

**TOWN OF LYONS,
COLORADO**

ORDINANCE 1119

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, on January 24, 2022 the PCDC recommended the proposed ordinance to the Board for consideration Pursuant to Resolution 2022-01-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 _____
2022.**

**INTRODUCED, AMENDED, PASSED, ADOPTED AND ORDERED PUBLISHED ON
SECOND READING THIS ____ DAY OF _____ 2022.**

TOWN OF LYONS, COLORADO

Nicholas Angelo, Mayor

ATTEST:

Dolores M. Vasquez, CMC, Town Clerk