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**TOWN OF LYONS
COLORADO**

ORDINANCE NO. 2020-1088

**AN ORDINANCE OF THE TOWN OF LYONS REPEALING AND REPLACING
CHAPTER 8, ARTICLES 2 AND CHAPTER 11, ARTICLE 1, SECTION 60 AND
CREATING A NEW CHAPTER 8, ARTICLE 4 OF THE LYONS MUNICIPAL CODE
CONCERNING VEHICLE IMPOUNDMENT, PARKING, AND ABANDONED VEHICLE
AND PROPERTY ENFORCEMENT**

WHEREAS, pursuant to Sections 31-15-401 and 31-23-301, C.R.S., the Town of Lyons ("the Town") has broad authority to exercise its police powers to promote and protect the health, safety and welfare of the community and its residents; and

WHEREAS, the Town previously adopted regulations regarding the impoundment of vehicles and the parking certain types of vehicles in Chapter 2, Articles 1 and 5, and Chapter 11, Article 1 respectively, of Chapter 1 of the Lyons Municipal Code ("LMC"); and

WHEREAS, it is necessary to update the LMC to create more effective code enforcement tools for impoundment of vehicles, parking and abandoned vehicle and property enforcement to ensure the health, safety, and welfare of the citizens of Lyons; and

WHEREAS, The Lyons Board of Trustees desire to repeal and replace Chapter 8, Article 2 and Chapter 11, Article 1, Section 60 and create a new Chapter 8, Article 4 of the LMC, as set forth in this Ordinance, and determines that such amendments promote the health, safety, and welfare of the citizens of and visitors to the Town of Lyons.

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

Section 1. Recitals Incorporated. The recitals set forth above are hereby incorporated by reference and are adopted as findings and determinations of the Board of Trustees.

Section 2. Chapter 8, Article 1, of the Lyons Municipal Code is hereby repealed in its entirety and replaced with the following provisions:

ARTICLE 2 - Impoundment of Vehicles

Sec. 8-2-10. - Authority to impound vehicles or property with notice

- 1) Any Peace Officer or Code Compliance Officer is authorized to have any motor vehicle, any trailer, any parts thereof, or any other property impounded at a storage yard designated by the Town Administrator upon notice to the owner if:
 - a) The motor vehicle, trailer, parts or cargo thereof, or other property is parked or stored on a public right-of-way within the Town, or upon any Town Property, and the registered owner of the vehicle or trailer, or property owner, has been warned pursuant to Section 8-2-30(a).
 - b) The owner of the motor vehicle, trailer, or parts or cargo thereof, or any other property has been cited on two (2) or more prior occasions pursuant to Section 8-2-30(b) within the previous thirty-six-month period and has neglected to remedy the cause of such warnings or citations.
 - c) The motor vehicle, trailer, or other property is parked, stopped, stored, or standing in a no-parking area or zone.
 - d) The motor vehicle's driver is arrested, and it is necessary to tow the motor vehicle to a storage lot to secure the motor vehicle and its contents.
 - e) The motor vehicle is illegally parked in disability parking zones or spaces as prohibited by Colorado Revised Statute § 42-4-1208.
 - f) The motor vehicle or trailer has any engine number, vehicle identification number, or manufacturer's serial number that has been altered, changed, removed, or otherwise made unreadable.
- 2) The Town may contract with one or more qualified companies to provide impound services, storage services and other administrative functions required by this Article.
- 3) Nothing in this code shall be deemed to restrict the authority possessed by any Peace Officer under other provisions of law to seize any vehicle, or trailer, or part thereof, or any other property if it is or contains evidence or is an instrumentality of a crime.

Sec. 8-2-20. - Authority to impound vehicles or property without prior notice

- 1) In the following circumstances, motor vehicles, trailers, and/or any parts or cargo thereof, or any other property may be impounded by any Peace Officer or Code Compliance Officer immediately and without prior notice to the owner.
 - a) Unsafe motor vehicles or trailers; or
 - b) Motor vehicles, or trailers, or any other property located, parked, stopped, or standing in a manner which creates an obstruction or hazard, or potential

obstruction or hazard, to any lawful function or use of any public street or other public or private property; or

- c) Motor vehicles, or trailers, or any other property blocking access to fire hydrants, fire standpipe outlets or fire sprinklers; or
- d) Motor vehicles or trailers parked, stopped, or standing in designated safety zones or safety lanes; or
- e) Motor vehicles or trailers parked in fire lanes or tow-away zones as prohibited by Colorado Revised Statute § 42-4-1204; or
- f) Motor vehicles, or trailers, or any other property which is located, parked, stopped, or standing in such a manner as to endanger the public health or safety because of fire, flood, snow, storm, or other emergency or natural disaster; or
- g) Stolen motor vehicles, vehicles, or trailers which are being vandalized or from which parts have been unlawfully removed; or
- h) Motor vehicles or trailers parked, stopped or standing in violation Colorado Revised Statute § 42-4-1204 so long as such vehicle or trailer is parked, stopped or standing in such a way as to represent a substantial threat to the public health, safety or welfare.

2) If a motor vehicle, trailer, or any other property is subject to impound without prior notice to the owner or driver as provided in this Section and poses an imminent hazard to public safety or property or to any Peace Officer or fire official, the motor vehicle, trailer, or any other property shall be moved by any means whatsoever, whether or not such means damages or destroys the motor vehicle, or trailer, or any other property. If the motor vehicle, trailer, or other property cannot be moved and blocks access to a fire hydrant, any portions of the vehicle, trailer, or other property and/or contents therein may be removed or destroyed to gain access through it for fire hose connection, and any Peace Officer or fire official shall not be held criminally or civilly liable for taking any such action.

3) Within forty-eight (48) hours of any impound pursuant to this Section, excluding weekends, holidays observed by the Town, and any closure or delay due to natural disasters or public health orders, the Town Administrator shall, by certified mail, send a notice to the registered owner of the impounded motor vehicle, or trailer, or known owner of any other property. The notice shall indicate the following:

- a) The date and time when the motor vehicle or trailer was towed.
- b) The present location of the motor vehicle or trailer.
- c) The location from which the motor vehicle or trailer was towed.

- d) That the owner has a right to a hearing concerning the legality of the impound if, within fifteen (15) days of the date on which the motor vehicle, or trailer, or any other property was impounded, the Boulder County Sheriff's Office receives a written request from the owner for a hearing. The written request must include a telephone number at which the owner can be contacted during the day.
- 4) Any hearing held pursuant to the provisions of this Section shall comply with Section 2-4-20 of this Code.
- 5) Nothing in this code shall be deemed to restrict the authority possessed by any Peace Officer under other provisions of law to seize any vehicle, or trailer, or part thereof, or any other property if it is or contains evidence or is an instrumentality of a crime.

Sec. 8-2-30. - Notice of impound

- 1) Any vehicle, trailer, or property located in any part of the Town which could be impounded pursuant Sections 8-2-10, 8-2-20, 8-4-10, or 11-1-60 of the LMC may be removed and impounded by any peace officer or code compliance officer following notice to the owner as provided in Subsection (a) or (b) below.
 - a) Any Peace Officer or Code Compliance Officer shall leave under the windshield wiper, or otherwise attached to any motor vehicle, trailer, or property a conspicuous written warning notice that:
 - i) States the date and time that the notice was attached to the motor vehicle or trailer.
 - ii) Orders removal of the motor vehicle or trailer or property from the location within seventy-two (72) hours of the notice.
 - iii) Warns that, if the motor vehicle or trailer or property is in violation of Section (1) above after seventy-two (72) hours from the date of the notice, it may be impounded, and the registered motor vehicle owner, or registered trailer owner, or identified property owner will be liable for the expenses of such impoundment.
 - b) Any two or more parking citations issued by any peace officer or code compliance officer for the motor vehicle or trailer, whether fines are paid or not, shall be sufficient to serve as a seventy-two (72) -hour notice prior to towing. The citations issued pursuant to this section should be made no less than seventy-two (72) hours apart when used as notice of the impending tow.
- 2) Nothing in this code shall be deemed to restrict the authority possessed by any peace officer under other provisions of law to seize any vehicle, or trailer, or part

thereof, or any other property if it is or contains evidence or is an instrumentality of a crime.

Section 3. A new Chapter 8, Article 4, of the Lyons Municipal Code is hereby created as follows:

ARTICLE 4 – Parking Prohibitions

8-4-10 – Parking prohibited

1) Specific violations

- a) **Parking on private property.** It is unlawful to park or stand any vehicle or any trailer on a private driveway or on private property, regardless of whether such vehicle is occupied, without the express or implied consent of the owner or person in lawful control of such driveway or private property.
- b) **Commercial Vehicles.** It is unlawful for any person to park any commercial vehicle within a public park, or on a public right-of-way for a period longer than two (2) hours; except when such vehicle or trailer is being used to render services to a property located within two hundred (200) feet of where the prohibited vehicle is parked and the service provider has all of the necessary permits from the Town to commence such services.
- c) **Recreational vehicles and watercraft.** It is unlawful to continuously park or place any recreational vehicle or watercraft for more than three (3) consecutive days on any public street, alley, Town Property, or right-of-way in Town except for the purposes of loading and unloading when such recreational vehicle or watercraft is parked within two hundred (200) feet of the registered owners address. A recreational vehicle or watercraft that is moved from any street or public right of way or Town property and re-parked on any street or public right of way or Town property within any twenty-four (24) -hour period shall be deemed to have been continuously parked.
- d) **Unsafe Vehicles or Trailers.** It is unlawful to park any unsafe vehicle or trailer on any public street, alley, or right-of-way within the Town. Any unsafe vehicle or trailer is subject to tow or impound without notice as declared in LMC Section 8-2-20.
- e) **Sidewalks and walkways.** It shall be unlawful to park a recreational vehicle or watercraft on a sidewalk or walkway.

8-4-20 Definitions

- 1) For purposes of this Chapter 8, the following terms shall have the following meanings:

- a) *Commercial Vehicle* means any truck, tractor, dump truck, semi-trailer, commercial trailer, tow truck or vehicle equipped to provide towing services, bus or vehicle with an empty weight of nine thousand (9,000) pounds or greater, bus or vehicle with a GVWR of nine thousand (9,000) pounds or greater, or any vehicle, regardless of weight, which is used, or normally associated with, the transportation of materials, products, freight, other vehicles, or equipment in furtherance of any commercial activity, or is used "for hire" except that any passenger vehicle designed to transport no more than nine (9) persons or any pickup truck or van not exceeding twenty-two (22) feet in length shall not be considered a commercial vehicle
- b) *Public Right of Way* means any highway, street, road, boulevard, thoroughfare, alley, or other public way.
- c) *Recreational vehicle* means a vehicle, vehicular or portable unit mounted on a chassis and wheels, which either has its own motive power or is mounted on or drawn by another vehicle, such as travel trailers, truck campers, camping trailers, or motor homes.
- d) *Semi-Trailer* means any chassis, whether currently or formerly wheeled, that is used for the transportation of material goods.
- e) *Trailer* means any chassis, whether currently or formerly wheeled, that is used for the transportation or storage of material goods, or transportation or housing of people.
- f) *Unsafe* means any part of, or any cargo upon, any vehicle or trailer that, if operated or left in its current state, would pose a hazard to any pedestrian, vehicle, or the environment. Examples of unsafe items include, but not limited to, are flat tires, obvious loose or damaged chassis components, leaking vehicle or trailer lubricants or fluids, any leaking liquids from any cargo, or any exposed materials that, if exposed to the elements, could be released onto the roadway or public right of way.
- g) *Watercraft* means any object or vessel for use on water and includes boats, ships, yachts, rafts, kayaks, canoes, and sailboats.
- h) *Watercraft Trailer* means any chassis, whether currently or formerly wheeled, used to transport watercraft.

Section 4. Chapter 11, Article 1, Section 60 of the Lyons Municipal Code is hereby repealed in its entirety and replaced with the following provisions:

11-1-60 Storage of property prohibited

1) Specific Violations

- a) Inoperable vehicles. It is unlawful to park or store any inoperable vehicle on any public street, alley, or right-of-way within the Town or on any Town Property. For purposes of this section, a vehicle shall be deemed inoperable if any of the following circumstances exist:
 - i) The vehicle is not properly licensed and registered.
 - ii) The vehicle does not display current and valid license plates or validation tabs / stickers as required.
 - iii) The vehicle lacks any part necessary for legal operation on a public street as required in the State of Colorado per C.R.S. § 42-4-2.
 - iv) The vehicle is incapable of being immediately, safely, and legally moved under its own power without any repairs or assistance.
 - v) The vehicle lacks glazing, lights, indicators, or any body panels.
 - vi) The vehicle has one or more flat tires and such flat tire or tires has or have remained in that condition for more than five (5) consecutive days.
- b) Trailers. It is unlawful to park or place any trailer as defined in LMC Section 8-4-20 on any public street, alley, or right-of-way regardless of whether such trailer is properly licensed or registered. A trailer that is moved from a parking space on any street block and re-parked on the same street block within any twenty-four-hour period shall be deemed to have been continuously parked. These prohibitions shall not apply if the trailer or semi-trailer is parked on a public street, alley or right-of-way for the purpose of construction activity occurring on the immediately adjacent property, provided that all the required permits and approvals for the construction activity have been issued by the Town and all other necessary authorities.
- c) Other Property. It is unlawful to park or place any property on Town Property, or any public street, or alley, or right-of-way within the Town for more than seven (7) days.

2) Nothing in this section shall be deemed to restrict the authority possessed by any Peace Officer or Code Enforcement Officer to act upon any other relevant sections of Town Code, County Ordinance, or State Law.

11-1-70 Penalties

- 1) Any violation of 8-4-10, 11-1-50, or 11-1-60 shall be a civil matter for which punishment by imprisonment and trial by jury shall not be available, for which no arrest warrant shall issue for failure to pay or appear.
- 2) Any person violating any provision of 8-4-10, 11-1-50, or 11-1-60 may be assessed a penalty by the investigating Peace Officer or Code Compliance Officer, 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 Municipal Court. In any case, the Peace Officer or Code Compliance Officer may determine that the offender must appear in Municipal Court, and not issue a penalty assessment.
- 3) The Municipal Court may establish, by written order, rules and regulations for the administration of violations of the provisions of LMC Sections 8-4-10 and 11-1-60, including schedules establishing the amount of penalties payable without a Municipal Court appearance.

4) Removal of property

- a) Any peace officer or code compliance officer may place a written notice on any inoperable vehicle, trailer, or other property in violation of this Article that:
 - i) States the date and time that the notice was attached to the property.
 - ii) Orders removal of the property from the location within seventy-two (72) hours of the notice.
 - iii) Warns that, if the inoperable vehicle, trailer, or other property is still in violation of this Article after seventy-two (72) hours from the date of the notice, it may be impounded, and the property owner will be liable for the expenses of such impoundment.
- b) Any summons or penalty assessment issued for a violation of LMC Section 8-4-10 or 11-1-60 shall serve as notification and order to remove the property within seventy-two (72) hours of the time the summons or penalty assessment was issued.
- c) If any property is still in violation of LMC Section 8-4-10 or 11-1-60 after seventy-two (72) hours from the date and time that the notice prescribed by subsections (a) or (b) above is attached to the property, a peace officer or code compliance officer may cause the property to be removed and impounded pursuant to this Article at the owner's expense.
- d) The Town of Lyons shall not be responsible for storing any impounded property for a period exceeding thirty (30) days. If the owner of such property has not retrieved the impounded property within thirty (30) days from the date of

impoundment, the property shall be considered abandoned and may be disposed of as the Town deems appropriate.

- e) Nothing in this article shall prohibit a Peace Officer or Code Compliance officer from immediately removing and impounding any vehicle or other property from the public right of way if the Peace Officer or Code Compliance Officer believes the vehicle or other property presents a public safety hazard.
- 5) Failure to pay
 - a) If the violator does not respond to a notice affixed to the vehicle, trailer, or other property within the period set in such notice by appearing at the Municipal Court and arranging for payment or other disposition of the charge, or by mailing payment, the Municipal Court shall send another notice by mail to the owner of the vehicle to which the original notice was affixed, informing the owner of the violation or violations, the amounts due and the time by which payment or other disposition must be made. This subsequent notice is sufficient if mailed to the address provided by a government vehicle registration office. If the owner has not appeared at the Municipal Court and made payment or arranged for other disposition of the charge or made payment by mail by the deadline set forth in the notice, the Court Clerk may proceed with one (1) of the following options:
 - i) Issuance of a "show cause" order directing the owner of the vehicle to appear and show cause why he or she should not be held in contempt of the Municipal Court for failure to appear or pay the fine for the violation;
 - ii) Issuance of a certification that there exist outstanding parking infractions for the motor vehicle, and, upon issuance of such certification, the Town may have the vehicle towed and impounded, in which case the owner will have to pay the fines and costs related to the outstanding parking infractions and the costs of towing and storage, if applicable, before obtaining possession of the vehicle; or
 - iii) Issuance of an order that any order for default judgment be reduced to a civil monetary award, payable and collectible in the same manner as civil judgments generally.
- 6) Collection
 - a) To collect past due orders of fines, penalties, costs, or fees, the Municipal Court may assign such accounts to a private collection agency. Any fines, penalties, costs, or fees of the collection agency shall be added to the amount due, but not to exceed twenty-five percent (25%) of the amount collected.

Section 5. Lyons Municipal Code Section 2-3-30(b)(2) is hereby amended as follows:

(2) The Town Attorney shall prosecute ordinance violations, and he or she shall conduct for the Town cases in Municipal Court. The Town Attorney may delegate duties under this subsection to a Town prosecutor.

Section 6. Severability. Should any one or more sections or provisions of this Ordinance be judicially determined invalid or unenforceable, such judgment shall not affect, impair or invalidate the remaining provisions of this Ordinance, the intention being that the various sections and provisions are severable.

Section 6. Repeal. All other ordinances or resolutions or parts of ordinances or resolutions in conflict with the provisions of this Ordinance are hereby repealed, provided that such repeal shall not repeal any repealer clauses in such ordinances nor revive any ordinance thereby.

Section 7. Effective Date. This Ordinance shall become effective thirty (30) days after publication following final passage in accordance with Section 2-2-160 of the Lyons Municipal Code.

Section 8. Codification Amendments. The codifier of the Town's Municipal Code, Municipal Code Corporation, is hereby authorized to make such numerical and formatting changes as may be necessary to incorporate the provisions of Sections 2, 3, 4, and 5 of this Ordinance within the Lyons Municipal Code.

INTRODUCED AND PASSED ON FIRST READING THIS DAY OF _____, 2020.

**INTRODUCED, PASSED, ADOPTED AND ORDERED PUBLISHED THIS DAY
OF _____, 2020.**

TOWN OF LYONS, COLORADO

Nicholas Angelo, Mayor

ATTEST:

Dolores Vasquez, Town Clerk