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ORDINANCE NO. 100

AN ORDINANCE ESTABLISHING A TOWN OF HILLROSE, COLORADO, TRASH ENTERPRISE, AND AUTHORIZING THE ENTERPRISE TO HAVE AND EXERCISE CERTAIN POWERS IN FURTHERANCE OF ITS PURPOSES

BE IT ORDAINED BY THE BOARD OF TRUSTEES OF THE TOWN OF
HILLROSE, COLORADO:

WHEREAS, the Town of Hillrose, Colorado (the Town), is authorized by Sections 31-15-401 and 30-15-401 of the Colorado Revised Statutes, as amended (the Statutes), and through its inherent police powers to regulate trash within the Town and to establish or continue to maintain trash service enterprises, as set forth the Statutes and pursuant to its inherent rights and obligations of police power, for the purpose of pursuing or continuing trash activities, including trash collection, disposal, or facility activities; and

WHEREAS, the case law in Colorado and the Colorado Constitution provide that trash activity enterprises established or maintained in accordance with the case law and the Constitution are excluded from the provisions of art. X, § 20 of the Colorado Constitution; and

WHEREAS, the Board of Trustees (the Board) desires to adopt this Ordinance to establish the Town's Trash Enterprise by establishing a trash activity enterprise and authorizing the Trash Enterprise to have and exercise certain powers in furtherance of its purposes.

NOW, THEREFORE, BE IT ORDAINED BY THE BOARD OF TRUSTEES OF THE TOWN OF HILLROSE, COLORADO, THAT:

Section 1. Establishment of Enterprise. The Town of Hillrose, Colorado, Trash Enterprise (the Enterprise), is hereby established pursuant to the provisions of the Statutes, Colorado case law, and the Colorado Constitution as an enterprise of the Town within the meaning of art. X, § 20 of the Colorado Constitution.

Section 2. Ownership of Enterprise. The Enterprise shall be wholly owned by the Town and shall not be combined with any trash activity enterprise owned by another district.

Section 3. Trash Activities. The Enterprise may conduct one or more trash activities as may be determined by the governing body of the Enterprise, including, but not limited to, the collection, transportation, treatment, and disposal of wholesale or retail trash, ash, waste, rubbish, garbage, industrial waste, or junk services (Trash Activities).

Section 4. Governing Body. The Board shall serve as the governing body of the Enterprise, and the officers of the Board and of the Town shall serve as the officers of the governing body of the Enterprise. The Mayor of the Town shall serve as Chairman of the Enterprise; the Town Clerk shall serve as Secretary of the Enterprise; and the Town Attorney shall serve as Attorney for the Enterprise.

Section 5. Powers of Enterprise. The Enterprise shall have and may exercise the following powers in furtherance of its purposes: hold meetings concurrently with regular or special meetings of the Board; adopt ordinances and resolutions in the manner in which Town ordinances and resolutions may be adopted; issue revenue bonds in the manner prescribed by the Act without voter approval in advance; pledge any revenues derived or to be derived from the trash functions, services, benefits, or facilities of the Town or the Enterprise or any other available funds of the Enterprise to the payment of such revenue bonds and to pay such revenue bonds therefrom; enter into contracts relating to the trash system of the Town (the System) in the manner in which Town contracts may be entered into; make representations, warranties, and covenants on behalf of the Town and bind the Town to perform any obligation relating to the System other than any multiple-fiscal year direct or indirect debt or other financial obligation of the Town without adequate present cash reserves pledged irrevocably and held for payments in all future years; and exercise the Town's legal authority relating to Trash Activities. Notwithstanding the foregoing, the Enterprise may not levy a tax which is subject to art. X, § 20(4) of the Colorado Constitution.

Section 6. Powers Retained in Town. The Town shall continue to own the assets of the System; acquire and convey properties constituting part of the System; manage, operate, and maintain the System; employ and discharge the officers, managers, and employees of the System; keep books and records relating to the System; invest and manage funds; budget and appropriate revenues and expenditures of the System; award and execute contracts and make expenditures relating to the System; fix, adjust, and collect trash rates, fees, tolls, and charges; and prescribe rules and regulations relating to the System. The Town may also borrow money, issue bonds, or enter into other financial obligations relating to the System as provided in the Colorado Constitution and statutes.

Section 7. Prior Acts. All action not inconsistent with the provisions of this Ordinance heretofore taken by the Town or its officers and otherwise directed toward the establishment of the Enterprise and the authorization of the Enterprise to have and exercise certain powers in furtherance of its purposes is hereby ratified, approved, and confirmed.

Section 8. Repealer. All ordinances, resolutions, bylaws, orders, and other instruments, or parts thereof, inconsistent herewith are hereby repealed to the extent only of such inconsistency. This repealer shall not be construed to revive any ordinance, resolution, bylaw, order, or other instrument, or part thereof, heretofore repealed.


Section 9. Severability. If any section, subsection, paragraph, clause, or other provision of this Ordinance shall for any reason be held to be invalid or unenforceable, the invalidity or unenforceability thereof shall not affect any of the remaining sections, subsections, paragraphs, clauses, or provisions of this Ordinance.

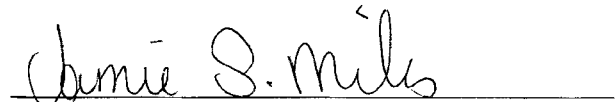
Section 10. Emergency. In an effort to avoid costs associated with the delay of issuing bonds in a timely manner the Enterprise shall be established immediately. Therefore, a special emergency exists which requires the immediate passage of this Ordinance as an emergency measure, and this Ordinance is necessary for the immediate preservation of the public peace, health, or safety.

Section 11. Effective Date. Notwithstanding any provision of any ordinance of the Town or any statute of the State of Colorado to the contrary, this Ordinance shall become effective immediately upon adoption.

INTRODUCED, READ, ADOPTED, APPROVED, PASSED, AND ORDERED
PUBLISHED BY TITLE ONLY by the Board of Trustees of the Town of Hillrose,
Colorado, on April 16, 2007.




LYNN ANN GOLEMBOSKI
Town Clerk

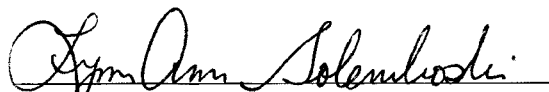

JAMIE MILES
Mayor

CERTIFICATION

I, Lynn Ann Golemboski, Town Clerk of the Town of Hillrose, Colorado, hereby certify and attest that the foregoing Ordinance No. 100 was introduced, read, adopted, and ordered published by title only at a regular meeting of the Board of Trustees of the Town of Hillrose, Colorado on the 16 day of April, 2007. This Ordinance was published in The Brush News-Tribune on April 25, 2007.

DATED: April 25, 2007




LYNN ANN GOLEMBOSKI
Town Clerk

Section 11. Effective Date. Notwithstanding any provision of any ordinance of the Town or any statute of the State of Colorado to the contrary, this Ordinance shall become effective immediately upon adoption.

INTRODUCED, READ, ADOPTED, APPROVED, PASSED, AND ORDERED
PUBLISHED BY TITLE ONLY by the Board of Trustees of the Town of Hillrose,
Colorado, on _____, 2007.

JAMIE MILES
Mayor

[S E A L]

LYNN ANN GOLEMBOSKI
Town Clerk

CERTIFICATION

I, Lynn Ann Golemboski, Town Clerk of the Town of Hillrose, Colorado, hereby certify and attest that the foregoing Ordinance No. ____ was introduced, read, adopted, and ordered published by title only at a regular meeting of the Board of Trustees of the Town of Hillrose, Colorado on the ____ day of _____, 2007. This Ordinance was published in The Brush News-Tribune on _____, 2007.

DATED: _____, 2007

[S E A L]

LYNN ANN GOLEMBOSKI
Town Clerk