

**TOWN OF LYONS,
COLORADO**

ORDINANCE 1042

**AN ORDINANCE OF THE TOWN OF LYONS, COLORADO, AMENDING
ARTICLE 4 OF CHAPTER 13 OR THE LYONS MUNICIPAL CODE FOR THE PURPOSE OF
INCREASING THE SERVICE RATES FOR WASTEWATER UTILITY SERVICE**

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, operating, maintenance, and debt expenses for the wastewater utility have increased to a point where if wastewater utility expenses are exceeding revenues; and

WHEREAS, the Board referred the question of raising wastewater utility service rates and charges to the Utilities and Engineering Board ("UEB") pursuant to LMC Section 2-2-170; and

WHEREAS, pursuant to LMC Sections 2-2-170 and 2-8-200(b)(3), the UEB provided a recommendation to the Board that wastewater utility service rates and charges be raised by \$4.00 per thousand gallons; and

WHEREAS, the Board deems it necessary to raise rates to maintain a fiscally sound enterprise fund; and

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

WHEREAS, The Board has conducted a public hearing to consider evidence and testimony on the increases in the wastewater utility services rates and charges 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 13-4-60 is hereby amended from the previous Article 4 of Chapter 13 and as shown on **Exhibit A**, to read in full as follows:

Sec. 13-4-60. - Service rates and charges.

- (a) Rates and charges for wastewater services. Rates and charges shall be imposed for the use of Town wastewater system and sewage treatment plant in accordance with the following schedule. All monthly charges stated in this Section are for a "unit" as this term is defined in this Article.

<i>Type of Consumer</i>	<i>Monthly Charge Per Unit</i>
1. All consumers with flat rate Town-provided water service	\$98.50 base fee/month
2. Residential consumers with metered Town-provided water service	\$22.65 base fee/month plus an amount equal to: the sum of the consumer's water usage for the utility bills issued January 1, February 1 and March 1, divided by 3; and then multiplied by \$9.50 for each 1,000 gallons of average water use for such three-month period
3. Nonresidential consumers with metered Town-provided water service	\$22.65 base fee/month plus an amount equal to \$9.25 for each 1,000 gallons of water use during such billing period.

- (b) **Surcharge added.** A surcharge may be added to the rates and charges specified in this Section in accordance with other provisions of this Article.
- (c) **Meter adjustments.** In the event that (1) a new customer becomes responsible for service any time following January 1 of any year, or (2) an existing customer demonstrates, to the Town Administrator's satisfaction, that a water leak or malfunctioning meter has improperly affected actual use during the most recent period of December 1 to March 1, then the Town Administrator may estimate and adjust the customer's meter usage for purposes of this Section by using the average usage for all residential users within the Town for the entire calendar year. Adjustments for an existing customer shall extend only to bills for that calendar year and only for bills subsequent to the time of which the error is brought to the attention of the Town Administrator. In the event that the customer disagrees with the Town Administrator's

estimation, the customer may elect to continue payment of monthly wastewater charges pursuant to applicable provision of Paragraph (a)(1) or (a)(2) above until such time that actual water consumption and billing amounts are obtained for service during the period of December 1 to March 1.

- (d) Monthly minimum user fees. In the event that any owner of a wastewater connection or tap purchased or otherwise granted or transferred to the owner after March 7, 1998, fails to connect or otherwise install such connection or tap and commence wastewater service to the owner's property within eighteen (18) months from the date of purchase or grant transfer of the wastewater tap, the owner shall pay each month, commencing on the first monthly billing period following such owner's failure, the minimum monthly rate or charge as set forth in this Section.
- (e) Periodic CPI rate adjustment. On every January 1 of each year, any flat rate or standard monthly service charge per unit provided in this Section shall be adjusted in accordance with the estimated Consumer Price Index (CPI) as established by the U.S. Bureau of Labor Statistics for the Denver/Boulder metropolitan area. Rates shall be rounded to the nearest five-cent increment. This Article shall be amended to reflect each periodic CPI rate adjustment, provided that failure to amend the rate contained in this Chapter shall not limit, preclude or prevent the operation and application of such periodic adjustment commencing each January 1.

Section 3. 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 4. 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 5. 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 6. 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 7. 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 5TH DAY OF NOVEMBER 2018.

INTRODUCED, AMENDED, PASSED, ADOPTED AND ORDERED PUBLISHED ON SECOND READING THIS 19TH DAY OF November 2018.

TOWN OF LYONS, COLORADO



Connie Sullivan, Mayor

ATTEST:



Debra K. Anthony, Town Clerk

Attachments:

Exhibit A – Redline Changes to Section Article 4 of Chapter 13, Section 13-4-60 – Service rates and charges.

Exhibit B: Clean Copy of Section Article 4 of Chapter 13, Section 13-4-60 – Service rates and charges as amended.

EXHIBIT A

Sec. 13-4-60. - Service rates and charges.

- (a) Rates and charges for wastewater services. Rates and charges shall be imposed for the use of Town wastewater system and sewage treatment plant in accordance with the following schedule. All monthly charges stated in this Section are for a "unit" as this term is defined in this Article.

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1. All consumers with flat rate Town-provided water service	\$98.50 base fee/month
2. Residential consumers with metered Town-provided water service	\$22.65 base fee/month plus an amount equal to: the sum of the consumer's water usage for the utility bills issued January 1, February 1 and March 1, divided by 3; and then multiplied by \$59.50 for each 1,000 gallons of average water use for such three-month period
3. Nonresidential consumers with metered Town-provided water service	\$22.65 base fee/month plus an amount equal to \$59.25 for each 1,000 gallons of water use during such billing period.

- (b) Surcharge added. A surcharge may be added to the rates and charges specified in this Section in accordance with other provisions of this Article.
- (c) Meter adjustments. In the event that (1) a new customer becomes responsible for service any time following January 1 of any year, or (2) an existing customer demonstrates, to the Town Administrator's satisfaction, that a water leak or malfunctioning meter has improperly affected actual use during the most recent period of December 1 to March 1, then the Town Administrator may estimate and adjust the customer's meter usage for purposes of this Section by using the average usage for all residential users within the Town for the entire calendar year. Adjustments for an existing customer shall extend only to bills for that calendar year and only for bills subsequent to the time of which the error is brought to the attention of the Town Administrator. In the event that the customer disagrees with the Town Administrator's estimation, the customer may elect to continue payment of monthly wastewater

charges pursuant to applicable provision of Paragraph (a)(1) or (a)(2) above until such time that actual water consumption and billing amounts are obtained for service during the period of December 1 to March 1.

- (d) **Monthly minimum user fees.** In the event that any owner of a wastewater connection or tap purchased or otherwise granted or transferred to the owner after March 7, 1998, fails to connect or otherwise install such connection or tap and commence wastewater service to the owner's property within eighteen (18) months from the date of purchase or grant transfer of the wastewater tap, the owner shall pay each month, commencing on the first monthly billing period following such owner's failure, the minimum monthly rate or charge as set forth in this Section.

- (e) **Periodic CPI rate adjustment.** On every January 1 of each year, any flat rate or standard monthly service charge per unit provided in this Section shall be adjusted in accordance with the estimated Consumer Price Index (CPI) as established by the U.S. Bureau of Labor Statistics for the Denver/Boulder metropolitan area. Rates shall be rounded to the nearest five-cent increment. This Article shall be amended to reflect each periodic CPI rate adjustment, provided that failure to amend the rate contained in this Chapter shall not limit, preclude or prevent the operation and application of such periodic adjustment commencing each January 1.

EXHIBIT B

Sec. 13-4-60. - Service rates and charges.

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during the period of December 1 to March 1.

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