

**TOWN OF PALISADE, COLORADO  
ORDINANCE NO. 2020-04**

**AN ORDINANCE OF THE TOWN OF PALISADE, COLORADO  
ENACTING LAND DEVELOPMENT CODE SECTION 2.02, 2.03 AND 4.12  
TO REQUIRE VARIANCE APPLICATIONS TO BE A PUBLIC HEARING  
PRESENTED TO THE PLANNING COMMISSION FOR FINAL  
DECISION.**

**WHEREAS**, pursuant to Section 31-23-305, C.R.S., the Board of Trustees may adopt, alter or amend zoning and regulations; and

**WHEREAS**, the Board of Trustees believe that variance applications should be subject to public hearings in front of the Planning Commission and subject to Planning Commission final decision; and

**WHEREAS**, the Palisade Board of Trustees desires to amend the Land Development Code to require section 4.12.E. to include Planning Commission decision; and

**WHEREAS**, the Town's Planning Commission has recommended to the Board of Trustees that the amendments to the Land Development Code contained in this Ordinance be adopted; and

**WHEREAS**, in accordance with Sections 3.02 and 4.01 of the Land Development Code, and Section 31-23-306, C.R.S., on \_\_\_\_\_, 2020 a public hearing was held before the Planning Commission to consider a recommendation of an amendment of the Land Development Code to the Board of Trustees as set forth herein, following public notice as required by law; and

**WHEREAS**, in accordance with Sections 3.02 and 4.01 of the Land Development Code, and Section 31-23-304, C.R.S., on \_\_\_\_\_, 2020 a public hearing was held before the Board of Trustees to consider the amendment of the Land Development Code as set forth herein, following public notice as required by law; and

**WHEREAS**, the Board of Trustees finds and determines that the amendments to the Land Development Code, as contained herein, are necessary and designed for the purpose of promoting the health, safety, convenience, order, prosperity and welfare of the present and future inhabitants of the Town of Palisade and are consistent with the Town's Comprehensive Plan and the Town's other goals, policies and plans.

**NOW, THEREFORE, BE IT ORDAINED BY THE BOARD OF TRUSTEES OF THE TOWN OF PALISADE, COLORADO:**

**Section 1.** The foregoing recitals are incorporated herein as if set forth in full.

**Section 2.** Land Development Code Sections 2.02, 2.03 and 4.12 are hereby amended as follows with underlined text added and ~~strike-through language deleted~~:

### **Section 2.02 Planning Commission**

#### **C. Final Action Authority**

The Planning Commission shall be responsible for final action regarding the following:

1. Design variance
2. Variance

### **Section 2.03 Board of Adjustment**

#### **B. Final Action Authority**

The Board of Adjustment shall be responsible for final action regarding the following:

1. Administrative Appeal; ~~and~~
2. ~~Variance~~

### **Section 4.12 Variance**

#### **B. Applicability**

1. The ~~Board of Adjustment~~ Planning Commission is authorized to grant variances from the dimensional standards and the off-street parking and loading standards of this LDC, unless a variance is specifically prohibited for a particular requirement. The granting of a variance shall not be contrary to the public interest or the purposes of this LDC where, owing to special conditions, a literal enforcement of the provisions of this LDC would result in unnecessary physical (not economical) hardship to the property owner.
2. The intent of this delegation of power to the ~~Board~~ Planning Commission that no variance shall be granted which is a use variance and has the practical effect of rezoning property to a higher intensity of use that the district in which the property is located.

#### **E. Procedure**

6. ~~Board of Adjustment~~ Planning Commission action
  - a. The ~~Board of Adjustment~~ Planning Commission may approve, deny, or continue the request.
  - c. In approving the variance, the ~~Board of Adjustment~~ Planning Commission may prescribe reasonable and appropriate conditions which will ensure that the use will be compatible with adjacent properties and will not alter the character of the neighborhood.
  - d. Conditions may be imposed by the ~~Board of Adjustment~~ Planning Commission regarding the location, character and other features of the proposed building or use as may be deemed by the ~~Board of Adjustment~~ Planning Commission to protect property values and general welfare of the neighborhood. Nonconformance with such conditions and safeguards, when

part of the terms under which the variance is granted, shall be deemed a violation of this LDC.

7. Board of Trustee Discretionary Review and Action

The Board of Trustees may call up a variance application by a majority vote of the Board of Trustees at its next regular meeting following the Planning Commission’s action and set a public hearing for its review and action on the application. Such call up shall stay any decision by the Planning Commission and the Board of Trustees will make the final decision on the application.

**F. Findings of Fact**

No variance shall be approved by the ~~Board of Adjustment~~ Planning Commission unless all of the following findings are made.

**H. Burden of Proof**

The applicant seeking the variance shall have the burden of presenting evidence sufficient to allow the ~~Board of Adjustment~~ Planning Commission to reach the conclusions set forth below as well as the burden of persuasion of those issues.

**INTRODUCED, READ, PASSED, ADOPTED AND ORDERED PUBLISHED** at a regular meeting of the Board of the Trustees of the Town of Palisade, Colorado, held on \_\_\_\_\_, 2020.

TOWN OF PALISADE, COLORADO

By: \_\_\_\_\_

Roger L Granat, Mayor

ATTEST:

\_\_\_\_\_  
Lindsey Chitwood, Town Clerk