

TOWN OF LYONS, COLORADO

ORDINANCE NO. 1012

**AN ORDINANCE OF THE TOWN OF LYONS, COLORADO REPEALING AND
REENACTING SECTION 16-10-10 OF THE LYONS MUNICIPAL CODE TO
ELIMINATE A CONFLICT WITH THE TOWN'S RESIDENTIAL BUILDING CODE
REGARDING MINIMUM HEIGHT REQUIREMENT FOR FENCES ENCLOSING
OUTDOOR SWIMMING POOLS**

WHEREAS, the Town of Lyons is authorized by C.R.S. Section 31-23-101 to regulate zoning and land use within the Town's boundaries, and the Town has in fact adopted a comprehensive zoning scheme; and

WHEREAS, the Town's zoning regulations include Section 16-10-10(b)(5) of the Lyons Municipal Code, which sets forth a minimum and maximum fence height for enclosure of outdoor pools; and

WHEREAS, pursuant to Chapter 18, Article 3 of the Lyons Municipal Code, the Town has adopted the 2006 version of the International Residential Code ("IRC") to provide minimum standards to safeguard life or limb, health, property and public welfare by regulating and controlling the design, construction, quality of materials, use and occupancy, location and maintenance of all residential buildings and structures within the Town; and

WHEREAS, Appendix G, Section 105.2.1 of the IRC sets forth minimum standards that apply to fenced enclosures of outdoor pools, including a minimum height of at least 48 inches above grade on the side of the barrier that faces away from the swimming pool; and

WHEREAS, Town staff and the Planning and Community Development Commission have studied the two conflicting standards that currently regulate the height of fenced enclosures of outdoor pools, and has determined that the IRC, as adopted from time to time, provides adequate regulation of such fencing in furtherance of the general public health, safety, and welfare; and

WHEREAS, the Board of Trustees finds the IRC, as adopted from time to time, provides adequate regulation of such fencing with regard to general public safety and welfare; and

WHEREAS, the Board of Trustees desires to remove from the Town's zoning code regulatory standards that conflict with the IRC, as adopted; and

WHEREAS, the Board of Trustees has determined, based on the evidence and testimony presented at the public hearing, that revising the Lyons Municipal Code to eliminate the conflicting requirement for outdoor pool fences from the Town's zoning code will further the health, safety and welfare of the inhabitants of the Town and will result in clarity regarding the standards that govern such enclosures.

NOW, THEREFORE, BE IT ORDAINED BY THE BOARD OF TRUSTEES OF THE

TOWN OF LYONS, COLORADO, as follows:

Section 1. Recitals Incorporated. The recitals set forth above are hereby incorporated by reference and are adopted as findings and determinations of the Board of Trustees.

Section 2. Section 16-10-10 of the Lyons Municipal Code Repealed and Readopted. Section 16-10-10 of the Lyons Municipal Code is hereby repealed in its entirety and readopted to read in full as follows:

Sec. 16-10-10. - Fences, hedges and walls.

(a) Intent. The intent of this Section is to allow fences, hedges and walls for privacy, provided that public safety is maintained.

(b) General Provisions. Fences, hedges and walls may be permitted in the various districts as accessory uses in accordance with the following limitations:

(1) No fence or wall in any district shall exceed six (6) feet in height in the side yards and rear yards, except for around the enclosures of outdoor swimming pools.

(2) No fence or wall in any district shall exceed four (4) feet in height in the front yard, except for around the enclosures of outdoor swimming pools.

(3) No fence, hedge, wall, shrubbery or sign shall interfere with the vision of motorists at any intersection.

(4) Fences, hedges and walls are not subject to setback requirements.

(5) The use of barbed wire fencing and electrically charged fencing is prohibited except for within properties zoned for agricultural use and/or to protect municipal utility facilities or facilities providing essential services to Town residents.

Section 3. Severability. If any provision of this ordinance should be found by a court of competent jurisdiction to be invalid, such invalidity shall not affect the remaining portions or applications of this ordinance that can be given effect without the invalid portion, provided that such remaining portions or applications of this ordinance are not determined by the court to be inoperable. The Board of Trustees declares that it would have adopted this ordinance and each section, subsection, sentence, clause, phrase, or portion thereof, despite the fact that any one or more section, subsection, sentence, clause, phrase, or portion would be declared invalid or unconstitutional.

Section 4. Codification Amendments. The codifier of the Town's Municipal Code, Municipal Code Corporation, is hereby authorized to make such numerical and formatting changes as may be necessary to incorporate the provisions of Section 2 of this ordinance within the Lyons Municipal Code.

Section 5. Repeal. Any and all ordinances 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 or code or part thereof shall not revive any other section or part of any ordinance or code 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 hereby repealed prior to the effective date of this ordinance.

Section 6. Safety. This ordinance is deemed necessary for the protection of the health, welfare and safety of the community.

Section 7. Effective Date. This ordinance shall become effective thirty days after publication following final passage.

INTRODUCED AND PASSED ON FIRST READING THIS 20th DAY OF MARCH 2017.

INTRODUCED, AMENDED, PASSED, ADOPTED AND ORDERED PUBLISHED THIS 3rd DAY OF APRIL 2017.

TOWN OF LYONS

By: _____
Connie Sullivan, Mayor

ATTEST:

APPROVED AS TO FORM:

By: _____
Deb Anthony, Town Clerk

Town Attorney