

Policy of the Town of Lyons Board of Trustees for Accepting Lake McIntosh Share Dedications

Pursuant to the Third Amendment to the Intergovernmental Agreement between the Town of Lyons and the City of Longmont for Treated Water for Treated Water Service (“Third Amendment”), the Town of Lyons Board of Trustees (“the Board”) is empowered to accept one and four tenths (1.4) shares of capital stock in the Lake McIntosh Reservoir Company (“Lake McIntosh Shares”) for each Service Connection added within the Lyons Service Area which entails an Affordable Housing, Commercial Development, or Economic Development Opportunity land use approval or contractual commitment. Pursuant to Section 13-1-20 of the Lyons Municipal Code the Board is further empowered to adopt by resolution written policies necessary to manage and regulate Town utilities. This Board Policy sets forth the process by which the Board will consider whether an applicant for a proposed development (“Applicant”) shall be granted permission for a Lake McIntosh Share dedication (the “Policy.”)

This Policy is effective _____, 2021 and may be amended from time to time by Resolution of the Board.

Definitions

The following terms from the Intergovernmental Agreement between the Town of Lyons and the City of Longmont for Treated Water for Treated Water Service, As Amended (the “IGA”) shall be applicable to this Policy as restated here:

- A. “Affordable Housing” shall mean rental units, within the Lyons Service Area, that are covenant controlled to have rents affordable to households with incomes at or below 60% of the area median income for the Boulder-Longmont area (based on information published by the United States Department of Housing and Urban Development), and for sale housing, within the Lyons Service Area, that is covenant controlled to have sales prices affordable to households with incomes at or below 80% of the area median income for the Boulder-Longmont area.
- B. “Commercial Development” shall mean an activity within the Lyons Service Area involving the sale of goods or services carried out for profit, including, without limitation, office, retail, services, wholesale trade, and other similar development.
- C. “Economic Development Opportunities” shall mean any proposed new development in the Lyons Service Area that enables greater production, increased employment, and a better distribution of goods and services.
- D. “Lyons Service Area” shall mean the area within the boundaries of the “Lyons Planning Area,” as set forth in the December 19,2002 Lyons Planning Area Intergovernmental Agreement between Boulder County and Lyons (“Lyons Planning Area Agreement,”) approved by the Lyons Board of Trustees on November 4, 2002, and as depicted on the Map Attached as Exhibit B to the IGA, as may be amended in accordance with the Lyons Planning Area Agreement. Nothing in this Policy shall be construed to prevent or preclude Lyon’s and Boulder County’s

mutual agreement to modify the boundaries of the Lyons Planning Area in accordance with the provisions of Section 2.0 of the Lyons Planning Area Agreement, but in no event shall such modification of the Lyons Planning Area extend beyond the “Planning boundary” depicted by the dashed line on the map in Exhibit B.

E. “Service Connection” shall mean a three-quarter inch (3/4”) single family residential water tap, or the equivalent thereof.

Written Application for Permission to Dedicate Lake McIntosh Shares Required

Prior to the Board considering a request for permission to dedicate Lake McIntosh Shares, an Applicant shall submit a written application (“Application”) to the Town Administrator. An Application shall contain the following minimum documentation requirements (“Minimum Documentation Requirements”):

- Name and address of the Applicant.
- If the Applicant is an authorized agent of the property owner of where the proposed developed is planned to be located, a letter from the property owner authorizing the Applicant to submit the application of behalf of the property owner.
- The address of the proposed development.
- Narrative Description of proposed development.
- The requested number taps, size of tap(s), and the projected annual usage per tap.
- A description of the type of use(s) planned for the proposed development.
- The current zoning of the proposed development.
- A map showing that the proposed development is within the Lyons Service Area.
- Any available drawings, rendering, and/or plans for the proposed development.
- Narrative description of why the Applicant believes the proposed development is eligible for Lake McIntosh Share dedication.

Applications which request permission for Lake McIntosh Share dedication on the basis of Affordable Housing development shall provide in addition to the Minimum Documentation Requirements:

- Proof of income restriction, or intent to income restrict the development.
- A list of affordable housing tax credits, if any, which will be used to support the proposed development.
- For proposed Affordable Housing rental units: the proposed rental rate in relation to the area median income for the Boulder-Longmont area at the time of Application.
- For proposed Affordable Housing for sale units: proposed sale rate in relation to the area median income for the Boulder-Longmont area at the time of Application
- Any other information which the Applicant believes will assist the Board in determining if the proposed development qualifies for Lake McIntosh Share dedications.

Applications which request permission for Lake McIntosh Share dedication on the basis of Commercial Development shall provide in addition to the Minimum Documentation Requirements:

- Description of goods or services intended to be offered as part of the proposed development.
- Letter(s) of intent from any potential commercial tenants of the proposed commercial development.
- Any other information which the Applicant believes will assist the Board in determining if the proposed development qualifies for Lake McIntosh Share dedications.

Applications which request permission for Lake McIntosh Share dedication on the basis of Economic Development Opportunities shall provide in addition to the Minimum Documentation Requirements:

- A projection of how the proposed development will enable greater production, increased employment, and/or a better distribution of goods and services.
- Any other information which the Applicant believes will assist the Board in determining if the proposed development qualifies for Lake McIntosh Share dedications.

The Town Administrator, or their designee, shall review each Application for completeness within thirty (30) days of submission. Incomplete Applications shall be rejected by the Town Administrator, or their designee, in writing. Completed Applications shall be submitted to the Town Clerk who shall place the Application on the agenda of the Board for consideration within thirty (30) days of such submission.

Board Consideration of an Application

The Board will consider an Application for Lake McIntosh Share dedication at a regular or special meeting of the Board. Consideration of the application shall occur during the public hearing portion of the meeting. Town Staff will present the Application submitted to the Town Administrator and may present a recommended Board decision. The Applicant will be permitted the opportunity to present to the Board on why the Applicant believes the proposed development qualifies for Lake McIntosh Share dedication. Public testimony will be taken on the Application. The Applicant will be given the opportunity to rebut any public testimony.

The Board will conduct a recorded vote on whether the Application for permission to dedicate Lake McIntosh Shares is granted. The Town Administrator, or their designee, shall record the results of the vote on Application which shall be returned to the Applicant. The Decision of the Board is not appealable. However, the Applicant may submit a new Application if the proposed development is materially changed to better qualify for Lake McIntosh Share dedication.

Dedication of Lake McIntosh Shares

Actual dedication of the necessary number of Lake McIntosh shares shall be made at the time a Building Permit is requested for the proposed development. Final dedication amounts shall be determined at time of the request for a building permit. Applicant is responsible for procuring and transferring the required amount of Lake McIntosh Shares to the Town prior to the issuance of a building permit for the proposed development.

Reservation of Rights of the Board

The Board reserve the right to revoke its decision to grant permission for Lake McIntosh Share dedication if substantial changes have been made to the proposed development prior to the issuance of a building permit. If the Town Administrator determines that a substantial change to the proposed development has been made prior to the issuance of a building permit, the Town Clerk shall schedule an agenda item at a regular or special meeting of the Board to consider whether the changes to the proposed development disqualifies it from Lake McIntosh Share dedication. The Board shall conduct a recorded vote on whether the changes disqualifies the proposed development.

Approvals granted by the Board for Lake McIntosh Share dedication cannot be assigned or transferred to a third party.

Approval for Lake McIntosh Share dedication does not constitute land use approval for a proposed development and shall not give rise to vested developmental rights.