



Founded 1876  
Incorporated 1899

# TOWN OF JEROME, ARIZONA

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Celebrating Our 110th Anniversary  
1899 – 2009

## ORDINANCE NO. 368

### AN ORDINANCE OF THE TOWN OF JEROME, ARIZONA, AMENDING SECTIONS 9-3-6, 13-4-2, 13-5-3 AND 13-5-4 OF THE JEROME TOWN CODE REGARDING SANITATION ACCOUNTS AND AUTHORITY OF TOWN TO TURN OFF WATER FOR NON-PAYMENT OF SANITATION FEES

WHEREAS, on October 13, 2009, the Jerome Town Council adopted Ordinance 359, entitled "An Ordinance of the Town of Jerome Amending the Jerome Town Code Section 9-2-1-G, Creating Section 9-3-5 and Section 9-3-6 of the Jerome Town Code, and Amending Ordinance No. 337, dated 10/10/2006, to add the Following Definitions and Charges for Dumpster Rentals and Pickups; New Regulations for Present Dumpster Users; Guidelines for Small Business and Residential Sanitation Accounts; and to Include Definitions of Dangerous Wastes and Establishing Regulations for Non Acceptable Materials"; and

WHEREAS, the provisions of said Ordinance became effective on December 1, 2009; and

WHEREAS, in addition to its other provisions, the Ordinance was intended to clearly establish that each residence and commercial business in the Town of Jerome shall have a sanitation account and that all sanitation account holders shall be responsible for payment of sanitation fees, regardless of whether or not they choose to use the Town's trash collection service; however, its language did not specifically amend the Town Code, and it is the recommendation of the Town Manager that the Town Code be amended to include specific language to that effect; and

WHEREAS, in addition, the Town Manager and the Town Attorney have recommended that the Town Code be amended to clearly establish the authority of the Town to discontinue water service in the event of non-payment of sanitation fees; and

WHEREAS, it is the desire of the Mayor and Council to amend the Town Code accordingly;

NOW, THEREFORE, BE IT ORDAINED by the Mayor and Council of the Town of Jerome, Yavapai County, Arizona, as follows:

**Section 1.** Section 9-3-6, "Small Business and Residential Accounts Regulations," of Chapter 9, "Health and Sanitation," of the Jerome Town Code is hereby amended as follows (deletions in ~~strikeout text~~, additions underlined):

#### Article 9-3-6 Small Business and Residential Accounts Regulations.

1. Small business and residential sanitation accounts will supply trash can(s), marked with either account name or street address. These can(s) will be picked-up/emptied one (1) time a week.
2. The Town's trash receptacles in the business district will continue to be for public use.

FIRST READING BY TITLE: Date 12/17/09				ADOPTION: Date _____			
AYES	NAYS	ABSENT	ABSTAIN	AYES	NAYS	ABSENT	ABSTAIN
3	0	2	0				

3. No trash can, container, or barrel weighing over 40 pounds will be picked up by the Sanitation Department (OSHA requirement).
4. Each residence and commercial business in the Town of Jerome shall have a sanitation account. All sanitation account holders shall be responsible for payment of sanitation fees, regardless of whether or not they choose to use the Town's trash collection service.

**Section 2.** Section 13-4-2, "Service May Be Discontinued Under Certain Conditions," of Chapter 13, "Water," of the Jerome Town Code is hereby amended as follows (deletions in ~~strikeout text~~, additions underlined):

**Section 13-4-2 Service May Be Discontinued Under Certain Conditions.**

The town may discontinue water service upon any of the following conditions:

- A. To prevent fraud or abuse.
- B. Disregard of town rules pertaining to water service.
- C. Emergency repairs.
- D. Insufficient supply caused by factors outside the control of the town.
- E. Legal Process.
- F. Direction of public authorities.
- G. Local emergency requiring emergency measures.
- H. Tampering with meter or other equipment by the consumer.
- I. Non-payment of water, sewer or sanitation charges, as provided in Section 13-5-3 of this Chapter.

**Section 3.** Section 13-5-3, "Water Bills," of Chapter 13, "Water," of the Jerome Town Code is hereby amended as follows (deletions in ~~strikeout text~~, additions underlined):

**Section 13-5-3 Water Bills; Disconnection of water service for non-payment of water, sewer or sanitation charges.**

- A. All notices sent out by the Town regarding water or sewer user or sanitation accounts, and all notices regarding any other matter pertaining to users of the Town water or sewer system shall be sent to the address on record for such property. To insure proper delivery of notices, all errors in address should be promptly reported to the Town.
- B. All rates and service charges for water, sewer and sanitation are due and payable when rendered and shall be delinquent thirty (30) days after the date rendered. Any delinquent account requiring special collection effort may be assessed a delinquent collection charge to cover the additional cost as established by the Council. If the total of such bill shall not be paid within five days after the date of the delinquency and notice of delinquency having been given, water service may be disconnected from the premises of the delinquent consumer and a disconnect fee charged to the

customer's account. The delinquent collection charge, the disconnect fee plus the total amount of the bill due and any deposit, if such deposit is required, shall be collected before again providing water service.

- C. A consumer's water service may be disconnected for non-payment of a bill for water or sewer service rendered or sanitation charges assessed at a previous location served by the Town, provided such bill is not paid within thirty (30) days after the unpaid bill has been presented to the consumer at his new location.
- D. When a user of the water or sewer system has been notified of the amount of water, sewer and/or sanitation charges remaining due after the deduction of his security deposit, and payment for same has not been received, the Town may assign the account to a bona fide collection agency and/or proceed in accordance with the provisions of Section 13-5-4 below.

**Section 4.** Section 13-5-4, "Notice Prior to Disconnect, Appeal and Lien," of Chapter 13, "Water," of the Jerome Town Code is hereby amended as follows (deletions in ~~strikeout text~~, additions underlined):

**Section 13-5-4 Notice Prior to Disconnect, Appeal and Lien**

- A. Before discontinuing water service for non-payment of any water or sewer user charge, sanitation charge, deposit or other assessment provided for in this Chapter, the Town Clerk shall give written notice to the person of the discontinuance and an opportunity to appear before the ~~Water Commissioner~~Town Manager or his/her designee on any disputed matter relative to the discontinuance of water service.
- B. If no protest is made regarding the amount of any charge, deposit or other assessment provided for in this Chapter, or if a protest is made and the ~~Commissioner~~Town Manager has affirmed or modified the amount of the charge, deposit or other assessment, the original charge, deposit or assessment, or as so modified, shall be recorded in the office of the county recorder and from the date of its recording shall be a lien on said lot or tract of land until paid. Such liens shall be subject and inferior to the lien for general taxes and to all prior recorded mortgages and encumbrances of record. A sale of the property to satisfy a lien obtained under the provisions of this section shall be made upon judgment of foreclosure or order of sale. The Town shall have the right to bring an action to enforce the lien in the superior court at any time after the recording of the assessment, but failure to enforce the lien by such action shall not affect its validity. The recorded assessment shall be prima facie evidence of the truth of all matters recited therein, and of the regularity of all proceedings prior to the recording thereof. A prior assessment for the purposes provided in this section shall not be a bar to a subsequent assessment or assessments for such purposes and any number of liens on the same lot or tract of and may be enforced in the same action.

**Section 5.** All ordinances or parts of ordinances that are in conflict with the provisions of this Ordinance are hereby repealed to the extent of their inconsistency herewith.

**Section 6.** Should any section or provision of this ordinance be declared invalid by a court of competent jurisdiction, such decision shall not affect the validity of the Town Code as a whole or any part thereof other than the part so declared invalid.

**Section 7.** This Ordinance shall take effect 30 days after final adoption, as provided by law.

FINALLY APPROVED this \_\_\_\_\_ day of \_\_\_\_\_, 2009.

\_\_\_\_\_  
Al Palmieri, Mayor

ATTEST:

APPROVED AS TO FORM:

\_\_\_\_\_  
Candace Gallagher, Town Manager/Clerk

\_\_\_\_\_  
Kathleen G. Williamson, Williamson & Young, PC  
Town Attorney

I, the duly appointed Deputy Clerk of the Town of Jerome, Arizona, or my representative, hereby certify that Ordinance No. 368 was posted in accordance with A.R.S. § 9-813 on the following dates and times, and at the following places:

	DATE	TIME	PLACE
1			301 Main Street, second floor, exterior posting case
2			970 Gulch Road, side of Gulch Fire Station
3			601 Clark Street, Jerome Town Hall, entry hall
4			Jerome Post Office (courtesy location)

R.A. Shemaitis, Deputy Clerk