

CITY OF WHEAT RIDGE, COLORADO
INTRODUCED BY COUNCIL MEMBER DAVIS
Council Bill No. 23
Ordinance No. 1610
Series 2016

TITLE: AN ORDINANCE AMENDING SECTION 26-711 OF THE WHEAT RIDGE CODE OF LAWS, CONCERNING BILLBOARDS, TO ESTABLISH A BILLBOARD VACANCY PROCESS

WHEREAS, the City of Wheat Ridge ("City") is a home rule municipality operating under a charter adopted pursuant to Article XX of the Colorado Constitution and vested with the authority by that article and the Colorado Revised Statutes to adopt ordinances for the regulation of land use and planning; and

WHEREAS, pursuant to this authority, the Wheat Ridge City Council ("Council") previously adopted local land use regulations, codified as Chapter 26 of the Wheat Ridge Code of Laws ("Code"); and

WHEREAS, Code Section 26-711 regulates the location and features of billboards within the City; and

WHEREAS, said Section 26-711 imposes a limitation on the maximum number of billboards that may be located in the City, but fails to specify how the City will administer billboard vacancies as they come available; and

WHEREAS, the Council finds and determines that it is necessary and desirable to amend Code Section 26-711 to include a process by which the City will administer billboard vacancies in a manner that is reasonable, equitable and consistent, as further set forth herein.

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

Section 1. Section 26-711 of the Code, concerning billboard specifications and regulations, is hereby amended by the addition of a new subsection D., to read in its entirety as follows:

D. PROCESSING OF BILLBOARD VACANCIES.

1. AN EXISTING BILLBOARD WILL BE CONSIDERED ABANDONED, CREATING A BILLBOARD VACANCY, UNDER THE FOLLOWING CIRCUMSTANCES:

- a. THE OWNER OF THE BILLBOARD OR THE PROPERTY UPON WHICH IT IS LOCATED FILES WRITTEN NOTICE OF ITS INTENT TO ABANDON THE BILLBOARD WITH THE DIRECTOR OF**

COMMUNITY DEVELOPMENT. IN THIS EVENT, THE CITY MAY BEGIN TO PROCESS THE PENDING VACANCY, AS SET FORTH IN THIS SUBSECTION D., PRIOR TO THE REMOVAL OF THE BILLBOARD. IT SHALL BE UNLAWFUL FOR AN OWNER TO FAIL TO REMOVE A BILLBOARD AS SPECIFIED IN A NOTICE OF INTENT TO ABANDON FILED HEREUNDER. A BILLBOARD EXISTING AFTER THE DATE OF ITS ABANDONMENT SHALL BE AND IS HEREBY DECLARED A NUISANCE, AS DEFINED BY SECTION 15-4 OF THIS CODE, AND SHALL BE SUBJECT TO THE ABATEMENT AND OTHER ENFORCEMENT REMEDIES AND PENALTIES SET FORTH UNDER ARTICLE II OF CHAPTER 15 OF THIS CODE.

- b. A BILLBOARD IS REMOVED; PROVIDED HOWEVER THAT A BILLBOARD MAY BE TEMPORARILY REMOVED AND RE-LOCATED, UNDER THE FOLLOWING CONDITIONS:
 - i. THE OWNER OF THE BILLBOARD OR THE PROPERTY UPON WHICH IT IS LOCATED HAS FILED WRITTEN NOTICE OF ITS INTENT TO TEMPORARILY REMOVE THE BILLBOARD WITH THE DIRECTOR OF COMMUNITY DEVELOPMENT, WHICH NOTICE SHALL INCLUDE THE PURPOSE FOR THE TEMPORARY REMOVAL AND A PROJECTED TIMELINE TO RE-LOCATE THE BILLBOARD;
 - ii. THE BILLBOARD IS PROPOSED TO BE REMOVED TO PERFORM STRUCTURAL UPGRADES, MODIFICATIONS OR ANOTHER PURPOSE APPROVED BY THE COMMUNITY DEVELOPMENT DIRECTOR;
 - iii. THE BILLBOARD WILL BE RE-LOCATED ON THE SAME PROPERTY IN SUBSTANTIALLY THE SAME LOCATION, AS DETERMINED BY THE COMMUNITY DEVELOPMENT DIRECTOR IN HIS OR HER SOLE DISCRETION;
 - iv. THE TIME THE BILLBOARD IS REMOVED SHALL NOT EXCEED ONE HUNDRED EIGHTY (180) DAYS;
 - v. THE COMMUNITY DEVELOPMENT DIRECTOR HAS ISSUED PRIOR WRITTEN APPROVAL OF THE TEMPORARY REMOVAL; AND
 - vi. ALL REQUIRED BUILDING PERMITS, LICENSES OR OTHER APPROVALS NECESSARY TO LAWFULLY REMOVE THE BILLBOARD HAVE BEEN OBTAINED PRIOR TO REMOVAL.

- c. FAILURE TO COMPLY WITH ANY OF THE CONDITIONS UNDER WHICH TEMPORARY REMOVAL IS PERMITTED UNDER SUB-PARAGRAPH 1.B. ABOVE.
- 2. WHENEVER AN ABANDONMENT OR OTHER EVENT RESULTS IN FEWER THAN THE MAXIMUM PERMITTED NUMBER OF BILLBOARDS TO BE LOCATED WITHIN THE CITY, THE CITY SHALL DECLARE THAT A VACANCY EXISTS AND PUBLISH NOTICE OF THE VACANCY ON THE CITY'S WEBSITE AND POST SUCH NOTICE AT THE CITY'S OFFICIAL POSTING PLACES. THE DETERMINATION AND DECLARATION OF A VACANCY SHALL BE IN THE CITY'S SOLE AND ABSOLUTE DISCRETION. THE NOTICE OF VACANCY SHALL PROVIDE THAT INTERESTED PARTIES MUST FILE A PRELIMINARY APPLICATION WITH THE CITY WITHIN THIRTY (30) DAYS OF THE DATE OF NOTICE.
- 3. THE CITY SHALL ACCEPT PRELIMINARY APPLICATIONS FROM INTERESTED PARTIES FOR THIRTY (30) DAYS FROM THE DATE OF THE NOTICE OF VACANCY. PRELIMINARY APPLICATIONS MUST INCLUDE, AT A MINIMUM, THE FOLLOWING INFORMATION:
 - a. A LETTER OF INTENT FROM THE APPLICANT;
 - b. THE PROPOSED LOCATION OF THE BILLBOARD, INCLUDING EITHER PROPERTY ADDRESS OR ASSESSOR PARCEL ID; AND
 - c. WRITTEN PERMISSION OF THE PROPERTY OWNER TO LOCATE THE BILLBOARD, IF THE PROPERTY OWNER IS NOT THE NAMED APPLICANT.
- 4. THE COMMUNITY DEVELOPMENT DIRECTOR WILL DETERMINE WHETHER PRELIMINARY APPLICATIONS ARE COMPLETE AND PROPOSED LOCATIONS ARE ELIGIBLE PURSUANT TO CHAPTER 26 OF THE CODE OF LAWS.
- 5. IN THE EVENT MORE THAN ONE COMPLETE AND ELIGIBLE PRELIMINARY APPLICATION IS TIMELY FILED, THE CITY SHALL SELECT ONE PRELIMINARY APPLICATION TO CONTINUE PROCESSING BY LOTTERY. ALL POTENTIAL APPLICANTS IN THE LOTTERY SHALL BE NOTIFIED OF THE TIME AND PLACE THAT LOTS SHALL BE DRAWN AND MAY ATTEND AND OBSERVE THE PROCESS. IF THE CITY DOES NOT RECEIVE ANY PRELIMINARY APPLICATIONS WITHIN THE INITIAL THIRTY (30) DAY RESPONSE PERIOD, THE CITY SHALL MAINTAIN THE NOTICE OF VACANCY ON THE CITY'S WEBSITE. THE NOTICE OF VACANCY SHALL BE AMENDED TO

REFLECT THAT THE INITIAL RESPONSE PERIOD HAS LAPSED AND THAT PRELIMINARY APPLICATIONS WILL NOW BE ACCEPTED AND PROCESSED BY THE CITY IN THE ORDER RECEIVED. IF MORE THAN ONE PRELIMINARY APPLICATION IS THEREAFTER RECEIVED BY CITY ON THE SAME DATE, THE LOTTERY PROCESS SET FORTH ABOVE SHALL BE USED TO SELECT ONE APPLICATION TO CONTINUE PROCESSING.

6. THE SOLE OR SELECTED APPLICANT MUST FILE A COMPLETE BUILDING PERMIT APPLICATION WITHIN ONE HUNDRED EIGHTY (180) DAYS OF:
 - a. THE DATE THE APPLICANT IS SELECTED BY LOTTERY, IF SO SELECTED;
 - b. THE EXPIRATION OF THE INITIAL THIRTY (30) DAY RESPONSE PERIOD IF THE APPLICANT IS THE ONLY PARTY THAT HAS FILED A TIMELY LETTER OF INTENT; OR
 - c. THE DATE OF THE APPLICANT'S PRELIMINARY APPLICATION IF SUBMITTED AFTER THE INITIAL THIRTY (30) DAY RESPONSE PERIOD;

PROVIDED, HOWEVER, THAT THE COMMUNITY DEVELOPMENT DIRECTOR MAY AUTHORIZE AN EXTENSION OF NOT MORE THAN ONE HUNDRED EIGHTY (180) ADDITIONAL DAYS UPON A SHOWING BY THE APPLICANT THAT IT IS MAKING SUBSTANTIAL PROGRESS TOWARDS FILING A COMPLETE APPLICATION, AS DETERMINED BY THE DIRECTOR IN HIS OR HER SOLE AND ABSOLUTE DISCRETION.

7. AN APPLICANT'S FAILURE TO MEET DEADLINES OR TO TIMELY FILE MATERIALS AND INFORMATION NECESSARY TO COMPLY WITH THE PERMIT PROCESS, AS DETERMINED BY THE COMMUNITY DEVELOPMENT DIRECTOR IN HIS OR HER SOLE AND ABSOLUTE DISCRETION, SHALL RESULT IN THE REJECTION OF HIS OR HER APPLICATION AND THE GENERATION OF A NEW NOTICE OF VACANCY, IN ACCORDANCE WITH PARAGRAPH (2) ABOVE.

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 upon adoption and signature of the Mayor, as provided by Section 5.11 of the Charter.

INTRODUCED, READ, AND ADOPTED on first reading by a vote of 7 to 0 on this 26th day of September, 2016, 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 **October 10, 2016, at 7:00 p.m.**, in the Council Chambers, 7500 West 29th Avenue, Wheat Ridge, Colorado.

READ, ADOPTED AND ORDERED PUBLISHED on second and final reading by a vote of 7 to 0, this 10th day of October, 2016.

SIGNED by the Mayor on this 10th day of October, 2016.



ATTEST:

Janelle Shaver
Janelle Shaver, City Clerk

Joyce Jay
Joyce Jay, Mayor

Approved as to Form

Gerald E. Dahl
Gerald E. Dahl, City Attorney

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