

ORDINANCE NO. 21-08

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF CASTLE PINES, COLORADO, REPEALING SUBSECTION 2602, SUBSECTION 3301, AND SUBSECTION 3303.01 OF THE CITY OF CASTLE PINES ZONING ORDINANCE, AND AMENDING ARTICLES 6 AND 7 OF CHAPTER 2 OF THE CASTLE PINES MUNICIPAL CODE, CONCERNING THE POWERS AND PROCEDURES OF THE BOARD OF ADJUSTMENT AND PLANNING COMMISSION

WHEREAS, the City Council ("Council") of the City of Castle Pines (the "City") is authorized under its home rule charter to establish a board of adjustment and a planning commission, and to confer upon the same such powers and duties as Council deems advisable; and

WHEREAS, Council has heretofore established a board of adjustment (the "Board") and conferred upon the same the power and duty to grant variances to City zoning regulations and planned development establishing documents ("PDs"), and to hear and decide appeals of decisions of City officials related to City zoning regulations and PDs; and

WHEREAS, Council has heretofore established a planning commission (the "Commission") and conferred upon the same the power and duty to review and make recommendations to Council on land use and planning matters, and to make and adopt a comprehensive plan for the City; and

WHEREAS, Subsection 2602 of the City of Castle Pines Zoning Ordinance (the "Zoning Ordinance"), titled "Board of Adjustment," sets forth provisions regarding the powers, terms of appointment, and quorum, voting, and removal requirements of the Board that are duplicative of or inconsistent with Article 6 of Chapter 2 of the Castle Pines Municipal Code (the "Municipal Code"), titled "Board of Adjustment"; and

WHEREAS, Subsection 3301 of the Zoning Ordinance, titled "Planning Commission," sets forth provisions regarding the powers, terms of appointment, and quorum, voting, and removal requirements of the Commission that are duplicative of or inconsistent with Article 7 of Chapter 2 of the Municipal Code, titled "Planning Commission"; and

WHEREAS, Sub-subsection 3303.01 of the Zoning Ordinance sets forth provisions regarding Planning Commission's authority to adopt rules and regulations that are duplicative of Section 2-7-20 of the Municipal Code; and

WHEREAS, Council desires to clarify said provisions related to the Board and Commission by repealing duplicative and inconsistent provisions set forth in the Zoning Ordinance and amending provisions in the Municipal Code; and

WHEREAS, Part 2 of Article 31 of the Colorado Revised Statutes (C.R.S.) authorizes the City to make, adopt, amend, extend, add to, or carry out a comprehensive plan as provided in said Part 2, to create a planning commission with the powers and duties set forth in said Part 2, and to limit the application of said Part 2 by City charter or ordinance; and

WHEREAS, C.R.S. §31-23-208 establishes procedures, including public notice and hearing requirements, for the Commission's adoption and amendment of the City's comprehensive plan; and

WHEREAS, the City of Castle Pines Comprehensive Plan, approved by the Commission and ratified by Council resolution, currently identifies different types of amendments to the Comprehensive Plan, including major plan updates, text and land use plan amendments, and administrative amendments; and

WHEREAS, Council desires to formalize the procedures applicable to each type of amendment identified by the Comprehensive Plan by adopting procedures regarding the same into the Municipal Code; and

WHEREAS, Council finds that this Ordinance is in the best interest of the public health, safety, and welfare of the inhabitants of the City; and

WHEREAS, the Commission considered the amendments to the Zoning Ordinance set forth in this Ordinance at a duly noticed public hearing and recommended the proposed amendments to Council for approval; and

WHEREAS, City Council conducted a public hearing, with proper notice provided, to consider adoption of this Ordinance as required by law.

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF CASTLE PINES, COLORADO:

Section 1. Subsection 2602 of the Zoning Ordinance, titled “Board of Adjustment,” concerning the powers, terms of appointment, and quorum, voting, and removal requirements of the Board, is hereby repealed in its entirety.

Section 2. Subsection 3301 of the Zoning Ordinance, titled “Planning Commission,” concerning the powers, terms of appointment, and quorum, voting, and removal requirements of the Commission, is hereby repealed in its entirety.

Section 3. Sub-subsection 3303.01 of the Zoning Ordinance, concerning the adoption of rules and regulations by the Commission, is hereby repealed in its entirety.

Section 4. The first sentence of Subsection 2-6-10(1) of the Municipal Code is amended, with additions shown in bold and underlined, as follows:

“To vary or modify the application of the regulations or provisions of any zoning district or Planned Development (“PD”) establishing document of the City relating to the construction or alteration of buildings or structures where there are practical difficulties or unnecessary hardships, in conformity with this Article **and any other applicable law.**”

Section 5. Section 2-6-30 of the Municipal Code, titled “Quorum and required vote,” is amended, with deletions shown in strike-through and additions shown in bold and underlined, as follows:

“A quorum of the Board shall consist of four (4) members. A concurring vote of four (4) members of the Board shall be necessary to reverse any order, requirement, decision or determination of any City official charged with the enforcement of any Zoning Ordinance or PD establishing document adopted by the City or to grant a variance **to the regulations or**

provisions set forth in Subsection 2-6-10(1) of or otherwise decide in favor of an applicant on any matter considered by the Board under the provisions of state law or this Article and to such other regulations or provisions as authorized by City ordinance.

Section 6. Section 2-6-40 of the Municipal Code, titled "Removal," is amended, with additions shown in bold and underlined, as follows:

"Members of the Board **serve at the pleasure of City Council and** may be removed by majority vote of the City Council."

Section 7. Section 2-7-10 of the Municipal Code, titled "Establishment of powers," is amended, with deletions shown in strike-through and additions shown in bold and underlined, as follows:

"There is hereby established a ~~P~~**planning** ~~C~~**ommission** to review all land use applications and make formal recommendations **on such applications** to the City Council; **to adopt and amend a comprehensive plan for the City (the "Comprehensive Plan"), subject to ratification of the Comprehensive Plan by the City Council; and to perform all other functions as may be assigned to the Planning Commission by the City Council. The Planning Commission shall exercise its powers in accordance with this Article and, to the extent not inconsistent with this Code or the Charter, C.R.S. Title 31, Article 23, Parts 2 and 3, together** with any other applicable law. The Planning Commission may be referred to herein as the "Commission" or the "Planning Commission.""

Section 8. Section 2-7-30 of the Municipal Code, titled "Quorum and required vote," is amended, with deletions shown in strike-through and additions shown in bold and underlined, as follows:

"A quorum of the Commission shall consist of ~~three~~ **four (34)** members. A concurring vote of ~~three (3)~~ **a majority of Commission** members ~~of the Commission present~~ shall be necessary to make recommendations on any land use applications and for other planning and zoning matters before the Commission; **except that a** A concurring vote of ~~four~~ **five (45)** members of the Commission shall be necessary **for the Commission** to adopt by resolution the City's Comprehensive Plan, or any **major plan update or plan** amendments thereto **as provided in Section 2-7-50**, subject to ratification of such ~~P~~**plan, major plan update, or plan amendment** by the City Council."

Section 9. Section 2-7-40 of the Municipal Code, titled "Removal," is amended, with deletions shown in strike-through and additions shown in bold and underlined, as follows:

"Members of the Commission **serve at the pleasure of City Council and** may be removed by majority vote of the City Council."

Section 10. Article 7 of Chapter 2 of the Municipal Code is amended to add a new Section 2-7-50, titled "Adoption and amendment of the Comprehensive Plan," to read as follows:

“Sec. 2-7-50. - Adoption and amendment of the Comprehensive Plan.

(a) The Comprehensive Plan shall be adopted, updated, and amended in accordance with this Section.

(b) The Comprehensive Plan and any major plan update or plan amendment shall be adopted by resolution of the Planning Commission in accordance with Section 2-7-30 of the Code, and after consideration of the same at a public hearing. Notice of the public hearing shall be published at least once in a newspaper of general circulation in the City at least fifteen (15) days prior to the hearing. Such notice shall state the date, place, and time of the public hearing, and where copies of the Comprehensive Plan, major plan update, or plan amendment may be reviewed prior to the hearing.

(1) A major plan update means amendments to the Comprehensive Plan resulting from the Department of Community Development’s periodic re-evaluation of the vision, goals, objectives, and data contained within the Comprehensive Plan. The Department shall endeavor to conduct a major plan update to ensure the Comprehensive Plan remains relevant with current community realities at least once every five (5) years, or as directed by City Council.

(2) A plan amendment means a revision to the text of or a figure or map in the Comprehensive Plan, which revision does not constitute an administrative amendment as described in subsection (f) of this Section. Plan amendments may be initiated by the Department of Community Development on its own initiative or at the direction of City Council or the Planning Commission. If a land use application necessitates a corresponding amendment to the future land use plan or a land use category in the Comprehensive Plan, the Department of Community Development shall be responsible for initiating the necessary plan amendment; in such circumstances, the plan amendment may be processed concurrently with the land use application. Plan amendments may not be initiated by a member of the public.

(c) After the Planning Commission adopts the Comprehensive Plan or a major plan update or plan amendment, the same shall be forwarded to City Council for ratification by resolution or remand to the Planning Commission for further review or additional public input. City Council shall consider the Comprehensive Plan or any major plan update or plan amendment thereto at a public meeting; a public hearing before City Council shall not be required.

(d) The Planning Commission may consider and adopt, and the City Council may consider and ratify, the Comprehensive Plan and major plan updates as a whole or in parts (for example, on a section-by-section or chapter-by-chapter basis).

(e) When considering a major plan update or plan amendment, the Planning Commission and City Council should consider, as applicable, whether:

- (1) Changed conditions or new information since adoption of the existing Comprehensive Plan support the need for the update or plan amendment; and
- (2) The update or plan amendment is consistent with the Comprehensive Plan's vision and with the goals and objectives unchanged by the update or plan amendment; and
- (3) The update or plan amendment, particularly if the update or amendment affects the future land use plan or land use categories, is compatible with the surrounding area and the existing or anticipated development pattern for the surrounding area; and
- (4) The update or plan amendment negatively impacts transportation or City services and facilities; and
- (5) Strict adherence to the existing Comprehensive Plan would result in a situation neither intended nor in keeping with the Comprehensive Plan's vision or with the goals and objectives unchanged by the update or plan amendment; and
- (6) The proposed update or plan amendment will promote the public health, safety, and welfare.

(f) The Department of Community Development may administratively amend the maps, figures, or text of the Comprehensive Plan to correct typographical or clerical mistakes. The Department shall maintain a record of all such administrative amendments. Such administrative amendments shall not require public notice or a public meeting or hearing, and the Department's action on the administrative amendments shall be final and non-appealable.

Section 11. Severability. If any portion of this Ordinance is found to be void or ineffective, it shall be deemed severed from this Ordinance and the remaining provisions shall remain valid and in full force and effect, in accordance with Section 6.8 of the Charter.

Section 12. No Existing Violation Affected. Nothing in this Ordinance shall be construed to affect any suit or proceeding pending in any court, or any rights acquired, or liability incurred, or any cause or causes of action acquired or existing, under any ordinance hereby repealed or amended by this Ordinance, or any just or legal right or remedy of any character be lost, impaired, or affected by this Ordinance.

Section 13. Publication and Effective Date. The City Clerk is hereby directed to cause publication of this Ordinance in accordance with Section 6.5 of the Charter. This Ordinance shall be effective thirty (30) days after final publication on the City's official website and posting at the City Clerk's office pursuant to Section 1-3-40 of the Municipal Code.

INTRODUCED, READ, AND PASSED ON FIRST READING, AT A REGULAR MEETING OF THE CITY COUNCIL OF THE CITY OF CASTLE PINES, COLORADO THE 9TH DAY OF NOVEMBER, 2021.

READ, PASSED, AND ADOPTED ON SECOND READING, AT A REGULAR MEETING OF THE CITY COUNCIL OF THE CITY OF CASTLE PINES, COLORADO THE 14TH DAY OF DECEMBER, 2021.



ATTEST:

DocuSigned by:
Tobi Duffey
AD03A3B02032498

Tobi Duffey, CMC, City Clerk

DocuSigned by:
Tera Stave Radloff
6E068EB2709C479...
Tera Stave Radloff, Mayor

Approved as to form:


DocuSigned by:
Linda C. Michow
5241DE9988FF444...

Linda C. Michow, City Attorney

CERTIFICATION OF PUBLICATION

I hereby attest and certify that the within and foregoing Ordinance was introduced and read on first reading on November 9, 2021; published by title only in the Douglas County News-Press, together with the statement that “[t]he complete text of the ordinance is available through the City Clerk’s office and on the City’s official website with second reading and public hearing to be held on December 14, 2021”; and finally passed and adopted by the City Council on December 14, 2021, following a duly noticed public hearing and published on the City’s official website and posted at the City Clerk’s office on November 10, 2021.

ATTEST:

DocuSigned by:

AD03A3B02032499

Tobi Duffey, CMC, City Clerk