

ORDINANCE NO. 21-09

**AN ORDINANCE OF THE CITY COUNCIL OF
THE CITY OF CASTLE PINES, COLORADO, AUTHORIZING THE ACQUISITION
OF CERTAIN INTERESTS IN REAL PROPERTY THROUGH NEGOTIATIONS
AND/OR EMINENT DOMAIN PROCEEDINGS, IF NECESSARY, FOR OPEN SPACE,
DRAINAGE, UTILITY, AND TRAIL PURPOSES**

WHEREAS, the City of Castle Pines, Colorado (the “City”) possesses the power of eminent domain pursuant to the provisions of Article XX, §§ 1 through 6 of the Colorado Constitution, Article XII of the Home Rule Charter for the City of Castle Pines, Colorado, § 38-1-101 *et seq.*, Colorado Revised Statutes (C.R.S.), and § 38-6-101 *et seq.*, C.R.S.; and

WHEREAS, Section 12.1 of the Home Rule Charter requires that the City Council of the City (“Council”) authorize any exercise of the power of eminent domain by ordinance; and

WHEREAS, on August 25, 2020, Council adopted the City of Castle Pines Final Trails Master Plan (the “Trails Master Plan”); and

WHEREAS, the Trails Master Plan proposes public trails and walkways within and in the vicinity of Tract B-1 of Lagae Ranch Filing No. 1, 1st Amendment, recorded in the real property records of Douglas County, Colorado on October 24, 2017 at Reception No. 2017072361 (“Tract B-1”); and

WHEREAS, Council has determined that it is necessary for the City to acquire fee simple title to Tract B-1 for public uses and purposes, including open space, drainage facilities, utilities, and, in furtherance of the Trails Master Plan, trail facility purposes, and desires to authorize use of condemnation proceedings to acquire Tract B-1 if good faith negotiations to acquire Tract B-1 without condemnation prove unsuccessful; and

WHEREAS, Council recognizes that the taking of private property for a public purpose is a serious action that should be invoked only after careful consideration of its effect on the rights of affected property owners; and

WHEREAS, Council finds that acquisition of Tract B-1 is necessary for public uses and public purposes and for the continued health, safety, and welfare of the residents of the City.

NOW, THEREFORE, BE IT ORDAINED by the City Council of the City of Castle Pines, Colorado:

Section 1. The recitals contained above are incorporated herein by reference and are adopted as findings and determinations of Council.

Section 2. The City Manager, or his designee, shall be authorized to conduct good faith negotiations with the property owner of Tract B-1 (the “Tract B-1 Owner”) in accordance with applicable law and to make offers of just compensation to the Tract B-1 Owner for the voluntary

acquisition of clear title thereto subject only to those title encumbrances that the City Manager, or his designee, finds are consistent and will not interfere with the City's intended uses of Tract B-1. In the event that good faith negotiations are successful, the City Manager, or his designee, shall be authorized to schedule and conduct closings with the Tract B-1 Owner.

Section 3. If compensation to be paid for Tract B-1 cannot be agreed upon by the interested parties, or in case the Tract B-1 Owner is incapable of consenting or incapable of providing clear title to Tract B-1, then the City Attorney shall be authorized to institute and prosecute to conclusion such proceedings as are available under Article 1 or 6 of Title 38, C.R.S., through the exercise of the power of eminent domain. Through the eminent domain proceedings, the City Attorney may seek to acquire clear title to Tract B-1, subject only to those title encumbrances that the City Manager, or his designee, finds are consistent and will not interfere with the City's intended uses of Tract B-1. In the event that acquisition by eminent domain is deemed necessary, the City Attorney shall be authorized to request immediate possession of Tract B-1 in furtherance of the purpose of this Ordinance.

Section 4. If eminent domain proceedings are commenced, the City shall be authorized to employ all necessary persons for this purpose including special eminent domain counsel, appraisers, surveyors, engineers, and other experts as deemed necessary.

Section 5. The City Manager, or his designee, shall have the authority to amend or modify the legal description of Tract B-1, the nature of the interests to be acquired, and may delete or add parcels, in whole or in part, as deemed necessary by the City Manager, or his designee, and consistent with the City's intended uses of Tract B-1.

Section 6. The City Manager shall be authorized to execute and the City Clerk to attest any document necessary for the acquisition of Tract B-1. Following execution, the City Clerk shall cause a copy of any deed(s) related to Tract B-1 to be recorded in the real property records of Douglas County, Colorado. If acquired by condemnation, the City Attorney shall cause the final rule and order to be recorded in the real property records of Douglas County, Colorado.

Section 7. **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 8. **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 9. **Safety Clause.** The City Council hereby finds, determines, and declares that this Ordinance is promulgated under the general police power of the City of Castle Pines, 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 obtained.

Section 10. 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, FOLLOWING A PUBLIC HEARING, AT A REGULAR MEETING OF THE CITY COUNCIL OF THE CITY OF CASTLE PINES, COLORADO the 14th day of December, 2021.



DocuSigned by:
Tera Stave Radloff
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Tera Stave Radloff, Mayor

ATTEST:

DocuSigned by:
Tobi Duffey
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Tobi Duffey, CMC, City Clerk

Approved as to form:
DocuSigned by:
Linda C. Michow
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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:
Tobi Duffey
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Tobi Duffey, CMC, City Clerk