

ORDINANCE 2016 - 395

**AN ORDINANCE TO PROVIDE FOR THE REDEMPTION
OF OUTSTANDING WATER OR SEWER TAPS
PREVIOUSLY ISSUED BY THE CITY OF NEW HOPE
WATER DEPARTMENT**

WHEREAS, the City of New Hope adopted its Ordinance 224 on March 5, 1998 which provides that water and sewer tap fees assessed by the City shall not be accepted from customers who request an indefinite date of installation; and

WHEREAS, on the same day, the City adopted Ordinance 223 which provides that when tap fees are received by the City, work orders will be prepared at the time of payment and installation will be completed within ninety (90) days; and

WHEREAS, the City has become aware that notwithstanding the requirements of these City ordinances, a clerk of the City Water Department at times after the adoption of said ordinances, received payments toward the purchase of an indeterminate number of water and sewer taps in the City of New Hope for installation at a future indefinite date; and

WHEREAS, all such payments received for indefinite future installation of water and sewer taps were received in violation of established City ordinances; and

WHEREAS, the City desires to fairly and equitably resolve any claims for credit toward installation of future water or sewer taps and to resolve any potential financial exposure or obligation

the City may have arising from the illegal acceptance of payment toward future installation of water or sewer taps.

NOW THEREFORE BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF NEW HOPE, ALABAMA, AS FOLLOWS:

Section 1. Any person who can present satisfactory written documentation to the Clerk of the City's Water and Sewer Department ("Water Department Clerk") that said person either made a payment toward the purchase of a water or sewer tap from the Department for installation in the future, or subsequently was assigned the right to credit toward the purchase of a water or sewer tap from a person or persons who made such payment, may present a claim to the Water Department Clerk under the provisions of this Ordinance for redemption of the value of the amount paid. The Water Department Clerk will be responsible for requiring and reviewing such documentation as is necessary to determine that the applicant made any payment claimed or was lawfully assigned and currently holds the right to the credit toward water or sewer tap payments made by another person. If the Water Department Clerk, in her discretion, determines that a particular applicant for credit cannot present adequate evidence of payment or of assignment of the right to credit for such payment, she must deny the claim. Any person whose claim is denied may request a review of the claim by the City Council. The Council's decision regarding whether to accept or deny the claim shall be final. All claims for which payment is determined to be due shall be submitted by the Water Department Clerk to the City Clerk for presentation to the City Council for approval. If approved by the City Council, the City Clerk will process payment of the claim.

Section 2. Any claim for redemption of the value of an amount paid toward the indefinite future installation of a water or sewer tap must be submitted to the Water Department Clerk no later than the close of business on September 30, 2016. All previous payments made toward the purchase

of water or sewer taps not claimed or redeemed under the terms of this ordinance by September 30, 2016 will be deemed forfeited and void and the City will have no responsibility or obligation for any future refund or credit toward purchase of water or sewer taps with respect to any such unclaimed or unredeemed payments at any point thereafter.

Section 3. Upon establishment of a properly documented claim, the person presenting the claim may either:

(a) apply the value of the amount previously paid to the current price of a water or sewer tap or,

(b) request a refund of the actual amount paid.

The City will owe neither interest on any amount paid nor any credit other than the actual documented amount previously paid to the City toward the purchase of a water or sewer tap.

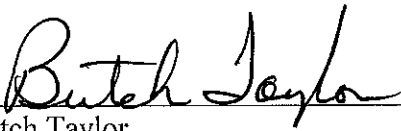
Section 4. Any person who elects to apply the value of the amount previously paid toward the current purchase price of a water or sewer tap must pay the balance of the current water or sewer tap fee, at the time the claim is submitted. The City will then make arrangements for the installation of the applicable water or sewer tap or taps within ninety (90) days from the date of payment.

Section 5. The City will process requests for refunds and make payment to all eligible recipients within sixty (60) days from the date the refund is requested, by check mailed to the address listed on the resident's claim.

Section 6. This ordinance shall become effective after it is posted as required by law.

Section 7. The provisions of this ordinance are hereby declared severable; if any portion of this ordinance shall be held unconstitutional or otherwise invalid by a court of competent jurisdiction, such ruling shall not affect the remaining portion of this ordinance.

READ, APPROVED, and ADOPTED this 20th day of June, 2016.



Butch Taylor
Mayor and Presiding Officer of the City Council
City of New Hope, Alabama

ATTEST:



Kimberly Passalacqua, City Clerk