

**ORDINANCE OF THE
CITY OF LONE TREE**

Series of 2023

Ordinance No. 23-07

**AN ORDINANCE AMENDING CERTAIN SECTIONS OF CHAPTER 17 OF THE CITY
OF LONE TREE MUNICIPAL CODE, TITLED SUBDIVISIONS, REGARDING
WILDFIRE MITIGATION AND MISCELLANEOUS CLERICAL CORRECTIONS TO
CHAPTER 17**

**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 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 Council previously has adopted regulations and standards to address the subdivision of land and the procedures and standards associated with subdivision to further the public health, safety and welfare of the community (“Regulations”). These Regulations are codified in Chapter 17, titled *Subdivisions*, of the Municipal Code.
- B. The City desires to amend certain provisions in the Regulations in furtherance of the public health, safety and welfare to address wildfire mitigation measures and requirements and to make other clerical corrections to Chapter 17.
- C. The Planning Commission and the City Council conducted duly noticed public hearings to consider the amendments to the Regulations in accordance with Section 17-1-120 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 17

Section 1. Section 17-1-90, titled *Definitions*, is hereby amended as follows, with additions shown in underline and deletions shown in ~~strikethrough~~:

Covenants (also private covenants) means a private agreement(s) between property owners that binds and restricts the land in the hands of the present and subsequent purchasers and which sets down certain rules and regulations governing the development of said properties.

Defensible space means an area either natural or manmade, where material capable of allowing a fire to spread unchecked has been treated, cleared or modified to slow the rate and intensity of an advancing wildfire and to create an area for fire suppression operations to occur.

Design review committee (also design review board) means a committee established to determine if development plans are consistent with applicable, binding development regulations and/or plans that may address components to include, but not be limited to, building materials, architectural design and site and landscaping standards.

~~*Development* means the construction on land of improvements for residential, institutional, commercial, industrial, transportation, public flood control and recreational and similar uses, in contrast to use of the land for growing crops, grazing of farm animals and other agricultural pursuits. The term also applies to vacant land which has been or is being prepared for development by steps such as installation of water and sewer lines, construction of access streets and construction of light rail tracks.~~

Development means any change to improved or unimproved real estate, including but not limited to buildings, structures, mining, dredging, filling, grading, paving, excavation or drilling operations or any alteration to land, buildings or structures which falls under the purview of this Chapter.

Improvement means the construction or installation of required infrastructure, utility services, lighting, landscaping or other appurtenances intended to serve and/or support a Site Improvement Plan or development project. Improvements may be public in nature (e.g. installation of a turn lane in an existing right-of-way) or private (e.g. installation of landscaping adjacent to a public right-of-way).

Structure means anything constructed or erected in, under, over or upon the land, or attached to something in, under, over or upon the land, but excluding off-street parking areas, fences and walls, and electrical distribution, natural gas or water and sewer lines.

- a. Permanent means that which is built in such a manner that it would reasonably be expected to last and remain useful for more than five (5) years.
- b. Temporary means a structure that is not a permanent structure, or one that is constructed for a special purpose in contemplation of removal upon accomplishment of such purpose. Temporary shall mean a period of six (6) months.

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.

* * *

Section 2. Section 17-3-70, titled *Development Reports*, is hereby amended to add a new subsection (7) as follows, with additions shown in underline and deletions shown in ~~strikethrough~~:

* * *

(7) 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 subdivision 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, utility location to reduce risk of ignition, water supply adequacy to support fire suppression, modifications to and maintenance of the Wildland Urban Interface (WUI) surrounding the site, and any additional design and use components deemed necessary by the referring Wildfire Mitigation Specialist, or that may be requested by the City.

Section 3. Section 17-4-60, titled *General submittal requirements*, is hereby amended to amend subsections (a)(5) and (a)(6) as follows, with additions shown in underline and deletions shown in ~~strikethrough~~:

* * *

(5) One (1) paper copy of the final plat exhibit (per Section ~~17-4-60~~ 17-4-70 below).

(6) Development reports as required by the City (per Section ~~17-4-70~~ 17-4-80 below).

Section 4. Section 17-4-70, titled *Final plat exhibit*, is hereby amended to amend subsection (14) and to add a new subsection (17), respectively, as follows, with additions shown in underline and deletions shown in ~~strikethrough~~:

* * *

(14) Plat notes shall adequately explain information pertinent to the execution and maintenance of the subdivision, including the ownership of tracts and retaining walls (or other soil stabilization infrastructure), reference to the subdivision improvements agreement, conservation easements, maintenance responsibility for private roads, landscaping and open spaces, wildfire mitigation, retaining walls (or other soil stabilization infrastructure), easements, and tracts.

(17) Plats including land within moderate, high and/or highest risk wildfire risk areas, as identified by the Colorado State Forest Service, or as may be identified by the City, or by a project's wildfire risk assessment, shall include the following plat note:

- a. Most land in the state of Colorado carries some amount of risk due to wildfire. Wildfire risk can vary from location to location within the property and from time to time. Information concerning wildfire risk is publicly available through various federal, state, and local governmental agencies, including the Colorado State Forest Service. All present and future owners and occupants are solely responsible for evaluating and determining whether the wildfire risks, if any, are acceptable to them.

Section 5. Section 17-4-80, titled *Final development reports and plans*, is hereby amended to add three new subsections as follows, with additions shown in underline and deletions shown in ~~strikethrough~~:

* * *

- (10) When applicable, as may be indicated by a sub-area plan or other binding master plan, the applicant shall submit design review committee design standards and guidelines for review to ensure consistency with applicable regulations and plans. For example, if an approved and applicable sub-area plan requires the creation of a Design Review Committee to review developments plans within a specified planning area, the applicant shall submit design review committee design standards and guidelines for City review.
- (11) When the approved preliminary plan for a development includes variations and/or additional specifications binding on the development, the applicant shall submit private covenants to the City for review prior to recordation to ensure consistency with the approved preliminary plan obligations. Example: if an approved preliminary plan specifies that waste receptacles shall be located within garages, the applicant shall include such an obligation in the development's private covenants and submit such covenants to the City for review.
- (12) Where applicable, and as indicated by a development's wildfire risk assessment and/or as prescribed by a development's wildfire mitigation plan, private covenants and design review committee design standards shall identify all use, design, construction and/or maintenance obligations and/or restrictions that shall be binding on a property.

Section 6. Section 17-5-60, titled *Final plat exhibit*, is hereby amended to amend subsection (14) and to add a new subsection (17) as follows, with additions shown in underline and deletions shown in ~~strikethrough~~:

* * *

- (14) Plat notes shall adequately explain information pertinent to the execution and maintenance of the subdivision, including the ownership of tracts and retaining walls (or other soil stabilization infrastructure), reference to the subdivision improvements agreement, conservation easements, maintenance responsibility for private roads, landscaping and open spaces, wildfire mitigation, retaining walls (or other soil stabilization infrastructure), and easements and tracts. The developer shall provide for the construction, at no cost to the City, all utilities and other public infrastructure, as required by the Council, and provide security needed to ensure such improvements, as required by the Council.

(17) Plats within moderate, high and/or highest risk wildfire risk areas, as identified by the Colorado State Forest Service, or as may be identified by the City, or by a site's or project's wildfire risk assessment, shall include the following plat note:

- a. Most land in the state of Colorado carries some amount of risk due to wildfire. Wildfire risk can vary from location to location within the property and from time to time, information concerning wildfire risk is publicly available through various federal, state, and local governmental agencies, including the Colorado State Forest Service. All present and future owners and occupants are solely responsible for evaluating and determining whether the wildfire risks, if any, are acceptable to them.

Section 7. Section 17-5-70, titled *Final development reports and plans*, is hereby amended to add new subsections as follows, with additions shown in underline and deletions shown in ~~strikethrough~~:

* * *

(14) All plats containing land adjacent to undeveloped land and/or platted to contain open space and/or undeveloped lots or tracts 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 subdivision 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, utility location to reduce risk of ignition, water supply adequacy to support fire suppression, modifications to and maintenance of the WUI surrounding the site, and any additional design and use components deemed necessary by the referring Wildfire Mitigation Specialist, or that may be requested by the City.

(15) When applicable, as may be indicated by a sub-area plan or other binding master plan, the applicant shall submit design review committee design standards and guidelines for review to ensure consistency with existing regulations and plans.

- (16) When the approved preliminary plan for a development includes variations and/or additional specifications binding on the development, the applicant shall submit private covenants to the City for review prior to recordation to ensure consistency with the approved preliminary plan obligations. Example: if an approved preliminary plan specifies that waste receptacles shall be located within garages, the applicant shall include such an obligation in the development's private covenants and submit such covenants to the City for review.
- (17) When applicable, and as indicated by a development's wildfire risk assessment and/or as prescribed by a development's wildfire mitigation plan, private covenants and design review committee design standards shall identify all use, design, construction and/or maintenance obligations and/or restrictions that shall be binding on a property.

Section 8. Section 17-6-60, titled *Condominium plat exhibit*, is hereby amended to add a new subsection (15) as follows, with additions shown in underline and deletions shown in ~~strikethrough~~:

* * *

- (15) Condominium plats within moderate, high, and/or highest risk wildfire risk areas, as identified by the Colorado State Forest Service, or as may be identified by the City, or by a site's or project's wildfire risk assessment, shall include the following plat note:
 - a. Most land in the state of Colorado carries some amount of risk due to wildfire. Wildfire risk can vary from location to location within the property and from time to time, information concerning wildfire risk is publicly available through various federal, state, and local governmental agencies, including the Colorado State Forest Service. All present and future owners and occupants are solely responsible for evaluating and determining whether the wildfire risks, if any, are acceptable to them.

Section 9. Section 17-7-20, titled *Approval standards*, is hereby amended to add a new subsection (4) as follows, with additions shown in underline and deletions shown in ~~strikethrough~~:

* * *

- (4) The replat/vacation or correction will not increase or otherwise exacerbate known wildfire risk to the subdivision, improvements and/or structures within the subdivision, or to adjacent properties or structures.

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 NO. 945617.

APPROVED AND ADOPTED WITH CHANGES ON SECOND READING THIS 18TH DAY OF JULY 2023 TO BECOME EFFECTIVE ON AUGUST 16, 2023, AS PUBLISHED IN THE DOUGLAS COUNTY NEWS PRESS ON JULY 27, 2023. LEGAL NOTICE NO.945757.

CITY OF LONE TREE:

Jacqueline A. Millet
Jacqueline A. Millet, Mayor

ATTEST:

Lynda Travis
Lynda Travis, Deputy City Clerk

