

PALMER LAKE ZONING TITLE 17

ARTICLE 1 GENERAL LAND USE PROVISIONS

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Article 1: General Land Use Provisions

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Sec. 17-1-10. - Title.

This Code shall be known and may be cited as the *Palmer Lake Land Use Code as it may be amended*. Within this Code, the Palmer Lake Land Use Code shall simply be referred to as *this Code*.

Sec. 17-1-20. Jurisdiction

- (a) The provisions of this Code apply to all land, subdivision of land or buildings, buildings, structures, land uses, changes of land use, and development within the boundaries of the Town. No person shall use, develop, or subdivide any tract of land which is located within the Town except in conformity with the provisions of this Code.
- (b) A copy of a map showing the boundaries of the Town, the Official Zoning Map, and the area within the three-mile planning jurisdiction shall be available for public inspection in the Town offices.¹

Sec. 17-1-30. Legal Authority.

- (a) This Code is adopted pursuant to the authority contained in the Colorado Revised Statutes (C.R.S.). Authority is granted to municipalities to establish a Planning Commission and to regulate subdivisions (Sections 31-23-202 and 31-23-214, C.R.S.); to regulate the division of land and buildings (Section 29-20-101, et. seq., C.R.S., and Section 29-20-104 C.R.S.), to regulate land use and zoning (Section 31-23-301, C.R.S.); to provide for planned developments (Section 24-67-101, et. seq., C.R.S.); to provide for vesting of property rights (Section 24-68-101, et. seq., C.R.S.); to enforce its major street plan within three (3) miles of its boundaries (Sections 31-15-401—31-15-601, Section 31-23-212, and Section 31-23-213, C.R.S.); to adopt a comprehensive plan; and to generally plan for and regulate the use of land.
- (b) In addition to the above authority, the following powers are also granted to municipalities in Colorado: Title 16, Article 13, Part 3, C.R.S., Restraint and Abatement of Nuisances; Title 24, Article 65.1, C.R.S., Areas and Activities of State Interest (1041 regulations); Title 29, Article 1, C.R.S., Intergovernmental Relationships; Title 29, Article 20, C.R.S., Local Government Land Use Control Enabling Act; 7. Title 31, Article 15, C.R.S., Powers and Functions of Cities and Towns; 9. Title 38, Article 30.5, C.R.S., Conservation Easements; Title 40, Article 5, C.R.S., New Construction of Utilities; and Title 43, Article 2, C.R.S., State, County, Municipal and Public Roads.
- (c) Pursuant to Section 31-23-227, C.R.S., the Board of Trustees assumes and reserves to itself the final authority over all acts, powers, and duties assigned to a municipal planning commission under Part 2 of Article 23, Title 31, C.R.S.
- (d) As provided in these regulations, the Planning Commission is delegated the authority to review and make recommendations to the Board of Trustees regarding such matters, but such recommendations shall not be binding on the Board of Trustees.²

¹ Statute requires the adoption of an 'Official Map' sometimes referred to as an Official Zoning Map.

² This section was missing statutory references.

- (e) This Code is administered and enforced by the Town Administrator or a designee of the Town Administrator.

Section 17-1-40 Purpose and Intent

- (a) The purpose of this Code is to promote the health, safety, convenience, order, prosperity, and welfare of the present and future residents of the Town of Palmer Lake as identified in the adopted Community Master Plan. This Code is designed to:
- (1) Implement the Town's goals, policies, plans, and programs.
 - (2) Preserve and enhance the quality of life of Palmer Lake citizens and ensure that new development produces sound living environments with the necessary open spaces for people, traffic, utilities, public protection, light, air, recreation, and other community facilities.
 - (3) Maintain and enhance livable neighborhoods that foster and preserve a sense of community.
 - (4) Provide a diversity of housing types at various densities and cost.
 - (5) Promote the economic well-being of the Town by encouraging economic diversity.
 - (6) Provide adequate services and facilities to support existing and projected areas of population and growth including adequate water supply to meet the needs of residents, businesses, and users of any development now and in the future.
 - (7) Promote logical extensions of and efficient use of existing infrastructure.
 - (8) Regulated land use based on impacts to the surrounding area and minimize or mitigate conflicts between different land uses.
 - (9) Provide a safe, efficient, and connected transportation network and ensure that streets will be laid out in relation to existing streets or according to the comprehensive plan of the town, and that said streets will be built to adequate construction standards.
 - (10) Ensure that the fiscal impact of subdivision and development is borne by those parties who receive the benefits therefrom.
 - (11) Support programs and help provide facilities that meet the recreational, cultural, public safety, and educational needs of the community.
 - (12) Promote cooperation and coordination in planning and growth management between the Town and neighboring jurisdictions.
 - (13) Protecting the natural resources of the community.
 - (14) Manage hazard risks; and provide protection from geologic, flood, and fire hazards and other dangers.

Sec. 17-1-50. - Interpretation and Rules of Construction

- (a) The interpretation and application of the provisions of this Code shall be held to be the minimum requirements for the promotion of public health, safety, convenience, prosperity, and general welfare. Where any provision of this Code imposes more stringent requirements, regulations, restrictions, or limitations than are imposed or required by any other ordinance or by state statutes, the provisions of this Code shall govern.
- (b) These regulations are not intended to abrogate any private easement, covenant, agreement, or restriction. It is not the intent of these regulations, and it may not be implied or inferred, that the Town will enforce any private easement, covenant, agreement, or restriction, such provisions being a function of the right of individual property owners to further or separately restrict the use of their property. These regulations shall not be interpreted to either enhance or diminish such private restrictions, and the existence of such private restrictions shall not affect the application or enforceability of these regulations.³
- (c) Rules of construction are:
 - (1) The words *shall* or *must* are mandatory and not discretionary.
 - (2) The word *may* is optional and discretionary.
 - (3) The word *lot* shall include the words *building site, site, parcel, plot, or tract and any other portion of real property however described*.
 - (4) The term *occupied* or *used* shall be construed to also include *intended, arranged, or designed to be used or occupied*.
 - (5) A building or structure includes any part thereof.
 - (6) The word *person* includes a corporation, association, partnership, firm, or joint venture, as well as an individual.
 - (7) Singular words include the plural.
 - (8) Words used in the present tense include the future unless the context clearly indicates the contrary.
 - (9) The particular controls the general.
 - (10) In case of any difference of meaning or implication between the text of these regulations and the captions for each section, the text shall control.

Sec- 17-1-60 Transition from Previous Regulations and Effective Date

- (a) This Code is effective as of thirty (30) days after final publication hereof.

- (b) Development Applications. Any application for development submitted to the Town or any action taken pursuant to this Code shall be reviewed pursuant to the review process and standards set forth in this Code.
- (c) Pending Complete Applications. The enactment or amendment of this Code shall not affect the processing of any application that the Town has determined to be complete under previous land use regulations prior to the Effective Date.
- (d) Development plans approved under previous regulations that received vested property rights through a site-specific development plan shall be valid for the duration of that vested property right, provided that all terms and conditions of the site-specific development plan are followed.
- (e) Existing legal uses that may become nonconforming by adoption of this Code shall become legal nonconforming uses.
- (f) Once a use or structure is made to conform to the provisions of this title it may not revert to *nonconformance* either in part or in whole
- (g) New Applications Initiated after the Effective Date or amendment to this Code.
 - (1) No building or structure shall be erected, and no existing building or structure shall be moved, altered, or extended, nor shall any land, building, or structure be used for any purpose other than as listed in the district regulations for the zone district in which such land, building or structure is located.
 - (2) No building or structure shall be erected, nor shall any existing building or structure be moved, altered, or extended, nor shall any area surrounding any building or structure be encroached upon or reduced in any manner, except in conformity with the dimensional regulations, design and development standards, and supplementary regulations or other provisions provided in the district regulations for the zone district in which such building or structure is located.
 - (3) The provisions of this Code shall apply to all uses as follows:
 - i. All new structures and uses of land.
 - ii. Additions involving the expansion of the gross floor area of any structure existing in the Town by twenty percent (20%) or more.
 - iii. A change of use. Prior to being issued a building permit or being granted a change in use, an applicant shall demonstrate that the property will comply with all applicable regulations of this Code.
 - iv. The division of land or buildings.⁴
 - (4) All subdivisions, buildings, structures, parking areas, landscaping, signs, and other improvements addressed by the design and development standards in this Code or in the adopted Public Works Manual shall be constructed and installed in accordance with the approved plans filed with the Town prior to the issuance of a certificate of occupancy for the building or use.
 - (5) The Town Administrator or designee may allow certain improvements to be constructed or installed within an agreed-upon time allowing for seasonal changes. Such

arrangements may involve performance bonds or other methods as deemed appropriate by the Town Administrator to assure eventual compliance with this Code.

- (6) Every building shall be located and maintained on a lot as defined in this Code.
- (7) No parcel of land that has less than the minimum width, depth, and area requirements for the zone in which it is located may be divided from a larger parcel of land for the purpose, whether immediate or future, of building or development as a lot.

Sec. 17-1-70 Pre-existing Development: Non-conforming uses, structures, signs, or lots

- (a) Applicability. All permitted land uses, structures, lots, signs, and site features that were legally created or initiated, but do not conform to the applicable regulations of this Code as a result of either governmental action or an action that was not initiated by the property owner, including but not limited to the adoption or amendment of this Code, acquisition of property by a governmental entity, or a Court decision authorizing or prohibiting a land use, structure, or division of land in a manner not authorized by this Code.
- (b) Non-conforming uses.
 - (1) Unless otherwise prohibited by other provisions of this Code, a nonconforming use may be continued and normal or routine maintenance of the structure containing a nonconforming use shall be allowed. The right to continue the use shall pass to a future buyer, lessee, or occupant of the property, use, or business or entity that operates the use.
 - (2) Enlargement or Alteration of Nonconforming Use. The gross floor area of a nonconforming land use that is located in a conforming or nonconforming building may be expanded by up to 20 percent beyond the portion of a building(s) or parcel(s) of land that it occupied on the date it became nonconforming, provided that the Town Administrator or designee determines that the alteration or expansion does not create a threat to public health or safety, and provided the expansion complies with all other portions of the Code. The installation of a solar energy system or device on a building containing a nonconforming use shall not be considered an enlargement of the building and shall be permitted.
 - (3) A nonconforming use shall be deemed to be terminated or abandoned if a nonconforming use is discontinued or unused for [1] year or more for reasons within the control of the property owner or occupant.
 - (4) Substitution of Nonconforming Use. A nonconforming use may be replaced by another use that is not permitted in the zoning district where the property is located if the Planning Commission determines that the proposed use creates fewer adverse impacts on surrounding properties than the current nonconforming use. In making this determination, the Planning Commission shall consider impacts, including but not limited to levels of auto and truck traffic, hours of operation, noise, dust, vibration, and nighttime lighting and glare.
- (c) Nonconforming Structures

- (1) Continued Use. Unless otherwise prohibited by the Pikes Peak Regional Building Department (PPRBD), a nonconforming structure may continue to be occupied and used, and normal or routine maintenance of the structure shall be allowed, unless and until the PPRBD determines that the structure is no longer safe for occupancy. The right to continue use and occupancy of the structure shall pass to a future buyer, lessee, or occupant of the structure.
- (2) Alteration of a Nonconforming Structure. A nonconforming structure may be altered as necessary to install a solar energy device, or to comply with applicable provisions of the Americans with Disabilities Act, the Fair Housing Amendments Act, or similar Colorado legislation, or to install any other feature or improvement that the Town Administrator or PPRBD determines is necessary to protect public health and safety.
- (3) Expansion of a Nonconforming Structure. A nonconforming structure may be expanded by up to 20 percent beyond the size that it became nonconforming, provided that the PPRBD determines that the expansion does not create a threat to public health or safety, and provided the expansion complies with all other portions of this Code.
- (4) Damage or Destruction of a Nonconforming Structure. A nonconforming structure or structure containing a nonconforming use shall be deemed destroyed when:
 - i. More than 50 percent of its floor area is destroyed; or
 - ii. The cost to repair the damage is more than 50 percent of the actual value of the structure before the damage, as determined by PPRBD or
 - iii. A nonconforming structure or structure containing a nonconforming use that has been damaged – but not destroyed as defined above – may be reconstructed, provided that the repairs are begun within 6 months after the date on which the structure was damaged and are completed within 1 year of the date of the damage and the repairs comply with all applicable building and fire codes and building construction permitting procedures.

(d) Nonconforming Lots

- 1) Continued Use. A legally created lot that is nonconforming as to size, width, configuration, or other factors may continue to be used for any purpose permitted in the zone district in which it is located, and nonconforming uses or structures on the property may continue in use, subject to subsections (a), (b) and (c) above, notwithstanding its nonconforming status.
- 2) Change of Use The use of a nonconforming lot may be changed to any use permitted in the zone district in which it is located unless the Town Administrator or designee determines that the proposed use creates a threat to public or safety due to the nonconforming features of the lot.
- 3) Development or Redevelopment A new structure may be developed on a nonconforming lot, or an existing structure on a nonconforming lot may be altered, expanded, or redeveloped, provided that the resulting structure and the use of that structure complies with all applicable provisions of this Code.

(e) Nonconforming Signs. Nonconforming Signs are addressed in Chapter 17.76.020(f).

- (f) Nonconforming Status. The burden of showing that a use, building, lot, site feature, or sign is nonconforming shall be on the property owner or occupant of the property asserting nonconforming status. Upon the written request of a property owner, the Town Administrator or designee will confirm in writing the nonconforming status or uses, buildings, lots, site features, and signs subject to this Code.

Sec. 17-1-80 Relationship to the Community Master Plan, and Other Plans.

- (a) It is the intention of the Town that this Code generally implement the Community Master Plan and other plans adopted by the Town and its extraterritorial planning area, as they may be from time to time be amended.
- (b) Requirement for Community Master Plan Amendment or other plan amendment. Where a development proposal would be in substantial conflict with the Community Master Plan or other plan, an amendment to the Community Master Plan or other plan shall be required prior to any zoning or subdivision approvals.
- (c) Criteria for Evaluating Amendment Proposals. Amendments to the Community Master Plan or other plans resulting from development proposals under this Code shall be evaluated according to the amendment process outlined in Article 5 of this code.

Sec- 17-1-90 Expiration of Land Use Approvals.

- (a) Approval by the Board of Trustees of any Planned Development District PD plan, Final PD development plan (FDP), subdivision plat, conditional review use, site plan, or any other land use approval that does not constitute an amendment to the Official Zoning Map shall remain in effect for three (3) **years unless a longer vesting period is granted by the Board of Trustees.** ~~After three (3) years have expired, the land use approval shall be deemed obsolete if no building permit has been applied for nor any public improvements installed.~~
- (b) Any approval of such an application for which a building permit has not been applied for nor any public improvements installed, or for which the use has not been otherwise commenced within three (3) years after approval has been obtained, shall be null and void. An extension of time may be granted by the Board of Trustees upon a finding of good cause. If such an approval expires, the applicant shall be required to resubmit a new application and fee for the same project.

Sec- 17-1-100 Vested Property Rights

- (a) Purpose. The purpose of this Section is to provide the procedures necessary to implement the provisions of Article 68 of Title 24, C.R.S., which establishes a vested property right to undertake and complete development of real property under the terms and conditions of an approved site-specific development plan. No vested rights shall be created within the Town except through a site-specific development plan.
- (b) Request for site-specific development plan approval. For those developments for which the landowner wishes the creation of vested property rights pursuant to Article 68 of Title 24, C.R.S., the landowner shall request the approval in writing at least thirty (30) days prior to the date said approval is to be considered. Failure of the landowner to request

such an approval renders the plan not a site-specific development plan, and no vested property rights shall be deemed to have been created.

- (c) Site Specific Development Plan. The following documents when approved by the Town shall constitute a site-specific development plan establishing a vested property right when the procedures and requirements of this Code are met by the applicant.
 - 1) A subdivision exemption map
 - 2) A final plat for a major or minor subdivision.
 - 3) A site plan; or
 - 4) A final PD plan.
- (d) Notice and hearing. No site-specific development plan shall be approved until after a public hearing preceded by notice of such hearing published as provided by law at least twenty-one (21) days before the hearing. Such notice may, at the Town's option, be combined with any other required notice. At such hearing, all interested persons shall have an opportunity to be heard.
- (e) Approvals, effective date, amendments, referendum, and review.
 - (1) A site-specific development plan shall be deemed approved upon the effective date of the ordinance granting final approval of the plan. The vested property right shall attach to and run with the applicable property and shall confer upon the landowner the right to undertake and complete the development and use of said property under the terms and conditions of the site-specific development plan, including any amendments thereto.
 - (2) The Board of Trustees may approve a site-specific development plan upon such terms and conditions as may reasonably be necessary to protect the public health, safety, and welfare. Such conditional approval will result in a vested property right, although failure to abide by such terms and conditions will result in a forfeiture of vested property rights.
 - (3) In the event amendments to a site-specific development plan are approved, the effective date of such amendments, for purposes of the duration of a vested property right, shall be the date of the approval of the original site-specific development plan, unless the Board of Trustees specifically finds to the contrary and incorporates such findings in its approval of the amendment.
 - (4) The approval of vested property rights shall be subject to all rights of referendum and judicial review; except that the period of time permitted by law for the exercise of such rights shall not begin to run until the date of publication of a notice to the general public of the site-specific development plan and creation of vested property rights.
- (f) Notice of approval creating a vested property right.
 - (1) Each map, plat or site plan, or other document constituting a site-specific development plan shall contain the following notice: "Approval of this plan may create a vested property right pursuant to Article 68 of Title 24, C.R.S., as

amended." Failure to contain this statement shall invalidate the creation of the vested property right. ⁵

- (2) In addition, the Town shall publish a notice describing generally the type and intensity of the use approved and the specific parcel or parcels of property affected and stating that a vested property right has been created.

(g) Duration of a vested property right.

A property right which has been vested as provided herein shall remain vested for a period of three (3) years. The vesting period shall not be extended by any amendments to a site-specific development plan unless expressly authorized by the Board of Trustees in the ordinance approving such amendments.

(h) Vested Rights by Separate Agreement.

- (1) The Town Board may, at its sole discretion, enter into a development agreement with a landowner and provide for the vesting of property rights for a period exceeding three (3) years where warranted in light of all relevant circumstances, including but not limited to:

- (a) The project will clearly and significantly reduce impacts on the existing infrastructure.
- (b) The project will construct public facilities, water, sanitary sewer, drainage facilities, and/or public streets that are oversized or extended to be of obvious strategic value to the community.
- (c) The project will provide public open space and/or public parkland significantly greater than required and/or provide public recreational facilities that are of obvious strategic value to the community.
- (d) A commercial project or commercial component of a mixed-use project must result in clear benefits to the city as evidenced by new jobs and tax revenue.
- (e) The project will make special contributions that are clearly in the public interest.
- (f) Subsequent reviews. Such agreement shall provide for subsequent reviews and approvals by the Board of Trustees to ensure compliance with the terms and conditions of the original approval.

(i) Other provisions unaffected.

Approval of a site-specific development plan shall not constitute an exemption or waiver of any other provisions of this Code pertaining to the development or use of property.

(j) Limitations.

Nothing in this Article is intended to create any vested property right, but only to implement the provisions of Article 68 of Title 24, C.R.S. In the event of the repeal of said Article or a

judicial determination that said Article is invalid or unconstitutional, this Article shall be deemed to be repealed, and the provisions hereof no longer effective.

Sec. 17-1-110. APPLICATION SUBMITTAL AND COMPLETENESS REVIEW FOR ALL APPLICATIONS.SEE 17.12.050 (Adopted 2/2024)- this will be inserted here.

APPLICATION FEES, COST REIMBURSEMENT AGREEMENT, AND APPLICATION FORMS. SEE 17.12.055 this will be inserted here.

Sec. 17-1-120. – Correction of Obvious Errors

Nothing in this Code shall be construed as a limitation upon the power of the Board of Trustees, Town Administrator, or Town Attorney to correct obvious typographical or compositional errors, provided that:

- (a) Such corrections shall not change the legal effect of this Code or any part thereof.
- (b) Such corrections will be reported to the Planning Commission.
- (c) An errata supplement shall be attached to all copies of this Code distributed subsequent to the making of such corrections.

Sec. 17-1-130. - Severability

- (a) If any part, section, subsection, sentence, clause, or phrase of Title 17 is for any reason held to be invalid or unconstitutional, such invalidity shall not affect the validity of the remaining sections of this Code.
- (b) If the application of any provision of these regulations to any lot or tract of land shall be judged invalid, the same shall not affect, impair, or invalidate these regulations or the application of any provision thereof to any other tract of land.