

**TOWN OF LYONS,
COLORADO**

ORDINANCE 1080

**AN EMERGENCY ORDINANCE OF THE TOWN OF LYONS, COLORADO, AMENDING
CHAPTER 2, ARTICLE 5, EMERGENCY PROTECTION AND SECTION 10-5-120 OF THE
LYONS MUNICIPAL CODE ESTABLISHING REMOTE MEETING PROCEDURES AND
OTHER EMERGENCY CHANGES IN RESPONSE TO THE COVID-19 PUBLIC HEALTH
CRISIS**

WHEREAS, pursuant to Sections 31-15-401 and 31-23-301, C.R.S., the Town of Lyons ("the Town") has broad authority to exercise its police powers to promote and protect the health, safety and welfare of the community and its residents; and

WHEREAS, pursuant to C.R.S. Section 31-16-105 the Town has the authority to make and publish emergency ordinances; and

WHEREAS, the Town and its citizens are currently facing a significant public health emergency from Coronavirus disease 2019 ("COVID-19"), a highly infectious disease which can cause respiratory infections that may be severe, and which are potentially fatal; and

WHEREAS, Colorado Governor Jared Polis, by Executive Order D 2020 03, has declared a statewide disaster emergency due to the presence of COVID-19 in the state. The Executive Order identifies the potential for community spread and, among other things, activates disaster response and recovery aspects of applicable state, local, and interjurisdictional disaster emergency plans; and

WHEREAS, on March 13, 2020, the President of the United States declared the ongoing COVID-19 pandemic of sufficient severity and magnitude to warrant an emergency declaration for all states, tribes, territories, and the District of Columbia pursuant to section 501 (b) of the Robert T. Stafford Disaster Relief and Emergency Assistance Act, 42 U.S.C. 5121-5207 (the "Stafford Act"); and

WHEREAS, on March 13, 2020, pursuant to C.R.S. § 24-33.5-709 and LMC Section 2-5-30 the Mayor of Lyons proclaimed s a local disaster emergency for the municipal limits of the Town of Lyons, Colorado (the "Proclamation"); and

WHEREAS, on March 16, 2020, the Board of Trustees (the "Board") passed Resolution 2020-51 which extended and modified the Proclamation; and

WHEREAS, as of March 22, 2020, there are 475 confirmed cases of COVID-19 in Colorado with 6 confirmed deaths; and

WHEREAS, the Town government must continue to operate during a local disaster or emergency, while taking measures to protect the health, safety, and welfare of its employees, officials, and the public; and

WHEREAS, the LMC does not currently provide for electronic remote meetings during emergencies or otherwise provide for emergency meeting procedures; and

WHEREAS, other provisions of the LMC relating to emergency protection are either inconsistent with Colorado Disaster Emergency Act, C.R.S. § 24-33.5-709 and other parts of the LMC, or are insufficient to protect the public health and property during an emergency and require updating; and

WHEREAS, specifically, provisions relating to the establishment of curfews and the length of declared emergencies needs to be amended; and

WHEREAS, it is in the best interests of the public health, safety, and welfare that the Ordinance implementing a remote meeting policy and other updates to the LMC relating to emergency protection be passed and enactment of accompanying amendments be made; and

WHEREAS, The Board has conducted a public hearing to consider evidence and testimony concerning remote meetings and other proposed changes to Article 5 and Section 10-5-120 of the LMC thus providing adequate opportunity for interested citizens to be heard.

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

Section 1. Declaration of Emergency. Pursuant to C.R.S. § 31-16-105, the Board of Trustees hereby finds, determines, and declares that this Ordinance is necessary for the immediate preservation of public peace, health and safety. Specifically, the immediate effectiveness of this Ordinance is necessary to respond to the public health emergency created by COVID-19 and to ensure the continued operation of the Board of Trustees, Commissions, and Boards during the disaster emergency.

Section 2. Incorporation of Recitals. The recitals set forth above are incorporated as if set fully forth herein.

Section 3. Section 2-5-30 is hereby amended from the previous Section 2-5-30, to read in full as follows:

- (5) Term of emergency.
 - a. Any emergency proclaimed in accordance with the provisions of this Article shall terminate after seven (7) days from the issuance thereof or upon the issuance of a proclamation determining that an emergency no longer exists, whichever occurs first.
 - b. No emergency period shall extend beyond the next regular, special or called meeting of the Board of Trustees unless, at such meeting, the declaration of emergency is specifically approved and extended by a resolution of the Board of Trustees. An extension of the declaration of emergency may be of any length necessary to address the emergency condition and may be rescinded at any time by resolution of the Board of Trustees.

Section 4. A new Section 2-5-40 entitled "Emergency Meetings" is hereby created and the subsequent of sections and subsections Chapter 2, Article 5 shall be renumbered accordingly.

2-5-40 Emergency Meetings

- (1) Emergency Meetings of the Board of Trustees. In the case of an emergency requiring immediate action of the Board of Trustees to protect public health, safety or welfare, the Board of Trustees may convene an emergency meeting without any advance public notice or with such limited advance public notice as the Mayor or other presiding officer finds feasible in the circumstances. At such emergency meeting, the Board of Trustees may take any action within its authority that is necessary for the immediate protection of public health, safety or welfare; provided however, that any action taken at the emergency meeting shall be effective only until the next meeting that complies with the advance notice requirements of the Colorado Open Meetings Law. At that next meeting, the Board of Trustees may ratify any action taken at the emergency meeting, if the action is not ratified it shall be deemed rescinded.

- (2) Emergency Remote Meetings. In the event an in-person quorum is unable to meet at the day, time, and place fixed by the rules and procedures of the Town Board of Trustees, Commission, or Board because an in-person meeting is not practical or prudent due to an emergency affecting the Town, meetings may be conducted via remote participation. Meetings may be held by remote participation if all of the following conditions are met:
 - a. A local emergency has been declared under C.R.S. § 24-33.5-709 and LMC § 2-5-10 and
 - b. The Town Administrator or the Mayor determines that an in-person meeting is not practical or prudent, due to circumstances related to the local emergency affecting the Town; and
 - c. All participating members of the Board of Trustees, Commission, or Board, and at least one Town staff member, can hear one another or otherwise communicate with one another and can hear or read all discussion and testimony in a manner designed to provide maximum participation; and
 - d. Members of the public can hear the Board of Trustees, Commission, or Board proceedings and are afforded opportunities to participate in public comment; and
 - e. All votes are conducted by roll call; and
 - f. Minutes of the meeting are taken and promptly recorded, and such records are open to public inspection; and
 - g. To the extent possible, full and timely notice is given to the public setting forth the time of the meeting, that some members of the Board of Trustees, Commission, or Board may participate electronically, and the right of the public to monitor the meeting from another location or thru electronic participation.

(3) **Quasi-Judicial Matters.** In the event that a pending application is scheduled for a public hearing that is quasi-judicial in nature and conducted under this Code, the Town shall advise the applicant of such circumstances and present the applicant with options for proceeding with the application. Upon notice from the Town, the applicant shall authorize the Town, in writing, to proceed with one of the following options.

- a. Conduct the public hearing under this policy with accommodations made for electronic participation by the public; or
- b. Suspend any and all review and decisions deadlines until such time that the local emergency is lifted, and the Board of Trustees, Commission, or Board can schedule a meeting at which an in-person quorum will be present.

(4) **Executive Sessions.** In the event that the Board of Trustees holds an executive session pursuant to C.R.S §24-6-402 and conducted under this policy, members are authorized to participate electronically. Any executive session conducted under this policy shall be recorded electronically as required by statute.

Section 5. Section 10-5-120 is hereby amended to read as follows:

It shall be unlawful for any person to be out of doors between 10:00 pm and 5:00 am within the Town of Lyons during the period of local disaster emergency declared by the Mayor and extended by the Board of Trustees as provided for by LMC 2-5-10 *et seq.*, except for those persons engaged in the provision of designated essential services, such as fire, police and medical services including the transportation of patients, utility emergency services, and emergency calls by physicians, and those persons traveling to or from their place of employment or to or from school functions.

Section 6. Code Revisions. Because this Ordinance revises an entire Section of the Lyons Municipal Code, minor changes such as the format, numbering, and other such changes may be necessary to unify the revised code. The Town Clerk is hereby authorized to make such changes provided that neither the intent of this Ordinance nor substantive content is altered.

Section 7. 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 8. Repeal. Any and all ordinances, resolutions, or codes, or parts thereof, which are in conflict or inconsistent with this ordinance are repealed, to the extent of such conflict or inconsistency exists. 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. 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 this ordinance taking effect.

Section 9. Codification of 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 Sections and 3, 4, and 5 of this Ordinance within the Lyons Municipal Code.

Section 10. Effective Date. This Ordinance shall take effect immediately and be published by title as provided by C.R.S. Section 31-16-105.

PASSED AND ADOPTED BY THE LYONS BOARD OF TRUSTEES AS AN EMERGENCY ORDINANCE, THIS 30th DAY OF MARCH, 2020.

TOWN OF LYONS, COLORADO



Connie Sullivan, Mayor

