

TOWN CODE OF THE TOWN OF HOT SULPHUR SPRINGS, COLORADO TO PROVIDE THAT ASSESSMENT OF LATE FEES IN THE EVENT OF NON-PAYMENT OF ANY WATER AND SEWER BILL MAY BE WAIVED IN THE SOLE DISCRETION OF THE TOWN BOARD OF TRUSTEES

WHEREAS, Section 7-4-19 of the Town of Hot Sulphur Springs Town Code, ("Code"), provides a procedure for imposing late fee penalties for water and sewer users with delinquent accounts; and

WHEREAS, the Board of Trustees desires to amend the Code to reserve the right to waive late fee penalties for delinquent bills in the discretion of the Board of Trustees when at the request of delinquent account holders when good cause is shown.

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 no 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. THE TOWN BOARD OF TRUSTEES MAY, IN ITS SOLE DISCRETION AND UPON WRITTEN REQUEST OF THE DELINQUENT ACCOUNT HOLDER SHOWING GOOD CAUSE, WAIVE ALL OR PART OF THE 10% PENALTY ASSESSED FOR FAILURE TO TIMELY PAY ANY WATER OR SEWER BILL.

(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

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.

(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, water and sewer service to the property may be terminated if authorized by the Town Board of Trustees and remain terminated until all fees and charges have been paid. Unless a previous 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/sewer service or the date for payment as set forth on the red tag issued in accordance with this section, the Town Clerk, if authorized by the Town Board of Trustees, shall certify such unpaid rates, charges, penalties and interest 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 the same shall be collected and paid over to the Town in the same manner as 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. 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 3. 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,

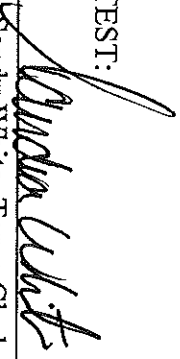
COLORADO, UPON A MOTION DULY MADE, SECONDED AND PASSED AT ITS REGULAR MEETING HELD ON THE 10TH DAY OF SEPTEMBER, 2009 BY A VOTE OF 6 IN FAVOR, 0 AGAINST, and 0 ABSTAINING.

TOWN OF HOT SULPHUR SPRINGS

By: 
Hershah 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 September 10TH, 2009, and ordered published by Sky Hi newspaper on October 1st, 2009.

SEAL

ATTEST: 
By: Sandy White
Sandy White, Town Clerk

Publication Date: October 1st, 2009
Effective Date: October 31st, 2009 (30 days after publication)

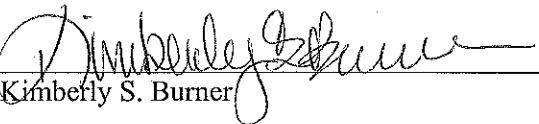
AN ORDINANCE AMENDING SECTION 7-4-19 OF THE TOWN CODE OF THE TOWN OF HOT SULPHUR SPRINGS, COLORADO TO PROVIDE THAT ASSESSMENT OF LATE FEES IN THE EVENT OF NON-PAYMENT OF ANY WATER AND SEWER BILL MAY BE WAIVED IN THE SOLE DISCRETION OF THE TOWN

PROOF OF PUBLICATION MIDDLE PARK TIMES

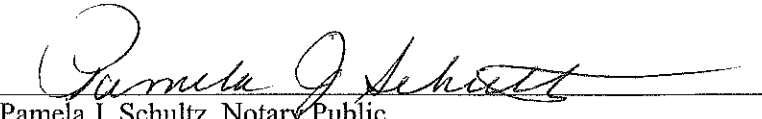
I, **Kimberly S. Burner**, do solemnly swear that I am the publisher of the Middle Park Times, that the same is a weekly newspaper printed, in whole or in-part, and published in the County of Grand, State of Colorado, and has a general circulation therein; that said newspaper has been published continuously and interruptedly 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 10/8/2009 and that the last publication of said notice was in the issue of newspaper dated 10/8/2009.

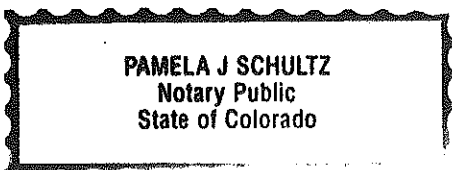
In witness whereof I have hereunto set my hand this 8th day of October, A.D. 2009


_____, Publisher
Kimberly S. Burner

Subscribed and sworn to before me, a notary public in and for The County of Grand, State of Colorado this 8th day of October A.D. 2009.


_____, Notary Public
Pamela J. Schultz, Notary Public

My Commission expires: **November 1, 2011**



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 - (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.
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 - (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, water and sewer service to the property may be terminated if authorized by the Town Board of Trustees and remain terminated until all fees and charges have been paid. Unless a previous 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.
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 - (E) If outstanding water and sewer service charges are not paid within 60 days of either termination of water/sewer service or the date for payment as set forth on the red tag issued in accordance with this section, the Town Clerk, if authorized by the Town Board of Trustees, shall certify such unpaid rates, charges, penalties and interest 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 the same shall be collected and paid over to the Town in the same manner as 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.
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Section 3. 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 _____ DAY OF SEPTEMBER, 2009 BY A VOTE OF _____ IN FAVOR, _____ AGAINST, and _____ ABSTAINING.

TOWN OF HOT SULPHUR SPRINGS
By:
Hershal 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 _____, 2009, and ordered published by Sky Hi newspaper on _____, 2009.

ATTEST:
SEAL
By:
Sandy White, Town Clerk

Publication Date: October 8, 2009
Effective Date: _____, 2009 (30 days after publication)

Published in the Middle Park Times and the Sky Hi News October 8, 2009. (4118018)