

ORDINANCE NO. 2023-018

AN ORDINANCE AMENDING SECTION 17.48.090 OF THE CASTLE ROCK MUNICIPAL CODE REGARDING THE APPROVAL OF VARIANCES FROM THE TOWN'S SKYLINE/RIDGELINE PROTECTION REGULATIONS

WHEREAS, the Town Council (the "Town Council") of the Town of Castle Rock, Colorado (the "Town") has adopted regulations that place restrictions upon the siting of structures in visually significant areas and provide mitigation of the visual impact of such structures (the "Skyline/Ridgeline Protection Regulations" or "Regulations"); and

WHEREAS, since the Regulations were put into effect in 1999, all requests for variances from application of the Regulations have been acted upon by the Planning Commission, with the Town Council serving as an appeals board for those persons who were dissatisfied with the Commission's decisions; and

WHEREAS, Town Council finds and determines that it is in the best interests of the Town and its residents for Town Council to serve as the decision-maker for all requests for variances from the Skyline/Ridgeline Protection Regulations.

NOW, THEREFORE, IT IS ORDAINED BY THE TOWN COUNCIL OF THE TOWN OF CASTLE ROCK, COLORADO:

Section 1. Legislative Findings. The recitals of this ordinance are adopted as findings of the Town Council in support of the enactment of this Ordinance.

Section 2. Amendment. Section 17.48.090 of the Castle Rock Municipal Code is amended to read as follows:

17.48.090 - Variances.

A. Applicants for land use approval in the district may request a variance from one or more of the provisions of this Chapter pursuant to the procedures and standards described below.

~~B. Appeals to Town Council. Any applicant or any party who has testified at a public hearing regarding a variance request may appeal the decision of the Planning Commission to the Town Council. Requests to appeal the decision of the Planning Commission must be filed with the Department of Development Services within thirty days of the date of the written findings by the Planning Commission referenced in Subsection D below. The Town Council shall hear the appeal request at a public hearing noticed in accordance with the requirements of Chapter 17.04, and shall uphold, reverse or modify the decision of the Planning Commission, after a review of evidence presented by the applicant and any other interested party at a public hearing.~~

~~C.~~ B. Grounds for variance.

1. Any applicant may only request a variance on one or more of the following grounds:
 - a. A proposed 25-foot high structure in a major skyline area will not be highly visible in the skyline from the viewing platforms, in which event the restrictions of the moderate skyline area shall apply;
 - b. A proposed 25-foot high structure in a moderate skyline area will not be visible in the skyline from several points along the viewing platforms, in which event the restrictions of the minor skyline area shall apply;
 - c. A proposed 35-foot high structure in a minor skyline area will not be visible in the skyline from the viewing platforms;
 - d. No part of a proposed structure in a major or minor ridgeline area will be visible above the top of the ridge around which the ridgeline area is mapped, when viewed from any viewing platform; or
 - e. When viewed from all viewing platforms, all views of a proposed structure in a minor skyline area, a moderate skyline area or a minor ridgeline area will be mitigated more effectively through tools and techniques other than those listed in Subsection 17.48.060.C.
2. For the purpose of assessing a variance request:
 - a. The finished subdivision grade as reflected in the approved grading plan shall be utilized, if such information is available; otherwise, the natural grade shall be utilized;
 - b. The effect on visibility from the viewing platforms resulting from structures on subdivided lots (constructed or to be constructed) in the vicinity of the area subject to the variance request shall be considered; and
 - c. The screening provided by existing landscaping and vegetation shall be taken into account.

C. PUBLIC HEARING.

1. SINGLE LOT. ANY REQUEST FOR A VARIANCE FOR A SINGLE LOT SHALL BE REVIEWED IN A PUBLIC HEARING BEFORE THE TOWN COUNCIL. FOLLOWING SUCH HEARING, THE TOWN COUNCIL SHALL DETERMINE WHETHER TO GRANT OR DENY SUCH VARIANCE.
2. MULTIPLE LOTS. ANY REQUEST FOR A VARIANCE FOR MULTIPLE LOTS SHALL BE MADE IN CONJUNCTION WITH THE SUBMISSION FOR

APPROVAL OF A SITE DEVELOPMENT PLAN FOR THE DEVELOPMENT WITHIN WHICH SUCH LOTS ARE LOCATED. THE PLANNING COMMISSION SHALL CONDUCT A PUBLIC HEARING FOR THE PURPOSE OF PROVIDING A RECOMMENDATION TO THE TOWN COUNCIL ON THE VARIANCE REQUEST. THEREAFTER, THE TOWN COUNCIL SHALL CONDUCT A SEPARATE PUBLIC HEARING AND SHALL TAKE FINAL ACTION ON THE VARIANCE REQUEST.

3. PROCEDURE. THE PROCEDURE FOR SUCH PUBLIC HEARINGS AND ACTION BY THE PLANNING COMMISSION AND THE TOWN COUNCIL IS PRESCRIBED IN CHAPTER 17.04.
- D. Standards for Approval. The Planning Commission may only ~~grant~~ RECOMMEND a variance if it makes a ~~written~~ finding that one or more of the grounds for variance listed in Paragraph ~~C-B.1~~ above has been proven. The Town Council may only grant ~~or uphold~~ a variance ~~on appeal~~ if it makes a ~~written~~ finding that one or more of the grounds for variance listed in Paragraph ~~C-B.1~~ above have been established.
- E. Relief. If ~~the Planning Commission, or the Town Council on appeal,~~ determines that a variance should be approved or approved with conditions, it shall grant only such relief as is necessary to carry out the intent of this Chapter and may grant a different form of variance than that requested by the applicant.

Section 3. Severability. If any clause, sentence, paragraph, or part of this ordinance or the application thereof to any person or circumstances shall for any reason be adjudged by a court of competent jurisdiction invalid, such judgement shall not affect the remaining provisions of this ordinance.

Section 4. Safety Clause. The Town Council finds and declares that this ordinance is promulgated and adopted for the public health, safety and welfare and this ordinance bears a rational relation to the legislative object sought to be obtained.

APPROVED ON FIRST READING this 15th day of August, 2023, by a vote of ___ for and against, after publication in compliance with Section 2.02.100.C of the Castle Rock Municipal Code; and

PASSED, APPROVED AND ADOPTED ON SECOND AND FINAL READING this ____ day of _____, 2023, by the Town Council of Castle Rock by a vote of ___ for and ___ against.

ATTEST:

TOWN OF CASTLE ROCK

Lisa Anderson, Town Clerk

Jason Gray, Mayor

Approved as to form:

Michael J. Hyman, Town Attorney

Approved as to content:

Tara Vargish, Director of Development Services