

**TOWN OF LYONS, COLORADO
ORDINANCE 1076**

**AN ORDINANCE OF THE TOWN OF LYONS, COLORADO, AMENDING ARTICLE 1 OF
CHAPTER 13 OF THE LYONS MUNICIPAL CODE FOR THE PURPOSE OF UPDATING THE
ADMINISTRATION AND ENFORCEMENT PROVISIONS OF THE UTILITY CODE**

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 1, Chapter 13, of the Lyons Municipal Code ("LMC") entitled "Administration and Enforcement" establishing provisions for the administration and enforcement of the utility code; and

WHEREAS, the Board referred the question of amending the administration and enforcement rules and regulations to the Utilities and Engineering Board ("UEB") pursuant to LMC Section 2-2-170; and

WHEREAS, the UEB has recommended that the Board adopt various clarifying, corrective, and explanatory amendments to Article 1, Chapter 13 of the LMC as set forth in Exhibit A attached hereto and incorporated by reference; and

WHEREAS, the Board wishes to adopt the recommendations of the UEB; and

WHEREAS, The Board has conducted a public hearing to consider evidence and testimony the proposed changes to Article 1, 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. Section 13-1-10 of the Lyons Municipal Code is hereby amended to read:

Sec. 13-1-10. - Definitions.

For purposes of this Chapter, the following terms and phrases shall have the meaning indicated, unless otherwise provided:

Consumer means any public or private user of any public utility system responsible for payment for services provided to real property. A *consumer* is customarily or typically the owner of the premises or property receiving services from the Town Utility System and the party ultimately responsible for payment of all fees, rates and charges for such services imposed pursuant to this Chapter.

Department means either the Electric, Water, Wastewater, or Stormwater Department, as the context indicates.

Dwelling unit, accessory (ADU) means a second, subordinate unit co-located on the same lot as a principal residence in a single-family residential zone district. An accessory dwelling unit is no larger than eight hundred (800) square feet and may be either added to, co-located with as a detached unit, or created within a principal single-family detached dwelling. ADUs are created for the purpose of accommodating a second family that lives separately from the family residing in the principal single-family detached dwelling. An ADU is occupied by a second family that enjoys spatially segregated living space that provides for cooking, sanitation and sleeping that is separate from and accessory to and subordinate to the principal single-family detached dwelling. In this definition, "family" refers to that term as it is defined in Section 16-1-160 of this Code.

Mail or mailing shall include any one (1) or all of the following: (1) the deposit in the U.S. mail or deposit with a similar and comparable delivery service, postage and all fees prepaid, properly addressed to the service address or a known current mailing address for the consumer; (2) hand posting in a conspicuous place at the address intended, including, but not limited to, attachment to the main entry door of the addressed premises; and (3) hand delivery to a person at the intended address who appears to be over the age of eighteen (18) years of age. An affidavit of the person conducting the mailing that the mailing was performed in accordance with this Chapter shall constitute a rebuttable presumption that mailing was performed. Where a consumer's address is unknown and cannot be determined by reasonable sources, publication once in a newspaper of general circulation within the County shall be equivalent to and shall constitute mailing for purposes of this Chapter.

Principal dwelling unit means one (1) or more rooms and a single kitchen and at least one (1) bathroom, designed, occupied or intended for occupancy as separate quarters for the exclusive use of a single family for living, cooking and sanitary purposes, either detached or attached to a one-family, two-family or multifamily dwelling or mixed-use building. An accessory dwelling unit as defined herein is not a principal dwelling unit.

Services means collectively, services for electric, water, and wastewater provided by the Town Utility System and Departments.

Town Administrator means the Town Administrator of the Town or the Town Administrator's designee.

Town Utility Departments means, collectively, the Electric, Water, Wastewater, and Stormwater Departments of the Town.

Town Utility System means all facilities and equipment associated with the collection, treatment, operation and distribution of electricity, water, wastewater and Stormwater by the Electric Department, Water Department, Wastewater Department, and Stormwater Department of the Town.

Unit means, unless otherwise specifically defined by another section of this Chapter: (1) in reference to a residential use, a residential dwelling, mobile home, apartment house or motel, designed primarily for occupancy by one (1) person, one (1) family or otherwise

intended as a single living or sleeping area, whether temporary or permanent; or (2) in reference to a nonresidential use, the property or the use controlled by a consumer.

Bypassing means the act of attaching, connecting or in any manner affixing any wire, cord, socket, motor, pipe or other instrument, device or contrivance to the Town Utility System or any part thereof in such a manner as to transmit, supply or use any utility service without passing through an authorized meter or other device provided for measuring, registering, determining or limiting the amount of electricity, gas or water consumed.

Tampering means the act of damaging, altering, adjusting or in any manner interfering with or obstructing the action or operation of any meter or other device provided for measuring, registering, determining or limiting the amount of electricity, gas or water consumed.

Tapping means the act of connecting by means of any device, instrument or other contrivance into the Town Utility System or any part thereof in such a manner as to use said utility service.

Utility service means the provision of electricity, gas, steam, water, wastewater service or any other service or commodity furnished by the Town Utility System for compensation.

Unauthorized metering means the act of removing, moving, installing, connecting, reconnecting or disconnecting any meter or metering device for utility service by a person other than an authorized contractor, employee or agent of the Town Utility System.

Section 3. Section 13-1-20 of the Lyons Municipal Code is hereby amended to read:

Sec. 13-1-20. - Control and management of Town utilities.

The Board of Trustees shall constitute the policy-making and governing board of the Town Utility Departments. Subject to direction by the Board of Trustees, the Town Administrator shall have the immediate control and management of all matters pertaining to the operation and maintenance of the Electric Department, Water Department, Wastewater Department and Stormwater Department and shall perform all acts that may be necessary for the prudent, efficient and economical management, protection and enforcement of the Town Utility Systems. The Town Administrator may create and approve forms, written administration interpretations and any other documentation deemed necessary to permit the administration of this Chapter. The Board of Trustees shall have the power by motion or resolution to prescribe such other and further rules and regulations governing the powers and duties of the Town Administrator in the management of the Town Utility Departments and Systems and to establish such other rates, rules and regulations not otherwise contained in this Chapter.

Section 4. Section 13-1-130 of the Lyons Municipal Code is hereby amended to read:

Sec. 13-1-130. - Lien on property served.

All fees, rates and other charges for electric, water, wastewater, and stormwater connections and services shall be a charge and a lien upon the premises or property to which such service is delivered from the date such fees, rates and charges become due and until paid. The owner of the premises or property shall be obligated and liable for all services delivered to

or taken and used upon such premises or property. In case a tenant in possession of the premises or building or an agent for the owner contracts to pay any fees, rates, or charge, such contract does not relieve the property owner from such obligation and lien, and the town shall not be required to look to any person whatsoever, other than the owner, for payment. All delinquent fees, rates, and other charges for electric, water, wastewater, and stormwater may be certified to the County Treasurer by the Town Clerk and collected in the same manner as general taxes.

Section 5. Section 13-1-140 of the Lyons Municipal Code is hereby amended to read:

Sec. 13-1-140. - Fees, interest on all delinquent accounts.

Accounts that remain delinquent for a period more than 30 days shall be assessed any or all of the following fees as set by the Board of Trustees in the Fees Schedule: Late Notice Fee, Meter Disconnect Fee, Meter Reconnect Fee during business hours, Meter Reconnect Fee after business hours. All fees, rates, penalties, and other charges imposed pursuant to this Chapter that remain delinquent for a period of more than thirty (30) days shall be subject to and shall be assessed interest at a rate of six hundred sixty-six thousandth of a percent (.666%) per month, non-compounded (eight percent [8%] per annum) on all outstanding principal and interest owing. The Town Administrator shall have the authority to waive, release or reduce the amount assessed for interest where the Town Administrator finds that such action will permit or facilitate the payment or collection of a delinquent account.

Section 6. Section 13-1-150 of the Lyons Municipal Code is hereby amended to read:

Sec. 13-1-150. - Immediate suspension or termination of electric or water service.

In addition to and without waiving any other available remedy, the Town shall possess and may exercise the right to immediately suspend or terminate utility service to any property upon any of the following events:

- (1) The revocation of any license or permit for such service to the property.
- (2) Discovery of unauthorized use of, or connection to, the Town Utility System.
- (3) When suspension or termination is necessary to stop or prevent an actual or threatened discharge, action or activity which presents or may present an imminent or substantial interference, damage, or endangerment to: (a) the health, safety or welfare of persons or property; (b) the environment; or (c) the Town Utility System.
- (4) When termination is necessary to stop or prevent any use or escape of water which presents or may present a risk of substantial loss of water or any imminent and substantial endangerment to the property, health, safety or welfare of any person.

Section 7. Section 13-1-160 of the Lyons Municipal Code is hereby amended to read:

Sec. 13-1-160. - Termination for nonpayment.

Electric 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 13-1-140 above;
 - 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.

Section 8. Section 13-1-170 of the Lyons Municipal Code is hereby amended to read:

Sec. 13-1-170. - Reinstatement of terminated service.

Any termination shall be rescinded by the Town upon a determination by the Town Administrator that the deficiency forming the basis for such termination has been cured or adequate arrangements for curing such deficiency have been made with the Town and that no further or other unlawful or illegal conditions or uses of the Town Utility System are evident on the property. The Town shall not reinstate service until the person requesting reinstatement has paid the full the amount of any applicable disconnection, new connection or reconnection charge imposed under this Chapter, and any and all other amounts then due to the Town from such person or property pursuant to this Chapter.

Section 9. Section 13-1-180 of the Lyons Municipal Code is hereby amended to read:

Sec. 13-1-180. - No permits or licenses.

The Board of Trustees, or its boards, commissions, authorities, and other appointed bodies, shall not issue any permit, license, liquor license, or other Town approval, including subdivision, zoning, or land use approval for any property, where there remains any deficiency or amount owing for utility connection, utility service or any other utility-related charge to such property imposed pursuant to this Chapter provided, however, that if an applicant for a permit or license is current in performing a cure agreement pursuant to Sec. 13-1-250, a permit or license may be provisionally issued, in the discretion of the Town Administrator, contingent upon the execution of and current compliance with such cure agreement.

Section 10. Section 13-1-190 of the Lyons Municipal Code is hereby amended to read:

Sec. 13-1-190. - Theft of service.

- (a) It shall be unlawful for any person to commit the offense of theft of utility service. A person commits the offense of theft of utility service when the person knowingly and without authority to do so commits, authorizes, solicits, aids, abets or attempts any of the following acts with intent to obtain or use a utility service without compensating the Town Utility System for that utility service: bypassing, tampering, tapping or unauthorized metering. This Section shall not apply where the aggregate damage in any one (1) criminal episode is five hundred dollars (\$500.00) or more. A violation of this Section shall be punishable in accordance with the provisions of Section 1-4-20 of this Code.
- (b) During the term of any officially declared local disaster/emergency pursuant to Section 24-33.5-709, C.R.S., the Town Administrator shall be authorized to make decisions regarding all Town utility services, including but not limited to shutting off utilities, restoring utility service, repairing facilities and reconnecting individual properties, taking into account such factors as public safety, risk of fire, need for utility service at a given location and duration of the emergency. The Town Administrator is specifically empowered to order that any or all utilities remain off for a designated period of time, in the interest of public health, safety and welfare. It is unlawful for any person to knowingly and without authority connect or remain connected to any Town utility service or to authorize, solicit, aid or abet any person in connecting or remaining connected to any Town utility service when an officially declared local disaster is in effect. A violation of this Section shall be punishable in accordance with Section 1-4-20 of this Code.
- (c) The Town Administrator is authorized, during the term of any officially declared local disaster, to manage, restrict or prohibit access to the Town's water supply when, in the Town Administrator's sole discretion, allowing access to water presents a significant risk to public health, safety and welfare. The Town Administrator is specifically allowed to arrange for temporary nonpotable water supplies, including cisterns, water trucks and other means of storing or transporting water, to be placed in appropriate locations throughout the Town for use in emergencies only. It shall be unlawful for any person knowingly and without authority, to take or use any part of any such emergency water supply for any purpose other than the emergency use for which it is intended. A violation of this Section shall be punishable in accordance with Section 1-4-20 of this Code.

Section 11. Section 13-1-210 of the Lyons Municipal Code is hereby amended to read:

Sec. 13-1-210. - Appeals.

- (a) Any final order, directive, interpretation, or decision of the Town Administrator which has been made in writing and relating to the administration or enforcement of this Chapter may be appealed to the Board of Trustees by providing written notice of appeal to the Town Clerk within ten (10) business days after the effective date of the order, directive, interpretation or decision being appealed. Such notice shall specifically identify the basis for appeal. Upon receipt of a timely notice of appeal, the Town Clerk shall schedule such appeal before the Board of Trustees at a regular meeting and mail notice to the appealing party of the date, time and place of such Board of Trustees meeting.
- (b) All hearings shall be informal, the object being to resolve the issues promptly and economically. Rules of evidence shall not be strictly applied.
- (c) The hearing may be recorded by tape recording, stenographer, or other verbatim reproduction. A copy of the proceedings shall be available to the appellant upon payment of the reasonable costs thereof.
- (d) The appellant has the burden of proof to prove that the Board of Trustees should act as the applicant requests or that the determination appealed from was erroneous. Every party to the proceeding has the right to present such party's case or defense by oral and documentary evidence, to submit rebuttal evidence, and to conduct such cross examination as may be required for a full and true disclosure of the facts.
- (e) The Board of Trustees may issue a decision at the hearing and may, within 30 days after completion of the hearing, issue a written decision which memorializes the decision at the hearing with findings of fact and conclusions of law, setting forth the grounds of the decision, based on the evidence presented at the hearing.
- (f) If the appeal is not found in the appellants favor, appellant may be held responsible for all costs associated with the hearing, including, but not limited to, legal fees, court costs and administrative costs.

Section 12. Section 13-1-250 of the Lyons Municipal Code is hereby amended to read:

Sec. 13-1-250. - Cure of deficiencies.

Residential and nonresidential consumers delinquent in any Town Utility Department account shall be provided an opportunity to cure such deficiency as follows:

- (1) Within ten (10) business days of mailing of a Notice of Delinquency or prior to the issuance of a Notice of Delinquency, the consumer shall submit to the Town Clerk in writing a request to cure all outstanding deficiencies in accordance with this Section. Failure to timely provide a written request to cure the deficiency to the Town Clerk shall void the consumer's opportunity to cure any deficiency as permitted by this Section.

- (2) Residential consumers timely requesting to cure outstanding deficiencies in accordance with this Section shall be provided an opportunity to execute and enter into an agreement with the Town, which shall permit the outstanding delinquent amounts to be paid in twelve (12) equal monthly installments, commencing on the next billing period, until such delinquency is paid in full.
- (3) Nonresidential consumers timely requesting to cure outstanding deficiencies in accordance with this Section shall be provided an opportunity to execute and enter into an agreement with the Town, which shall permit the outstanding delinquent amounts to be paid in six (6) equal monthly installments, commencing on the next billing period, until such delinquency is paid in full.
- (4) Agreements for payment of delinquent accounts shall require that all future monthly fees, rates and charges be timely paid in full in addition to the payment of the required monthly installment amounts. Interest otherwise due and owing upon outstanding and delinquent amounts as provided by this Chapter shall continue to accrue on all amounts to be paid in accordance with the agreement permitted by this Section. Such agreement shall provide that any default or failure to pay amounts in accordance with the agreement shall result in the Town's collection and enforcement of payment in accordance with the provisions of this Article and Chapter, including the imposition of liens, accrual of interest and the termination of services.
- (5) All agreements shall be standardized and substantially uniform in their application to delinquent consumers and shall include such other provisions deemed necessary or convenient by the Town Attorney. The Board of Trustees may approve the use of a standardized agreement for administering this Section, and the Town Administrator shall have the authority to execute such approved agreements on behalf of the Board of Trustees where such agreement is substantially in the form approved by the Board of Trustees.
- (6) If a delinquent consumer's balance exceeds the amount the Town Administrator is permitted to approve for contracts for services, then the Town Board of Trustees shall be notified of the delinquent account.

Section 13. 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 14. 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 15. 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 16. 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, 3, 4, 5, 6, 7, 8, 9, 10, 11, and 12 of this Ordinance within the Lyons Municipal Code.

Section 17. 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 3rd DAY OF February 2020.

INTRODUCED, AMENDED, PASSED, ADOPTED AND ORDERED PUBLISHED ON SECOND READING THIS 18th DAY OF February 2020.

TOWN OF LYONS, COLORADO

Connie Sullivan

Connie Sullivan, Mayor



Attachments:

Exhibit A – Redline Changes to Article 1 of Chapter 13 – Administration and Enforcement

Exhibit B: Clean Copy of Article 1 of Chapter 13 – Administration and Enforcement

1076

Final Audit Report

2020-10-08

Created:	2020-10-08
By:	Town of Lyons (recreation@townoflyons.com)
Status:	Signed
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"1076" History






-  Document created by Town of Lyons (recreation@townoflyons.com)
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-  Document e-signed by Connie Sullivan (crsullivan16@me.com)
Signature Date: 2020-10-08 - 4:48:56 PM GMT - Time Source: server- IP address: 65.113.158.177
-  Agreement completed.
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EXHIBIT A

ARTICLE 1 - Administration and Enforcement

Sec. 13-1-10. - Definitions.

For purposes of this Chapter, the following terms and phrases shall have the meaning indicated, unless otherwise provided:

Consumer means any public or private user of any public utility system responsible for payment for services provided to real property. A *consumer* is customarily or typically the owner of the premises or property receiving services from the Town Utility System and the party ultimately responsible for payment of all fees, rates and charges for such services imposed pursuant to this Chapter.

Department means either the Electric, Water, ~~or Sewer Department, or Stormwater~~ as Department, as the context indicates.

Dwelling unit, accessory (ADU) means a second, subordinate unit co-located on the same lot as a principal residence in a single-family residential zone district. An accessory dwelling unit is no larger than eight hundred (800) square feet and may be either added to, co-located with as a detached unit, or created within a principal single-family detached dwelling. ADUs are created for the purpose of accommodating a second family that lives separately from the family residing in the principal single-family detached dwelling. An ADU is occupied by a second family that enjoys spatially segregated living space that provides for cooking, sanitation and sleeping that is separate from and accessory to and subordinate to the principal single-family detached dwelling. In this definition, "family" refers to that term as it is defined in Section 16-1-160 of this Code.

Mail or mailing shall include any one (1) or all of the following: (1) the deposit in the U.S. mail or deposit with a similar and comparable delivery service, postage and all fees prepaid, properly addressed to the service address or a known current mailing address for the consumer; (2) hand posting in a conspicuous place at the address intended, including, but not limited to, attachment to the main entry door of the addressed premises; and (3) hand delivery to a person at the intended address who appears to be over the age of eighteen (18) years of age. An affidavit of the person conducting the mailing that the mailing was performed in accordance with this Chapter shall constitute a rebuttable presumption that mailing was performed. Where a consumer's address is unknown and cannot be determined by reasonable sources, publication once in a newspaper of general circulation within the County shall be equivalent to and shall constitute mailing for purposes of this Chapter.

Principal dwelling unit means one (1) or more rooms and a single kitchen and at least one (1) bathroom, designed, occupied or intended for occupancy as separate quarters for the exclusive use of a single family for living, cooking and sanitary purposes, either detached or attached to a one-family, two-family or multifamily dwelling or mixed-use building. An accessory dwelling unit as defined herein is not a principal dwelling unit.

Services means collectively, services for electric, water and sewer provided by the Town Utility System and Departments.

Town Administrator means the Town Administrator of the Town or the Town Administrator's designee.

Town Utility Departments means, collectively, the Electric, Water, ~~and Sewer, and Stormwater~~ Departments of the Town.

Town Utility System means all facilities and equipment associated with the collection, treatment, operation and distribution of electricity, water, ~~and wastewater~~, and Stormwater by the Electric Department, Water Department, ~~and/or~~ Sewer Department, and Stormwater of the Town.

Unit means, unless otherwise specifically defined by another section of this Chapter: (1) in reference to a residential use, a residential dwelling, mobile home, apartment house or motel, designed primarily for occupancy by one (1) person, one (1) family or otherwise intended as a single living or sleeping area, whether temporary or permanent; or (2) in reference to a nonresidential use, the property or the use controlled by a consumer.

Bypassing means the act of attaching, connecting or in any manner affixing any wire, cord, socket, motor, pipe or other instrument, device or contrivance to the Town Utility System or any part thereof in such a manner as to transmit, supply or use any utility service without passing through an authorized meter or other device provided for measuring, registering, determining or limiting the amount of electricity, gas or water consumed.

Tempering means the act of damaging, altering, adjusting or in any manner interfering with or obstructing the action or operation of any meter or other device provided for measuring, registering, determining or limiting the amount of electricity, gas or water consumed.

Tapping means the act of connecting by means of any device, instrument or other contrivance into the Town Utility System or any part thereof in such a manner as to use said utility service.

Utility service means the provision of electricity, gas, steam, water, sewer service or any other service or commodity furnished by the Town Utility System for compensation.

Unauthorized metering means the act of removing, moving, installing, connecting, reconnecting or disconnecting any meter or metering device for utility service by a person other than an authorized contractor, employee or agent of the Town Utility System.

Sec. 13-1-20. - Control and management of Town utilities.

The Board of Trustees shall constitute the policy-making and governing board of the Town Utility Departments. Subject to direction by the Board of Trustees, the Town Administrator shall have the immediate control and management of all matters pertaining to the operation and maintenance of the Electric Department, Water Department, and Sewer Department, and Stormwater Department and shall perform all acts that may be necessary for the prudent, efficient and economical management, protection and enforcement of the Town Utility Systems. The Town Administrator may create and approve forms, written administration interpretations and any other documentation deemed necessary to permit the administration of this Chapter. The Board of Trustees shall have the power by motion or resolution to prescribe such other and further rules and regulations governing the powers and duties of the Town Administrator in the management of the Town Utility Departments and Systems and to establish such other rates, rules and regulations not otherwise contained in this Chapter.

Commented [BD1]: (DEFINITIONS From old 13-1-160 Theft of Service)

Sec. 13-1-130. - Lien on property served.

(a) ~~All fees, rates and other charges for electric, water, and wastewater, and stormwater connections and services shall be a charge and a lien upon the premises or property to which such service is delivered from the date such fees, rates and charges become due and until paid. The owner of the premises or property shall be obligated and liable for all services delivered to or taken and used upon such premises or property, which lien and liability may be enforced by the Town in accordance with this Chapter or as may otherwise be permitted by law. In the event that a tenant or agent of the owner pays any amount owing for utility services, such payment shall relieve the owner from such obligation and lien.~~

Commented [BD2]: NOTE- Sections 13-1-30 through 13-1-120 have no changes

~~provided, however, that the Town shall not be obligated to seek payment from any person other than the owner of the premises or property receiving Town utility services. In case a tenant in possession of the premises or building or an agent for the owner contracts to pay any fees, rates or charge, such contract does not relieve the property owner from such obligation and lien, and the town shall not be required to look to any person whatsoever, other than the owner, for payment.~~

~~(b) — All delinquent fees, rates and other charges for electric, water, and wastewater and stormwater connections and services, together with interest, penalties and reasonable attorneys' fees remaining unpaid for a period of more than thirty (30) days, may be certified to the County Treasurer, to be levied as an assessment upon the premises or property and collected by the Town Clerk and collected in the same manner as general taxes. Prior to such certification, the Town shall mail notice of the Town's intent to certify such delinquency to the record owner of the property or premises.~~

Sec. 13-1-140. - Fees, interest on all delinquent accounts.

Accounts that remain delinquent for a period more than 30 days shall be assessed any or all of the following fees as set by the Board of Trustees in the Fees Schedule: Late Notice Fee, Meter Disconnect Fee, Meter Reconnect Fee during business hours, Meter Reconnect Fee after business hours. All fees, rates, penalties, and other charges imposed pursuant to this Chapter that remain delinquent for a period of more than thirty (30) days shall be subject to and shall be assessed interest at a rate of six hundred sixty-six thousandth of a percent (.666%) per month, non-compounded (eight percent [8%] per annum) on all outstanding principal and interest owing. The Town Administrator shall have the authority to waive, release or reduce the amount assessed for interest where the Town Administrator finds that such action will permit or facilitate the payment or collection of a delinquent account.

Sec. 13-1-150. - Immediate suspension or termination of electric or water service.

In addition to and without waiving any other available remedy, the Town shall possess and may exercise the right to immediately suspend or terminate utility service to any property upon any of the following events:

- (1) The revocation of any license or permit for such service to the property.
- (2) Discovery of unauthorized use of, or connection to, the Town Utility System.
- (3) When suspension or termination is necessary to stop or prevent an actual or threatened discharge, action or activity which presents or may present an imminent or substantial interference, damage or endangerment to: (a) the health, safety or welfare of persons or property; (b) the environment; or (c) the Town Utility System.
- (4) When termination is necessary to stop or prevent any use or escape of water which presents or may present a risk of substantial loss of water or any imminent and substantial endangerment to the property, health, safety or welfare of any person.

Sec. 13-1-160. - Termination for nonpayment; late fees.

Electric 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 140 above;

- 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.~~

Commented [BD3]: LATE FEES MOVED TO 13-1-140

Sec. 13-1-150. Theft of service.

- (a) ~~Definitions. Terms and phrases shall have the following meanings for purposes of this Section:~~

~~Bypassing means the act of attaching, connecting or in any manner affixing any wire, cord, socket, meter, pipe or other instrument, device or contrivance to the Town Utility System or any part thereof in such a manner as to transmit, supply or use any utility service without passing through an authorized meter or other device provided for measuring, registering, determining or limiting the amount of electricity, gas or water consumed.~~

~~Tampering means the act of damaging, altering, adjusting or in any manner interfering with or obstructing the action or operation of any meter or other device provided for measuring, registering, determining or limiting the amount of electricity, gas or water consumed.~~

~~Tapping means the act of connecting by means of any device, instrument or other contrivance into the Town Utility System or any part thereof in such a manner as to use said utility service.~~

~~Utility service means the provision of electricity, gas, steam, water, sewer service or any other service or commodity furnished by the Town Utility System for compensation.~~

~~Unauthorized metering means the act of removing, moving, installing, connecting, reconnecting or disconnecting any meter or metering device for utility service by a person other than an authorized contractor, employee or agent of the Town Utility System.~~

- ~~(b) It shall be unlawful for any person to commit the offense of theft of utility service. A person commits the offense of theft of utility service when the person knowingly and without authority to do so commits, authorizes, solicits, aids, abets or attempts any of the following acts with intent to obtain or use a utility service without compensating the Town Utility System for that utility service: bypassing, tampering, tapping or unauthorized metering. This Section shall not apply where the aggregate damage in any one (1) criminal episode is five hundred dollars (\$500.00) or more. A violation of this Section shall be punishable in accordance with the provisions of Section 1-4-20 of this Code.~~
- ~~(c) During the term of any officially declared local disaster/emergency pursuant to Section 24-33.5-700, C.R.S., the Town Administrator shall be authorized to make decisions regarding all Town utility services, including but not limited to shutting off utilities, restoring utility service, repairing facilities and reconnecting individual properties, taking into account such factors as public safety, risk of fire, need for utility service at a given location and duration of the emergency. The Town Administrator is specifically empowered to order that any or all utilities remain off for a designated period of time, in the interest of public health, safety and welfare. It is unlawful for any person to knowingly and without authority connect or remain connected to any Town utility service or to authorize, solicit, aid or abet any person in connecting or remaining connected to any Town utility service when an officially~~

declared local disaster is in effect. A violation of this Section shall be punishable in accordance with Section 1-4-20 of this Code.

- (d) ~~The Town Administrator is authorized, during the term of any officially declared local disaster, to manage, restrict or prohibit access to the Town's water supply when, in the Town Administrator's sole discretion, allowing access to water presents a significant risk to public health, safety and welfare. The Town Administrator is specifically allowed to arrange for temporary nonpotable water supplies, including cisterns, water trucks and other means of storing or transporting water, to be placed in appropriate locations throughout the Town for use in emergencies only. It shall be unlawful for any person knowingly and without authority, to take or use any part of any such emergency water supply for any purpose other than the emergency use for which it is intended. A violation of this Section shall be punishable in accordance with Section 1-4-20 of this Code.~~

Commented [BD4]: Moved subsection a to 13-1-10 Definitions, and sections b,c and d to 13-1-190

Sec. 13-1-170. - Reinstatement of terminated service.

Any termination shall be rescinded by the Town upon a determination by the Town Administrator that the deficiency forming the basis for such termination has been cured or adequate arrangements for curing such deficiency have been made with the Town and that no further or other unlawful or illegal conditions or uses of the Town Utility System are evident on the property. The Town shall not reinstate service until the person requesting reinstatement has paid the full the amount of any applicable disconnection, new connection or reconnection charge imposed under this Chapter, and any and all other amounts then due to the Town from such person or property pursuant to this Chapter. ~~For all Town utility services, a reinstatement fee of twenty five dollars (\$25.00) shall be required for reinstatement of any terminated service in addition to all other required fees, rates and charges imposed pursuant to this Chapter.~~

Commented [BD5]: Fees moved to 13-1-140

Sec. 13-1-180. ~~Interest on all delinquent accounts.~~

~~All fees, rates, penalties, and other charges imposed pursuant to this Chapter that remain delinquent for a period of more than thirty (30) days shall be subject to and shall be assessed interest at a rate of six hundred sixty six thousandth of a percent (.666%) per month (eight percent (8%) per annum) on all outstanding principal and interest owing. The Town Administrator shall have the authority to waive, release or reduce the amount assessed for interest where the Town Administrator finds that such action will permit or facilitate the payment or collection of a delinquent account.~~

Commented [BD6]: Moved to 13-1-140

Sec. 13-1-~~180~~190. - No permits or licenses.

The Board of Trustees, or its boards, commissions, authorities and other appointed bodies, shall not issue any permit, license, liquor license or other Town approval, including subdivision, zoning or land use approval for any property, where there remains any deficiency or amount owing for utility connection, utility service or any other utility-related charge to such property imposed pursuant to this Chapter: ~~provided, however, that if an applicant for a permit or license is current in performing a cure agreement pursuant to Sec. 13-1-250, a permit or license may be provisionally issued, in the discretion of the Town Administrator, contingent upon the execution of and current compliance with such cure agreement.~~

Sec. 13-1-190. - Theft of service.

- (a) It shall be unlawful for any person to commit the offense of theft of utility service. A person commits the offense of theft of utility service when the person knowingly and without authority to do so commits, authorizes, solicits, aids, abets or attempts any of the following acts with intent to obtain or use a utility service without compensating the Town Utility System for that utility service: bypassing, tampering, tapping or unauthorized metering. This Section shall not apply where the aggregate damage in any one (1) criminal episode is five hundred dollars (\$500.00) or more. A violation of this Section shall be punishable in accordance with the provisions of Section 1-4-20 of this Code.
- (b) During the term of any officially declared local disaster/emergency pursuant to Section 24-33.5-709, C.R.S., the Town Administrator shall be authorized to make decisions regarding all Town utility services, including but not limited to shutting off utilities, restoring utility service, repairing facilities and reconnecting individual properties, taking into account such factors as public safety, risk of fire,

need for utility service at a given location and duration of the emergency. The Town Administrator is specifically empowered to order that any or all utilities remain off for a designated period of time, in the interest of public health, safety and welfare. It is unlawful for any person to knowingly and without authority connect or remain connected to any Town utility service or to authorize, solicit, aid or abet any person in connecting or remaining connected to any Town utility service when an officially declared local disaster is in effect. A violation of this Section shall be punishable in accordance with Section 1-4-20 of this Code.

- (c) The Town Administrator is authorized, during the term of any officially declared local disaster, to manage, restrict or prohibit access to the Town's water supply when, in the Town Administrator's sole discretion, allowing access to water presents a significant risk to public health, safety and welfare. The Town Administrator is specifically allowed to arrange for temporary nonpotable water supplies, including cisterns, water trucks and other means of storing or transporting water, to be placed in appropriate locations throughout the Town for use in emergencies only. It shall be unlawful for any person knowingly and without authority, to take or use any part of any such emergency water supply for any purpose other than the emergency use for which it is intended. A violation of this Section shall be punishable in accordance with Section 1-4-20 of this Code.

Sec. 13-1-200. - Cure of violations.

- (a) Order to Cure. If the Town determines that any equipment, service line or other improvement related to the provision of any Town utility service for which the consumer is responsible for maintenance and operation fails to conform with this Chapter, the *Manual of Design Criteria and Standard Specifications for the Construction of Public Improvements*, this Code, any final subdivision plat or other final land use plan approval or the terms of any easement or other agreement, the Town may mail a written order to cure ("Order to Cure") such condition to the consumer at the service address or any other address for such person known to the Town. Such Order to Cure shall specify the improper condition, illegality, nonconformity or other defect and shall direct the property owner at the owner's cost to perform specified curative work, specify the period of time determined by the Town to be reasonably necessary for completion of the curative work, and order that such work be performed and completed by the consumer at the consumer's cost and expense in the time determined by the Town.
- (b) Town Cure at Owner's Cost. If the consumer fails to cure the improper condition, nonconformity, illegality or defect as stated in the Order to Cure, the Town may, in addition to and without waiving any other remedy, perform the work and assess and charge to the consumer the Town's actual costs incurred in curing the nonconformity, illegality or defect, including administrative costs and attorney fees. Such assessment and charge may be billed to the consumer, together with the billing of fees, rates and other charges, and collected in the same manner as fees, rates and other charges.

Sec. 13-1-210. - Appeals.

- (a) Any final order, directive, interpretation, or decision of the Town Administrator which has been made in writing and relating to the administration or enforcement of this Chapter may be appealed to the Board of Trustees by providing written notice of appeal to the Town Clerk within ten (10) business days after the effective date of the order, directive, interpretation, or decision being appealed. Such notice shall specifically identify the basis of appeal. Upon receipt of a timely notice of appeal, the Town Clerk shall schedule such appeal before the Board of Trustees at a regular meeting and mail notice to the appealing party of the date, time and place of such Board of Trustees meeting.
- (b) All hearings shall be informal, the object being to resolve the issues promptly and economically. Rules of evidence shall not be strictly applied.

- (c)G. The hearing shall be recorded by tape recording, stenographer, or other verbatim reproduction. A copy of the proceedings shall be available to the appellant upon payment of the reasonable costs thereof.
- (d)D. The appellant has the burden of proof to provide that the hearing officer Board of Trustees should act as the applicant requests or that the determination appealed from was erroneous. Every party to the proceeding has the right to present such party's case or defense by oral and documentary evidence, to submit rebuttal evidence, and to conduct such cross examination as may be required for a full and true disclosure of the facts.
- (e)E. The Board of Trustees hearing officer shall may issue a decision at the hearing and shall may, within 30 days after completion of the hearing, issue a written decision memorializes the decision at the hearing with findings of fact and conclusions of law, setting forth the grounds of the decision, based on the evidence presented at the hearing.
- (f) F. If the appeal is not found in the appellants favor, appellant may be held responsible for all costs associated with the hearing, including, but not limited to, legal fees, court costs and administrative costs.

Sec. 13-1-220. - Civil damages.

In addition to and without waiving any other available remedy, the Town may recover civil damages from any person liable under the laws of the United States or the State to the Town as a result of any violation of this Chapter or other unlawful act or omission. Such damages shall include the Town's actual costs of discovering, investigating, curing, mitigating and repairing the consequences of such violation or other unlawful acts or omissions.

Sec. 13-1-230. - Injunctive relief.

In addition to and without waiving any other available remedy, the Town may seek injunctive relief from any act or omission which violates this Chapter or which otherwise jeopardizes the property or health, safety or welfare of any person or the Town.

Sec. 13-1-240. - Remedies cumulative.

The remedies available to the Town under this Chapter and under the laws of the State shall be deemed cumulative, and the utilization by the Town of any single such remedy or combination thereof shall not preclude the Town from utilizing any other remedy or combination of remedies.

Sec. 13-1-250. - Cure of deficiencies.

Residential and nonresidential consumers delinquent in any Town Utility Department account shall be provided an opportunity to cure such deficiency as follows:

- (1) Within ten (10) days of mailing of a Notice of Delinquency or prior to the issuance of a Notice of Delinquency, the consumer shall submit to the Town Clerk in writing a request to cure all outstanding deficiencies in accordance with this Section. Failure to timely provide a written request to cure the deficiency to the Town Clerk shall void the consumer's opportunity to cure any deficiency as permitted by this Section.
- (2) Residential consumers timely requesting to cure outstanding deficiencies in accordance with this Section shall be provided an opportunity to execute and enter into an agreement with the Town, which shall permit the outstanding delinquent amounts to be paid in six (6) twenty-four (24) equal monthly installments, commencing on the next billing period, until such delinquency is paid in full.

- (3) Nonresidential consumers timely requesting to cure outstanding deficiencies in accordance with this Section shall be provided an opportunity to execute and enter into an agreement with the Town, which shall permit the outstanding delinquent amounts to be paid in ~~three (3) twelve (12)~~ equal monthly installments, commencing on the next billing period, until such delinquency is paid in full.
- (4) Agreements for payment of delinquent accounts shall require that all future monthly fees, rates and charges be timely paid in full in addition to the payment of the required monthly installment amounts. Interest otherwise due and owing upon outstanding and delinquent amounts as provided by this Chapter shall continue to accrue on all amounts to be paid in accordance with the agreement permitted by this Section. Such agreement shall provide that any default or failure to pay amounts in accordance with the agreement shall result in the Town's collection and enforcement of payment in accordance with the provisions of this Article and Chapter, including the imposition of liens, accrual of interest and the termination of services. ~~All agreements shall permit the consumer four (4) nonconsecutive months in which the consumer may request, and the Town shall grant, a forbearance of the obligation to make the monthly installment owing under the agreement in the event that the consumer determines that the required payment during such month would present a hardship. The exercise of the right to request Town forbearance in a month shall effectively extend the permitted payment period by one (1) additional month, provided that interest on all outstanding amounts shall continue to accrue and shall become due and owing. In no event shall any consumer be granted more than four (4) months of Town forbearance of the required monthly payment, and no forbearance may be requested by the consumer or granted by the Town in consecutive months.~~
- (5) All agreements shall be standardized and substantially uniform in their application to delinquent consumers and shall include such other provisions deemed necessary or convenient by the Town Attorney. The Board of Trustees may approve the use of a standardized agreement for administering this Section, and the Town Administrator shall have the authority to execute such approved agreements on behalf of the Board of Trustees where such agreement is substantially in the form approved by the Board of Trustees.
- ~~(6) —If a delinquent consumer's balance exceeds the amount the Town Administrator is allowed permitted to approve for contracts for services, then the Town Board of Trustees shall be notified of the delinquent account.~~

EXHIBIT B

ARTICLE 1 - Administration and Enforcement

Sec. 13-1-10. - Definitions.

For purposes of this Chapter, the following terms and phrases shall have the meaning indicated, unless otherwise provided:

Consumer means any public or private user of any public utility system responsible for payment for services provided to real property. A *consumer* is customarily or typically the owner of the premises or property receiving services from the Town Utility System and the party ultimately responsible for payment of all fees, rates and charges for such services imposed pursuant to this Chapter.

Department means either the Electric, Water, Sewer, or Stormwater Department, as the context indicates.

Dwelling unit, accessory (ADU) means a second, subordinate unit co-located on the same lot as a principal residence in a single-family residential zone district. An accessory dwelling unit is no larger than eight hundred (800) square feet and may be either added to, co-located with as a detached unit, or created within a principal single-family detached dwelling. ADUs are created for the purpose of accommodating a second family that lives separately from the family residing in the principal single-family detached dwelling. An ADU is occupied by a second family that enjoys spatially segregated living space that provides for cooking, sanitation and sleeping that is separate from and accessory to and subordinate to the principal single-family detached dwelling. In this definition, "family" refers to that term as it is defined in Section 16-1-160 of this Code.

Mail or mailing shall include any one (1) or all of the following: (1) the deposit in the U.S. mail or deposit with a similar and comparable delivery service, postage and all fees prepaid, properly addressed to the service address or a known current mailing address for the consumer; (2) hand posting in a conspicuous place at the address intended, including, but not limited to, attachment to the main entry door of the addressed premises; and (3) hand delivery to a person at the intended address who appears to be over the age of eighteen (18) years of age. An affidavit of the person conducting the mailing that the mailing was performed in accordance with this Chapter shall constitute a rebuttable presumption that mailing was performed. Where a consumer's address is unknown and cannot be determined by reasonable sources, publication once in a newspaper of general circulation within the County shall be equivalent to and shall constitute mailing for purposes of this Chapter.

Principal dwelling unit means one (1) or more rooms and a single kitchen and at least one (1) bathroom, designed, occupied or intended for occupancy as separate quarters for the exclusive use of a single family for living, cooking and sanitary purposes, either detached or attached to a one-family, two-family or multifamily dwelling or mixed-use building. An accessory dwelling unit as defined herein is not a principal dwelling unit.

Services means collectively, services for electric, water and sewer provided by the Town Utility System and Departments.

Town Administrator means the Town Administrator of the Town or the Town Administrator's designee.

Town Utility Departments means, collectively, the Electric, Water, Sewer, and Stormwater Departments of the Town.

Town Utility System means all facilities and equipment associated with the collection, treatment, operation and distribution of electricity, water, wastewater, and Stormwater by the Electric Department, Water Department, Sewer Department, and Stormwater of the Town.

Unit means, unless otherwise specifically defined by another section of this Chapter: (1) in reference to a residential use, a residential dwelling, mobile home, apartment house or motel, designed primarily for occupancy by one (1) person, one (1) family or otherwise intended as a single living or sleeping area, whether temporary or permanent; or (2) in reference to a nonresidential use, the property or the use controlled by a consumer.

Bypassing means the act of attaching, connecting or in any manner affixing any wire, cord, socket, motor, pipe or other instrument, device or contrivance to the Town Utility System or any part thereof in such a manner as to transmit, supply or use any utility service without passing through an authorized meter or other device provided for measuring, registering, determining or limiting the amount of electricity, gas or water consumed.

Tampering means the act of damaging, altering, adjusting or in any manner interfering with or obstructing the action or operation of any meter or other device provided for measuring, registering, determining or limiting the amount of electricity, gas or water consumed.

Tapping means the act of connecting by means of any device, instrument or other contrivance into the Town Utility System or any part thereof in such a manner as to use said utility service.

Utility service means the provision of electricity, gas, steam, water, sewer service or any other service or commodity furnished by the Town Utility System for compensation.

Unauthorized metering means the act of removing, moving, installing, connecting, reconnecting or disconnecting any meter or metering device for utility service by a person other than an authorized contractor, employee or agent of the Town Utility System.

Sec. 13-1-20. - Control and management of Town utilities.

The Board of Trustees shall constitute the policy-making and governing board of the Town Utility Departments. Subject to direction by the Board of Trustees, the Town Administrator shall have the immediate control and management of all matters pertaining to the operation and maintenance of the Electric Department, Water Department, Sewer Department, and Stormwater Department and shall perform all acts that may be necessary for the prudent, efficient and economical management, protection and enforcement of the Town Utility Systems. The Town Administrator may create and approve forms, written administration interpretations and any other documentation deemed necessary to permit the administration of this Chapter. The Board of Trustees shall have the power by motion or resolution to prescribe such other and further rules and regulations governing the powers and duties of the Town Administrator in the management of the Town Utility Departments and Systems and to establish such other rates, rules and regulations not otherwise contained in this Chapter.

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Sec. 13-1-130. - Lien on property served.

All fees, rates and other charges for electric, water, wastewater, and stormwater connections and services shall be a charge and a lien upon the premises or property to which such service is delivered from the date such fees, rates and charges become due and until paid. The owner of the premises or property shall be obligated and liable for all services delivered to or taken and used upon such premises or property. In case a tenant in possession of the premises or building or an agent for the owner contracts to pay any fees, rates or charge, such contract does not relieve the property owner from such

obligation and lien, and the town shall not be required to look to any person whatsoever, other than the owner, for payment.

All delinquent fees, rates and other charges for electric, water, wastewater and stormwater 'may be certified to the County Treasurer by the Town Clerk and collected in the same manner as general taxes.

Sec. 13-1-140. - Fees, interest on all delinquent accounts.

Accounts that remain delinquent for a period more than 30 days shall be assessed any or all of the following fees as set by the Board of Trustees in the Fees Schedule: Late Notice Fee, Meter Disconnect Fee, Meter Reconnect Fee during business hours, Meter Reconnect Fee after business hours. All fees, rates, penalties, and other charges imposed pursuant to this Chapter that remain delinquent for a period of more than thirty (30) days shall be subject to and shall be assessed interest at a rate of six hundred sixty-six thousandth of a percent (.666%) per month, non-compounded (eight percent [8%] per annum) on all outstanding principal and interest owing. The Town Administrator shall have the authority to waive, release or reduce the amount assessed for interest where the Town Administrator finds that such action will permit or facilitate the payment or collection of a delinquent account.

Sec. 13-1-150. - Immediate suspension or termination of electric or water service.

In addition to and without waiving any other available remedy, the Town shall possess and may exercise the right to immediately suspend or terminate utility service to any property upon any of the following events:

- (1) The revocation of any license or permit for such service to the property.
- (2) Discovery of unauthorized use of, or connection to, the Town Utility System.
- (3) When suspension or termination is necessary to stop or prevent an actual or threatened discharge, action or activity which presents or may present an imminent or substantial interference, damage or endangerment to: (a) the health, safety or welfare of persons or property; (b) the environment; or (c) the Town Utility System.
- (4) When termination is necessary to stop or prevent any use or escape of water which presents or may present a risk of substantial loss of water or any imminent and substantial endangerment to the property, health, safety or welfare of any person.

Sec. 13-1-160. - Termination for nonpayment.

Electric 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 13-1-140 above;
 - 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.

Sec. 13-1-170. - Reinstatement of terminated service.

Any termination shall be rescinded by the Town upon a determination by the Town Administrator that the deficiency forming the basis for such termination has been cured or adequate arrangements for curing such deficiency have been made with the Town and that no further or other unlawful or illegal conditions or uses of the Town Utility System are evident on the property. The Town shall not reinstate service until the person requesting reinstatement has paid the full the amount of any applicable disconnection, new connection or reconnection charge imposed under this Chapter, and any and all other amounts then due to the Town from such person or property pursuant to this Chapter.

Sec. 13-1-180. - No permits or licenses.

The Board of Trustees, or its boards, commissions, authorities and other appointed bodies, shall not issue any permit, license, liquor license or other Town approval, including subdivision, zoning or land use approval for any property, where there remains any deficiency or amount owing for utility connection, utility service or any other utility-related charge to such property imposed pursuant to this Chapter provided, however, that if an applicant for a permit or license is current in performing a cure agreement pursuant to Sec. 13-1-250, a permit or license may be provisionally issued, in the discretion of the Town Administrator, contingent upon the execution of and current compliance with such cure agreement.

Sec. 13-1-190. - Theft of service.

- (a) It shall be unlawful for any person to commit the offense of theft of utility service. A person commits the offense of theft of utility service when the person knowingly and without authority to do so commits, authorizes, solicits, aids, abets or attempts any of the following acts with intent to obtain or use a utility service without compensating the Town Utility System for that utility service: bypassing, tampering, tapping or unauthorized metering. This Section shall not apply where the aggregate damage in any one (1) criminal episode is five hundred dollars (\$500.00) or more. A violation of this Section shall be punishable in accordance with the provisions of Section 1-4-20 of this Code.
- (b) During the term of any officially declared local disaster/emergency pursuant to Section 24-33.5-709, C.R.S., the Town Administrator shall be authorized to make decisions regarding all Town utility services, including but not limited to shutting off utilities, restoring utility service, repairing facilities and reconnecting individual properties, taking into account such factors as public safety, risk of fire, need for utility service at a given location and duration of the emergency. The Town Administrator is specifically empowered to order that any or all utilities remain off for a designated period of time, in the interest of public health, safety and welfare. It is unlawful for any person to knowingly and without authority connect or remain connected to any Town utility service or to authorize, solicit, aid or abet any person in connecting or remaining connected to any Town utility service when an officially declared local disaster is in effect. A violation of this Section shall be punishable in accordance with Section 1-4-20 of this Code.
- (c) The Town Administrator is authorized, during the term of any officially declared local disaster, to manage, restrict or prohibit access to the Town's water supply when, in the Town Administrator's sole discretion, allowing access to water presents a significant risk to public health, safety and welfare. The

Town Administrator is specifically allowed to arrange for temporary nonpotable water supplies, including cisterns, water trucks and other means of storing or transporting water, to be placed in appropriate locations throughout the Town for use in emergencies only. It shall be unlawful for any person knowingly and without authority, to take or use any part of any such emergency water supply for any purpose other than the emergency use for which it is intended. A violation of this Section shall be punishable in accordance with Section 1-4-20 of this Code.

Sec. 13-1-200. - Cure of violations.

- (a) **Order to Cure.** If the Town determines that any equipment, service line or other improvement related to the provision of any Town utility service for which the consumer is responsible for maintenance and operation fails to conform with this Chapter, the *Manual of Design Criteria and Standard Specifications for the Construction of Public Improvements*, this Code, any final subdivision plat or other final land use plan approval or the terms of any easement or other agreement, the Town may mail a written order to cure ("Order to Cure") such condition to the consumer at the service address or any other address for such person known to the Town. Such Order to Cure shall specify the improper condition, illegality, nonconformity or other defect and shall direct the property owner at the owner's cost to perform specified curative work, specify the period of time determined by the Town to be reasonably necessary for completion of the curative work, and order that such work be performed and completed by the consumer at the consumer's cost and expense in the time determined by the Town.
- (b) **Town Cure at Owner's Cost.** If the consumer fails to cure the improper condition, nonconformity, illegality or defect as stated in the Order to Cure, the Town may, in addition to and without waiving any other remedy, perform the work and assess and charge to the consumer the Town's actual costs incurred in curing the nonconformity, illegality or defect, including administrative costs and attorney fees. Such assessment and charge may be billed to the consumer, together with the billing of fees, rates and other charges, and collected in the same manner as fees, rates and other charges.

Sec. 13-1-210. - Appeals.

- (a) Any final order, directive, interpretation, or decision of the Town Administrator which has been made in writing and relating to the administration or enforcement of this Chapter may be appealed to the Board of Trustees by providing written notice of appeal to the Town Clerk within ten (10) business days after the effective date of the order, directive, interpretation, or decision being appealed. Such notice shall specifically identify the basis of appeal. Upon receipt of a timely notice of appeal, the Town Clerk shall schedule such appeal before the Board of Trustees at a regular meeting and mail notice to the appealing party of the date, time and place of such Board of Trustees meeting.
- (b) All hearings shall be informal, the object being to resolve the issues promptly and economically. Rules of evidence shall not be strictly applied.
- (c) The hearing shall be recorded by tape recording, stenographer, or other verbatim reproduction. A copy of the proceedings shall be available to the appellant upon payment of the reasonable costs thereof.
- (d) The appellant has the burden of proof to prove that the Board of Trustees should act as the applicant requests or that the determination appealed from was erroneous. Every party to the proceeding has the right to present such party's case or defense by oral and documentary evidence, to submit rebuttal evidence, and to conduct such cross examination as may be required for a full and true disclosure of the facts.
- (e) The Board of Trustees shall issue a decision at the hearing may, within 30 days after completion of the hearing, issue a written decision memorializes the decision at the hearing with findings of fact and conclusions of law, setting forth the grounds of the decision, based on the evidence presented at the hearing.

- (f) If the appeal is not found in the appellants favor, appellant may be held responsible for all costs associated with the hearing, including, but not limited to, legal fees, court costs and administrative costs.

Sec. 13-1-220. - Civil damages.

In addition to and without waiving any other available remedy, the Town may recover civil damages from any person liable under the laws of the United States or the State to the Town as a result of any violation of this Chapter or other unlawful act or omission. Such damages shall include the Town's actual costs of discovering, investigating, curing, mitigating and repairing the consequences of such violation or other unlawful acts or omissions.

Sec. 13-1-230. - Injunctive relief.

In addition to and without waiving any other available remedy, the Town may seek injunctive relief from any act or omission which violates this Chapter or which otherwise jeopardizes the property or health, safety or welfare of any person or the Town.

Sec. 13-1-240. - Remedies cumulative.

The remedies available to the Town under this Chapter and under the laws of the State shall be deemed cumulative, and the utilization by the Town of any single such remedy or combination thereof shall not preclude the Town from utilizing any other remedy or combination of remedies.

Sec. 13-1-250. - Cure of deficiencies.

Residential and nonresidential consumers delinquent in any Town Utility Department account shall be provided an opportunity to cure such deficiency as follows:

- (1) Within ten (10) days of mailing of a Notice of Delinquency or prior to the issuance of a Notice of Delinquency, the consumer shall submit to the Town Clerk in writing a request to cure all outstanding deficiencies in accordance with this Section. Failure to timely provide a written request to cure the deficiency to the Town Clerk shall void the consumer's opportunity to cure any deficiency as permitted by this Section.
- (2) Residential consumers timely requesting to cure outstanding deficiencies in accordance with this Section shall be provided an opportunity to execute and enter into an agreement with the Town, which shall permit the outstanding delinquent amounts to be paid in six (6) equal monthly installments, commencing on the next billing period, until such delinquency is paid in full.
- (3) Nonresidential consumers timely requesting to cure outstanding deficiencies in accordance with this Section shall be provided an opportunity to execute and enter into an agreement with the Town, which shall permit the outstanding delinquent amounts to be paid in three (3) equal monthly installments, commencing on the next billing period, until such delinquency is paid in full.
- (4) Agreements for payment of delinquent accounts shall require that all future monthly fees, rates and charges be timely paid in full in addition to the payment of the required monthly installment amounts. Interest otherwise due and owing upon outstanding and delinquent amounts as provided by this Chapter shall continue to accrue on all amounts to be paid in accordance with the agreement permitted by this Section. Such agreement shall provide that any default or failure to pay amounts in accordance with the agreement shall result in the Town's collection and enforcement of payment in accordance with the provisions of this Article and Chapter, including the imposition of liens, accrual of interest and the termination of services.
- (5) All agreements shall be standardized and substantially uniform in their application to delinquent consumers and shall include such other provisions deemed necessary or convenient by the Town

Attorney. The Board of Trustees may approve the use of a standardized agreement for administering this Section, and the Town Administrator shall have the authority to execute such approved agreements on behalf of the Board of Trustees where such agreement is substantially in the form approved by the Board of Trustees.

- (6) If a delinquent consumer's balance exceeds the amount the Town Administrator is permitted to approve for contracts for services, then the Town Board of Trustees shall be notified of the delinquent account.