

ORDINANCE NO. 2010-35

AN ORDINANCE OF THE CITY OF PEORIA MAYOR AND COUNCIL OF THE CITY OF PEORIA, ARIZONA AMENDING CHAPTERS 25 AND 2 OF THE PEORIA CITY CODE (1992) BY AMENDING SECTION 25-1 PERTAINING TO WATER; DEFINITIONS; AMENDING SECTION 25-119 PERTAINING TO SEWER SERVICE ONLY DEPOSITS; AMENDING SECTION 25-122 PERTAINING TO DUE DATE; COLLECTION PROCEDURES AND REMEDIES; AMENDING SECTION 2-406 PERTAINING TO UTILITY SERVICES; DEPOSITS; AMENDING SECTION 2-407 PERTAINING TO UTILITY SERVICES; BILLING PROCEDURES; AMENDING SECTION 2-410 PERTAINING TO UNPAID UTILITY SERVICE CHARGES; LIENS, ASSESSMENTS, COLLECTION; AMENDING SECTION 2-224 PERTAINING TO UTILITIES DEPARTMENT; SERVICE CONNECT AND TERMINATION CHARGES; AND AMENDING A PORTION OF TABLE 2-224 PERTAINING TO UTILITIES DEPARTMENT; STANDARD COST AND PROVIDING FOR SEVERABILITY AND PROVIDING FOR AN EFFECTIVE DATE.

THEREFORE, it is ordained by the Mayor and Council of the City of Peoria as follows:

SECTION 1. Chapter 25 of the Peoria City Code (1992) is amended by amending Section 25-1 Water; definitions and providing that Section 25-1 shall read as follows:

Sec. 25-1 Water; Definitions definitions.

For the purpose of this Chapter, the following words, terms and phrases shall have the following meaning ascribed to them, except where the context clearly indicates a different meaning:

Approach mains shall be those mains subject to repayment and defined as follows:

- (i) Mains extended beyond the limits of the project or mains constructed through the project or mains constructed along the frontage or boundary of the development; and
- (ii) Mains which serve other property owners other than the owner who is developing the property; and

- (iii) Mains which are constructed to contain additional capacity to provide adequate fire flow and water pressure above and beyond that required by the development based on the most recent Water Master Plan.

Approved means accepted by the Utilities Director or their authorized deputy, agent, designee or representative as meeting an applicable specification stated or cited in this code, or as suitable for the proposed use.

City means the City of Peoria, Maricopa County, Arizona and/or the Utilities Department. For purposes of certain sections, the City shall be defined as the Utilities Department and the Engineering Department with the Engineering Department performing reviews on behalf of the Utilities Department to assure compliance with the Utilities Department standards and specifications.

City Engineer means the Director of the Engineering Department, (i.e., City Engineer) or their deputy, agent, designee or representative.

City Water Service Area means all incorporated areas of the City, which are not currently served water by a private water company.

Civil Sanction means that part of the law (i.e., this code) which is designed to secure enforcement by imposing a penalty. A punitive act taken by the City against an individual or customer, which has violated this code.

Commercial Unit means non-residential units which are intended to facilitate all types of employment-generating or business uses, including, but not limited to retail and service establishments, neighborhood convenience stores, business parks and professional offices, research and development centers, storage warehouses and industrial units.

Conveniently Accessible (for meter locations) means located in an open area with not less than three (3) feet in diameter access around the meter.

Customer(s) means any person (legal or natural), partnership, association, company, private corporation, public corporation, political subdivision, the United States and the State of Arizona, who requests or receives water from the City's public water distribution system or reclaimed water from the City's reclaimed water distribution system or untreated Central Arizona Project water from City facilities.

Development Fees means a fee assessed by the City to offset costs to the City associated with providing necessary public services to a development.

Director or Utilities Director means the Public Works – Utilities Director of the City of Peoria or their authorized deputy, agent, designee or representative.

Dwelling Unit means:

- (i) *Multiple-Family Dwelling Unit* means mobile home space within a mobile home park, a travel trailer space within a travel trailer park, a hotel, motel, rest home, apartment, condominium units served by a single meter, and any other building in which more than one (1) family may reside either temporarily or on a permanent basis.
- (ii) *Single-Family Dwelling Unit* means any unit attached or detached served by an individual meter in which only a single-family may reside, other than a multiple-family dwelling unit.

Industrial Unit means a business use or an activity involving and/or including, but not limited to, resource extraction, manufacturing, fabrication, assembly, and warehousing.

Institutional Unit means a use or activity involving and/or including, but not limited to a public and public/private group use of a nonprofit nature, typically engaged in public service or a religious institution, hospital, public or private school or college, and public agency.

Minor Land Division means:

- (i) The division of one parcel of land into three or less parcels.
- (ii) Application for a building permit on a single lot, parcel or tract that is not a lot, parcel or tract located within a recorded subdivision and which may be divided into one or more additional lots, parcels or tracts, regardless of whether the property owner has indicated any intent to do so.

Non-Potable Water means water delivered through the City's non-potable water distribution system. Non-potable water is not designated to meet the Environmental Protection Agency's and Arizona Department of Environmental Quality's drinking standards but is appropriate for other use.

Non-Potable Water Delivery means City service to provide non-potable water for, but not limited to, commercial, recreational and landscaping purposes and recharge.

Non-Potable Water Distribution System means the network of public non-potable wells, waterlines, pumping and booster stations, storage facilities and related equipment/appurtenance, which compose the basic grid and distribution system for non-potable water service to the point of delivery for non-potable water.

Non-Potable Water Service Line means an approved type of pipe carrying non-potable water from the public non-potable waterline to the point of delivery.

Non-Potable Water Use Service Agreement means a separate written agreement between the City and a City non-potable water customer that governs the delivery of

non-potable water by the City. It is an implied condition of every non-potable water service agreement that all of the provisions of this Code pertaining to non-potable water and any failure to deliver non-potable water because there is inadequate availability of non-potable water for any priority customer is not a breach of the non-potable water use service agreement.

Point of Delivery for Non-Potable Water means the non-potable water meter or such other location as determined in the sole discretion of the Utilities Director and located on or proximately to a customer's property to which the City will deliver non-potable water and have access to for inspection and/or replacement.

Point of Delivery for Reclaimed Water means the reclaimed water meter or such other location as determined in the sole discretion of the Utilities Director or their designee and located on or proximately to a customer's property to which the City will deliver reclaimed water and have access to for inspection and/or replacement.

Point of Delivery or Point of Service Delivery means the terminal end of a service connection from public water system. If a meter is installed at the end of the service connection, then the point of service delivery shall mean the downstream end (i.e., customer side) of the meter. If an un-metered connection exists, then the point of service delivery shall mean at the point of demarcation between the public right-of-way or easements and private property. Also, the water meter or such other location as will be determined in the sole discretion of the Director or their authorized deputy, agent, designee or representative, and located on or proximately to a customer's property to which the City will deliver water and have access to for inspection and/or replacement.

Potable Water means water delivered through the City's domestic water delivery system after treatment designated to meet the Environmental Protection Agency's and Arizona Department of Environmental Quality's drinking standards.

Property Owner means the person, company, entity or developer which is developing the property. A property owner may in certain circumstances also be the individual requiring an approach main extension and/or be a customer (or future customer).

Public Water Distribution System means the network of public waterlines, pumping and booster stations, storage facilities and related equipment/appurtenance, which compose the basic grid and distribution system for water service to the point of delivery.

Public Waterline or Public Water Main means a waterline (or water main) owned and maintained by the City.

Reclaimed Water means effluent (or a combination of effluent and non-potable water) that has been collected in a sanitary sewer for subsequent treatment in a facility which adheres to federal and state water quality control standards (i.e., Arizona Revised Statutes § 45-101 and any successor statutes), to achieve a quality suitable for its intended use.

Reclaimed Water Delivery means City service to provide reclaimed water for, but not limited to, commercial, recreational and landscaping purposes and recharge.

Reclaimed Water Distribution System means the network of public reclaimed waterlines, pumping and booster stations, storage facilities and related equipment/appurtenance, which compose the basic grid and distribution system for reclaimed water service to the point of delivery for reclaimed water.

Reclaimed Water Service Line means an approved type of pipe carrying reclaimed water from the public reclaimed waterline to the point of delivery.

Reclaimed Water Use Service Agreement means a separate written agreement between the City and a City reclaimed water customer, which is not part of any development agreement and that governs the delivery of reclaimed water by the City. It is an implied condition of every reclaimed water service agreement that all of the provisions of this code pertaining to reclaimed water and any failure to deliver reclaimed water because there is inadequate availability of reclaimed water for any priority customer is not a breach of the reclaimed water use service agreement.

Turf means an area of land, which is planted primarily with plants other than low water using plants.

Utilities or Utility means water and wastewater services provided by the city and all lines and facilities related to the provision, distribution, collection, transmission, or disposal of water and wastewater, singularly or collectively.

Utilities Director means the Director of the Public Works - Utilities Department, or their authorized deputy, agent, designee or representative.

Water means any water (i.e., clear, colorless, nearly odorless and tasteless liquid), from the City's public water distribution system including reclaimed water from the City's reclaimed water distribution system or untreated Central Arizona Project water from City facilities.

Water Deficiency means any or all of the following: (1) the use of the water supply and delivery system has approached a level that exceeds the City's ability to provide a supply of water to each customer within a pressure zone or throughout the City or where the available supplies of ground water or surface water delivered to the City are reduced; or (2) the general welfare requires that the water resources available to the City be put to the maximum beneficial use, or unreasonable method of use of water be prevented, and the conservation of such water is to be extended with a look at the reasonable and beneficial use thereof in the interests of the City and for the public welfare. A water deficiency shall be designated a Stage 1 (Water Watch), Stage 2 (Water Alert), Stage 3 (Water Warning), or Stage 4 (Water Emergency).

Water Distribution Main means water pipelines, which are generally between eight (8) inches and sixteen (16) inches in diameter, are considered part of the local water delivery system, and may be tapped for individual service connections to properties.

Water Transmission Main means water pipelines, which are generally greater than sixteen (16) inches in diameter, are considered part of the regional water delivery system, and are not permitted to be tapped for individual service connection.

SECTION 2. Chapter 25 of the Peoria City Code (1992) is amended by amending Section 25-119 pertaining to Sewer services only deposits and providing that Section 25-119 shall read as follows:

Sec. 25-119 ~~Sewer services only deposits~~ Deposit.

(a) All persons applying for residential utility service from the city shall make a deposit equal to the amount established in Table 2-224 for each property for which utility service is requested. ~~A deposit equal to three (3) times the minimum monthly sewer bill shall be required for all accounts where a person other than the owner resides. No deposit shall be required if the applicant or responsible party shows proof of ownership of the residential property for which utility service is requested. The deposit is to be retained by the city to insure payment of all bills. The city may require a deposit adjustment when sewer rates are increased or decreased.~~

(b) All commercial and multi-residential businesses applying for utility service shall place a deposit equal to the amount established in Table 2-224 for each property for which utility service is requested. However, a single deposit may be allowed for those entities applying for service at more than one property if the entity is a ~~All new accounts, other than those classified as residential, public elementary or and secondary schools, state or county colleges, or and other governmental agency, agencies shall place a deposit equal to three (3) times the minimum monthly billing for sewer. This sum shall be retained by the city to insure payment of all sewer bills.~~

(c) Notwithstanding any other provision of this section, if utility ~~if sewer service~~ has been discontinued, or where a customer service contact has been attempted or made, on account of default in payment two (2) times or more during any consecutive twelve-month period of time, the finance director may require a deposit from any property owner or entity equal to the amount established in Table 2-224, not to exceed three (3) times the minimum monthly billing for sewer. The deposit shall remain with the city and may be returned after one (1) year if the account shows no delinquency for the preceding twelve (12) months.

(d) All deposits shall remain with the city to ensure payment of all utility bills. ~~All persons applying for sewer service only from the city of Peoria for property for which the application is made shall make a deposit in an amount as contained in this code for each~~

~~property for which sewer service only is requested.~~ The deposit shall be non-interest bearing and shall be refunded to the applicant upon discontinuance of such service, and upon payment of all charges and surcharges for utility water services to the premises for which the application is made, unless otherwise provided in this code.

~~(1) The deposit required by this section shall be applicable to all applications for utility service made to the city on or after June 13, 1991. No deposit shall be required from an applicant for sewer service only where such applicant has promptly paid sewer fees to the city when due for twelve (12) consecutive billing periods prior to the application being made by the applicant.~~

~~(2) After an applicant, from whom a deposit is required under this section, has paid sewer bills tendered by the city for each of the prior twelve (12) months on or before the due date, the deposit required by this section shall be returned to the applicant without interest.~~

~~(3) The deposit required by this section shall be applicable to all applications for sewer service made to the city on or after June 13, 1991.~~

SECTION 3. Chapter 25 of the Peoria City Code (1992) is amended by amending Section 25-122 pertaining to Due date; collection procedures and remedies and providing that Section 25-122 shall read as follows:

Sec. 25-122 Due date; collection procedures and remedies.

(a) All utility sewer rates and service charges are due and payable when rendered and shall be delinquent twenty (20) days after date rendered. Any delinquent account requiring special collection effort may be assessed a delinquent collection charge, as established by the finance director subject to the approval of the city manager. If the total of such bill shall not be paid within five (5) days after date of delinquency and notice of delinquency having been given, utility water or sewer service may be disconnected from the premises of the delinquent consumer and a delinquent turn-off fee charged to customer's account. The delinquent turn-off fee plus the total amount of the bill due and any deposit, if such deposit is required, shall be collected before again providing utility sewer service or water service. In addition to all other remedies, a service charge of one and one-half (1 1/2) percent shall be charged on past due amounts.

(b) A consumer's utility water or sewer service may be disconnected for nonpayment of a bill for utility sewer service rendered at a previous location served by the city finance department, provided such bill is not paid within twenty (20) days after the unpaid bill has been presented to the consumer at his new location.

(c) When a user of the utility sewer system has been notified of the amount of utility sewer user charges remaining due after the deduction of his trust deposit, and

payment for same has not been received, the finance director may assign the account to a bona fide collection agency.

(d) Before ~~utility water or sewer~~ service will be turned on to any premises all charges against the premises then due and payable to the city as required by this article, including any of the following items must have been paid:

- (1) On account of labor supplied or materials furnished by the city in the installation of service pipes connecting the premises with the city utility sewer mains, or for tapping the city utility sewer system.
- (2) On account of utility water or sewer service previously supplied to the premises, ~~whether used by the applicants or by some previous occupant of the premises.~~
- (3) On account of the assessment of any fine or penalty, or for turning utility water or sewer services off or on, or for repair or replacement of damaged, stolen or misused utility sewer works facilities.

(e) Before discontinuing utility water or sewer service for nonpayment of any utility sewer user charge, deposit or other assessment provided for in this article, the finance director shall give written notice to the person of the discontinuance and an opportunity to appear before the finance director or his designee on any disputed matter relative to the discontinuance of utility sewer service.

SECTION 4. Chapter 2 of the Peoria City Code (1992) is amended by amending Section 2-406 pertaining to Utility services; deposits and providing that Section 2-406 shall read as follows:

Sec. 2-406 Utility services; deposits.

(a) All persons applying for commercial utility solid waste service from the City of Peoria for property for which the application is made shall make a deposit equal to the amount established in Table 2-224 ~~in an amount as contained in this code~~ for each property for which utility service is requested. The deposit shall be non-interest bearing and shall be applied first to outstanding charges owed to the City for ~~Utility Services~~ solid waste services and Civil Penalties and any remaining amount refunded to the applicant upon discontinuance of such service. ~~Payment in full of all charges and surcharges for solid waste collection services to the premises for which the application is made is a requirement for return of any utility service deposit, unless otherwise provided in this code.~~

(b) Payment in full of all charges and surcharges for solid waste and utility services to the premises for which the application is made, whether commercial or residential, is a requirement for return of any utility service deposit, unless otherwise

~~provided in this code. The deposit required by this section shall be applicable to all applications for sanitation service made to the city on or after July 1, 1990.~~

~~(c) The deposit required by this section shall be applicable to all applications for solid waste service made to the city on or after July 1, 1990. The person in whose name the deposit is made shall be responsible for payment of all bills incurred in connection with the utility service furnished to the premises for which the application is made under this section. Notwithstanding this provision, the City may hold any titled owner of the real property responsible for payment of any bills and liens placed on the property as a result of non-payment of utility bills, in accordance with the provisions of this code.~~

~~(d) The person in whose name the deposit is made shall be responsible for payment of all bills incurred in connection with the solid waste service furnished to the premises for which the application is made under this section.~~

SECTION 5. Chapter 2 of the Peoria City Code (1992) is amended by amending Section 2-407 pertaining to Utility services; billing procedures and providing that Section 2-407 shall read as follows:

Sec. 2-407 Utility services; billing procedures.

(a) The city shall bill for utility services on a monthly basis consisting of twelve billing periods during a year. The bill shall be in such a format as established by the city.

(b) All utility accounts shall be carried on the books of the city by the house and street number. All notices sent out by the city regarding utility accounts and any other matter pertaining to city utility service to the property shall be sent to the house and street number of such property. Should the owner of the property desire notice from the city at another address, he shall notify the city of such address.

(c) The city ~~may~~ shall include on each bill for utility services an opportunity for a utility services user to donate funds up to one dollar (\$1.00) Per month to be placed in an account for use by the city in assisting persons with medical and financial hardships in the payment of utility services. The city manager may prescribe administrative regulations for the management of such an account.

SECTION 6. Chapter 2 of the Peoria City Code (1992) is amended by amending Section 2-410 pertaining to Unpaid utility service charges; liens, assessments, collection and providing that Section 2-410 shall read as follows:

Sec. 2-410 Unpaid utility service charges; liens, assessments, collection.

(a) Unpaid charges for utility services, which shall include all penalties, interest, recording fees; other fees associated with collection of the account and amounts assessed for Notices of Violation and Compliance Orders issued by the Director of Utilities shall be

a lien upon the premises as provided by the city charter. Whenever a bill for utility service remains unpaid for sixty (60) days after the due date, the city may file with the county recorder of Maricopa County, a statement of lien claim. This statement shall contain the legal and common description of the premises service, the amount of the unpaid bill, and a notice that the city claims a lien for this amount as well as for all charges for utility services provided subsequent to the period covered by the statement.

(b) The city shall mail a copy of the claim provided for in subsection (a) to the owner of the premises at the property address and at the ~~If the user of utility services whose bill is unpaid is not the owner of the premises, the city shall mail copy of the notice provided for in subsection (a) to the owner of the premises, at his address contained on the records of the Maricopa county assessor, if different.~~

(c) Property subject to a lien for unpaid utility service charges may shall be sold for nonpayment of same and the proceeds of such sale shall be applied to pay the charges after deducting costs, as in the case of foreclosure of statutory liens.

(d) The office of the city attorney is authorized and directed to institute such proceedings in the name of the City in any court having jurisdiction over such matters against the owners of any property for which utility service charges remain unpaid thirty (30) days after the due date.

SECTION 7. Chapter 2 of the Peoria City Code (1992) is amended by amending Section 2-224 pertaining to Utilities Department; service connect and termination charges and providing that Section 2-224 shall read as follows:

Sec. 2-224 Utilities Department; service connect and termination charges.

(a) The finance department shall collect from each person requesting the commencement of the city services listed below the following fees prior to the commencement of service or the following charges on a monthly basis upon the City Utility Bill, whichever is applicable. Such charges for payment purposes shall be treated as if incurred by the person for the provision of utility services:

See Table 2-224.

(b) The finance department shall charge each person the fees contained in this code, which may shall be revised annually.

(c) Notwithstanding this section, the city council or city manager may waive the deposit requirements of this section for any customer of a private utility acquired by the City of Peoria which imposed a deposit requirement on its customers.

SECTION 8. Chapter 2 of the Peoria City Code (1992) entitled "Administration" is amended by amending a portion of Table 2-224 below only, with the remaining portions of Table 2-224 unchanged and remaining in full force and effect. Table 2-224 shall read

as follows:

Table 2-224
Section 2-224

The most recent codification date of the fee schedules appearing online is January 31, 2008. As some of these fees may have been changed by a more recent ordinance, please contact the City Clerk at 623-773-7340 for the most current non-codified fee information.

UTILITIES DEPARTMENT; STANDARD COST

Item	Fee
Utility Service Initiation Fee	\$28.00
Delinquent Bill Processing Fee	\$50.00
Processing Fee for Issuance of Notice of Disconnection	\$1.00
Meter or Service Tampering Fee	\$75.00
Field Trip Service Fee	\$32.00
Commercial & Multi-Residential Utility Service Deposit	\$225.00 \$200.00
<u>Non-Owner Occupied Residential Rental Utility Service Deposit</u>	<u>\$225.00</u> <u>\$200.00</u>
<u>Commercial Solid Waste Service Deposit</u>	<u>\$225.00</u>
Hydrant Meter Service Deposit	\$1,000.00
Water Service-Hydrant Meter	Cost to City, plus 20% of cost to cover overhead
3/4 Inch Meter-Standard Installation [per meter]	Cost to City, plus 20% of cost to cover overhead
All other Meters-Installation [per meter]	Cost to City, plus 20% of cost to cover overhead
Deposit for first meter test upon customer request in twelve month consecutive period	No Charge
Second and subsequent meter test upon customer request in twelve month consecutive period	\$32.00

SECTION 9. If any section, subsection, sentence, clause or phrase of this Ordinance is for any reason held to be invalid or unconstitutional by the decision of any Court of competent jurisdiction, such decision shall not affect the validity of the remaining portions of this Ordinance.

SECTION 10. This Ordinance shall become effective in the manner provided by law.

PASSED AND ADOPTED by the Mayor and Council of the City of Peoria, Arizona, this 7th day of December, 2010.

CITY OF PEORIA, Arizona, an Arizona
municipal corporation



Bob Barrett, Mayor

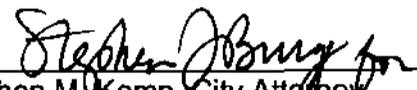
ATTEST:



Rhonda Geriminsky, Acting City Clerk



APPROVED AS TO FORM:



Stephen M. Kemp, City Attorney

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