

**TOWN OF LYONS, COLORADO
ORDINANCE NO. 911**

**AN ORDINANCE AMENDING THE ZONING REGULATIONS, TITLE 9 OF THE LYONS
MUNICIPAL CODE TO CREATE A USE BY SPECIAL REVIEW PROCESS FOR THE CEC
COMMERCIAL EAST CORRIDOR ZONING DISTRICT**

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 in the CEC zoning district 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, and amending the Commercial East Corridor Zoning District (CEC) in the Lyons Zoning Regulations so to make the regulations more consistent with the Lyons Comprehensive Plan; to recognize and protect Lyons' small-town character and quality of life; and to foster an attractive Eastern Gateway that will enhance Lyons' distinctive commercial, human, cultural and natural environment; and

WHEREAS, the Gateway Commission held numerous public meetings to discuss the CEC regulations, and met with the Board of Trustees to discuss proposed amendments; and

WHEREAS, in the course of analyzing and revising the CEC zoning regulations, the Board of Trustees and the Gateway Commission recognized a need to create a new "Use by Special Review" process for the CEC Zoning District; and

WHEREAS, the Planning and Community Development Commission (PCDC) conducted a public hearing on an ordinance containing proposed new CEC regulations, Use by Special Review regulations, and other related regulations 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 amendments on January 22, 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. Section 7.5 of Chapter 2 Title 9 of the Lyons Municipal Code is hereby created to read in full as follows.

9-2-7.5 Uses by Special Review.

A. Purpose. In order to provide flexibility and to help diversify uses within a zoning district, specified uses are permitted in certain districts subject to the granting of a use by special review permit. Specific uses by special review for each zone district are listed in the *Matrix of Permitted Uses by Zoning District* (Section 9-2-5).

Because of their unusual or special characteristics, uses by special review (USRs) require an evaluation so that they may be located properly with respect to their impacts on surrounding properties. The review process prescribed in this Section is intended to ensure compatibility and harmonious development between uses by special review, surrounding properties and the Town at large. USRs may be permitted subject to such conditions and limitations as the Town may prescribe to ensure that the location and operation of the USR will be in accordance with the USR approval criteria. The scope and elements of any USR may be limited or qualified by the conditions applicable to the specific property. Where conditions cannot be devised to achieve these objectives, applications for USR permits shall be denied.

In economic-oriented zones, USR proposals should promote economic sustainability, help Lyons transition from a residential-development based economy to a commercial-based, localized economy through encouraging entrepreneurship, economic diversification, reduced retail leakage and increased economic multipliers to keep dollars circulating in the community while creating quality jobs locally.

B. Use by Special Review Process.

1. **Step 1: Pre-Application Conference.** The applicant shall attend a pre-application conference with the Town Planner. The purpose of the meeting is to discuss the proposed use, submittal requirements and review process, including the Planner's estimate of the approximate timetable and direct costs of the process.

2. **Step 2: Use by Special Review Application Package.** The applicant shall submit three (3) copies of the complete USR application package to the Town Clerk. The application shall include:

- a. Completed application form, application fee, and fee agreement;
- b. Current proof of ownership in the form of title commitment issued within 30 days of submission of the application;
- c. Detailed description and any graphics necessary to describe the proposed use and its operating characteristics and to illustrate how all use by special review criteria have been satisfied. The written statement shall address the following points:
 - i. Detailed description of the proposed operation;
 - ii. Maximum number of users per day or week;
 - iii. Hours of operation;
 - iv. Existing uses on surrounding properties;
 - v. Present and future impacts on the existing adjacent properties, uses, and physical character of the surrounding environment (consider noise, odors, lighting, traffic, glare, visual impact, air

- quality, water quality, outdoor storage, recreational uses, wildlife habitat, etc.);
- vi. Description of anticipated traffic for the site describing number of vehicles at peak hours and total daily trips generated and the impact on area streets, accesses and traffic patterns;
 - vii. Potential impacts on public facilities and services, including, but not limited to, fire, police, water, electric, sanitation, roadways, parks, schools, and transit;
 - viii. A statement of how the use will contribute to Lyons' small town character;
 - ix. A demonstration of how the use will be consistent with the Sustainable Design and Development Principles and other relevant goals of the Comprehensive Plan.
- d. A map showing the proposed development of the site, including topography, building locations, parking, traffic circulation, usable open space, landscaped areas, utilities and drainage features.
 - e. Preliminary building plans and elevations sufficient to indicate the dimensions, general appearance and scale of all buildings.
 - f. Such additional material as the PCDC and/or BOT may prescribe or the applicant may submit pertinent to the application.
 - g. 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.
 - h. 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.
 - i. 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.
 - j. Electronic copy of application package in PDF format.

3. **Step 3: USR Application Certification of Completion.** Within 10 working 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 revised application package to the Town Clerk.

4. Step 4: Set PCDC Public Hearing and Complete Public Notification Process.

The Town Clerk shall send notice of public hearing to the applicant, all property owners of record within 300 feet of the property in question, all mineral interest owners of record, oil and gas lessees for the property, and to the appropriate referral agencies before the PCDC public hearing. The Town Clerk shall also publish notice in the newspaper of record no less than 10 days prior to the public hearing. If the USR request is accompanying another application that is scheduled for public hearings before the PCDC and BOT, one public hearing may be held on both applications.

5. Step 5: Final Staff Review and Report to PCDC. Staff shall complete a final review of the materials, including referral responses, and prepare a report to the PCDC explaining how the application is or is not consistent with the USR Approval Criteria.

6. Step 6: PCDC Public Hearing and Action on the USR. The PCDC shall hold a public hearing to review the USR based on the USR Approval Criteria. The PCDC shall then make a recommendation to the BOT to either approve, conditionally approve, or deny the USR application.

7. Step 7: BOT Meeting. The PCDC's recommendation shall be forwarded to the BOT. The BOT shall, following the PCDC recommendation, hold a first and second reading of the ordinance, which shall include a public hearing, in accordance with provisions set forth in the Lyons Municipal Code, Title 1, Chapter 8, on the application and act to either approve, conditionally approve, or deny the USR application in accordance with the approval criteria specified in Section 9-2-7-D.

8. Step 8: Submit and Record USR Map. The applicant shall submit two (2) original, signed Mylar drawings of the approved USR map to the Town Clerk for recording, accompanied by the recording fees and all other costs billed by the Town relative to the USR. Inaccurate, incomplete or poorly drawn plans shall be rejected. The Town Clerk shall submit the approved USR map to the Boulder County Clerk and Recorder's Office for recording within thirty (30) business days of receipt of the complete information.

C. USR Approval Review Criteria. Because of their unusual or special characteristics, uses shall be evaluated by the Town against the following criteria:

1. The use shall satisfy all applicable provisions of the zoning code, design standards and subdivision regulations.

2. The use shall conform with or further the goals, policies and strategies set forth in the Lyons' Comprehensive Plan.

3. The use shall be compatible with existing surrounding uses and enhance the community's character and conform with the Sustainable Design and Development Principles of the Comprehensive Plan. Compatibility should be evaluated by considering the magnitude, scale and diversity of product types in any given proposal so that no single project or combination of projects detracts from the character of the community.

4. The use shall result in 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.

5. Potential adverse impacts of the use on the neighborhood and the environment shall be adequately mitigated through setbacks, architecture, screen walls, landscaping, site arrangement or other methods.

6. The use avoids placing unreasonable financial burdens on the Town, such as police services and public facilities.

7. The proposed development shall conform with all applicable local, state and federal regulations.

8. The use shall not create more noise, dust, odors, vibrations, lights, traffic or parking than is customary for the zone district in which the USR is proposed, or that such increased impacts can be adequately mitigated.

D. Compatibility Review.

In addition to the other requirements in this Title and the Lyons Municipal Code, conditions may be imposed upon the approval of the Use by Special Review applications to ensure that new development will be compatible with existing neighborhoods, uses, sensitive natural areas, Lyons' small-town character, environment, and quality of life, and the guiding principles and goals of the Lyons Comprehensive Plan. Such conditions may include, but need not be limited to, restrictions on:

- i. Hours of operation and deliveries;
- ii. Location on a site of activities that generate potential adverse impacts on adjacent uses or the Town at large such as traffic, noise, glare, and visual impacts;
- iii. Placement of trash receptacles;
- iv. Location of loading and delivery zones;
- v. Light intensity and hours of full illumination;
- vi. Placement and illumination of outdoor vending machines;
- vii. Location of structures and uses relative to sensitive natural areas and habitat, including but not limited to the protection of the St. Vrain River corridor and associated riparian areas and floodplain;
- viii. Location and number of off-street parking spaces; and
- ix. Location and size of commercial outdoor seating areas and similar active outdoor commercial areas.

Section 2. Section 9-2-4 N.3. CEC Commercial East Corridor District shall be amended to substitute "uses by special review" for the term "conditional uses."

Section 3. Section 9-2-5 Matrix of Permitted and Conditional Uses shall be amended to change the title to Matrix of Permitted, Conditional and Uses by Special Review and all conditional uses in the CEC Commercial East Corridor District shall be amended to substitute "uses by special review" for the term "conditional uses."


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 THIS 7th DAY JANUARY 2013.
INTRODUCED, PASSED, ADOPTED AND ORDERED PUBLISHED THIS 22nd DAY OF
JANUARY, 2013.

TOWN OF LYONS

By: 

Julie VanDomelen, Mayor





Debra K. Anthony, Town Clerk