

**TOWN OF LYONS,
COLORADO**

ORDINANCE 1045

**AN ORDINANCE OF THE TOWN OF LYONS, COLORADO, AMENDING ARTICLE 4 OF
CHAPTER 13 OF THE LYONS MUNICIPAL CODE FOR THE PURPOSE OF CREATING A
HIGH STRENGTH SURCHARGE AND PRETREATMENT PROGRAM**

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, the Board referred the question of amending the waste water utility rules and regulations concerning high strength waste and pretreatment to the Utilities and Engineering Board ("UEB") pursuant to LMC Section 2-2-170; and

WHEREAS, the Town is required to comply with all applicable State and Federal laws required by the Clean Water Act of 1977 as amended and the General Pretreatment Regulations 40 CFR Part 403 as amended; and

WHEREAS, the creation of a high strength waste surcharge and associated pretreatment amendments will help the Town comply with state and federal pretreatment requirements; and

WHEREAS, the UEB recommended that the Board adopt the high strength waste surcharge and accompanying amendments pursuant to LMC Section 2-2-170 ("the Ordinance"); and

WHEREAS, on November 19, 2018 the Board voted to pass the Ordinance on first reading subject to certain changes being made to the Ordinance before second reading; and

WHEREAS, on December 3, 2018 the Board help a workshop to discuss changes requested at first reading of the Ordinance; and

WHEREAS, Staff has made the recommend changes; and

WHEREAS, it is in the best interests of the public health, safety, and welfare that the creation of a high strength waste surcharge and enactment of accompanying amendments be made; and

WHEREAS, The Board has conducted a public hearing to consider evidence and testimony the creation of a high strength waste surcharge, and other proposed changes to Article 4, Chapter 13 of the LMC 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, is hereby amended from the previous Article 4 of Chapter 13 to add a new Section 13-4-70, to read in full as follows:

Sec. 13-4-70. - High Strength Waste Surcharge.

- (a) Purpose. This Section is intended to charge businesses the true cost of treating their waste. Commercial customers may pay a surcharge for excessive pollutants. Sewer surcharge provisions were created to achieve equity between treatment costs and charges for all users. Factors such as strength (BOD and TSS), volume and delivery flow rate characteristics shall be considered and included as the basis for the consumer's contribution to ensure a proportional distribution of operation and maintenance costs to each consumer.
- (b) The Town requires all current and future commercial and/or industrial users of the Town's Wastewater Treatment Plant to complete and return the Wastewater Classification Survey form prior to discharging wastewater to the Town Sewer System. The survey form is designed to provide enough information for the Town to determine if a complete Wastewater Discharge Permit Application will be required and will be available on the Town's website at www.townoflyons.com . All businesses shall update and resubmit their classification annually with business license renewal.
- (c) Determining commercial consumers high strength waste. Below are some examples of some classifications. Based on the Wastewater Classification Survey, and standard industry practices, the Town Engineer shall classify each business. Commercial users will be classified into one of the following categories:
 - (1) Exempt Businesses
Average residential consumer loadings are considered to be two hundred fifty (250) mg/L BOD. Types of businesses may include, but are not limited to: any closed door, office-based business with 8 or fewer employees, that do not serve/sell food or beverages, most home-based businesses in residential areas, and businesses that do not have production facilities that produce organic or chemical waste shall be considered "Exempt Businesses."
 - (2) Low Surcharge Businesses
Average loadings are considered to be 1,000 mg/L BOD. Types of businesses may include, but is not limited to, restaurants, car washes, and medical labs.
 - (3) Medium Surcharge Businesses
Average loadings are considered to be 1,500 mg/L BOD. Types of businesses may include, but is not limited to, bakeries, meat shops, and coffee shops.

(4) High Surcharge Businesses

Average loadings are considered to be 3,250 mg/L BOD. Type of businesses may include, but is not limited to, breweries, distilleries, slaughterhouses, and marijuana grow facilities.

(5) Significant Industrial Users

Not all industrial users are significant industrial users. CDPHE Colorado Regulation 63 (pretreatment regulations) defines a significant industrial user (SIU) as all industrial user's subject to pretreatment standards in federal regulations and any other industrial user that:

- Discharges an average of 25,000 gallons per day or more of process wastewater to the publicly owned treatment works (POTW) (excluding sanitary, noncontact cooling, and boiler blowdown wastewater). This may include drinking water plants.
- Contributes a process waste stream which makes up five percent or more of the average dry weather hydraulic or organic capacity of the POTW
- Is designated as a SIU on the basis that the industrial user has a reasonable potential for adversely affecting the POTW's operation or violating any pretreatment standard or requirement.

(d) Based on Lyons having costs to treat these wastes, the Town will charge a high strength waste surcharge in accordance with the table below:

Business Surcharge Category	BOD Production* (mg/L)	BOD Production * (lbs./1000 gallon)	Surcharge per pounds of BOD
Exempt	<250 mg/L	8.34	None
Low	1000 mg/L	8.34lbs/1000 gallons	\$0.89
Medium	1500 mg/L	12.52 lbs./1000 gallons	\$0.89
High	3250 mg/L	27.12 lbs./1000 gallons	\$0.89
Significant Industrial User	Per CDPHE Definition	Must be based on testing	Subject to CDPHE Colorado Regulation 63

*BOD Production is an assumption until formally tested.

See Example Below:

Basic Formula:

NTG = Number of Thousands of Gallons – utility bills based on thousands of gallons of water used.

BOD/TG = Assumed BOD weight per Thousand Gallons of water

Surcharge = Current surcharge per pound of BOD

Total Surcharge Amount = Total amount added to monthly wastewater (sewer) bill

NTG x BOD/TG x SURCHARGE = TOTAL SURCHARGE AMOUNT

Therefore, a business classified as a “medium” surcharge business using 5,000 gallons of water in a given month would pay the following:

$$5 \times 12.52 \times .89 = \$55.71$$

- (e) Each Business may choose to accept the surcharge as classified above or provide their own measurements via installed sampling point(s) and sampled as a composite 24-hour sample, at times acceptable to the Town. The measurements shall be performed by an approved testing vendor from a list of vendors provided by the Town, and at frequencies and times agreed to by the vendor, the business, and the Town. At the completion of the testing, the business will be provided with the results and may determine whether to apply the change to their BOD production Level.
- (f) The determination of monthly pounds of BOD is as follows:
- (1) The BOD surcharge for non-exempt commercial customers is calculated based on monthly water usage, which is assumed to be discharged into the system. The Town bills in 1,000-gallon increments, these shall be divided by 1,000 to convert to millions of gallons used.
 - (2) High Surcharge Businesses and Significant Industrial users may reduce the water usage for the BOD surcharge calculation by providing the Town documentation of the number of gallons of water diverted from the sanitation system. The Town Administrator or designee will determine the amount of the production credit to be used in calculating BOD surcharge.
 - (3) The Town will take the gallons of water used from the Utility bill and convert to millions of gallons as shown above. It will multiply this by the BOD production from the assumption table or testing results. It will then multiply by a constant of 8.34 which converts all the different units (mg/l, million gallons) to pounds.
 - (4) The pounds calculated for the month will then be used to determine the monthly surcharge. This will be calculated for each utility bill based on the monthly water used as defined above.

Section 3. Article 4 of Chapter 13, is hereby amended from the previous Article 4 of Chapter 13 to revise the previous Section 13-4-100, to read in full as follows:

Sec. 13-4-110. - Prohibited Use of Wastewater System.

- (a) The following practices or uses of the public wastewater system in the Town shall be prohibited:
- (1) Pollutants which create a fire or explosion hazard, including, but not limited to, waste streams with a closed-cup flashpoint of less than 140 degrees F (60 degrees C) using the test methods specified in 40 CFR 261.21;
 - (2) Wastewater having a pH less than 5.0, greater than 9.0, or otherwise causing corrosive structural damage;
 - (3) Solid or viscous pollutants in amounts which will cause obstruction of the flow resulting in Interference. Solid or viscous pollutants shall not be discharged whole or ground by garbage grinders. This includes, but is not limited to ashes, cinders, sand, oil and grease, mud, straw, shavings, metal, glass, rags, feathers, tar, plastics, wood, underground garbage, paunch manure, hair and flesh, entrails, disposable containers;
 - (4) Heat in amounts which will inhibit biological activity resulting in Interference, but in no case heat in such quantities that the temperature of influent at the Treatment Plant exceeds 40 °C (104 °F) unless the Town approves alternate temperature limits.
 - (5) Petroleum oil, non-biodegradable cutting oil, or products of mineral oil origin;
 - (6) Pollutants which result in the presence of toxic gases, vapors, or fumes in a quantity that may cause worker health and safety problems;
 - (7) Trucked or hauled pollutants;
 - (8) Noxious or malodorous liquids, gases, solids, or other wastewater which, either singly or by interaction with other wastes, are sufficient to create a public nuisance or a health hazard, or to inhibit entry into the sewers for maintenance or repair;
 - (9) Wastewater which imparts color which cannot be removed by the Town Treatment Plant, such as, but not limited to, dye wastes and vegetable tanning solutions;
 - (10) Wastewater containing any radioactive wastes or isotopes except in compliance with applicable state or federal regulations;

- (11) Stormwater, surface water, groundwater, artesian well water, roof runoff, subsurface drainage, swimming pool drainage, condensate, deionized water, noncontact cooling water, and unpolluted wastewater, unless specifically authorized by the Town;
- (12) Sludges, screenings, or other residues from the pretreatment of industrial wastes;
- (13) Wastewater causing, alone or in conjunction with other sources, the Town Treatment Plant's effluent to fail toxicity tests;
- (14) Detergents, surface-active agents, or other pollutants that might cause excessive foaming in the Town Treatment Plant;
- (15) Wastewater causing a reading on an explosion hazard meter;
- (16) Liquid Wastes from chemical toilets, trailers, campers or other recreational vehicles which have been collected or held in tanks or other containers shall not be discharged into the wastewater system except at locations authorized by the Town of Lyons to collect such wastes.
- (17) It shall be unlawful for any user to increase the use of process water, or in any way attempt to dilute a discharge, as a partial or complete substitute for adequate treatment to achieve compliance with a discharge limitation unless expressly authorized by an applicable pretreatment standard or requirement.
- (18) It shall be unlawful for any person to damage, destroy, uncover, deface or tamper with any structure, pipeline, vault, lift station, or equipment which is a part of the Town wastewater system

Section 4. **Code Revisions.** Because this Ordinance revises an entire Sections 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 Sections 2 and 3 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 19TH DAY OF NOVEMBER 2018.

INTRODUCED, AMENDED, PASSED, ADOPTED AND ORDERED PUBLISHED ON SECOND READING THIS 17TH DAY OF DECEMBER 2018.

TOWN OF LYONS, COLORADO


Barney Dreistadt, Mayor Pro-Tem



Debra K. Anthony, Town Clerk