

✓ TOWN OF MINDEN

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OFFICIAL RECORD
Requested By:
TOWN OF MINDEN

WHEN RECORDED, MAIL TO:
GEORGE M. KEELE, ESQ.
1692 County Road, #A
Minden, NV 89423

Douglas County - NV
Karen Ellison - Recorder
Page: 1 Of 7 Fee: 0.00
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NOTICE OF WATER SERVICE ORDINANCE


COPY

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Attached hereto is a copy of section 18.04.120 of the Douglas County Code, which is the Town of Minden water service ordinance, adopted by the Douglas County Board of Commissioners for the Town of Minden. Without limitation, this ordinance includes the following provisions:

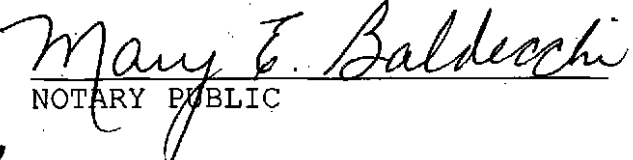
The town shall bill the record owner of any property provided service for the payment of the rates and charges specified in this ordinance; . . . The rates and charges shall constitute a charge against the record owner and the real property irrespective of the person billed therefor or requested to be billed therefor.

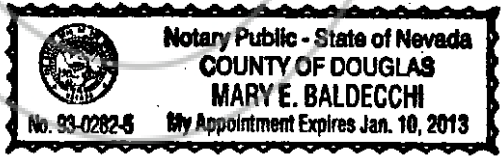
Dated this 19th day of November 2009.


David C. Sheets, Chairman
Minden Town Board

STATE OF NEVADA)
) SS.
COUNTY OF DOUGLAS)

This instrument was acknowledged before me on the 19th day of November, 2009, by DAVID C. SHEETS, as chairman of the Minden Town Board.


NOTARY PUBLIC



18.04.120 Water service--Requirements and procedures.

The residents of the town of Minden (sometimes referred to as the "town") and the duly elected, or appointed, members of its governing body, i.e., the Minden town advisory board ("town board"), believe that the ordered growth, maintenance of scenic beauty, and quality of life of the town of Minden can only be achieved by the careful husbandry of the town's natural resources and the provisions of a well-maintained, properly managed public utility infrastructure.

To perpetuate the continued availability of water resources to the town and its residents, and to insure ample water supplies for the use and enjoyment of future generations the town board does recommend, and the Douglas County board of commissioners does hereby enact, the following ordinance relating to the requirements and procedures for qualifying for water service within the town of Minden.

A. Description of service.

1. **Connection:** The town will supply water at the customer's service connection line, provided the customer's service connection is made at an existing town distribution line.

2. **Area Served.** The town will provide water service within the town of Minden. No other areas will be served except upon special authorization therefor by the town board.

B. Application for service. A signed application form is a written request for service. Filing such an application does not bind the applicant to take service for a period longer than that upon which the monthly service charge is based; neither does it bind the town to serve except under reasonable conditions.

1. Each applicant for service shall be required to sign, on a form provided by the town, an application which shall set forth:

- a. Date of application;
- b. Name and social security number of applicant;
- c. Location of premises to be served;
- d. Size and location of water resources;
- e. Date application will be ready for service;
- f. Whether the premises have theretofore been supplied with water by the town;
- g. Purposes for which water service will be used: e.g. residential, commercial, etc.;
- h. The number of dwelling units, if any, already being served; the number of

dwelling units to be served;

I. Address to which bills are to be mailed or delivered;

j. Whether the applicant is the owner, tenant of, or agent for the premises and, if tenant or agent, the name of the record owner of the property.

2. Neither the filing of the application nor the depositing of any sum of money by the applicant shall mandate the town to render service before such time as may reasonably be required by the town to install the required service facilities.

3. Two or more parties who join in one application for service shall be jointly and severally liable for payment of bills and shall be billed by means of single, periodic bills.

4. A customer making any material change in the size, character or extent of the equipment or operations for which the town's service is utilized shall immediately file a new application for such changed or additional service.

C. Billing for payment of rates and charges. The town shall bill the record owner of any property provided service for the payment of the rates and charges specified in this ordinance; provided, however, that the town may bill a lessee or lessees obligated to pay such rates and charges upon written request for such a special billing arrangement being made with the town secretary or executed by both the record owner and the lessee of the property provided service. The rates and charges shall constitute a charge against the record owner and the real property irrespective of the person billed therefor or requested to be billed therefor.

D. Rates for water service:

1. Water service rates. Initial rates for commercial and residential water service, for connection to the town water system and inspection, and for commercial and municipal swimming pools, schools (including athletic fields), and open areas were adopted by the town board in February of 1985; amended rates were adopted by the town board in August of 1989; the amended rates are ratified by the adoption of this amended ordinance. These rates may be changed from time to time by the affirmative vote of at least three of the members of the town board, after the board has given at least 30 days public notice, which notice shall be published in a newspaper published in Douglas County, Nevada, having a general circulation within the town and following a public hearing before the town board. It shall not be necessary for the board of commissioners to consider such amendments, although, in the case of an allegedly unjustified rate change, any aggrieved person with standing may appeal the rate change to the board of commissioners by filing a notice of appeal with the board of county commissioners not later than ten days after the town board enacts any change in the water rates. For good cause shown the board of commissioners, after a hearing before the board, may substitute a new, reasonable rate for the rate enacted by the town board if the board of commissioners finds the new rate to be arbitrary or unreasonable.

2. Open areas. **Open areas** shall be defined as all areas defined as "common areas" or "open space" or "open areas" or "public areas" in subdivision or parcel maps or in declarations of conditions, covenants and restrictions applying to condominiums, townhouses, patio homes, planned unit developments and similar developments where homeowners share ownership in common areas, where such areas exceed 10,000 square feet in coverage.

3. All newly-constructed commercial swimming pools, municipal swimming pools, schools (including athletic fields), open areas, and all other users described in classes C-1 through and including C-5 on the town's current rate schedule must install water meters of a design and specifications approved by the town board (copies of the design and specifications are available at the town office) at the sole cost of such users, and they shall be charged the metered rates indicated on the town's current rate schedule when these users commence taking water service.

All existing commercial swimming pools, municipal swimming pools, schools (including athletic fields), open areas and users described in classes C-1 through C-5 on the town's current rate schedule shall be charged the metered rates effective the first month after the town of Minden has completed installation of the meter at all such premises within the same class or category at the expense of the town of Minden.

E. Penalties for nonpayment of bills.

1. Any bill not paid within 30 days of presentation is delinquent.
2. A penalty charge of ten percent shall be imposed on past-due bills for each 30 day period, or portion thereof, that a bill remains unpaid.

3. Any customer who has a bill or a portion of a bill that is 60 days past due shall have water service disconnected pursuant to subsection G (3) of this section, and a lien for all delinquent sums may be placed upon the property receiving water service by recording a claim therefor in the official records of Douglas County, Nevada. The town shall send a written notice of the filing of the lien claim to the record owner of the property. The record owner is the person or entity in whose name title to the property is shown on the official records of Douglas County, Nevada. The lien may be foreclosed by filing and litigating an action against the property and its owner in small claims court or justice court for the East Fork Township or, if the amount owing is within the jurisdiction of the district court, by filing and litigating such an action in the Ninth Judicial District Court of the State of Nevada in and for the County of Douglas.

4. Partial payments shall be applied to the most recent charges, and remaining arrearages shall continue to accrue interest and penalties.

F. Notices. Notice to a customer must generally be in writing and must personally be delivered or mailed to the customer's last known address. A customer must ordinarily notify the town in writing at the town office. In emergencies, or when truly compelling circumstances so warrant, the town or a customer may make such notification orally, either in person or by telephone.

G. Discontinuance and restoration of service.

1. Discontinuance of service by Customer - Nonemergency.

a. A customer may have service discontinued by giving not less than five days advance notice of such request to the town. Charges for service must be paid through the date of the requested discontinuance or such later date as will provide not less than the required five days advance notice to the town. When such notice is not given, the customer may be required to pay for service through a period of five days after the town has received actual knowledge that the customer has vacated the premises or has otherwise discontinued water service.

b. A customer may request to have service temporarily discontinued at any time. If the request can be granted by the town without incurring a claim for employee overtime, the town will disconnect and, if possible reconnect the service at no charge. Otherwise, the customer will be billed the service charge indicated on the town's current rate schedule.

2. Discontinuance of service by customer--emergency. When an emergency discontinuance is requested by the customer for such reasons as leaks, burst pipes, and the like, the town will make every effort to shut off the service as quickly as possible. In an emergency which occurs during normal work hours, no charge will be made for visits to shut off the service and to restore the service. In an emergency which occurs after normal work hours, the town reserves the right to impose the service charge indicated on the town's current rate schedule.

3. Discontinuance of service by town--wasting water.

a. Noncompliance with ordinance. The town may discontinue service to any customer for violation of this ordinance after it has given the customer at least five days written notice of such intention. Where the safety of the water supply is endangered, service may be discontinued immediately, without notice to any customer.

b. Where water is being wasted on or about a customer's premises, the town may discontinue the service if such waste is not curtailed within five days after the town has given the customer written notice to curtail such waste. Waste shall be defined as the willful and wanton disregard of the encroachment of running water onto town property or town rights-of-way or onto property not owned by the customer or the customer's landlord where such encroachment persists for a period longer than four hours continuously.

c. Unsafe apparatus; service detrimental to the town or its customers. If any unsafe or hazardous condition is found to exist on the customer's premises, or if the use of water thereon by apparatus, appliances, equipment or any other device is found to be detrimental

or damaging the town or its customers, the town may discontinue the service without notice. The town must notify the customer as soon as reasonably possible of the reasons for the discontinuance and the corrective action to be taken by the customer before service will be restored.

d. Fraudulent or improper use of service. When the town has discovered that a customer has obtained service by fraudulent or other improper means, or has diverted the water service for unauthorized use, the service to that customer may be discontinued without notice.

4. Restoration of service.

a. Reconnection Charge.

(1) Reconnection following customer requested disconnection. Where service has been disconnected at the request of a customer, service shall be reconnected by the town, upon payment to the town of the reconnection charge indicated on the town's current rate schedule.

(2) Reconnection following involuntary disconnection for general noncompliance with ordinance. Where service has been disconnected by the town because the customer has violated any provision of this ordinance, other than through the circumstances described in section 18.04.120 G 4 (a) (3), service shall be reconnected by the town during normal business hours, upon payment to the town of the reconnection charge indicated in the town's current rate schedule.

(3) Reconnection following involuntary disconnection for fraud, improper use, improper diversion. Where service has been disconnected by the town because the customer obtained the service through fraudulent or other improper means or diverted the water service for an improper use, the town must not restore service to such customer until that customer has complied with all ordinances and reasonable requirements of the town and the town has been reimbursed the full amount of the service rendered and the actual cost to the town incurred by reason of the fraudulent use, together with reasonable attorney's and engineering fees incurred by the town in arresting the improper use, and the customer, additionally, has posted with the town a cash deposit in the sum of \$100 which the town shall keep on deposit, interest free, for a period of two years after reconnecting that customer. The deposited funds maybe used by the town to pay delinquent charges or penalties if any such charges accrue in the future.

b. Time of day for restoring service. The town will endeavor to make reconnections during regular working hours on the day of the request, if conditions permit; otherwise, reconnections will generally be made on the regular working day following the day the request is made. When a customer requests that the reconnection be made during other than regular working hours, the town shall attempt to comply with the customer's request but shall be under no obligation to do so.

5. Refusal to serve. Conditions for refusal. The town may refuse to provide service under any of the following conditions:

a. If the applicant willfully fails to comply with this ordinance.

b. If the intended use of the service is of such a nature that it will be detrimental or injurious to existing customers.

c. If, in the judgment of the town board, the applicant's service installation is unsafe or hazardous or subject to freezing or of such a nature that satisfactory service cannot be rendered.

d. Where service has been discontinued for fraudulent use, the town must not serve an applicant again until the customer has complied with all ordinances and reasonable requirements of the town, including making a \$100 deposit as indicated in subsection G (4) (a) (3) of this section, and the town has been reimbursed the full charge for the service rendered and the actual cost to the town incurred by reason of the fraudulent use, including attorney's fees and engineering fees.

H. Permit required for connection and construction.

1. Connection. Connection to the town's water system shall only be made after the

issuance of a water permit by the town.

2. Construction.

a. No person, other than employees of the town, persons contracting to do work for the town, or maintenance workers of the town, shall construct or cause to be constructed, or alter or cause to be altered, any public main, service connection, service piping, water pumping facility, or surface water diversion structure of the town or other water facility within the town which would allow connection to the town's facilities, without first obtaining approval of water facilities construction plans from the County of Douglas, obtaining a construction permit therefor, and complying with all applicable federal, state, county and Town statutes, ordinances and codes.

b. The applicant shall submit to the town for approval construction plans and such specifications and other details as may be required to describe fully the proposed construction. The town may require that the plans be prepared under the supervision of and be signed by an engineer of suitable training registered in the State of Nevada.

c. Plans for construction will not be approved by the town for any facility which would constitute a cross-connection.

I. Application for building permit required before issuance of water permit.

1. No water permit shall be issued for a parcel of land unless and until application has been made for a building permit for construction upon the same parcel. Exception: notwithstanding the above, the town may issue a water permit prior to an application for building permit, for good cause appearing, e.g. to serve agricultural or horticultural uses.

2. In the event that a building permit is revoked or expires for any reason prior to the completion of the structure described in the building permit, the water permit shall be void and of no effect. Upon application by the permittee, the town shall refund all fees paid for the water permit, without interest.

J. Waiver of connection and tapping charges.

1. When, after due inquiry and in the opinion of the board, a residential, commercial or industrial structure being served by a domestic well as defined by chapter 534 of NRS is being adversely affected by pumping from a town owned well, the board shall hold a hearing on the matter at the next regularly scheduled meeting of the board. At the hearing, the board shall, in its discretion, decide whether to waive connection and tapping fees. The board shall consider, among other relevant information, the size, age, depth, and mechanical soundness of the domestic well and its proximity to existing or proposed town wells. If, based upon all of the evidence presented, the board finds that the domestic well is being adversely affected by pumping from a town well, the board may authorize the waiver of connection and tapping fees.

2. The board may also waive connection and tapping fees where the town would be benefitted thereby. It is the intent of this section to authorize the board to waive connection and tapping fees as part of the consideration or as total consideration given in a valid contract with another person. The board may grant such a waiver only after a public hearing on the matter and after finding that this part of the contract is more beneficial to the town than charging the connection fee would be.

K. Disputed bills; testing of meters.

Customers with disputes concerning bills may appeal their bills to the town board at any scheduled board meeting. Appeals from decisions of the town board may be taken to the justice court of East Fork Township.

The town will test a customer's water meter at no charge to the customer not more often than once each year where the customer in writing addressed to the town board objects to a meter reading within ten days of receiving a periodic statement from the town for water service. (Ord. 513, 1990; Ord. 466 §1, 1987)