

DRAFT EDITS BY J. Jacobs July 16 2024
LYONS PLANNING AREA
COMPREHENSIVE DEVELOPMENT PLAN
INTERGOVERNMENTAL AGREEMENT

This Intergovernmental Agreement (“Agreement”) is entered into by the Town of Lyons, a Colorado statutory municipal corporation (“Lyons” or the “Town”), and Boulder County, a body politic and corporate of the State of Colorado (the “County”) (individually a “Party” and collectively, the “Parties”) as of the date of the latest signature below.

RECITALS

- A. The Parties are authorized by §§ 29-20-101 et seq., C.R.S., and encouraged by Colorado Constitution, article XIV, section 18(2), to enter into intergovernmental agreements to plan for and regulate land uses, in order to minimize the negative impacts on the surrounding areas and protect the environment, and to cooperate and contract with each other for the purposes of planning and regulating the development of land by means of a “comprehensive development plan;” and
- B. In December 2002, the Parties entered into a Comprehensive Development Plan Intergovernmental Agreement (the “Original IGA”) for a period of ten years which, among other things, defined the Lyons Planning Area as the area the Town may annex and develop. The Original IGA was amended in 2005 and again in 2011. The parties entered into a new Comprehensive Development Plan Intergovernmental Agreement (the “2012 IGA”) in 2012, which replaced the Original IGA. That term of the 2012 IGA has been extended several times and ends in November 2024.
- C. The Parties agree that an intergovernmental agreement to replace the 2012 IGA, providing a comprehensive development plan that recognizes both the urbanization potential of certain lands in the County near Lyons and the rural character of adjacent lands in the County, along with restrictions on development or purchase of open space lands in those areas as defined in this Agreement, is in the best interests of the residents of each of the Parties for the preservation of the character and potential of those areas; and
- D. The Parties agree that designating portions of Boulder County to remain in Boulder County’s jurisdiction and in a rural character as defined in this Agreement is in the economic and civic interests of their residents and meets the goals of the Boulder County Comprehensive Plan and the Lyons Comprehensive Plan; and
- E. Consistent with municipal annexation, utility service, and land use laws of the State of Colorado, as well as with the Comprehensive Plans of both Parties, this Agreement is intended to (i) encourage the natural and well-ordered development of Lyons and the County; (ii) promote planned and orderly growth in the affected areas and prevent sprawl by encouraging clustered development where appropriate; and (iii) promote

the economic viability of the Parties, including building a thriving year-round economy in Lyons through encouraging development of commercial, mixed-use, and workforce housing; and

- F. The Parties have previously entered into the CEMEX Area Comprehensive Development Plan Intergovernmental Agreement (“CEMEX Area IGA”), a complementary IGA that addresses development and preservation issues for the portions of the Lyons Comprehensive Plan as adopted in 2023 (“LCP”) area not contained within this IGA. For the purposes of this IGA, LPA refers to all portions of the overall Lyons Planning Area that are not separately addressed in the CEMEX Area IGA. This IGA and the CEMEX Area IGA together represent a shared vision of appropriate development for the areas covered by the IGAs for their respective durations; and
- G. The Parties have each held duly noticed public hearings for consideration of this Agreement and the comprehensive development plan terms it contains for the subject lands as defined in the Agreement and depicted on the map attached as Exhibit A; and
- H. The Parties are authorized to perform the functions described in this Agreement by article 20 of title 29, part 1 of article 28 of title 30, part 1 of article 12 of title 31, and parts 2 and 3 of article 23 of title 31, C.R.S.; and
- I. The Parties desire to enter into this Agreement to plan for land uses in a mutually binding and enforceable comprehensive development plan.

DEFINITIONS

The Town. The area within the current municipal boundaries of the Town of Lyons, as depicted on Exhibit A.

Potential Annexation Area or PAA. The lands surrounding the Town, depicted on Exhibit A, within which the Town may annex parcels and within which the County agrees not to purchase lands for open space preservation, subject to the terms of this Agreement.

Rural Preservation Area or RPA. The lands outside the PAA in unincorporated Boulder County, depicted on Exhibit A, where Lyons may not annex parcels and where the Town or the County may purchase lands for open space preservation, subject to the terms of this Agreement.

Estate Residential District/Very Low Density. One unit per gross acre (minimum and maximum).

Low Density. Six units per gross acre (minimum and maximum).

Medium Density. Twelve units per gross acre (six minimum and twelve maximum).

High Density. Sixteen units per acre gross (twelve minimum and sixteen maximum).

AGREEMENT

1. Lyons Planning Area (LPA) Comprehensive Development Plan

This Agreement, including Exhibit A, is adopted to set forth the Lyons Planning Area (“LPA”) Comprehensive Development Plan as that term is used in § 29-20-105(2)(a), C.R.S. The LPA constitutes the Town, the PAA and the RPA. The Agreement governs the Parties’ use of lands and procedures within the LPA.

2. Potential Annexation Area (PAA).

- (a) The PAA shown on Exhibit A is in the County’s regulatory jurisdiction but may be annexed to Lyons in the future. With its approval and adoption of this Agreement, the Board of County Commissioners for Boulder County determines that a community of interest exists between lands in the PAA and Lyons.
- (b) Lyons agrees that it may annex only lands within the PAA, as depicted on Exhibit A. Lyons agrees that it will not annex lands outside the PAA.
- (c) The County agrees that it will not make any open space acquisitions inside the PAA, except for lands subject to existing or prior approval for such acquisitions from Lyons.
- (d) Areas designated “No Development Area” on Exhibit A have been determined to be inappropriate for development. Therefore, structures and/or development are prohibited in these areas, with the exception of the following:
 - a. The No Development Area on the Boone Parcel (Parcel 120307000058) and the Walters Parcel (Parcel # 120307000013) shall have no development except for utility facilities, access, emergency access, passive recreation, and structures associated with those uses.
 - b. The No Development Area on the Loukonen parcel (Parcel # 120320000038), may be utilized to provide vehicular and utility access to Area B shown on Exhibit A.
 - c. The Loukonen Area C No Development Area (a portion of Parcel # 120320000038 as shown on Exhibit A) shall have no development except for RV/tent camping, and associated access and parking consistent with the regulations of the Town or the County.
- (e) When parcels are annexed which contain No Development Areas, the Town, prior to final plat recordation or other final approval for any development on those parcels, must ensure that the property owners grant to the County and to the Town a Conservation Easement pursuant to Article 30.5 of Title 38 of the Colorado Revised Statutes, in a form acceptable to both the County and the Town, which prohibits structures and development in the No Development Area of the properties as provided above.

Commented [JJ1]: I recommend a re-review of the no development area of the Boone Parcel to ensure that the size of the development area is appropriate and truly below the 5 acre size that would trigger a vote. If it is an accurate representation, then I think it should stay as is; if there is a reasonable way to make it larger than 5 acres, the map should be revised accordingly.

- (f) Lyons agrees that the PAA cannot expand within Boulder County.
- (g) Any property currently inside the Town that becomes disconnected will be treated as PAA.

3. Rural Preservation Area (RPA).

- (a) The RPA will remain in the County's regulatory jurisdiction for the term of this Agreement.
- (b) With its approval and adoption of this Agreement, Lyons determines that there is no community of interest between the RPA and Lyons during the term of this Agreement, and Lyons will not annex lands in the RPA.
- (c) Lyons affirms that it is not currently pursuing annexations within the RPA.

4. Lands outside the Lyons Planning Area (LPA).

Excepting the area covered by the CEMEX Area IGA, which is addressed in a separate IGA, the Parties agree that lands outside the LPA will remain in the County's regulatory jurisdiction. Lands outside the LPA may be acquired by either Party for open space preservation.

5. Special Provisions.

- (a) Lyons agrees that it will only annex lands in the PAA over which the County owns a conservation easement after the County releases the conservation easement or if the easement terminates upon annexation by its terms. The Parties intend this Agreement be the sole jointly adopted comprehensive development plan related to County conservation easement lands in the PAA.
- (b) The County will refer in writing any discretionary development applications within one mile of Town limits, and any amendment to the Boulder County Comprehensive Plan affecting such parcels, to the Town. Said referrals will be sent according to the timing set forth in the Boulder County Land Use Code.
- (c) The Town shall refer in writing to the County any application for annexation and any proposed amendments to the Lyons Comprehensive Plan.
- (d) If applications for annexation of the following parcels, as shown in Exhibit A, for the purpose of creating new residential developments on such parcels are submitted for consideration, said parcels may only be annexed by the Town if the development proposal expands the supply of affordable and workforce housing, as appropriate for each parcel, in accordance with the Lyons Comprehensive Plan and if the following stated affordability and density requirements are met by the proposed residential development on each parcel:

Commented [JJ2]: The intent here is to require some appropriate level of workforce and affordable housing in any new residential proposal without getting overly specific on any one parcel as well as to ensure that any new residential development includes more than one dwelling per parcel.

a. The Boone Parcel (Parcel # 120307000058).

- ~~i. At least 25% of the total number of units constructed on site must qualify as Middle Tier Residential (60% -120% AMI); and~~
- ~~ii. At least 25% of the total number of units constructed on site must qualify as Affordable Residential (30-60% AMI) and must be permanently affordable rentals or deed restricted for sale units.~~
- ~~iii.i. Low or Medium Estate Residential District/ Very Low Density is required.~~
~~prohibited.~~

b. The Carpenter Parcel (Parcel # 120307000031).

- ~~At least 25% of the total number of units constructed on site must qualify as Middle Tier Residential (60% -120% AMI); and~~
- ~~i. At least 25% of the total number of units constructed on site must qualify as Affordable Residential (30-60% AMI) and must be permanently affordable rentals or deed restricted for sale units.~~
- ~~ii.i. Estate Residential District/ Very Low Low or Medium Density is required.~~
~~prohibited.~~

c. The Connor Parcel (Parcel # 120318100001).

- ~~i. At least 30% of the total number of units constructed on site must qualify as Middle Tier Residential (60% -120% AMI); and~~
- ~~ii. At least 30% of the total number of units constructed on site must qualify as Affordable Residential (30-60% AMI) and must be permanently affordable rentals or deed restricted for sale units.~~
- ~~iii.i. Estate Residential District/ Very Low Low or Medium Density is required.~~
~~prohibited.~~

d. The Hawkins Parcel (Parcel # 120320200001).

- ~~i. At least 50% of the total number of units constructed on site must qualify as Middle Tier Residential (60% -120% AMI); and~~
- ~~ii. At least 25% of the total number of units constructed on site must qualify as Affordable Residential (30-60% AMI) and must be permanently affordable rentals or deed restricted for sale units.~~

~~iii.i.~~ Low. Medium or High Density is required.

Commented [JJ3]: This will exclude E and EC residential districts, but still allow more flexibility in density.

e. The Harkalis Parcel (Parcel # 120319101001).

~~i. At least 100% of the total number of units constructed on site must qualify as Affordable Residential (30-60% AMI) and must be permanently affordable rentals or deed restricted for sale units.~~

~~ii.i.~~ Low. Medium or High Density is required.

f. The Loukonen Area A (a portion of Parcel # 120320000038 as shown on Exhibit A).

~~At least 75% of the total number of units constructed on site must qualify as Middle Tier Residential (60%-120% AMI); and~~

~~At least 25% of the total number of units constructed on site must qualify as Affordable Residential (30-60% AMI) and must be permanently affordable rentals or deed restricted for sale units.~~

i. Low. Medium or High Density is required.

g. The Loukonen Area B (a portion of Parcel # 120320000038 and as shown on Exhibit A).

~~i. At least 30% of the total number of units constructed on site must qualify as Middle Tier Residential (60%-120% AMI); and~~

~~At least 30% of the total number of units constructed on site must qualify as Affordable Residential (30-60% AMI) and must be permanently affordable rentals or deed restricted for sale units.~~

~~ii.i.~~ Low. Medium or High Density is required.

h. Prior to annexation of the above listed parcels, a final and unappealable annexation plan must be approved by Lyons, which shall include the affordability and density requirements listed in subsections a-g above.

i. Lyons shall confirm that the annexing property owner has satisfied all of Town's annexation requirements incorporating the affordability and density requirements listed in subsections a-g of this section 5(d).

6. Regional Housing Partnership

The Parties recognize that addressing housing affordability is a regional concern and agree to

continue to participate in the Regional Housing Partnership and work collaboratively along with other jurisdictions to address this issue.

7. Implementation Procedures

The Parties agree to take all necessary steps to adopt procedures, plans, policies, and ordinances or conduct other proceedings necessary to implement and enforce this Agreement. In doing so, each Party will give the other sufficient advance notice to enable the other Party to comment on the planned action if so desired.

8. Partnerships

The Parties recognize and acknowledge the need for intergovernmental cooperation on important local and regional land use matters and to achieve common goals. In accordance with the LCP, the Town and the County agree to cooperate in good faith to:

- (a) Identify and implement programs that assist the Town in meeting its affordable housing goals within the Lyons Planning Area.
- (b) Collaborate on identifying potential grants that support housing, transportation, stream quality, stormwater management, infrastructure, electrification, hazard mitigation, trails, and recreation.
- (c) Work with the Regional Transportation District, Denver Regional Council of Governments, and Colorado Department of Transportation to improve Lyons multimodal transportation systems, transportation safety, electric opportunities, and reduction of emissions (Z-Trips / RTD / Lyons Flyer).
- (d) Collaborate on trails connecting the Town to Boulder County Open Space and other areas in the County.
- (e) Share geographic information system data, maps and expertise;
- (f) Continue to collaborate on recycling and compost facilities.
- (g) Enforce nuisance ordinances to improve the appearance of properties in the LPA.

9. Amendments

This Agreement contains the entire agreement between the Parties and, with the exception of the CEMEX Area IGA, supersedes and replaces any other or prior agreements concerning the same subject matter including the 2012 IGA. Any annexation, property acquisition, or land use or development that does not comply with this Agreement is prohibited without an amendment to the Agreement agreed to by the Parties.

Amendment of the Agreement requires approval by resolution or ordinance approved and adopted by the governing body of both Parties after notice and hearing as required by law. No

action inconsistent with this Agreement may be taken by any Party before this Agreement is amended as required in this Section 9.

10. Non-severability

If any portion of this Agreement is held by a court in a final, non-appealable decision to be per se invalid or unenforceable as to any Party, the entire Agreement shall be terminated, the Parties understanding and intending that every portion of the Agreement is essential to and not severable from the remainder.

11. Beneficiaries

The Parties, in their corporate and representative governmental capacities are the beneficiaries of this Agreement.

12. Enforcement

Any one or more of the Parties may enforce this Agreement by any legal or equitable means, including specific performance, declaratory and injunctive relief. No other person or entity will have the right to enforce the provisions of this Agreement.

13. Indemnification

Each Party agrees to be responsible for its own actions or omissions, and those of its officers, agents and employees in the performance or failure to perform work under this IGA. By agreeing to this provision, neither Party waives or intends to waive, as to any person not a party to the IGA, the limitations on liability that are provided to the Parties under the Colorado Governmental Immunity Act, C.R.S. § 24-10-101, et seq.

14. Governing Law and Venue

This Agreement will be governed by Colorado law, and venue for any dispute involving the Agreement will be exclusively in Boulder County.

15. Term and Effective Date

This Agreement will become effective when signed by authorized representatives of the governing bodies of each of the Parties. Unless otherwise stated in this Agreement, the Agreement shall remain in effect for a period of 20 years from the effective date unless terminated earlier by written agreement of the Parties pursuant to terms of this Agreement or extended as provided below.

At 10 years after the current effective date, the effective date of the Agreement will automatically update to that date 10 years after the previous effective date. In order to avoid automatic extension, a Party must hold a duly noticed public hearing at least 90 days before the date 10 years after the current effective date and make such determination. The current effective date will then remain in place. Notices of the hearing and subsequent Party action must be provided to the other Party.

16. Party Representatives

Referrals and notices required by this Agreement will be made to the following:

For Boulder County:

Director, Community Planning & Permitting Department
PO Box 471
Boulder, CO 80306

For Lyons:

Town of Lyons
Town Administrator
P.O. Box 49
432 Fifth Avenue
Lyons, Colorado 80540

Changes of name or address for Party representatives will be made in writing, mailed as stated in this Section 16.

THIS AGREEMENT made and entered into as of the latest date set forth below.

TOWN OF LYONS

By: _____
Mayor

Attest:

Town Clerk

Approved as to form:

Town Attorney

BOULDER COUNTY
BY ITS BOARD OF COUNTY COMMISSIONERS

By: _____
Chair

Attest:

Approved as to form:

Clerk to the Board

County Attorney

DRAFT