

**TOWN OF LYONS,  
COLORADO**

**ORDINANCE 1113**

**AN ORDINANCE OF THE TOWN OF LYONS, COLORADO, AMENDING CHAPTER  
16, ARTICLE OF THE LYONS MUNICIPAL CODE CONCERNING THE  
DEVELOPMENT REVIEW PROCESS**

**WHEREAS**; pursuant to C.R.S. Section 13-15-103 the Town of Lyons (the "Town") has the authority to create and publish ordinances; and

**WHEREAS**, the Colorado Revised Statutes and the Colorado Constitution, Chapter XX, Section 6 provide broad authority to local governments to plan for and regulate the use of land within their jurisdictions, as authorized in Article 20 of Title 29, *et seq.*, and Article 23 of Title 31, *et seq.*, C.R.S.; 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 development review processes and to better protect the health, safety, and welfare of the citizens of the Town; and

**WHEREAS**, the Town of Lyons Board of Trustees (the "Board") has instructed the Town of Lyons Planning and Community Development Commission ("PCDC") to study and propose recommended changes to the Town's development review process; and

**WHEREAS**, the PCDC recommended the Proposed Ordinance the Board for consideration Pursuant to Resolution 2021-05-PCDC, attached hereto as **Exhibit A** and incorporated by reference; and

**WHEREAS**, the Board finds that the proposed amendments to the LMC are in the best interests of the public health, safety, and welfare of the residents of the Town; and

**WHEREAS**, The Board has conducted a public hearing to consider evidence and testimony, thus providing adequate opportunity for interested residents and customers to be heard; and

**WHEREAS**, the Board desires to enact an ordinance amending Chapter 16, Article 17 of the LMC concerning the development review process in the Town.

**THEREFORE, BE IT ORDAINED BY THE BOARD OF TRUSTEES OF THE TOWN OF LYONS, THAT:**

**Section 1.** The recitals set forth above are incorporated as if set fully forth herein.

**Section 2.** Chapter 16, Article 17, is repealed in its entirety and replaced with the following new Article 17:

## **ARTICLE 17 Development Review Process**

### **Sec. 16-17-10 Development Review, purpose and applicability.**

- (a) All developments that meet the descriptions for the Minor (Sec. 16-17-20(a)(1)) or Major (16-17-20(a)(2)) development approval tracks must go through the Development Review process before they may obtain a building permit. All other projects that require a building permit do not need to undergo Development Review but must apply for a building permit. The purpose of this process is to depict 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. After review, the final approval will follow one of two tracks, either the Minor or Major development approval track.
  - (1) MINOR: For all building permit applications that are limited in size and scope, as described herein, the Development Review process shall be performed by the Town Administrator, or their Designee, to determine the regulatory compliance of the application
    - a. Because of the limited nature of the Development Review, it is not subject to a public hearing before the PCDC.
    - b. A decision rendered by the Town staff pertaining to development is subject to appeal as set forth in Section 16-17-50 of this Article.
    - c. Any application that entails any one (1) or more of the following Minor Development review threshold criteria, but none of the Major Development review criteria identified in subsection (2)(b) of this section, shall be determined to be subject to the Minor development approval process:
      - 1. Commercial, industrial, or office uses, and all other nonresidential development or redevelopment shall be subject to the Minor approval track where the proposal entails:
        - a) Reconfiguration of space; or

- b) The addition or elimination of any door or window; or
- c) The reconfiguration or extension of any system; or
- d) The installation of any additional equipment; or
- e) New construction or exterior alterations requiring a building permit that do not appear to comply with adopted design guidelines.

(2) MAJOR: For all applications that are not limited in size and scope, after review by Town staff as described herein, Development Review shall be performed by the Board of Trustees with a recommendation from the PCDC.

- a. The Board of Trustees shall be the final decision-making authority unless such review is waived by the Board of Trustees as described in Sec. 16-17-20(f)(2)(b)(1).
- b. Any application that entails any one (1) or more of the following Major Development Review threshold criteria shall be determined to not be limited in size and scope and is subject to the Major development approval process:
  1. Multifamily residential uses shall be subject to the Major approval track when the proposal entails a building floor area expansion, major structural alteration or new construction of three (3) or more dwelling units.
    - a) Major structural alteration shall mean the alteration of perimeter foundations, exterior load-bearing building walls or roofs to an extent that less than fifty (50) percent of the renovated portion of the original exterior load-bearing structure remains intact.
  2. Commercial accommodation uses (excluding bed and breakfast) shall be subject to the Major approval track when the proposal entails a major structural alteration or new construction of seven (7) or more guest rooms or accommodation units.
  3. Commercial, industrial, or office uses, and all other nonresidential development or redevelopment shall be subject to the Major approval track where the proposal entails:
    - a) New building construction in excess of two thousand (2,000) square feet; or
    - 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; or
- d) Alteration to water or sewer service; or
- e) Increase of drainage into the stormwater system.

4. Any use subject to use by special review shall also be subject to Major approval track for Development Review.

(3) OTHER: Building permit applications that are not subject to Development Review are applications that, due to the nature and scope of the work proposed, do not present any questions of compliance with guidelines, standards, and regulations adopted by the Town not found in the Building Code. These applications are exempt from the Development 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 Development Review applicability shall be made by the Town Administrator upon review of the building permit application or upon submittal of a Land Use Application form or other form approved by the Town for this purpose. Building permit applications are 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. Development 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. During the pre-application conference, the applicant shall provide materials requested by Town staff sufficient for staff to identify process and submission requirements. Town staff shall provide the applicant with an outline of the Development Review Process and relevant approval track with associated time frames, identify all related application fees required by the Town, and identify all other direct costs payable to the Town that the applicant may expect to incur with the processing of the application.

The Town Administrator shall also determine the applicable submittal requirements at the pre-application conference. This information will be provided to the applicant within one (1) week of the pre-application conference.

(b) Step 2: Development Plan. The applicant shall submit one (1) paper copy and one (1) electronic copy in PDF format of the complete Development Plan to the Town; the Town may request additional copies from the applicant if necessary. The Town Administrator shall determine which of the following must be submitted, based on the complexity of the proposal:

- (1) Land use application form.
- (2) 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 in writing to Town staff.
- (3) 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 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.
- (4) 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.
- (5) Development Review submission form provided by the Town.
- (6) 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 consultants who 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 more than 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.
- (7) 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 Development Review application submittal. This must include any encumbrances listed as Schedule B or B2 and include copies of those encumbrances.

- (8) Electronic legal description. Provide an electronic file of the legal description in MS Word format.
- (9) Plan set. Each page of the proposed development's plan set shall be a minimum of twenty-four (24) inches by thirty-six (36) inches, prepared at a scale of one (1) inch = twenty (20) feet, unless otherwise approved by staff:
  - 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 one (1) inch = one thousand (1,000) feet) 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 uses.
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.

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 one hundred-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, lighting, trash, and signs:

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 diameter at breast height 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, buffering (where applicable), and all retaining walls with heights 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.
7. Trash disposal narrative. Written statement shall address litter control, trash collection, on-site storage, and pick-up, and shall note the dumpster location and screening and buffering measures. A diagram may be required if determined necessary by Staff.
8. Location of proposed signs.
9. Specifications for the signs and lights, including type, height, and general conformance to this Code.

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).

(10) General development information. Provide a written description of 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 criteria of approval. For commercial and industrial uses, note how the business will function (hours of operation, clientele, number of employees, etc.) and the type of activity.

- (11) Certified drainage report. A certified drainage report per Town standards, including an erosion control study and plan.
- (12) Final landscape plan. Refer to applicable design guidelines for the final landscape plan requirements.
- (13) Exterior elevation drawings 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 as well as conceptual building design illustrations for each principal building, showing building mass, schematic floor plans. Natural grade, finished grade, and 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.
- (14) 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, if required by the Town Administrator.
- (15) 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, if required by the Town Administrator.
- (16) Cost estimates. Cost estimates of proposed landscape improvements and cost estimate for any infrastructure to be dedicated to the Town.
- (17) Landscape maintenance plan. Proposed maintenance plan for landscaping improvements.
- (18) Other materials determined necessary by Town Staff.

(c) Step 3: Development Plan Certification of Completion. Within ten (10) business days of receipt of required items under Step 2 above, Town staff shall either certify that the Development Plan 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, if necessary, and submit three (3) of copies of the Development Plan to the Town Clerk.

(d) Step 4: Refer Application to Referral Agencies and Property Owners. After receipt of a complete Development Plan (Step 2 above), it shall be promptly distributed to applicable Town staff, all Town advisory boards and commissions, and referral agencies. Any supplemental information or documents received as part of Step 3 above (determination of completeness) shall also be provided by supplemental distribution to applicable Town Staff, all Town advisory boards and commissions,

and referral agencies, each of whom will be given twenty-five (25) business days from the determination of completeness (Step 3) to provide comments to the Town Administrator. Surrounding and interested property owners will be notified within ten (10) business days of the determination of completeness (Step 3) of the submission of the Development Plan and shall also be notified that the Development Plan can be viewed at Town Hall or online. The application will be reviewed for technical accuracy, compliance with this Chapter and other relevant regulations and ordinances and shall be evaluated according to adopted criteria of approval. Comments provided by referral agencies will be communicated to the applicant in a written referral report prepared by Town staff within thirty (30) business days after receiving the complete application package.

- (1) Major development approval track only: Surrounding and interested property owners may submit written comments to Town staff and the applicant up to one (1) business day before the relevant public hearing(s) and may provide comments verbally during any relevant public hearing(s).
- (e) Step 5: Applicant Submits Revised Application. The applicant shall revise the Development Plan as necessary to respond to all comments in the referral report provided by Town staff and shall submit the revised Development Plan to the Town Administrator. The applicant is encouraged to work with Town staff and referral agencies and any property or interest owners to resolve any concerns. Any remaining issues raised through the referral and comment process shall be documented and communicated by Town staff to applicable referral agencies. The applicant shall revise their General Development Information written description (LMC 16-17-20[10]) to include their response to each comment raised by Town staff and referral agencies as part of their revised Development Plan and Town staff shall include a summary of each comment and response by the applicant in the Development Review report.
- (f) Step 6: Final Approval Actions.
  - (1) Minor Development Approval: The Town Administrator shall take final action and either approve, conditionally approve, or deny the Development Plan based on the applicable criteria of approval. Town Administrator shall notify the applicant of the approval action and advise the applicant, as applicable, that the applicant must satisfy or accept all conditions of approval in order for such approval to take effect. The applicant must provide evidence that the conditions are met and accepted. The applicant may appeal approval decisions or conditions to the BOT.
  - (2) Major Development Approval: PCDC Action and Board of Trustees Action.
    - a. PCDC Action: The Town Administrator shall schedule a public hearing before the PCDC and shall forward the Town staff Development 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 Development Plan.

1. 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 criteria of approval.
- b. Board of Trustees Action: The Town Administrator shall schedule a public hearing before the Board of Trustees to review the Development Review 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 criteria of approval. A decision of the Board of Trustees shall be the final decision of the Town.
  1. The Board of Trustees may, upon a recorded vote, waive their review of Major developments by either:
    - a) Deciding that a proposed development should be subject to Minor Development Review instead of Major Development Review; or
    - b) Deciding that the PCDC recommendation to approve or deny a Major Development proposal shall be the final decision of the Town.
  - c. 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.

(g) Step 7 (if applicable): Submit and Record Plan Set and Development Agreement.

- (1) Development Agreement. The Board of Trustees or Town staff may require that the applicant execute a Development Agreement to guarantee the construction of on-site and off-site improvements as a condition of approval of the Development Review. Guarantees in the Development 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. Development Agreements shall be approved by resolution of the Board of Trustees.
- (2) The applicant shall submit the approved plan set to the Town Clerk for recording, accompanied by the recording fees and all other costs billed by the Town relative to the plan set, the signed Development Agreement, and financial guarantee within sixty (60) business days of Town approval. The applicant shall submit the final plan in one of these formats:

- i. As a PDF with clear identification of its author and source such as an attachment to a valid email from an address associated with the applicant; or
- ii. As an easily readable electronic document on a medium commonly read using commonly available computer equipment and software, such as a USB flash drive; or

Inaccurate, incomplete, or poorly drawn plans shall be rejected. The Town Clerk shall submit the approved plan set and Development Agreement to the County Clerk and Recorder's office for recording within thirty (30) business days of receipt of the complete information.

- (h) Post-Approval Actions: Requirements for Building Permits and Certificates of Occupancy.
  - (1) Public improvements, plat, final drainage and stormwater management and erosion control plans. Drawings, 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 have 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 Review. 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 Review decision shall be effective for a period of three (3) years from the date of approval, unless stated otherwise in the written Development Review approval. Building permits shall not be issued based on Development Reviews 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. 16-17-30. Development Review criteria of approval.**

The submitted Development Plan must meet the following criteria of approval as applicable:

- (1) All of the information required on plan set 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 and design 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 from adjacent properties. 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, cyclists, or vehicles in or adjacent to the site.
- (9) The site design minimizes environmental impacts, mitigates impacts to wildlife and wildlife habitat and uses 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. 16-17-40. Amendments to approved Development Plan.**

- (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. 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) Modifications to an approved Development Plan determined significant by the Town Administrator, or their Designee, (such as changes in building size or footprint, relocation of access points, changes to required parking, etc.), shall be considered as a new Development Review application. Such amendments shall require Town staff review of the changes and final approval through the applicable approval track to become effective. A complete Development Plan shall be prepared and submitted in compliance with the requirements set forth in this Article.
  - (1) Major approval track: Upon review and recommended approval by Town staff of a significant modification of a previously approved Development Plan, the Town Administrator, or their designee, 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 significant modifications of a previously approved Development Plan.

#### **Sec. 16-17-50. Appeals and review process.**

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

- c. Owners of property located within three hundred (300) feet of the boundaries of the subject property.
- (2) Appeals must be submitted in writing to the Town Clerk no later than thirty (30) business days from the date of the administrative decision that is appealed. The Board of Trustees shall hold a public hearing of the appeal within sixty (60) business days of the filing of an appeal with the Town Clerk.
- (3) Criteria for approval of appeals of administrative decisions on Minor approval track Development Reviews. In hearing an appeal of an administrative decision on a Development Review, 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:
  - a. The technical meaning of the provision being appealed;
  - b. Evidence of the manner in which the provision has been interpreted in the past; and
  - c. The intent of the provision in implementing the Comprehensive Plan.

(b) Major Approval Track Development Review Process by the Board of Trustees.

- (1) Development Review 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:
  - a. Presentations by Town staff;
  - b. Presentations by the applicant;
  - c. Public comment both written and oral; and
  - d. 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 evaluate the Development Plan in accordance with the criteria of approval in Section 16-17-30.
- (5) The Board of Trustees shall memorialize its decision in a written decision detailing findings of fact.

- (c) The Board of Trustees may modify or vacate prior decisions and may modify, add, or remove conditions of approval.

**Sec. 16-17-60. Waivers.**

Town staff may authorize waivers from this Chapter's application 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. Such waiver shall not be granted if it would be detrimental to the public health, safety, or welfare, or if it would create a conflict with the Comprehensive Plan or impair the intent and purpose of this Code.

**Sec. 16-17-70. Location and Extent Review for public facilities projects.**

- (a) Purpose. This Section implements C.R.S. § 31-23-209 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 provided however that Location and Extent Review shall not be required for any Town Project for which the majority of funding (including grant funding) is authorized by the Board of Trustees.
- (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 major facilities of 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 Subsection 16-17-70(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 Review 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 Location and Extent Review application plan for review and comment to the Board of Trustees. Except as otherwise set forth in this Section, the Development Review process shall be the same process described in Chapter 16 of Article 17 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. 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) business days after the date of official submission of the Location and Extent Review application 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 Location and Extent Review application shall be submitted to the Board of Trustees for approval, pursuant to the Development Review and 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) business days after the date of official submission of the Location and Extent Review application 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 Location and Extent Review application, 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 ( $\frac{2}{3}$ ) 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' 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 ( $\frac{2}{3}$ ) of its entire membership. In the case of a utility owned by an entity other than a political subdivision, the Board of Trustees' disapproval may be overruled by the Public Utilities Commission by a recorded vote of not less than two-thirds ( $\frac{2}{3}$ ) 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. Code Revisions.** Because this Ordinance revises multiple sections within a chapter of the Lyons Municipal Code, minor changes such as the format, numbering, and other such changes may be necessary to unify the revised code. The Town Clerk is hereby authorized to make such changes provided that neither the intent of this Ordinance nor substantive content is altered.

**Section 4. Severability.** Should any one or more sections or provisions of this Ordinance enacted hereby 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. Repeal.** Any and all ordinances, resolutions, or codes, or parts thereof, which are in conflict or inconsistent with this ordinance are repealed, to the extent of such conflict or inconsistency exists. The repeal of any such ordinance, resolution, or code or part thereof, shall not revive any other section or part of any ordinance, resolution, or code provision. 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 or code hereby repealed prior to this ordinance taking effect.

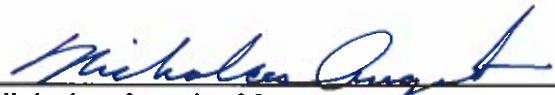
**Section 6. Codification of Amendments.** The codifier of the Town's Municipal Code, Municipal Code Corporation, is hereby authorized to make such numerical and formatting changes as may be necessary to incorporate the provisions of this Ordinance within the Lyons Municipal Code.

Section 7. 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.

INTRODUCED AND PASSED ON FIRST READING THIS 6<sup>th</sup> DAY OF December 2021.

INTRODUCED, AMENDED, PASSED, ADOPTED AND ORDERED PUBLISHED ON SECOND READING THIS 7<sup>th</sup> DAY OF March 2022.

TOWN OF LYONS, COLORADO

  
Nicholas Angelo, Mayor

