

TOWN OF HOT SULPHUR SPRINGS, COLORADO
ORDINANCE NO. 2009-2-1-362

AN ORDINANCE AMENDING SECTIONS 7-4-26 AND 7-4-35 OF THE TOWN CODE AND REQUIRING THAT THE RATES AND CHARGES FOR WATER AND SANITARY SEWER SERVICES SHALL BE BASED ON SINGLE FAMILY EQUIVALENTS AND OTHER APPROPRIATE STANDARDS FOR COMMERCIAL PROPERTIES AND AUTHORIZING THE TOWN BOARD OF TRUSTEES TO ESTABLISH THE VALUES FOR SUCH STANDARDS AND SUCH RATES AND CHARGES BY RESOLUTION

WHEREAS, by Ordinance 359, as codified at Section 7-4-26 and 7-4-35 of the Town of Hot Sulphur Springs Municipal Code ("Code"), the base fee for water sold by and sanitary sewer service provided by the Town shall be in accordance with rates and charges as set forth by the Board of Trustees by resolution; and

WHEREAS, Sections 7-4-26 and 7-4-35 of the Code provide that there shall be levied and charged on each lot, building, parcel of land and premises served with water or served by or having sewer connection with the sanitary sewer system of the Town, or otherwise discharging sanitary sewage, industrial wastes, water or other liquids, either directly or indirectly into the Town sanitary sewer system, a water and sewer service charge established in accordance with resolution adopted by the Board of Trustees; and

WHEREAS, the Board of Trustees finds that equity requires that the rate structure for water and sanitary sewer service base fees be set based on the number of single family equivalents ("SFE") being served, and that the SFE based fee is subject to change over time as the result of changing costs of serving, inflation, and other reasons, and the Board finds it is more efficient to effect such changes through resolution than by ordinance; and

WHEREAS, the Board desires to amend the Code to provide that water and sewer base fees and service charges shall be based on SFEs and the rate may be adopted by resolution; and

WHEREAS, the Town hereby declares that the adoption of this ordinance is an emergency as provided herein.

NOW THEREFORE, BE IT ORDAINED BY THE BOARD OF TRUSTEES OF THE TOWN OF HOT SULPHUR SPRINGS, COLORADO, THAT:

SECTION 1: Section 7-4-26 of the Code is hereby repealed and readopted to read as follows in its entirety:

7-4-26: WATER RATES.

- (A) Water shall be sold by the Town in accordance with rates and charges established by the Board of Trustees by resolution from time to time and in accordance with the rate structure authorized in this Section and with the reasonable value of the services rendered and the financial needs of the system and the laws applicable thereto.
- (B) Each property and user served with water by the Town shall be charged, in addition to a charge for metered water consumption, a monthly base rate for the purposes of funding the operational costs of the water treatment plant, contingency or emergency operational expenses, expenses necessary to rehabilitate the Town's water treatment plant, capital improvements to ensure the safety and quality of the Town's water in the future, and debt service, if any. Such monthly base rate shall separately state the amount charged for capital improvements and such capital improvement funds shall not be expended for any other purpose.
- (C) Each property and user served with water by the Town shall be assigned a single family equivalent (SFE) value based on its use classifications in accordance with a schedule to be adopted by the Town Board of Trustees by resolution. Monthly base rates shall be determined by multiplying the monthly base rate times the number of SFE's.
- (D) Each property and user served with water by the Town shall, in addition to the monthly base rate, pay for actual water usage as determined by meter pursuant to the rate schedule adopted by the Board of Trustees by resolution.
- (E) The monthly base rate and the metered water rate for properties located outside the Town of Hot Sulphur Springs shall be based on the rate structure set forth herein and as adopted

by resolution of the Board of Trustees, and shall be two (2) times the rate imposed for properties located inside the boundaries of the Town.

(F) The base rate shall be charged for all properties for which a tap has been purchased and all properties to which service is available regardless of whether services are being utilized by the property or whether services have been voluntarily and temporarily discontinued. A base rate shall not be charged to any property served by a tap where the owner has declared in written letter submitted to the Town Clerk that such tap has been abandoned and forfeited by the owner.

SECTION 2: Section 7-4-35 of the Code is hereby repealed and readopted to read as follows in its entirety:

7-4-35: SANITARY SEWER RATES AND CHARGES FOR USE OF SEWERS.

All sanitary sewer service provided by the Town shall be in accordance with rates and charges established by the Board of Trustees by resolution from time to time in accordance with the rate structure authorized in this Section and in accordance with the reasonable value of the services rendered and the financial needs of the system and the laws applicable thereto this section. Such monthly base rate shall separately state the amount charged for capital improvements and such capital improvement funds shall not be expended for any other purpose.

Each property and user served by or having connection with the sanitary sewer system of the Town shall be charged a monthly base rate for the purposes of funding the operational costs of the wastewater treatment plant, contingency or emergency operational expenses, expenses necessary to rehabilitate the Town's wastewater treatment plant, capital improvements to ensure the safety and quality of the Town's wastewater treatment plant in the future, and debt service, if any.

Each property and user served by or having connection with the sanitary sewer system of the Town shall be assigned a single family equivalent (SFE) value based on its use classifications in accordance with a schedule to be adopted by the Town Board of Trustees by resolution. Monthly base rates shall be determined by multiplying the monthly base rate times the number of SFE's.

Properties located outside the Town of Hot Sulphur Springs shall be assessed a monthly base rate based in the rate structure set forth herein and rates adopted by resolution of the Board of Trustees, as may be amended from time to time, and shall be two (2) times the rate imposed for properties located inside the boundaries of the Town.

Over and above the rates and charges established by this Section, there may be established, in special instances and by special agreement between the Town and the owner of the premises served by the Town sanitary sewer system, such additional charges for commercial or industrial wastes of unusual strength or composition that are accepted by the Town for treatment as may be determined to be fair and equitable. Such special agreements and charges shall be established by Resolution of the Board of Trustees. The Town may re-evaluate the SFE of any person discharging into the Town's sanitary sewer system should the impact of the discharge exceed the equivalent of the single family residential unit.

Nothing in this Section shall be construed to prevent any special agreement or arrangement between the Town and other persons, municipalities, quasi- municipalities, sanitation districts, additions and development areas outside the Town concerning sewage facilities, which may be adopted from time to time by Resolution of the Board of Trustees.

SECTION 3. Repealer. All ordinances, resolutions or parts thereof in conflict with this Ordinance are hereby repealed, provided that such repealer shall not repeal the repealer clauses of such ordinance or resolution or revive any ordinance or resolution.

SECTION 4. Severability. If any provision of this Ordinance is found by a court of competent jurisdiction to be invalid, the remaining provisions of this Ordinance will remain valid, it being the intent of the Town that the provisions of this Ordinance are severable.

SECTION 5. Effective date. This ordinance shall be effective immediately upon publication as provided in Section 6 hereof and the rates adopted by a resolution of the Board of

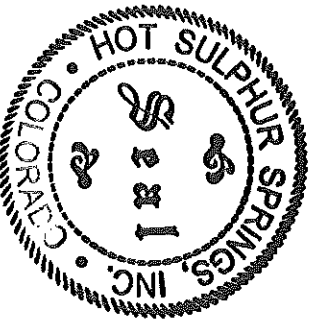
Enforcement order issued by the Colorado Department of Public Health and Environment in 2008, and that funds are needed to finance such emergency required improvements and that the town will suffer unnecessary harm if this ordinance were passed with customary processing required for non-emergency ordinances because of the longer time period required for its effectiveness and the Town's inability to move forward with the required improvements. Therefore, the Board of Trustees finds and declares that an emergency exists and that there is reasonable justification for the adoption of this ordinance as an emergency measure and that this ordinance is necessary for the preservation of the public welfare.

INTRODUCED, READ, PASSED AND ADOPTED AS AN EMERGENCY MEASURE AND ORDERED PUBLISHED BY ~~THE~~ ~~ONLY~~ BY A VOTE OF NOT LESS THAN ¾ OF ALL MEMBERS OF THE BOARD OF TRUSTEES OF THE TOWN OF HOT SULPHUR SPRINGS, COLORADO, AT A REGULAR MEETING HELD ON THE 5th DAY OF FEBRUARY, 2009

TOWN OF HOT SULPHUR SPRINGS

By: 
Hershaf Deputy, Mayor

ATTEST
By: 
Sandy White, Town Clerk



Approved: February 5th, 2009

Published by ~~title only~~ one time in the Sky-Hi News on: February 12th, 2009.

RECEIVED
 JAN 29 2009
 TOWN OF HSS

PROOF OF PUBLICATION



I, Kimberly S. Burner, do solemnly swear that I am the publisher of the Sky-Hi News, that the same is a weekly newspaper printed, in whole or in part, and published in the County of Grand, State of Colorado, and has a general circulation therein; that said newspaper has been published continuously and uninterruptedly in said County of Grand for a period of more than fifty-two consecutive weeks next prior to the first publication of the annexed legal notice or advertisement, that said newspaper has been admitted to the United States mail as second-class matter under the provisions of the act of March 3, 1879, or any amendment thereof, and that said newspaper is a weekly newspaper duly qualified for publishing legal notices and advertisements within the meaning of the laws of the State of Colorado.

That the annexed legal notice of advertisement was published in the regular and entire issue of every number of said weekly newspaper for the period of 1

consecutive insertions; and that the first publication of said notice was in the issue of said newspaper dated January

22, A.D. 2009, and that the last publication of said notice was in the issue of newspaper dated

January 22, A.D. 2009

In witness whereof I have hereunto set my hand this 26th day of January, A.D. 2009

Kimberly S. Burner, Publisher.

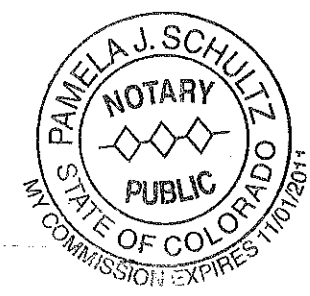
Subscribed and sworn to before me, a notary public in and for the County of Grand, State of Colorado this 26th day of

January, A.D. 2009
Pamela J. Schultz
 Notary Public

Town of HSS December 2008 Bills

| | | | | | |
|---------|------------|------|-----------|---------------------------------------|-------------|
| 12/08 | 12/17/2008 | 4614 | 1800 | VOID - Granby Sanitation District | 73.00 M |
| 12/08 | 12/17/2008 | 4640 | 2470 | VOID - Qwest | 367.99 M |
| 12/08 | 12/17/2008 | 4721 | 234112124 | VOID - IIMC | 116.15 M |
| 12/08 | 12/15/2008 | 4929 | 2750 | Town of HSS | \$40,000.00 |
| 12/08 | 12/02/2008 | 5196 | 1175 | Blair & Associates PC | \$2,530.00 |
| 12/08 | 12/15/2008 | 5197 | 234112127 | VOID - BROWNS HILL EN G/ CONTROLS LLC | .00 M |
| 12/08 | 12/02/2008 | 5198 | 1750 | CAPMARK Finance Inc. | \$10,500.00 |
| 12/08 | 12/02/2008 | 5199 | 1305 | Cintas First Aid & Safety | \$404.75 |
| 12/08 | 12/02/2008 | 5200 | 1620 | DPC industries, Inc. | \$392.20 |
| 12/08 | 12/02/2008 | 5201 | 214100 | Indian Peaks Rental, LLC | \$167.98 |
| 12/08 | 12/02/2008 | 5202 | 2310 | Mountain Parks Electric | \$3,438.00 |
| 12/08 | 12/02/2008 | 5203 | 2452 | VOID - Paper Clip, Inc. | \$0.00 |
| 12/08 | 12/02/2008 | 5204 | 234112147 | R S WELLS LLC | \$1,977.50 |
| 12/08 | 12/02/2008 | 5205 | 2550 | Sani-King, Inc. | \$90.00 |
| 12/08 | 12/02/2008 | 5206 | 2820 | USA Bluebook | \$106.57 |
| 12/08 | 12/02/2008 | 5207 | 2549 | Vrbas Service | \$60.00 |
| 12/08 | 12/02/2008 | 5208 | 2880 | Waste Management | \$100.75 |
| 12/08 | 12/09/2008 | 5208 | 234112121 | HD WATERWORKS | \$711.40 |
| 12/08 | 12/16/2008 | 5214 | 1052 | Aeration Industries Inter | \$845.75 |
| 12/08 | 12/16/2008 | 5215 | 1280 | Caselle, Inc. | \$648.00 |
| 12/08 | 12/16/2008 | 5216 | 1501 | Corncast | \$60.00 |
| 12/08 | 12/16/2008 | 5217 | 1620 | DPC Industries, Inc. | \$60.00 |
| 12/08 | 12/16/2008 | 5218 | 234112150 | Evans Holding, Inc DBA Elk Min | \$2,500.00 |
| 12/08 | 12/16/2008 | 5219 | 1800 | Granby Sanitation District | \$79.00 |
| 12/08 | 12/16/2008 | 5220 | 234112129 | GRAND COUNTY | \$300.00 |
| 12/08 | 12/16/2008 | 5221 | 2537 | VOID - Moyer, Ed | \$0.00 |
| 12/08 | 12/16/2008 | 5222 | 234112157 | Nationwide Environmental svcs | \$471.75 |
| 12/08 | 12/16/2008 | 5223 | 2420 | Petty Cash | \$70.44 |
| 12/08 | 12/16/2008 | 5224 | 2470 | Qwest | \$362.33 |
| 12/08 | 12/16/2008 | 5225 | 234112122 | SANDY WHITE | \$82.50 |
| 12/08 | 12/16/2008 | 5226 | 2580 | Sky Hi News | \$20.61 |
| 12/08 | 12/16/2008 | 5227 | 2547 | Verizon Wireless | \$177.41 |
| 12/08 | 12/16/2008 | 5228 | 2860 | VOID - Wagner Equipment | \$0.00 |
| 12/08 | 12/16/2008 | 5229 | 2880 | Waste Management | \$183.09 |
| 12/08 | 12/16/2008 | 5230 | 2933 | Widner Michow & Cox | \$231.25 |
| Totals: | | | | | \$66,014.14 |

Published in the Middle Park Times January 22, 2009.



PROOF OF PUBLICATION



I, Kimberly S. Burner, do solemnly swear that I of the Sky-Hi News, that the same is a weekly newspaper in whole or in-part, and published in the County of Colorado, and has a general circulation therein; that has been published continuously and uninterruptedly for a period of more than fifty weeks next prior to the first publication of the annexed advertisement, that said newspaper has been published by mail as second-class matter under the act of March 3, 1879, or any amendment thereof; that said newspaper is a weekly newspaper duly qualified for publication and advertisements within the meaning of the laws of the State of Colorado.

That the annexed legal notice of advertisement was published in the regular and entire issue of every number of the newspaper for the period of 1 consecutive insertions; and that the first publication was in the issue of said newspaper dated Feb 19th, A.D. 2009.

publication of said notice was in the issue of the day of February, A.D. 2009.
In witness whereof I have hereunto set my hand this 20th day of February, A.D. 2009.

Subscribed and sworn to before me, a notary public in the County of Grand, State of Colorado this 20th day of February, A.D. 2009.
Kimberly S. Burner

TOWN OF HOT SULPHUR SPRINGS, COLORADO ORDINANCE NO. 2009-2-1-362

AN ORDINANCE AMENDING SECTIONS 7-4-26 AND 7-4-35 OF THE TOWN CODE AND REQUIRING THAT THE RATES AND CHARGES FOR WATER AND SANITARY SEWER SERVICES SHALL BE BASED ON SINGLE FAMILY EQUIVALENTS AND OTHER APPROPRIATE STANDARDS FOR COMMERCIAL PROPERTIES AND AUTHORIZING THE TOWN BOARD OF TRUSTEES TO ESTABLISH THE VALUES FOR SUCH STANDARDS AND SUCH RATES AND CHARGES BY RESOLUTION.

WHEREAS, by Ordinance 359, as codified at Section 7-4-26 and 7-4-35 of the Town of Hot Sulphur Springs Municipal Code ("Code"), the base fee for water sold by and sanitary sewer service provided by the Town shall be in accordance with rates and charges as set forth by the Board of Trustees by resolution; and

WHEREAS, Sections 7-4-26 and 7-4-35 of the Code provide that there shall be levied and charged on each lot, building, parcel of land and premises served with water or served by or having sewer connection with the sanitary sewer system of the town, or otherwise discharging sanitary sewage, industrial wastes, water or other liquids, either directly or indirectly into the Town sanitary sewer system, a water and sewer service charge established in accordance with resolution adopted by the Board of Trustees; and

WHEREAS, the Board of Trustees finds that equity requires that the rate structure for water and sanitary sewer service base fees be set based on the number of single family equivalents ("SFE") being served, and that the SFE based fee is subject to change over time as the result of changing costs of serving, inflation, and other real estate market conditions, and the Board finds it is more efficient to effect such changes through resolution than by ordinance; and

WHEREAS, the Board desires to amend the Code to provide that water and sewer base fees and service charges shall be based on SFE's and the rate may be adopted by resolution; and

WHEREAS, the Town hereby declares that the adoption of this ordinance is an emergency, as provided herein.

NOW, THEREFORE, BE IT ORDAINED BY THE BOARD OF TRUSTEES OF THE TOWN OF HOT SULPHUR SPRINGS, COLORADO, THAT:

SECTION 1: Section 7-4-26 of the Code is hereby repealed and readopted to read as follows in its entirety:

7-4-26. WATER RATES.

(A) Water shall be sold by the Town in accordance with rates and charges established by the Board of Trustees by resolution from time to time and in accordance with the rate structure authorized in this Section and with the reasonable value of the services rendered and the financial needs of the system and the laws applicable thereto.

(B) Each property and user served with water by the Town shall be charged, in addition to a charge for metered water consumption, a monthly base rate for the purposes of funding the operational costs of the water treatment plant, contingency or emergency improvements, expenses necessary for the rehabilitation of the Town's water treatment plant, capital improvements to ensure the safety and quality of the amount of water in the future, and debt service, if any. Such monthly base rate shall separately be added for any other charges for capital improvements and such capital improvement funds shall not be expended for any other purpose.

(C) Each property and user served with water by the Town shall be assigned a single family equivalent (SFE) value based on its classifications in accordance with a schedule to be adopted by the Town Board of Trustees by resolution. Monthly base rates shall be determined by multiplying the monthly base rate times the number of SFE's.

(D) Each property and user served with water by the Town shall, in addition to the monthly base rate, pay for actual water usage as determined by meter pursuant to the rate schedule adopted by the Board of Trustees by resolution.

(E) The monthly base rate and the metered water rate for properties located outside the Town of Hot Sulphur Springs shall be based on the rate structure set forth herein and as adopted by resolution of the Board of Trustees, and shall be two (2) times the rate imposed for properties located inside the boundaries of the Town.

(F) The base rate shall be charged for all properties for which a tap has been purchased and all properties to which service is available regardless of whether services are being utilized; the property or whether services have been voluntarily and temporarily discontinued. A base rate shall not be charged to any property served by a tap where the owner has declared in written letter, submitted to the Town Clerk that such tap has been abandoned and forfeited by the owner.

SECTION 2: Section 7-4-35 of the Code is hereby repealed and readopted to read as follows in its entirety.

7-4-35. SANITARY SEWER RATES AND CHARGES FOR USE OF SEWERS.

All sanitary sewer service provided by the Town shall be in accordance with rates and charges established by the Board of Trustees by resolution from time to time in accordance with the rate structure authorized in this Section and in accordance with the reasonable value of the services rendered and the financial needs of the system and the laws applicable thereto. Such monthly base rate shall separately be added to the amount charged for capital improvements and such capital improvement funds shall not be expended for any other purpose.

Each property and user served by or having connection with the sanitary sewer system of the Town shall be charged a monthly base rate for the purposes of funding the operational costs of the wastewater treatment plant, contingency or emergency operational expenses, expenses necessary to rehabilitate the Town's wastewater treatment plant, capital improvements to ensure the safety and quality of the Town's wastewater treatment plant in the future, and debt service, if any.

Each property and user served by or having connection with the sanitary sewer system of the Town shall be assigned a single family equivalent (SFE) value based on its use classifications in accordance with a schedule to be adopted by the Town Board of Trustees by resolution. Monthly base rates shall be determined by multiplying the monthly base rate times the number of SFE's.

Properties located outside the Town of Hot Sulphur Springs shall be assessed a monthly base rate based on the rate structure set forth herein and as adopted by resolution of the Board of Trustees, and may be amended from time to time, and shall be two (2) times the rate imposed for properties located inside the boundaries of the Town.

Over and above the rates and charges established by this Section, there may be established, in special instances and by special agreement between the Town and the owner of the premises served by the Town sanitary sewer system, such additional charges for commercial or industrial wastes of unusual strength or composition that are accepted by the Town for treatment as may be determined to be fair and equitable. Such special agreements and charges shall be established by Resolution of the Board of Trustees. The Town may evaluate the SFE of any person discharging into the Town's sanitary sewer system should the impact of the discharge exceed the equivalent of the single family residential unit.

Nothing in this Section shall be construed to prevent any special agreement or arrangement between the Town and other persons, municipalities, quasi-municipalities, sanitation districts, additions and development areas outside the Town concerning sewage facilities, which may be adopted from time to time by Resolution of the Board of Trustees.

SECTION 3: Repealer. All ordinances, resolutions or parts thereof in conflict with this Ordinance are hereby repealed, provided that such repeal shall not repeal the repealer clauses of such ordinance or resolution or revive any ordinance or resolution.

SECTION 4: Severability. If any provision of this Ordinance is found by a court of competent jurisdiction to be invalid, the remaining provisions of this Ordinance will remain valid, it being the intent of the Town that the provisions of this Ordinance are severable.

SECTION 5: Effective date. This ordinance shall be effective immediately upon publication as provided in Section 6 hereof and the rates adopted by a resolution of the Board of Trustees adopted in accordance with this Ordinance shall be effective as of the date set forth in such resolution.

SECTION 6: Emergency. The Board of Trustees finds that the Town's water and sewer plants are in critical need of improvements in order to complete compliance with an Enforcement order issued by the Colorado Department of Public Health and Environment in 2008, and that funds are needed to finance such emergency required improvements and that the town will suffer unnecessary harm if this ordinance were enacted with customary processing required for town ordinances. Therefore, the Board of Trustees finds that the town has an emergency and declares that an emergency exists and that the improvements required for its effectiveness and the town's inability to move forward with the regular ordinance process. Therefore, the Board of Trustees finds and declares that an emergency exists and that there is reasonable justification for the adoption of this ordinance as an emergency measure and that this ordinance is necessary for the preservation of the public welfare.

INTRODUCED AND ADOPTED AS AN EMERGENCY MEASURE AND ORDERED BY A VOTE OF NOT LESS THAN 2/3 OF ALL MEMBERS OF THE BOARD OF TRUSTEES OF THE TOWN OF HOT SULPHUR SPRINGS, COLORADO, AT A REGULAR MEETING HELD ON THE DAY OF FEBRUARY, 2009.

420 Main St.
HOT SULPHUR SPRINGS, CO 81424
I, _____, Notary Public for the State of Colorado, do hereby certify that the foregoing is a true and correct copy of the original as the same appears in the files of the Board of Trustees of the Town of Hot Sulphur Springs, Colorado, on the day hereof.

February 19th, 2009. (3005897)