

ORDINANCE NO. 10-10

INTRODUCED BY:

Councilperson Gilbert

Mayor Huff

**AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF CASTLE PINES
REPEALING ORDINANCE NOS. 08-07 AND 08-14, AND ENACTING A NEW
LICENSING PROGRAM AND REGULATIONS FOR BUSINESSES AND
CONTRACTORS**

WHEREAS, the City of Castle Pines (the "City") is a statutory municipality incorporated and organized pursuant to the provisions of Section 31-2-101, et seq., C.R.S.; and

WHEREAS, the City previously adopted, by Ordinance No. 08-07, as amended by Ordinance No. 08-14, a licensing scheme and associated regulations regarding businesses and contractors doing business in the City limits; and

WHEREAS, in furtherance of the public health, safety and welfare of the inhabitants of the City, the City Council desires to repeal and reenact business and contractor licensing provisions as more fully set forth herein.

NOW, THEREFORE, BE IT ORDAINED by the City Council of the City of Castle Pines, Colorado:

Section 1. Ordinances No. 08-07 and No. 08-14 are hereby repealed in their entirety, and the following is hereby adopted and enacted:

**ARTICLE I.
GENERAL LICENSING PROVISIONS**

Section 1. Definitions.

As used in this Ordinance, unless otherwise noted:

Applicant means a person who has filed an application for a business license or contractor license.

Application means an application for a business license or contractor license.

Building Code means the building code(s) adopted by the City Council by ordinance, as amended by the City from time to time.

Business means all activities engaged in, or caused to be engaged in, for the object of gain, financial profit, benefit or advantage, directly or indirectly.

Business license means a license issued under this Ordinance to a person conducting or operating a business.

City means the City of Castle Pines, Colorado.

Contractor means any person who performs work on real property located within the boundaries of the City for another party under the terms of an agreement. *Contractor* shall include, without limitation, building contractors; road, grading and excavating contractors; electrical, plumbing and heating contractors; and any other persons engaged, under a contractual arrangement, in the construction, reconstruction or repair of any building, bridge or structure. A subcontractor is included in the definition of contractor.

Contractor license means a license issued under this Ordinance to a contractor.

Engaged in Business means any of the following activities by a person:

1. Directly, indirectly or by a subsidiary maintains a building, store, office, salesroom, warehouse or other place of business within the City;
2. Maintains one or more employees, agents or commissioned salespersons on duty at a location within the City; or
3. Owns, leases, rents or otherwise exercises control over non-residential real or personal property within the City.

License means a business license or contractor license.

License fee schedule means a fee schedule adopted by City Council by resolution, as amended from time to time.

License Officer means the representative or agent of the City appointed by the City Manager to administer the business licenses provided herein.

Licensee means the holder of an unexpired business license or contractor license.

Person means any natural person or non-natural entity, including but not limited to a corporation, firm, partnership, limited liability company, unincorporated association, joint venture, business entity of any nature, estate, trust, receiver or trustee.

Section 2. Business and contractor licenses required; license term.

A. It shall be unlawful for any person to engage in any business within the City, without first obtaining and keeping in effect a business license pursuant to this Ordinance, unless otherwise provided herein or by separate ordinance or resolution adopted by City Council. Upon application approval, the License Officer shall issue an

appropriate business license for a term of up to two (2) years, all licenses expiring on December 31st of the succeeding calendar year following the first calendar year covered by the business license.

B. Notwithstanding anything to the contrary, no business license is required for:

1. Any person who holds a current, valid contractor license or sales tax license issued by the City; or
2. Any person who operates a home occupation as defined in the City Zoning Ordinance, except for a home occupation required to be locally licensed by the State of Colorado or federal government.

C. It shall be unlawful for any person to perform any work as a contractor within the City without first obtaining a contractor license pursuant to this Ordinance, unless otherwise provided herein, or exempted pursuant to City Council resolution or ordinance. No permits shall be issued for work to be done by an unregistered contractor. Upon application approval, the License Officer shall issue an appropriate contractor license for a term of up to two (2) years, all licenses expiring on December 31st of the succeeding calendar year following the first calendar year covered by the contractor license.

Section 3. License fees.

Each application for a business license or contractor license shall be accompanied by a biennial license fee as set forth in the license fee schedule.

Section 4. License Officer.

The License Officer shall:

- (1) Enforce all reasonable rules and regulations approved by the City Manager or his/her designee and adopted by the License Officer as necessary to the operation and enforcement of this Ordinance;
- (2) Adopt and, as needed, amend all documents necessary to implement this Ordinance;
- (3) Review license and renewal applications;
- (4) Investigate and determine the eligibility of any Applicant for a license;
- (5) Keep confidential all proprietary, confidential or privileged information provided by an Applicant or Licensee (such information shall not be subject to public inspection except for that information available to the public under the Colorado Open Records Act, Section 24-72-201, *et seq.*, C.R.S., as amended, or through a court order);

- (6) Notify Applicants of the approval or denial of their applications;
- (7) Issue licenses and renewals to all qualified Applicants;
- (8) Collect license fees; and
- (9) Maintain records of all licenses purchased and revenues received.

Section 5. Application for license.

Each Applicant for a license must submit, on forms preapproved by the License Officer, information necessary to determine compliance with this Article.

Section 6. Renewal applications.

An Applicant applying for a renewal license shall be required to submit, on forms preapproved by the License Officer, information necessary to determine compliance with this Article and shall also be required to pay the applicable renewal license fee, if any, as set out in the license fee schedule. Licenses that are expired are not subject to renewal and must be processed and approved as a new license.

Section 7. Licensee information changes.

A Licensee shall report in writing any change in information contained in his or her last application within thirty (30) days of such change, and a supplemental license shall be issued at the discretion of the License Officer and additional fees collected or refunded where appropriate.

Section 8. Approval or Denial of license.

A. The License Officer shall approve or deny in writing an application for a license within thirty (30) days of receipt of a completed application and fee, or within such time as otherwise specifically provided in this Ordinance. Approval of a business license shall not constitute land use or zoning approval of such business; Applicants and Licensees are required to confirm or obtain land use approval for his or her business through the Community Development Department of the City.

B. An application for a license may be denied for any of the following reasons:

- a. All applicable provisions of this Article and state and local law have not been met;
- b. The required fee has not been paid in full; or

- c. The application is incomplete or contains false, misleading or fraudulent statements.

C. If the License Officer denies an application, the License Officer shall provide by first class U.S. mail written notice of such denial, a description of the appeal process and a refund of the license fee submitted by the Applicant.

Section 9. Hearings.

A. An Applicant or Licensee may appeal a denial of his or her license to the City Manager and shall be entitled to a hearing before the City Manager. The appeal shall be made in writing, stating the grounds for appeal, within five (5) working days of the decision of the License Officer.

B. At the hearing, the City Manager shall hear such statements and consider such evidence as is offered that is relevant to the grounds alleged for denial. The City Manager shall make findings of fact from the statements and evidence offered as to whether such grounds exist. If the City Manager determines by a preponderance of the evidence that cause for denial exists, he or she shall issue an order denying the license within ten (10) days after the hearing is concluded, based on the findings of fact. A copy of the order shall be mailed to or served on the Licensee at the address on the license or application.

C. The order of the City Manager made pursuant to subsection (b) above shall be a final decision and may be appealed to the district court in accordance with Rule 106(a)(4) of the Colorado Rules of Civil Procedure. Failure of a Licensee to timely appeal said order constitutes a waiver by him or her of any right he or she may otherwise have to contest the denial of the license.

D. The City Manager shall have the power to administer oaths, issue subpoenas, and when necessary grant continuances. Subpoenas may be issued to require the presence of persons and production of papers, books and records necessary to the determination of any hearing that the City Manager conducts. It is unlawful for any person to fail to comply with any subpoena issued by the City Manager. A subpoena shall be served in the same manner as a subpoena issued by the Municipal Court.

E. All hearings held before the City Manager regarding denial of a license shall be recorded by electronic recording device. Any person requesting a transcript of such record shall post a deposit in the amount required by the City Manager, and shall pay all costs of preparing such record.

Section 10. Duties of licensee.

All Licensees shall comply with the following requirements:

- (1) Refrain from operating the licensed businesses or performing work requiring a contractor license during the period the license is denied or upon expiration of the license, unless renewed.
- (2) Post and maintain such license upon the licensed premises in a place visible at all times and, when working outside the licensed premises, carry a copy of the license at all times. If a Licensee has no business premises, the Licensee shall carry such license on his or her person when conducting business.
- (3) Comply with all federal, state and City laws and regulations, including without limitation City tax ordinances and resolutions

Section 11. Nontransferability.

Business licenses and contractor licenses are nontransferable. If a business is sold or transferred to a different owner, the new owner must apply for a new license before resuming operation of the business. Sale or transfer of the business is defined as the acquisition of fifty percent (50%) or more of an ownership interest by a person.

Section 12. Late Fees for Business Licenses.

If a business license has not been renewed by the expiration date, late fees, as noted in the Business License and Contractor License Fee Schedule, shall apply.

Section 13. Enforcement and fines.

A. In the event of a violation of this Ordinance, the City may suspend or revoke the license after the Licensee has been given notice and hearing, substantially in accordance with Section 9 of this Article. A license may be summarily suspended for no more than thirty (30) days by the City Manager when required for the immediate protection of the public health, safety and welfare. A hearing shall be scheduled as soon as may be reasonably possible.

B. The City may withhold issuance of a building permit and/or certificate of occupancy if a contractor, subcontractor or supplier which has worked or is working on the subject property has not obtained the necessary license from the City.

C. When violations occur on job sites where a building permit is valid and effective, the Chief Building Official shall have full authority to issue a stop work order remaining in effect until the contractor has complied with all rules and regulations set forth in this Ordinance.

D. Any person in violation of any requirements of this Ordinance shall be guilty of a violation of this Ordinance. This Ordinance may be enforced in Municipal Court, or any court of competent jurisdiction. Any person who violates the requirements of this Ordinance may be fined up to three hundred dollars (\$300.00) per violation. Separate

violations will be deemed to occur for each day that a violation exists. All remedies of the City and sanctions against a Licensee, business and/or contractor shall be cumulative.

E. Failure to renew a business license by the expiration date shall result in imposition of a license late fee.

Section 14. Exemptions to Contractor license requirements.

A. The License Officer may, with the approval of the City Manager, waive the contractor license requirement for the following:

- (1) Public utility and communication companies, water and sanitation districts, metropolitan districts and mutual companies when engaged in the installation, operation and maintenance of equipment which will be used for the production, generation or distribution of the utility, product or service from their source through the facilities owned or operated by the utility company or district to the point of the customer service, other than utility company or district buildings. This exemption shall only apply when work is performed completely by employees of the utility company or district and the total cost is paid exclusively from funds of these companies.
- (2) An owner or occupant making ordinary repairs to the building he owns or occupies, which repairs do not involve the structure of the building, when the owner or occupant furnishes all materials and labor.
- (3) A homeowner who constructs his own residence or a building or structure accessory thereto which is intended for his own personal use. This exemption shall be permitted only once within a period of twenty four (24) months; otherwise application for a contractor license shall be required.
- (4) The City, its officers, employees and agents.
- (5) Any contractor performing work in accordance with a construction contract between the contractor and the City, unless such contract requires licensure.

B. The exemption from contractor licensing requirements does not waive applicable permit requirements.

Section 15. Effect of compliance.

Compliance with this Ordinance is not intended to be, nor shall it be interpreted as, proof of compliance by any business or contractor with any other rule, regulation, ordinance or resolution governing business activity within the City, including without limitation the requirement to obtain a sales tax license, if required.

ARTICLE II. ADDITIONAL REQUIREMENTS FOR CONTRACTOR LICENSES

Section 1. General requirements for contractor license.

A. Proof of competency. In order to obtain a contractor license, an Applicant shall prove competency in the specific areas as defined in Section 2 of this Article. Such proof of competency shall be determined by testing or certification by a recognized model code agency as determined by the License Officer through equivalent licensure from another jurisdiction within Colorado in which a test or certification from by a recognized model code agency is required. Each class of contractor license requires a separate contractor license and fee.

B. In addition to the information required by Article I, Section A, the Applicant for a contractor license must provide the License Officer with the class of contractor license desired, in addition to all other information as may be required on preapproved forms by the License Officer, including but not limited to the street address, if any, where the work is to be carried on or a general description of the work to be performed by the Applicant within the boundaries of the City. All work done pursuant to a contractor license shall be in conformance with the Building Code, all laws, ordinance and regulations of the City and all state or federal laws.

C. Insurance requirements.

- (1) Insurance required. Every contractor granted a license under the terms of this Ordinance shall be required to maintain at all times workers' compensation insurance in the statutorily required amounts in conformance with the Workmen's Compensation Act of Colorado, and comprehensive general liability insurance, with minimum limits of not less than one hundred and fifty thousand dollars (\$150,000.00) (each person) and six hundred thousand dollars (\$600,000.00) (each occurrence).
- (2) Certificate of insurance. At the time the application is made, and before a license or registration can be issued, the contractor shall file with the License Officer a certificate, naming the City as certificate holder, signed by a qualified agent of an insurance company. The certificate shall contain the following items, together with a statement and a copy of an endorsement placed on each policy requiring ten (10) days written notice by certified mail to the License Officer if it becomes necessary to cancel the policy for any reason:
 - (a) The policies required by this Section have been issued to the Licensee for workers' compensation insurance and general liability insurance;
 - (b) The minimum limits of each policy;

- (c) The policy numbers;
- (d) The name of the company;
- (e) The effective dates of the policies; and
- (f) The expiration dates of the policies.

(3) Cancellation. In the event of a cancellation of a policy, the Licensee shall be required to furnish a new certificate in full compliance with the terms of this Section within ten (10) days, otherwise, the license or registration shall be automatically revoked. The license shall be reinstated when the Licensee has furnished a certificate of insurance in compliance with this Section 1, unless such license is suspended for reasons other than the failure to file a proper certificate of insurance.

Section 2. Classification of contractor licenses.

A. The following classes of contractor licenses are hereby established:

- (1) Class A Contractor. Entitles the Licensee to contract for and/or perform the work of building, altering or adding to buildings, structures or portions thereof of Types I, II, III, IV or V construction in any and all occupancy group classifications, where such work requires a permit.
- (2) Class B: General Contractor (Residential). Entitles the Licensee to contract for and/or to do the work of altering or adding to buildings, structures and portions thereof of Types III, IV and V construction in occupancy groups A, B, M, R, S and U.
- (3) Class C: General Contractor (Basements/Remodels/Decks). Entitles the Licensee to contract for and/or to do the work of altering or adding to buildings, structures and portions thereof of Types III, IV and V construction in occupancy Group R, Division 3 and Group U for residential purposes. Work includes steam and hot water, asphalt paving, concrete and form, demolition, excavating, house and building movers, masonry, mobile home installer, special inspectors and utility.
- (4) Class D: Single Trade. Entitles the Licensee to contract for and to do the work of a particular trade or job connected with the building industry, e.g., carpenter, drywall, framing, insulation, painting, roofing, siding, windows, doors, flooring, cabinets, counter tops, fencing, structural steel, welding, fire protection, access control, security systems, landscaping, lawn sprinkler systems, retaining walls, signs, swimming pools, elevators and escalators, caulking, waterproofing, etc.

- (5) Class E: Electrical. Entitles the Licensee to perform any functions as permitted under the licensure of the Colorado Electrical Board, and such Licensee shall be licensed by the Colorado Electrical Board.
- (6) Class F: Plumbing. Entitles the Licensee to contract for and install all sanitary plumbing and potable water supply piping for which a permit is required. Master Plumbers must provide a copy of a current Master Plumber License issued by the State of Colorado Plumbing Board.
- (7) Class G: Mechanical/HVAC/Heating, Warm Air & Ventilation. Entitles the Licensee to contract for and install-warm air heating and ventilation and their appurtenances. All electrical work shall be performed by a holder of an Electrical License.

B. It shall be the duty of every contractor to exhibit its contractor license upon request of the Chief Building Official, his or her authorized representative, or any law enforcement officer of the City.

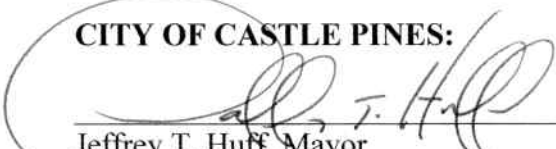
Section 2. Severability. Should any one or more sections or provisions of this Ordinance or of any of the primary or secondary codes adopted by reference be judicially determined invalid or unenforceable, such judgment shall not affect, impair or invalidate the remaining provisions of this Ordinance or the codes adopted by reference hereby, the intention being that the various sections and provisions are severable.

Section 3. Repeal of Previous Ordinances. Any and all ordinances or codes or parts thereof in conflict or inconsistent herewith are, to the extent of such conflict or inconsistency, hereby repealed; provided, however, that the repeal of any such ordinance or code or part thereof shall not revive any other section or part of any ordinance or code heretofore repealed or superseded and 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.


Section 4. Effective Date. Except as otherwise expressly provided herein, this Ordinance shall become effective thirty (30) days after final publication.

INTRODUCED, READ, AND PASSED, ON FIRST READING, AT A REGULAR MEETING OF THE CITY COUNCIL OF THE CITY OF CASTLE PINES, COLORADO the 14th day of December, 2010.


READ, PASSED, AND ADOPTED ON SECOND READING, AT A REGULAR MEETING OF THE CITY COUNCIL OF THE CITY OF CASTLE PINES, COLORADO the 10th day January, 2011.

CITY OF CASTLE PINES:

Jeffrey T. Huff, Mayor

ATTEST:


Sharon DeRouen, City Clerk

Approved as to form:


Linda C. Michow, City Attorney

CERTIFICATION OF PUBLICATION

I hereby attest and certify that the within and foregoing Ordinance was introduced and read on first reading at a regular meeting of the Castle Pines City Council on December 14, 2010; published in full in the *Douglas County News-Press*; and finally passed and adopted by the City Council on January 10, 2011, and ordered published by title only, with amendments if any, one time in the *Douglas County News-Press* on January 20, 2011.

ATTEST:


City Clerk or Deputy City Clerk