

**Town of Lyons, Colorado  
Planning and Community Development Commission  
PCDC Agenda Cover Sheet  
Agenda Item No: III.1.  
Meeting Date: 1/24/22**

**TO:** Commission Chair and Members of Planning and Community Development Commission

**FROM:** Philip Strom, Director of Community Development

**ITEM:** RESOLUTION 2022-01-PCDC - A RESOLUTION OF THE PLANNING AND COMMUNITY DEVELOPMENT COMMISSION OF THE TOWN OF LYONS, COLORADO RECOMMENDING THAT THE TOWN OF LYONS BOARD OF TRUSTEES ADOPT AN ORDINANCE AMENDING CHAPTER 16, ARTICLE 3, SECTION 270 OF THE LYONS MUNICIPAL CODE TO ALLOW FOR SOLAR GENERATION FACILITIES AS A CONDITIONAL USE IN THE POS ZONE

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ORDINANCE  
 MOTION / RESOLUTION  
 INFORMATION

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**I. REQUEST OR ISSUE:**

This resolution recommends that the Board of Trustees adopt an Ordinance amending Chapter 16, Article 3, Section 270 of the Lyons Municipal Code to allow for solar generation facilities as a Conditional Use in the Parks and Open Space Zoning District (POS).

**II. RECOMMENDED ACTION / NEXT STEP:**

Approve Resolution 2022-01-PCDC.

**III. FISCAL IMPACTS:**

None.

**IV. BACKGROUND INFORMATION:**

In 2016 the Town enacted Ordinance 959 revising the POS zoning to require that any change in zoning of POS land be referred to the registered voters of the Town at an election and be approved by a majority of voters.

In 2021, the Town passed Ordinance 1107 which referred the following question to the registered voters at the November 2, 2021 Election:

SHALL THE CONSTRUCTION OF A SOLAR GENERATION AND BATTERY STORAGE FACILITY BE PERMITTED ON APPROXIMATELY ONE ACRE OF BOHN PARK SOUTHWEST OF THE BOHN PARK DIRT JUMP BIKE PARK IN THE TOWN OF LYONS? YES or NO

Voters approved the measure.

In January 2022, the Town was awarded a grant by the Department of Local Affairs (DOLA) to construct a solar generation and battery storage facility in Bohn Park. However, the location of the facility, which was approved by the voters, is not an allowed use in the POS.

The text of Chapter 16 of the LMC shall not be amended unless the changes comply the criteria set forth in LMC 16-15-50 which permits an amendment that “[t]o accommodate innovations in land use and development practices that were not contemplated at the time of adoption of this Chapter.”

This resolution would recommend a text amendment to the Town’s zoning code to accommodate innovations in land use and development practices that were not contemplated at the time of adoption of the Chapter and allow for solar generation facilities as a conditional use in the Parks and Open Space Zoning District.

**V. LEGAL ISSUES:**

None.

**VI. CONFLICTS OR ENVIRONMENTAL ISSUES:**

None.

**VII. SUMMARY AND ALTERNATIVES:**

1. Approve PCDC Resolution 2022-01 to recommend the Board of Trustees Approve the Ordinance.
2. Not Approve PCDC Resolution 2022-01.

**PROPOSED MOTION:**

**“I move to approve PCDC Resolution 2022-01 recommending that the Board of Trustees adopt an Ordinance amending Chapter 16, Article 3, Section 270 of the Lyons Municipal Code to allow for solar generation facilities as a conditional use in the Parks and Open Space Zoning District.”**

**PLANNING AND COMMUNITY DEVELOPMENT COMMISSION  
TOWN OF LYONS, COLORADO  
RESOLUTION 2022-01-PCDC**

**A RESOLUTION OF THE PLANNING AND COMMUNITY DEVELOPMENT  
COMMISSION OF THE TOWN OF LYONS, COLORADO RECOMMENDING THAT  
THE TOWN OF LYONS BOARD OF TRUSTEES ADOPT AN ORDINANCE  
AMENDING CHAPTER 16, ARTICLE 3, SECTION 270 OF THE LYONS MUNICIPAL  
CODE TO ALLOW FOR SOLAR GENERATION FACILITIES AS A CONDITIONAL  
USE IN THE POS ZONE**

**WHEREAS**, pursuant to Section 2-8-170 of the Lyons Municipal Code (“LMC”), the Town’s Planning and Community Development Commission (“PCDC”) is charged with advising, recommending, and assisting the Board of Trustees in matters relating to planning the physical growth of the Town of Lyons (“the Town”) in accordance with the powers granted pursuant to Article 23 of Title 31, 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 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 that “[t]o accommodate innovations in land use and development practices that were not contemplated at the time of adoption of this Chapter”; and

**WHEREAS**, Ordinance 959 of the Town, codified at Sec. 16-15-70 of LMC, provides that “[n]o ordinance revising the zoning of any portion of land currently zoned as Parks and Open Space District (POS) to any different zoning shall be effective unless and until the ordinance is referred to the registered electors of the Town at a regular or special election and such ordinance is approved by a majority of the registered electors voting thereon”; and

**WHEREAS**, the Town has submitted a grant application to the Department of Local Affairs (“DOLA Grant”) for the purposes of constructing a solar generation and battery storage facility; and

**WHEREAS**, the preferred location of the Utilities and Engineering Board (“UEB”) for the proposed solar generation and battery storage facility is on approximately one acre of Bohn Park southwest of the Bohn Park Dirt Jump Bike Park; and

**WHEREAS**, in 2021, the Town of Lyons Board of Trustees (the “Board”) passed Ordinance 1107 which referred the following question to the registered electors of the Town at the November 2, 2021 Election:

SHALL THE CONSTRUCTION OF A SOLAR GENERATION AND BATTERY STORAGE FACILITY BE PERMITTED ON APPROXIMATELY ONE ACRE OF BOHN PARK SOUTHWEST OF THE BOHN PARK DIRT JUMP BIKE PARK IN THE TOWN OF LYONS?

\_\_\_\_\_ YES

\_\_\_\_\_ NO

; and

**WHEREAS**, the registered electors of the Town of Lyons approved the referred measure at the November 2, 2021 election; and

**WHEREAS**, whereas the approval of the location of the solar generation facility and battery storage facility by the registered electors currently conflicts with the listed uses of the POS zone; and

**WHEREAS**, the POS zone list of conditional uses needs to be updated to allow the construction of the solar generation and battery storage facility; and

**WHEREAS**, the PCDC recommends that the Town of Lyons Board of Trustees adopt the Proposed Ordinance in substantially the form attached hereto as **Exhibit A**.

**NOW, THEREFORE, BE IT RESOLVED BY THE PLANNING AND COMMUNITY DEVELOPMENT COMMISSION OF THE TOWN OF LYONS, COLORADO:**

Section 1. Based on the evidence in the record and testimony provided at the public hearing held before the PCDC, the PCDC finds that that the text of the proposed Ordinance, a copy of which is attached hereto as **Exhibit A** complies with the criteria set forth in LMC Sections 16-15-50 of the LMC and is supported by the Town of Lyons Comprehensive Plan.

Section 2. Based on the findings set forth in Section 1 above, the PCDC recommends that the Town of Lyons Board of Trustees approve and adopt **Exhibit A** in substantially the form attached hereto.

Section 3. The PCDC hereby authorizes Philip Strom, Director of Community Development, or his designee, to finalize the Proposed Ordinance consistent with

discussion held at the January 24, 2022 PCDC meeting and to provide the final Proposed Ordinance to the Town Clerk for consideration by the Board of Trustees.

Section 4. This resolution shall become effective immediately upon approval by the Planning and Community Development Commission.

**ADOPTED this 24<sup>th</sup> DAY OF JANUARY 2022.**

**PLANNING AND COMMUNITY  
DEVELOPMENT COMMISSION FOR THE  
TOWN OF LYONS, COLORADO**

By: \_\_\_\_\_  
David Hamrick , Chair

ATTEST:

\_\_\_\_\_  
Marissa Davis  
Deputy Town Clerk

**EXHIBIT A**

Proposed Ordinance

**TOWN OF LYONS,  
COLORADO**

**ORDINANCE \_\_\_\_\_**

**AN ORDINANCE OF THE TOWN OF LYONS, COLORADO AMENDING CHAPTER 16, ARTICLE 3, SECTION 270 OF THE LYONS MUNICIPAL CODE TO ALLOW FOR SOLAR GENERATION FACILITIES AS A CONDITIONAL USE IN THE POS ZONE**

**WHEREAS**; pursuant to C.R.S. Section 13-15-103 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**, Ordinance 959 of the Town, codified at Sec. 16-15-70 of LMC, provides that “[n]o ordinance revising the zoning of any portion of land currently zoned as Parks and Open Space District (POS) to any different zoning shall be effective unless and until the ordinance is referred to the registered electors of the Town at a regular or special election and such ordinance is approved by a majority of the registered electors voting thereon”; and

**WHEREAS**, the Town has submitted a grant application to the Department of Local Affairs (“DOLA Grant”) for the purposes of constructing a solar generation and battery storage facility; and

**WHEREAS**, the preferred location of the Utilities and Engineering Board (“UEB”) for the proposed solar generation and battery storage facility is on approximately one acre of Bohn Park southwest of the Bohn Park Dirt Jump Bike Park; and

**WHEREAS**, in 2021, the Town of Lyons Board of Trustees (the “Board”) passed Ordinance 1107 which referred the following question to the registered electors of the Town at the November 2, 2021 Election:

SHALL THE CONSTRUCTION OF A SOLAR GENERATION AND BATTERY STORAGE FACILITY BE PERMITTED ON APPROXIMATELY ONE ACRE OF BOHN PARK SOUTHWEST OF THE BOHN PARK DIRT JUMP BIKE PARK IN THE TOWN OF LYONS?

\_\_\_\_\_ YES

\_\_\_\_\_ NO

; and

**WHEREAS**, the registered electors of the Town of Lyons approved the referred measure at the November 2, 2021 election; and

**WHEREAS**, whereas the approval of the location of the solar generation facility and battery storage facility by the registered electors currently conflicts with the listed uses of the POS zone; and

**WHEREAS**, the POS zone list of conditional uses needs updated to allow the construction of the solar generation and battery storage facility; and

**WHEREAS**, Section 16-15-10 of the 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 that “[t]o accommodate innovations in land use and development practices that were not contemplated at the time of adoption of this Chapter”; and

**WHEREAS**, the Town desires to enact a text amendment to the Town’s zoning code pursuant to LMC Section 16-15-50 to accommodate innovations in land use and development practices that were not contemplated at the time of adoption of this Chapter; and

**WHEREAS**, the PCDC recommended the proposed ordinance to the Board for consideration Pursuant to Resolution 2022-XX-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 Lyons; 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 3, Section 270 of the LMC to permit solar generation and battery storage facilities as a conditional use in the POS zone.

**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 3, Section 270 is hereby amended as follows (changes italicized and bold):

Sec. 16-3-270. - POS Parks and Open Space District.

- (a) Intent. The POS District is intended for open space preservation of environmental resources and protection of ridgelines, parks, recreation and public access to parks and open space. Land within the POS District is Town-owned land. It is intended that municipal use changes occur within a public review process.
- (b) Permitted Uses. Permitted principal uses in the POS District shall be as follows:
  - (1) Passive recreational use with minor improvements.
  - (2) Temporary entertainment and/or special event, as approved by the Board of Trustees (e.g., Good Old Days, Artwalk and Art).
  - (3) Use allowed in parks master plans in accordance with the Parks, Open Space and Trails (POST) Plan.
- (c) Conditional Uses. Permitted conditional uses in the POS District shall be as follows:
  - (1) Accessory building or use.
  - (2) Agricultural use (e.g., grazing of livestock and growing of crops).
  - (3) Athletic field or athletic amenity.
  - (4) Amphitheatre.

- (5) Aquarium.
- (6) Botanical garden.
- (7) Campground.
- (8) Cemetery.
- (9) Community garden.
- (10) Golf course.
- (11) Museum.
- (12) Parking lot.
- (13) Permanent structure (e.g., restrooms or concession stand).
- (14) Playground.
- (15) Recreational use with structure.
- (16) Solar energy generation facilities and associated appurtenances including battery storage facilities.**
- ~~(16)~~ **(17)** Residence, caretaker.
- ~~(17)~~ **(18)** Swimming pool.
- ~~(18)~~ **(19)** Telecommunications facility.
- ~~(19)~~ **(20)** Trailhead.
- ~~(20)~~ **(21)** Zoo.

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 \_\_\_\_ DAY OF \_\_\_\_\_  
202\_.**

**INTRODUCED, AMENDED, PASSED, ADOPTED AND ORDERED PUBLISHED ON  
SECOND READING THIS \_\_\_\_ DAY OF \_\_\_\_\_ 202\_.**

TOWN OF LYONS, COLORADO

\_\_\_\_\_  
Nicholas Angelo, Mayor

ATTEST:

\_\_\_\_\_  
Dolores Vasquez, CMC, Town Clerk