
TOWN OF PRESCOTT VALLEY

Customer Accounts Regulations

October 11, 2018

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1.0 DEFINITIONS

- 1.1 “*Customer.*” The (i) record owner(s) of real property receiving Utility Service, (ii) any Tenant of real property receiving Utility Service who contracts with the Town for the provision of Utility Service or (iii) other entities, at their sole discretion, including property owners or immediate family members not residing at the service location, who contract with the Town for said services.
- 1.2 “*Director.*” The director of the Town’s customer accounts division, as appointed from time to time by the Town Manager.
- 1.3 “*Tenant.*” A person entitled by agreement and applicable statute to occupy a dwelling unit and/or premises to the exclusion of others.
- 1.4 “*Utility Account.*” A written record of account in the name of one or more Customers itemizing usage, fees, and payments for Utility Service supplied to certain real property.
- 1.5 “*Utility Service.*” Domestic water service, wastewater service and/or reclaimed water service provided by the Town of Prescott Valley (“Town”).
- 1.6 “*Utility System.*” The domestic water system, wastewater treatment system and the reclaimed water system of the Town, or any portion thereof.

2.0 ESTABLISHING A UTILITY ACCOUNT

2.1 Types of Utility Accounts.

- 2.1.1 *Single-Family Residential.* A Utility Account for a detached single-family dwelling unit. This account classification still applies in the case of a “home occupation” as defined by Section 13-02-010 of the Town Code (as amended) provided Utility Service consumption is not significantly increased because of the “home occupation.”
- 2.1.2 *Multi-Family Residential.* A Utility Account for an individual dwelling unit within multi-family residential structures including, without limitation, duplexes, triplexes, fourplexes, apartments, condominiums, motels and hotels.
- 2.1.3 *Commercial.* A Utility Account for an institution such as a government entity, school, church, nonprofit organization as well as transient and group quarters (i.e., rooming houses, nursing homes, etc.). A separate or separately-metered residential unit located within a structure used for commercial purposes or located on property used for commercial purposes (i.e., mini-storage manager/caretaker residences, etc.) will be considered a separate commercial user. Each separate or separately-metered commercial unit in a structure or unified complex used for commercial purposes will also be considered a separate commercial user.
- 2.1.4 *Industrial.* A Utility Account for an entity required to have an industrial wastewater pretreatment permit pursuant to Town Code (as amended). Each separate or separately-metered industrial unit in a structure used for industrial purposes will be considered a separate industrial user.
- 2.1.5 *Construction.* A Utility Account for temporary domestic water services and/or reclaimed water services for construction purposes. Nothing herein shall preclude the Town Council from establishing from time to time by resolution different water service rates and/or reclaimed water rates for temporary utility service for construction purposes.

- 2.1.6 *Fire Hydrant.* A Utility account for domestic water service or reclaimed water service (where applicable) through a fire hydrant.
- 2.1.7 *“Water Only” Meter for Irrigation.* A Utility Account for a separate “water only” meter limited to irrigation.

2.2 Process to Open Account.

2.2.1 *Application.* To establish new Utility Service to any building, unit or structure on real property, or to any designated turf area or water storage area on real property (except water service from a fire hydrant) a Customer must complete an application for Utility Service on forms established from time to time by the Director. The Town can accept digital signatures on documents sent by mail, email or fax. Applications must be completed in person, online, by mail, or by fax. Each applicant will be listed on the Utility Account and is equally responsible for (i) ensuring that the account information, including mailing address information, is accurate, complete and up-to-date, and (ii) paying all utility rates, fees, charges and penalties applicable to the account.

2.2.1.1 *All Applicants.* In addition to the information required in the application, all applicants for Utility Service must (i) indicate the applicant’s interest in the real property to which Utility Service is requested, and (ii) provide a mailing address to which all utility notices should be sent. False information supplied in an application constitutes grounds for immediate Utility Service turn-off.

2.2.1.2 *Property Owner.* In the case of a record owner(s) of real property, the record owner’s agent(s) may initiate the application for Utility Service. Applications pertaining to foreclosed properties will be assigned a unique Customer Identification Number for tracking purposes.

2.2.1.3 *Tenant.* Applications by Tenants may require proof of rental agreement and property owner contact information. Where buildings, units, structures, designated turf areas or water storage areas are occupied by multiple Tenants, Tenants may apply for Utility Service and place their name on accounts only if each Tenant of the property is individually metered for Utility Service.

2.2.2 *Deposit/Assurance.*

2.2.2.1 *When Required.* A deposit for Utility Service in an amount set from time to time by resolution of the Town Council is required, except as otherwise provided in these Regulations, in each of the circumstances listed in this Subsection.

2.2.2.1.1 *New Account Service.* The specified deposit must accompany an application for Utility Service. Deposits for new commercial accounts and multi-family accounts will be calculated using a fixture unit cost method when there is no prior usage or comparable usage for the parcel location available to calculate a deposit. . If there is comparable usage data for the property, a deposit amount equal to twice the monthly usage will be calculated for water and/or wastewater services.

2.2.2.1.2 *Fire Hydrant Service.* The specified deposit must accompany an application for fire hydrant domestic or reclaimed water service. Once the application is completed and submitted, a meter will be installed on the hydrant to monitor water use. Only one meter will be installed per fire hydrant. The deposit will

be returned when the fire hydrant meter is returned to the Town's customer accounts division in operational condition. A non-refundable fee will be deducted from the deposits for operational condition testing. Any hydrant not returned in operational condition will have the cost of repair up to the cost of the replacement deducted from deposits.

- 2.2.2.1.3 **After Involuntary Service Turn-Off.** To renew Utility Service after involuntary turn-off, a Customer must pay (i) any delinquent balance for Utility Service owed plus any penalties, (ii) all deposits, (iii) a Reconnection Charge, and (iv) applicable taxes. The Reconnection Charge is assessed to cover the cost of office processing and a site visit by field technicians regardless of whether the Utility Service is in fact turned off. Payment must be made in certified funds, unless otherwise permitted by the Director.
- 2.2.2.1.4 **Renewal of Old Account with Insufficient Deposit.** Utility Service will not be renewed for older accounts with no deposits or inadequate deposits until the Customer provides (i) any balance for Utility Service owed plus any penalties, (ii) all deposits, (iii) a Reconnections Charge, and (iv) applicable taxes. Payment must be made in certified funds, unless otherwise permitted by the Director.
- 2.2.2.1.5 **Foreclosure Properties.** In the case of foreclosure properties, the Town requires deposits and set-up fees (as provided from time to time by resolution of the Town Council) for the first five (5) new accounts opened on behalf of a single owner. Additional accounts require only set up fees, provided there are no delinquencies or collection issues with the previously-opened accounts. Otherwise, a deposit will be required for each new account. The Town will hold all deposits collected until the pool of foreclosed properties held by said owner is reduced to less than five (5) by sale or other disposition, at which time the Town will release deposits as the remaining accounts are terminated until all deposits are exhausted.
- 2.2.2.1.6 **After Filing Bankruptcy.** Within thirty-one (31) days after the Director receives notice that (i) a Customer has filed Chapter 11 bankruptcy, or (ii) a Customer has filed Chapter 7 or 13 bankruptcy *and* has a history of delinquent utility payments, the Customer must pay the Town an additional amount equal to two (2) times the current deposit amount or the average Utility Service rates paid per billing period on the account whichever is greater (as estimated by the Director) as "adequate assurance" that future billings will be paid ("Assurance"). No Assurance is required if a Customer has filed Chapter 7 or 13 bankruptcy and has no history of delinquent utility payments.

The Director shall provide notice of the Assurance requirement by regular mail, postage prepaid, addressed as shown in the bankruptcy notice, postmarked no later than the twenty-first (21st) day before Utility Service turn-off. Failure to timely pay the required Assurance shall result in turn-off of Utility Service on and after the thirty-first (31st) day.

In the case of a Chapter 11 bankruptcy, the Town shall also apply any pre-petition deposit against any pre-petition debt owed on the account. In the case of a Chapter 7 or 13 bankruptcy, the Town may also seek relief from the stay to

apply any pre-petition deposit against any pre-petition debt owed on the account.

2.2.2.2 Exemptions. A deposit for Utility Service is *not* required in each of the circumstances listed in this Subsection.

2.2.2.2.1 No History of Account Delinquencies with the Town. Customers with no history of delinquencies on previous (within 24 months) or existing Utility Accounts with the Town are exempt from the deposit requirement for new Utility Accounts.

2.2.2.2.2 No History of Account Delinquencies with Previous Provider. Real property owners who provide written evidence (in a form prescribed by the Director) that their utility account with a previous provider is current through at least the past twelve (12) months are exempt from the deposit requirement for new Utility Accounts.

2.2.2.3 Applying Deposit. A deposit will be applied to a Utility Account balance in each of the circumstances in this Subsection.

2.2.2.3.1 Account Delinquency and Turn-off Order. A deposit will be applied to satisfy account delinquencies on the date of a turn-off order.

2.2.2.3.2 Account Balance on Date of Voluntary Close Out. A deposit will be applied to any account balance on the date an account is voluntarily closed out and any remainder will be refunded.

2.2.2.4 Return of Deposit. Deposits paid by Customers will be credited to their active account or, upon customer's request, refunded, as applicable, after twelve (12) months of no delinquencies or upon closing of the Utility Account, whichever is sooner. If a Utility Account is closed prior to the return of a deposit, the Town will apply the deposit to any and all outstanding amounts due on the account and will return to the Customer the balance of the deposit remaining, if any. A final statement will be issued reflecting the amount of deposit to be returned to the Customer, if any, or the amount still outstanding on the account after applying the deposit. No interest will be paid on deposits.

2.2.3 Limitation Based on Other Account Delinquency. No new Utility Account will be opened in the name of any Customer whose name is on any other delinquent Utility Account until such delinquency is paid in full. In the event the delinquency is not discovered until *after* the Customer opens a new Utility Account or transfers service to a new address, the Town will transfer the delinquent balance to the Customer's new Utility Account and use, as necessary, the collection and enforcement procedures set forth in Subsection 6 herein to collect the delinquency. Nothing herein shall preclude service to new Tenants of particular real property simply because of prior delinquencies related to that property, so long as the new Tenants do not have other delinquent accounts in their name.

3.0 CHANGING A UTILITY ACCOUNT

3.1 Expanding the Account. Any increase in the size of a utility service connection to any building, unit, structure, designated turf area, or water storage area, shall be initiated by applications from Customers on forms established from time to time by the Director. In addition to any other information required in the application, all applicants for expanded utility service shall be required to show (i) valid picture

identification, (ii) the applicant's interest in the real property for which the applicant is seeking expanded Utility Service, and (iii) the mailing address to which all notices should be sent.

3.1.1 *Retrofitting Wastewater or Reclaimed Water System.* During the initial start-up period for any phase or portion of the wastewater system or the reclaimed water system (whether or not constructed by the Town through an improvement district), Customers on already-developed lots, parcels or properties included within such phase or portion shall be responsible for payment of applicable rates, fees, charges, penalties and taxes for the full billing period after the month following the date that the phase or portion of the wastewater or reclaimed water system is operational.

3.1.1.1 *When System "Operational" for Billing Purposes.* The wastewater system or the reclaimed water system is considered "operational" in an area (with regard to individual lots, parcels or properties) on the date that: (i) said lots, parcels or properties are connected to the phase or portion of the system by the construction contractor; (ii) said lots, parcels or properties would have been connected to the phase or portion of the system had Customers reasonably cooperated with the construction contractor in order to be connected (i.e., had provided necessary construction easements, assisted and permitted construction crews to construct necessary service lines, permitted construction crews to actually connect appropriate structures on the lot, parcel or property to the system, etc.); or (iii) Customers were told in writing was the date appropriate structures on the lots, parcels or properties should be connected by them to the system.

3.1.1.2 *Billing May be Deferred for Limited Period.* Nothing herein precludes Department personnel, upon approval of the Town Council, from setting a later date for Customers to be responsible for wastewater and/or reclaimed water rates, fees, charges, penalties and taxes when those Customers' lots, parcels or properties have not actually been connected to the system, but only in conjunction with a final written notice to said Customers requiring that appropriate structures on their lots, parcels or properties be connected by them to the system by a date certain.

3.1.1.3 *Billing Not Excused Due to Other Fees, Charges.* Nothing herein shall preclude the Town from applying wastewater and/or reclaimed water rates, fees, charges, penalties and taxes to Customers and their particular lots, parcels or properties, simply because an improvement district assessment or other development charge has been applied to the property for purposes of financing initial construction of a phase or portion of the wastewater or reclaimed water system.

3.1.1.4 *Refunds May be Appropriate in Limited Circumstances.* Nothing herein shall preclude the Town from refunding wastewater and/or reclaimed water rates, fees, charges, penalties and taxes to Customers in the event it is discovered that their particular lots, parcels or properties had not, in fact, been connected to the wastewater system or to the reclaimed water system, through no failure on the part of said Customers to comply with these Utility Regulations.

3.1.2 *Affect of Reclaimed Water Agreements.* Nothing herein shall preclude the Town from entering into agreements with developers with regard to reclaimed water rates, fees, charges, penalties and taxes or with regard to other aspects of reclaimed water service. Where they conflict, the provisions in such agreements shall supersede these Regulations.

3.2 Changing the Name on the Account. Names on accounts may be changed without filing a new application or other form when the name of the record owner(s) of real property, the agent(s) of said owner(s) or

Tenant has changed due to marriage, divorce, or other legal process. The Director will determine which legal documents must be shown to verify the name change.

3.3 Changing the Location of the Account. If a Customer changes locations within the Town, the Director (or designee) will determine whether a new application for Utility Service must be completed and/or appropriate deposits must be paid, in accordance with written procedures provided from time to time by the Town Manager.

3.4 Continuing Service on an Account Between Tenants. A real property owner may obtain continuous Utility Service to certain real property (billed to said owner) between Tenants without interruption by: (i) completing a Continuation of Utility Service Agreement, and (ii) paying applicable administrative fees, water rates, fees and charges. The Continuation of Utility Service Agreement may be canceled in writing at any time, in which case Utility Service will be discontinued when the Tenant so requests and will not be reinstated until the owner applies again for Utility Service to that property.

4.0 UTILITY ACCOUNT RATES, FEES AND CHARGES

4.1 Utility Account Rates

4.1.1 *Wastewater Treatment Rates.* These rates are calculated to recover a pro-rata share of budgeted wastewater treatment system expenditures (minus expenditures covered by other fees, charges and penalties) and are set from time to time by resolution of the Town Council. These rates include Base User Rates and Volume Rates. Where water meters cannot be read for a given billing period, the Town will charge estimated Wastewater Treatment Rates to Customers. Resulting over-or-under-charges will be accounted for in a subsequent billing period when the meter can be read.

4.1.1.1 *Single-Family Residential.* These Customers will pay a Base User Rate based on meter size and Volume Rates based on ninety percent (90%) of average water usage for the months of November-March applied beginning in April for a twelve (12) month period, and recalculated annually. Partial usage history during the period from November-March may be used so long as it constitutes at least three (3) months; otherwise billing will be at ninety percent (90%) of the single-family residential average for that period. If actual usage is ever below the average during a billing period, then that lower actual usage will be billed.

4.1.1.2 *Multi-Family Residential.* These Customers will pay a Base User Rate based on meter size and Volume Rates based on ninety percent (90%) of average water usage for the months of November-March applied beginning in April for a twelve (12) month period, and recalculated annually. Partial usage history during the period from November-March may be used so long as it constitutes at least three (3) months; otherwise billing will be at ninety percent (90%) of the multi-family residential average for that period. If actual usage is ever below the average during a billing period, then that lower actual usage will be billed.

4.1.1.3 *Commercial/Industrial/Institutional.* These Customers will pay a Base User Rate based on meter size and Volume Rates based on actual water usage each billing period. These rates may include a Surcharge Factor in amounts set from time to time by resolution of the Town Council applied against discharges of strength greater than normal domestic waste in accordance with Town Code §9-05-070(B).

4.1.1.4 *Irrigation*. When the majority of water usage is for irrigation purposes and the Customer is connected to the wastewater system, the Customer may pay a negotiated, agreed-upon amount for wastewater charges with the approval of the Town Manager. Such variance in wastewater billing will apply only if the Customer requests the variance and only so long as the Customer continues the same use of the water. If the property or business changes ownership and the water usage changes accordingly, the wastewater billing variance will become null and void for the new Customer.

4.1.2 *Water Service Rates*. These rates are calculated to recover a pro-rata share of budgeted domestic water system expenditures (minus expenditures covered by other rates, fees, charges and penalties). Water Service Rates include Base User Rates and Volume Rates, as set from time to time by resolution of the Town Council.

4.1.2.1 *Base User Rates*. These rates apply to all Customers and are based on meter size, number of hydrants, number of standpipes or size of fire sprinkler mains.

4.1.2.2 *Volume Rates*. These rates apply to all Customers and are based on meter size and water usage during the billing period per thousand (1,000) gallons. Volume Rates begin with the first one thousand (1,000) gallons of every billing period. Where meters cannot be read for a given billing period, the Town will charge estimated water service rates to Customers. Resulting over-or-under-charges will be accounted for in a subsequent billing period when the meter can be read.

4.1.3 *Reclaimed Water Rates*. Except as otherwise provided in existing Development Agreements, these rates are calculated to recover a pro rata share of budgeted reclaimed water system expenditures (minus expenditures covered by other rates, fees, charges and penalties). Reclaimed water rates include Volume Rates, as set from time to time by resolution of the Town Council. These rates apply to all Customers and are based on eighty percent (80%) of the average volume rate for domestic water.

4.2 Utility Account Fees.

4.2.1 *New Account Fees*. These fees apply to all Customers and are calculated to recover the administrative costs of establishing new accounts for wastewater treatment service, domestic water service and reclaimed water service. New Account Fees include (i) Deposits, (ii) Water Service Turn-on Fees, (iii) Reclaimed Water Service Turn-On Fees, (iv) Emergency Turn-On Fees, and (v) Construction Turn-On Fees, and are set from time to time by resolution of the Town Council.

4.2.2 *Industrial Wastewater Pre-Treatment Permit Fees*. These fees apply to Industrial Customers and are calculated to recover a pro-rata share of the cost of administering a wastewater pretreatment program. Industrial Customers will be assessed this fee based on the permit category applicable to such Customer. Permits will be valid for a period of thirty-six (36) months. Permit fee payments will be spread out over that period and collected monthly along with Wastewater Treatment Rates in amounts specified from time to time by resolution of the Town Council.

4.2.3 *Commercial Water Tap Installation Fee*. This fee applies to commercial Customers and is calculated to recover the cost of labor to install a commercial water tap as set from time to time by resolution of the Town Council.

4.3 Utility Account Charges.

4.3.1 *Wastewater System Connection Charges.* Charges calculated to recover Town construction and system development costs attributable to wastewater service provided to Customer's property. Wastewater System Connection Charges include a System Capacity Charge applied to new Customers for that increment of the remaining capacity in current public resources that those Customers are using up, set from time to time by resolution of the Town Council. The Charge shall be based on the size of water meter (in accordance with American Water Works Association water meter standards) installed in any building, unit, or structure without regard to the type of Utility Account or use. In the event a larger water meter is installed in any existing building, unit, or structure, the additional increment not previously paid for that larger meter shall be paid. The System Capacity Charge is payable when development permits are obtained.

4.3.2 *Water System Connection Charges.* Charges calculated to recover Town construction and water resource development costs attributable to water service provided to Customer's property. Water System Connection Charges include Meter Charges, a System Capacity Charge and a Water Resource Charge, set from time to time by resolution of the Town Council.

4.3.2.1 *Meter Charges.* These charges are based on meter size. This is a one-time charge payable by all Customers at the time of application to connect to the domestic water system.

4.3.2.2 *System Capacity Charge and Water Resource Charge.* These Charges are applied to new Customers for that increment of the remaining capacity in current public resources that those Customers are using up. The Charges shall be based on the size of water meter (in accordance with American Water Works Association water meter standards) installed in any building, unit, or structure without regard to the type of Utility Account or use. In the event a larger water meter is installed in any existing building, unit, or structure, the additional increment not previously paid for that larger meter shall be paid. The System Capacity Charge and the Water Resource Charge are payable when development permits are obtained.

4.3.3 *Other Charges.*

4.3.3.1 *Wastewater Treatment Service.* These charges apply to all Customers and are calculated to recover the costs of wastewater treatment service accounts administration and collection. They include Account Transfers Charges, Photocopying Charges, Non-Sufficient Fund Checks Charges, Account Delinquencies Charges and Account Collections Charges, as set from time to time by resolution of the Town Council.

4.3.3.2 *Domestic Water Service.* These charges apply to all Customers and are calculated to recover the costs of domestic water service accounts administration and collection. They include Reconnections (DNP) Charges after disconnection for nonpayment, Meter Re-Reading/Testing Charges, Account Transfers Charges, Photocopying Charges, Non-Sufficient Funds Checks Charges, Account Delinquencies Charges and Account Collections Charges, as set from time to time by resolution of the Town Council.

4.3.3.3 *Reclaimed Water Service.* These charges are calculated to recover the costs of reclaimed water service accounts administration and collection. They include Reconnections (DNP) Charges after disconnection for nonpayment, Meter Re-Reading/Testing Charges, Account Transfers Charges, Photocopying Charges, Non-Sufficient Fund Checks

Charges, Account Delinquencies Charges and Account Collections Charges, as set from time to time by resolution of the Town Council.

5.0 UTILITY SERVICE

5.1 Commencement of Service.

- 5.1.1 *Authorized Turn-on.* Upon approval by the Director, and after compliance with the requirements set forth hereinabove, Utility Service will be turned on to a Customer's premises; provided, however, that backflow preventers approved by applicable state or county agencies must be in place before water service will be provided to a specific fire hydrant.
- 5.1.2 *Unauthorized Turn-on.* It is unlawful for any person to physically turn-on Utility Service to any building, unit, structure, designated turf area, or water storage area without the approval of the Director after compliance with the requirements set forth in Section 2.0 herein. Unauthorized turn-on may be prosecuted as a criminal offense or, at the Director's sole discretion, as a civil violation subject to a civil penalty which shall be set from time to time by resolution of the Town Council. The Director, in his/her discretion, may allow, as a set off against a penalty, any payment received for the actual costs of damage resulting from the unauthorized turn-on. The Director may also waive, in whole or part, the assessment of a penalty for each day a violation exists.

5.2 Billing and Payments.

- 5.2.1 *Billing Statement.* Bills for Utility Service will be mailed (by regular mail or electronic mail) to Customers for each billing period with directions to return the relevant portion of the bill with the payment due for that billing period. The billing statement will include the Utility Account number, the amount due for the billing period including any applicable taxes on domestic water, wastewater treatment and/or reclaimed water services and shall be directed to the Customer of record on the Utility Account.
- 5.2.2 *Billing Period.* The billing period will be approximately twenty eight (28) to thirty five (35) days (although billing dates may vary depending on weekends and holidays).
- 5.2.3 *Missed Billing.* In the event a Customer does not receive a bill for utility rates, fees, charges, penalties and taxes during a given billing cycle, the Customer is *not* excused from paying the rates, fees, charges, penalties and taxes due for that billing period. Rather, the Customer is responsible for contacting the Town's Customer Accounts Division to discuss any missed billings in order to ensure that the billing discrepancy is corrected and each bill is paid on time.
- 5.2.4 *Payment Deadline.* Utility rates, fees, charges, penalties, and taxes are due on different dates for different Customers based on billing cycles. Such dates will be provided to each Customer when service begins and will be included in each billing statement. Payment is due twenty (20) days after the billing date.
- 5.2.5 *Early Payments.* Early payments of utility rates, fees and charges may not be made for the purpose of avoiding anticipated increases in same. In particular, no payment of System Connection Charges will be accepted before building permits are pulled based on complete building permit applications. Building permit applications for residential construction are not complete unless a final plat or final development plan has been approved for the area. Moreover, the utility rates, fees, and charges paid lapse if the underlying building permit lapses, and if utility

rates, fees or charges are raised in the interim before a new building permit application is completed, the balance must be paid before the new building permit is issued.

- 5.2.6 *Prepayments.* Except as otherwise stated herein, Customers may prepay utility rates, fees, charges, penalties and taxes. If, as a result of prepayments, there is a balance remaining at the time the Utility Account is closed, the balance may be transferred to the Customer's new Utility Account or refunded; provided, however, credits of less than five dollars (\$5.00) will not be refunded unless requested by the customer. All credits less than \$5.00 will be used for accounts in need of assistance, to be determined by Director
- 5.2.7 *Refunds May be Appropriate in Limited Circumstances.* Nothing herein shall preclude the Town from refunding System Connection Charges to Customers in the event it is discovered that Customers were inadvertently allowed to prepay System Connection Charges, despite these regulations to the contrary, for commercial development projects that were abandoned prior to development and prior to connection to the System.
- 5.2.8 *Delinquent Payments.* Utility rates, fees, charges, penalties and taxes are delinquent on the twenty-eighth (28th) day after the billing date. A \$5.00 penalty will be added for each service received. This penalty may be waived once within a 24 month timeframe at the customer's request.
- 5.2.9 *Special Payment Agreement with Tenant.* Nothing herein precludes the Town from entering into a special payment agreement with a Tenant who is ready, willing and able to guarantee payments on a real property owner's delinquent Utility Account for the purpose of continuing Utility Service to real property leased by Tenant. In such case, the Town will not be liable to reimburse the Tenant for any amounts paid; rather, any reimbursement will be a matter solely between the Tenant and the owner(s) of the subject property. This provision applies in those instances where a real property owner of a leased property, at its sole discretion, contracts for Utility Service to the real property leased by Tenant and agrees to pay for said services.
- 5.2.10 *Non-Sufficient Funds Payments.* In the event checks used to make payments are returned for non-sufficient funds (or for any reason), a Non-Sufficient Funds Check Charge, set from time to time by resolution of the Town Council, will be assessed to the Utility Account. Payment to redeem the returned check will only be accepted in certified funds. If checks are returned after the delinquency date, the account will become delinquent and, in addition to the Non-Sufficient Funds Check Charge, will also be subject to the Active Account Processing Charge and other delinquent account enforcement processes set forth herein (including immediate disconnection). Nothing herein shall preclude the Director from using alternate collection procedures for non-sufficient fund checks including, but not limited to, participating in the Yavapai County Attorney's collection program, using a collection service, and providing information directly to credit reporting services.
- 5.2.11 *Payments Designating Incorrect Accounts.* In the event a Utility Account becomes delinquent because Customers have identified the incorrect account when making payments, the Active Account Processing Charge and other enforcement processes may apply as determined by the Director based on all of the circumstances. Designated staff will endeavor to correctly post any improperly designated payments to the right account and provide such reimbursements and new billing as are reasonably permitted by applicable law.
- 5.2.12 *Application of Payments.* Base User Rates will be applied to the current billing period while Volume Rates and all other utility rates, fees, charges, penalties, and taxes will be applied to the prior billing period. Payments (including partial payments) will be applied to the oldest

outstanding account balances in equal amounts to the applicable rates, fees, charges, penalties and taxes. Partial payments will not prevent Utility Service turn-off or renew Utility Service (except as specified in payment agreements provided for in Subsection 6.5.6 herein and where the amount at issue is \$10.00 or less and the Town Manager approves).

5.3 Discontinuation of Service.

5.3.1 *Service Obtained Fraudulently.* Any Customer or person who obtains Utility Service fraudulently is guilty of a Class 6 felony. For purposes of these regulations, a Customer or person obtains Utility Service fraudulently if the Customer or person intentionally does any of the following: (i) makes a connection or reconnection with property that is owned or used by the Town to provide Utility Service without the authorization or consent of the Town; (ii) prevents a utility meter or other device that is used to determine the charge for Town Utility Services from accurately performing its measuring function; (iii) tampers with property that is owned or used by the Town; (iv) uses, receives or otherwise diverts Town Utility Services without the authorization or consent of the Town if the Customer or person knows or has reason to know of the unlawful diversion, tampering or connection; or (v) diverts or causes to be diverted Utility Services by any means.

5.3.2 *Authorized Turn-off.* Customers desiring to turn-off Utility Service to any building, unit, structure, designated turf area or water storage area on real property must submit a turn-off request to the Director or designee, in accordance with written procedures established by the Director, at least one (1) working day prior to the date that service is to be turned off. Pursuant to landlord/tenant law in Arizona, only Tenants may voluntarily turn-off Utility Service to a leased premises even if the record property owner(s), at its sole discretion, has contracted with the Town to provide Utility Service to the leased premises.

5.3.3 *Unauthorized Turn-off.*

5.3.3.1 *Utility Service Generally.* Except in emergency circumstances, it is unlawful for any person to physically turn-off Utility Service to any building, unit, structure, designated turf area or water storage area without the approval of the Director.

5.3.3.2 *Tenant's Utility Service.* The record owner(s) of real property shall not physically turn-off a Tenant's Utility Service or request that Town personnel discontinue a Tenant's Utility Service.

5.3.3.3 *Penalties.* Unauthorized turn-off may be prosecuted as a criminal offense or, at the Director's sole discretion, as a civil violation subject to a civil penalty which shall be set from time to time by resolution of the Town Council. The Director, in his/her discretion, may allow, as a set off against a penalty, any payment received for the actual costs of damage resulting from the unauthorized turn-off. The Director may also waive, in whole or part, the assessment of a penalty for each day that a violation exists.

5.3.4 *Unauthorized Tampering.* Except in emergency circumstances, it is unlawful for any person to tamper with or damage a fire hydrant, hydrant meter, water meter or hydrant or water meter lock, or to direct, aid or abet another in doing so without the approval of the Director. It is also unlawful for any person to move a hydrant meter from one hydrant to another without the permission of the Director. Unauthorized tampering may be prosecuted as a misdemeanor or, at the Director's sole discretion, as a civil violation subject to a civil penalty which shall be set from time to time by resolution of the Town Council. The Director, in his/her discretion, may allow, as a set off against a penalty, any payment received for the actual costs of damage resulting from the

tampering. The Director may also waive, in whole or part, the assessment of a penalty on a per-day basis for each day that a violation exists.

5.3.5 *Emergency Circumstances.* Nothing herein precludes the Director from taking action to discontinue Utility Service without notice in the event of fraudulent, careless, negligent or unlawful use of Utility Services, or where a dangerous condition is found on the premises in relation to Utility Services.

6.0 UTILITY COLLECTIONS/ENFORCEMENT

6.1 Violations of These Regulations. Failure to pay Utility Services rates, fees, charges and penalties will constitute a civil violation enforceable by authorized Town personnel or the Town Attorney as set forth in Subsection 6.5 herein. Unless otherwise stated, all other violations of these Utility Regulations will constitute a class 1 misdemeanor enforceable by the Town Prosecutor. Each violation of these regulations will constitute a separate offense on each successive day it continues.

6.2 Notices of Account Delinquency/Service Turn-off

6.2.1 *Active Account with Delinquent Balance.* In addition to any account delinquency information in monthly billings, a separate Notice of Account Delinquency/Service Turn-off will be placed in the U.S. mail, first class, postage prepaid, on the twenty-eighth (28th) day after the billing date and, if necessary, the thirty-sixth (36th) day after the billing date [or the first business day thereafter]. The notice(s) will be addressed to the name and location listed on the Utility Account as of the date of issuance. Although intended to reach the addressee(s), actual receipt is not required for further enforcement proceedings.

6.2.1.1 28-Day Notice of Account Delinquency/Service Turn-off. This notice will advise the account holder(s) that (i) the Utility Account is active and has a delinquent balance in an amount specified in the notice; (ii) an Active Account Processing Charge has been applied to the account; (iii) Utility Service is subject to turn-off if the delinquency is not paid in full within forty (40) calendar days after the billing date, and (iv) the account holder(s) may request a Due Process Hearing within fifteen (15) business days of the notice date and at least three (3) calendar days prior to service turn-off. The notice will include instructions for requesting a Due Process Hearing.

6.2.1.2 36-Day Notice of Account Delinquency/Service Turn-off. This notice will be attached to the premises as a door hanger prior to actual turn-off. The notice will indicate that (i) the Utility Account is active and has a delinquent balance in an amount specified in the notice; and (ii) the delinquency will be reported to credit agencies and Utility Service will be turned off if the delinquent balance is not paid in full before the turn-off date specified in the notice. Every effort will be made to provide this notice five (5) calendar days prior to the turn-off date. The notice will include instructions for requesting a Due Process Hearing at least three (3) calendar days prior to the turn-off date.

6.2.2 *Inactive Account with Delinquent Balance.* A Utility Account that is involuntarily turned-off or voluntarily closed immediately becomes an inactive account. If the deposit and any payment(s) received on the account are inadequate to cover the balance due on the account, a Notice of Account Delinquency will be placed in the U.S. mail, first class, postage prepaid addressed to the name(s) and locations listed on the Utility Account as of the date of issuance of the notice. Although intended to reach the addressee(s), actual receipt is not required for further enforcement proceedings. If necessary, one additional Notices of Account Delinquency will be sent within thirty (30) days of the date of issuance of the first Notice of Account Delinquency.

6.2.2.1 *First Notice of Account Delinquency.* This notice will advise the account holder(s) that (i) the Utility Account is inactive and has a delinquent balance in an amount specified in the notice; (ii) an Inactive Account Processing Charge, set from time to time by resolution of the Town Council, has been applied to the entire delinquent balance and will continue to be so applied on a monthly basis until the delinquent balance is paid in full, and (iii) the account holder(s) may request a Due Process Hearing within fifteen (15) business days of the date of the notice. The notice will include instructions for requesting a Due Process Hearing.

6.2.2.2 *Second Notice of Account Delinquency.* This notice will advise the account holder(s) that (i) the Utility Account is inactive and has a delinquent balance in an amount specified in the notice; (ii) an Inactive Account Processing Charge has been applied and will continue to be applied monthly to the entire delinquent balance, and (iii) the delinquency will be reported to credit agencies if the delinquent balance is not paid in full within ten (10) business days of the date of the notice.

6.3 Due Process Hearing.

6.3.1 *When Available.* A Due Process Hearing is available to Customers who have received a Notice of Account Delinquency or a Notice of Account Delinquency/Service Turn-off.

6.3.2 *Requests for a Due Process Hearing.* Requests for a Due Process Hearing may be made in writing, by facsimile transmission, by telephone, by e-mail or in person, directed to the Office of the Director at 7501 E. Civic Circle, Prescott Valley, Arizona 86314, (928) 759-3011 (ph.), (928) 759-5533 (fax), www.pvaz.net (website) within the timeframe specified in Subsection 6.2 herein.

6.3.3 *Nature of Hearing.* If the request for Due Process Hearing is timely, the Director shall arrange to meet with the Customers involved or their representatives at the Civic Center. When held, the meeting shall be informal and Customers (or their representatives) shall be afforded a reasonable opportunity to present and discuss their positions or concerns with regard to the Utility Account delinquencies. Additional meetings may be set by the Director, as needed.

6.3.4 *Decision.* Within five (5) business days after the final meeting, the Director shall issue a decision in writing which explains the basis for the decision and the actions that will be taken by the Director. A copy of the decision will be mailed first-class, postage prepaid, to the Customer(s) at the address to which the Notice of Account Delinquency/Service Turn-off was mailed (unless the Customer(s) has provided another address).

6.3.5 *Appeal.* Except as otherwise provided in Subsection 6.4 herein, the Director's decision rendered after the Due Process Hearing described herein shall be final.

6.4 Administrative Review.

6.4.1 *When Available.* In addition to the Due Process Hearing provided for in Subsection 6.3 herein, an administrative review is available to Customers in the event of a dispute as to liability for utility rates, fees, charges, penalties or taxes (or the amount of same), or the validity of proposed collection actions; provided, however, that the procedures for administrative review in this Subsection 6.4 do not apply to Due Process Hearings related to Notice of Account Delinquency or a Notice of Account Delinquency/Service Turn-off.

- 6.4.2 *Requests for Administrative Review.* Requests for administrative review must be received by the Director at least five (5) business days prior to any deadline set for (i) application of utility rates, fees, charges, penalties or taxes, or (ii) collection actions. Requests may be made in writing, by facsimile transmission, by telephone, by e-mail or in person, directed to the Office of the Director at 7501 E. Civic Circle, Prescott Valley, Arizona 86314, (928) 759-3011 (ph.), (928) 759-5533 (fax), www.pvaz.net (website).
- 6.4.3 *Nature of Hearing.* Within five (5) business days of receipt of a request for administrative review, the Director shall arrange to meet with the Customers or their representatives. At such meeting, the Customers or their representatives will be afforded an opportunity to present and discuss their positions or concerns on the issues. Additional meetings may be set by the Director, as deemed necessary.
- 6.4.4 *Decision.* Within five (5) business days after the final meeting with the Customers or their representatives, the Director will reach a conclusion as to the validity of the Customers' positions or concerns and put the same in writing, explaining the basis for the conclusion and the actions that will be taken by the Director. A copy of this writing will be mailed first-class, postage prepaid, to the Customers at the address listed in the account application as of the date of such conclusion.
- 6.4.5 *Appeal.* If the conclusion is that (i) utility rates, fees, charges, penalties or taxes, and/or (ii) collection actions are justified, then the Customers will have five (5) business days to appeal said conclusion to the Town Manager using the same procedure for appeal to the Director described above. The Town Manager's written determination will be final. If the Town Manager affirms the Director's decision, the Customers will be given a final, reasonable period of time to come into compliance prior to further collection action. Any deadline for application of utility rates, fees, charges, penalties or taxes, or for any collection action, will be "tolled" during the period of time that the Town Manager is making a determination.
- 6.5 Enforcement Procedures. Utility Account delinquencies are subject to vigorous enforcement procedures. In addition to Utility Service turn-off as set forth herein, such procedures may include all those available to the Town in law and equity. Such procedures may be conducted by any authorized Town personnel.
- 6.5.1 *Criminal Violations.* The Town Prosecutor may issue criminal complaints to enforce violations of these Utility Regulations designated as class 1 misdemeanors. The County Attorney may issue criminal complaints to enforce violations of these Utility Regulations designated as Class 6 felonies.
- 6.5.2 *Service Turn-off.* Unless the Director determines otherwise after a Due Process hearing, Utility Service will be turned off forty one (41) days after the billing date (unless emergency circumstances justify immediate turn-off of Utility Service) if the delinquent account balance has not been paid in full by that date.
- 6.5.3 *Reporting Delinquency to Credit Agencies.* Except as otherwise provided herein, Utility Accounts that are delinquent fifty (50) days or more after the billing date will be reported to credit agencies.
- 6.5.4 *Small Claims Proceedings/Judgment Lien.* Except as otherwise provided herein, utility rates, fees, charges and penalties on inactive accounts that are delinquent more than ten (10) business days after the third Notice of Account Delinquency will be reduced to court judgments and liens against the account holder(s). An additional fee to cover the administrative costs associated with the small claims proceedings and lien process, set from time to time by resolution of the Town Council, will be applied to these delinquent accounts.

- 6.5.5 *Turning Delinquency Over to a Collection Agency.* Utility Accounts with delinquencies that remain unpaid ninety (90) days after the billing date may be turned over to a collection agency and any associated collection fees or costs shall be added to the delinquent balance.
- 6.5.6 *Payment Agreements.* Nothing herein precludes the Director from offering to enter into Payment Agreements with Customers who have delinquent Utility Accounts at any stage of the enforcement process. Such Payment Agreements must: (i) only be used in circumstances set forth from time to time in writing by the Town Manager; (ii) be signed by every party to be bound, including the Town; (iii) not extend beyond one (1) year; (iv) carry an interest rate set from time to time by resolution of the Town Council; (v) include a clause authorizing the Director to collect any account delinquencies from proceeds from any sale of the property related to the Utility Account; (vi) provide for payments to be made on or before the fifteenth (15th) day of the applicable billing period; and (vii) require strict compliance with the designated payment schedule to prevent further enforcement actions. If the Customer(s) fails to comply with the terms of a Payment Agreement, the Director will be free to pursue all available enforcement actions without additional notice. The Director is hereby authorized to sign Payment Agreements on behalf of the Town in circumstances approved in writing by the Town Manager.
- 6.5.7 *Program Assistance for Indigent Customers.* Nothing herein precludes the Director from assisting indigent Customers in participating in government or private programs designed to help them pay utility bills, including the Town's utility rates, fees, charges, penalties and taxes (e.g., the Arizona Utility Assistance Fund, ARS §46-731, and any similar Town program).
- 6.5.8 *Exceptions.*
- 6.5.8.1 *Waiver.* In the course of Utility Account delinquency enforcement, the Director may waive any utility rates, fees, charges and penalties reasonably necessary to effect collection of account delinquencies, but only in accordance with written procedures provided from time to time by the Town Manager.
- 6.5.8.2 *Other.* Nothing herein shall preclude the Director from applying account balances of less than ten dollars (\$10.00) to the following billing period in lieu of the other processes provided herein.
- 6.6 Priority in Case of Conflicting Provisions. The provisions of Town Code Article 9-5 (as amended) are intended to be supplementary to other provisions of the Town Code. Where conflicts arise (or when additional requirements are in one provision and not in another), the stricter provision shall apply.
- 6.7 Enforcement Options Unlimited. Nothing in these regulations should be interpreted as limiting the ability of the Town to vigorously pursue multiple enforcement options, as available under applicable law, in order to remedy a violation.
- 6.8 Wastewater Authority Includes Governmental Power. The Town's wastewater authority includes governmental power to require mandatory connections, abandonment of septic tanks, private maintenance of the service line and service tap, payment by developers to extend the wastewater treatment system and limited discharges into the system.
- 6.9 Authority to Refrain from Enforcement. Except as otherwise expressly limited by contract, resolution, ordinance, statute, code, rule or regulation, nothing herein shall preclude the Town, in the sole discretion of its Town Council, from refraining to enforce specific violations of these Regulations and related

provisions of the Town Code and Arizona Revised Statutes, as amended, or from establishing a policy of refraining to enforce such violations for charitable or other articulated public policy reasons.

7.0 UTILITY FUNDS ADMINISTRATION

- 7.1 Applicable Standards. The standards applicable to administration of utility funds include: (i) Town Code Articles 9-05, 9-05a and 9-05b, (ii) any revenue bond resolutions and other commitments related to the domestic, wastewater treatment, and reclaimed water systems, and (iii) the Town Financial Policy (as adopted and amended from time to time by resolution of the Town Council).
- 7.2 Use of Utility Funds to Reimburse General Fund. Consistent with applicable revenue bond resolutions and the Town Financial Policy, the Town may apply a percentage of revenues obtained from utility rates, fees, charges, penalties, and taxes to reimburse the General Fund for administrative expenses, construction advances and other advances incurred/paid by the Town in support of the Utility System.