ORDINANCE No. 31
(Series of 2012)

AN ORDINANCE OF THE ASPEN CITY COUNCIL ADOPTING AMENDMENTS TO THE FOLLOWING CHAPTERS AND SECTIONS OF THE CITY OF ASPEN LAND USE CODE OF THE CITY OF ASPEN MUNICIPAL CODE:


WHEREAS, in accordance with Sections 26.208 and 26.310 of the City of Aspen Land Use Code, the City Council of the City of Aspen directed the Community Development Department to explore code amendments related to the master plan process; and,

WHEREAS, pursuant to Section 26.310, applications to amend the text of Title 26 of the Municipal Code shall begin with Public Outreach, a Policy Resolution reviewed and acted on by City Council, and then final action by City Council after reviewing and considering the recommendation from the Community Development; and,

WHEREAS, pursuant to Section 26.310.020(B)(1), the Community Development Department conducted Public Outreach with the Planning and Zoning Commission to gain feedback on potential code changes to the Master Plan process; and,

WHEREAS, during a duly noticed public hearing on November 12, 2012, the City Council approved a Policy Resolution, Resolution 104, Series of 2012, directing staff to process code amendments related to heights and land uses in the downtown, by a four - one (4 - 1) vote; and,

WHEREAS, the Community Development Director has recommended approval of adding the proposed new section, Section 26.311, Master Plans, to the Land Use Code, and recommended approval of the proposed amendments to the City of Aspen Land Use Code Sections 26.208.010, City Council - Powers and Duties 26.210.020, Community Development Department - Director of Community Development Department, 26.212.010, Planning and Zoning Commission - Powers and Duties, and 26.220.010, Historic Preservation Commission – Powers and Duties; and,

WHEREAS, the Aspen City Council has reviewed the proposed code amendments and finds that the amendments meet or exceed all applicable standards pursuant to Chapter 26.310.050; and,

WHEREAS, the Aspen City Council finds that this Ordinance furthers and is necessary for the promotion of public health, safety, and welfare; and
NOW, THEREFORE BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF ASPEN, COLORADO THAT:

**Section 1:** A new Section of the Land Use Code, Section 26.311 – Master Plans, is hereby added to the Land Use Code, as follows:

### Chapter 26.311
**MASTER PLANS**

Sections
26.311.010 Purpose
26.311.020 Procedure for Plan Development, Review, and Adoption
26.311.030 Master Plan Use and Effect.

**26.311.010. Purpose.**
The purpose of this Chapter is to provide a means for formulating, adopting, and updating master plans, comprehensive plans, and special area or topical plans. For the purposes of this Chapter, these planning efforts are referred to as “master plans.”

The City may from time to time adopt, re-adopt, amend, update, or add to the comprehensive community plan (known as the Aspen Area Community Plan or AACP) which establishes and projects the City's land use and development planning philosophy, goals, and policies. The AACP may be broader in scope and serve as a guide for non-land use issues of the community. The AACP shall encourage regional planning with neighboring communities and jurisdictions.

The City may from time to time adopt, re-adopt, amend, update, or add to a master plan which establishes and projects the City's philosophy, goals, and policies regarding a particular area, issue, or topic. Examples include a neighborhood plan, a downtown pedestrian plan, and the like.

This Chapter outlines a process for adopting master plans focused on land use and development. Plans focusing on non-land use issues may also follow this process. This Chapter does not require all City initiatives to be developed and approved in this manner and does not preclude processes that are not outlined herein.

**26.311.020. Procedure for Plan Development, Review, and Adoption**

**A. General.** The City of Aspen may from time to time adopt master plans to reflect the needs and aspirations of the community and define methods to achieve those goals.

**B. Steps required:** The following steps may be modified to address the nature of a master plan topic and the needs of the community. The desired steps should be considered during step one, plan initiation. Step eight is required for adoption of a master plan. The City Council may decide to pursue an initiative through other means than outlined below.

1. **Step One – Plan Initiation.**
   a. **Purpose:** To determine if a master plan should be initiated or updated.
b. Process: The City Council shall decide whether the City should initiate a master plan. The City Manager, Community Development Director, or City Department Director, as applicable, may provide City Council with a recommendation regarding the initiation of a master plan. Input from city boards, citizens, civic or business groups, and other government organizations should be considered. A general understanding of the topics to be covered, resources needed, the desired process steps, and timeframe for adoption should be considered.

c. Form of decision: City Council decision to initiate a master plan shall be by motion. The direction may be provided during a regular meeting or a work session of the Council and may be incorporated into approval of a department work program or budget.

d. Notice requirements: None.

2. Step Two – Existing Conditions/Background Information.
   a. Purpose: To assemble need information and resources to facilitate plan development.
   b. Process: City staff shall identify and assemble important background information, studies, reports, etc., as needed to enable an informed dialogue on the topic. Background information may be issued as a report or presented to the public or City boards as applicable.

   a. Purpose: To facilitate citizen awareness and solicit participation regarding community goals, aspirations, and expectations of the master plan.
   b. Process: City staff shall engage the public through a variety of efforts, which may include open houses, surveys, small-group meetings, structured feedback sessions, web-based methods, outreach to groups or individuals with particular interest, etc. City Council shall be made aware of the outreach efforts and may from time to time request additional or different techniques. A summary of the outreach efforts and citizen comments may be issued as a report or presented to the public or City boards as applicable.

   a. Purpose: To assimilate community aspirations into a cohesive plan.
   b. Process: City staff shall develop a draft master plan that assimilates community aspirations into a plan with a cohesive vision and a set of goals and policy objectives. The plan should be aspirational in nature but should include sufficient detail to guide implementation. A draft plan may take several iterations or be developed in a phased manner. A draft plan may suggest multiple options or strategies for further refinement.

5. Step Five – Establish Comments Period.
   a. Purpose: To establish a public comments period and identify specific interest groups from which comments are sought.
   b. Process: Unless otherwise established in step 1, City Council shall determine the length of the comment period. This period may be extended. City Council may
request formal comments from certain city boards; citizen, civic, non-profit, or business associations; or, from other governmental bodies. City Council may direct city staff to assist interest groups in the formulation of comments. City Boards may provide general comments, specific language or topical changes, or other changes and comments as they deem necessary.

c. Form of decision:  City Council direction shall be by motion. The direction may be provided during a regular meeting or a work session of the Council.

   a. Purpose: To facilitate citizen awareness of the draft plan and solicit comments, critique, and suggestions on how to improve the plan.
   b. Process: City staff shall engage the public through a variety of efforts, which may include open houses, surveys, small-group meetings, structured feedback sessions, web-based methods, direct outreach to groups or individuals with particular interest, etc. City Council shall be made aware of the outreach efforts and may from time to time request additional or different techniques or extend the comments time period. A summary of the outreach efforts and comments received may be issued as a report or presented to the public or city boards as applicable.

7. Step Seven – City Council Review.
   a. Purpose: To review the draft master plan and the comments received and either direct amendments to the draft plan (which may include repeating some of the above steps) or direct staff to proceed to the adoption step.
   b. Process: City staff shall present the draft plan and the public feedback to City Council. City staff may also present modifications or options to the plan in response to public feedback or suggest repeating some or all of the above steps. City Council shall review the draft plan and provide direction to staff to either amend the plan for further consideration by the Council, amend the plan and repeat some of the above steps, or prepare the plan for adoption.
   c. Form of decision:  City Council direction shall be by motion. The direction may be provided during a regular meeting or a work session of the Council.
   d. Notice requirements: None.

8. Step Eight – City Council Adoption.
   a. Purpose: To consider adoption of the master plan.
   b. Process: City staff shall present City Council with the draft plan along with a summary of the steps taken to develop the plan, comments received, and any suggested amendments to the plan. After receiving comments from the public during a public hearing, City Council may adopt the plan as presented, adopt the plan with amendments, direct amendments to the plan for further consideration, direct staff to repeat of any of the above process steps, or not adopt the plan and terminate the process.
   c. Standard of Review: City Council shall determine if adoption of the master plan is in the best interests of the community.
d. Form of decision: City Council adoption shall be by Resolution, after a public hearing. Direction to staff to amend the plan or repeat any of the process steps above may be by motion.


C. Reciprocal Adoption. City Council may adopt a master plan of another jurisdiction by using the steps outlined above. City Council may condition adoption of a master plan on the adoption of the plan by another jurisdiction.

D. Master Planning Termination. Notwithstanding the above steps, City Council may terminate a master planning process at any time by motion of the Council.

Adopted master plans of the City of Aspen shall be guiding and shall not place a burden on property. Master plans may be used to develop proposed legislation (which may burden property), to initiate new policies or operational practices, to develop budgets or department work programs, or to otherwise guide action of the City in the public interest.

Master plans shall not be legally binding and shall not regulate or place a burden on real property.

Section 2: 26.208.010, City Council - Powers and Duties, shall be amended as follows:

[No Changes to Sections A – H]

I. To adopt any plans, guidelines or documents that will be used in a guiding or regulatory capacity by the City;

[No Changes to Section J – P]

Section 3: 26.210.020.B.18-24, Community Development Department - Director of Community Development Department, shall be amended as follows:

[No Changes to Sections 1 – 17]

18. To undertake all general comprehensive planning responsibilities;

[No Changes to Sections 19 – 20]

21. To approve, approve with conditions or deny development subject to Chapter 26.520, Accessory Dwelling Units and Carriage Houses;

22. To extinguish a transferable development right in accordance with Chapter 26.535;

23. To issue and extinguish Affordable Housing Certificates in accordance with Chapter 26.540; and

24. To assist and staff all aspects of the Master Planning process in accordance with Chapter 26.311.

Section 4: 26.212.010, Planning and Zoning Commission - Powers and Duties, shall be amended as follows:

[No Changes to Sections A – Q]
R. To adopt by resolution any operational guidelines or documents that will be used guiding capacity by the Commission. To recommend via resolution the adoption of design guidelines by the City Council. To provide input on Master Plans, in accordance with Chapter 26.311.

Section 5: 26.220.010, Historic Preservation Commission – Powers and Duties, shall be amended as follows:

[No Changes to Sections A – D]

E. To adopt by resolution any operational guidelines or documents that will be used in a guiding capacity by the Commission. To recommend via resolution adoption of design guidelines by the City Council. To provide input on Master Plans, in accordance with Chapter 26.311; [No Changes to Sections F – K]

Section 6: 26.104.030, Comprehensive Community Plan and other plans, guidelines or documents, shall be amended as follows:


A. The City shall from time to time adopt and update a comprehensive community plan (known as the Aspen Area Community Plan or AACP) which shall establish and project the City's land use and development planning philosophy, goals and policies. The comprehensive community plan shall be broad in scope and serve as a guide to all land use development and planning. The plan shall encourage and incorporate regional planning as well as land use development cooperation and coordination between the City and neighboring communities and jurisdictions.

B. From time to time the City may re-adopt, amend, extend or add to its comprehensive community plan or carry any part of its subject matter into greater detail through the development of supplemental plans, guidelines or documents, pursuant to Section 26.311, Master Plans.

Section 7: Effect Upon Existing Litigation.
This ordinance shall not affect any existing litigation and shall not operate as an abatement of any action or proceeding now pending under or by virtue of the ordinances repealed or amended as herein provided, and the same shall be conducted and concluded under such prior ordinances.

Section 8: Severability.
If any section, subsection, sentence, clause, phrase, or portion of this ordinance is for any reason held invalid or unconstitutional in a court of competent jurisdiction, such portion shall be deemed a separate, distinct and independent provision and shall not affect the validity of the remaining portions thereof.

Section 9: Effective Date.
In accordance with Section 4.9 of the City of Aspen Home Rule Charter, this ordinance shall become effective thirty (30) days following final passage.

Section 10:
A public hearing on this ordinance shall be held on the 10\textsuperscript{th} day of December, 2012, at a meeting of the Aspen City Council commencing at 5:00 p.m. in the City Council Chambers, Aspen City Hall, Aspen, Colorado, a minimum of fifteen days prior to which hearing a public notice of the same shall be published in a newspaper of general circulation within the City of Aspen.

**INTRODUCED, READ AND ORDERED PUBLISHED** as provided by law, by the City Council of the City of Aspen on the 26th day of November, 2012.

Attest:

\begin{center}
\textbf{Kathryn S. Koch, City Clerk} \hspace{1cm} \textbf{Michael C. Ireland, Mayor}
\end{center}

FINALLY, adopted, passed and approved this ___ day of ______, 2012.

Attest:

\begin{center}
\textbf{Kathryn S. Koch, City Clerk} \hspace{1cm} \textbf{Michael C. Ireland, Mayor}
\end{center}

Approved as to form:

\begin{center}
\textbf{City Attorney}
\end{center}