

TOWN OF LYONS, COLORADO

ORDINANCE NO. 912

**AN ORDINANCE AMENDING THE ZONING REGULATIONS,
TITLE 9 OF THE LYONS MUNICIPAL CODE TO CREATE A SITE PLAN AND
DEVELOPMENT PLAN REVIEW PROCESS**

WHEREAS, pursuant to C.R.S. § 31-23-301, the Town of Lyons possesses the authority to zone, rezone, change, supplement and revise the zoning classifications or designation of property and to regulate land uses within the Town; and

WHEREAS, future development and redevelopment is critical to the economic well being of the Town of Lyons; and

WHEREAS, the Lyons Board of Trustees created a Lyons Gateway Commission for the express purpose of studying, accepting public input on the Lyons Zoning Regulations so to make the regulations more consistent with the Lyons Comprehensive Plan; and

WHEREAS, in the course of analyzing and revising the zoning regulations, the Board of Trustees and the Gateway Commission recognized a need to create a new "Site Plan and/or Development Plan Review" process for all development applications in all zoning districts; and

WHEREAS, the PCDC conducted a public hearing on this Ordinance on October 22, 2012, following proper notice to the public; and

WHEREAS at the conclusion of the public hearing the PCDC recommended approval of the ordinance to the Board of Trustees; and

WHEREAS, the Board of Trustees conducted a public hearing on the proposed ordinance on February 19, 2013, following proper notice to the public; and

WHEREAS, pursuant to Article 23 of Title 31, C.R.S., as amended, the Board of Trustees has determined that the proposed changes in the zoning regulations further the public health, safety, convenience and general welfare of the community; generally conform with the Town's Comprehensive Plan; and otherwise meet the applicable criteria set forth in Chapter 2 of Title 9 of the Lyons Municipal Code; and

WHEREAS, approval of this Ordinance on first reading is intended only to confirm that the Board of Trustees desires to comply with state law and the Lyons Municipal Code by setting a public hearing in order to provide Town staff and the public an opportunity to present testimony and evidence regarding the application. Approval of this Ordinance on first reading does not constitute a representation that the Board of Trustees, or any member of the Board of Trustees, supports, approves, rejects or denies the application or the proposed project.

NOW THEREFORE, BE IT ORDAINED BY THE BOARD OF TRUSTEES OF THE
TOWN OF LYONS, COLORADO, as follows:

Section 1. Chapter 8 of Title 9 of the Lyons Municipal Code is hereby created to read in full as follows:

A. Minor Building Permits; Purpose and Applicability:

Minor building permit applications are applications that, due to the nature and scope of the work proposed, do not present any questions of compliance with standards and regulations adopted by the Town of Lyons not found in the building code. These minor applications are exempt from the Site Plan or Development Plan 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. The determination of this minor status shall be made by the Town Administrator or his/her designee upon review of the building permit application. Minor building permit applications are only subject to review for compliance with the building code as adopted by the Town from time to time.

B. Site Plan and/or Development Plan Review, Purpose and Applicability.

All developments not classified as Minor Building Permit applications must obtain either Site Plan or Development Plan approval before they may obtain a building permit. The Site Plan or Development Plan depicts how the lot site will be developed so that the Town can ensure that the building and site design will be in compliance with all applicable Town zoning standards and other duly adopted regulations not found in the Building Code. The Site Plan review process shall be performed by the Town Administrator or his/her designee to determine regulatory compliance for all building permit applications that are limited in size and scope. The PCDC shall be the final decision-making authority for all Development Plan Reviews. A decision rendered by the Staff pertaining to Site Plan review or a decision rendered by the PCDC pertaining to Development Plan review is subject to appeal by the Board of Trustees as set forth in sub-section D. Appeals herein.

The Development Plan Review process shall be performed by the PCDC for all applications that are not limited in size and scope as determined by the following minimum threshold criteria.

Minimum Development Plan Threshold Criteria

Multi-Family Residential uses shall be subject to Development Plan Review where the proposal entails a building floor area expansion, major structural alteration or new construction of three or more dwelling units.

Commercial Accommodations uses (excluding Bed and Breakfast) shall be subject to Development Plan Review where the proposal entails a major structural alteration or new construction of seven or more guest rooms or accommodation units.

Commercial, Industrial, Office uses and all other non-residential development or redevelopment shall be subject to Development Plan Review where the proposal entails 1) new building construction in excess of 2,000 s.f., or 2) expansion or major structural alteration of existing building square footage in excess of

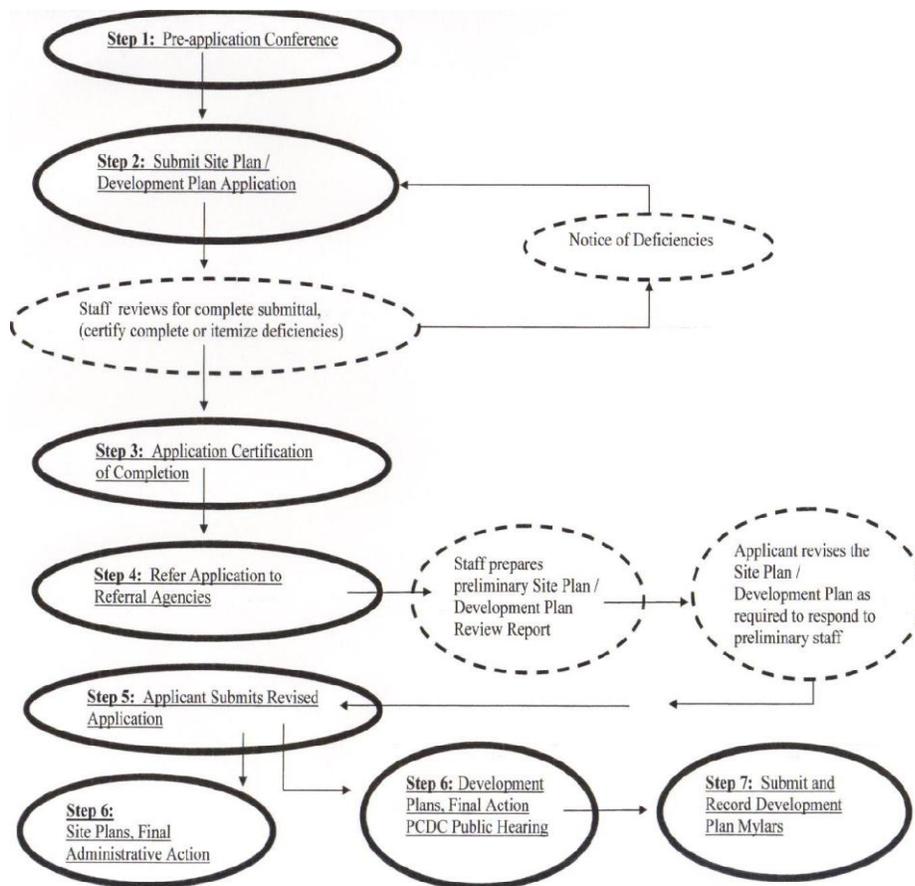
2,000 s.f. or, 3) alteration of the site that includes ten or more parking spaces reconfigured or added, along with relocation or alteration of street access, alteration to water or sewer service, or alteration of drainage, or alteration of site lighting.

All uses subject to Use by Special Review shall also be subject to Development Plan Review.

Major Structural Alteration shall mean the alteration of perimeter foundations, exterior load bearing building walls or roofs to an extent that less than fifty percent of the renovated portion of the original exterior load bearing structure remains intact.

Any application that entails any one, or more, of the minimum development plan threshold criteria listed above shall be subject to the Development Plan Review process and Public Hearing before the Planning Commission. Any application that is not subject to a Development Plan Review and does not qualify as a strictly minor building permit shall be reviewed as a Site Plan. Because of the limited nature of a Site Plan application the Site Plan Review is not subject to a Public Hearing before the Planning Commission. The Town Administrator or his/her designee is the final decision making authority for Site Plan Review.

C. Site Plan and/or Development Plan Review Process.



1. 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. Staff shall provide the applicant an outline of the site plan or development plan approval process with associated time frames and shall identify all related application fees required by the Town and shall identify all other direct costs payable to the Town that the applicant may expect to incur with the processing of the application. This information will be provided to the applicant within one week of the Pre-Application Conference.

2. Step 2: Submit Site Plan and/or Development Plan Application. The applicant shall submit three (3) copies of the complete Site Plan and/or Development Plan application package to the Town. The Town Administrator or his/her designee shall determine the applicable submittal requirements at the pre-application conference. The Town Administrator or his/her designee shall determine which of the following must be submitted, based on the complexity of the Site Plan or Development Plan proposal:

a. Land Use Application Form

Surrounding and Interested Property Ownership List - Provide the Town Clerk with a current list (not more than 30 days old) of the names and addresses of the surrounding property owners (within 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.

Surrounding and Interested Property Ownership Notification Envelopes - One 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 300 feet of the property), mineral interest owners of record, oil and gas lessees for the property, and the appropriate referral agencies.

A signed certification from the applicant that proper notice has been provided to the mineral estate owner pursuant to and in accordance with C.R.S. 24-65.5- 103, 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.

b. Site Plan and/or Development Plan - Technical Criteria Form

c. Electronic copy of application package in pdf format.

d. Application Fee and Fee Agreement - A non-refundable fee is collected to cover the cost of review by the Town Attorney, Town Engineer, Town Administrator or his/her designee and any other expert whom the Town may wish to employ; and notice and publication expenses. Actual costs may exceed the deposit; in this case, the applicant is liable for costs in excess of 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.

e. Site Plan and/or Development Plan Map - The Site Plan / Development Plan map sheets shall be a minimum of twenty-four (24) inches by thirty-six (36) inches prepared at a scale of 1"=20' (unless

otherwise approved by staff). The Town Administrator or his/her designee shall determine which of the following must be submitted, based on the complexity of the Site Plan or Development Plan proposal:

I. General Plan Information (Cover Sheet)

- 1) Title of project.
- 2) North arrow, scale and 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.

II. 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/enclosed and standard/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.).

III. Context/Vicinity Map (Cover Sheet). The context/vicinity map shall show the proposed development site in relation to the surrounding area (one [1] mile radius around the property or other as approved by staff).

- 1) Title of project.
- 2) North arrow, scale (not greater than 1" = 1000') and date of preparation.
- 3) Boundary of proposed project.
- 4) Existing (for developed land) or proposed (for vacant/agricultural land) land uses for the properties shown on the map (i.e. residential, commercial, industrial, park, etc.) - label 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/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.

IV. 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.

V. 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 use.
- 3) Finished floor elevations
- 4) The distance from the proposed building(s) or structure(s) to adjacent lot lines, easements, and adjacent structures.
- 5) Cumulative gross floor area for all existing and proposed building(s)
- 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.

VI. 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 meter(s).
- 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 500 feet.
- 10) Location of proposed signs and lights.

- 11) Specifications for the signs and lights, including type, height and general conformance to the Code.

VII. Existing and Proposed Grading, Storm Water Management and Site Drainage

- 1) Existing and proposed one (1) foot contours.
- 2) Existing waterways on or adjacent to the site, with regulatory wetlands, floodway and 100 year flood plain 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, 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).

VIII. Landscape , Buffering and Lighting

- 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 DBH 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 height 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.

IX. Misc.

- 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)

f. General Development Information. Provide a written description of how the business will function (hours of operation, clientele, number of employees, etc.) and how the proposed development conforms to Lyons Municipal Code (including all applicable guidelines, standards and provisions found in the Zoning Code and the Subdivision Regulations and all other applicable duly adopted Town of Lyons regulations, and the Lyons Comprehensive Plan). Include a detailed explanation of how the proposed use will comply with the review criteria. For commercial and industrial uses, note the type of activity, number of employees.

g. Certified Drainage Report - A certified drainage report per Town standards, including an erosion control study and plan.

h. Final Landscape Plan - Refer to applicable Design Standards for the final landscape plan requirements.

i. Final Open Space and Ecological Characterization Plan - Refer to applicable Design Standards for the final open space and ecological characterization plan requirements.

j. Exterior Elevations 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 structure(s). Conceptual building design illustrations for each principal building, showing building mass, schematic floor plans. Natural grade, finished grade, 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.

k. 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 footcandles) of these fixtures across the site to all property boundaries.

l. 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 Site Plan and/or Development Plan application submittal. This must include any encumbrances listed as schedule B or B2 and include copies of those encumbrances.

m. 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.

n. Cost estimates. Cost Estimates of proposed landscape improvements and cost estimate for any infrastructure to be dedicated to the Town of Lyons.

o. Landscape Maintenance Plan. Proposed maintenance plan for landscaping improvements.

p. *Electronic Legal Description.* Provide an electronic file of the legal description in MSWord Format.

q. *Electronic Copy of Application Package.* Provide an Adobe pdf file of the complete application package.

r. *Site Plan and/or Development Plan Agreement.* Staff may require that the applicant execute a Site Plan and/or Development Plan agreement to guarantee the construction of on-site and off-site improvements as a condition of approval of the Site Plan and/or Development Plan. Guarantees in the Site Plan and/or Development Plan agreement may be secured by an irrevocable letter of credit, or by cash deposited in an escrow account in an amount determined appropriate by Staff.

3. Step 3: Application Certification of Completion. Within ten (10) business days, Staff shall either certify the application 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 in the application package, if necessary, and submit the required number of copies of the application (as specified in the *Site Plan and/or Development Plan Technical Criteria* form) to the Town Clerk.

4. Step 4: Refer Application to Referral Agencies. After receipt of a complete application, the plans will be distributed to Town Staff and applicable referral agencies. The application will be reviewed for technical accuracy, compliance with this Land Use Code, and other relevant regulations and ordinances, and shall evaluate the proposal according to adopted review criteria. Referral agencies will be given fourteen (14) business days to provide comments to the Town Administrator or his/her designee. Comments provided by referral agencies will be communicated to the applicant in a written Site Plan and/or Development Plan Review Report prepared by the Town Administrator or his/her designee within twenty-eight (28) business days after receiving the complete application package.

5. Step 5: Applicant Submits Revised Application. The Applicant shall revise the Site Plan and/or Development Plan application as necessary to respond to all comments in the Site Plan and/or Development Plan Review Report and shall submit the revised application package to the Town Administrator or his/her designee. The Applicant is encouraged to work with the staff and agencies to resolve any concerns. Revised plans shall reflect all resolutions. Any remaining issues should be documented in the Site Plan and/or Development Plan Review Report and communicated to both Town Staff and applicable agencies. The revised application shall include the Applicant's response to each comment raised by Town Staff and referral agencies.

6. Step 6: Site Plans, Final Administrative Action. The Town Administrator or his/her designee shall take final action and either approve, conditionally approve or deny the site plan based on the applicable site plan review criteria. The Town Administrator or his/her designee shall notify the Applicant of the final action and advise the Applicant, as applicable, that the Applicant must satisfy or accept all conditions of approval prior to issuance of a building permit. Any Staff action shall be final unless appealed by the applicant.

7. Step 7: Development Plans, Final PCDC Action .

The Town Administrator or his/her designee shall schedule a public hearing before the PCDC and shall forward the Development Plan 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) working days from date of certification of a complete application.

The PCDC shall take final action at a public hearing to approve, conditionally approve or deny the Development Plan based on the applicable review criteria. If the Development Plan is denied, the request 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 PCDC .

8. Step 8: Submit and Record Development Plan and Development Plan Agreement. The applicant shall submit two (2) original, signed mylar drawings of the approved Site Plan and/or Development Plan map to the Town Clerk for recording, accompanied by the recording fees and all other costs billed by the Town relative to the Development Plan, the signed Development Plan agreement and financial guarantee within sixty (60) days of Town approval. Inaccurate, incomplete or poorly drawn plans shall be rejected. The Town Clerk shall submit the approved Development Plan and Development Plan agreement to the Boulder County Clerk and Recorder's Office for recording within thirty (30) business days of receipt of the complete information.

9. Step 9: Post Approval Actions.

a. *Public Improvements, Plat, Final Drainage and Stormwater Management and Erosion Control Plans.* 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 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 is completed and achieved preliminary acceptance by the Town.

b. *Building Permit.* A building permit shall be issued only when a Development Plan has been approved. However, with the approval of the Town Administrator or his/her designee, an applicant may submit a building permit application concurrent with the Development Plan application. Building permits shall not be issued for any development that is not in conformance with the approved Development Plan.

c. *Certificate of Occupancy.* When building construction and site development are completed in accordance with the approved Development Plan and building permit(s), a Certificate of Occupancy may be issued.

d. *Phasing and Expiration of Approval.* The Development Plan shall be effective for a period of three (3) years from the date of approval, unless stated otherwise in the written Development

Plan approval. Building permits shall not be issued based on Development Plans 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.

D. Site Plan and/or Development Plan Review Criteria. The Development Plan must meet the following review criteria as applicable:

1. All of the information required on the Site Plan or Development Plan 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 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 the *Lyons Zoning Code* or the approved PUD requirements.
6. The applicable regulations, design standards and guidelines have been adequately addressed and the proposed improvements conform with the *Lyons Municipal 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 adjacent properties. In order to direct light downward and minimize the amount of light spill into the night sky and onto adjacent properties, all lighting fixtures shall be cutoff fixtures. The maximum permitted illumination at the property line shall be 2 footcandles. Light fixtures shall not exceed 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 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 is 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 Lyons 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- and off-site traffic circulation which will not have a significant adverse impact on the adjacent uses or result in hazardous conditions for pedestrians or vehicles in or adjacent to the site.
9. The site design minimizes environmental impacts, mitigates impacts to wildlife and wildlife habitat and utilizes 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 containers 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 Title 4, Chapter 5 of the Lyons Municipal 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.

E. Amendments to Approved Development Plans.

1. 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. Such changes shall not exceed ten (10) percent of any measurable standard or modify the use, character, or density of an approved Development Plan. All plans so modified shall be revised to show the authorized changes and shall become a part of the permanent records of the Town.
2. Changes to approved Development Plans that exceed the ten (10) percent threshold, or other major modifications (such as changes in building size or footprint, relocation of access points, changes to required parking, etc.), shall be considered as a new Development Plan application. Such amendments shall require Staff review and approval to become effective. A complete Development Plan application shall be prepared and submitted in compliance with the requirements set forth in this Section.

F. Appeals

Site Plan Appeals: The administrative decision of the Staff may be appealed to the BOT.

Development Plan Appeals: The decision of the PCDC may be appealed to the BOT.

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; and
- d. The BOT.

Appeals must be submitted in writing to the Town Clerk no later than thirty days from the date of the PCDC action that is appealed. The BOT shall hold a public hearing of the appeal within sixty days of the filing of an appeal with the Town Clerk.

Criteria for Approval of Appeals. The Board of Trustees, in hearing an appeal of a Site Plan or Development Plan decision shall provide a written record of its findings and Staff shall use it to propose amendments that address future interpretation problems. The record should include:

1. The technical meaning of the provision being appealed;
2. Evidence of the manner in which the provision has been interpreted in the past;

3. The positive or negative impact of the requested appeal on the achievement of stated Town development goals and objectives; and
4. The intent of the provision in implementing the *Lyons Comprehensive Plan*.

Section 2. Chapter 8 Title 9 of the Lyons Municipal Code is hereby created to read as follows.

G. Waivers

Purpose. Town Staff may authorize waivers from the *Lyons Land Use Code* application submittal requirements when a particular requirement would not provide relevant information to the Staff or governing body. Such waiver shall not be granted if it would be detrimental to the public health, safety or welfare, create a conflict with the *Lyons Comprehensive Plan* or impair the intent and purpose of this Code.

Waiver Criteria for Approval. Town staff is authorized to grant written waivers of submittal requirements required by this Code 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. No such waiver may be granted if it would be detrimental to the public health, safety or welfare, create a conflict with the comprehensive plan or impair the intent and purpose of this Code.

Section 3. Section 15 of Chapter 1 of Title 9 of the Lyons Municipal Code is hereby amended by the addition of the following definition, to be inserted in the appropriate location in the alphabetical list of definitions:

Development means the carrying out of any building activity or mining operation, the making of any material change in the use or appearance of any structure or land, or the dividing of land into two (2) or more parcels. When appropriate in context, development shall also mean the act of developing or to the result of development.

- a. *Development* shall also include:
 - i. Any construction, placement, reconstruction, alteration of the size, or material change in the external appearance of a structure on land;
 - ii. Any change in the intensity of use of land, such as an increase in the number of dwelling units in a structure or on a tract of land or a material increase in the intensity and impacts of the development;
 - iii. Any change in use of land or a structure;
 - iv. Any alteration of a shore or bank of a river, stream, lake, pond, reservoir or wetland;

- v. The commencement of drilling oil or gas wells, mining, stockpiling of fill materials, filling or excavation on a parcel of land;
 - vi. The demolition of a structure;
 - vii. The clearing of land as an adjunct of construction;
 - viii. The deposit of refuse, solid or liquid waste, or fill on a parcel of land;
 - ix. The installation of landscaping within the public right-of-way, when installed in connection with the development of adjacent property; and
 - x. The construction of a roadway through or adjoining an area that qualifies for protection as a wildlife or natural area.
- b. *Development* shall *not* include:
- i. Work by a highway or road agency or railroad company for the maintenance or improvement of a road or railroad track, if the work is carried out on land within the boundaries of the right-of-way;
 - ii. Work by any public utility for the purpose of inspecting, repairing, renewing or constructing, on established rights-of-way, any mains, pipes, cables, utility tunnels, power lines, towers, poles, or the like; provided, however, that this exemption shall not include work by a public entity in constructing or enlarging mass transit or fixed guide way mass transit depots or terminals or any similar traffic-generating activity;
 - iii. The maintenance, renewal, improvement, or alteration of any structure, if the work affects only the interior or the color of the structure or the decoration of the exterior of the structure;
 - iv. The use of any land for an agricultural activity (refer to 1.15.A.10);
 - v. A change in the ownership or form of ownership of any parcel or structure; or
 - vi. The creation or termination of rights of access, easements, covenants concerning development of land, or other rights in land.

Section 4. If any provision of this Ordinance should be found by a court of competent jurisdiction to be invalid, such invalidity shall not affect the remaining portions or applications of this Ordinance that can be given effect without the invalid portion, provided that such remaining portions or applications of this ordinance are not determined by the court to be inoperable. The Board of Trustees declares that it would have adopted this Ordinance and each section, subsection, sentence, clause, phrase, or portion thereof, despite the fact that any one or more section, subsection, sentence, clause, phrase, or portion would be declared invalid or unconstitutional.

Section 5. Repeal. All other ordinances or resolutions or parts of ordinances or resolutions in conflict with the provisions of this Ordinance are hereby repealed, provided that such repeal shall not repeal any repealer clauses in such ordinances nor revive any ordinance thereby.

Section 6. Effective Date. This Ordinance shall become effective thirty days after publication following final passage.

INTRODUCED AND PASSED ON FIRST READING THE ____th DAY OF _____
2013.

INTRODUCED, PASSED, ADOPTED AND ORDERED PUBLISHED THIS 19TH DAY OF
FEBRUARY, 2013.

TOWN OF LYONS

By: _____

Julie VanDomelen, Mayor

ATTEST:

By: _____

Debra K. Anthony, Town Clerk