

**TOWN OF LYONS,
COLORADO**

ORDINANCE 1161

**AN ORDINANCE OF THE TOWN OF LYONS, COLORADO, AMENDING CHAPTER
16 OF THE LYONS MUNICIPAL CODE TO ADD NEW SECTIONS TO CONCERNING
AMENDING PLANNED UNIT DEVELOPMENTS**

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 is authorized by C.R.S. § 31-23-301 to regulate zoning and land use within the Town’s boundaries, and the Town has in fact adopted a comprehensive zoning scheme; and

WHEREAS, Section 16-15-10 of the Lyons Municipal Code (“LMC”) authorizes the Town to initiate text amendments to Chapter 16 of the LMC titled *Lyons Zoning Regulations*; and

WHEREAS, the text of Chapter 16 of the LMC shall not be amended unless such amendment complies with any of the criteria set forth in § 16-15-50 of the LMC, which, among other criteria, permits an amendment “to accommodate innovations in land use and development practices that were not contemplated at [the time of the adoption of the *Lyons Zoning Regulations*]” and “to further the implementation of the goals and objectives of the Comprehensive Plan” among other reasons; and

WHEREAS, Article 4 of Chapter 16 of the LMC currently provides a process for the establishment of Planned Unit Developments (“PUDs”), however, it does not contain a process for amending PUD’s, meaning all PUD amendments must be processed as a new PUD application ; and

WHEREAS, the absence of an amendment process discourages innovative land uses and is contrary to the goals of the Comprehensive Plan; and

WHEREAS, the Town of Lyons Planning and Community Development Commission (“PCDC”) recommended the proposed ordinance to the Town of Lyons Board of Trustees (the “Board”); 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 Lyons and

further the intent of the Comprehensive Plan; and

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

WHEREAS, the Board desires to enact an ordinance amending Chapter 16 of the LMC to add new sections addressing the amendments to PUDs.

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. New Section 16-4-250 through 16-4-290 are added to the Lyons Municipal code as follows:

Sec. 16-4-250. – Planned Unit Development Amendments

The following section outlines the processes for amending an approved Planned Unit Development (PUD).

Sec. 16-4-260. – Major PUD Amendment

The Town Administrator or designee shall determine whether a submitted PUD amendment is a Major PUD. This determination shall be based on the following criteria:

- (1) Significantly alters the unit density established by the PUD; or
- (2) Significantly alters the commercial or industrial floor area; or
- (3) Modifies a use established by the PUD; or
- (4) Significantly alters the approved phasing plan; or
- (5) Significantly alters the allocation and or arrangement of open space or recreational amenities and or the treatment of environmentally sensitive areas that may exist on the site; or
- (6) Significantly alters the approved architectural concept of the PUD; or
- (7) Significantly alters the layout of the approved project infrastructure; or
- (8) Significantly increases the use of Town utilities; or
- (9) Significant impacts Town policies, codes, or plans.

In determining whether an application for PUD Amendment “significantly” alters the existing PUD the Town administrator shall consider the following factors:

- (1) Whether the ground coverage for all proposed structures is proposed to be increased by more than three percent (3%) and/or approved open space be reduced by more than three percent (3%);

- (2) Whether the floor area for all proposed structures is proposed to be increased by more than two percent (2%) and/or the number of dwelling units or bedrooms is proposed by more than one percent (1%);
- (3) Whether building or street locations are to be modified by more than two (2) feet;
- (4) Whether the proposed uses requires additional water, sewer, or electric fees, dedications, and/or taps;
- (5) Whether previous modifications have been granted;
- (6) Whether the intent of the modification is to correct errors in the existing PUD; and
- (7) Any other criteria which reasonably supports the conclusion that the proposed modification substantially alters the existing PUD.

The determination of whether the PUD amendment is a major or minor shall be made and communicated to the applicant within ten days of the pre-application meeting referenced in Sec. 16-4-270(a). The applicant can appeal this determination to the Board of Trustees.

Sec. 16-4-270 – Review Process

- (1) Pre-Application Meeting. Per Sec. 17-10-30, a pre-application meeting shall be held with Town staff to discuss the scope of the proposed amendment/s.
- (2) Application Submittal. The following application materials are required to be submitted for a major PUD amendment request. Documents that are unchanged from the original or any other subsequent amendment do not have to be resubmitted unless requested by the Town Administrator or designee. The Town Administrator or designee may waive or alter any of the submittal requirements if they are determined to be inappropriate or unnecessary to determine if the application satisfies applicable standards.
 - a. A general Land Use Application
 - b. An Ownership and Encumbrance Report (O & E Report).
 - c. A current survey of the property, including all boundary lines, natural features, structures, and infrastructure.
 - d. Written Narrative. A general description of the amendment(s) being requested including the proposed amendments to the PUD general description, PUD development plan, and/or PUD development agreement.
 - e. A redlined version of the previous PUD, showing all proposed amendments. These shall be represented on any plan sets as well.
 - f. A written narrative and description of how the proposed PUD amendment(s) comply with the standards of the Town of Lyons Municipal Code and the criteria set forth in Section h, Approval Criteria.
 - g. PUD Development Plan. An updated PUD development plan depicting the proposed major amendment(s), as applicable.
 - h. PUD Development Agreement. An updated PUD development agreement depicting the proposed major amendment(s), as applicable.

- i. Proof of minimum guaranteed water and sewer supply.
 - j. Surrounding and interested property ownership report. 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.
 - k. 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. It is the applicant's responsibility to ensure that accurate and complete information is provided.
 - l. Additional Requirements. Any other information deemed necessary by the Town Administrator or designee to assist in the review of the application.
- (3) **Completeness Review.** The Town Administrator or designee shall review the application for completeness in accordance with the provisions of Section Sec. 17-10-40.
- (4) **Evaluation by Staff and Review Agencies.** Upon determination of completeness, the Town Administrator or designee shall refer the application to additional reviewing agencies as outlined in Sec. 17-10-50, and review the application for conformance with the requirements and standards of this Municipal Code.
- (5) **Staff Report.** A staff report shall be prepared and provided to applicable reviewing bodies.
- (6) **Set PCDC Public Hearing and Complete Public Notification Process.** The Town Clerk shall send notice of the public hearing to the applicant, all property owners of record within three hundred (300) feet of the property in question, all mineral interest owners of record, oil and gas lessees for the property and the appropriate referral agencies before the PCDC public hearing. The Town Clerk shall also publish notice in the newspaper of record no less than fifteen (15) days prior to the public hearing.
- (7) **Review and Recommendation by the Planning and Community Development Commission (PCDC).**
- a. The PCDC must deliberate, host a public hearing, and provide a recommendation to the Board of Trustees within 45 days of the application being deemed complete.
 - b. The Planning and Community Development Commission shall review the major PUD amendment application to evaluate compliance with all

applicable standards. Following their review of the application, the PCDC shall provide a recommendation to approve, approve with conditions, or deny the application to the Board of Trustees based upon the criteria outlined in Section (h), Approval Criteria.

- c. The PCDC may, in its sole discretion, continue or postpone the public hearing to a specified date and time to permit the preparation of additional information for further review by PCDC before providing a recommendation to the Board of Trustees.

(8) Set BOT Public Hearing and Complete Public Notification Process. The BOT shall schedule a public hearing for the purpose of taking action on the zoning amendment. The Town Clerk shall publish notice in the newspaper of record at least fifteen (15) days from the date of the hearing.

(9) Review and Action by the Board of Trustees.

- a. The final decision to approve, approve with conditions or deny a major PUD amendment shall be made by the Board of Trustees and be based upon the review criteria outlined in Section (h), Approval Criteria.
- b. The Board of Trustees may, in its sole discretion, continue or postpone the public hearing to a specified date and time to permit the preparation of additional information for further review by the Board of Trustees before making a final decision.

(10) Approval Criteria. The following criteria shall be found to be met by the application and supplemental materials for any major PUD amendment application to be approved.

- a. The major PUD amendment is consistent with the efficient development and preservation of the entire PUD;
- b. The major PUD amendment is consistent with the applicable portions of the Comprehensive Plan in effect;
- c. The major PUD amendment does not affect in a substantially adverse manner the enjoyment of land within three hundred (300) feet from the PUD; and
- d. The major PUD amendment protects the public interest.

Sec. 16-4-280. – Minor PUD Amendment

Minor PUD amendments shall be determined by the Town Administrator or designee and include any modification or amendment to an approved PUD that does not constitute a major PUD amendment.

Sec. 16-4-290. – Review Procedures

- (1) Pre-Application Meeting. Per Sec. 17-10-30, a pre-application meeting shall be held with Town staff to discuss the scope of the proposed amendments.
- (2) Application Submittal. The following application materials are required to be submitted for a minor PUD amendment request. Documents that are unchanged from the original or any other approved subsequent amendment do not have to be resubmitted unless requested by the Town Administrator or designee. The Town Administrator or designee may waive or alter any of the submittal requirements if they are determined to be inappropriate or unnecessary to determine if the application satisfies applicable standards.
 - a. A general Land Use Application.
 - b. An Ownership and Encumbrance Report (O & E Report).
 - c. Written Narrative. A general description of the amendment(s) being requested including the proposed amendments to the PUD general description, PUD development plan, and/or PUD development agreement.
 - d. A redlined version of the previous PUD, showing all proposed amendments. These shall be represented on any plan sets as well.
 - e. A written narrative and description of how the proposed PUD amendment(s) comply with the standards of the Town of Lyons Municipal Code and the criteria outlined in Section f).
 - f. PUD Development Plan. An updated PUD development plan depicting the proposed minor amendment(s), as applicable.
 - g. PUD Development Agreement. An updated PUD development agreement depicting the proposed minor amendment(s), as applicable.
 - h. Proof of minimum guaranteed water and sewer supply.
 - i. Additional Requirements. Any other information deemed necessary by the Town Administrator or designee to assist in the review of the application.
- (3) Completeness Review. The Town Administrator or designee shall review the application for completeness in accordance with the provisions of Section Sec. 17-10-40.
- (4) Evaluation by Staff and Review Agencies. Upon determination of completeness, the Town Administrator or designee shall refer the application to additional reviewing agencies as outlined in Sec. 17-10-50, and review the application for conformance with the requirements and standards of this Municipal Code.
- (5) Review and Action by the Town Administrator or designee.
 - a. The final decision to approve, approve with conditions or deny a minor PUD amendment shall be made by the Town Administrator or designee and be based upon the review criteria outlined in Section (f) below.

- b. The Town Administrator or designee may, in their sole discretion, require the preparation of additional information for further review by the Town Administrator or designee before making a final decision.
 - c. These decisions shall be reported to the PCDC and the BOT within 30 days.
- (6) Approval Criteria. The following criteria shall be found to be met by the application and supplemental materials for any minor PUD amendment application to be approved.
- (1) The minor PUD amendment is consistent with the efficient development and preservation of the entire PUD;
 - (2) The minor PUD amendment is consistent with the applicable portions of the Comprehensive Plan in effect, in the reasonable judgement of the approver;
 - (3) The minor PUD amendment does not affect in a substantially adverse manner the enjoyment of land within three hundred (300) feet of the PUD in the reasonable judgement of the approver; and
 - (4) The minor PUD amendment protects the public interest.

Section 3. Code Revisions. Because this Ordinance revises an entire Article 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 ____ DAY OF _____
2024.**

**INTRODUCED, AMENDED, PASSED, ADOPTED AND ORDERED PUBLISHED ON
SECOND READING THIS ____ DAY OF _____ 2024.**

TOWN OF LYONS, COLORADO

Hollie Rogin, Mayor

ATTEST:

Dolores Vasquez, CMC, Town Clerk