased waterfowl populations can also lead to erosion of shorelines and a general negative public opinion of ducks and geese.

#### **Disease among waterfowl and feeding of opportunistic species**

- When there are dense population conditions. There have been numerous outbreaks of botulism, avian cholera, duckplague (duck enteritis virus), and aspergillosis (fungal infection)
- This intense competition for poor quality food and other stressful interactions combine to suppress the immune system’s ability to resist infection, thus promoting disease.
- Unconsumed food scattered by people attract and congregate scavengers such as rats, mice, insects, raccoons, opossums, crows, gulls, pigeons, etc, that can help spread diseases beyond the feeding site outside of the park and many of these scavengers are not be welcome in a public park. Concentrations of any animals greatly increases the potential for disease transmission to other wild animals and domestic pets.
- Outbreaks of rabies in raccoons have been traced back to communal feeding sites elsewhere in the country.

#### **Dietary and Nutritional Problems**

- Wild ducks and geese feed on a variety of natural foods, such as wild grains and grasses, aquatic plants, and invertebrates. When eaten in combination, these foods are nutritionally balanced and provide everything a wild duck or goose needs to survive.

- It is also the multiplying effect one family feeding a small amount and leaves the park and the next park visitor comes in and feeds the geese/ducks and on and on throughout the day. The birds fill up on this junk food that provides very little of the nutrients they need for proper health and growth. They then do not seek the food that they should be consuming.
- Foods commonly fed to waterfowl in public parks, such as bread, popcorn, and corn are typically low in protein and lack essential nutrients and minerals (such as calcium and phosphorus) and result in a variety of nutritional disorders.
- Children can get away with eating junk food once in a while, young birds can't. Birds grow much faster than humans. What they eat each and every day is very important to their proper growth. Without proper nutrition, problems occur.
- Waterfowl admitted to wildlife rehabilitation centers suffering from metabolic bone disease. These birds have incredibly soft bones and joints that are often malformed and fractured.
- These injuries are caused by an overall calcium deficiency in the body linked to an inappropriate diet.
- Calcium also plays a crucial role in the formation of eggs/offspring, clotting ability, cardiovascular and neuromuscular function, and a variety of other metabolic activities.
- These birds are often so malformed they cannot fly and thus are dependent on handouts, completing a vicious circle.
- Affected birds are typically too weak to compete for food and defend themselves and are often the victims of aggressive attacks by other ducks and geese.
- Another common presentation is "Angel Wing", a condition where flight feathers at the end of the wings are twisted upwards. "Angel Wing" occurs when the weight of growing feathers causes rotation of the wing tip by forces exerted on the underlying ligaments and muscles. If caught in initial stages, waterfowl suffering from this condition may be treated with splints to guide bone growth in the correct position.
- Well-meaning citizens feeding commercial duck, chicken or turkey rations to avoid the "junk food" may be unintentionally creating this disorder.
- Many bread products expand in water (and thus the stomach) giving waterfowl an artificial feeling that they are full. As a result, these birds may not feel motivated to continue foraging on natural foods of higher nutritional value.

### **Habituation**

- Wild animals including waterfowl should have a healthy fear of humans and other potential predators (feral cats, dogs, coyotes and foxes).
- In public settings where waterfowl are fed artificial diets, these birds often lose this fear and are more likely to be consumed by predators (raccoons, etc).
- Large habituated geese may pose a significant public health threat at certain times of the year if they are defending a nesting female or a brood of goslings. These geese have the ability to injure humans.

### **Alternatives**

- The best solution for waterfowl problems situated around public parks is to stop all forms of supplemental feeding.
- Wild birds have evolved to survive in natural conditions and do not benefit from handouts by the well-meaning public.
- Watching birds in their native environment is a wonderful alternative to supplemental feeding in public parks. Bird-watching allows participants to observe how waterfowl really interact with their environment.
- If one is compelled to feed animals, many zoos and related facilities allow this activity in a regulated fashion.

### **What has the City done?:**

#### Habitat modification

- Fencing, vegetation modification, placing predator silhouettes application of grape tasting to turf - not a desirable taste for waterfowl. Several other techniques have also been used.
- In cooperation with the Federal and State agencies and through permitted activities we have also harassed, egg oiled and trapped Canada geese specifically.
- Within the metro area these waterfowl populations are not isolated but shared populations

# Memorandum

**TO:** Mayor and City Council

**THROUGH:** Patrick Goff, City Manager

**FROM:** Gerald Dahl, City Attorney  
Joyce Manwaring, Parks and Recreation Director

**DATE:** October 1, 2018

**SUBJECT:** Ordinance Amending Chapter 17 Concerning the Consumption of Fermented Beverages in City Parks

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The code of laws for the City of Wheat Ridge regarding permitting the consumption of Alcoholic Beverages in a park or recreation area currently follows the State definition and law, which refers to the percent of alcohol by weight, allowing not more than 3.2%.

Colorado State Senate Bill 18-243, which becomes effective on January 1, 2019, eliminates the alcohol content limit within the definition of “fermented malt beverages,” and allows public consumption of alcohol if it “has been specifically authorized by ordinance, resolution or rule adopted by a municipality, [or] City. So, the City continues to have the power to make the distinction for its local purposes, although that might be difficult in practice, as described below.

Fermented malt beverages can range up to 6% alcohol by weight. However, the manufacturers of fermented malt beverages also make products with higher alcohol content, up to 16% (generally known as malt liquors). This has significance for the Council in determining whether and to what extent to allow these forms of alcohol beverage in the City’s parks. Because the alcohol by weight distinction has been eliminated, it will be difficult to readily determine if a person is drinking a 5% beer, or a 16% malt liquor.

The Council has the following options to respond to the state law change:

- Permit both fermented malt beverages and malt liquor to be consumed in the City’s parks, without distinction as to alcohol content. Generically, then, “beer in the parks” would be permitted.
- Permit fermented malt beverages but not malt liquor and other beverages that exceed 6% alcohol by weight. There will be real enforcement difficulty in enforcing this distinction, as noted above.
- Make a distinction as between different City parks.

Robin Eaton, Deputy City Clerk, has prepared the (attached) memorandum elaborating on these issues, and will be present at the October 1 study session to answer questions.

**CITY OF WHEAT RIDGE, COLORADO**  
**INTRODUCED BY COUNCIL MEMBER \_\_\_\_\_**  
**COUNCIL BILL NO. \_\_\_\_\_**  
**ORDINANCE NO. \_\_\_\_\_**  
**Series 2018**

**TITLE: AN ORDINANCE AMENDING CHAPTER 17 OF THE WHEAT RIDGE CODE OF LAWS CONCERNING THE CONSUMPTION OF FERMENTED MALT BEVERAGES IN CITY PARKS**

**WHEREAS**, the City of Wheat Ridge (the “City”) 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 previously adopted and amended Chapter 17 of the Wheat Ridge Code of Laws (the “Code”) concerning parks and recreation; and

**WHEREAS**, Colorado State Senate Bill 18-243, which becomes effective on January 1, 2019, eliminates the alcohol content limit within the definition of “fermented malt beverages,” and allows public consumption of alcohol if it “has been specifically authorized by ordinance, resolution or rule adopted by a municipality, [or] City,” and

**WHEREAS**, the Council now wishes to further amend Chapter 17 of the Code to address this recent state legislation concerning fermented malt beverages and to permit the consumption of fermented malt beverages in parks within the City.

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

**Section 1.** Section 17-17 of the Wheat Ridge Code of Laws concerning “Alcoholic beverages” is hereby amended as follows:

**Sec. 17-17. – Alcoholic beverages.**

(a) The storage, sale or consumption of any malt, vinous or spirituous liquors, as defined by the Colorado Liquor Code, is prohibited in any park, recreation area or recreation building within the city except as specifically provided herein or as may be authorized pursuant to a special event permit issued by the city in accordance with C.R.S., article 48, title 12. The consumption and/or storage of fermented malt beverages ~~containing not more than three and two-tenths (3.2) percent of alcohol by weight~~ is permitted in any park or recreation area within the city so long as, and only so long as, such fermented malt beverage has been purchased in a manner authorized, and is being consumed by persons permitted, by applicable state law. It shall be unlawful to sell any fermented malt

beverage within any park or recreation area within the city unless such sales are made pursuant to a special event permit granted by the city and unless such sales are made in accordance with the Colorado Beer Code.

(b) Storage and consumption of fermented malt and vinous liquor is permitted at the Wheat Ridge Senior/Community Center, the Wheat Ridge Recreation Center and the Richards-Hart Estate in conjunction with an event sanctioned and authorized by the director; and provided further that such alcoholic beverages are neither sold to, served to, or consumed by any person not authorized by the Colorado Liquor Code or the Code of Laws of the City of Wheat Ridge to possess or consume such alcoholic beverages. The director is hereby authorized to establish rules for serving and consumption of alcoholic beverages at the Richards-Hart Estate, the Wheat Ridge Senior/Community Center, and the Wheat Ridge Recreation Center.

**Section 2. 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 3. 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 \_\_\_\_ to \_\_\_\_ on this \_\_\_\_ day of \_\_\_\_\_, 2018, 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 \_\_\_\_\_, 2018 at 7:00 p.m., in the Council Chambers, 7500 West 29<sup>th</sup> Avenue, Wheat Ridge, Colorado.

**READ, ADOPTED AND ORDERED PUBLISHED** on second and final reading by a vote of \_\_\_\_ to \_\_\_\_, this \_\_\_\_ day of \_\_\_\_\_, 2018.

SIGNED by the Mayor on this \_\_\_\_ day of \_\_\_\_\_, 2018.

\_\_\_\_\_  
Bud Starker, Mayor

ATTEST:

\_\_\_\_\_  
Janelle Shaver, City Clerk



Approved as to Form

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Gerald E. Dahl, City Attorney

First Publication:  
Second Publication:  
Wheat Ridge Transcript  
Effective Date:

Published:  
Wheat Ridge Transcript and [www.ci.wheatridge.co.us](http://www.ci.wheatridge.co.us)

# Memorandum

**TO:** Mayor and City Council

**FROM:** Robin Eaton, Deputy City Clerk

**DATE:** September 26, 2018 (for October 1, 2018 Study Session)

**SUBJECT:** Revising City Code due to the implementation of SB16-197; raising the alcohol limits on fermented Malt beverages and its allowance in the City of Wheat Ridge parks

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When referencing Fermented Malt Beverages (FMB) currently licensed as we know it as 3.2% beer. This product is sold mainly in convenience stores, gas stations and grocery outlets. Due to the passing of SB16-197, the legal maximum limit of 3.2% alcohol by weight (ABW) or 4% by volume (ABV) on FMB products goes away on January 1, 2019. As such, these establishments will be allowed to sell full strength FMB at their outlets and these products can have an alcohol contents as high as 6% by volume. Their license type will not change and can only sell FMB, not Malt Liquor as what's in the Retail Liquor Stores (RLS) and Liquor Licensed Drugstores (LLDS).

Malt Liquor regulations will also change in 2019 **(1)** and they will be able to manufacture and sell these products, below the current level of 3.2% ABW. Many retail liquor outlets are currently already doing so, with light beers or low carb offerings.

We currently allow individuals of legal age to consume 3.2% FMB in our parks under Sec. 17-27 of our code of laws. With the implementation of SB-197 and amending of our code, I feel that there are things at this time that we might look at:

1. Currently all parks in the City allow for this type of consumption. Does the City at this time want to restrict the size and type of parks that this could be allowed in?  
Ex. Anderson and Prospect Park only.
2. Does the City want to limit the amount of FMB that persons are allowed to hold and consume during their visits?  
Ex. 1 twelve pack of cans or a total of 144 fluid ounces of FMB.

The current labeling of these 3.2% FMB products will most likely be removed by the State of Colorado, as it has been demanded by the industry to do so. With that, compliance checks, not only at the establishments but in our parks, will be made more difficult. The people at the Colorado Municipal League have mentioned that if we revise or approve an ordinance for public consumption, that we also include Malt Liquors into those provisions.

I do not feel that the malt liquor allowance is warranted, as malt liquor by weight, has historically been known to have a much higher alcohol content. Generally hovering around 6%, some malt liquors can reach 16-18% ABW and are typically craft beers.

Examples of some malt liquors commonly known as “40’s”, include Schlitz, Mickeys, King Cobra and Colt 45.

- (1) C.R.S.12-47-103 (19) in 2019: Definition; "Malt Liquors" includes beer and means any beverage obtained by the alcoholic fermentation of any infusion or decoction of barley, malt, hops, or any other similar product, or any combination thereof, in water containing not less than one -half of one percent alcohol by volume.

**ATTACHMENTS:**

1. Bulletin 18-8



## COLORADO

### Department of Revenue

Enforcement Division - Liquor & Tobacco

Physical Address:  
1881 Pierce Street  
Lakewood, CO 80214  
(303) 205-2300

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P.O. Box 173350  
Denver, CO 80217-3350

## BULLETIN 18-08

REFERENCE: Senate Bill 16-197 – Questions Regarding Transition to Full Strength Beer

DATE: September 10, 2018

### **Colorado Liquor Enforcement Division**

In response to multiple industry inquiries regarding the transition to “full strength” beer that goes into effect January 1, 2019 under Senate Bill 16-197 (“SB 197”), the Liquor Enforcement Division (“LED”) is issuing this Bulletin regarding three issues:

1. Whether fermented malt beverages (“FMB”) manufacturers may make full strength beer and sell it to FMB wholesalers, so that the FMB wholesalers can pre-stage it in their warehouses and delivery vehicles prior to the January 1, 2019, date on which retailers licensed to sell FMB can begin to sell full strength beer under SB 197.
2. Whether the Beer and/or Liquor Codes prohibit the delivery of full strength beer to the licensed premises of retailers licensed to sell FMB in advance of the January 1, 2019, the effective date of the relevant provisions of SB 197, to facilitate the beginning of sales of full strength beer on January 1, 2019.
3. Whether FMB and malt liquors may be commingled at wholesaler warehouses and during transport by wholesalers before or after SB 197 takes effect.

#### **1. Accommodations concerning full strength beer for FMB manufacturers and wholesalers prior to January 1, 2019.**

SB 197 made a number of changes to Article 46 of Title 12 (the “Beer Code”) and Article 47 of Title 12 (the “Liquor Code”). One such change was to make the definitions of FMB and malt liquors virtually the same beginning January 1, 2019. *See* §§ 12-46-103(1) and 12-47-103(19), C.R.S. (effective January 1, 2019). SB 197’s change to the definition of FMB allows FMB licensees to manufacture, distribute and sell so-called “full strength” beer beginning January 1, 2019.

Prior to January 1, 2019, however, these privileges are not in place. *See, e.g.,* § 12-46-103(1), C.R.S. (effective until January 1, 2019). An FMB manufacturer is only permitted to make FMB (not malt liquor). Because under the statutes in effect for the duration of 2018 FMB is defined as beer containing not more than 3.2% alcohol by weight, an FMB manufacturer’s license privileges do not include the privilege manufacturing full strength beer during 2018. Until January 1, 2019, only a

licensed malt liquor manufacturer has within its license privileges the manufacturing of full strength beer.

On the other hand, retailers licensed to sell FMB are permitted to begin selling full strength beer beginning on January 1, 2019. Doing so would be impossible if FMB manufacturers have not yet made full strength beer, and if that full strength beer has not yet been sold to FMB wholesalers, who would on or after January 1, 2019 be authorized to sell it to retailers licensed to sell FMB. For the purpose of appropriately effectuating SB 197 and facilitating a smooth transition to the sale of full strength beer products to consumers beginning on January 1, 2019, by retailers licensed to sell FMB, as allowed under SB 197, some temporary accommodation is appropriate for FMB manufacturers and wholesalers. Accordingly, the Division will not consider the following activities to be an enforcement priority:

- (a) The manufacturing of full strength beer by licensed FMB manufacturers beginning on or after November 1, 2018, so long as such full strength beer is not intended for sale to consumers by FMB retailers prior to January 1, 2019 and so long as such full strength beer is not received by retailers licensed to sell FMB prior to January 1, 2019;
- (b) The sale of such full strength beer by licensed FMB manufacturers to licensed FMB wholesalers, between November 1, 2018 and January 1, 2019, so long as such full strength beer is not intended for sale to consumers by FMB retailers prior to January 1, 2019 and so long as such full strength beer is not received by retailers licensed to sell FMB prior to January 1, 2019; and
- (c) The pre-staging of such full strength beer in licensed FMB wholesalers' warehouses and delivery vehicles prior to January 1, 2019, for delivery to retailers licensed to sell FMB on or after January 1, 2019, so long as such full strength beer is not intended for sale to consumers by FMB retailers prior to January 1, 2019 and so long as such full strength beer is not received by retailers licensed to sell FMB prior to January 1, 2019.

**2. Delivering or pre-staging FMB at the licensed premises of a retailer licensed to sell FMB prior to January 1, 2019 is prohibited.**

Subsections 12-47-901(8)(a) and (b), C.R.S., provide as follows (emphasis added):

(8)(a) It is unlawful for any manufacturer or wholesaler licensed pursuant to article 46 of this title to sell, deliver, or cause to be delivered **to any person licensed pursuant to section 12-47-407 or 12-47-408** any beverage containing alcohol in excess of three and two-tenths percent by weight or four percent by volume, or for any fermented malt beverage retailer licensed pursuant to article 46 of this title to sell, possess, or permit the consumption on the premises of any of the beverages containing alcohol in excess of three and two-tenths percent by weight or four percent by volume, or for any fermented malt beverage retail licensee licensed pursuant to article 46 of this title to hold or operate under any license for the sale of any beverages containing alcohol in excess of three and

two-tenths percent by weight or four percent by volume for the same premises. Any violation of this subsection (8) by any fermented malt beverage licensee licensed pursuant to article 46 of this title **immediately invalidates the license** granted under article 46 of this title.

(b) This subsection (8) is repealed, effective January 1, 2019.

These statutory provisions expressly prohibit FMB wholesalers from engaging in pre-staging of full strength beer **at retailer licensed premises** prior to January 1, 2019, because neither FMB manufacturers nor wholesalers can lawfully “sell, deliver, or cause to be delivered” any full strength beer to a retailer, and a retailer cannot lawfully “possess” such full strength beer before that date. And a violation of these provisions immediately and by operation of law invalidates the license. As such, an accommodation regarding this requirement is not appropriate.

### 3. **Segregation of FMB and malt liquors continues to be required by the Beer and Liquor Codes after SB 197.**

Some have argued that after the SB 197 changes go into effect on January 1, 2019, the segregation between FMB and malt liquors will no longer be required by law. For the reasons that follow, the Division disagrees, and believes that even after these changes go into effect, FMB and malt liquors must continue to follow separate channels. Although the definitions of FMB and malt liquors will become essentially identical beginning on January 1, 2019, the General Assembly made clear in the legislative declaration for SB 197 that even after January 1, 2019, FMB remains subject to a “separate and distinct regulatory framework.” § 12-46-102(2), C.R.S. (effective January 1, 2019). Section 12-46-102, C.R.S., provides:

(1) The general assembly hereby declares that it is in the public interest that fermented malt beverages shall be manufactured, imported, and sold only by persons licensed as provided in this article and article 47 of this title. The general assembly further declares that it is lawful to manufacture and sell fermented malt beverages subject to this article and applicable provisions of articles 47 and 48 of this title.

(2) The general assembly further recognizes that fermented malt beverages and malt liquors are separate and distinct from, and have a unique regulatory history in relation to, vinous and spirituous liquors, and as such require the retention of a separate and distinct regulatory framework under this article. To aid administrative efficiency, however, article 47 of this title applies to the regulation of fermented malt beverages, except when otherwise expressly provided for in this article.

The General Assembly could have eliminated the separate and distinct regulatory structures, license privileges, and channels for manufacturing, distributing and selling FMB and malt liquors, but chose not to do so. In fact, the idea of making the statutory changes that would be required to

eliminate the separate and distinct regulatory structures in SB 197 for FMB and malt liquors was considered by the SB 197 Statutory Working Group, and addressed in its December 29, 2017 Report to the General Assembly. *See* the discussion of Recommendation 5, beginning on p. 55 of the Report. Although the vast majority of the Working Group members voted in favor of recommending statutory changes that would be required to eliminate the separate licensing schemes for FMB and malt liquor manufacturers, wholesalers and importers, the General Assembly did not make such changes during the 2018 legislative session.

Furthermore, a fundamental premise under the Beer and Liquor Codes is that “[e]ach license issued under this article 47 and article 46 of this title 12 is separate and distinct” and it is “unlawful for any person to exercise any of the privileges granted under any license other than that which the person holds....” § 12-47-301(3)(a), C.R.S. Pursuant to this provision, an FMB licensee may not exercise the privileges of a licensee authorized to manufacture, distribute or sell malt liquors, and vice versa.

Interpreting SB 197 to allow commingling, or the virtual rather than physical separation, of FMB and malt liquors would render the different treatment of FMB and malt liquors in the Beer and Liquor Codes going forward meaningless. Such a construction would both violate the cannon of statutory construction that an interpretation that would render part of the statute meaningless should not be adopted. It would also be contrary to the express legislative declaration that “retention of a separate and distinct regulatory framework” for FMB under the Beer Code is required. § 12-46-102(2), C.R.S. In other words, while both licensed FMB manufacturers and malt liquor manufacturers will be authorized to make full strength beer beginning on January 1, 2019, the General Assembly decided to keep in place the separate channels for the manufacture, distribution and sale of each going forward.

Beginning January 1, 2019, while an FMB manufacturer is authorized to make full strength beer, the products it manufactures are still considered FMB, not malt liquors. An FMB manufacturer cannot sell FMB to a malt liquors wholesaler licensee; rather, it must only sell FMB to an FMB wholesaler licensee. § 12-47-104, C.R.S. Similarly, an FMB wholesaler’s licensed privileges only permit it to sell FMB to a retail licensee that is authorized to purchase and sell FMB. *Id.* In other words, both before and after January 1, 2019, a person licensed as an FMB manufacturer cannot sell FMB to a malt liquor wholesaler, and a malt liquor manufacturer cannot sell malt liquors to an FMB wholesaler, because doing so is not within their respective license privileges. Rather, SB 197 maintains the separate and distinct licensed privileges that pertain to each type of license that previously existed, and carries forward the requirement to keep them separate, and in their respective channels of distribution. For example, the licensed privileges of a person holding a malt liquor wholesale license under section 12-47-406(b), C.R.S., permit only the storage, distribution and sale of malt liquors, not FMB.

Similarly, an FMB wholesaler’s licensed privileges do not permit storing, distributing or selling malt liquors, under section 12-46-104(b), C.R.S. To avoid exercising the privileges of a license a person does not hold, persons holding both an FMB wholesale license and a malt liquor wholesale license are required to keep FMB and malt liquors in separate physical locations while in storage and during transport. Furthermore, pursuant to section 12-47-301(3)(a), C.R.S., “[a] **separate**

**license must be issued for** each specific business or business entity and **each geographic location...**” (emphasis added). In addition, under section 12-47-103 (24), “[p]remises’ means a distinct and definite location, which may include a building, a part of a building, a room, or any other definite contiguous area.” Under these provisions, each licensee must have its own separate and distinct licensed premises, which means that its licensed premises may not overlap with that of another licensee. Therefore, even if a person holds both an FMB wholesaler license and a malt liquor wholesaler license, that person is required to maintain physical, not merely virtual, separation of malt liquors and FMB at that wholesaler’s warehouse.

The different treatment of FMB and malt liquors also remains in place for retailers licensed for off-premises consumption under the Liquor Code (i.e., retail liquor stores and liquor-licensed drug stores), and for retailers licensed for either on or off-premises consumption under the Beer Code. For example, a grocery or convenience store holding an FMB license pursuant to section 12-46-104(1)(c), C.R.S., is only permitted to sell FMB, and SB 197 does not change the law on January 1, 2019, to allow it to sell malt liquors. In contrast, both before and after January 1, 2019, a person holding a liquor-licensed drugstore license pursuant to section 12-47-408, C.R.S., is authorized only to sell “malt, vinous, and spirituous liquors,” but is not permitted to sell FMB. *See* § 12-47-408(1)(a)(I), C.R.S. Similarly, both before and after January 1, 2018, the licensed privileges of a person holding a retail liquor store license under section 12-47-407, C.R.S., permits the sale of “only malt, vinous, and spirituous liquors,” and does not include FMB. *See* § 12-47-407(1)(a)(I), C.R.S.<sup>1</sup>

The Division stands ready to work with the liquor industry to draft legislation in advance of the start of legislative session to address outstanding issues from SB 197.

If you have any questions about this bulletin, please contact the LED at 303-205-2306.

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<sup>1</sup> Furthermore, pursuant to section 12-47-901(5)(e), C.R.S., it is unlawful, with a limited exception not applicable here, for any person licensed to sell at retail “to have in possession or upon the licensed premises any alcohol beverage, the sale of which is not permitted by said license.” *See also* Regulation 47-914, 1 CCR 203-2 (“No licensee shall possess, maintain, or permit the possession, on the licensed premises, of any alcohol beverage which it is not licensed to sell or possess for sale”).





# Memorandum

**TO:** Mayor and City Council

**THROUGH:** Patrick Goff, City Manager

**FROM:** Joyce Manwaring, Parks and Recreation Director

**DATE:** October 1, 2018

**SUBJECT:** Electrical Assisted Bicycles

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Park Rules and Regulations do not allow motorized vehicles on City trails. Due to the increased popularity and use of electric bicycles, there is a demand by riders to allow this usage.

Attached is an ordinance revising Chapter 17 of the Code of Laws, to allow these bicycles on the Clear Creek Trail. The changes to the Code include defining bicycles, defining vehicles and adding those items to the definition section in Chapter 17. This change is consistent with what other agencies across the metro area are allowing either by ordinance or on a trial basis.

The Park and Recreation Commission reviewed this change at their May 16, 2018, meeting and is supporting the use of electrical assisted bikes on the trail.

City Council was presented a draft ordinance at the May 7, 2018, study session. Input was received from the public and stakeholder groups at that meeting.

The draft ordinance has been revised to further define a bicycle as well as differentiate between the classifications of electrical bikes; Class I, II and III. All bicycles regardless of classification are required to follow the speed limit (15 mile per hour) as posted on the trail.

**ATTACHMENT:**

1. Council Bill

**CITY OF WHEAT RIDGE, COLORADO**  
**INTRODUCED BY COUNCIL MEMBER \_\_\_\_\_**  
**COUNCIL BILL NO. \_\_\_\_\_**  
**ORDINANCE NO. \_\_\_\_\_**  
**Series 2018**

**TITLE: AN ORDINANCE AMENDING CHAPTER 17 OF THE WHEAT RIDGE CODE OF LAWS CONCERNING PARKS AND RECREATION TO ADDRESS THE USE OF ELECTRICAL ASSISTED BICYCLES**

**WHEREAS**, the City of Wheat Ridge (the "City") 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 previously adopted and amended Chapter 17 of the Wheat Ridge Code of Laws (the "Code") concerning parks and recreation; and

**WHEREAS**, the Council now wishes to further amend Chapter 17 of the Code to address and include the use of electrical assisted bicycles within the City.

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

**Section 1.** Section 17-1 of the Wheat Ridge Code of Laws concerning "Definitions," is hereby amended by the addition of the following definitions in the appropriate alphabetical order:

*Bicycle* means a vehicle propelled by human power applied to pedals upon which a person may ride having two tandem wheels or two parallel wheels and one forward wheel, all of which are more than fourteen inches in diameter, and such definition shall include Class 1 and Class 2 electrical assisted bicycles.

*Electrical Assisted Bicycle* means a vehicle having two or three wheels, fully operable pedals, and an electric motor not exceeding seven hundred fifty watts of power. Electrical assisted bicycles are further required to conform to one of three classes as follows:

(a) "Class 1 electrical assisted bicycle" means an electrical assisted bicycle equipped with a motor that provides assistance only when the rider is pedaling and that ceases to provide assistance when the bicycle reaches a speed of twenty miles per hour. Class 1 electrical assisted bicycles shall be considered and treated in the same manner as bicycles in this Chapter.

(b) "Class 2 electrical assisted bicycle" means an electrical assisted bicycle equipped with a motor that provides assistance regardless of whether the rider is pedaling but ceases to provide assistance when the bicycle reaches a speed of twenty miles per hour. Class 2 electrical assisted bicycles shall be considered and treated in the same manner as bicycles in this Chapter.

(c) "Class 3 electrical assisted bicycle" means an electrical assisted bicycle equipped with a motor that provides assistance only when the rider is pedaling and that ceases to provide assistance when the bicycle reaches a speed of twenty-eight miles per hour. Class 3 electrical assisted bicycles shall be considered and treated in the same manner as motorized vehicles in this Chapter.

*Motorized Vehicle* means any self-propelled vehicle that is designed primarily for travel on the public highways and that is generally and commonly used to transport persons and property over the public highways or a low-speed electric vehicle; except that the term does not include Class 1 and Class 2 electrical assisted bicycles, low-power scooters, wheelchairs, or vehicles moved solely by human power. Class 3 electrical assisted bicycles shall be considered motorized vehicles in this Chapter.

**Section 2. 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 3. 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 \_\_\_\_ to \_\_\_\_ on this \_\_\_\_ day of \_\_\_\_\_, 2018, 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 \_\_\_\_\_, 2018 at 7:00 p.m., in the Council Chambers, 7500 West 29<sup>th</sup> Avenue, Wheat Ridge, Colorado.

**READ, ADOPTED AND ORDERED PUBLISHED** on second and final reading by a vote of \_\_\_\_ to \_\_\_\_, this \_\_\_\_ day of \_\_\_\_\_, 2018.

SIGNED by the Mayor on this \_\_\_\_ day of \_\_\_\_\_, 2018.

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Bud Starker, Mayor

ATTEST:

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Janelle Shaver, City Clerk

Approved as to Form

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Gerald E. Dahl, City Attorney

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Wheat Ridge Transcript

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