



# Legal Notice

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**Date:** 04/06/2023

**Subject:** An ordinance of the City of Littleton, Colorado, approving amendments to Titles 2 and 10 of the Littleton City Code regarding the appeals process for board and commission quasi-judicial decisions

**Passed/Failed:** Passed on first reading

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**CITY OF LITTLETON, COLORADO**

**ORDINANCE 09  
SERIES 2023**

1 CITY OF LITTLETON, COLORADO

2  
3 ORDINANCE NO. 09

4  
5 Series, 2023

6  
7 AN ORDINANCE OF THE CITY OF LITTLETON,  
8 COLORADO, APPROVING AMENDMENTS TO TITLES 2  
9 AND 10 OF THE LITTLETON CITY CODE REGARDING  
10 THE APPEALS PROCESS FOR BOARD AND  
11 COMMISSION QUASI-JUDICIAL DECISIONS

12  
13 WHEREAS, council adopted Title 10 of the Littleton City Code on October 19,  
14 2021; and

15  
16 WHEREAS, during implementation of Title 10, several inconsistencies related to  
17 the appeals process for board and commission decisions both within Title 10 and to other titles of  
18 the code were discovered; and

19  
20 WHEREAS, a procedure for amendments to Title 10 of the Littleton City Code is  
21 established by Section 10-9-4.3 of the Littleton City Code; and

22  
23 WHEREAS, on January 9, 2023, the Planning Commission of the City of Littleton  
24 held a public hearing regarding proposed amendments to Titles 2 and 10 of the Littleton City Code  
25 regarding the appeals process for board and commission quasi-judicial decisions; and

26  
27 WHEREAS, following the commission hearing, the commission adopted  
28 Resolution Number 01, Series 2023 recommending approval of specific amendments to the  
29 Littleton City Code regarding the appeals process for board and commission quasi-judicial  
30 decisions; and

31  
32 WHEREAS, on April 18, 2023, council held a public hearing to consider the  
33 proposed amendments to Titles 2 and 10 of the Littleton City Code regarding the appeals process  
34 for board and commission quasi-judicial decisions; and

35  
36 WHEREAS, following the public hearing, the council finds in fact that the  
37 proposed amendments mitigate adverse impacts to the development of property by providing  
38 clarity and consistency in the appeals process for board and commission quasi-judicial decisions;  
39 and

40  
41 WHEREAS, following the public hearing, the council finds in fact that the  
42 proposed amendments address a community need to clarify the appeals process for board and  
43 commission quasi-judicial decisions; and

44  
45 WHEREAS, following the public hearing, the council finds in fact that the  
46 proposed amendments advance the strategic policies or objectives of council related to continuous

47 improvement of the city code; and

48

49 **WHEREAS**, following the public hearing, the council finds in fact that the  
50 proposed amendments correct deficiencies in the code, enhance its clarity and its function,  
51 operation, and utility.

52

53 **NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF**  
54 **THE CITY OF LITTLETON, COLORADO, THAT:**

55

56 **Section 1:** Littleton City Code, Title 2 Boards and Commissions, Chapter 2  
57 General Provisions Regarding Boards and Commissions, Section 2-2-5 Appeals from Boards and  
58 Commissions is hereby amended as follows:

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60 A. Determinations: ~~except as provided in Title 10-9-3.7 or elsewhere in this code,~~  
61 all quasi-judicial determinations of any board or commission shall be final and  
62 shall be subject to judicial review as provided by State law. Such appeal may  
63 be taken by any person aggrieved, or by the City Council or any officer,  
64 department, or board of the City. A deposit to cover the estimated cost of  
65 preparing any requested transcript shall be given to the City prior to the City  
66 certifying said transcript to the District Court.

67

68 A.B. Effect Of Appeal: The appeal of any quasi-judicial decision shall not stay  
69 proceedings upon the decision appealed from, unless an order of a court of  
70 competent jurisdiction staying such proceedings is entered.

71

72 **Section 2:** Littleton City Code, Title 10 Unified Land Use Code, Chapter 1  
73 Standards for All Districts, Article 10-1-3: Design, Section 10-1-3.6: Greenscape Design  
74 Standards, Sub-Section E Tree Canopy Coverage Requirements- is hereby amended as follows:

75

76 3. *Approval.* An exemption request shall be approved by the  
77 Director. ~~Appeals shall be directed to and decided by the Board of Adjustment.~~

78

79 **Section 3:** Littleton City Code, Title 10 Unified Land Use Code, Chapter 9  
80 Administration, Article 10-9-3 Common Development Review Procedures, Section 10-9-3.7  
81 Appeals of Application Decisions is hereby amended as follows:

82

83 A. **Generally.** Unless otherwise specified in this Code, ~~an applicant party aggrieved~~  
84 ~~or adversely affected by the decision of a decision-making body or official~~ may  
85 seek review of the decision in accordance with the procedures in this Section.

86

87 B. Appeals.  
88 1. *Appeal of a City Council (Council) or Board of Adjustment (Board) Decision.*  
89 Any decision of the Council ~~or Board on an appeal pursuant to this section~~ is final  
90 and subject only to judicial review by the district court with jurisdiction as provided  
and in accordance with applicable law.

91 2. *Appeal of a Historical Preservation Board (HPB) Decision.* The applicant  
92 ~~or property owner~~ may appeal a denial or condition of a certificate of  
93 appropriateness or certificate of demolition any decision of a certificate of  
94 appropriateness or a certificate of demolition, or designation by, the HPB to the  
95 Council within 15 ~~30~~ days of such decision. ~~or designation.~~ If no appeal is filed  
96 within 15 days, the decision is final. If an appeal is filed, the Council shall hold a  
97 public hearing to consider the appeal after notice is provided in Section 10-9-3.5,  
98 Public Notice, of this Article. After notice as provided in Section 10-9-3.5, Public  
99 Notice, of this Article, the Council shall hold a public hearing to consider the  
100 appeal. The Council shall consider the notice of appeal, HPB's reasons for denial  
101 of or conditions on the application, comments made during the HPB hearing, and  
102 any evidence, including new evidence, it deems relevant to the application. The  
103 Council shall apply the same approval criteria the HPB used to make an  
104 independent and final determination. Council review shall be limited to whether  
105 the HPB has abused its discretion. The decision of the Council shall be a final order  
106 subject to appeal in accordance with subsection B.1 of this Section, above. All  
107 other decisions of the HPB are final and may be appealed in accordance with Title  
108 2 of this code.

109 3. *Appeal of a Planning Commission (Commission) Decision.* Any party aggrieved  
110 ~~by or alleging an error in a final decision of the Commission~~ may appeal to the  
111 ~~Council within 30 calendar days of the Commission's decision.~~ The applicant may  
112 appeal a denial or condition of a subdivision plat, conditional use, site plan, or  
113 master development plan to the Council within 15 days of such decision. If no  
114 appeal is filed within 15 days, the decision is final. If an appeal by the applicant is  
115 filed, the Council shall hold a public hearing to consider the appeal after notice is  
116 provided in Section 10-9-3.5, Public Notice, of this Article. The Council shall  
117 consider the notice of appeal, the Commission's reasons for denial of or conditions  
118 on the application, comments made during the Commission hearing, and any  
119 evidence, including new evidence, it deems relevant to the application. The  
120 Council shall apply the same approval criteria the Commission used to make an  
121 independent and final determination. All other decisions of the Commission are  
122 final and may be appealed in accordance with Title 2 of this code.

123 4. *Appeal of an Administrative Decision.* Any party aggrieved by or alleging error  
124 ~~in a final decision of an administrative official on a matter addressed in this Code~~  
125 ~~may appeal in accordance with Section 10-9-9.2, Appeal of Administrative~~  
126 ~~Decision.~~ Appeal of a Board of Adjustment (BoA) Decision. The applicant may  
127 appeal a denial or condition of a variance to the Council within 15 days of such  
128 decision. If no appeal is filed within 15 days, the decision is final. If an appeal is  
129 filed, the Council shall hold a public hearing to consider the appeal after notice is  
130 provided in Section 10-9-3.5, Public Notice, of this Article. The Council shall  
131 consider the notice of appeal, the BoA's reasons for denial of or conditions on the  
132 application, comments made during the BoA hearing, and any evidence, including  
133 new evidence, it deems relevant to the application. The Council shall apply the  
134 same approval criteria the BoA used to make an independent and final  
135 determination. All other decisions of the BoA are final and may be appealed in

*accordance with Title 2 of this code.*

**Section 4:** Littleton City Code, Title 10 Unified Land Use Code, Chapter 9 Administration, Article 10-9-7 Subdivisions and Vacations, Section 10-9-7.2 Final Plat is hereby amended as follows:

**D. Procedures.**

1. *Preparation.* The subdivider shall cause the preparation of a Final Plat of the proposed subdivision to be done by a Colorado registered land surveyor, duly registered to practice in Colorado.

2. *Review and Recommendation.* The Director shall review the request and approve, approve with conditions, or deny the Final Plat.

~~3. *Appeals.* Appeals of a Final Plat decision shall be heard by the City Council at a public hearing noticed pursuant to Section 10-9-3.7, *Appeals of Application Decisions.*~~

**Section 5:** Littleton City Code, Title 10 Unified Land Use Code, Chapter 9 Administration, Article 10-9-7 Subdivisions and Vacations, Section 10-9-7.3 Preliminary Plat is hereby amended as follows:

**D. Procedures.**

1. *Review and Recommendation.* The Director and the Director of Public Works shall review the Preliminary Plat and make a recommendation to the Commission.

2. *Public Hearing and Decision.* The Commission shall approve, approve with conditions, or deny the Preliminary Plat. Notice of such hearing shall be provided to mineral estate owners in accordance with C.R.S. Title 24, Article 65.5.

~~3. *Appeals.* Appeal of the decision by the Commission on a Preliminary Plat shall be heard by the City Council and noticed pursuant to Section 10-9-3.7, *Appeals of Application Decisions.*~~

**Section 6:** Littleton City Code, Title 10 Unified Land Use Code, Chapter 9 Administration, Article 10-9-8 Historic Preservation Applications, Section 10-9-8.1 Certificate of Appropriateness is hereby amended as follows:

**E. Procedures.**

~~4. *Appeal of a Denial.*~~

~~a. If a Certificate of Appropriateness is denied by the HPB, the applicant may appeal to the Council by filing a written notice with the City Clerk within 15 days after receipt of the HPB's denial.~~

~~b. Within 45 days after an appeal is received by the City Clerk, or within a time frame~~

~~agreed upon by the applicant and Director, a public hearing shall be held by the Council.~~

~~e. Notice of the Council's consideration of the appeal and hearing shall be provided in accordance with Section 10-9-3.7, *Appeal of Application Decisions*.~~

~~d. The Council shall consider the notice of appeal, HPB's reasons for denial of the application, comments made during the HPB public hearing, and any evidence, including new evidence, it deems relevant to the application.~~

~~e. The Council shall apply the criteria in this Section in making its decision.~~

~~f. The decision of the Council shall be final.~~

**Section 7:** Littleton City Code, Title 10 Unified Land Use Code, Chapter 9 Administration, Article 10-9-8 Historic Preservation Applications, Section 10-9-8.2 Certificate of Demolition is hereby amended as follows:

D. Procedure.

~~3. *Appeal of a Denial.*~~

~~a. If a Certificate of Demolition is denied by the HPB, the applicant may appeal to the Council by filing a written notice with the City Clerk within 15 days after written receipt of the HPB's denial.~~

~~b. Within 45 days after an appeal is received by the City Clerk, or within a time frame agreed upon by the applicant and Director, a public hearing shall be held by the Council.~~

~~e. Notice of the Council's consideration of the appeal and hearing shall be provided in accordance with Section 10-9-3.7, *Appeals of Application Decisions*.~~

~~d. The Council shall consider the notice of appeal, HPB's reasons for denial of the application, comments made during the HPB hearing, and any evidence, including new evidence, it deems relevant to the application.~~

~~e. The Council shall apply the criteria in this Section and the Secretary of the Interior's Standards in making its decision.~~

~~f. The decision of the Council shall be final.~~

**Section 8:** Littleton City Code, Title 10 Unified Land Use Code, Chapter 9 Administration, Article 10-9-8 Historic Preservation Applications, Section 10-9-8.3 Certificate of Economic Hardship is hereby amended as follows:

D. Procedures.

~~4. *Appeal of a Denial.*~~

~~a. If a Certificate of Economic Hardship is denied by the HPB, the applicant may appeal the denial to the Council by filing a written notice with the City Clerk within 15 days after receipt of the HPB's denial.~~

~~b. Within 45 days after an appeal is received by the City Clerk, or within a time frame agreed upon by the applicant and Director, a public hearing shall be held by the Council.~~

~~e. Notice of the Council's consideration of the appeal and hearing shall be provided in accordance with Section 10-9-3.7, Appeals of Application Decisions.~~

~~d. The Council shall consider the notice of appeal, HPB's reasons for denial of the application, comments made during the HPB hearing, and any evidence, including new evidence, it deems relevant to the application.~~

~~e. The Council shall apply the criteria in this Section and the Secretary of the Interior's Standards in making its decision.~~

~~f. The decision of the Council shall be final.~~

**Section 9:** Littleton City Code Table 10-9-3.9.1 Development Review Summary under the heading of Relief, Appeals, and Interpretations is hereby amended as follows:

Development Application	Pre-App Required	Neighborhood Meeting	Review and Decision		Public Notice	Expiration (10-9-3.8)	Applicable Standards
			Review/Recommend	Decide			
<u>Appeal of Board or Commission Decision</u>			<u>CDD</u>	<u>[CC]</u>	<u>Po</u>	<u>Same as application being appealed</u>	<u>Same as application being appealed 10-9-3.7</u>

**Section 10:** Severability. If any part, section, subsection, sentence, clause or phrase of this ordinance is for any reason held to be invalid, such invalidity shall not affect the validity of the remaining sections of this ordinance. The City Council hereby declares that it would have passed this ordinance, including each part, section, subsection, sentence, clause or phrase hereof, irrespective of the fact that one or more parts, sections, subsections, sentences, clauses or phrases may be declared invalid.

**Section 11:** Repealer. All ordinances or resolutions, or parts thereof, in conflict with this ordinance are hereby repealed, provided that this repealer shall not repeal the repealer clauses of such ordinance nor revive any ordinance thereby.

246  
247 INTRODUCTION AS A BILL at a regularly scheduled meeting of the City Council  
248 of the City of Littleton on the 4<sup>th</sup> day of April, 2023, passed on first reading by a vote of 6  
249 FOR and 1 AGAINST; and ordered published by posting at Littleton Center, Bemis Library,  
250 the Municipal Courthouse and on the City of Littleton Website.

251 PUBLIC HEARING on the Ordinance to take place on the 18<sup>th</sup> day of April, 2023,  
252 in the Council Chamber, Littleton Center, 2255 West Berry Avenue, Littleton, Colorado, at the  
253 hour of 6:30 p.m., or as soon thereafter as it may be heard.

254

255 PASSED on second and final reading, following public hearing, by a vote of \_\_\_ FOR and  
256 \_\_\_ AGAINST on the 18<sup>th</sup> day of April, 2023 and ordered published by posting at Littleton Center,  
257 Bemis Library, the Municipal Courthouse and on the City of Littleton Website.

258 ATTEST:

259 \_\_\_\_\_  
260 Colleen L. Norton  
261 CITY CLERK

\_\_\_\_\_  
Kyle Schlachter  
MAYOR

262  
263 APPROVED AS TO FORM:

264  
265 \_\_\_\_\_  
266 Reid Betzing  
267 CITY ATTORNEY

