

**TOWN OF LYONS,
COLORADO**

ORDINANCE NO. 1020

**AN ORDINANCE OF THE BOARD OF TRUSTEES OF THE TOWN OF LYONS
AMENDING CERTAIN PROVISIONS OF DIVISION 3 OF CHAPTER 15 OF THE
MUNICIPAL CODE, SPECIFICALLY REGULATIONS PERTAINING TO
ANNEXATIONS TO BE APPROVED BY VOTERS**

WHEREAS, pursuant to the Municipal Annexation Act of 1965, C.R.S. §§ 31-12-101, *et. seq.*, the Town of Lyons possesses the authority to annex properties and to establish procedures governing annexations; and

WHEREAS, by Ordinance No. 705 adopted in 2000, the Lyons Board of Trustees supplemented the procedural requirements of the Municipal Annexation Act of 1965 to require voter approval of certain annexations; and

WHEREAS, by Ordinance No. 891 adopted in 2011, the Lyons Board of Trustees amended the Town's annexation regulations to clarify and simplify the application requirements so as to encourage annexations while promoting sustainable agricultural practices in and around the Town in accordance with state law; and

WHEREAS, the Board of Trustees desires to further amend the Town's annexation regulations as they relate to the need for an election to approve certain types of annexations, and specifically, to amend Section 15-1-340 of the Lyons Municipal Code ("LMC") to create a specific exemption applicable to the Eastern Corridor subarea only; and

WHEREAS, the Town's Board of Trustees have conducted a public hearing on the proposed amendment following proper notice to the public; and

WHEREAS, the Board of Trustees, after considering all comments provided at the public hearing, finds that this amendment to the Lyons Municipal Code is in compliance with and in furtherance of the Lyons Comprehensive Plan and LPPA Master Plan; and

WHEREAS, the Lyons Comprehensive Plan and LPPA Master Plan support development in the Eastern Corridor subarea over development within the Apple Valley or South St. Vrain subareas; and

WHEREAS, the voter approval of certain annexations, commonly referred to as the "five-acre rule" was adopted by the Board of Trustees in 2000 by ordinance, and therefore may be amended by subsequent ordinance; and

WHEREAS, the five-acre rule, as adopted in 2000, may pose a disincentive to the planned and orderly growth of the Town of Lyons and may frustrate or impede the economic development goals of the community; and

WHEREAS, the Board of Trustees finds that adoption of this amendment to the LMC will promote the health, safety and general welfare of the Lyons community; and

WHEREAS, annexation is a discretionary act, and even if a proposed annexation is exempt from the requirement of a vote under Section 15-1-340 of the LMC, the Board of Trustees is not obligated to approve a proposed annexation and will exercise its sole discretion in reviewing and considering proposed annexations as set forth in Section 15-1-310 of the LMC and in conformance with state law; and

WHEREAS, even if a proposed annexation is exempt from the vote requirement, nothing requires the Board of Trustees to approve a specific annexation request or from adding additional conditions on a specific annexation request; and

WHEREAS, the Board of Trustees desires to amend the five-acre rule to further the Town's affordable housing goals; 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 proposal. 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 proposal.

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

Section 1. Section 15-1-340 of the Lyons Municipal Code is hereby repealed and re-enacted to read in full as follows:

Sec. 15-1-340. - Annexations to be approved by voters.

(a) No ordinance annexing property into the Town shall be effective unless and until the ordinance is referred to the registered electors of the Town at a regular or special election and such ordinance is approved by a majority of the registered electors voting thereon.

(b) The following annexations shall be exempt from this Section:

- (1) Any annexation of property owned by the Town.
 - (2) Any annexation of property smaller than five (5) acres in size; provided that simultaneous or serial annexations of two (2) or more properties that together comprise a parcel of five (5) or more acres in size shall not be exempt from this Section.
 - (3) Any annexation of property smaller than ten (10) acres in size that is located in the Eastern Corridor subarea as defined in the adopted Lyons Primary Planning Area Master Plan, and as amended; provided that simultaneous or serial annexations of two (2) or more properties that together comprise a parcel of ten (10) or more acres in size shall not be exempt from this Section.
- (c) The applicant for an annexation that is subject to an election pursuant to this Section shall pay the reasonable costs and expenses incurred by the Town in the calling, preparation and conduct of the election. At the time of submission of a petition for an annexation that is subject to an election in accordance with this Section, the applicant shall deliver to the Town an adequate monetary deposit, in an amount determined by the Town Clerk, to secure the applicant's full payment of the Town's costs and expenses associated with the election. Where the ballot includes other ballot issues or questions, the applicant for annexation shall pay a share of the election costs proportionate to the number of ballot issues or questions. In the event that funds deposited by the applicant exceed the Town's actual costs and expenses of the election, the Town shall promptly refund any remaining deposited funds to the applicant following a final accounting by the Town Clerk of the costs and expenses of the election.
- (d) All elections held pursuant to this Section shall be conducted in accordance with the applicable statutory provisions governing the Board of Trustees' submission of referred municipal ordinances to the registered electors of the Town. The date of any election required by this Section shall be subject to the discretion of the Board of Trustees.

Section 2. Severability. Should any one or more sections or provisions of this Ordinance enacted hereby be judicially determined invalid or unenforceable, such judgment shall not affect, impair or invalidate the remaining provisions of this Ordinance, the intention being that the various sections and provisions are severable.

Section 3. Repeal. Any and all ordinances, resolutions, or codes or parts thereof in conflict or inconsistent herewith are, to the extent of such conflict or

inconsistency, hereby repealed; provided, however, that the repeal of any such ordinance, resolution, or code or part thereof shall not revive any other section or part of any ordinance, resolution, or code provision heretofore repealed or superseded and this repeal shall not affect or prevent the prosecution or punishment of any person for any act done or committed in violation of any ordinance or code hereby repealed prior to the taking effect of this ordinance.

Section 4. Effective Date. Except as otherwise expressly provided herein, the provisions of this Ordinance shall become effective thirty (30) days after publication following final passage in accordance with Section 2-2-160 of the Lyons Municipal Code.

INTRODUCED AND PASSED ON FIRST READING THIS 21st DAY OF AUGUST, 2017.

INTRODUCED, AMENDED, PASSED, ADOPTED AND ORDERED PUBLISHED THIS 4th DAY OF DECEMBER, 2017.

TOWN OF LYONS, COLORADO



Connie Sullivan, Mayor

ATTEST:


Debra K. Anthony, Town Clerk