

**TOWN OF LYONS
COLORADO**

ORDINANCE NO. 2020-1085

**AN ORDINANCE OF THE TOWN OF LYONS AMENDING CERTAIN SECTIONS OF
CHAPTER 16, ARTICLES 17 OF THE LYONS MUNICIPAL CODE CONCERNING SITE PLAN
AND DEVELOPMENT PLAN REVIEW PROCESS**

WHEREAS, pursuant to Sections 31-15-401 and 31-23-301, C.R.S., the Town of Lyons ("the Town") has broad authority to exercise its police powers to promote and protect the health, safety and welfare of the community and its residents; and

WHEREAS, the Town previously adopted regulations regarding the site plan and development plan review process Article 17 of Chapter 16 of the Lyons Municipal Code ("LMC"); and

WHEREAS, it is necessary to update the LMC to create more efficient and effective site plan and development plan review processes and to better protect the health, safety, and welfare of the citizens of Lyons; and

WHEREAS, the necessary changes to the LMC are reflected in Exhibit A, attached hereto and incorporated by reference; and

WHEREAS, The Lyons Board of Trustees desire to amend Article 17 of Chapter 16, of the LMC, as set forth in this Ordinance, and determines that such amendments promote the health, safety and welfare of the citizens of and visitors to the Town of Lyons.

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

Section 1. Recitals Incorporated. The recitals set forth above are hereby incorporated by reference and are adopted as findings and determinations of the Board of Trustees.

Section 2. Chapter 16, Article 17, is repealed in its entirety and replaced with the following new Article 17:

ARTICLE 17 - Site Plan and Development Plan Review Process

Sec. 16-17-10. - Minor building permits; purpose and applicability.

Minor building permit applications are applications that, due to the nature and scope of the work proposed, do not present any questions of compliance with standards and regulations adopted by the Town not found in the Building Code. These minor applications are exempt from the site plan or development plan review process described herein because they do not necessitate further review for compliance with other duly adopted Town standards and regulations, including but not limited to the zoning regulations contained in this Chapter. The determination of this minor status shall be made by the Town Administrator upon review of the building permit application. Minor building permit applications are

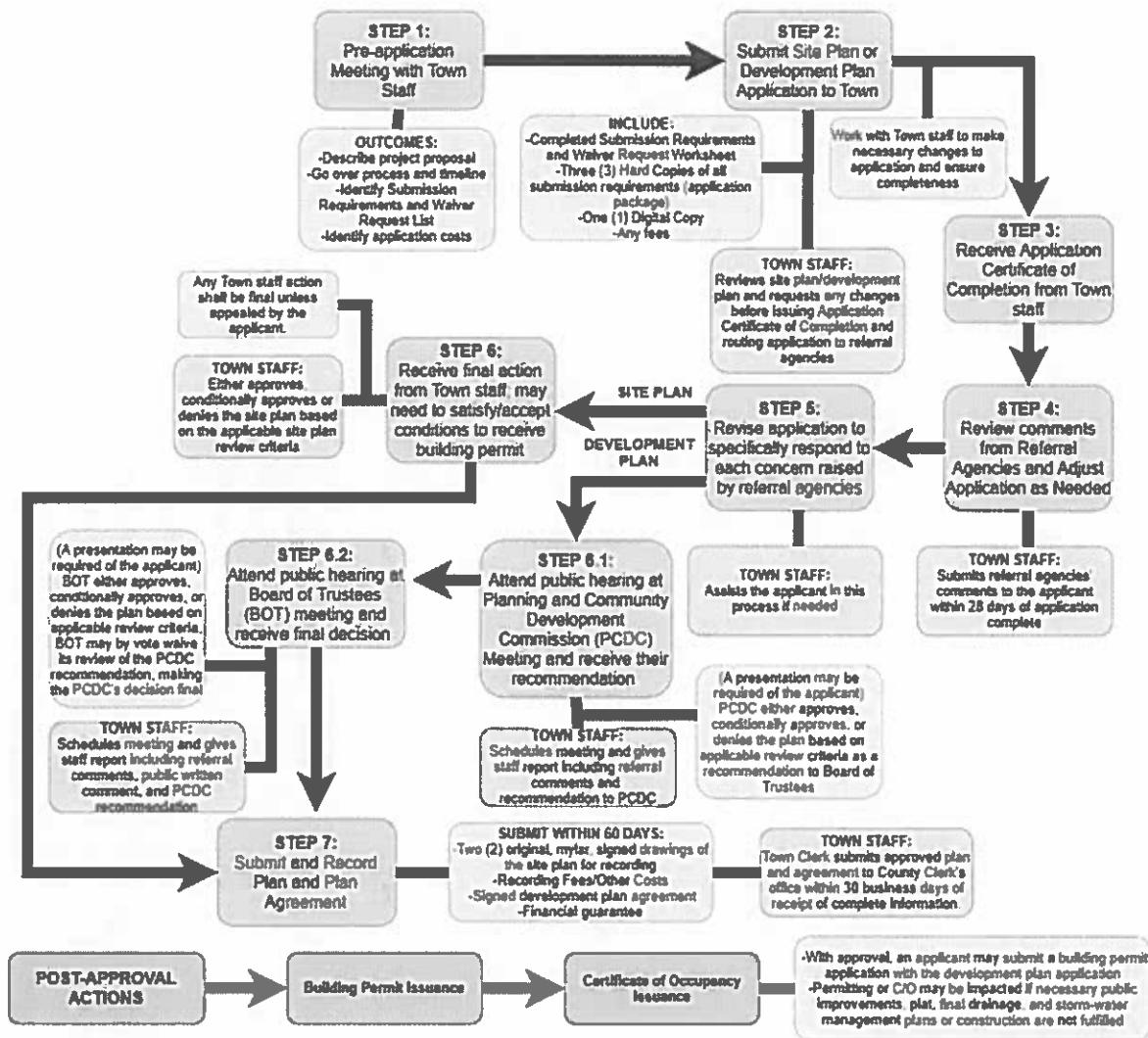
only subject to review for compliance with the Building Code and other applicable provisions of the Municipal Code as adopted by the Town from time to time.

Sec. 16-17-20. - Site plan and development plan review, purpose and applicability.

- (a) All developments not classified as minor building permit applications must obtain either site plan or development plan approval before they may obtain a building permit. The site plan or development plan depicts how the site will be developed so that the Town can ensure that the building and site design will be in compliance with all applicable provisions of the Municipal Code. The site plan review process shall be performed by the Town Administrator to determine regulatory compliance for all building permit applications that are limited in size and scope. The Board of Trustees shall be the final decision-making authority for all development plan reviews unless such review is waived by the Board of Trustees. A decision rendered by the Town staff pertaining to site plan review subject to appeal as set forth in Section 16-17-60 of this Article.
- (b) Following review by Town staff as described herein, the development plan review process shall be performed by the Board of Trustees with a recommendation from the PCDC for all applications that are not limited in size and scope as determined by the following minimum development plan threshold criteria:
 - (1) Multi-family residential uses shall be subject to development plan review where the proposal entails a building floor area expansion, major structural alteration or new construction of three (3) or more dwelling units.
 - (2) Commercial accommodations uses (excluding bed and breakfast) shall be subject to development plan review where the proposal entails a major structural alteration or new construction of seven (7) or more guest rooms or accommodation units.
 - (3) Commercial, industrial, office uses and all other nonresidential development or redevelopment shall be subject to development plan review where the proposal entails:
 - a. New building construction in excess of two thousand (2,000) square feet;
 - b. Expansion or major structural alteration of existing building square footage in excess of two thousand (2,000) square feet; or
 - c. Alteration of the site that includes ten (10) or more parking spaces reconfigured or added, along with relocation or alteration of street access, alteration to water or sewer service, alteration of drainage or alteration of site lighting.
 - (4) All uses subject to use by special review shall also be subject to development plan review.
 - (5) *Major structural alteration* shall mean the alteration of perimeter foundations, exterior load-bearing building walls or roofs to an extent that less than fifty percent (50%) of the renovated portion of the original exterior load-bearing structure remains intact.
 - (6) Any application that entails any one (1) or more of the minimum development plan threshold criteria listed above shall be subject to the development plan review process and public hearing before the Planning Commission. Any application that is not subject to a development plan review and does not qualify as a strictly minor building permit shall be reviewed as a site plan. Because of the limited nature of a site plan application, the site plan review is not subject to a public hearing before the PCDC. The Town Administrator is the final decision making authority for site plan review, unless a site plan decision is appealed to the Board of Trustees as provided in Section 16-17-60 of this article.

Sec. 16-17-30. - Site plan and/or development plan review process.

Site and Development Plan Review Process



(a) Step 1: Pre-Application Conference. The applicant shall attend a pre-application conference with Town staff. The purpose of the meeting is to discuss the Town's expectations, submittal requirements, review process and approximate timeframe for processing the application. Town staff shall provide the applicant with an outline of the site plan or development plan approval process with associated time frames, shall identify all related application fees required by the Town and shall identify all other direct costs payable to the Town that the applicant may expect to incur with the processing of the application. This information will be provided to the applicant within one (1) week of the pre-application conference.

(b) Step 2: Submit Site Plan or Development Plan Application. The applicant shall submit three (3) copies of the complete site plan and/or development plan application package to the Town. The Town Administrator shall determine the applicable submittal requirements at the pre-application conference. The Town Administrator shall determine which of the following must be submitted, based on the complexity of the site plan or development plan proposal:

- (1) Land use application form.
 - a. Surrounding and interested property ownership list. Provide the Town Clerk with a current list, not more than thirty (30) days old, of the names and addresses of the surrounding property owners within three hundred (300) feet of the property, mineral interest owners of record, mineral and oil and gas lessees for the property and appropriate ditch companies. The applicant shall certify that the report is complete and accurate.
 - b. Surrounding and interested property ownership notification envelopes. One (1) set of stamped and addressed envelopes. The envelopes shall have the Town's address as the mailing address and return address and the envelopes shall be addressed to the surrounding property owners within three hundred (300) feet of the property, mineral interest owners of record, oil and gas lessees for the property and the appropriate referral agencies.
 - c. A signed certification from the applicant that proper notice has been provided to the mineral estate owner pursuant to and in accordance with Section 24-65.5-103, C.R.S., or a certification that such notice is not required because the surface estate has not been separated from the mineral estate for the property described in the application. It is the applicant's responsibility to ensure that accurate and complete information is provided.
- (2) Site plan or development plan technical criteria form.
- (3) Electronic copy of application package in pdf format.
- (4) Application fee and fee agreement. A nonrefundable deposit is collected to cover the cost of review by the Town Attorney, Town Engineer, Town Utilities Director, Town Administrator and any other Town staff or outside consultant whom the Town may wish to employ in addition to notice and publication expenses. Actual costs may exceed the deposit; in this case, the applicant is liable for costs in excess of the application fee according to the fee agreement. The Town shall provide applicants with a copy of the most current fee schedule and fee agreement form.
- (5) Site plan or development plan map. The site plan and/or development plan map sheets shall be a minimum of twenty-four (24) inches by thirty-six (36) inches, prepared at a scale of 1" = 20', unless otherwise approved by staff. The Town Administrator shall determine which of the following must be submitted, based on the complexity of the site plan or development plan proposal:
 - a. General plan information (cover sheet):
 1. Title of project.
 2. North arrow, scale, date of preparation and revision dates.
 3. Vicinity map.
 4. Address of project.
 5. Legal description of property.
 6. Name, address and phone number of property owner.
 7. Name, address and phone number of person or firm responsible for plan.
 8. Certificate blocks for signatures of owner, surveyor, utility providers and Town approval, as applicable.
 9. Lot size (square footage).
 10. Bearings and distances of all lot lines.
 11. Existing and proposed zoning.
 12. Adjacent zoning, land uses and landowners.

- b. Statistical information (cover sheet):
 - 1. Net project land area in square feet (gross land area net of public and private street rights-of-way).
 - 2. Number of dwelling units or guest units (if any). Number of affordable housing units, accessory dwelling units and employee housing units, if any.
 - 3. Project net density (multi-family residential projects only) or net developable land area per guest unit (accommodations projects only).
 - 4. Cumulative gross floor area of all levels of all buildings.
 - 5. Number of parking spaces provided (break out as unenclosed or enclosed and standard or handicapped).
 - 6. Impervious lot coverage.
 - 7. A land use chart or table summarizing the cumulative gross floor area and number of units of all proposed uses by general category of use (e.g. office, retail, commercial accommodations, etc.).
- c. Context/Vicinity map (cover sheet). The context/vicinity map shall show the proposed development site in relation to the surrounding area (one-mile radius around the property or other as approved by staff).
 - 1. Title of project.
 - 2. North arrow, scale (not greater than 1" = 1000') and date of preparation.
 - 3. Boundary of proposed project.
 - 4. Existing (for developed land) or proposed (for vacant or agricultural land) land uses for the properties shown on the map (i.e., residential, commercial, industrial, park, etc.). Label the land use and whether it is existing or proposed.
 - 5. Major streets (show and label street names).
 - 6. Existing public water and sewer lines and proposed connections.
 - 7. Regional open space and trail networks per the Comprehensive Plan.
 - 8. Major ditches, rivers and bodies of water.
 - 9. Adjacent properties identified by subdivision name and/or zoning district.
- d. Existing and/or proposed vehicular and pedestrian circulation:
 - 1. Existing and proposed easements and rights-of-way.
 - 2. Existing and proposed paved areas and sidewalks on the site and in the adjacent rights-of-way, all dimensioned, showing how pedestrians will have access to the site and all building entries.
 - 3. Location and layout of all vehicular service and loading areas.
 - 4. Existing and proposed curb cuts on the site and in the adjacent rights-of-way (on both sides of perimeter streets), all dimensioned.
 - 5. Proposed traffic controls and striping layout for parking areas (all lanes, driveways and parking spaces must be dimensioned).
 - 6. Proposed pavement surfacing materials for all parking, streets, drives and sidewalks.
- e. Existing and/or proposed buildings and accessory structures:

1. Footprint (including roof overhangs and eaves, decks, balconies, outside stairs and landings) of all proposed structures and their use with their dimensions and locations noted with respect to the property lines.
2. Existing and proposed structures and their use.
3. Finished floor elevations.
4. The distance from the proposed buildings or structures to adjacent lot lines, easements and adjacent structures.
5. Cumulative gross floor area for all existing and proposed buildings.
6. All proposed structure heights.
7. For multi-family residential, the number of residential units and bedrooms per unit.
8. Trash disposal areas and enclosures, including specifications for enclosures.

f. Existing and/or proposed utility systems:

1. Location and size of existing and proposed water and sewer service connections and tap sizes (including those for irrigation systems).
2. Location and size of water and sewer lines to which the service connections will be or are made.
3. Location and size of water meters.
4. Location and size of backflow prevention devices.
5. Indication of how and where perimeter drain will drain, if one exists.
6. Location of existing electrical lines and poles on or adjacent to the site.
7. Location and size of proposed electrical service connection and meter location.
8. Location of electric transformer and meter (must be at the front quarter closest to the transformer or hard box).
9. Location of all existing and proposed fire hydrants and associated ISO fire flow calculations. If none exist on site, note distance and direction of the closest hydrant adjacent to the site within five hundred (500) feet.
10. Location of proposed signs and lights.
11. Specifications for the signs and lights, including type, height and general conformance to this Code.

g. Existing and proposed grading, stormwater management and site drainage:

1. Existing and proposed one-foot contours.
2. Existing waterways on or adjacent to the site, with regulatory wetlands, floodway and 100-year floodplain delineated where present.
3. Location of detention/retention areas and storm sewer infrastructure with the required drainage easements.
4. Existing and proposed drainage channels, stormwater management facilities and detention areas, including tributary areas, drainage facilities and erosion control devices, with nomographs and calculations.
5. Critical spot elevations controlling flowlines for all curbs and gutters, swales and storm drains.
6. On-site detention location, layout and typical design details and materials.

- 7. Stormwater drainage systems for streets (curbs, gutters and cross-pans, with materials noted).
- h. Landscape, buffering and lighting:
 - 1. Location and character of existing and proposed landscaping, including types of surfaces and ground covers to be used for specific areas.
 - 2. Planting schedule with species, sizes and quantities of planting material.
 - 3. Location, character and species of all individual existing trees measuring eight (8) inches DBH and larger (with trees to be removed and trees to be retained noted).
 - 4. Location, dimensions and materials to be used for outdoor seating and gathering areas for people, fences, walls, berms, screening and buffering (where applicable) and all retaining walls with height noted.
 - 5. Location and dimensions of all buffer areas from zone district boundaries, wetlands and stream/river corridors.
 - 6. Location, height and type of exterior lighting fixtures.
- i. Miscellaneous:
 - 1. Location of existing and proposed oil and gas facilities and their required setbacks, including existing flow lines and proposed relocation of flow lines.
 - 2. Location of archaeologically significant or historic sites or structures that merit preservation.
 - 3. Project phasing plan (if any).
 - 4. Preliminary condominium map (if any).
- (6) General development information. Provide a written description of how the business will function (hours of operation, clientele, number of employees, etc.) and how the proposed development conforms to this Code (including all applicable guidelines, standards and provisions found in this Chapter, Chapter 17, all other applicable duly adopted Town regulations and the Comprehensive Plan). Include a detailed explanation of how the proposed use will comply with the review criteria. For commercial and industrial uses, note the type of activity and number of employees.
- (7) Certified drainage report. A certified drainage report per Town standards, including an erosion control study and plan.
- (8) Final landscape plan. Refer to applicable design standards for the final landscape plan requirements.
- (9) Final open space and ecological characterization plan. Refer to applicable design standards for the final open space and ecological characterization plan requirements.
- (10) Exterior elevations of proposed structures/graphic visual aids. Provide complete building elevations, drawn to scale, with illustrations of all exterior colors and identifying all major exterior materials to be used in the structures. Conceptual building design illustrations for each principal building, showing building mass, schematic floor plans. Natural grade, finished grade, building height above existing grade shall be noted on all elevations. In addition, Staff may require building floor plans, sectional drawings, perspective drawings, models, and/or computer visualizations when the impacts of a proposal warrant such information.
- (11) Photometric plan. For commercial and industrial uses, a photometric plan prepared by a qualified electrical or lighting engineer shall be submitted that depicts all lighting fixtures and the light spread (in foot-candles) of these fixtures across the site to all property boundaries.
- (12) Proof of ownership. The proof of ownership (ownership and encumbrances report or title commitment) must be current and dated no more than thirty (30) days from the date of site plan

and/or development plan application submittal. This must include any encumbrances listed as Schedule B or B2 and include copies of those encumbrances.

- (13) Traffic impact analysis. This study shall be prepared by a professional traffic engineer and shall address use impacts and necessary improvements to support the use on-site and off-site.
- (14) Cost estimates. Cost estimates of proposed landscape improvements and cost estimate for any infrastructure to be dedicated to the Town.
- (15) Landscape maintenance plan. Proposed maintenance plan for landscaping improvements.
- (16) Electronic legal description. Provide an electronic file of the legal description in MSWord format.
- (17) Electronic copy of application package. Provide an Adobe pdf file of the complete application package.
- (18) Site plan or development plan agreement. Town staff may require that the applicant execute a site plan and/or development plan agreement to guarantee the construction of on-site and off-site improvements as a condition of approval of the site plan or development plan. Guarantees in the site plan and/or development plan agreement may be secured by an irrevocable letter of credit, or by cash deposited in an escrow account in an amount determined appropriate by Town staff. Site plan or development plan agreements shall be approved by resolution of the Board of Trustees.

- (c) Step 3: Application Certification of Completion. Within ten (10) business days, Town staff shall either certify that the application is complete and in compliance with all submittal requirements or reject it as incomplete and notify the applicant of any deficiencies. The applicant shall then correct any deficiencies in the application package, if necessary, and submit the required number of copies of the application (as specified in the site plan and/or development plan technical criteria form) to the Town Clerk.
- (d) Step 4: Refer Application to Referral Agencies. After receipt of a complete application, the site plan or development plan will be distributed to applicable Town staff and advisory boards and commissions and applicable referral agencies. The application will be reviewed for technical accuracy, compliance with this Chapter and other relevant regulations and ordinances and shall evaluate the proposal according to adopted review criteria. Referral agencies will be given fourteen (14) business days to provide comments to the Town Administrator. Comments provided by referral agencies will be communicated to the applicant in a written site plan or development plan review report prepared by the Town Administrator within twenty-eight (28) business days after receiving the complete application package.
- (e) Step 5: Applicant Submits Revised Application. The Applicant shall revise the site plan or development plan application as necessary to respond to all comments in the site plan or development plan review report and shall submit the revised application package to the Town Administrator. The applicant is encouraged to work with the Town staff and agencies to resolve any concerns. Revised plans shall reflect all resolutions. Any remaining issues should be documented in the site plan or development plan review report and communicated to both Town staff and applicable agencies. The revised application shall include the applicant's response to each comment raised by Town staff and referral agencies.
- (f) Step 6: Site Plans; Final Administrative Action. The Town Administrator shall take final action and either approve, conditionally approve or deny the site plan based on the applicable site plan review criteria. The Town Administrator shall notify the applicant of the final action and advise the applicant, as applicable, that the applicant must satisfy or accept all conditions of approval prior to issuance of a building permit. Any Town staff action shall be final unless appealed by the applicant to the Board of Trustees.
- (g) Step 7: Development Plans; PCDC Action:
 - (1) The Town Administrator shall schedule a public hearing before the PCDC and shall forward the development plan review report to the PCDC along with referral agency comments and any

other written public comment. The PCDC shall hold a public hearing within sixty (60) business days from the date of certification of a complete application.

(2) The PCDC shall conduct a public hearing to make a recommendation to the Board of Trustees to approve, conditionally approve or deny the development plan based on the applicable review criteria.

(h) Step 8: Development Plans; Board of Trustees Action

- (1) The Town Administrator shall schedule a public hearing before the Board of Trustees to review the development plan report, referral agency comments, written public comment, and the recommendation of the PCDC. The Board of Trustees shall hold a public hearing within thirty (30) business days of a PCDC recommendation. The Board of Trustees may approve, conditionally approve, or deny a development plan based on the applicable review criteria. A decision of the Board of Trustees shall be the final decision of the Town.
- (2) The Board of Trustees may, upon a recorded vote, waive its review of the PCDC recommendation. Upon such waiver the PCDC recommendation shall become the final decision of the Town.
- (3) If the final decision of the Town is to deny the development plan, the same submission, or one that is substantially the same, may not be submitted to the Town for a period of one (1) year from the date of denial unless otherwise approved by the Board of Trustees.

(i) Step 9: Submit and Record Development Plan and Development Plan Agreement. The applicant shall submit two (2) original, signed Mylar drawings of the approved site plan and/or development plan map to the Town Clerk for recording, accompanied by the recording fees and all other costs billed by the Town relative to the development plan, the signed development plan agreement and financial guarantee within sixty (60) days of Town approval. Inaccurate, incomplete or poorly drawn plans shall be rejected. The Town Clerk shall submit the approved development plan and development plan agreement to the County Clerk and Recorder's office for recording within thirty (30) business days of receipt of the complete information.

(j) Step 10: Post-Approval Actions.

- (1) Public improvements, plat, final drainage and stormwater management and erosion control plans. Plans and reports for public improvements, plats, final drainage and stormwater management are required to be completed and reviewed by the Town prior to issuing a building permit. Building permits may be issued prior to completion of the improvements subject to review, provided that they are in substantial accordance with the guidelines and requirements. Unless otherwise approved by the Board of Trustees, no certificates of occupancy will be awarded until the public improvements, plat, final drainage and stormwater management construction are completed and achieved preliminary acceptance by the Town.
- (2) Building permit. A building permit shall be issued only when a development plan has been approved. However, with the approval of the Town Administrator, an applicant may submit a building permit application concurrent with the development plan application. Building permits shall not be issued for any development that is not in conformance with the approved development plan.
- (3) Certificate of occupancy. When building construction and site development are completed in accordance with the approved development plan and building permits, a certificate of occupancy may be issued.
- (4) Phasing and expiration of approval. The development plan shall be effective for a period of three (3) years from the date of approval, unless stated otherwise in the written development plan approval. Building permits shall not be issued based on development plans that have an approval date more than three (3) years old. For multi-phased plans, building permits shall not be issued based on an approval date more than three (3) years from the date of Phase I approval.

Sec. 16-17-40. - Site plan and/or development plan review criteria.

The development plan must meet the following review criteria as applicable:

- (1) All of the information required on the site plan or development plan is shown.
- (2) The lot size and lot dimensions are consistent with what is shown on the approved final plat.
- (3) No buildings or structures infringe on any required setbacks, easements or rights-of-way unless approved in writing by the easement holder or owner of the right-of-way.
- (4) The proposed site grading is consistent with the requirements of the Town's adopted storm drainage criteria or master drainage plan, and grading disturbance of significant existing natural vegetation and natural landforms has been minimized to the maximum extent feasible.
- (5) The density and dimensions shown conform with this Chapter or the approved PUD requirements.
- (6) The applicable regulations, design standards and guidelines have been adequately addressed and the proposed improvements conform with this Code, including but not limited to the following standards, as applicable:
 - a. Lighting shall be arranged so it neither unreasonably disturbs occupants of adjacent residential properties nor interferes with traffic. The light source shall be concealed by a full cutoff lighting fixture so that the light source is not visible from any street right-of-way or adjacent properties. In order to direct light downward and minimize the amount of light spill into the night sky and onto adjacent properties, all lighting fixtures shall be cutoff fixtures. The maximum permitted illumination at the property line shall be two (2) foot-candles. Light fixtures shall not exceed twenty-four (24) feet in height and shall be mounted in such a manner that the cone of light is contained on-site and does not cross any property line of the site. Lighting used to accent architectural features, landscaping or art may be directed upward, provided that the fixture shall be located, aimed or shielded to minimize light spill into the night sky. The use of sensor technologies, timers or other means to activate lighting during times when it will be needed is encouraged to conserve energy, provide safety and promote compatibility between different land uses. Lower lighting levels at off-peak times are encouraged as a safety measure.
 - b. Outdoor storage shall be screened from adjacent properties. Screening shall be achieved through walls, architectural features and landscaping and shall be visually impervious. Permitted outdoor vehicle or equipment storage areas shall be screened by the establishment of landscaped buffers or an opaque fence or wall at least five (5) feet high. Vehicles being serviced or stored for customers shall not be parked on streets, alleys or public sidewalks. Automobile, boat and motorcycle rental and sales lots shall not be greater than one and one-half (1.5) acres.
 - c. Uses that create intense glare or heat, whether direct or reflected, that are perceptible from any point along the site's property lines, shall be conducted within an enclosed building or be effectively screened from public view. If the source of the glare is proposed to be screened with plant material, then the applicant must show that the screening will be effective year-round.
 - d. To the extent reasonably feasible, an applicant shall take advantage of opportunities to integrate adjacent outdoor pedestrian spaces and other adjacent land use in a manner consistent with the goals and objectives of the Comprehensive Plan. To the extent reasonably feasible, an applicant shall enter into cooperative agreements with adjacent property owners to share vehicular access in a manner that creates safe traffic movements and minimizes vehicle/pedestrian conflicts, resulting in an integrated network of vehicular and pedestrian access.
 - e. New employment or industrial uses abutting an existing residential neighborhood shall not create drastic or abrupt change in the scale and height of buildings.

- (7) The site can be adequately served with public utilities, services and facilities (i.e., water, sewer, electric, schools, street system, fire protection, public transit, storm drainage, refuse collection, parks system, etc.).
- (8) The site will provide efficient on-site and off-site traffic circulation which will not have a significant adverse impact on the adjacent uses or result in hazardous conditions for pedestrians or vehicles in or adjacent to the site.
- (9) The site design minimizes environmental impacts, mitigates impacts to wildlife and habitat and utilizes best management practices to conserve natural resources (consider energy conservation, water conservation, recycling, use of local materials).
- (10) The site has an approved trash disposal plan that addresses litter control, trash collection, on-site storage, pick-up on a regular basis and the Dumpster location with proper screening and buffering so that there are not any substantial impacts to abutting properties. All waste shall be deposited into a completely enclosed container concealed from adjacent properties.
- (11) Proposed land uses and activities shall be conducted so that any noise generated on the property will not violate the Town's noise regulations in Chapter 10, Article 11 of this Code, so that any ground vibration created by the use of the property will be imperceptible without instruments at any point along the property line.
- (12) The proposed development shall conform with all applicable local, state and federal regulations.

Sec. 16-17-50. - Amendments to approved development plans.

- (a) Minor variations in the location of structures, improvements or open space areas caused by engineering or other unforeseen difficulties may be reviewed and approved by the Town staff. Such changes shall not exceed ten percent (10%) of any measurable standard or modify the use, character or density of an approved development plan. All plans so modified shall be revised to show the authorized changes and shall become a part of the permanent records of the Town.
- (b) Changes to approved development plans that exceed the ten-percent (10%) threshold, or other major modifications (such as changes in building size or footprint, relocation of access points, changes to required parking, etc.), shall be considered as a new development plan application. Such amendments shall require Town staff review of the changes and final approval by the Board of Trustees to become effective. A complete development plan application shall be prepared and submitted in compliance with the requirements set forth in this Article. Upon review and recommended approval by Town staff of a major modification of a previously approved development plan, the Town Administrator shall inform the Board of Trustees in writing of such recommended approval. The Board of Trustees shall determine by resolution whether further review by the PCDC or the Board of Trustees is necessary and, if so, the nature, extent, and timing of such review, including whether an additional public hearing or hearings shall be held. The Board of Trustees shall be the final decision making authority on such major modifications of a previously approved development plan.

Sec. 16-17-60. – Appeals and Review Process

- (a) Site Plan Appeals: The administrative decision of the Town staff may be appealed to the Board of Trustees.
- (b) Appeals may be filed by a party of interest. A party of interest shall be limited to:
 - (1) The applicant;

- (2) Any party holding a proprietary or possessory interest in the real or personal property that was the subject of the decision by the PCDC whose action is to be appealed;
- (3) Owners of property located within three hundred (300) feet of the boundaries of the subject property; and

(c) Appeals must be submitted in writing to the Town Clerk no later than thirty (30) days from the date of the PCDC action that is appealed. The BOT shall hold a public hearing of the appeal within sixty (60) days of the filing of an appeal with the Town Clerk.

(d) Criteria for Approval of Appeals of administrative decisions on Site Plans. In hearing an appeal of an administrative decision on a site plan, the Board of Trustees shall conduct a public hearing in which evidence shall be considered on the appropriateness of the administrative decision. The Board of Trustees shall provide a written record of its findings. Town staff shall use the written record to propose amendments that address future interpretation problems. The record should include:

- (1) The technical meaning of the provision being appealed;
- (2) Evidence of the manner in which the provision has been interpreted in the past;
- (3) The intent of the provision in implementing the Comprehensive Plan.

(e) Review Process of Development Plan by Board of Trustees

- (1) The review of a Development Plan by the Board of Trustees shall be *de novo*.
- (2) The Board of Trustees shall conduct a quasi-judicial public hearing where new evidence may be considered including 1) presentations by Town Staff; 2) presentations by the applicant; 3) public comment both written and oral; and 3) the recommendation of the PCDC.
- (3) The Board of Trustees shall not be required to give deference to the recommendation of the PCDC.
- (4) The Board of Trustees shall review the development plan in accordance with the review criteria of Section 16-17-40.
- (5) The Board of Trustees shall memorialize its decision in a written decision detailing findings of fact.

Sec. 16-17-70. - Waivers.

- (a) Purpose. Town staff may authorize waivers from this Chapter's application submittal requirements when a particular requirement would not provide relevant information to the Town staff or governing body. Such waiver shall not be granted if it would be detrimental to the public health, safety or welfare, create a conflict with the Comprehensive Plan or impair the intent and purpose of this Code.
- (b) Waiver Criteria for Approval. Town staff is authorized to grant written waivers of submittal requirements required by this Chapter if such requirement would not provide meaningful information to the staff or governing body, is redundant or is otherwise unduly burdensome given the nature of the application. No such waiver may be granted if it would be detrimental to the public health, safety or welfare, create a conflict with the Comprehensive Plan or impair the intent and purpose of this Chapter.

Sec. 16-17-80. - Location and extent review for public facilities projects.

- (a) Purpose. This Section implements §31-23-209, C.R.S., and is intended to provide an opportunity for review of the location and extent of specified public facilities and uses sought to be constructed or authorized within the Town of Lyons, especially as to whether such public use is consistent with the Town of Lyons Comprehensive Plan and this Code.

(b) Applicability.

- (1) Location and extent review shall apply to the construction or authorization of any public school, street, square, park or other public way, ground or open space, public building or structure, or publicly or privately owned public utility.
- (2) Location and extent review shall generally apply to construction of new schools, streets, squares and other facilities referenced in 16-17-80(b)(1), but not to maintenance, repair or improvement of existing facilities.
- (3) Notwithstanding the foregoing, the Board of Trustees shall have the final authority to determine whether any given public project must be evaluated through the location and extent process, after consultation with the Town Engineer and other Town staff and consultants, as needed. The Board of Trustees may waive the location and extent review by resolution finding such review is not necessary.

(c) Procedure for location and extent review.

- (1) Public schools.
 - a. Prior to acquiring land or contracting for the purchase of land for a school site, the board of education shall consult with and advise the Board of Trustees, in writing.
 - b. Prior to construction of any structure or building, the board of education shall submit a development plan for review and comment to the Board of Trustees. Except as otherwise set forth in this Section, the development plan review process shall be the same process described in Chapter 8 of Article 9 of this Code.
 - c. The Board of Trustees may request a public hearing before the board of education on the proposed site location or development plan. If the Board of Trustees requests a hearing, the board of education shall promptly schedule the hearing, publish at least one (1) notice in advance of the hearing, and provide written notice of the hearing to the Board of Trustees.
 - d. The Board of Trustees shall consider all information presented at the public hearing. If no hearing is requested, the Board of Trustees shall consider all information provided by the board of education and shall convey its findings and recommendations to the board of education.
 - e. Failure of the Board of Trustees to act within sixty (60) days after the date of official submission of the proposal or development plan shall be deemed an approval, unless a longer period for review is granted by the board of education.
 - f. The authority to make final determinations as to the location of public schools and the authority to erect buildings and structures shall remain with the board of education.
- (2) All other public uses.
 - a. A proposed development plan shall be submitted to the Board of Trustees for approval, pursuant to the development plan approval process set forth in this Code, prior to the construction or authorization of any public use that is subject to location and extent review.
 - b. Failure of the Board of Trustees to act within sixty (60) days after the date of official submission of the development plan shall be deemed an approval, unless a longer period is granted by the submitting board, body or official.
 - c. If the Board of Trustees disapproves the development plan, it shall communicate its reasons to the submitting board, body or official. The respective submitting board, body or official is authorized to overrule such disapproval by a recorded vote of not less than two-thirds of its entire membership. Upon overruling, the submitting board, body or official may proceed with construction or authorization of the project, as applicable.
 - d. If the project is not required to be authorized or financed by the Board of Trustees, or other Town official or board, the Board of Trustees's disapproval may be overruled by the body

having jurisdiction over the authorization and financing of the project. A vote to overrule by such body shall be by a recorded vote of not less than two-thirds of its entire membership. In the case of a utility owned by an entity other than a political subdivision, the Board of Trustees's disapproval may be overruled by the Public Utilities Commission by a recorded vote of not less than two-thirds of its entire membership.

(d) **Standards for Review.** The Board of Trustees shall review the extent and location of the proposed public use for its consistency with the goals, policies and objectives stated in the Comprehensive Plan and for its compliance with this Code.

Section 3. 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 4. Repeal. All other ordinances or resolutions or parts of ordinances or resolutions in conflict with the provisions of this Ordinance are hereby repealed, provided that such repeal shall not repeal any repealer clauses in such ordinances nor revive any ordinance thereby.

Section 5. Effective Date. This Ordinance shall become effective thirty (30) days after publication following final passage in accordance with Section 2-2-160 of the Lyons Municipal Code.

Section 6. Codification Amendments. The codifier of the Town's Municipal Code, Municipal Code Corporation, is hereby authorized to make such numerical and formatting changes as may be necessary to incorporate the provisions of Section 2 of this Ordinance within the Lyons Municipal Code.

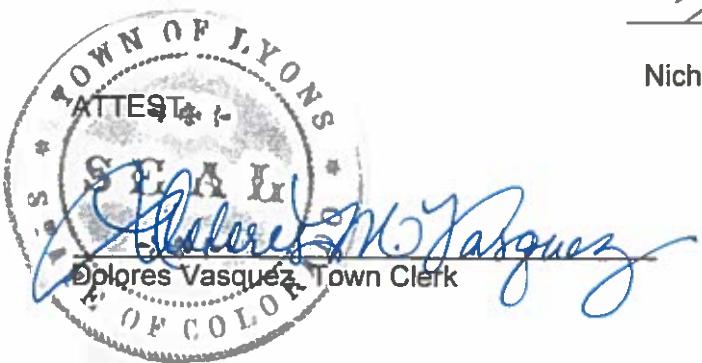
INTRODUCED AND PASSED ON FIRST READING THIS 6th DAY OF July, 2020.

INTRODUCED, PASSED, ADOPTED AND ORDERED PUBLISHED THIS 20th DAY OF July, 2020.

TOWN OF LYONS, COLORADO



Nicholas Angelo, Mayor



Attachments:

Exhibit A – Redline of Changes