

TOWN OF LYONS,
COLORADO

ORDINANCE 1078

**AN ORDINANCE OF THE TOWN OF LYONS, COLORADO AMENDING CERTAIN SECTIONS
OF CHAPTER 7 ARTICLE 3 OF THE TOWN OF LYONS MUNICIPAL CODE ENTITLED
"GARBAGE, RUBBISH AND TRASH"**

WHEREAS, pursuant to C.R.S. § 31-15-103 the Town of Lyons (the "Town") has the authority to make and publish ordinances; and

WHEREAS, pursuant to that power the Lyons Board of Trustees (the "Board") previously enacted Chapter 7, Article 3, Section 20 of the Lyons Municipal Code ("LMC") entitled "Garbage, Rubbish and Trash"; and

WHEREAS, the Town has experienced an increase in unauthorized use of Town recycling receptacles; and

WHEREAS, in order to more effectively deter future unauthorized uses of Town facilities, the Municipal Prosecutor, Town Attorney, and County Sheriff's Office have determined that certain provisions of the LMC relating to Chapter 7, Article 3 require clarification in order to increase public understanding and enforcement ability; and

WHEREAS, in the interest of the health, safety, and welfare of the citizens of the Town of Lyons, and visitors to the Town, the Board of Trustees determines there is the need to clarify rules relating to the unauthorized use of receptacles in LMC Section 7-3-40 and the creation of a rule and penalty section for violations of Chapter 7, Article 3 as substantially reflected in Exhibit A, attached hereto and incorporated by reference.

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

Section 1. The recitals set forth above are hereby incorporated by reference.

Section 2. Chapter 7, Article 3 of the Lyons Municipal Code entitled "Garbage Rubbish and Trash" is hereby repealed and replaced with the following provisions:

Sec. 7-3-10. - Stale or uncovered Garbage.

Any Garbage which is stored otherwise than in watertight and airtight cans or containers, which creates odor or stench, which is accessible to animals or which otherwise creates a health hazard, is declared a nuisance.

Sec. 7-3-20. - Dumping or disposal of trash, Garbage, or debris.

The storage, dumping or disposal of trash, Junk, Rubbish, Garbage or debris within the Town is deemed a nuisance; provided, however, that it shall be permissible to bury on the owner's property waste concrete or rock resulting from construction activities conducted on such owner's property, so long as no hazard is created and such disposal conforms with all federal, state and local health department regulations and requirements.

Sec. 7-3-30. - Improper accumulation and storage.

Any Rubbish or trash which is allowed to accumulate in or around cans or containers in such a manner as to foster the propagation of rats, vermin, flies and other insects, or is stored in such a manner as to be accessible to animals or littered about by wind, is declared a nuisance.

Sec. 7-3-40. - Unauthorized use of receptacles.

No person shall deposit or discard any Garbage, trash, refuse, or recyclables in or near any Garbage or trash receptacle, dumpster, composting receptacle , or recycling receptacle within the Town, whether said receptacle or dumpster is publicly or privately-owned or leased, unless such person has an established legal right to the use of such Garbage or trash receptacle, dumpster, composting receptacle, or recycling receptacle. This Section shall not apply to receptacles less than one-half (½) cubic yard in size located and intended for the casual use of the general public, except that no person shall discard in such container more than one (1) cubic foot of Garbage, trash or refuse in any seven-day period.

Additionally, no person shall deposit or discard any materials into or near a receptacle not intended for the deposit or discard of those materials. For example, it shall be a violation of this Article to deposit or discard of any Garbage, trash, Junk, Rubbish refuse, scrap metal, hazardous materials, appliances, or non-recyclable item in any Garbage, trash, dumpster, compost receptacle, or recycling receptacle not intended or permitted for that use within the Town, whether said receptacle is publicly or privately-owned or leased.

Sec. 7-3-50. - Compost.

A compost pile that substantially annoys, injures, or endangers the comfort, health or safety of the public is declared a nuisance. Such annoyance includes, but is not limited to, strong offensive odors or the presence of mice, rats, or other vermin.

Sec. 7-3-60 – Rules and Violations

(a) The Town Administrator or his or her designee may establish written programs, procedures and rules governing this Article. By way of example and not limitation, the Town Administrator may establish rules prohibiting certain materials from being deposited or discarded in Town-owned trash, recycling, or compost receptacles.

(b) Any administrative programs, procedures, rules, deposits, or fees established by the Town Administrator or his or her designee shall be made in writing and posted or otherwise made readily available for public inspection at the Town Hall. In no event may any administratively established rule conflict with a regulation established by this Code. The Town Administrator or his or her designee may post rules issued under this Article at the place where they are to be enforced. If the rule is not so posted, it may still be enforced if the person had actual knowledge of the rule, was given a copy of the rule upon applying for or receiving a permit or license, was advised of the rule by a Town employee or peace officer, or was ordered by a peace officer to cease conduct violating the rule.

(c) It shall be unlawful for any person to violate provision of this Article or any rule issued by the Town Administrator or his or her designee under this Article.

(d) Any person who violates this Article or a rule established under this Article may

be assessed a penalty by the investigating deputy, with a fine of seventy-five dollars (\$75.00) for a first offense, or one hundred fifty dollars (\$150.00) for a second offense. Third and subsequent offenses are required to appear in court. In any case, the deputy may determine that the offender must appear in court, or not issue a penalty assessment. In addition, to such penalties, the Town may assess against any violator of this Section, or any rules promulgated under this Section, any costs (including without limitation disposal and transportation costs, as well as Town staff time) incurred to remedy the violation(s).

(e) In the event that a single incident is both a violation of this Article, a violation of a state law, and/or violation of a different section of the Town code, the investigating deputy shall have the discretion to charge the offender under this section or the appropriate state law and/or Town ordinance.

Section 4. Code Revisions. Because this Ordinance repeals and replaces an entire Section of the Lyons Municipal Code, minor changes such as the format, numbering, and other such changes may be necessary to unify the revised code. The Town Clerk is hereby authorized to make such changes provided that neither the intent of this Ordinance nor substantive content is altered.

Section 5. Severability. Should any one or more sections or provisions of this Ordinance enacted hereby be judicially determined invalid or unenforceable, such judgment shall not affect, impair or invalidate the remaining provisions of this Ordinance, the intention being that the various sections and provisions are severable.

Section 6. Repeal. Any and all ordinances, resolutions, or codes, or parts thereof, which are in conflict or inconsistent with this ordinance are repealed, to the extent of such conflict or inconsistency exists. The repeal of any such ordinance, resolution, or code or part thereof, shall not revive any other section or part of any ordinance, resolution, or code provision. This repeal shall not affect or prevent the prosecution or punishment of any person for any act done or committed in violation of any ordinance or code hereby repealed prior to this ordinance taking effect.

Section 7. Codification of Amendments. The codifier of the Town's Municipal Code, Municipal Code Corporation, is hereby authorized to make such numerical and formatting changes as may be necessary to incorporate the provisions of Section 2 of this Ordinance within the Lyons Municipal Code.

Section 8. Effective Date. This Ordinance shall become effective thirty (30) days after publication following final passage in accordance with Section 2-2-160 of the Lyons Municipal Code.

INTRODUCED AND PASSED ON FIRST READING THIS 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

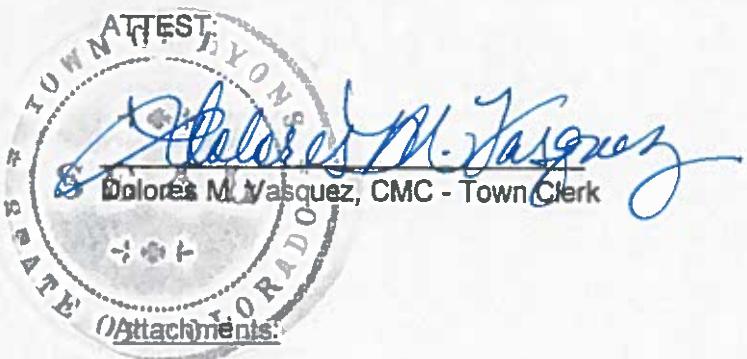


Exhibit A - Redline Changes to Garbage, Rubbish and Trash

Exhibit B - Clean Copy of Garbage, Rubbish and Trash

1078

Final Audit Report

2020-10-08

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| Created: | 2020-10-08 |
| By: | Town of Lyons (recreation@townoflyons.com) |
| Status: | Signed |
| Transaction ID: | CBJCHBCAABAAIKRPJdn5GbGY4EKijmpTC05hjJQLiZD |

"1078" History

- 📄 Document created by Town of Lyons (recreation@townoflyons.com)
2020-10-08 - 4:00:54 PM GMT- IP address: 65.101.227.171
- ✉️ Document emailed to Connie Sullivan (crsullivan16@me.com) for signature
2020-10-08 - 4:01:24 PM GMT
- 📄 Email viewed by Connie Sullivan (crsullivan16@me.com)
2020-10-08 - 4:47:23 PM GMT- IP address: 65.113.158.177
- ✍️ Document e-signed by Connie Sullivan (crsullivan16@me.com)
Signature Date: 2020-10-08 - 4:47:39 PM GMT - Time Source: server- IP address: 65.113.158.177
- ✓ Agreement completed.
2020-10-08 - 4:47:39 PM GMT



Adobe Sign

Exhibit A

ARTICLE 3 - Garbage, Rubbish and Trash

Sec. 7-3-10. - Stale or uncovered garbage.

Any garbage which is stored otherwise than in watertight and airtight cans or containers, which creates odor or stench, which is accessible to animals or which otherwise creates a health hazard, is declared a nuisance.

Sec. 7-3-20. - Dumping or disposal of trash, garbage or debris.

The storage, dumping or disposal of trash, garbage or debris within the Town is deemed a nuisance; provided, however, that it shall be permissible to bury on the owner's property waste concrete or rock resulting from construction activities conducted on such owner's property, so long as no hazard is created and such disposal conforms with all federal, state and local health department regulations and requirements.

Sec. 7-3-30. - Improper accumulation and storage.

Any rubbish or trash which is allowed to accumulate in or around cans or containers in such a manner as to foster the propagation of rats, vermin, flies and other insects, or is stored in such a manner as to be accessible to animals or littered about by wind, is declared a nuisance.

Sec. 7-3-40. - Unauthorized use of receptacles.

No person shall deposit or discard any garbage, trash, ~~or refuse, or recyclables~~ in any garbage or trash receptacle, ~~or Dumpster, composting receptacle, or recycling receptacle~~ within the Town, whether said receptacle or Dumpster is publicly or privately-owned or leased, unless such person has, by ownership, lease, permit or place of residence, an established legal right to the use of such garbage or trash receptacle, ~~or Dumpster, composting receptacle, or recycling receptacle~~. This Section shall not apply to receptacles less than one-half (½) cubic yard in size located and intended for the casual use of the general public, except that no person shall discard in such container more than one (1) cubic foot of garbage, trash or refuse in any seven-day period.

Additionally, no person shall deposit or discard any materials into a receptacle not intended for the deposit or discard of those materials. For example, it shall be a violation of this Article to deposit or discard of any garbage, trash, refuse, scrap metal, hazardous materials, appliances, or non-recyclable item in any garbage, trash, dumpster, compost receptacle, or recycling receptacle not intended or permitted for that use within the Town, whether said receptacle is publicly or privately-owned or leased.

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A compost pile that substantially annoys, injures or endangers the comfort, health or safety of the public is declared a nuisance. Such annoyance includes, but is not limited to, strong offensive odors or the presence of mice, rats or other vermin.

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- (b) Any administrative programs, procedures, rules, deposits, or fees established by the Town Administrator or his or her designee shall be made in writing and posted or otherwise made readily available for public inspection at the Town Hall. In no event may any administratively established rule conflict with a regulation established by this Code. The Town Administrator or his or her designee may post rules issued under this Article at the place where they are to be enforced. If the rule is not so posted, it may still be enforced if the person had actual knowledge of the rule, was given a copy of the rule upon applying for or receiving a permit or license, was advised of the rule by a Town employee or peace officer, or was ordered by a peace officer to cease conduct violating the rule.
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- (d) Any person who violates this Article or a rule established under this Article may be assessed a penalty by the investigating deputy, with a fine of seventy-five dollars (\$75.00) for a first offense, or one hundred fifty dollars (\$150.00) for a second offense. Third and subsequent offenses are required to appear in court. In any case, the deputy may determine that the offender must appear in court, or not issue a penalty assessment.
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ARTICLE 3 - Garbage, Rubbish and Trash

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