

ORDINANCE G-5985

AN ORDINANCE AMENDING CHAPTER 30 OF THE PHOENIX CITY CODE BY REPEALING THE EXISTING CHAPTER 30 IN ITS ENTIRETY AND ADOPTING A NEW CHAPTER 30.

BE IT ORDAINED BY THE COUNCIL OF THE CITY OF PHOENIX, as

follows:

SECTION 1. That Chapter 29 of the Phoenix City Code be repealed in its

entirety and replaced with the following:

Chapter 30 WATER RESOURCES ACQUISITION FEE

Sec. 30-1. Title.

Sec. 30-2. Legislative intent and purpose.

Sec. 30-3. Definitions.

Sec. 30-4. Calculation of the water resources acquisition fee.

Sec. 30-5. Calculation of offsets.

Secs. 30-6--30-8. Reserved.

Sec. 30-9. Basis of Fees

Sec. 30-10. Assessment and Collection Procedures

Sec. 30-11. Applicability of Fees.

Sec. 30-12. Administration of the water resources acquisition fee.

Sec. 30-13. Appeals.

Sec. 30-14. Refunds.

Sec. 30-15. Oversight of WRAF Program

Sec. 30-16. Area outside of City Limit.

Sec. 30-1. Title.

This chapter shall be known as the "Water Resources Acquisition Fee Ordinance of the City of Phoenix."

Sec. 30-2. Legislative intent and purpose.

This Chapter is adopted for the purpose of promoting the health, safety and general welfare of the residents of the City of Phoenix by:

- A. Requiring new development to pay its proportionate share of the costs to the municipality associated with providing water resources to that new development.
- B. Assessing a fee which provides a beneficial use to the development and has a reasonable relationship to the burden imposed on the City to provide additional water resources to that development.
- C. Setting forth standards and procedures for assessing water resources acquisition fees and administering the water resources acquisition fee program as required by applicable state law.

Sec. 30-3. Definitions.

Association: The Salt River Valley Water Users' Association, an Arizona corporation.

Development: Any activity involving construction of improvements or modifications to existing structures that will result in increased demands on the water system. Activities that fall into this category include the installation of new water meters, replacement of existing water meters with larger meters, and construction of additional multi-family dwelling units that will use new or existing water meters.

Director: The Water Services Director or his authorized deputy, agent, designee or representative.

Dwelling Unit: Same as "Dwelling Unit" as defined in Chapter 29-3 of the Phoenix City Code.

On-Project Area: Lands located within the Salt River Reservoir District that have the full right to water stored, developed and controlled by the association. The area is generally depicted in an Appendix A of the WRAF update Report and Infrastructure Improvements Plan dated November 14, 2014. If the Director cannot determine conclusively that a parcel is on-project, the parcel will be deemed as an off-project parcel unless it can be proven that the owner of the parcel has valid and subsisting water rights as determined by the director.

Plan: Water Resources Acquisition Fee Update Report and Infrastructure Improvements Plan (IIP) Dated November 14, 2014. A copy of the Plan is available on City's website.

Report: Water Resources Acquisition Fee Update Report.

Residential: Residential, Multi-Family and Residential, Single-Family.

Residential, Multi-Family: Same as "Residential, Multi-Family" as defined in Chapter 29-3 of the Phoenix City Code. "Residential, Multi-Family" also includes mobile home, trailer and recreational vehicle space.

Residential, Single-Family: Same as "Residential, Single-Family" as defined in Chapter 29-3 of the Phoenix City Code.

Water Resource Acquisition Fee (WRAF): A fee charged pursuant to § 9-463.05 and this Chapter.

Sec. 30-4. Calculation of the Water Resources Acquisition Fee.

A. Based on the evaluation provided in the plan, no fee is required at this time for development in the 'On-Project Area'. As a result, the WRAF for all new development within the 'On-Project Area' is \$0 until an updated plan is produced and a revised fee is established pursuant to the procedure set forth in A.R.S. §9-463.05.

B. Each residential, single-family development will be assessed a water resources acquisition fee as follows:

1. \$788 for each five-eighths-inch, a three-quarter-inch or one inch water meter.
2. \$2,590 for each one and one-half inch water meter.
3. \$4,145 for each two inch water meter.

C. In a residential, multi-family development, the WRAF for each dwelling unit is \$296. The WRAF will be assessed under this subsection even if an additional meter or increase in the meter size is not required.

D. WRAF will assess separately for meters install primarily for landscape irrigation purposes in residential developments. Fees for these meters will be assessed pursuant to Table A.

E. A non-residential development not located within the On-Project area will be assessed a WRAF according to the Table A:

TABLE INSET: (Table A)

Meter Size			
5/8" or 3/4" displacement		\$ 1,649	
1" displacement		\$2,754	
1 1/2" displacement		\$5,491	
2" compound or displacement		\$8,788	
2" turbine class II		\$10,437	
3" compound class II		\$19,242	
3" turbine class II		\$23,908	
4" compound class II		\$33,976	
4" turbine class II		\$41,220	
6" compound class II		\$74,196	
6" turbine class II		\$87,931	
8" compound class II		\$87,931	
8" turbine class II		\$153,883	

If the meter size is not included in Table A, fees will be based on the relative meter capacity, using the maximum flow rate associated with meters as indicated in the latest version of the American Water Works Manual of Water Supply Practices.

F. If an existing meter on a development is being replaced by a new meter, the WRAF for the replacement meter will be the difference between the WRAF for the new meter and the WRAF that would have been assessed for the existing meter.

Sec. 30-5. Calculation of credits.

A. If applicable, the Director will establish a credit against the WRAF if the developer can demonstrate, to the satisfaction of the Director, that the development will have features that provide permanent reduction in net annual water demand on the City. Some features that qualify for credits may include the following:

1. Water-conserving plumbing fixtures which conserve water above and beyond existing flow requirements for plumbing fixtures or other permanent actions taken to reduce water use below existing requirements.
2. Non-City water resources procured by the developer which, as determined by the Director, partially or wholly satisfy the proposed development's water resource needs. Private sources of water must be eligible for use in meeting

the assured supply requirements of the Groundwater Management Act and must be deliverable to the nearest appropriate treatment plant at the request of the City.

3. Expenditures by community facilities districts for water resources resulting in an offset of an amount proportional to the water resources acquired by the district.

B. For developers applying for credits permitted under Section A, the developer shall submit a study by an engineer licensed by the State of Arizona calculating the amount of water resources saved or supplies provided on an acre-foot basis. All such calculations must be submitted to the Director and will be considered by the Director in making his credit determination, which determination will be made within thirty working days from the date the licensed engineer's report is submitted.

C. Credit against the WRAF as set forth in Section 30-4 is calculated by multiplying the quantity of continuous net annual water saved or provided by the capital cost per acre-foot of water resources as shown in the plan. The amount of the credit will then be reduced by the costs that the City will incur to obtain, transport and treat the water resources, if any.

D. Notwithstanding any provisions in this Chapter, the credits issued under this section cannot exceed the total water resources acquisition fee assessed against the development under this Chapter and cannot be transferred or assigned to another development or an On-Project area within the same development. No credit will be issued to development in areas where no fee is assessed.

Secs. 30-6--30-8. Reserved.

Sec. 30-9. Basis of Fees.

The basis of the fees assessed in this ordinance is provided in the plan, which is a compilation of the following documents:

A. The Water Resource Acquisition Report adopted pursuant to A.R.S. § 9-463.05 which includes the following sections:

1. Service Areas. The IIP provides A MAP SHOWING boundaries of the On-project or Member lands, which have access to Salt River Project water, and the Off-project or Non-member areas, which must be served with other water sources.
2. Existing Level of Service.
3. Adopted Level of Service.
4. Existing Capacity.

5. Future Development based on City's Land Use Assumptions.
6. Future Demand.
7. Gross Fee per EDU. The IIP will calculate a recommended Gross Fee per EDU for the on-project and off-project areas by dividing the total future costs by the number of new EDUs projected.
8. Alternative Revenues to fund the acquisition of additional water resources or any new or expanded capital.
9. Offsets by Alternative Revenues.
10. Water Resource Acquisition Net Fee per EDU.

B. The Water Resource Acquisition Impact Fee Study which includes the following information:

1. Maps of the on-project and off-project service areas.
2. The number of existing and projected EDUs for on-project and off-project areas, based upon the Land Use Assumptions.
3. Lists and descriptions of water resource acquisition projects for which development impact fees are to be assessed.
4. Schedules of the proposed water resource acquisition fees on a per-EDU basis, including details of all Offsets to be applied.

C. The Report will be on file with the City's website.

Sec. 30-10. Assessment and Collection Procedures.

WRAFs will be assessed and collected according to the following procedures:

A. Unless otherwise modified in section (B), the WRAF will be assessed according to the schedule provided in Section 30-4, with the following conditions applying:

1. Single-Family Residential Development. For a platted single-family residential development, the WRAF in effect at the time the first building permit is issued within the development must be applied to all subsequent permits issued within the same platted development for a period of 24 months following the date of issuance of the first building permit. For permits applied after the 24-month period, the then applicable WRAF will be assessed.

2. For any development not considered residential, single-family, the WRAF in effect at the time of final approval of a site plan (or plat if no site plan is required) will be applied to all subsequent permits issued within the same development for a period of 24 months following the final approval. For permits applied after the 24-month period, the then applicable WRAF will be assessed.

B. The WRAF assessed will be modified as follows:

1. If a change is made to a single-family residential development within the 24-month periods identified in subsection A.1 which increases the number of EDUs within the development, any permit issued after the change is made will be assessed WRAF using the fee schedules in effect at the time of issuance of the permit.
2. If the City approves a new Impact Fee Schedule during the 24-month periods identified in subsections A.1 or A.2 which would decrease the amount of the WRAF assessed, the City will assess the lower impact fee for a permit issued after the effective date of the lower WRAF.

C. Collection. WRAF will be calculated and collected prior to issuance of permission to commence development; specifically:

1. Building Permit. If a building permit is required for the development, all WRAF must be paid at the time the building permit is issued.
2. Water or Wastewater without a Building Permit. If a building permit is not required for the development, but water connections are required, any and all WRAF due must be paid at the time the water service connection is purchased.
3. No building permit, water or wastewater connection, or civil/site permits will be issued if a WRAF is not paid in full to the City.

D. Expired or Voided Permits. For issued permits that expire or are voided, WRAF is as follows:

1. If the original permittee is seeking to renew an expired or voided permit, and the WRAF paid for such development have not been refunded, then the permittee must pay the difference between any WRAF paid at the time the permit was issued and those in the fee schedule at the time the permit is reissued or renewed.
2. If a new or renewed permit for the same development is being sought by someone other than the original permittee, the new permit applicant must pay the full WRAF specified in the fee schedule in effect at the time that the permits are

reissued or renewed; provided that if the original permittee has assigned the permits to the new permit applicant, the new permit applicant must pay WRAF.

Sec. 30-11. Applicability of fees.

This ordinance will apply to all development connecting with the water system of the City of Phoenix in accordance with the following table:

		Fee Required	Fee Not Required
ADDITIONS TO BUILDINGS			
(1)	Additions to a lot which already has building improvements and a water meter connection, according to the following schedule:		
(A)	Additions attached to an existing building where the addition has no water meter included in the new work, and the addition does not use City water.		X
(B)	Additions attached to an existing building which additions include a water meter or which require the installation of an original water meter or a new water meter with increased capacity.	X	
(C)	Additions or modifications to an existing building that result in additional dwelling units.	X	
UNATTACHED NEW BUILDINGS			
(2)	A new building which has a new water meter and is not attached to an existing building.	X	

REMODELING			
(3)	Interior remodeling, such as adding a bathroom, clothes washer, lavatory, water closet, etc.:		
(A)	If existing water meter can be used and no additional dwelling units will result.		X
(B)	If existing 5/8" meter is exchanged for a new 3/4" meter in a commercial building.		X
(C)	If existing 5/8" meter is exchanged for a new 3/4" or 1" meter in a single family dwelling.		X
(D)	If water meter is increased in size above 3/4" for a commercial development.	X	
(E)	If water meter is increased above 1" for a residential development.	X	
(F)	If existing water meter can be used but additional apartments or dwelling units will result.	X	
(G)	If additional water meters are acquired for landscape irrigation.	X	
MOBILE HOMES			
(4)	Mobile homes:		
(A)	Installation of a mobile home in a zoned "mobile home development" (on-site permit) where title to all of the lots remains in one ownership. (Such fees are collected at the time a permit is issued for "mobile home development" site development work.)		X

	(B)	Installation of a mobile home (on-site permit) on a lot other than a zoned "mobile home development."	X	
BUILDINGS WHICH ARE MOVED				
(5)	A building moved onto a lot:			
	(A)	Which requires a new water meter.	X	
	(B)	Which has an existing building water meter, but the building served by the meter is removed. (One building is substituted for another building.)		X
	(C)	Same as (B) above, except that the present use of the water meter will continue. (Add another building and leave existing building.)		X
	(D)	Both building and meter moved.		X
	(E)	which results in additional dwelling units served by the same meter.	X	
SWIMMING POOLS				
(6)	Water meter for a swimming pool.		X	

Sec. 30-12. Administration of the Water Resources Acquisition Fee.

A. As specified herein, the Water Resources Acquisition Fee program will be administered by the Water Services Department.

B. The WRAF will be paid to the Planning and Development Department at the time of the issuance of a building permit for those developments requiring a building permit, or to the Water Services Department at the time a water meter is connected from the City's water system to the development for developments not requiring a City of Phoenix building permit. No building permit will be issued and no water meter will be connected with the City's water system until any applicable WRAF has been paid.

C. WRAF collected will be placed in a separate, interest-bearing account.

Sec. 30-13. Appeals.

A. Scope of the Appeal: Notwithstanding any provision in the Phoenix City Code, the scope of appeal is limited to City's Staff determinations on the following:

1. The size of a new water meter or increase in size of an existing water meter in a development;
2. The eligibility or amount of credits issued under 30-5, or
3. Whether the development is within the On-Project area.

B. Appeals must be initiated on a form proscribed by the City and submitted to the Water Services Department within 10 business days of a final fee determination.

C. The Director shall act upon the appeal within 30 calendar days of the filing of the appeal. the applicant will be notified in writing of the water services director's decision.

D. The applicant may appeal the decision of the Director within 30 calendar days of the decision to the City Manager.

E. The city manager must act upon the appeal of the director's decision within 30 days of the filing of the appeal with the City's Manager's office. The applicant will be notified in writing of the decision of the City Manager.

F. The decision of the City Manager on the appeal is final.

G. Building permits or water meter connections, as appropriate, may be issued during the pendency of an appeal if the applicant pays the fee, as determined by the Director, at the time the appeal is filed. Upon final disposition of an appeal, the fee will be adjusted in accordance with the decision rendered and a refund with accrued interest paid, if applicable.

Sec. 30-14. Refunds.

A. Refunds. A refund will be paid to any current owner of property within the City who submits a written request to the City and demonstrates that:

1. The owner of the subject real property or its predecessor in interest paid a WRAF on or after August 1, 2014; and
2. One of the following conditions exists:

- a. The permit(s) that triggered the collection of the WRAF have: (i) expired or been voided prior to the commencement of the development for which the permits were issued; and (ii) not been expended, encumbered, or Pledged for the repayment of Financing or Debt.
- b. After collecting the fee to obtain additional water resources the City fails to construct facilities, obtain water supplies, or otherwise use the funds to secure additional water resources for the property from which the fee was collected within the time period identified in the Infrastructure Improvements Plan, as it may be amended.
- c. Any part of the WRAFs collected is not spent within 15 years of the City's receipt of the fees.
- d. The WRAF was calculated and collected, and the actual costs incurred are less than those projected in the Infrastructure Improvements Plan by a factor of 10% or more. In such event, the current owner of the subject real property will be entitled to a refund for the difference between the amounts of the water acquisition fee charged and the amount of what the fee would have been had the actual lower costs been included in the fee calculations. The refund contemplated by this Subsection will relate only to the costs specific to the construction of facilities or acquisition of water supplies and will not include any related design, administrative, or other costs not directly incurred for construction of the Capital Facility that are included in the development impact fee as permitted by A.R.S. § 9-463.05.

B. Earned Interest. A refund of a WRAF will include any interest actually earned on the refunded portion of the fee by the City from the date of collection to the date of refund. All refunds will be made to the record owner of the property at the time the refund is paid.

C. Refund to Government. If a WRAF was paid by a governmental entity, any refund will be paid to that governmental entity.

Sec. 30-15. Oversight of WRAF Program

A. Annual Report. By September 30 following each fiscal year, the City will file with the City Clerk an unaudited annual report accounting for the collection and use of the fees and will post the report on its website in accordance with A.R.S. § 9-463.05, Subsections N and O, as amended.

B. Biennial Review. The City will provide for a biennial, certified audit of the Infrastructure Financing Plan, including the Infrastructure Improvements Plan and Land Use Assumptions, Fee Study, and Fee Schedules.

1. An audit will be conducted by one or more qualified professionals who are not employees or officials of the City and who did not prepare the Plan.
2. The audit will review the collection and expenditures of fees and provide written comments describing the amount of fees assessed, collected, and spent on capital facilities, water sources or other elements that secure additional water resources.
3. The audit will evaluate the program and identify any inequities associated with implementing or imposing the WRAF.
4. The City will post the findings of the audit on the City's public website and will conduct a public hearing on the audit within 60 days of the release of the audit to the public.
5. For the purposes of this Section, a certified audit means any audit authenticated by one or more of the qualified professionals.

Sec. 30-16 Areas outside of City Limit

City will assess WRAF, or a fee in lieu of the WRAF in the amount determined by the Director, on all developments served by the City.

PASSED by the Council of the City of Phoenix this 21st day of January, 2015.

Jim Waring
ACTING M A Y O R

ATTEST:

Cris Meyer City Clerk

APPROVED AS TO FORM:

Patricia Boland Acting City Attorney

REVIEWED BY:

Ed Zuercher City Manager

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