

**TOWN OF LYONS, COLORADO
ORDINANCE NO. 1093**

**AN ORDINANCE OF THE TOWN OF LYONS, COLORADO AMENDING CHAPTER
13, ARTICLE 1, SECTION 150 OF THE LYONS MUNICIPAL CODE CONCERNING
THE TERMINATION OF UTILITY SERVICES**

WHEREAS, pursuant to C.R.S. § 31-16-101 *et seq.* the Town of Lyons (the “Town”) has the authority to make and publish municipal ordinances; and

WHEREAS, C.R.S. § 31-15-707 authorizes the Town to own and operate municipal utility services; and

WHEREAS, the Lyons Board of Trustees (the “Board”) desires to condition the furnishing of municipal utility services to commercial or residential properties on compliance with certain provisions of the Lyons Municipal Code (“LMC”); and

WHEREAS, utility services for accessory dwelling units (“ADUs”) and short term vacation rentals (“STRs”) (both of which increase utility usage by accommodating more people per property than standard residential or commercial usage) create unique issues with concern to the usage of Town utilities and the enforcement of ordinances; and

WHEREAS, the Board desires the ability to terminate utility service to ADUs and STRs for non-compliance with Town ordinances following the possibility of public process on non-compliance; and

WHEREAS, the Board desires to create additional provisions permitting termination of utility services for the preservation of public health, safety, and welfare; and

WHEREAS, accordingly, the Board desires to amend LMC § 13-1-150 regarding the circumstances under which water and electric utility service may be terminated.

**NOW THEREFORE, BE IT ORDAINED BY THE BOARD OF TRUSTEES OF THE
TOWN OF LYONS, BOULDER COUNTY, COLORADO:**

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. Chapter 13, Article 1, Section 150 of the Lyons Municipal Code is hereby amended to read:

Sec. 13-1-150. - Termination of Utility Service.

(a) Termination for nonpayment. Electric and/or water services may be terminated for delinquency and nonpayment of fees, rates, or any other charges imposed pursuant to this Article. The termination of service shall be commenced in accordance with the following procedures, following a good faith determination by the Town that an account is delinquent.

- (1) The Town shall mail to the consumer a notice of delinquency for nonpayment and termination ("Notice of Deficiency and Termination"). The Notice of Deficiency and Termination shall include:
 - a. A statement of the total amount of the deficiency and a demand for payment;
 - b. The amount of interest to be charged to the outstanding delinquency pursuant to Section 13-1-180 below;
 - c. The date upon which service will be subject to termination in the event that the delinquency is not cured; such date shall be not less than seven (7) calendar days from the date of the Notice of Deficiency and Termination; and
 - d. A description of the process by which the consumer can make such payment or obtain additional information concerning the delinquency.
- (2) The Notice of Deficiency and Termination described above shall be the only written notice of termination provided by the Town.
- (3) If a deficiency is not cured on or before the date of termination as stated in the Notice of Deficiency and Termination, the Town shall forthwith terminate services. The Town may take such steps as deemed necessary and convenient, including a physical interruption or disconnection of service, in order to enforce any termination.
- (4) In conjunction with this process as set forth herein, the Town shall have the authority to impose late fees on unpaid utility bills in order to offset the reasonable administrative costs and expenses of enforcing this Section. Such fees shall be set by resolution of the Board of Trustees and may be amended from time to time at the discretion of the Board of Trustees.

(b) Termination for violations of municipal code and/or regulations. Electric and/or water services may be terminated for the following additional reasons:

- (1) Use of water or electric service at an Accessory Dwelling Unit being used, occupied, or made available for rent without complying with Section 16-10-70 of this Code;
- (2) Use of water or electric service at a Short Term Rental being used, occupied, or made available for rent without complying with Article 16-10-80 of this Code; or
- (3) Suspected theft of utility service pursuant to Section 13-1-160.
- (4) Use of water or electric service at any commercial or residential property at which gatherings are repeatedly held that violate State or County public health orders or a proclamation of local disaster emergency relating to public health or safety in effect in the Town of Lyons.

Termination of water and/or electric services to a property pursuant to this subsection (b) shall occur only as follows:

- (1) Written notice shall be provided to the property owner or occupant by certified and first-class mail sent to the address reflected in Town utility billings or the registered agent for commercial properties.
- (2) Written notice shall also be affixed to the front door of the principal residence or commercial unit on the property and any Accessory Dwelling Unit or Short Term Rental on the property which is externally accessible.
- (3) The written notices shall state (i) that water and/or electric services to the property may be terminated, (ii) the reason for such termination, (iii) the date after which such services may be terminated, and (iv) the procedure for contesting such termination, as set forth below
- (4) Within seven (7) calendar days from the date of notice, the property owner may appeal the termination of services to the Town Administrator by delivering to the Town Clerk a written notice of appeal stating the reasons why the property owner does not believe termination is warranted or stating that the property owner will promptly cure the reason for the proposed termination and not will renew the conduct giving risk to the proposed termination.

- (5) The Town Administrator may grant or deny the property owner's appeal by written decision. No such appeal may be granted if the property owner has been fined, pursuant to this Code, for violations of this Code and fails to pay in full the fines assessed. If the appeal is granted, the Town Administrator may take appropriate actions to confirm compliance with this Code and may set conditions for continued provision of electric or water services to the property. Continued non-compliance shall constitute a reason to deny any future appeal of a proposed termination.
- (6) If the appeal is denied by the Town Administrator, the property owner may appeal such decision to the Board of Trustees within seven (7) days after the effective date of the written decision being appealed in accordance with appeal process set forth in Article 13-1-210 of this Code.
- (7) Following the exhaustion of administrative remedies contained in this Subsection, the Town Administrator is authorized to perform all acts necessary to terminate electric and/or water services.

(c) Reconnection of Services after Termination. Before services are reconnected, after all deficiencies which led to service Termination are cured, a Town of Lyons representatives shall inspect the premises for any potential hazards that may have developed while services were disconnected.

(d) Termination for Emergency Conditions. Nothing in this Section shall be construed to limit the ability of the Town Administrator to terminate utility service without notice or process as required for the immediate preservation of public health, safety, and welfare or pursuant to a proclamation of local disaster emergency. If public health, safety and welfare is threatened by the actions or non-action of the property owner, the Town Administrator shall provide notice and the opportunity for appeal in accordance with the provisions of 13-1-150(b) as soon as practicable following termination.

Section 3. Severability. Should any one or more sections or provisions of this Ordinance 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 4. Repeal. All other ordinances or resolutions or parts of ordinances or resolutions in conflict with the provisions of this Ordinance are hereby repealed, provided that such repeal shall not repeal any repealer clauses in such ordinances nor revive any ordinance thereby.

Section 5. 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.

Section 6. 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.

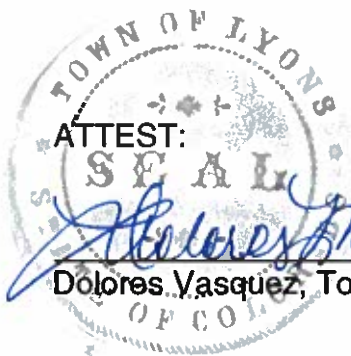

INTRODUCED AND PASSED ON FIRST READING THIS 21st DAY OF December, 2020.

INTRODUCED, PASSED, ADOPTED AND ORDERED PUBLISHED THIS 7th DAY OF January, 2021.

TOWN OF LYONS, COLORADO



Nicholas Angelo, Mayor

ATTEST:


Dolores Vasquez, Town Clerk