

**TOWN OF LOCHBUIE
COUNTIES OF WELD AND ADAMS, COLORADO**

ORDINANCE NO. 2020- 650

AN ORDINANCE OF THE BOARD OF TRUSTEES OF THE TOWN OF LOCHBUIE, COLORADO, AMENDING SECTION 1-3-60, ARTICLE VII OF CHAPTER 2 AND SEVERAL SECTIONS OF CHAPTER 19 OF THE TOWN CODE CONCERNING THE PLANNING COMMISSION IN ORDER TO ALLOW FOR ALL DUTIES AND AUTHORITIES OF THE PLANNING COMMISSION TO BE PERFORMED AND EXERCISED BY THE BOARD OF TRUSTEES AND ELIMINATING THE PLANNING COMMISSION REVIEW STEP IN CERTAIN LAND USE APPLICATION REVIEWS AND DECLARING AN EMERGENCY

WHEREAS, the Town of Lochbuie is a statutory municipality, governed by its elected Mayor and Board of Trustees; and

WHEREAS, Sections 31-23-201 *et seq.*, C.R.S., authorizes statutory municipalities to create a planning commission with certain duties and powers, and Section 31-23-227(a), C.R.S., provides that a governing body may by ordinance assume and exercise any power granted to or duty placed upon the municipal planning commission; and

WHEREAS, Article VII of Chapter 2 of the Lochbuie Municipal Code sets forth the Town provisions that govern creation, membership and powers of the Town's Planning Commission; and

WHEREAS, Section 2-7-30 of the Municipal Code provides that the Town's Planning Commission shall consist of 5 citizen members and Section 2-7-40 provides that such citizen members shall hold no other municipal office; and

WHEREAS, the Town Board of Trustees, despite advertising therefor, has historically had and currently has difficulty maintaining a full roster of qualified citizen members of the Town's Planning Commission; and

WHEREAS, the Town Board of Trustees recently appointed members to the Planning Commission who agreed to serve only for the purpose of considering whether elimination of the Planning Commission review as effected by this Ordinance is beneficial to the Town; and

WHEREAS, the Planning Commission considered and recommended to the Board at a public meeting held on January 21, 2020, that it adopt this Ordinance; and

WHEREAS, notice of a public hearing before the Board of Trustees to consider this Ordinance was published at least 15 days before such hearing in a newspaper of general circulation; and

WHEREAS, the Town Board of Trustees desires to amend the Town Code provisions in Section 1-3-60 and Article VII of Chapter 2 of the Lochbuie Municipal Code, such that the Town Board of Trustees, as contemplated by Section 31-23-227(a), C.R.S., shall assume and exercise any power granted to or duty placed upon the municipal planning commission; and

WHEREAS, the Town Board of Trustees desires to amend several sections of Chapter 19 of the Town Code, the Land Development Code, to eliminate the Planning Commission step in land use reviews, and otherwise to assign to the Board of Trustees duties and powers previously assigned to the Planning Commission; and

WHEREAS, the Town Board of Trustees hereby declares that an emergency exists and the immediate effectiveness of this Ordinance is necessary in order for the Town to continue to process land use applications and zoning text amendments necessary to protect public health, safety and welfare.

NOW, THEREFORE, BE IT ORDAINED BY THE BOARD OF TRUSTEES OF THE TOWN OF LOCHBUIE, WELD AND ADAMS COUNTIES, COLORADO, AS FOLLOWS:

Section 1. Amendment of Subsection (b) of Section 1-3-60. Subsection (b) of Section 1-3-60 of the Town Code shall be amended as follows with additions in ALL CAPS and deletions shown as ~~strike-throughs~~

- (b) All legal notices, notices of regular and special meetings of the Board of Trustees, ~~the Planning Commission~~ and any other board, committee, commission, authority or other advisory, policy-making, rule-making or formally constituted body of the Town, shall be posted at the site annually designated by resolution by the Board of Trustees at its first regular meeting of each year.

Section 2. Repeal and replace Article VII of Chapter 2 of the Lochbuie Municipal Code. Article VII of Chapter 2 of the Lochbuie Municipal Code is repealed in its entirety and replaced with the following:

ARTICLE VII - Planning Commission

Sec. 2-7-10. – Assignment of Planning Commission and Zoning Commission Powers and Duties.

- (a) Pursuant to the authority conferred by Section 31-23-227(a), C.R.S., the Town Board of Trustees shall assume and exercise any power granted to or duty placed upon municipal planning commissions by Part 2 of Article 23, Title 31, C.R.S.

- (b) Pursuant to 31-23-306, C.R.S., in acting as the planning commission for the Town, the Town Board of Trustees shall also be the appointed zoning commission for the Town.

Section 3. Amendment of Subsection (a) of Section 19-1-180. Subsection (a) of Section 19-1-180 of the Town Code shall be amended as follows with additions in ALL CAPS and deletions shown as ~~strike-throughs~~

- (a) Text amendments. The ~~Planning Commission~~ or Board of Trustees may initiate text amendments to this Chapter. Private persons may not initiate text amendments. This Section does not affect citizen rights of initiative under the Colorado Constitution.

Section 4. Amendments to Section 19-1-215. Section 19-1-215 of the Town Code shall be amended as follows with additions in ALL CAPS and deletions shown as ~~strike-throughs~~:

Sec. 19-1-215. - Land use review procedures.

- (a) Except as otherwise specified, any property owner may apply for approval of a land use pursuant to this Chapter.
- (b) Complete applications must be submitted at the point of initiation of the land use review process. A separate application is required for each phase of a subdivision or planned unit development review process. The application shall include all of the items identified in Appendix One for the type of approval sought. Incomplete applications will not be scheduled for review until a determination of completeness is issued.
- (c) The number of copies of the required application information are shown on Appendix One. All maps and reports shall bear suitable evidence of the professional qualifications of the person responsible for the preparation of the map or report. Engineering information must be certified by a professional engineer licensed in the State of Colorado. All required documents containing land survey descriptions and topographic maps must be certified by a professional land surveyor licensed in the State of Colorado.
- (d) Except as otherwise set forth in this Chapter for administrative review by the Town Administrator, land use applications are reviewed by ~~both the Planning Commission and~~ the Board of Trustees, as shown on the Review Procedures Chart (Table 1.1), below. ~~The Planning Commission reviews an application and makes a recommendation to the Board of Trustees, unless the Commission is the final review body, all as shown on Table 1.1.~~
- (e) The ~~Planning Commission and~~ Board of Trustees shall consider all the evidence presented by the applicant and other interested parties, comments of review agencies, recommendations of the Town staff, and comments from the public.

- (f) ~~The Planning Commission shall complete its review and make its recommendation to the Board of Trustees no later than thirty (30) days from the date of the initial Commission meeting or hearing. The Planning Commission may recommend approval, conditional approval or denial, indicating any particular conditions for approval, and its reasons for a recommendation of denial.~~
- (f) ~~The Board of Trustees shall act upon the application within forty five (45) days of the date of the Planning Commission action.~~ The Board of Trustees may approve, approve with conditions, or deny an application. Conditions may be imposed on length of permit approval or other aspects of the activity designed to ensure compatibility with the standards of this Chapter and any policies or other adopted standards of the Town.
- (g) For those applications for which the Town Administrator has authority to review and render a decision, the Town Administrator shall approve, approve with conditions, or deny the application within thirty (30) days of determination that the application is complete.
- (h) The Town Administrator, ~~Planning Commission~~ and the Board of Trustees may conduct, or require the applicant to conduct, such investigations, examinations, tests and site evaluations as they deem necessary to verify any information contained in the application. The applicant shall grant the Town permission to enter upon the land for these purposes. The applicant shall pay the Town for the cost of any such investigations, examinations or evaluations.
- (i) For applications for approval of telecommunication facilities, the Town will follow the federally-mandated deadlines for action in Section 19-7-240.
- (j) The following chart describes the review process for all land use approvals:

Section 5. Amendment to Table 1.1 of Section 19-1-215. Table 1.1 of Section 19-1-215 of the Town Code is amended by (a) eliminating the sub-column that is headed “PC” under the column headed “Approval”, and (b) eliminating “PC: Planning Commission” in the Legend to such table.

Section 6. Amendment to subsection (a) of Section 19-1-225. Subsection (a) of Section 19-1-225 of the Town Code is hereby amended by eliminating the words “Planning Commission,” in the last sentence thereof.

Section 7. Amendment of Section 19-1-240. Section 19-1-240 of the Town Code is hereby amended as follows with additions in ALL CAPS and deletions shown as ~~strike throughs~~:

The Board of Trustees, ~~Planning Commission~~, Board of Adjustment, and Town Administrator shall maintain a record of their proceedings in the form of minutes, resolutions, ordinances, and memoranda of decision, as appropriate. The record shall

include comments of the reviewing agencies as well as the recommendation of the Planning Commission for applications finally decided by the Board of Trustees.

Section 8. Amendment to subsection (a)(1) of Section 19-1-245. Subsection (a)(1) of Section 19-1-245 of the Town Code is hereby amended by replacing "Planning Commission" with "Board of Trustees".

Section 9. Amendment to subsection (d) of Section 19-1-250. Subsection (d) of Section 19-1-250 of the Town Code is hereby amended as follows with additions in ALL CAPS and deletions shown as ~~strike-throughs~~:

Alternative creation of vested property rights. Vested PROPERTY rightS are created only by the final approval step prior to issuance of a building permit. If any applicant desires a different approval step to constitute an approval of a site-specific development plan, the applicant must so request at least thirty (30) days prior to the date said approval by the Board of Trustees ~~or Planning Commission, as applicable~~, is to be considered. Failure to do so renders the approval by the Board of Trustees ~~or Planning Commission~~, to not constitute an approval of a "site specific development plan" and no vested property right shall be deemed to have been created by such approval.

Section 10. Amendment to subsection (b) of Section 19-2-165. Subsection (b) of Section 19-2-165 of the Town Code is hereby amended as follows with additions in ALL CAPS and deletions shown as ~~strike-throughs~~:

All park and open space dedication requirements memorialized in the existing approved PUD agreements and plans of development continue to apply to the completion of such existing PUDs (unless amended as permitted below). Such existing requirements, include, but are not limited to, land to be dedicated for public use or the cash payment in lieu of dedication, as well as the requirement that the developer of the planned unit development set aside twenty-five percent (25%) of the gross land area of the subdivision for common open space. Such open space shall not include streets, alleys, bicycle paths, easements or rights-of-way. Such open space shall be subject to ~~Planning Commission and~~ Board of Trustees approval.

Section 11. Amendment to subsections (a)(2), (d), (g) and (g)(1) and (g)(2) of Section 19-2-170. Subsections (a)(2), (d), (g) and (g)(1) and (g)(2) of Section 19-2-170 of the Town Code are hereby amended as follows with additions in ALL CAPS and deletions shown as ~~strike-throughs~~ and with current subsections (g)(3), (g)(4) and (g)(5) being renumbered (g)(2), (g)(3) and (g)(4) and all other subsections of such section unchanged:

Sec. 19-2-170. - Rezoning.

(a) (2) Requests for rezoning initiated by the Board of Trustees, ~~Planning Commission~~ or Town staff will be prepared as a draft ordinance by the Town Attorney and Town staff and shall be reviewed and considered by the ~~Planning Commission and~~ presented to the Board

of Trustees at a public hearing. In this instance, the Town shall be considered to be the applicant.

(d) The ~~Planning Commission and~~ Board of Trustees may consider the following evaluation criteria for the analysis of rezoning applications:

(g) The Board of Trustees may, upon the request of the ~~Planning Commission~~, Town staff or on its own motion, initiate a procedure for rezoning a significant area of the Town, consisting of six (6) or more individual ownership parcels. This rezoning is a legislative, not a quasi-judicial act, and may be accomplished by ordinance without notice to individual landowners. The procedure for legislative rezoning shall be as follows:

(1) Requests for legislative rezoning initiated by the Board of Trustees, ~~Planning Commission~~ or Town staff will be prepared as a draft ordinance by the Town Attorney and Town staff and shall be reviewed and considered by ~~the Planning Commission and presented to~~ the Board of Trustees in a public hearing. In this instance, the Town shall be considered to be the applicant.

~~(2) After conducting its review on the request, the Planning Commission shall transmit its recommendations to the Board of Trustees.~~

Section 12. Amendment to subsections (d) and (d)(5) of Section 19-3-225.

Subsections (d) and (d)(5) of Section 19-3-225 of the Town Code are hereby amended as follows with additions in ALL CAPS and deletions shown as ~~strike throughs~~ and all other subsections of such section unchanged:

(d) The ~~Planning Commission~~ BOARD OF TRUSTEES shall have the authority to require changes in the preliminary submittal which more fully meet the purposes of this Article as set forth in Section 19-3-105. In reviewing preliminary submittals that have been submitted to it, the ~~Planning Commission~~ BOARD OF TRUSTEES shall not only ensure that the intent and requirements of this Article are followed, but it shall also determine the extent to which the goals and policies embodied in the land use plan are met. The preliminary submittal, along with the available comments of the review agencies and all other comments, shall be presented at the public hearing. The burden of proof shall be on the subdivider to show the reasonableness of the plan, the lack of adverse effect and compliance with the following elements of the public health, safety and general welfare:

(5) The subdivision will not cause air pollution. In making this determination, the ~~Planning Commission~~ BOARD OF TRUSTEES shall consider the elevation of land above sea level, land topography, prevailing winds or the absence thereof, local and regional airsheds, increase in sources or quantity

of emission, as well as quality of such, and such other items as are deemed pertinent.

Section 13. Amendment to subsection (b) of Section 19-3-230. Subsection (b) of Section 19-3-230 of the Town Code is hereby amended as follows with additions in ALL CAPS and deletions shown as ~~strike-throughs~~ and all other subsections of such section unchanged:

- (b) Submittal requirements. Not more than twelve (12) months after approval of a preliminary plat application, the applicant shall file a sufficient number of copies, as determined by the Town Administrator, of the final plat application along with any additional information required by ~~the Planning Commission~~ or the Town Board during the preliminary plat process. The applicant shall submit all required materials specified in Appendix One.

Section 14. Amendment to Section 19-3-255. Section 19-3-255 of the Town Code is hereby amended as follows with additions in ALL CAPS and deletions shown as ~~strike-throughs~~ and all other subsections of such section unchanged:

Sec. 19-3-255. - Concurrent review.

The applicant may choose to submit its preliminary and final plat application together, for concurrent review. In that case, all submission materials must accompany the (combined) application, and the Town Administrator, ~~Planning Commission~~ and Board of Trustees shall consider both submittals at combined hearings.

Section 15. Amendment to subsections (c) and (d) of Section 19-4-125. Subsections (c) and (d) of Section 19-4-125 of the Town Code are hereby amended as follows with additions in ALL CAPS and deletions shown as ~~strike-throughs~~ and all other subsections of such section unchanged:

- (c) Where a subdivision abuts or contains an existing or proposed primary street or highway, the Board of Trustees may require, ~~after Planning Commission review,~~ service streets, reverse frontage lots with screen planting in a reservation strip along the rear property line, deep lots with rear service alleys abutting the primary street or highway, or such other treatment as may be necessary for adequate protection of residential properties and for separation of through and local traffic.
- (d) Where a subdivision borders on or contains a railroad right-of-way or limited access highway right-of-way, the Board of Trustees, ~~after Planning Commission review,~~ may require a street approximately parallel to and on each side of such right-of-way, at a distance suitable for the appropriate use of the intervening land. Such distance shall be determined with due regard for the requirements of approach grades and future grade separations.

Section 16. Amendment to subsection (a) of Section 19-4-145. Subsection (a) of Section 19-4-145 of the Town Code is hereby amended as follows with additions in ALL CAPS and deletions shown as ~~strike-throughs~~ and all other subsections of such section unchanged:

- (a) Drainage areas shall be left in a natural state unless approved by the ~~Planning Commission~~ BOARD OF TRUSTEES, and no encroachment shall be made on the natural channel. A plan to prevent water pollution shall be submitted and adhered to wherever any modification of topography is required during construction within one hundred (100) feet of any stream, irrigation ditch or drainage channel

Section 17. Amendment to subsection (i) of Section 19-4-185. Subsection (i) of Section 19-4-185 of the Town Code is hereby amended as follows with additions in ALL CAPS and deletions shown as strike-throughs and all other subsections of such section unchanged:

- (i) Height standards for lighting; nonresidential. Light fixtures shall be mounted on concrete, fiberglass or painted metal poles no higher than twenty-five (25) feet from the ground, unless a greater height, not to exceed the maximum building height in the applicable zone district, is approved by the ~~Planning Commission~~ or Board of Trustees through the site plan review process. Lighting mounted on a building or structure shall not exceed the height of the building or structure. Bollard-type lighting fixtures shall be between three (3) or four (4) feet high.

Section 18. Amendment to first sentence of Section 19-7-120. The first sentence of Section 19-7-120 of the Town Code is hereby amended as follows with additions in ALL CAPS and deletions shown as strike-throughs and all other subsections of such section unchanged:

Sec. 19-7-120. - Criteria for park land dedications.

Except as otherwise required by the ~~Planning Commission~~ at the time of preliminary plat approval or by the Board of Trustees on acceptance of the dedication at final plat, all dedications of land under this Division shall meet the following criteria. These criteria should be considered general guidelines to ensure that dedicated land is suitable for park development.

Section 19. Amendment to subsection (b) of Section 19-7-160. Subsection (b) of Section 19-7-160 of the Town Code is hereby amended as follows with additions in ALL CAPS and deletions shown as strike-throughs and all other subsections of such section unchanged:

- (b) If the reviewing body (Town Administrator, ~~Planning Commission~~, or Board of Trustees, as appropriate) determines that the proposed development makes necessary any such public improvements, a condition shall be inserted in the development approval which shall require the construction of such public improvements by the permittee, and the dedication thereof to the Town. The cost of such improvements shall be borne by the permittee, and the construction thereof shall be at the sole cost, risk and expense of the permittee, subject to the provisions of any applicable Town ordinance, regulation or policy. All such improvements are to be constructed in full compliance with the Town's engineering regulations, design standards and construction specifications as may be adopted from time to time.

Section 20. Amendments to Section 19-7-520. Section 19-7-520 of the Town Code is hereby amended by (a) deleting the defined terms (and definitions of) “Planning Commission” and “Town Planning Commission”, and (b) changing the definition “Preapplication conference” as follows with additions in ALL CAPS and deletions shown as strike:

Preapplication conference means a conference at which a sketch map or maps of a proposed subdivision along with supporting material, prepared and submitted in accordance with the requirements of this Chapter, are presented by the subdivider to ~~the Planning Commission~~, the Town's staff and members of the Board of Trustees who may want to attend, to evaluate feasibility and design characteristics at an early stage in the planning.

Section 22. Severability. If any provision of this Ordinance, or the application of such provision to any person or circumstance, is for any reason held to be invalid, such invalidity shall not affect other provisions or applications of this Ordinance which can be given effect without the invalid provision or application, and to this end the provisions of this Ordinance are declared to be severable. The Board of Trustees hereby declares that it would have passed this Ordinance and each provision thereof, even though any one of the provisions might be declared unconstitutional or invalid. As used in this Section, the term “provision” means and includes any part, division, subdivision, section, subsection, sentence, clause or phrase; the term “application” means and includes an application of an ordinance or any part thereof, whether considered or construed alone or together with another ordinance or ordinances, or part thereof, of the Town.

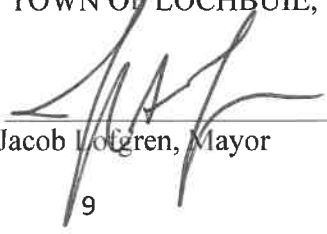
Section 23. Safety Clause. The Board of Trustees hereby finds, determines and declares that this Ordinance is promulgated under the general police power of the Town of Lochbuie, that it is promulgated for the health, safety and welfare of the public, and that this Ordinance is necessary for the preservation of health and safety and for the protection of public convenience and welfare. The Board of Trustees further determines that the Ordinance bears a rational relationship to the proper legislative object sought to be obtained.

Section 24. Repealer. All ordinances or resolutions, or parts thereof, in conflict with this Ordinance are hereby repealed, provided that such repealer shall not repeal the repealer clauses of such ordinance nor revive any ordinance thereby.

Section 25. Emergency; Effective Date. The Board finds that an emergency exists in that the immediate preservation of the public health and safety requires that the regulations adopted herein go into immediate effect. This Ordinance shall take effect immediately upon its adoption as provided by C.R.S. § 31-16-105.

ADOPTED by a vote 3/4th of the members of the Town Board of Trustees, 6 in favor, 1 against and 0 abstaining, AND ORDERED PUBLISHED by title only following public hearing, this 4th day of February, 2020.

TOWN OF LOCHBUIE, COLORADO



Jacob Loggren, Mayor

I hereby certify that the above Ordinance was adopted by the Board of Trustees of the Town of Lochbuie at its meeting of FEBRUARY 4, 2020, and ordered published by title only one time by *The Brighton Blade* newspaper on FEBRUARY 12, 2020.

[SEAL]


Linda Blackston, Town Clerk

