

TOWN OF PALMER LAKE, COLORADO

ORDINANCE NO. 3-2024

AN ORDINANCE AMENDING THE PALMER LAKE MUNICIPAL CODE TO ADD PROVISIONS REGULATING REZONING OF PROPERTY, TEXT AMENDMENTS TO THE LAND USE CODE, AND CHANGES OF USE OF PROPERTY WITHIN THE TOWN

WHEREAS, the Board of Trustees of the Town of Palmer Lake, Colorado, pursuant to Colorado statute and the Palmer Lake Municipal Code, is vested with the authority of administering the affairs of the Town; and

WHEREAS, the Board of Trustees has determined that the Town's zoning code either does not address, or does not address with sufficient clarity regulations governing rezoning of property within the Town, text amendments to the Town's land use code, and changes of use of property within the Town; and

WHEREAS, the Board of Trustees believes it is important to provide clear and thorough regulations addressing such issues; and

WHEREAS, The Board of Trustees has received, reviewed and considered proposed additions to the Town Code, as set forth in Exhibit A, attached, regarding such issues; and

WHEREAS, the Board of Trustees has concluded that it is in the best interest of the health, safety and welfare of the Town to adopt the code provisions as set forth on Exhibit A, attached and add them to the Town Code.

NOW, THEREFORE, BE IT ORDAINED BY THE BOARD OF TRUSTEES OF THE TOWN OF PALMER LAKE, COLORADO AS FOLLOWS:

1. The Palmer Lake Municipal Code is hereby amended by adding the following sections as set forth in their entirety on Exhibit A, Attached:
 - a. Section 17.14.10 – Rezoning
 - b. Section 17.14.20 – Text Amendments to the Land Use Code
 - c. Section 17.14.30 – Change of Use
2. Severability. If any article, section, paragraph, sentence, clause, or phrase of this Ordinance is held to be unconstitutional or invalid for any reason such decision shall not affect the validity or constitutionality of the remaining portions of this Ordinance. The Board of Trustees hereby declares that it would have passed this Ordinance and each part or parts thereof irrespective of the fact that any one part or parts be declared unconstitutional or invalid.

3. Repeal. Existing ordinances or parts of ordinances covering the same matters embraced in this Ordinance are hereby repealed and all ordinances or parts of ordinances inconsistent with the provisions of this Ordinance are hereby repealed except that this repeal shall not affect or prevent the prosecution or punishment of any person for any act done or committed in violation of any ordinance hereby repealed prior to the effective date of this Ordinance.

INTRODUCED AND PASSED AT A REGULAR MEETING OF THE BOARD OF TRUSTEES OF THE TOWN OF PALMER LAKE ON THIS 22nd DAY OF FEBRUARY, 2024.

ATTEST:

TOWN OF PALMER LAKE, COLORADO



Dawn A. Collins
Town Administrator/Clerk

BY: 

Grant Havenar
Mayor

EXHIBIT A

Section 17.14.10 Rezoning

Applicability. This section applies to all applications to change the zoning district classification of a lot or parcel to a different zoning district classification, including applications to create or repeal a Planned Unit Development zoning district, or to create, modify, or repeal an overlay zoning district.

Initiation of Amendments to Text or Official Zoning Map. The Board of Trustees may from time to time amend, supplement, change, or repeal the regulations and provisions of this Chapter. Amendments to the text of this Code may be initiated by the Board of Trustees, Town Staff, or Planning Commission, or by written application of any property owner or resident of the Town. Amendments to the zoning district map may be initiated by the Board of Trustees, Town Staff, or the Planning Commission, or by a real property owner in the area to be included in the proposed amendment.

General Rezoning of the Town. Whenever the zoning district map is to be changed or amended incidental to or as part of a general revision of this Code, whether such revision is made by repeal of the existing zoning code and enactment of a new zoning code or otherwise, the requirement of an accurate survey map or other sufficient legal description of, and the notice to and listing of names and addresses of owners of real property in, the area of the proposed change, shall be waived. However, the proposed zoning map shall be available for public inspection in the Town Hall during regular business hours for fifteen (15) days prior to the public hearing on such amendments.

To initiate a rezoning of private property, the petitioner must be the owner of the affected property or a person with the signed authorization of the owner to present the application.

If a proposed rezoning is inconsistent with the Community Master Plan (aka Comprehensive Plan), the Community Master Plan shall be amended prior to approving the rezoning. The request may only be approved if the applicant demonstrates that the rezone is justified because of changed or changing conditions in the particular area, in the Town in general, or that the rezoning is necessary to correct a manifest error in the existing zone classification.

Rezoning Amendment Application Process.

1. The Board of Trustees may amend the boundaries of any zone district as shown on the Official Zoning Map.
2. A zoning change of individual property may be initiated by the Town, by citizen petition or by application filed by the landowner.
3. **Town Initiated Zoning Change.** Requests for zoning changes initiated by the Board of Trustees, Planning Commission, or Town Staff will be prepared as a draft ordinance by the Town Attorney and Town Staff and shall be reviewed and considered by the Planning

Commission and presented to the Board of Trustees at a public hearing. In this instance, the Town shall be considered to be the applicant.

4. Owner or citizen Initiated Zoning Change of private property. The petitioner must be the owner of the property or a citizen of the Town who has submitted the application with a petition signed by owners of all of the land affected by the request. All applicants are advised there is no right to a change of zoning.
5. The Planning Commission and Board of Trustees may consider the following evaluation criteria for the analysis of zoning amendment applications:
 - (a) The compatibility of the zoning change with the surrounding zone districts and land uses in the vicinity of the site including the characteristics of the existing neighborhood, the applicable dimensional requirements, and the suitability of the site for development in terms of on-site characteristics.
 - (b) Present and future impacts on the existing adjacent zone districts, uses, and physical character of the surrounding area.
 - (c) The proposed use complies with all applicable requirements of this Land Development Code, including without limitation any applicable standards.
 - (d) The land proposed for a zoning change, or adjacent land has changed or is changing that it is in the public interest and consistent with the intent, purpose, and provisions of this Chapter and the Community Master Plan (aka Comprehensive Plan) to encourage different densities or uses.
 - (e) That the proposed rezoning is needed to provide land for a demonstrated community need or service and such rezoning will be consistent with the goals, objectives, and policies contained within the adopted Town of Palmer Lake plans.
 - (f) Any impacts on the surrounding area associated with the environment, wildlife, access, traffic, emergency services, utilities, parking, refuse areas, noise, glare, odor, and other material adverse impacts have been addressed and/or mitigated to the maximum extent practicable.
 - (g) The Town or other service providers have the capacity to serve the development enabled by the rezoning with adequate roads, water, sewer, and other public services and facilities.
 - (h) The recommendations of referral agencies have been considered and addressed to the maximum extent practicable.
 - (i) Present and future impacts on public facilities and services, including but not limited to fire, police, water, sanitation, roadways, parks, schools, and transportation.
 - (j) The relationship between the proposal and the adopted Community Master Plan, Parks Plan, and adopted 3-Mile Annexation Plan.

(k) Public benefits arising from the proposal.

6. That the existing zoning classification currently recorded on the Official Zoning Map is in error.
7. Zoning Protest. In case of a protest against a proposed rezoning filed with the Town Clerk at least twenty-four (24) hours prior to the public hearing and signed by the owners of twenty (20) percent or more either of: (1) the area of the property included in such proposed change; or (2) the area immediately adjacent to the area proposed to be rezoned, extending for a radius of one hundred (100) feet therefrom, disregarding intervening public streets and alleys, such amendment shall not become effective except by the favorable vote of two-thirds of the members of the Board of Trustees.
8. Legislative Rezoning. The Board of Trustees may, upon request of the Planning Commission, the Town Administrator, or on its own motion, initiate a procedure for rezoning a significant area of the Town, consisting of six or more individual ownership parcels. This rezoning is a legislative not a quasi-judicial act and may be accomplished by ordinance without notice to individual landowners. The protest procedures of Subsection (c) above shall not apply. The procedure for legislative rezoning shall be as follows.
 - (a) Requests for legislative rezoning initiated by the Board of Trustees, Planning Commission or the Town Administrator will be prepared as a draft ordinance by the Town Attorney and Town staff. In this instance the Town shall be considered to be the applicant.
 - (b) After conducting its review on the request, the Planning Commission shall transmit its recommendations to the Board of Trustees.
 - (c) Notice of the public hearing before the Board of Trustees shall be given by publication of the request. The notice shall be published in a newspaper of general circulation in the Town and by posting at the Town offices. Separate notice to individual property owners is not required but may be given at the sole discretion of the Town. The Town choosing not to give such individual notice shall not be a basis for the challenge of the legislative rezoning.
 - (d) The Board of Trustees shall consider the public testimony, the recommendations of the Comprehensive Plan, and the interests of the Town in general when considering a legislative rezoning. The rezoning shall not apply.
9. Zoning Change Procedures
 - (a) Step 1: Preapplication Conference.
 - (b) Step 2: Zoning Amendment Application Submittal. It is the applicant's responsibility to ensure that accurate and complete information is provided. The applicant shall submit one (1) copy of the complete zoning amendment application package to the Town Administrator or designee and shall request that the application be reviewed by the Planning Commission and Board of Trustees. Note: In the case of text amendments, only Items a and b below are required in the case of a property owner or resident of the Town making such text amendment application.

- (1) Completed Land Use Application Form
 - (2) Application Fee and Fee Agreement. A non-refundable fee is collected to cover the cost of review by the Development Review Team (DRT) and any other expert whom the Town may wish to review the application; and notice and publication expenses. The Town Administrator or designee shall provide the applicant with a copy of the most current fee schedule and fee agreement form.
 - (3) Legal Notice Form. The applicant shall prepare the legal notice form and return it to the Town with an electronic copy of the legal description in MS Word™ format.
 - (4) Mineral Estate Rights Affidavit. The mineral rights affidavit must be current and must be dated no more than thirty (30) days before the date of the rezoning application submittal.
 - (5) Current proof of ownership in the form of title insurance issued or attorney title opinion within thirty (30) days of submission of the application.
- (c) Step 3: Zoning Amendment Application Certification of Completion. Within fifteen (15) days of submittal, the Town Administrator or designee shall either certify that the application is complete and in compliance with all submittal requirements or reject it as incomplete and notify the applicant of any deficiencies. The applicant shall then correct any deficiencies in the application package, if necessary, and submit the required number of copies of the application (as specified in the Zoning Amendment Technical Criteria form) to the Town Administrator or designee. The original application and all documents requiring a signature shall be signed in ink.
- (d) Step 4: Final Staff Review and Report to Planning Commission. Staff shall complete a final review of the resubmitted materials and prepare a report to the Planning Commission explaining how the application is or is not consistent with the Criteria for Amendments to the Official Zoning Map or Criteria for Amendments to the Text of the Zoning Code.
- (e) Step 5: Set Zoning Amendment Public Hearing and Complete Public Notification Process.
- (1) Map Amendments (Rezoning). Town Administrator or designee shall send notice of public hearing to the applicant, all property owners of record within three hundred (300) feet of the property in question, and all mineral interest owners of record no less than fifteen (15) days before the Planning Commission public hearing. The Town Administrator or designee shall publish notice of hearing in a newspaper of general circulation and post a sign on the property in a visible location. The hearing may be held no less than fifteen (15) days from the date of property posting and newspaper publication. If the zoning amendment request is accompanying another application that is scheduled for public hearings before the Planning Commission and Board of Trustees, one (1) combined public hearing may be held on both applications.
 - (2) Text Amendments. The Town Administrator or designee shall publish notice of hearing in a newspaper of general circulation at least fifteen (15) days prior to the

scheduled public hearing before the Planning Commission. No mailed notice or property posting is required.

- (f) **Step 6: Planning Commission Public Meeting and Action on the Zoning Amendment.** The Planning Commission shall hold a public hearing to review the zoning amendment based on the Criteria for Amendments to the Official Zoning Map or the Criteria for Text Amendments to the Zoning Code. The Planning Commission shall then make a recommendation to the Board of Trustees to approve, conditionally approve, or deny the zoning amendment application.
- (g) **Step 7: Finalize Zoning Amendment Based on Planning Commission Comments.** If necessary, the applicant shall revise the zoning amendment application based on the Planning Commission's comments and submit it to the Town Administrator or designee
- (h) **Step 8: Complete Public Notification Process Notify Parties of Interest.** Not less than fifteen (15) days before the date scheduled for the Board of Trustees public hearing, the Town Administrator or designee shall notify surrounding property owners within three hundred (300) feet, mineral interest and any owners of record, and other interested parties. The notice shall include the time and place of the public hearing, the nature of the hearing, the location of the subject property and the applicant's name. Such notice shall not be required for text amendments.
- (i) **Step 9: Set Board of Trustees Public Hearing.**
 - (1) **Map Amendments (Rezoning).** In addition to mailed notice (Step 8), the Board of Trustees shall schedule a public hearing for the purpose of taking action on the zoning amendment. The Town Administrator or designee shall publish notice in a newspaper of general circulation and post a sign in a visible location. The hearing may be held no less than fifteen (15) days from the date of newspaper publication.
 - (2) **Text Amendments.** The Town Administrator or designee shall publish notice in a newspaper of general circulation at least fifteen (15) days before the date scheduled for the Board of Trustees public hearing. No mailed notice or property posting is required.
- (j) **Step 10: Board of Trustees Public Hearing and Action on the Zoning Change Amendment.** The Board of Trustees shall, after receiving the report and recommendations from the Planning Commission, hold a public hearing and act upon the proposed amendment. Following the required hearing, the Board of Trustees shall consider the comments and evidence presented at the hearing, evaluate the application in accordance with the criteria listed above below and approve, approve with conditions, or deny the application, in whole or in part.
- (k) **Step 11: Post Approval Actions.**
 - (1) Upon approval of a zoning change amendment to the official zoning map by the Board of Trustees, the Town Clerk shall cause an appropriate revision of the official zoning map to be prepared for recording with the County Clerk and Recorder. In the event the zoning amendment was initiated by an interested party, the petitioner shall pay the Town's cost for the preparation of the revision to the official zoning map.
 - (2) The applicant initiating the official zoning map amendment shall have thirty (30) days after approval of the amendment by the Board of Trustees to submit to the Town Clerk two (2) Mylar copies and three (3) copies of the approved zoning

amendment map for recording, along with the recording fees and all other costs billed by the Town relative to the zoning amendment. A licensed surveyor, engineer or GIS Specialist shall prepare the zoning amendment map. Inaccurate, incomplete, or poorly drawn plans shall be rejected. In addition, the petitioner shall submit one (1) eleven (11) inch by seventeen (17) inch Mylar reduction of the zoning amendment map and an Auto CAD™ drawing file (Release 12 or higher) or ARCVIEW GIS drawing file of the zoning amendment map on a flash drive, or by other acceptable electronic transfer.

- (3) Within thirty (30) days of receipt of the zoning amendment map, the Town Clerk shall review the documents for compliance with the Board of Trustee's approval, obtain the Town officials' signatures and submit the approved zoning amendment map and the ordinance amending the official zoning map to the El Paso County Clerk and Recorder's Office for recordation.
10. Map Amendment upon Zoning Establishment or Modification. Upon enactment of any ordinance annexing and establishing zoning or modifying existing zoning for any property, and upon final passage thereof, the Town shall amend the prior existing official maps to include the annexed area with the proper zoning classification or show the amended classification, as the case may be. Such updated current official map shall contain, in table form, the date and number of the ordinance amending it, the date the map was amended to reflect each amendment, and the initials of the person who checked and approved the change to the map.
 11. Criteria for Amendments to Official Zoning Map. For the purpose of establishing and maintaining sound, stable, and desirable development within the Town, the official zoning map shall not be amended except:
 - (a) To correct a manifest error in an ordinance establishing the zoning for a specific property.
 - (b) To rezone an area or extend the boundary of an existing district because of changed or changing conditions in a particular area or in the Town generally.
 - (c) The land to be rezoned was zoned in error and as presently zoned is inconsistent with the policies and goals of the adopted Community Master Plan (aka Comprehensive Plan).
 - (d) The proposed rezoning is necessary to provide land for a community-related use that was not anticipated at the time of the adoption of the Community Master Plan and the rezoning will be consistent with the policies and goals of the Community Master Plan.
 - (e) The area requested for rezoning has changed or is changing to such a degree that it is in the public interest to encourage development or redevelopment of the area; or
 - (f) A rezoning to a Planned Unit Development district is requested to encourage innovative and creative design and to promote a mix of land uses in the development.

This declaration of criteria for zoning map amendments shall not control an amendment that occurs incidentally to a general revision of the zoning map, nor shall such criteria necessarily apply with respect to a comprehensive reclassification of land into the zoning districts established by this Chapter or established by any later comprehensive revision of this Chapter.

Section 17.14.20 Text Amendments to the Land Use Code

Commentary: Per discussion with Staff, a zoning change to the map and a text amendment are two distinct sections.

- (a) Text amendments. Amendments to these regulations may be proposed by any person who is an owner of real property in the Town, by the Planning Commission, town staff, or by the Board of Trustees. Amendments to these regulations shall be known as text amendments and will be reviewed by the Planning Commission and the Board of Trustees.
- (b) Criteria for Text Amendments to the Zoning Land Use Code. For the purpose of establishing and maintaining sound, stable, and desirable development within the Town, the text of this Chapter shall not be amended except:
 - (1) To correct a manifest error in the text of this Chapter.
 - (2) To provide for changes in administrative practices as may be necessary to accommodate the changing needs of the community.
 - (3) To accommodate innovations in land use and development practices that were not contemplated at the adoption of this Chapter; or
 - (4) To further the implementation of the goals and objectives of the Community Master Plan.
- (c) Upon approval of an ordinance amending, changing, or repealing part of the text of this Chapter, the Town Clerk shall certify a copy of the ordinance and place it in the official records of the Town, and make appropriate supplements to this Chapter.
- (d) Narrative. A written description of the proposed change to the text of this Chapter, including the citation of the portion of the Chapter to be changed and the wording of the proposed change. The description must provide the rationale for the proposed change, citing specific difficulties with the existing text and similar provisions in zoning codes of other jurisdictions that support the rationale of the proposed change. Particular attention should be given to addressing the criteria listed in Subsection (d) below. (Only for a text change.)
- (e) A legal description for all property to be considered for rezoning. (Only for a text change.)

Sec. 17.14.30— Change of Use.

Commentary: Fire Departments and Fire Districts as well as PPRBD often want a change of use application to be added to the Land Use Code. This is because a change of use often impacts fire code, building code and parking requirements.

- (a) Applicability. A change of use approval is required for any change from one use to another use in a building, where both uses are allowed by right in the zoning district.
- (b) Purpose. The purposes of the change of use approval are:
 - (1) Public safety as provided for in the building, fire, and health codes, and
 - (2) Availability of adequate services such as water and sewer.
- (c) Review process.
 - (1) Step 1: Pre-application meeting at the discretion of the applicant.

- (2) Step 2: Submit a change of use application package consisting of one paper copy of all items and one digital copy in the PDF file format.
 - a. Land Use Application Form.
 - b. Application fee and fee agreement.
 - c. Written description of the existing use and proposed use.
 - d. Site plan map as described in the land use application form.
 - e. Architect's written analysis of the proposed use compliance with the Land Use Code and Building Code.
 - f. Engineer's written analysis of the adequacy of water supply for the proposed use.
 - g. Water lawyer's written analysis of the adequacy of water rights for the proposed use.
- (3) Step 3: Within fifteen (15) days of submittal, the Town Administrator or designee shall review the change of use application for completeness and notify applicant if the application is complete and accepted.
- (4) Step 4: Staff distributes copies to other reviewers including Building Official, Fire Chief, and Town Engineer.
- (5) Step 5: Within fifteen (15) days the other reviewers may submit comments to the Town Administrator or designee, who will forward all comments to the applicant.
- (6) Step 6: The Town Administrator or designee reviews the comments and the project's compliance with the Land Use Code and makes a decision on the request for approval.