

**ORDINANCE OF THE
CITY OF LONE TREE**

Series of 2023

Ordinance No. 23-06

**AN ORDINANCE AMENDING CERTAIN SECTIONS OF CHAPTER 16 OF THE CITY
OF LONE TREE MUNICIPAL CODE, TITLED ZONING, REGARDING WILDFIRE
MITIGATION AND MISCELLANEOUS CLERICAL
CORRECTIONS TO CHAPTER 16**

**BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF LONE TREE,
COLORADO:**

ARTICLE 1 – AUTHORITY

The City of Lone Tree (the “City”) is a home rule municipality operating under the Lone Tree Home Rule Charter (the “Charter”) adopted on May 5, 1998 and a Municipal Code (the “Code”), codified and adopted on December 7, 2004. Pursuant to its constitutional home rule authority and Article 23, Title 31 of the Colorado Revised Statutes, the City has authority to regulate the development and uses of land within the City for the purposes of promoting public health, safety, convenience, and the general welfare of the community.

ARTICLE 2 – DECLARATIONS OF POLICY AND FINDINGS

- A. The City has adopted zoning regulations codified in Chapter 16 of the Municipal Code, as amended by subsequent ordinances (“Zoning Regulations”).
- B. The City is desirous of implementing wildfire mitigation requirements in furtherance of the public health, safety and welfare of the community and to make other clerical corrections to Chapter 16 (“Zoning Amendments”).
- C. The Zoning Code Update has been published on the City’s website for public comment in advance of the scheduled public hearings before Planning Commission and City Council.
- D. The Planning Commission and the City Council conducted duly noticed public hearings on the Zoning Amendments in accordance with Section 16-1-100 of the Municipal Code.

ARTICLE 3 – SAFETY CLAUSE

The City Council hereby finds, determines, and declares that this Ordinance is promulgated under the general police power of the City, 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.

ARTICLE 4- AMENDMENTS TO CHAPTER 16

Section 1. Subsection (a) of Section 16-26-30, titled *Variance; approval criteria*, is hereby amended as follows, with additions shown in underline and deletions shown in ~~strikethrough~~:

Sec. 16-26-30. Variance; approval criteria.

No variance shall be granted unless each of the following criteria in subsections (a) and (b) are met:

- (a) A variance may be granted only where it can be demonstrated that such:
 - (1) Is sensitive to and compatible with adjoining existing and planned land uses;
 - (2) Will not adversely impact the natural environment through unwarranted or undesirable grading, altering of drainages or vegetation removal;
 - (3) Will not increase or otherwise exacerbate known wildfire risk to the site or to adjacent properties or structures;
 - (4 ~~5~~) Maintains a desirable balance with the overall bulk and massing of building architecture; and
 - (~~5~~ 6) Promotes other community goals as set forth in the City's Comprehensive Plan, such as a well-planned, high-quality and, where appropriate, compact development.

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Section 2. Section 16-27-60, titled *Variances*, is hereby amended as follows, with additions shown in underline and deletions shown in ~~strikethrough~~:

Sec. 16-27-60. Variances.

The City Council is authorized to grant variances to the regulations of this Chapter, the Design Guidelines and Standards, or Sub-Area Plans as part of the SIP process, provided that the variance conforms to the approval criteria in Section 16-26-~~70~~ 30 of this Chapter.

Section 3. Subsection 20, concerning the list of requirements of the SIP, of Section 16-27-80, titled *General submittal requirements*, is hereby amended as follows, with additions shown in underline and deletions shown in ~~strikethrough~~:

Sec. 16-27-80. General submittal requirements.

(20) ~~Sites located in a wildfire risk area, as determined by the Regional Hazard Mitigation Plan, may be required to submit a wildfire mitigation plan.~~ All development sites adjacent to open space and/or undeveloped land shall submit a wildfire risk assessment and wildfire mitigation plan. Wildfire risk assessments and wildfire mitigation plans shall be prepared by a Wildfire Mitigation Specialist.

(i) Wildfire risk assessments shall provide an appraisal of the site (to include the land and any existing structures or improvements) which assesses the likelihood of burning (burn probability) and the distribution of wildfire intensity in the event a burn occurs. Such an appraisal shall include an assessment of the impacts of fuel (to include vegetation and existing structures/development), historic weather conditions and climactic patterns, and topography on burn probability and wildfire distribution. The assessment shall also analyze the consequences to human life, health, property and the environment in the event a burn occurs on the site.

(ii) Wildfire mitigation plans shall identify measures designed to minimize the destructive effects of a wildfire to a development site and the surrounding area. The plan shall address site design and function, use restrictions, building and furnishing/amenity materials to improve fire resistance, building and furnishing/amenity locations to reduce ignition risk, landscaping treatments, access and circulation, modifications to and maintenance of the Wildland Urban Interface (WUI) surrounding the site, and any additional design and use components deemed necessary by a Wildfire Mitigation Specialist, or that may be requested by the City.

Section 4. Subsection 3(d) of Section 16-28-110, titled *Minimum requirements for off-street loading and delivery; general provisions*, is hereby amended as follows, with additions shown in underline and deletions shown in ~~strikethrough~~:

Sec. 16-28-110. Minimum requirements for off-street loading and delivery; general provisions.

(3) Loading and delivery spaces shall be independently accessible and shall be designed to ensure delivery vehicles can maneuver on-site and shall be located to prevent delivery vehicles from:

* * *

d. Obstructing sight triangles, public rights-of-way, emergency access lanes, or fire exits, or evacuation routes;

* * *

Section 5. Section 2(d) of Section 16-28-130, titled *Snow storage*, is hereby amended as follows, with additions shown in underline and deletions shown in ~~strikethrough~~:

(2) Snow storage areas shall not be:

* * *

d. Located within emergency access lanes, fire exits, evacuation routes, or in any way that may impede emergency response and/or evacuation functions.

Section 6. Article XXXVI, titled *Definitions*, is hereby amended as follows, with additions shown in underline and deletions shown in ~~strikethrough~~:

Burn Probability Risk Level (Risk Level or Risk Area) means the annual probability of any location burning due to wildfire.

Combustible material means solid natural or synthetic materials that can be ignited and support combustion; materials include, but are not limited to, wood and lumber, paper and cardboard, fabric and fibers, and plastic and composite materials.

Fire Code Official means the Fire Marshal of the South Metro Fire Rescue Fire Protection District, or his or her designee.

Hazardous material means a chemical or substance that is classified as a physical hazard material or a health hazard material, whether the chemical or substance is in a usable or waste condition.

High occupancy structure means any structure designed to accommodate an assembly of four hundred ninety-nine (499) occupants or more, as confirmed via the structure's certificate of occupancy.

Ladder fuels means combustible materials (both live and dead) that provide a path for a surface fire to climb up into the crowns (tops) of shrubs or trees. Standing dead trees with many limbs near the ground are an example of ladder fuels.

Portable Outdoor Fireplace means a portable, outdoor, solid-fuel-burning, liquid-fuel-burning, or gas-fuel-burning fireplace that may be constructed of steel, concrete, clay, or other noncombustible material. A portable outdoor fireplace may be open in design, or may be equipped with a small hearth opening and a short chimney or chimney opening in the top.

Recreational Fire means an outdoor fire burning material other than rubbish where the fuel being burned is not contained in an incinerator, outdoor fireplace, portable outdoor fireplace, barbeque grill, or barbeque pit and has a total fuel area of 3 feet (914 mm) or less in diameter and 2 feet (610 mm) or less in height for pleasure, religious, ceremonial, cooking, warmth, or similar purposes.

Risk Area or Risk Level see Burn Probability Risk Level.

Wildfire means an uncontrolled fire spreading through vegetative fuels, exposing and possibly consuming structures.

Wildfire mitigation plan means a plan prepared in response to a wildfire risk assessment. Wildfire mitigation plans apply to specific developments and/or planning areas and identify measures designed to minimize the destructive effects a wildfire may have on a property or neighborhood/planning area. Measures may include, but are not limited to, modifications to and/or maintenance of the Wildland-Urban Interface (WUI) surrounding a property or neighborhood/planning area; modifications to landscaping, site amenities and/or the location and/or construction of structures to improve fire-resistance; and/or use restrictions.

Wildfire mitigation specialist means a person certified or trained in wildfire mitigation measures, planning and preparedness strategies, and wildland fire science, or a person demonstrating competence and relevant experience or training in wildfire mitigation measures.

Wildfire risk assessment (risk assessment) means an appraisal of land and/or property which assesses the likelihood of burning (burn probability) and the distribution of wildfire intensity in the event a burn occurs. Such an appraisal includes an assessment of the impacts of fuel (to include vegetation and existing structures/development), historic weather conditions and climactic patterns, and topography on burn probability and wildfire distribution; assessments also analyze the consequences to human life, health, property and the environment in the event a burn occurs.

Wildland urban interface area (WUI) means that geographical area where structures and other human development meets or intermingles with wildland or vegetative fuels.

ARTICLE 5- CODIFICATION CORRECTIONS

The codifier of the City's Municipal Code is authorized to make such typographical, numerical or formatting changes as may be necessary to incorporate the provisions of this Ordinance within the Lone Tree Municipal Code.

ARTICLE 6 – SEVERABILITY

If any part or provision of this Ordinance, or its application to any person or circumstance, is adjudged to be invalid or unenforceable, the invalidity or unenforceability of such part, provision, or application shall not affect any of the remaining parts, provisions or applications of this Ordinance which can be given effect without the invalid provision, part or application, and to this end the provisions and parts of this Ordinance are declared to be severable.

ARTICLE 7 – CAUSES OF ACTION RETAINED

Nothing in this Ordinance hereby adopted shall be construed to affect any suit or proceeding pending in any court, or any rights acquired, or liability incurred, or any cause or causes of action acquired or existing, under any act or ordinance hereby repealed; nor shall any just or legal right or remedy of any character be lost, impaired or affected by this Ordinance.

ARTICLE 8 - EFFECTIVE DATE

This Ordinance shall take effect thirty (30) days following publication after the first reading if no changes are made on second reading, or twenty (20) days after publication following second reading if changes are made upon second reading.

INTRODUCED, READ AND ORDERED PUBLISHED ON JUNE 20, 2023.

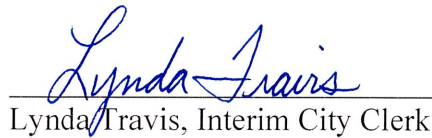
PUBLISHED IN THE DOUGLAS COUNTY NEWS-PRESS ON JUNE 29, 2023, LEGAL NOTICE 945618.

APPROVED AND ADOPTED WITH NO CHANGES ON SECOND READING ON JULY 18, 2023, TO BECOME EFFECTIVE ON JULY 29, 2023.

CITY OF LONE TREE:


Jacqueline A. Millet, Mayor

ATTEST:


Lynda Travis, Interim City Clerk

