

**TOWN OF LYONS,
COLORADO**

ORDINANCE 1103

**AN ORDINANCE OF THE TOWN OF LYONS, COLORADO, AMENDING SECTION
13-3-90 OF THE LYONS MUNICIPAL CODE CONCERNING A CHANGE IN NET
METERING POLICY**

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, 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 and pass rates, rules, and regulations governing the operation of those municipal utilities; and

WHEREAS, the Board previously enacted Article 2 Chapter 13, of the Lyons Municipal Code ("LMC") entitled "Electric Service" establishing an electric utility; and

WHEREAS, the Town's Electric Department (the "Department") is a publicly owned electric utility engaged in the retail sale of electricity in the state of Colorado; and

WHEREAS, a review of the Town's electric rate structure has shown that customers that do not produce their own electricity are subsidizing customers who do produce their own electricity by compensating these customers for the electricity they deliver to the Town at the Town's retail rate when the Town could alternatively purchase renewable electric energy from the Municipal Energy Agency of Nebraska ("MEAN"), the Town's wholesale supplier of electricity, at a lesser rate; and

WHEREAS, as a result of this discovery, the Board desires to amend Section 13-3-90 to adjust the rate paid by the Town to customers who have installed their own electric production after Nov 1st 2020 to compensate them at the MEAN Wind Rate, as reflected in **Exhibits A and B** attached hereto and incorporated by reference; and

WHEREAS, as of November 1, 2020 the Town Interconnection Agreement no longer guarantees new customers will receive the existing Town net metering rate for customer generated energy; and

WHEREAS, pursuant to Section 7.28 of the Town's Municipal Code, the Department has established a program through which an owner of a Customer-Owned Generation Facility ("COGF") can receive credits against future electric service charges (the "CORG or the CONRG Program"); and

WHEREAS, the December 2016 Electric System Cost of Services Study done by EPSIM Corporation recommends in its executive summary "Reconsider Distributed Generation policies, particularly as it pertains to installed capacity allowance and Net-Metering rates"; and

WHEREAS, it is in the best interests of the public health, safety, and welfare that this Ordinance changing the electric rate structure be passed and enactment of accompanying amendments be made; and

WHEREAS, The Board has conducted a public hearing to consider evidence and testimony concerning the rates for customers in the Customer-Owned Generation "COG" program in Article 2, Chapter 13 of the LMC thus providing adequate opportunity for interested residents and customers to be heard.

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

Section 1. Incorporation of Recitals. The recitals set forth above are incorporated as if set fully forth herein.

Section 2. Section -80 of Article 2 of Chapter 13 is hereby amended to read:

Sec. 13-2-80. Customer-owned generation of electricity.

- (a) Applicability. This Section shall apply to all qualified service customers who own, operate or maintain their own eligible renewable energy generation equipment as defined by Section 40-2-124, C.R.S., including but not limited to photovoltaics, fuel cells and micro-turbines, in parallel with the Town's electric system in accordance with this Chapter. Residential customer-owned generation system shall be limited to a maximum capacity of ten (10) kilowatts, except as provided in Subsection (b) below. Non-Residential customer-owned generation system shall be limited to a maximum capacity of twenty-five (25) kilowatts, except as provided in Subsection (b) below.
- (b) Residential systems with a capacity greater than ten (10) kilowatts and Non-Residential systems with a capacity greater than twenty-five (25) kilowatts may be permitted following a case-by-case review of the proposed system specifications by the Town Administrator and may be subject to additional conditions or requirements. The Town may, at its sole discretion, approve or deny systems larger than ten (10) kilowatts for residential customers and twenty-five (25) kilowatts for non-residential customers. If interconnection is denied, the Town will provide a written technical or economic explanation of such denial to the customer.
- (c) To participate in the COG program, a customer must:
 - (1) Submit a written application to the Town Administrator, on a form provided by the Town, notifying the Town of the customer's intent to own, operate and maintain his or her own eligible renewable energy generation equipment;

- (2) Enter into an interconnection agreement on a form provided by the Town; and
 - (3) Pay the applicable application fee.
- (d) Once approved for participation in the COG program, a customer will remain on COG service until the customer submits a written request for a change in service or until the Town discontinues the COG program.
- (e) Net metering: Applies to all COG systems installed prior to November 1, 2020:
 - (1) The Electric Department will net meter all electric power and energy produced by the COG customer's generation system. Net metering shall be, for billing purposes, the net consumption as measured at the service meter. Consumption will be measured monthly, and, in the event the net metering is negative, as when the customer's generation system production is greater than the customer's consumption, the net negative consumption will be treated as a credit, against future electric bills, of one (1) kWh for each kWh generated above the customer's consumption. All monthly credits shall be accumulated against all consumption during the course of one (1) year.
 - (2) The Electric Department will bill the applicable customer/distribution charge each month, including those months when negative or no net electric consumption by the customer occurs.
 - (3) In the event that a negative balance remains at the end of the calendar year, the Electric Department will reimburse the customer for such negative balance at the COG rate as established in January of each year, based on the previous year's rate as calculated in kWh. In the event that a customer accrues a negative balance but moves from the property or removes the system prior to the end of the calendar year, the Electric Department shall reimburse the customer upon written request for reimbursement by the customer. Any such request for reimbursement must be made no later than thirty (30) days after removal of the system.
- (f) Customer-owned residential renewable energy generation systems installed after August 18, 2016, or previously installed systems still in operation starting with the January 2030 monthly billing cycle, shall include an additional meter socket, acceptable to the Electric Department, to house and facilitate the installation of revenue-quality AC interval recording metering equipment.
- (g) Fees and Reimbursements: Applies to all COG systems installed after November 1, 2020
 - (1) Fees and Reimbursement Rates shall be set according to the Town of Lyons Fee Schedule. Customers shall be charged fees and receive reimbursements as follows:
 - (2) The Town of Lyons will charge the customer an additional Customer-owned Renewable Energy Generation Meter Fee per month for administrative expenses and additional meter costs that are incurred for the required additional meter.
 - (3) All energy consumption from the Lyons grid will be billed at the standard Retail Electric Rate.

(4) All excess energy generation distributed on the Lyons grid will be reimbursed at the Renewable Energy Wholesale Electric Rate. The Renewable Energy Wholesale Electric Rate will be based on renewable energy rate (initially wind rate) the Town pays its wholesale energy provider.

(h) Sunsetting. All COG systems operating prior to November 1, 2020, may continue to operate under the terms of Sec. 13-2-80(e) Net Metering. Any increase in the size (kW) of their system, replacement or upgrade of the system, or ownership changes for the property served by the system, shall require the customer to operate under the terms of Sec 3-2-80(g) Fees and Reimbursements. All Sec. 13-2-80(e) Net Metering customers will transition to Sec 3-2-80(g) Fees and Reimbursements effective the beginning of the January 2030 monthly billing cycle.

Section 3. Section 90 of Article 2 of Chapter 13 is repealed in it's entirety.

Section 4. Sections 100 and 110 of Article 2 Chapter 13 are renumbered accordingly.

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

(6) 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.

(7) 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.

(8) 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 and 4 of this Ordinance within the Lyons Municipal Code.

(9) 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 16th DAY OF July
2021.

INTRODUCED, AMENDED, PASSED, ADOPTED AND ORDERED PUBLISHED ON
SECOND READING THIS 19th DAY OF July 2021.

TOWN OF LYONS, COLORADO

Nicholas Angelo
Nicholas Angelo, Mayor

ATTEST:



Dolores M. Vasquez
Dolores Vasquez, GMC – Town Clerk