

**CITY OF CENTENNIAL,
COLORADO**

ORDINANCE NO. 2023-O-03

**AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF CENTENNIAL,
COLORADO ESTABLISHING A TEMPORARY MORATORIUM ON THE
ACCEPTANCE AND ON THE PROCESSING OF APPLICATIONS SEEKING THE
APPROVAL OF A PERMIT OR LICENSE, INCLUDING APPLICATIONS FOR OR
ISSUANCE OF BUILDING PERMITS AND BUSINESS LICENSES, FOR OUTDOOR
PICKLEBALL COURTS LOCATED WITHIN 500 FEET OF RESIDENTIAL ZONED
OR RESIDENTIALLY USED LAND AND DECLARING AN EMERGENCY**

WHEREAS, the City of Centennial is a home rule municipal corporation created and organized pursuant to Article 20 of the Colorado Constitution and the Charter of the City of Centennial; and

WHEREAS, by virtue of Article 20 of the Colorado Constitution, and as further authorized by state law, including, but not limited to, Sections 31-15-401 and 31-23-301 of the Colorado Revised Statutes, the City of Centennial has broad authority to exercise its police powers to promote and protect the health, safety, and welfare of the community and its citizens; and

WHEREAS, pursuant to Section 31-23-301 of the Colorado Revised Statutes, such police powers include the power to regulate the location of uses and the use of land within the community; and

WHEREAS, temporary suspensions on the acceptance and on the processing of applications and permits (commonly called moratoria) for land uses are judicially approved as a method or means of enabling local governments to plan for, regulate and protect the health, safety, and welfare of the community; and

WHEREAS, the City Council adopted comprehensive zoning and development regulations codified in Chapter 12 of the Centennial Municipal Code, which regulations are known as the City's Land Development Code ("LDC"); and

WHEREAS, the City is aware of both the growing popularity and demand in Centennial and across the nation for outdoor pickleball facilities and the potential for compatibility concerns when such facilities are located in close proximity to residential areas; and

WHEREAS, pursuant to readily available information and research, outdoor pickleball is known to create a notable change in the acoustic environment of the area surrounding pickleball courts in comparison to other forms of outdoor recreational activities; and

WHEREAS, according to some acoustical engineers, the sound produced by pickleball paddle impact with a pickleball is classified as an "impulsive sound" that is near the most sensitive frequency range of human hearing; and

WHEREAS, impulsive sounds are known to create greater annoyance than other forms of sound because they are similar to sounds that contain important information about our environment

that alert people to events occurring nearby that may necessitate a response to such as footsteps, a door opening, or speech; and

WHEREAS, research shows that continuous impulsive sound such as pickleball paddle impact with a pickleball make it difficult to relax, concentrate, or sleep soundly without disturbance as each impact heard draws attention and creates distraction; and

WHEREAS, it is established that high amplitude acoustical pressures may cause hearing impairment as well as other types of injury to the body and that low level noise may have adverse long term psychological effects; and

WHEREAS, low level noise exposure that disturbs sleep and concentration are known to produce a range of diagnosable illnesses and disorders; and

WHEREAS, due to noise concerns and complaints from residents, many local governments have researched and have established distance and noise abatement requirements for outdoor pickleball courts to best address pickleball court compatibility with residential areas, most often where pickleball courts are within 500 feet of residential uses; and

WHEREAS, the City's current regulations do not comprehensively address outdoor pickleball courts and any associated noise mitigation requirements when outdoor courts are located near residential uses and there is a present need to review, evaluate, and consider updates and amendments of the regulations to ensure that the City's regulations best address compatibility between outdoor pickleball courts and residential uses in order to protect the public health, safety, and welfare; and

WHEREAS, suspending the City's acceptance, processing, and issuance of approvals or permits or licenses for outdoor pickleball courts in close proximity to residential land uses is determined to be prudent, reasonable, and necessary as such suspension is temporary in nature and intended only to afford the City the opportunity to consider and reasonably amend its standards and regulations as needed; and

WHEREAS, the City possesses the power and authority to impose a temporary moratorium on the acceptance or processing of applications for specific land uses and to temporarily limit the issuance of approvals and permits and licenses for specific land uses to review and consider how such land uses may be accommodated and approved to best advance the health, safety, and welfare of the City of Centennial; and

WHEREAS, the City Council hereby legislatively determines that temporarily suspending the acceptance or processing of applications and the issuance of approvals, permits, and licenses for outdoor pickleball courts located within 500 feet of residential land uses is in the best interests of the health, safety and welfare of the community and its citizens.

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF CENTENNIAL, COLORADO, ORDAINS:

Section 1. Incorporation of Recitals. The foregoing recitals are affirmed and incorporated by this reference as legislative findings of the City Council.

Section 2. Temporary Suspension and Delay Enacted. The City of Centennial hereby imposes a temporary suspension and delay (moratorium) on the acceptance and on the processing of any form of application or request for approval, including applications for or issuance of building permits and business licenses, related to outdoor pickleball courts located within 500 feet of land zoned or used for a residential land use. This temporary suspension and delay shall automatically terminate at midnight on **October 1, 2023**, unless terminated earlier by the City Council or extended in its duration by the enactment of another ordinance. This Ordinance and the temporary suspension and delay imposed hereby shall be self-executing without further action by the City or its City Council.

Section 3. Exclusion from Moratorium. This Ordinance and the temporary suspension and delay imposed by this Ordinance shall not apply to any use that is a lawfully recognized vested property right pursuant to: (i) Colorado common law (i.e., generally established by issuance of a building permit and reasonable reliance upon such permit); or (ii) pursuant to a final approved application for vested rights; or (iii) or pursuant to an annexation, development, or other agreement approved by the City.

Section 4. Severability. Should any one or more sections or provisions of this Ordinance be judicially determined invalid or unenforceable, such judgment shall not affect, impair or invalidate the remaining provisions of this Ordinance, the intention being that the various sections and provisions are severable.

Section 5. Emergency Declared; Effective Date. The City Council hereby legislatively declares that the passage of this Ordinance is necessary for the immediate preservation of the public peace, health or safety. Absent passage of this Ordinance as an Emergency Ordinance, the City risks the submission of applications for outdoor pickleball courts located close in proximity to residential land uses and the processing of such proposed uses with the existing LDC regulations which do not address the potential impacts or mitigation related to such uses. Upon passage by a supermajority of City Council members in office, as required by Section 7.6 of the Centennial Home Rule Charter ($\frac{3}{4}$ of all members in office or 7 or more votes of the 9 member Council), this Ordinance shall become effective immediately upon adoption.

Section 6. Safety Clause. The City Council hereby finds, determines, and declares that this Ordinance is promulgated pursuant to the City's home rule authority and under the general police power of the City of Centennial, that it is promulgated for the health, safety, and welfare of the public, and that this Ordinance is necessary for the preservation of health and safety and for the protection of public convenience and welfare. The City Council further determines that this Ordinance bears a rational relation to the proper legislative objective sought to be obtained.

INTRODUCED, READ, AND ORDERED PUBLISHED BY THE CITY COUNCIL OF THE CITY OF CENTENNIAL, COLORADO, UPON A MOTION DULY MADE, SECONDED AND PASSED AT ITS REGULAR MEETING HELD ON THE ___ DAY OF _____, 2023.

CITY OF CENTENNIAL

By: _____
Stephanie Piko, Mayor

Approved as to Form:

For City Attorney's Office

I hereby certify that the above Ordinance was introduced to the City Council of the City of Centennial at its meeting of _____, 2023 and ordered published one time by title only in *The Centennial Citizen* newspaper on _____, 2023, and in full on the City web site in accordance with Section 2-1-110 of the Municipal Code.

SEAL

ATTEST:

By: _____
City Clerk or Deputy City Clerk

FINALLY ADOPTED, PASSED, APPROVED WITH AMENDMENTS, IF ANY, AND ORDERED PUBLISHED BY TITLE ONLY, IN *THE CENTENNIAL CITIZEN* NEWSPAPER AND IN FULL ON THE CITY WEB SITE IN ACCORDANCE WITH SECTION 2-1-110 OF THE MUNICIPAL CODE BY THE CITY COUNCIL OF THE CITY OF CENTENNIAL, COLORADO, UPON A MOTION DULY MADE, SECONDED AND PASSED AT ITS MEETING HELD ON THE ____ DAY OF _____, 2023, BY A VOTE OF ____ IN FAVOR AND ____ AGAINST.

CITY OF CENTENNIAL

By: _____
Stephanie Piko, Mayor

I hereby certify that the above Ordinance was finally adopted by the City Council of the City of Centennial at its meeting of _____, 2023, and ordered published by title only, one time by *The Centennial Citizen* newspaper on _____, 2023 and in full on the City web site in accordance with Section 2-1-110 of the Municipal Code.

SEAL

ATTEST:

By: _____
City Clerk or Deputy City Clerk

*Published in full on the City's website at: www.centennialco.gov on March 2, 2023 by
Christina Lovelace, Deputy City Clerk.*