

**TOWN OF LYONS, COLORADO
ORDINANCE 1079**

**AN ORDINANCE OF THE TOWN OF LYONS, COLORADO AMENDING CERTAIN
SECTIONS OF CHAPTER 13, ARTICLE 4 OF THE LYONS MUNICIPAL CODE TO
AUTHORIZE THE TOWN TO IMPLEMENT A PRETREATMENT POLICY FOR USES OF THE
TOWN'S WASTEWATER SERVICES**

WHEREAS, pursuant to Article XXV of the Colorado Constitution, the Town of Lyons Board of Trustees ("Board") has the authority to establish and operate municipal utilities serving the Town of Lyons ("Town") and pass rates, rules, and regulations governing the operation of those municipal utilities; and

WHEREAS; pursuant to C.R.S. Section 13-15-103 the Town has the authority to make and publish ordinances; and

WHEREAS, pursuant to that power the Board previously enacted Article 4, Chapter 13, of the Lyons Municipal Code ("LMC") entitled "Wastewater Service" establishing a wastewater utility; and

WHEREAS, wastewater at the wastewater treatment plant is required to meet specific levels of various pollutants such as BOD, TSS and Copper; and

WHEREAS, the Board referred the question of how to meet the specific levels of various pollutants to the Utilities and Engineering Board ("UEB") pursuant to LMC Section 2-2-170; and

WHEREAS, pursuant to LMC Sections 2-8-190(c)(3) ,the UEB advised the Board that they should require customers when deemed necessary to pretreat their wastewater; and

WHEREAS, it is in the best interests of the public health, safety, and welfare that this amendment to the wastewater utility services be made; and

WHEREAS, the Board has conducted a public hearing to consider evidence and testimony on LMC Code Amendments as set forth below thus providing adequate opportunity for interested residents and customers to be heard.

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

Section 1. The recitals set forth above are incorporated as if set fully forth herein.

Section 2. Article 4 of Chapter 13, Section 13-4-30 is hereby amended to add the following definition:

Pretreatment means the reduction of the amount of pollutants, the elimination of pollutants, or the alteration of the nature of pollutant properties in wastewater before or in lieu of discharging, or otherwise introducing, such pollutants into a publicly owned treatment works (POTW).

Section 3. Article 4 of Chapter 13, Section 13-4-90 is hereby repealed in its entirety and replaced with a new Section 13-4-90 to read in full as follows:

LMC 13-4-90. Wastewater Pretreatment

(a) Where deemed necessary as determined by the Town Administrator, or their designee, a customer shall provide, at his or her own expense, such Pretreatment as may be necessary to reduce objectionable characteristics of wastewater, or to control quantities and rate of discharge.

(b) The Town Administrator is authorized to determine and update limits for discharges into the Town's wastewater system, subject to Board of Trustees approval by resolution. When adopted by Board resolution, users shall have a period of up to ninety (90) days to bring discharges into compliance with such regulations. The Town Administrator is authorized to extend such compliance period for up to an additional sixty (60) days for good cause shown. Such compliance periods shall not affect the Town's ability to order suspensions of service pursuant to Section 13-1-140 and 13-4-90(h).

(c) Any equipment and facilities required to Pretreat wastewater to a level in compliance with this chapter shall be provided, operated and maintained at the user's expense. Detailed plans showing the pretreatment facilities and operating procedures shall be submitted to the Town for review and shall be approved in writing by the Town before construction of the facility. The review of such plans and operating procedures will in no way relieve the user from the responsibility of modifying the facility as necessary to produce wastewater in compliance with the provisions of this chapter. Any subsequent changes in the pretreatment facilities or method of operation shall be reported to the Town and approved in writing prior to the user's initiation of the changes.

(d) The Town may annually publish on its website or in one or more newspapers a list of users in significant noncompliance with applicable pretreatment requirements. All records relating to compliance with applicable standards or requirements shall be made available to officials of the EPA or state regulatory authority upon request, subject to any limitations contained in state statutes.

(e) The Town Administrator is authorized to take any and all actions necessary or appropriate to enforce the provisions of this Chapter, including the issuance of written notices of violation with a designated cure period to remedy any violation. If the violator fails to cure a violation within the designated cure period, the Town may suspend wastewater and/or water service to such violator.

(f) When the Town Administrator finds that a user has violated, or continues to violate, any provision of this Chapter or an individual wastewater discharge permit, or a general permit or order issued hereunder, or any Pretreatment standard or requirement, the Town may fine such user in an amount not to exceed one thousand (\$1,000) dollars. Such fines shall be assessed on a per-violation, per-day basis.

(g) Unpaid charges, fines, and penalties ("amount due") shall, after thirty (30) calendar days after their scheduled "due date", be assessed an additional penalty of five percent (5%) of the unpaid balance, and thereafter an additional penalty of five percent (5%) per month or fraction thereof to a maximum of twenty-five percent (25%) of the amount due, and interest shall accrue on the amount due after thirty (30) calendar days at a rate of 0.666% per month (8.0% per annum). A perpetual lien against the user's property shall exist and may be recorded for unpaid charges, fines, and penalties.

(h) The Town may immediately suspend a user's right to discharge, after informal or written notice to the user, whenever such suspension is necessary to stop an actual or threatened discharge, which reasonably appears to present, or cause an imminent or substantial endangerment to the health or welfare of persons. The Town may also immediately suspend a user's discharge, after notice and opportunity to respond, that threatens to interfere with the operation of the wastewater treatment plant, or which presents, or may present, an endangerment to the environment. The Town may immediately suspend a User's receipt of water service from the Town, after informal or written notice to the user, whenever such suspension is necessary to stop an actual or threatened discharge, which reasonably appears to present, or cause an imminent or substantial endangerment to the health or welfare of persons. The Town may also immediately suspend a User's receipt of water service from the Town, after notice and opportunity to respond, that threatens to interfere with the operation of the wastewater treatment plant, or which presents, or may present, an endangerment to the environment. Nothing in this Section shall be interpreted as requiring a hearing prior to any Emergency Suspension under this Section.

(i) Nothing in this section shall be construed to prohibit the Town from recovering the costs of collection, including but not limited to disconnection or reconnection fees, reinstatement charges, or penalties where fraud is involved.

Section 4. 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 5. 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 6. 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 7. 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 Section 2 of this Ordinance within

the Lyons Municipal Code.

Section 8. 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 _____ 2020.

INTRODUCED, AMENDED, PASSED, ADOPTED AND ORDERED PUBLISHED ON SECOND READING THIS ____ DAY OF _____ 2020.

TOWN OF LYONS, COLORADO

Connie Sullivan, Mayor

ATTEST:

Dolores Vasquez, CMC Town Clerk