

**Town of Lyons, Colorado  
Board of Trustees  
BOT Agenda Cover Sheet  
Agenda Item No: X. 3.  
Meeting Date: September 3, 2024**

**TO:** Mayor Rogin and Members of the Board of Trustees

**FROM:** Brandon Dittman, Town Attorney

**DATE:** Aug 14, 2024

**ITEM:** Discussion / Direction on Allowing EV Charging and Battery in Parks and Open Space (POS) Zoning at Sandstone

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☐ ORDINANCE  
☐ MOTION / RESOLUTION  
☐ INFORMATION

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- I. **REQUEST OR ISSUE:** Direct staff on which option to pursue to allow for the Level III EV charging stations and battery storage in Sandstone Park.
- II. **RECOMMENDED ACTION / NEXT STEP:** To be determined.
- III. **FISCAL IMPACTS:** Minor financial impacts.
- IV. **BACKGROUND INFORMATION:** On August 15, 2024, the Board of Trustees, approved an agreement with eCamion to install four EV charging units and a battery storage unit on the southeast section of Sandstone Park.
- V. **LEGAL ISSUES:** Currently, EV charging is not a listed use in the LMC, nor is it permitted or conditional in the Parks and Open Space zoning classification (POS). Other municipal codes have adopted EV charging as a separate use. In addition, HB23-1233 requires EV charging to be considered a permitted accessory use for multi-family housing. It is clear that EV Charging should be considered its own use.

The POS district allows for the conditional use of 1) accessory buildings or use, 2) parking lots, and 3) solar generation facilities and associated appurtenances including battery storage facilities. LMC Sec. 16-3-20 allows the proposal of uses not identified in the Chapter to be approved "if use can be reasonably interpreted to be similar in nature and degree to a permitted or allowed use, and to therefore be categorized as a permitted or allowed use in that district." While not explicitly permitted in the POS zone, there is an argument that EV charging could be either 1) an accessory use or 2) similar to some of the conditional uses identified above. Under either scenario, BOT approval is required to allow its use in Sandstone Park.

In summary, the Town has a few options to site the EV charger in Sandstone Park:

- 1) BOT approval under a conditional use process either relying on an accessory use classification or its similarity to other permitted conditional uses, such as solar;
- 2) a text amendment to the LMC adding EV charging as a use and defining it as either a permitted or conditional use in the various zoning districts, including the POS zone.
- 3) Ask the voters via a ballot question.

**VI. CONFLICTS OR ENVIRONMENTAL ISSUES:** The Parks and Recreation Commission expressed concerns at their August 12th meeting regarding the health of the trees in Sandstone Park should the storage battery be placed there. The majority consensus among PRC members was that it should not be placed in Sandstone Park and that other locations, including private businesses, should be looked at as alternatives.

The thought was that it would be intrusive and possibly have a negative impact on park use, irrigation, and especially trees. They thought High Street would be a good location. Below is the excerpt from their draft minutes:

1. \*\*\*EV Charging Station-comments/recommendation- Rapid charging - would be operated by a third party. It would not be guaranteed about the trees (many may be memorial trees). Review the links and photos on the agenda.
  - a. The PRC is in agreement and advises not to put this charging station in Sandstone Park. PRC would like the town to pursue other locations, such as private businesses downtown, that would benefit.