ORDINANCE NUMBER 1 - 2009

# AN ORDINANCE AMENDING ORDINANCE NO. 1-1999 AND ORDINANCE No. 42004, JUNK, REFUSE AND GARBAGE OF THE TOWN OF ECKLEY

BE IT ORDAINED BY THE BOARD OF TRUSTEES OF THE TOWN OF ECKLEY:

Section 1: Section F of Ordinance No. 4-2004, which amended Section F of Ordinance No. I-1999, Junk, Refuse, and Garbage of the Town of Eckley, is hereby amended in its entirety as follows:

SECTION F: Notice to Remove. If any owner or tenant ("Occupant") of any lot or tract of land situated within the boundaries of the Town of Eckley fails to keep such property free and clear of junk, refuse, garbage, weeds, brush, rubbish, and/or offensive or unsightly matter of all kinds as defined and described in Sections A and B of Ordinance No. 1-1999, the Town Clerk may give written notice to any such Occupant to cause to be removed any such junk, refuse, garbage, weeds, brush, rubbish, and/or offensive or unsightly matter of all kinds.

Manner of Delivery. Such notice shall be in writing and may be either personally delivered to any such Occupant or delivered by United States first class mail, addressed to such Occupant at his/her last known mailing address. Such notice shall be deemed delivered when so personally delivered or when deposited in the United States mail

2. Form of Notice. Such written notice, as described in this Section F, shall contain the following information:

1. The nature and date of the violation of Ordinance No. 1-1999, as amended by Ordinance No. 4-2004 and Ordinance No. 1-2009, including identification of the lot and/or tract of land;
2. A statement that the violation be corrected within 15 calendar days of the date of the notice; and
3. A statement that if the Occupant fails to remove any and all such junk, refuse, garbage, weeds, brush, rubbish, and/or offensive or unsightly matter within 15 calendar days of the date of the notice, then the Town of Eckley may take either or both of the following actions:

Issue the Occupant a citation, causing the Occupant to appear in municipal court where the Occupant may be fined not less than $20.00 nor more than $300.00 for each day the violation continues after the 15 th day of the date of the notice; and/or

(ii) Cause the removal to be done by any means at the Town's disposal and shall assess the whole cost thereof, including five percent (5%) for inspection

and other incidental costs in connection therewith, upon such lot and/or tract of land. This assessment when levied shall be and constitute a lien against such lot or tract of land until paid by Occupant and shall have priority over all other liens except general taxes and prior special assessments. If the Occupant fails to pay such assessment within a period of 15 days of the date of the notice of the assessment, the Town of Eckley has the power and authority to certify to the Yuma County Treasurer such assessment, with directions to the Yuma County Treasurer to collect the assessment in the same manner as other taxes are collected. The laws of the State of Colorado for assessment and collection of general taxes, including the laws for the sale and redemption of property for taxes, shall apply to the collection of such assessment.

Section 2: Section G of Ordinance No. 1-1999 is hereby amended and restated as follows:

SECTION G: Violation — Penalty. It is unlawful for any person to violate any provision of this ordinance, and any person found guilty of violating any provision of this Ordinance shall be punished for each violation by a fine of not less than $20.00 not more than $300.00 FOR EACH DAY THE VIOLATION CONTINUES AFTER THE 15TH DAY OF THE DATE OF THE WRITTEN NOTICE DESCRIBING SUCH VIOLATION AS PROVIDED IN SECTION F OF

THIS ORDINANCE

Section 3: Section H is hereby added to Ordinance No. 1-1999 as follows:

SECTION H: Removal by Town. If the Occupant fails to remove such junk, refuse, garbage, weeds, brush, rubbish, and/or offensive or unsightly matter described in the notice within 20 days from the date of the notice, the Town of Eckley may cause the same to be done by any means at its disposal, and the Town of Eckley and those acting in its behalf or at its direction shall not be liable to anyone for trespass, conversion or for any other civil or criminal liability, penalty or claim when acting in good faith in accordance with the provisions of this Section H.

Section 4: Section I is hereby added to Ordinance No. I-1999 as follows:

SECTION 1: Assessment of Costs.

1. Removal by Town. In the event it becomes necessary for the Town of Eckley to cause to be removed all such junk, refuse, garbage, weeds, brush, rubbish, and/or offensive or unsightly matter pursuant to Section H of this Ordinance, the Town of Eckley shall assess the whole costs thereof, including five percent for inspection and other incidental costs in connection therewith, upon the lot or tract of land from which the junk, refuse, garbage, weeds, brush, rubbish, and/or offensive or unsightly matter are removed. This assessment, when levied, shall be a lien against each lot or tract of land until paid and shall have priority over all other liens except general taxes and prior special assessments.
2. Notice. The Town Clerk shall deliver written notice of the assessment and lien to the owner of the lot or tract of land in the same manner provided for delivering notice in Section F. I. of this Ordinance. Such notice shall describe the property against which the assessment has been levied, the amount of the assessment, the fact that the assessment constitutes a lien against the described property, the name of the owner of the lot or tract of land involved, and the date by which the assessment must be paid, which shall be within 15 days from the date of the notice of assessment, which is deemed to be a reasonable time, in order to avoid certification of the assessment and lien to the Yuma County Treasurer for collection proceedings.

c. Collection. If the assessment is not paid within the fifteen (15) day period as provided in the notice of assessment, the Town Clerk shall certify such assessment to the Yuma County Treasurer, who shall proceed to collect the same in the same manner as other taxes are collected. The laws of the State of Colorado for assessment and collection of general taxes, including the laws for the sale and redemption of property for taxes, shall apply to the collection of such assessments.

Section 5: The adoption of this ordinance is necessary for the immediate preservation of public safety for the Town of Eckley and shall be effective upon adoption.

Introduced, read and ordered published this day of , 2009.

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Published, passed and approved this day of , 2009.

# TOWN OF ECKLEY



Michael Leerar, Mayor

ATTEST:

Carolyn J op

Town Clerk-Treasurer