

**TOWN OF HOT SULPHUR SPRINGS,
COLORADO**

ORDINANCE NO. 2009-2-2-364

AN ORDINANCE REZONING A PARCEL OF LAND 125' X 150' LOCATED IN THE NE $\frac{1}{4}$ NW $\frac{1}{4}$ OF SECTION 11, TOWNSHIP 1 NORTH, RANGE 78 WEST OF THE 6TH P.M OF THE TOWN OF HOT SULPHUR SPRINGS KNOWN AS THE KNOX ANNEXATION TO R-1 AND AMENDING THE ZONING MAP

WHEREAS, a complete application as required by Section 9-4-4(B)(1) of the Town Code has been made by Ivan C & Yvonne L Knox Trust (the "Applicant" or the "Owner"), to rezone a parcel of land annexed into the Town by Ordinance 2008-9-3-361 and as more particularly described in Exhibit A attached hereto and incorporated herewith (the "Property") to R-1 Residential ("R-1"); and

WHEREAS , the Applicant own one hundred percent (100%) of the Property proposed for rezoning; and

WHEREAS, the Town of Hot Sulphur Springs Planning Commission considered the rezoning request following a duly noticed public hearing held on February 5, 2009; and

WHEREAS, subsequent public notice has been properly given of such proposed rezoning by publication on February 5, 2009, in *Sky-Hi Daily News*, a newspaper of general circulation within the Town of Hot Sulphur Springs, by posting of said Property and by mail notification of adjacent property owners within 200 feet of the Property in accordance with the Town of Hot Sulphur Springs Town Code; and

WHEREAS, pursuant to Section 9-4-4(D) of the Town of Hot Sulphur Springs Town Code, a public hearing was held before the Town of Hot Sulphur Springs Board of Trustees at 513 Aspen Street, Hot Sulphur Springs, CO 80451, on the 19th day of March, 2009, at 6:30 p.m. or as soon thereafter as practicable, at which time evidence and testimony were presented to the Board of Trustees concerning said rezoning request; and

WHEREAS, the record for this case includes, but is not limited to, the application, the Town of Hot Sulphur Springs Town Code, Town of Hot Sulphur Springs Master Plan, and all other applicable ordinances, resolutions and regulations, together with all Town of Hot Sulphur Springs land use application processing policies that relate to the subject matter of the public hearing, and accompanying maps, reports, studies and all other submittals of the Applicant, any evidence or correspondence submitted by members of the public at the public hearing, and the files and reports of the Town's planning consultant pertaining to this application; and

WHEREAS, the Owner has agreed to all conditions recommended by Town staff and consultants; and

WHEREAS, the Town Board of Trustees has determined that the proposed rezoning, subject to the conditions set forth herein, furthers the public health, safety, convenience and general welfare of the community; generally conforms with the Town's Master Plan; is compatible with surrounding uses; and otherwise meets the applicable criteria set forth in Section 9-4-4(B)(2) of the Town of Hot Sulphur Town Code; and

WHEREAS, approval of this Ordinance on first reading is intended only to confirm that the Town Board of Trustees desires to comply with state law and the Hot Sulphur Springs Town Code by setting a public hearing in order to provide the Applicant and the public an opportunity to present testimony and evidence regarding the application. Approval of this Ordinance on first reading does not constitute a representation that the Town Board of Trustees, or any member of the Town Board of Trustees, supports, approves, rejects, or denies the application or the proposed project.

NOW, THEREFORE, BE IT ORDAINED by the Town of Hot Sulphur Springs Board of Trustees as follows:

**EXHIBIT A
LEGAL DESCRIPTION OF PROPERTY BEING REZONED**

A parcel of land 125' x 150' located in the NE $\frac{1}{4}$ NW $\frac{1}{4}$ of Section 11, Township 1 North, Range 78 West of the 6th P.M., more particularly described as follows:

Beginning at the NE corner of the parcel whence the NW corner of Section 11, Township 1 North, Range 78 West of the 6th P.M., bears N 87°06' W, for a distance of 1513.18 feet;
thence S 00°19' E, for a distance of 150.00 feet;
thence N 89°22' W, for a distance of 125.00 feet;
thence N 00°19' W, for a distance of 150.00 feet;
thence S 89°22' E, for a distance of 125.00 feet to the point of beginning.

Situate, lying and being in the County of Grand and State of Colorado, to-wit:

A parcel of land lying East of the First Addition to the Town of Hot Sulphur Springs, and South of the Scherer Parcel all in the NE $\frac{1}{4}$ NW $\frac{1}{4}$ Section 11, Tp. 1 North, Range 78 W.

6th P.M., containing 0.33 acres more or less, more particularly described as follows:

Beginning at the NE corner of the parcel whence the NW corner Sec. 11, Tp. 1 N., R. 78 W. 6th P.M., bears N. 81°29' W for 1528.94 feet, said point being the SE corner of the Scherer parcel; thence S 0°19' W for 116 feet; thence S 89°22' E for 125 feet to the point of the beginning. Said parcel is bounded on the West and the South by a 60 foot reservation for a public road right of way.

Section 1. The recitals contained above are incorporated herein by reference and are adopted as findings and determinations of the Town Board of Trustees.

Section 2. The Town of Hot Sulphur Springs Board of Trustees hereby approves rezoning of the Property set forth in Exhibit A to R-1 subject to the terms and conditions as hereinafter delineated.

Section 3. Approval of this rezoning application shall be and is subject to the following conditions of approval that must be satisfied prior to recordation of such zoning amendment or at such time as determined by Town staff:

7. The Applicant will pay all reasonable fees and costs incurred by the Town and its consultants, in reviewing and processing of the rezoning application; and

8. The Applicant's compliance with any additional conditions of approval stated in the motion of the Town Board of Trustees for approval of this Ordinance.

Section 4. The Official Zoning Map of the Town of Hot Sulphur Springs shall be and the same is hereby amended to conform to and reflect said change in zoning.

Section 5. Severability. If any provision of this Ordinance should be found by a court of competent jurisdiction to be invalid, such invalidity shall not affect the remaining portions or applications of this ordinance that can be given effect without the invalid portion, provided that such remaining portions or applications of this ordinance are not determined by the court to be inoperable. The Town Board of Trustees declares that it would have adopted this Ordinance and each section, subsection, sentence, clause, phrase, or portion thereof, despite the fact that any one or more section, subsection, sentence, clause, phrase, or portion would be declared invalid or unconstitutional.

Section 6. Effective Date. This Ordinance shall become effective thirty days after publication following final passage.

INTRODUCED, READ, ADOPTED, APPROVED AND ORDERED PUBLISHED BY THE TOWN BOARD OF TRUSTEES OF THE TOWN OF HOT SULPHUR SPRINGS, COLORADO, UPON A MOTION DULY MADE, SECONDED AND PASSED AT ITS REGULAR MEETING HELD ON THE 19th DAY OF MARCH, 2009 BY A VOTE OF _____ IN FAVOR, _____ AGAINST, and _____ ABSTAINING.

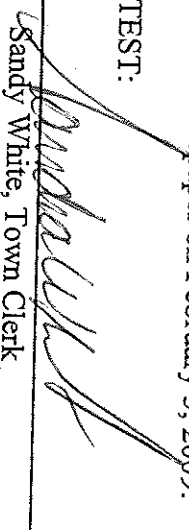
TOWN OF HOT SULPHUR SPRINGS

By: 
Hershel Deputy, Mayor

I hereby certify that the above Ordinance was introduced and adopted by the Town Board of Trustees of the Town of Hot Sulphur Springs, Colorado, at its meeting of March 19, 2009, and ordered published one time by The *Sly-Hi Daily News* newspaper on February 5, 2009.

SEAL

ATTEST:

By: 
Sandy White, Town Clerk

Publication Date: _____, 2009

Effective Date: _____, 2009 (30 days after publication)

PROPOSED MODIFICATION

TOWN OF
HOT SULPHUR SPRINGS, COLORADO
TOWN OF
HOT SULPHUR SPRINGS, COLORADO
ORDINANCE NO. 2009-24-365



I, Kimberly S. Burner, do solemnly swear that I am 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 uninterrupted County of Grand for a period of more than fifty-two weeks next prior to the first publication of the annex or advertisement, that said newspaper has been a United States mail as second-class matter under the act of March 3, 1879, or any amendment thereof; newspaper is a weekly newspaper duly qualified; legal notices and advertisements within the meaning of the State of Colorado.

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

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

19th, A.D. 2009, at

publication of said notice was in the issue of new

February 19th, A.D. 2009

In witness whereof I have hereto set my hand this

day of February, A.D. 2009

Kimberly S. Burner

Subscribed and sworn to before me, a notary public in

County of Grand, State of Colorado this 20th

February, A.D. 2009

Frankie D. White

AN ORDINANCE AMENDING SECTION 7-4-19 OF THE TOWN CODE OF THE TOWN OF HOT SULPHUR SPRINGS, COLORADO TO PROVIDE THAT WATER SHUT OFF IN THE EVENT OF NON-PAYMENT OF ANY WATER AND SEWER BILL SHALL BE DISCRETIONARY WITH THE TOWN BOARD OF TRUSTEES.

WHEREAS, Section 7-4-19 of the Town of Hot Sulphur Springs Town Code, 2007 Codification ("Code"), provides a procedure for notifying and terminating water service for water and sewer users with delinquent accounts; and

WHEREAS, currently, when a water and sewer bill has been delinquent for ten (10) days or more, the Town Clerk sends a certified letter, return receipt requested, to the owner of the property advising that if full payment is not received by a specified date, a Town employee shall deliver to the property a red tag which shall demand full payment of the delinquent bill within two (2) days following the date of delivery and that, if payment is not received by the specified date, water service shall be terminated and shall not be reinstated until payment of all funds due, including a turn-off and a turn-on fee have been paid; and

WHEREAS, the Board of Trustees desires to amend the Code to reserve the right to terminate water service for delinquent bills but not the obligation to terminate such service prior to certifying the past due amount to the Grand County Treasurer to be placed upon the tax list for the current year, to be collected in the same manner as other taxes are collected; and

WHEREAS, the Town Board declares that the immediate effectiveness of this Ordinance is necessary to preserve the public welfare as there are pending delinquent water and sewer bills and the Town Board of Trustees desires to have the discretion as to whether to terminate the water service for such delinquent users.

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

SECTION 1: Section 7-4-19 of the Code is amended to read as follows with deletions shown as strike-through and additions shown as all caps:

7-4-19. WATER AND SEWER BILLS - PAYMENT - PENALTY.

(A) Water meters shall be read between the fifteenth (15th) and twenty-fifth (25th) days of each third (3rd) month as nearly as possible and bills shall be mailed at the end of that month as nearly as possible.

(B) Sewer charges shall be payable quarterly and shall be added to and made part of the quarterly water bill.

(C) All water and sewer bills shall be due thirty (30) days after the mailing date of the bill. A check (including bank drafts and other forms of non-cash payment) for the amount due will be accepted but will not be credited until the check has cleared the bank and the amount is credited to the town's account. If any check presented to the Town for payment of fees and charges is returned from the bank as a result of non-payment due to insufficient funds or any other reason, such check amount shall be collected together with an administrative processing charge of \$25.00 in the same manner as provided in subsection (D) of this Section. In addition to any processing charge imposed for a returned check, a penalty of ten percent (10%) of the total bill shall be assessed against any bill upon the failure to timely pay any water and sewer bill in full within thirty (30) days after the mailing date. Any bill not paid in full when due shall be deemed delinquent. (Ord. 311, 06-17-99; and Ord. 324, 08-16-01; and Ord. 330, 06-22-02)

(D) The Town Clerk shall use the following procedure in notifying delinquent water and sewer users with delinquent accounts of the termination of their service:

(1) When a bill has been delinquent for ten (10) days or more, the Town Clerk shall send a certified letter, return receipt requested, to the owner of the property advising that, if full payment is not received by a specified date, said date to be not less than ten (10) days after the mailing date of the letter, a Town employee shall personally deliver to the property a red tag, said tag to be fastened to an entrance of the premises. The red tag shall demand full payment of the delinquent bill within two (2) days following the date of delivery of the red tag. If payment is not received by the specified date, water service shall not be reinstated until payment of all funds due, including a \$50.00 turn-off and a \$50.00 turn-on fee shall be paid (said fees shall be double for users outside the corporate limits of the Town). The certified letter shall specify when the owner or occupant of a water-using unit may appear before the Town Clerk to contest the alleged delinquency. (Ord 311, 06-17-99; and Ord 324, 08-16-01)

(2) If the owner or occupant of the delinquent premises appears before the Town Clerk and presents evidence satisfactory to the Town Clerk that the alleged delinquency is erroneous, the Town Clerk shall have the authority to stop all procedures THAT MAY HAVE BEEN INITIATED for the termination of services. The decision of the Town Clerk shall be final and shall be put in a written, dated format. The Town Clerk shall advise the Board of Trustees of all terminations.

(3) If payment is not made within the time specified in the red tag and if the termination OR COLLECTION procedure is not stopped by the Town Clerk as provided above and sewer service to the property shall MAY BE TERMINATED IF AUTHORIZED BY THE TOWN BOARD OF TRUSTEES and remain terminated until all fees and charges have been paid. If a Town employee check has been returned as a result of insufficient funds, a check for the amount due will be accepted but will not be credited until the check has cleared the bank and the amount is credited to the Town's account.

(4) If payment is received after ANY termination, including payment for all costs of termination and reinstatement of water service, water services shall be reinstated.

(E) If outstanding water and sewer service charges are not paid within 60 days of EITHER termination of water service OR THE DATE FOR PAYMENT AS SET FORTH ON THE RED TAG ISSUED IN WACHTER SECTION 7-4-19 OF THIS SECTION, the Town Clerk, IF AUTHORIZED BY THE TOWN BOARD OF TRUSTEES, shall certify to the Grand County Treasurer, or other designated person, the amount of the delinquent bill, including a turn-off and a turn-on fee, to be collected in the same manner as other taxes are authorized to be paid by Article 20, Title 31 of Colorado Revised Statutes, and all laws of the State for the assessment of general taxes, including the laws for the sale of property taxes and redemption of the same, shall apply thereto.

(F) All accounts for water and sewer shall be kept in the name of the owner of the property and the owner or his legal authorized agent shall be held responsible for water and sewer bills. The Town will mail copies of bills to renters or tenants other than the property owner at the written request of the property owner. However, in no event shall that relieve the owner from the obligation to satisfy the water and sewer bills.

SECTION 2. Repealer. All ordinance, 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 3. Severability. If any provision of this Ordinance will remain valid, it being the intent of the Town that the provisions of this Ordinance are severable.

SECTION 4. Effective date. This Ordinance shall be effective immediately upon publication as provided in Section 6 hereof and the rules 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 5. Emergency. The Board of Trustees finds that there is reasonable justification for the adoption of this Ordinance as an emergency measure that the immediate effectiveness of this Ordinance is necessary to preserve the public welfare as there are pending delinquent water and sewer bills and the Town Board of Trustees desires to have the discretion as to whether to terminate the water service for such delinquent users.

INTRODUCED, READ, PASSED AND ADOPTED AS AN EMERGENCY MEASURE AND ORDERED PUBLISHED BY TITLE ONLY BY A VOTE OF NOT LESS THAN 60% 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: Hershal 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 (3007139)