



**PLANNING COMMISSION  
A G E N D A  
March 5, 2015**

**Notice is hereby given of a Public Meeting to be held before the City of Wheat Ridge Planning Commission on March 5, 2015 at 7:00 p.m., in the City Council Chambers of the Municipal Building, 7500 West 29th Avenue, Wheat Ridge, Colorado.**

*\*Agenda packets and minutes are available online at <http://www.ci.wheatridge.co.us/95/Planning-Commission>*

- 1. CALL THE MEETING TO ORDER**
- 2. ROLL CALL OF MEMBERS**
- 3. PLEDGE OF ALLEGIANCE**
- 4. APPROVE THE ORDER OF THE AGENDA (Items of new and old business may be recommended for placement on the agenda.)**
- 5. APPROVAL OF MINUTES – January 15, 2015**
- 6. PUBLIC FORUM (This is the time for any person to speak on any subject not appearing on the agenda. Public comments may be limited to 3 minutes.)**
- 7. PUBLIC HEARING**
  - A. Case No. ZOA-15-01: An ordinance providing for the sunset of the Animal Welfare and Control Commission.**
- 8. OTHER ITEMS**
  - A. Election of Officers**
- 9. ADJOURNMENT**

*Individuals with disabilities are encouraged to participate in all public meetings sponsored by the City of Wheat Ridge. Call Heather Geyer, Public Information Officer at 303-235-2826 at least one week in advance of a meeting if you are interested in participating and need inclusion assistance.*



**PLANNING COMMISSION  
Minutes of Meeting  
January 15, 2015**

**1. CALL THE MEETING TO ORDER**

The meeting was called to order by Chair BRINKMAN at 7:00 p.m. in the City Council Chambers of the Municipal Building, 7500 West 29<sup>th</sup> Avenue, Wheat Ridge, Colorado.

**2. ROLL CALL OF MEMBERS**

Commission Members Present: Anne Brinkman  
Alan Bucknam  
Emery Dorsey  
Donna Kimsey  
Scott Ohm  
Steve Timms  
Amanda Weaver

Commission Members Absent: None

Staff Members Present: Lauren Mikulak, Senior Planner  
Sara White, Planner II  
Meredith Reckert, Senior Planner  
Kim Waggoner, Recording Secretary

**3. PLEDGE OF ALLEGIANCE**

**4. APPROVE ORDER OF THE REVISED AGENDA**

**It was moved by Commissioner TIMMS and seconded by Commissioner OHM to modify the agenda to read Resolution 01-2015 under Other Items.**

**Motion carried 7-0.**

**5. APPROVAL OF MINUTES – December 18, 2014**

**It was moved by Commissioner BUCKNAM and seconded by Commissioner OHM to approve the minutes of December 18, 2014, as written. Motion carried 6-0-1 with Commissioner WEAVER abstaining.**

6. **PUBLIC FORUM** (This is the time for any person to speak on any subject not appearing on the agenda.)

No one wished to speak at this time.

7. **PUBLIC HEARING**

A. **Case No. ZOA-14-06:**

Ms. Mikulak presented the case. She entered into the record the contents of the case file, the zoning ordinance, the draft ordinance and the digital presentation. She stated the public noticing and posting requirements have been met. Planning Commission will make a recommendation to City Council which is the final authority. She stated that the ordinance includes revisions to several chapters of the municipal code; Planning Commission has jurisdiction over the amendments in Chapter 26. The purpose of the amendment is to implement a cap on stores (5) and infused product manufacturers (3) in the City; to modify the approval process for new stores in the future and to review all types of signage, permanent and temporary. During the presentation Ms. Mikulak distributed one page of proposed amendments that had been prepared by the City Attorney's office. These were entered into the record as Exhibit A.

After the staff presentation, Commissioner OHM asked if the modifications to Chapter 5 and to the building codes are consistent with state requirements for building safety. Ms. Mikulak indicated that the 2012 IBC codes included local amendments related to ventilation for marijuana businesses that go beyond state requirements.

In response to a question from Commissioner TIMMS, Ms. Mikulak indicated that the policy decision to make marijuana stores a special use had been discussed at the December 1 City Council study session. In response to another question from Commissioner TIMMS, she did not know what the vote of Council had been at the first reading of the ordinance.

Commissioner WEAVER asked why the cap had been set at five stores. Ms. Mikulak stated that the cap of five aligns with the existing conditions, and noted that the moratorium had been instituted when there were public concerns over the potential opening of a sixth location. Commissioner WEAVER asked if there was a similar cap for liquor stores, to which Ms. Mikulak responded she was not aware of such a limit.

Commissioner BUCKNAM asked for clarity on why marijuana-related advertising is subject to restrictive sign regulations and asked if these regulations were optional or mandated by the state. Ms. Mikulak explained the City Attorney has opined that municipalities can regulate the content, words, and images appearing in marijuana related signage, but cities have the option of locally adopting such regulations.

Commissioner BUCKNAM expressed concern that marijuana related businesses were being regulated differently and more strictly than liquor stores. He noted that that

separation from parks and the aerial measurement method created a more exclusionary environment. In response to his question, Ms. Mikulak indicated that the new separation from parks was based on public concerns and the proximity between marijuana stores and places where children congregate.

Chair BRINKMAN asked again for clarity on which sign regulations were mandated by the state and asked why they were being adopted locally. Ms. Mikulak explained that the state did not appear to have the resources to enforce all sign-related regulations. By adopting this language locally, there is clear jurisdiction for the City to enforce these regulations.

In response to a question from Chair BRINKMAN, Ms. Mikulak indicated that the parks separation does not consider whether or not a park property was purchased with GOCO funds.

Chair BRINKMAN asked staff to clarify which of the existing stores would become nonconforming. Ms. Mikulak clarified that the store in the northwest corner of the City would remain conforming because it is zoned I-E; the other four stores would become legally nonconforming. In response to another question, she also confirmed that if a property rezoned from C-1 to a mixed use district they would no longer be an eligible site for a marijuana-related business.

Chair BRINKMAN asked staff to explain why stores in other municipalities affect Wheat Ridge and if the map showing separations would be changed or codified. Ms. Mikulak explained that the  $\frac{3}{4}$ -mile buffer was a locally adopted separation requirement included in the original 2011 regulations. The original intent of the separation was to reduce the density of these stores, and for this reason it has always been measured against stores within and outside of the City limits. The map included with the packet is for illustrative purposes only. It will change as businesses open and close; it is not being codified.

Chair BRINKMAN opened the public hearing. No one wished to speak.

Chair BRINKMAN closed the public hearing

**It was moved by Commissioner TIMMS and seconded by Commissioner KIMSEY to recommend approval of the proposed ordinance amending Chapters 5, 11, and 26 of the Wheat Ridge Code of Laws concerning the regulation of medical marijuana establishments and retail marijuana establishments with the amendments as shown in Exhibit A.**

Commissioner BUCKNAM expressed his concern that there is a disparity in the regulation of liquor stores and marijuana businesses given that both are regulated controlled substances. He indicated his acceptance of the separation requirement already codified, but expressed disagreement with the proposed separation from parks and recreation facilities that effectively eliminate all eligible locations.

**Commissioner BUCKNAM offered a friendly amendment to the main motion proposing that the ordinance be adopted as written with the exclusion of the 1000-foot parks and recreation separation.**

Commissioner TIMMS did not accept the amendment.

Ms. Reckert advised the Commission that they do not have jurisdiction over Chapter 11 in which the parks separation is located; she advised that all modifications by the Planning Commission be made in Chapter 26.

Commissioner BUCKNAM stated that the purpose of the Commission is to assess land use regulations as it relates to the City's zoning, and he opined that the separation requirements of Chapter 11 are defacto zoning regulations and therefore within the jurisdiction of the Planning Commission. He stated that the separation requirements effectively restrict land uses within a properly zoned area further than the zoning regulations themselves. He clarified again his acceptance of the existing separation requirements, and stated he is only seeking that the parks and recreation separation be removed from the ordinance.

In response to a question from Commissioner WEAVER, Ms. Mikulak indicated that Chapter 11 pertains to businesses and licensing and does include regulations pertaining to the time, place, and manner of business operations which can resemble the zoning regulations that appear in Chapter 26.

**Commissioner WEAVER seconded Commissioner BUCKNAM's friendly amendment.**

**Chair BRINKMAN called for a vote on the amendment proposed by Commissioner BUCKNAM.**

**The amendment was approved 4-3 with Commissioners BRINKMAN, OHM, and TIMMS voting no.**

There was no additional discussion.

**Chair BRINKMAN called for a vote on the amended motion; to recommend approval of the proposed ordinance amending Chapters 5, 11, and 26 of the Wheat Ridge Code of Laws concerning the regulation of medical marijuana establishments and retail marijuana establishments amended to exclude the references to the parks buffer in Chapter 11 and to include the Amendments in Exhibit A, Council Bill No. 2, Series 2015 – Marijuana Establishment Regulations.**

**Motion approved 4-3 with Commissioners BRINKMAN, OHM, and TIMMS voting no.**

**B. Case No. WZ-14-15:**

Ms. White presented the case. She entered into the record the contents of the case file and packet materials, the zoning ordinance, the comprehensive plan and the digital presentation. She stated the public noticing and posting requirements have been met. Planning Commission will make a recommendation to City Council which is the final authority. She stated the purpose of the zone change request is to expand possible uses. She reviewed the staff report and digital presentation.

In response to Commissioner BUCKNAM's inquiry, Ms. White pointed out I-E zone districts on exhibit 7.

Commissioner BUCKNAM asked if the building height of 50-feet would typically accommodate a cellphone/broadcast tower. Ms. Reckert stated all the cell tower regulations limit the height of freestanding towers to 50-feet with antennas that extend beyond that and would be a permitted use in the I-E zone district. Ms. Mikulak stated 50-feet is the maximum height in the Commercial-One district.

Commissioner WEAVER asked if the agricultural ditches are actively used and upon development what does the owner need to do to encase the ditches. Ms. White replied the Swadley ditch has already been encased. Wadsworth is the only open channel. Ms. Reckert stated the property owner would need to get approval from the ditch company for any modifications. Generally, ditch companies are in favor of enclosure to eliminate sediment and offsite waters into the ditch. Some are rerouted to go around the perimeter of the property. It will not become a drainage issue.

Commissioner TIMMS asked if the I-E zone district allows outdoor storage. Ms. Reckert stated it does as long as it is screened from public streets.

Chair BRINKMAN inquired about the resident concern from the neighborhood meeting regarding West 50<sup>th</sup> Avenue being extended from the terminus at the eastern property line of the subject site, west to Parfet Street. Ms. White replied that would be relevant for any future development that might occur, particularly on the southern portion of the site. It would go to public hearing as a right-of way designation. Chair BRINKMAN asked if a right-of-way vacation would be considered. Ms. Reckert stated she thought it had been vacated with the plat in 2011. 50<sup>th</sup> Avenue has been a topic of discussed for many years. It is staff's vision to have some sort of industrial arterial to allow traffic to flow east and west in the industrial areas without having to access the Frontage Road. Staff thinks it is a good idea and would consider fully for development on the subject property or property to south.

Chair BRINKMAN asked if the ditch company was included in the agency referral. Ms. White stated not as this stage because they are not affected by the rezoning as no development is proposed at this time. Ms. Reckert stated typically ditch companies are not included in the referral until a development modification proposal is presented. Staff encourages the developer to work with the ditch company for best design scenario.

Chair BRINKMAN opined the ditch companies should have the same weight as the other districts for referrals.

**Greg Herbers**

14995 Foothill Rd., Golden, CO

Mr. Herbers stated he had no additional comments.

Commissioner TIMMS asked the applicant if he envisioned a mini-storage facility for the entire site and if the existing house/office would be kept. Mr. Herbers replied yes and the house will be kept for an office. There will be no outdoor storage or outdoor vehicle storage.

Chair Brinkman opened the public hearing.

**Mike Wehling**

3170 Wright St.

Mr. Wehling stated he has not objections to the zone change. His father owns the land to the west. He stated his concerns about drainage due to the dirt that was hauled into the site that was to be removed.

Chair BRINKMAN closed the public hearing.

Chair BRINKMAN asked staff about the dirt.

Ms. Reckert stated the property had previously been occupied by an electrical contractor. A zone change to Planned Industrial Development (PID) was granted in 2005 with plans to build a new structure on the southern portion. The dirt was brought in for development preparation without proper permitting. Code enforcement negotiations began with two options; he could remove all the dirt that was brought in or go through a Final Development Plan (FDP) amendment to acknowledge the dirt and work on the drainage. The approved FDP plan [in the packet] shows the top portion being used with the house as the office and the second tier serving as a detention area. A large pond was built. She recommended discussion with Public Works for remediation of drainage issues. Before any development would occur staff would review soil information and core drillings.

Commissioner KIMSEY asked if a FDP was accomplished. Ms. Reckert replied yes.

**It was moved by Commissioner BUCKNAM and seconded by Commissioner OHM to recommend approval of Case No. WZ-14-15, a request for approval of a zone change from Planned Industrial Development and Agricultural-One to Industrial-Employment, for property located at 5130 Parfet Street, for the following reasons:**

- 1. The proposed zone change will not adversely impact the public health, safety or welfare.**

2. **The proposed zone change is consistent with the goals and objectives of the City's Comprehensive Plan.**
3. **The proposed zone change is compatible with the surrounding area.**
4. **The zone change will more easily facilitate development of the property.**

**Motion approved 7-0.**

The commission took a break until 8:15 p.m.

**C. Case No. WSP-14-07:**

Ms. Mikulak presented this case. She entered into the record the contents of the case file and packet materials, the zoning ordinance, the comprehensive plan and the digital presentation. She stated the public noticing and posting requirements have been met. She reviewed the staff report and digital presentation. A master sign plan is a document that establishes standards for size, location and design of signage on a campus or unified development. The purpose is to encourage well-planned and designed unified signage for a larger property but still allowing individual identification of businesses. She stated master sign plans are approved by Planning Commission and recorded with the Jefferson County Clerk and Recorder.

Commissioner BUCKNAM asked if there any other signs in the vicinity or further north that are as tall as the proposed large multi-tenant sign on sheet two. Ms. Mikulak stated there was no analysis done to compare signs in the vicinity. Signs within a ¼ mile of the interstate can be 50 feet in height.

Commissioner BUCKNAM confirmed the zoning for the development to the south is commercial. Ms. Mikulak concurred.

Chair BRINKMAN stated the City's sign standards are woefully outdated. She asked if a future tenant would have to comply with the current sign code or with a future sign code, if it is updated. Ms. Mikulak replied the active codes would be defaulted to. Animation and video is not permitted in the current codes. If a sign technology is installed on the site and cannot comply with a future code updated, the technology could be considered legally nonconforming.

Chair BRINKMAN asked if light from signs is prohibited from spilling onto other properties. Ms. Mikulak replied there is a provision in the exterior lighting standards that requires light to be substantially cut off at property line. The nuisance ordinance has been utilized to ask operators and businesses to turn down the brightness of signs.

Chair BRINKMAN asked if there were any concerns about light pollution due to the placement of signage in relation to the apartments at the Morningside development. Ms. Mikulak stated she wouldn't expect any concerns as those signs will be 8-foot tall. She deferred to the applicant.

**Alicia Rhymer**

Development Director for MVG Development

Ms. Rhymer stated it is important to ensure a unified sign plan ties into the overall development while allowing tenants to advertise in a complimentary manner. She stated she feels the proposal accomplishes those goals.

In response to Commissioner TIMMS question, Ms. Mikulak stated the combined size of Lots 1-4 is 6.35 acres.

Commissioner TIMMS asked if Morningstar will get a panel on the proposed 19-foot freestanding sign on Kipling. Ms. Rhymer stated Morningstar will have the fourth panel, unless Lot 2 has a multi-tenant building, in which case the multiple tenants will split the panel space and Morningstar will not be on the taller sign.

Chair BRINKMAN asked the applicant about potential light pollution facing the assisted living tenants. Ms. Rhymer stated all the signage is internally illuminated and Morningstar is cognizant of screening and doing what is necessary to reduce impacts to residents. There are no concerns. Ms. Mikulak stated the landscape plan is not show on the sign plan, but Morningstar is heavily landscaped along the 38<sup>th</sup> Avenue frontage which would screen the signs.

Chair BRINKMAN closed the public hearing.

**It was moved by Commissioner OHM and seconded by Commissioner WEAVER to approve Case No. WSP-14-07, a request for approval of a master sign plan for a unified development on property zoned Commercial-One (C-1) and located at the southwest corner of W. 38<sup>th</sup> Avenue and Kipling, including 3725 Kipling, 3795 Kipling, 10040 W. 38<sup>th</sup> Avenue and 10100 W. 38<sup>th</sup> Avenue, for the following reasons:**

- 1. The site is eligible for a master sign plan.**
- 2. The master sign plan promotes well-planned and well-designed signage.**
- 3. The master sign plan is consistent with the intent of the sign code and appropriate for the context of the development.**

Chair BRINKMAN stated she is considering voting no, not because she didn't like the plan but to make a point that the sign regulations are woefully out of date and need to be updated. She likes the proposal but fears the commission will get more sign plans in the future before the sign codes are updated with more rigorous standards.

Commissioner OHM agreed that the sign code should be updated. He pointed out, however, that the applicant did compromise on the proposed plan and which includes 50% less square footage in exchange for more height.

**Motion approved 7-0.**

**D. Case No. WV-14-01:**

Ms. Mikulak presented the case. She entered into the record the contents of the case file, the zoning ordinance, and the digital presentation. She stated the public noticing and posting requirements have been met. Planning Commission will make a recommendation to City Council which is the final authority. She reviewed the staff report and digital presentation and stated the purpose of the vacation which is to clear title allowing future sale of the Fruitdale School property. The property is currently owned by the Wheat Ridge Housing Authority.

After the staff presentation, Commissioner TIMMS asked about the nature of the small accessory building located in front of the school. Ms. Mikulak stated it has been used as a caretaker's cottage, library, and office over the years. It is not subject to the historical designation and may be removed if not reused.

Chair BRINKMAN asked why the property was not being rezoned to consolidate the multiple zone districts that cover the site. Ms. Mikulak stated that a rezoning of the property is considered premature until an end user is certain.

Chair BRINKMAN asked why historical designation had been sought since it can create an additional barrier to redevelopment. Ms. Mikulak indicated that the purpose of the Housing Authority's purchase was ultimately to preserve the building which this designation ensures.

Chair BRINKMAN opened the public hearing. No one wished to speak.

Chair BRINKMAN closed the public hearing

**It was moved by Commissioner WEAVER and seconded by Commissioner TIMMS to recommend APPROVAL of Case No. WV-14-01, a request for vacation of any City interest in the land adjacent to, and potentially part of, the West 44th Avenue right-of-way and adjacent to 10803 W. 44th Avenue, for the following reasons:**

- 1. The proposed vacation will not leave any adjoining land without access to an established public right-of-way.**
- 2. The proposed vacation is in conformity with the most recently enacted goals and policies of the transportation section of the current comprehensive plan of the City of Wheat Ridge.**
- 3. The proposed vacation will not have a negative impact on the infrastructure of the City of Wheat Ridge.**
- 4. The proposed vacation clarifies conflicting legal descriptions and facilitates the redevelopment of a vacant building.**

**Motion approved 7-0.**

**8. OTHER ITEMS**

**A. Resolution 01-2015:** A resolution establishing a designated public place for the posting of meeting notices as required by the Colorado open meetings law.

Ms. Mikulak stated the purpose of the resolution is to formally declare that meeting notices are officially posted in the lobby of city hall.

**It was moved by Commissioner TIMMS and seconded by Commissioner OHM to approve Resolution 01-2015, a resolution establishing a designated place for the posting of meeting notices as required by the Colorado Open Meeting law.**

**Motion approved 7-0.**

**B.** A meeting is tentatively scheduled for February 5.

**C.** In response to Chair BRINKMAN's question, Ms. Mikulak stated the commission will vote for the Chair and Vice Chair in March after appointments are made by City Council in February.

**9. ADJOURNMENT**

**It was moved by Commissioner DORSEY and seconded by Commissioner KIMSEY to adjourn the meeting at 8:58 p.m. Motion carried 7-0.**

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**Anne Brinkman, Chair**

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**Kim Waggoner, Recording Secretary**



**PLANNING COMMISSION  
LEGISLATIVE ITEM STAFF REPORT**

**MEETING DATE: March 5, 2015**

**TITLE: AN ORDINANCE PROVIDING FOR THE SUNSET OF THE ANIMAL WELFARE AND CONTROL COMMISSION**

**CASE NO. ZOA-15-01**

PUBLIC HEARING

CODE CHANGE ORDINANCE

Case Manager: Lauren Mikulak, Senior Planner

Date of Preparation: February 25, 2015

**SUMMARY:**

The proposed ordinance sunsets the Animal Welfare and Control Commission (AWCC). The Commission is no longer needed to perform functions which are otherwise in the charge of other City departments.

The enclosed ordinance was prepared by the City Attorney’s Office. Amendments affect Chapters 2, 4 and 26 of the municipal code. Because the Zoning and Development Code is proposed to be modified, the Planning Commission has jurisdiction to review the ordinance and provide a recommendation. Notice for this public hearing was provided as required by the Code of Laws.

**BACKGROUND:**

The Animal Welfare and Control Commission has functioned in the City since 1977. Section 2-56 of the municipal code outlines the purpose of the AWCC as it was originally intended. The commission has primarily working with the Police Department and Community Services Officers, and in recent years it has served in a limited advisory capacity on issues related to the keeping of animals, management of wild animals, and kennel licensing.

The Home Rule Charter, Section 9.1, permits the City Council to create and dissolve boards and commissions. City Council, the AWCC, staff, and an independent facilitator analyzed the role of the commission several times in 2014, and it was determined that a sunset was appropriate (see attached timeline from Division Chief Jim Lorentz).

**STATEMENT OF THE ISSUES:**

In the proposed ordinance, all reference to the AWCC in Chapters 4 and 26 are replaced with references to the Chief of Police. In the zoning code, the only reference to the AWCC is in Section 26-605 related to the keeping of large animals. In the future, the Chief of Police and Community Services Team will regulate manure management plans and address complaints.

**RECOMMENDED MOTION:**

Staff recommends that Planning Commission adopt the following motion:

“I move to recommend approval of the proposed ordinance providing for the sunset of the Animal Welfare and Control Commission.”

**Exhibits:**

- Memo from Division Chief Jim Lorentz
- Proposed ordinance



# Memorandum

**TO:** Lauren Mikulak, Senior Planner

**FROM:** Jim Lorentz, Division Chief  
Patrol Operations Division

**DATE:** February 24, 2015

**SUBJECT:** Sunset Ordinance for Animal Welfare and Control Commission

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On January 10, 2014, the police department requested the assistance of a professional facilitator to work with the Animal Welfare and Control Commission. AWCC members were apprised of this request and have been supportive in this process.

June Ramos of J. Ramos Associates, LLC was selected to work with Staff and the AWCC. Interviews with members began in April 2014. On July 15, 2014, Ms. Ramos presented the AWCC City of Wheat Ridge Summary Report/Data Interviews to the AWCC.

Ms. Ramos presented her report to City Council at a Study Session on September 15, 2014.

On January 26, 2015, Council directed the City Attorney to prepare an ordinance for the sunset of the Animal Welfare and Control Commission as it is no longer needed to perform functions which are otherwise in the charge of other City departments. Sunset of the Commission will reduce staff, time and expenses in staffing and conducting meetings of the Commission.

The Home Rule Charter, Section 9.1, permits the City Council to create and dissolve boards and commissions. The Animal Welfare and Control Commission has functioned since 1977. In recent years, it has been difficult to fill the required members, including one veterinarian. Additionally, the work of the Commission is largely accomplished by City staff.

Staff recommends approval of the ordinance.

**ATTACHMENT:**

AWCC Summary Report 07152014

**CITY OF WHEAT RIDGE, COLORADO**  
**INTRODUCED BY COUNCIL MEMBER \_\_\_\_\_**  
**COUNCIL BILL NO. \_\_\_\_\_**  
**ORDINANCE NO. \_\_\_\_\_**  
Series 2015

TITLE: AN ORDINANCE PROVIDING FOR THE SUNSET OF THE ANIMAL WELFARE AND CONTROL COMMISSION

WHEREAS, pursuant to Section 9.1 of the Home Rule Charter, the Council has the authority to provide by ordinance for the continuation or the sunset of all City Boards and Commissions; and

WHEREAS, the Animal Welfare & Control Commission has capably served the City of Wheat Ridge, its residents, and most important, the interests of wild and domestic animals in the City since its creation; and

WHEREAS, the City Council expresses its sincere appreciation for all members of the Animal Welfare & Control Commission, both past and present, for their diligent contributions to the Commission's vision; and

WHEREAS, the City Council has determined that it is in the best interest of the City that the Animal Welfare & Control Commission is no longer needed to perform functions which are otherwise in the charge of other City departments and therefore has determined to sunset the Commission.

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

**Section 1.** The Animal Welfare & Control Commission is hereby terminated.

**Section 2.** Section 2-52 of the Wheat Ridge Code of Laws is amended to read:

**Sec. 2-52. - Establishment.**

The following boards and commissions of the city are hereby established: Cultural commission, ~~animal control commission~~, parks and recreation commission, building code advisory board, planning commission, and board of adjustment.

**Section 3.** Section 2-56 of the Wheat Ridge Code of Laws, entitled "Animal welfare and control commission," is repealed in its entirety and renamed as "Reserved."

**Section 4.** Section 4-2 of the Wheat Ridge Code of Laws entitled "Animal welfare & control commission" is repealed in its entirety and renamed as "Reserved."

**Section 5.** Section 4-10(c) of the Wheat Ridge Code of Laws is amended to read:

It shall be unlawful for the owner of any dog, cat or other animal that has bitten any person to destroy such animal before it can be properly confined by the community service officer. The location of such confinement shall be determined by the ~~animal control commission~~ COMMUNITY SERVICES TEAM SUPERVISOR and shall be at the expense of the owner.

**Section 6.** Section 4–14 of the Wheat Ridge Code of Laws entitled “Exotic or wild animals” is amended to read:

**Sec. 4-14. - Exotic or wild animals.**

- (a) *Prohibited.* It shall be unlawful for any person to own, possess, harbor, sell, or in any other manner traffic in any exotic or wild animals, that is, any animal that is not a domestic animal, whether it is a native animal of this state or not.
- (b) *Exceptions.* The ~~animal welfare and control commission~~ CHIEF OF POLICE may grant exceptions to this section for successive periods of time not to exceed twelve (12) months.
- (c) *Potbellied pigs:*
  - (1) Any exceptions granted by the ~~animal control commission~~ CHIEF OF POLICE for a potbellied pig, *Sus scrofa vittatus*, pursuant to subsection (b), shall be limited as follows:
    - a. No more than two (2) potbellied pigs may be kept at one residence or location, provided, however, that an additional pig may be kept for each one acre of property in excess of the minimum lot size;
    - b. Every potbellied pig must be neutered or spayed by the age of four (4) months;
    - c. No potbellied pig may weigh more than one hundred fifty (150) pounds nor be taller than twenty-two (22) inches in height;
    - d. The potbellied pig must be certified as such by a licensed veterinarian or be an officially registered potbellied pig;
    - e. Penned exterior areas confining potbellied pigs must be no closer than fifteen (15) feet to a side or rear yard lot line and no closer than thirty (30) feet to a residential structure located on an adjacent lot;
    - f. Outdoor enclosures must be kept clean;
    - g. Prior to the granting of an exception, owners must review educational materials provided by the ~~animal welfare and control commission~~ CHIEF OF POLICE related to the care and keeping of potbellied pigs;

- h. The ~~animal welfare and control commission~~ CHIEF OF POLICE shall adopt rules of procedure related to the review of complaints regarding the keeping of potbellied pigs for which an exception has been granted; and
  - i. The ~~animal welfare and control commission~~ CHIEF OF POLICE may impose reasonable conditions prior to granting or during the term of any exception which is necessary to protect the animal's health and the safety and enjoyment of adjacent properties and owners.
- (2) The keeping of potbellied pigs, *Sus scrofa vittatus*, which is an exotic animal, shall be permitted in the Agricultural-Two Zone District and shall not be subject to the requirements of subsections (b) and (c).
- (3) Notwithstanding the requirements of chapter 26, the keeping of an exotic animal for which the ~~commission~~ CHIEF OF POLICE has granted an exception pursuant to this subsection (c) shall be deemed a lawful use of the affected property.
- (d) *Specific animals enumerated:*
- (1) The following animals are domestic animals:
- Aquarium fishes.
  - Psitocine birds, aviary finches, etc., farm birds (ducks, geese, swans, poultry).
  - Domestic rabbit (*Oryctolagus cuniculus*).
  - Mongolian gerbil (*Meriones unguicularus*).
  - Guinea pig (*Cavia porcellus*).
  - Hamster (*Musorcriectus auratus*).
  - Domestic laboratory mouse (*Mus domesticus*).
  - Domestic laboratory rat (*Rattus rattus* Albino strain).
  - Domestic cat (*Felis catus*).
  - Domestic dog (*Canis familiaris*).
  - Domestic livestock, including, but not limited to: Horses, cattle, sheep, goats, mules, donkeys, burros, llamas, honeybees, and swine (except potbellied pigs, *Sus scrofa vittatus*, which is an imported variety of swine and which shall be considered exotic animals).

**Section 7.** Section 4-34 of the Wheat Ridge Code of Laws is amended to read:

**Sec. 4-34. - Kennel licenses.**

- (a) No person, group of persons or business entity shall own, keep or harbor more than three (3) dogs or four (4) cats of more than six (6) months of age or engage in the commercial business of breeding, buying, selling, trading, training or boarding cats or dogs without having obtained a kennel license from the chief of police.
- (b) Kennel licenses must be renewed every year between January 1 and March 1. ~~No kennel license shall be issued until a recommendation of approval has been obtained from the animal welfare and control commission.~~
- (c) The yearly license fee for kennels shall be as established by the ~~commission by resolution~~ CHIEF OF POLICE.
- (d) This section shall not apply to and will not be construed to require a kennel license for a licensed veterinarian to operate an animal hospital.
- (e) This section shall not apply to and will not be construed to require a kennel license for any pet shop which sells animals of less than six (6) months of age.

Any person or business applying for or holding a kennel license must be currently licensed by the State of Colorado. Pursuant to the Pet Animal Care and Facilities Act, C.R.S. §§ 35-80-101—35-80-117.

The issuance of a new kennel license shall be based on the following minimum requirements:

Application for a new kennel license or for transfer of an existing license shall be made to THE CHIEF OF POLICE ~~and a recommendation of approval obtained from the animal welfare and control commission.~~ The application shall include a detailed description of the property to be licensed.

~~The animal welfare and control commission may require a public hearing before a new kennel license is recommended for approval. The hearing shall be posted and published in the same manner as in section 26-6.~~

~~The animal welfare and control commission shall have the authority to conduct a hearing to consider whether to recommend that the chief of police grant a variance to subsection (a) above as to the number of animals permitted and the animal welfare and control commission shall inform the chief of police of its decision.~~

~~The recommendation of the animal welfare and control commission shall be forwarded to the chief of police, who shall act to approve, approve with conditions, or deny the application within thirty (30) days of the animal welfare and control commission's recommendation. The chief of police shall not approve a variance application that proposes the use of property in violation of Chapter 26 of this Code.~~

The chief of police may promulgate rules and regulations to establish minimum standards for the care and treatment of animals at any facility licensed under this section, ~~after review and approval by the animal welfare and control commission.~~

Community service officers or any agent of the chief of police have the authority to inspect any licensed facility under this section during normal posted business hours.

~~Violations of any of this section may be brought before the animal welfare and control commission for review, and a hearing may be initiated by the animal welfare and control commission for suspension, revocation or nonrenewal of the kennel license. The animal welfare and control commission may recommend,~~ and The chief of police may revoke, suspend or not renew a license for failure to comply with any of the requirements of this section. No such action may be taken without prior notice to the licensee and an opportunity for the licensee to present evidence and testify. No decision by the chief of police under this section shall bind, alter, or affect a subsequent decision on a subsequent application, either for a new kennel license or for renewal of an existing license. Nothing in this section shall affect the independent authority of appropriate city officials to take action with respect to vicious animals, threats to public safety, or the enforcement of any other provision of this Code of Laws.

**Section 8.** Subsections 26-605(E) and (F) of the Wheat Ridge Code of Laws are amended to read:

**Sec. 26-605. - Large animals.**

...

E. After a complaint is received concerning the keeping of a large animal on residential lots and substandard sized agricultural lots with corrals less than one thousand (1,000) square feet in size, the owner shall follow an approved manure management program as prescribed by the ~~animal welfare control commission~~ CHIEF OF POLICE.

F. Upon receipt of any complaint involving large animals as defined herein, standard nuisance abatement procedures will be followed. Additionally, code enforcement personnel will make the complaint known via the COMMUNITY SERVICES TEAM SUPERVISOR ~~APEO superintendent~~ to the ~~members of the animal welfare and control commission~~ CHIEF OF POLICE who shall AUTHORIZE CONSULTATION WITH AN APPROVED VETERINARIAN OR ANIMAL CONTROL RESOURCE AT ANY TIME. ~~be available in any advisory capacity at any time.~~ The ~~animal welfare and control commission~~ CHIEF OF POLICE will investigate all citizen complaints regarding large animals or their equivalents. The ~~animal welfare and control commission~~ CHIEF OF POLICE will develop written procedures ~~as to~~ FOR how citizen complaints will be investigated, monitored, and disposed of.

**Section 9.** The Wheat Ridge Code of Laws is amended by the deletion of all other references to the animal welfare and control commission not contained in Sections 1-6 above and the replacement of that phrase with "COMMUNITY SERVICES TEAM SUPERVISOR."

**Section 10. 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 \_\_\_\_\_, 2015, 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 \_\_\_\_\_, 2015 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 \_\_\_\_\_, 2015.

SIGNED by the Mayor on this \_\_\_ day of \_\_\_\_\_, 2015.

\_\_\_\_\_  
Joyce Jay, Mayor

ATTEST:

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

Approved as to Form

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Gerald E. Dahl, City Attorney

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