

ORDINANCE NO. 1027

AN ORDINANCE OF THE TOWN COUNCIL OF THE TOWN OF BAY HARBOR ISLANDS, FLORIDA, AMENDING CHAPTER 20 OF THE TOWN'S ADOPTED CODE OF ORDINANCES ENTITLED UTILITIES, BY AMENDING SECTIONS 20-7, 20-11, AND 20-15.1 TO PROVIDE FOR UNIFORM BILLING, PAYMENT, COLLECTION, AND THE FILING OF LIENS IN CONNECTION WITH UTILITIES; PROVIDING FOR SEVERABILITY; PROVIDING FOR CODIFICATION; AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, the Town Council is charged with the protection of the health, safety and welfare of the Town's residents; and

WHEREAS, the Town Council of the Town of Bay Harbor Islands is charged with preserving and maintaining the high quality and standards and aesthetic beauty contained within the Town;

WHEREAS, the Town is responsible for providing, billing, and collecting certain fees for utilities;

NOW, THEREFORE, BE IT ORDAINED BY THE TOWN COUNCIL OF THE TOWN OF BAY HARBOR ISLANDS, FLORIDA:

Section 1: That Sections 20-7, 20-11, and 20-15.1 of the Town of Bay Harbor Islands Code of Ordinances are hereby amended as set forth in the attached Exhibit "A," and by reference is made a part hereof.

Section 2: That if any section, paragraph, sentence or word of this Ordinance or the application thereof to any person or circumstance is held invalid, that the invalidity shall not affect the other sections, paragraphs, sentences, words or application of this Ordinance.


Section 3: That it is the intention of the Town Council of the Town of Bay Harbor Islands, Florida, and it is therefore ordained, that the provisions of the Ordinance shall become and be made a part of the Town of Bay Harbor Islands' Code of Ordinances, that sections of this Ordinance may be re-numbered or re-lettered to accomplish such intentions, and that the word "Ordinance" shall be changed to "Section" or other appropriate word.

Section 4: That all Ordinances, parts of Ordinances, Resolutions or parts of Resolutions in conflict herewith be and the same are hereby repealed to the extent of such conflict.

Section 5: That this Ordinance shall be in full force and take effect upon its passage and adoption.

PASSED on First Reading this 17th day of September 2018.

PASSED AND ADOPTED on Second Reading this 10th day of October 2018.




STEPHANIE BRUDER
MAYOR

ATTEST:



MARLENE M. SIEGEL
TOWN CLERK

APPROVED AS TO FORM AND LEGAL SUFFICIENCY:



CRAIG SHERMAN, ESQ.
TOWN ATTORNEY

EXHIBIT A

Sec. 20-7. - Same—Billing for Water Services, Sewer Services, and Storm Water Fees; discontinuance of service.

Charges for water service, sewer services (as set forth in Section 20-11, below), and storm water fees (as set forth in Section 20-11.1, below) shall be billed to each ~~owner or owner's agent of the property owner involved~~ monthly. Any payment that is not made within 30 days from the due date shall be assessed a 3% late charge. If full payment, including the late charge, for service is not made within 30 60 days from the due date of the bill, the ~~the~~ Town mManager shall have the authority to discontinue service upon written notice by him to the property owner. or owner's agent. ~~N~~ Written notice shall be sent by certified mail sent five days before and First Class U.S. Mail and shall specify the date that the service is will be discontinued, and the outstanding balance. The outstanding balance shall also include all ~~All~~ costs of notice, including costs of mailing, billing and a lien created thereby. Such ~~water service~~ charges, costs, and late fees shall constitute a tax and shall be a lien against the property for which the ~~water service~~ charges are due and unpaid. The lien will be effective from the due date of the charges and will remain as long as the charges are unpaid. The lien may be recorded in the public records and interest shall accrue at the legal rate set forth in Section 55.03, Florida Statutes. The Town Manager shall have the discretion to enter into installment plans, waive any late fee(s), lien recording fee(s), and accrued interest in connection with any property owner's payment of their outstanding balance. Interest at the rate of nine percent per annum shall be added to the charges from the due date of the charges to payment.

Sec. 20-11. - Same—Payment Billing; discontinuance of service.

~~The Charges for sewer service charges shall be imposed, billed and noticed, collected, and liened as set forth in Section 20-7, above. on a calendar monthly basis, and shall become due and payable immediately upon billing for same without discount or further demand, and such Sewer service charges shall constitute a tax and shall be a lien against the property for which the sewer service charges are due and unpaid. The lien will be effective from the due date of the charges and will remain as long as the charges are unpaid.~~

Sec. 20-15.1. - Billing; discontinuance of service; liens.

- (a) Charges for storm water services shall be billed, noticed, collected, and liened as set forth in Section 20-7, above. Fees shall be billed to each property owner of each developed property in conjunction with the monthly water bill. Fees shall be due under the same conditions as the water bill. Late charges may be established by the governing body and amended from time to time and applied to fees that are 60 days past the due date.
- (b) ~~Fees and late charges~~ Charges for storm water fees, late fees, mailing fees, and interest shall be debts due and owing the utility and the same shall be recoverable by the town or its assignee on behalf of the utility, in any court of competent jurisdiction.
- (c) Intentionally Deleted. The utility shall establish procedures to notify all property owners, tenants and managers of developed property of delinquent fee accounts.
- (d) ~~All fees and late charges due and owing to the utility which remain unpaid for 60 days past the due date of the fees shall become a lien against and upon the developed property for which the fees are due and owing to the same extent and character as a lien for a special assessment. Charges for storm water fees, late fees, mailing fees, and interest~~ Until fully paid and discharged, said fees and late charges shall remain, and constitute a special assessment lien equal in rank and dignity with the liens of municipal ad valorem taxes and superior in rank and dignity to all other liens, encumbrances, titles, and claims in, to or

against the developed property involved for a period of five years from the date of said fees and late charges, thereupon, become a lien as set forth in this article. Said lien may be enforced and satisfied by the town on behalf of the utility, pursuant to F.S. Ch. 173, as amended from time to time, or by any other method permitted by law. The lien provided herein shall not be deemed to be in lieu of any other legal remedies for recovery of said fee and late charges available to the town and to the utility.

- (e) ~~For fees which become more than 60 days past due and unpaid, the utility shall cause to be filed in the office of the clerk of the court of Dade County, Florida, a notice of lien or statement showing a legal description of the property against which the lien is claimed, its location by street and number, the name of the owner, and an accurate statement of the fees and late charges then unpaid. A copy of such~~ A notice of lien shall be mailed within a reasonable time to the owner of the property involved as may be known to the town or shown on the tax assessment roll most recently published by Metro-Dade County. No such lien shall be enforceable by the town or the utility unless said notice shall be filed within six months from the date the fees and late charges become a lien as established by this article.
- (f) Liens may be discharged and satisfied by payment to the town, on behalf of the utility, of the aggregate amounts specified in the notice of lien and all filing and recording fees. When any such lien shall be fully paid or discharged, the town shall cause evidence of the satisfaction and discharge to be filed with the clerk of the circuit court of Dade County, Florida.
- (g) ~~Notwithstanding other provisions to the contrary herein, the town, on behalf of the utility, shall have the discretion not to file notices of lien for fees and late charges for sums in the amount less than \$50.00. If the town or the utility elects not to file a notice of lien, said fees and late charges shall remain as debts due and owing in accordance with (b) above.~~