

**TOWN OF LYONS,
COLORADO**

ORDINANCE 1106

AN ORDINANCE OF THE TOWN OF LYONS, COLORADO, REFERRING A QUESTION TO THE REGISTERED ELECTORS OF THE TOWN OF LYONS PURSUANT TO C.R.S § 31-11-111(2) ON WHETHER THE TEXT OF THE PARKS AND OPEN SPACE ZONING (POS) CLASSIFICATION SHOULD BE AMENDED TO ALLOW FOR RENEWABLE ENERGY PRODUCTION AND BATTERY STORAGE USES ON POS ZONED PROPERTY

WHEREAS; pursuant to C.R.S. Section 31-11-111(2), the legislative body of the Town of Lyons (the “Town”) has the authority to, without receipt of any petition, to submit any proposed or adopted ordinance or resolution or any question to a vote of the registered electors of the municipality; and

WHEREAS, Ordinance 959 of the Town, codified at Sec. 16-15-70 of the Lyons Municipal Code (“LMC”), provides that “[n]o ordinance revising the zoning of any portion of land currently zoned as Parks and Open Space District (POS) to any different zoning 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”; and

WHEREAS, Ordinance 959 was a petitioned ballot measure passed by a majority of electors in the Town; and

WHEREAS, LMC Sec. 16-3-270 provides for the permitted and conditional uses in the POS zoning district; and

WHEREAS, a solar generation facility is not a permitted or conditional use in the POS zoning district; and

WHEREAS, the Board of Trustees (“the Board”) would like to refer a question to the registered electors to amend the POS zoning district uses to allow for renewable energy generation and battery storage facilities as a conditional use; and

WHEREAS, the Town has submitted a grant application to the Department of Local Affairs (“DOLA Grant”) for the purposes of constructing a solar generation and battery storage facility; and

WHEREAS, the DOLA Grant identifies three locations where the solar generation and battery storage facility may be sited: 1) approximately one acre of Bohn Park southwest of the Bohn Park Dirt Jump Bike Park; 2) approximately one acre of the 10 acres of the Lyons Dog Park, known as Lot E; and 3) approximately one acre within the 10 acres of land directly South of the Lyons Dog Park, known as Lot F; and

WHEREAS, in order to construct the proposed solar generation and battery storage facility the POS zoning district conditional uses must be amended to allow for renewable energy generation and battery storage facilities; and

WHEREAS, pursuant to C.R.S. Section 31-11-111(2) the Board refers a question to the registered electors of the Town for the November 2, 2021 Boulder County coordinated election as set forth in this ordinance.

THEREFORE, BE IT ORDAINED BY THE BOARD OF TRUSTEES OF THE TOWN OF LYONS, THAT:

Section 1. There is hereby submitted to the properly qualified and registered electors of the Town of Lyons four referred questions as follows:

TOWN OF LYONS REFERRED BALLOT QUESTION NO. XX

SHALL SECTION 16-3-270(C) OF THE LYONS MUNICIPAL CODE BE AMENDED TO ALLOW RENEWABLE ENERGY GENERATION AND BATTERY STORAGE FACILITIES AS A CONDITIONAL USE IN THE PARKS AND OPEN SPACE?

_____ YES

_____ NO

Section 2. In the event a majority of Town electors voting on the ballot issue established hereby vote in favor of amending 16-3-270(C) of the Lyons Municipal code, as amended and certified by the election results, Section 16-3-270 of the Lyons Municipal Code, concerning conditional uses in the POS Parks and Open Space District, shall be amended as follows:

(c)Conditional Uses. Permitted conditional uses in the POS District shall be as follows:

- (1) Accessory building or use.
- (2) Agricultural use (e.g., grazing of livestock and growing of crops).
- (3) Athletic field or athletic amenity.
- (4) Amphitheatre.
- (5) Aquarium.

- (6) Botanical garden.
- (7) Campground.
- (8) Cemetery.
- (9) Community garden.
- (10) Golf course.
- (11) Museum.
- (12) Parking lot.
- (13) Permanent structure (e.g., restrooms or concession stand).
- (14) Playground.
- (15) Recreational use with structure.
- (16) Renewable energy generation facilities and associated appurtenances including battery storage facilities.**
- ~~(16)~~ **(17)** Residence, caretaker.
- ~~(17)~~ **(18)** Swimming pool.
- ~~(18)~~ **(19)** Telecommunications facility.
- ~~(19)~~ **(20)** Trailhead.
- ~~(20)~~ **(21)** Zoo.

Section 3. In the event a majority of majority of Town electors voting on the ballot issue established hereby vote against amending 16-3-270(C) of the Lyons Municipal code as provided for in Section 2 above, the Lyons Municipal Code shall not be amended.

Section 4. The ballot title for the ballot question contained in this Ordinance is hereby determined to be the text of the ballot question itself.

Section 5. Each elector voting at said election and desiring to vote shall indicate their choice by depressing the appropriate counter of the voting machine or by the appropriate marking upon paper ballots were used.

Section 6. The proper officials of the Town of Lyons shall give notice of the

election, such notice shall be published in the manner and for the length of time required by law, and the ballots cast as such election shall be canvassed and the result ascertained, determined, and certified by law.

Section 7. If any section, paragraph, clause, or other portion of this Ordinance is for any reason held to be invalid or unenforceable the invalidity or unenforceability shall not affect any of the remaining portions of this Ordinance.

Section 8. The Board authorizes the Town Clerk to take all steps necessary to place the referred questions on the ballot for the upcoming November Boulder County coordinated election on November 2, 2021.

Section 9. Effective Date. 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 ____ DAY OF _____ 2021.

INTRODUCED, AMENDED, PASSED, ADOPTED AND ORDERED PUBLISHED ON SECOND READING THIS ____ DAY OF _____ 2021.

TOWN OF LYONS, COLORADO

Nicholas Angelo, Mayor

ATTEST:

Dolores M. Vasquez, CMC, Town Clerk