

ORDINANCE 451-09

AN ORDINANCE OF THE MAYOR AND COMMON COUNCIL OF THE TOWN OF QUEEN CREEK, ARIZONA, AMENDING CHAPTER 16 OF THE QUEEN CREEK TOWN CODE, "UTILITIES" BY ADDING NEW ARTICLE 16-5, "WATER REGULATIONS" TO PROVIDE FOR THE REGULATIONS GOVERNING WATER SERVICE IN THE TOWN.

WHEREAS, the Town of Queen Creek has officially finalized the purchase of the Queen Creek Water Company, effective April 2008; and

WHEREAS, the Town Council has determined that, with the water utility now under Town ownership, it is necessary to adopt regulations governing water service in the Town; and

WHEREAS, the Town Council wishes to provide a process to prescribe and enforce water regulations and to implement the application, administration, interpretation, and enforcement of these regulations in the Town.

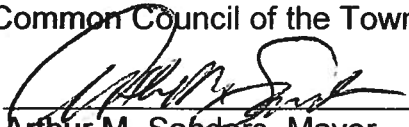
NOW, THEREFORE, BE IT RESOLVED by the Common Council of the Town of Queen Creek, Arizona, as follows:

Section 1. That the document titled "Water Regulations," which is attached hereto as Exhibit "A" and which was made a public record by Resolution 789-09 is hereby adopted as new Article 16-5 of the Town Code.

Section 2. That the Town Clerk is hereby ordered to keep three (3) copies of Exhibit "A" to be available to members of the public at all times during normal Town business hours.

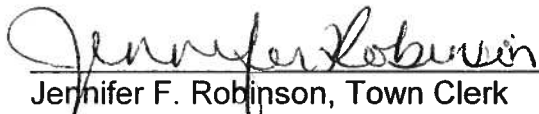
Section 3. Any person, firm or corporation violating any provision of this Ordinance and any amendments to it may be assessed an administrative penalty by the Town Manager in an amount not to exceed two thousand five hundred dollars (\$2,500) for each violation; and each day that a violation continues shall be constitute a separate violation, punishable as described.

PASSED AND APPROVED by the Mayor and Common Council of the Town of Queen Creek, this 17th day of June 2009.


Arthur M. Sanders, Mayor

ATTEST:

APPROVED AS TO FORM:


Jennifer F. Robinson, Town Clerk

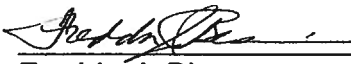

Fredda J. Bisman
Mariscal, Weeks, McIntyre and
Friedlander, P.A., Town Attorneys

Exhibit "A"

Water Regulations

ARTICLE 16-5 WATER REGULATIONS

16-5-1 Definitions

"Appropriate Fees" means charges as specified in the Water Rate Schedule.

"Application" means a request to the utility for water service, as distinguished from an inquiry as to the availability or charges for such service.

"Appurtenance" means an item attached to a main structure which enables it to function, but is not considered an integral part of it.

"AOC Application" means an Application for Approval of Construction, which must be filed and approved by the Town in order to receive domestic water service for a new unit of service.

"ATC Application" means an Application for Approval to Construct, which must be filed and approved by the Town in order to start construction and installation of the approved facilities.

"Billing Period" means the time interval between two (2) consecutive meter readings that are taken for billing purposes.

"Customer" means the owner, official custodian or person in control of any premises supplied domestic water service by or in any manner connected to the water system of the Town.

"Distribution system" means the network of public waterlines which compose the basic grid and distribution system for municipal water service.

"Domestic water" means water supplied through the pipes of the water system of the Town.

"Due Date" means the date that customer payments are to be in the TofQCWD's office.

"Irrigation Service" means the service line between the irrigation main line and discharge port (also known as the red-head) and includes any valves that may be attached.

"Manual" means the Town of Queen Creek Water Design & Construction Standards Manual, which was adopted by resolution of the Town Council, and is available online at <http://www.queencreek.org/Index.aspx?page=557>.

"Meter" means the instrument for measuring and indicating or recording the volume of water that has passed through it.

"Meter Tampering" means a situation where a meter has been illegally altered. Common examples are meter bypassing, use of magnets to slow the meter recording and broken meter seals.

"Normal Business Hours" as defined on the Town of Queen Creek's Web site.

"Non-Potable Water" means any water which is not safe for human consumption pursuant to the standards set by the Arizona Department of Environmental Quality.

"Potable water" means any water which is safe for human consumption pursuant to the standards set by the Arizona Department of Environmental Quality.

"PWS System" means the Town's Public Water Supply System. "04-07-033"

"Second Notice" means the customer billing statement that is sent out fifteen (15) days after the first notice and allows ten (10) additional days before termination of service. This notice will be in red ink and contain Notice of Termination language.

"Service Line" means that pipeline between a water main and the meter.

"Service Connection" means the line after the meter that is the property of the customer. It is the customer's responsibility for the maintenance of the plumbing after the meter.

"Source facilities" means all components and facilities utilized in the production, treatment, storage and delivery of potable water to the distribution system.

"Town" means the Town of Queen Creek.

"TofQCWD" means the water division of the Town of Queen Creek Utility Services Department, which is located in the Town's Development Services Building, at 22358 S. Ellsworth Road, Queen Creek, AZ 85242.

"Unit of service" means each structure, group of structures, portion of a structure or real property which is served by a separate water meter.

"Urban Irrigation" means the delivery of non-potable water from Central Arizona Project or designated wells to certain properties through pipelines or ditches for the purpose of watering lawns in areas where this service is available.

"Water Unit" means any appurtenances used in the delivery of water in PWS.

"Water Rate Schedule" means the Town's water rate schedule, which was adopted by resolution of the Town Council, and is available to the public at the TofQCWD or online at <http://www.queencreek.org/Index.aspx?page=481>.

"Town Council" means the duly elected Town Council of the Town of Queen Creek, Arizona.

16-5-2 Town water director; rules and regulations; assignment of duties

A. The Utility Services Director of the Town is designated as the Town water director and shall have full charge over and direction of the PWS system and all improvements, extensions and equipment pertaining thereto, and shall have charge and supervision over all employees assigned to the work thereon.

B. The Town may make rules and regulations not in conflict with the provisions of any ordinance governing the use of the connections to the water distribution system of the Town. Such rules and regulations do not become effective until approved by the Town Council.

16-5-3 Applicability; conditions for service

A. Domestic water may be supplied by the Town to customers upon the terms and conditions prescribed in this article, and not otherwise.

B. The determination of the Town water director as to whether any Unit of Service comes within the meaning of this article so as to require a separate service connection, meter box and turn-off valve shall be final; provided, that the owner or occupant of such premises shall have the right to appeal from such decision to the Town Council at its next regular meeting. In the event of any such appeal, the determination of the Town Council shall be final.

**16-5-4
related**

Application for domestic water service for a new unit of service; fees; design and construction standards

A. Prior to starting Construction or installation of facilities an ATC, the approved application from the proper governing agency must be received by the Town.

B. Prior to the furnishing of domestic water to a new unit of service, the contractor or owner-builder must provide an AOC Application and submit all necessary application materials and fees to the TofQCWD. AOC Application materials and related fees are contained in the Manual.

C. The TofQCWD shall have the authority to approve the design, issue permits and conduct inspections of all water units and components that are to be connected to the PWS system.

D. The design and construction of all water units and components under the jurisdiction of the TofQCWD must conform to the water design and construction specifications set forth in the Manual.

E. All water units to be attached to the PWS system shall be inspected by personnel of the TofQCWD during construction. The TofQCWD shall be notified at least two (2) business days prior to attaching to the PWS system. In making a connection to the PWS system, no physical alteration shall commence until an authorized TofQCWD inspector is present. No domestic water service shall be turned on prior to obtaining TofQCWD final approval of the unit's construction.

16-5-5

New water service connections; permit, approval, records

A. No authorized person shall make any connections with the PWS system or any appurtenance thereof without first obtaining a written permit.

B. Each person making an application for a water service connection shall obtain a valid permit from the Town as a prerequisite for the approval of the required water service connections. All applications for water service connections shall be accompanied by the current fees for such work.

C. The number, location, manner of connection and size of all water service connections shall be subject to the approval of the Town water director.

D. The Town shall keep a record of all building water connections made and the purpose for which they are to be used, together with the name of the owner of the property, the owner's agent or a representative.

**16-5-6
fees**

Application for water service for an existing unit of service; related

A. Before turning on domestic water to an existing unit of service, the property owner or occupant thereof shall complete an application for water service with the TofQCWD or online at <https://www.queencreek.org>.

B. The application must be accompanied by the appropriate fees as set forth in the Water Rate Schedule.

C. Domestic water service shall not be furnished to any property unless the application is completed and all charges against the property of any nature whatsoever due and payable to the Town have been paid. This includes any deposits that may apply.

D. Any delinquent amounts owing on an existing or prior accounts must be paid when a property owner or occupant applies to open another service account. Failure to pay the delinquent amount owing on a prior account or accounts constitutes grounds for the Town to refuse new service.

E. Domestic water Customers shall be required to notify the TofQCWD of any change in mailing address, occupancy, or ownership within fifteen (15) days after such change occurs. Failure to contact the TofQCWD may result in penalties or late charges which would be the responsibility of the customer.

F. Under normal conditions, domestic water service shall be provided no earlier than one (1) business day after an application is completed.

G. If domestic water service is requested to be provided on the same day that the application is completed, that request must be made with the TofQCWD no later than 4:00 p.m. local time, and a same day service fee as set forth in the Water Rate Schedule will apply. All fees shall be due and payable at the time of the service request.

16-5-7 Requesting temporary service suspension; resuming service.

A. Customers with domestic water service may request that the TofQCWD suspend water service temporarily. Customers desiring to discontinue the use of water must give a one (1) business day notice thereof in person at the TofQCWD or by phone speak directly to a TofQCWD Customer Service Representative during the Town's normal business hours. If request is made online at <https://www.queencreek.org>, request to discontinue service must be made during normal Town business hours or charges for water service will be continued until such notice is given.

B. As a condition of service suspension, the customer shall pay any outstanding charges to the TofQCWD before the water meter will be turned off.

C. To resume domestic water service, the owner or occupant shall pay any past-due fees. Owners or occupants shall allow the TofQCWD one (1) business day to reestablish service when requested during normal Town business hours. If a request to reestablish service is made after normal Town business hours, the request will be treated as having been made on the next business day.

D. If domestic water service is requested to be resumed on the same day that the request for resuming service is made, that request must be made in person with the TofQCWD or by phone speaking directly to a TofQCWD Customer Service Representative no later than 4:00 p.m. local time and same day service fee shall apply.

E. Due to extenuating circumstances, such as broken or leaking pipes or other causes that in the opinion of the TofQCWD constitute good cause, the TofQCWD may refuse to resume any unit of service until such time as it is appropriate and safe to do so.

F. Customers remain responsible for any water used, even if water service was turned off or locked. If the TofQCWD determines that water is used, the customer will be billed for it.

16-5-8 Maintenance of meters and connections; right of entry for inspection

A. All water meters shall remain the property of the Town, and the Town shall be responsible for maintenance of meters, except in cases where they are willfully damaged by the customer.

B. The water customer shall maintain all water lines and connections within the property and after the meter.

C. It shall be the responsibility of the customer to ensure that access by employees of the Town to the water meter is not obstructed by landscape materials, vehicles or any other obstruction. In the event that any authorized employee is refused admittance to any premises or is hindered or prevented from inspecting the water system upon such premises, the TofQCWD reserves the right to disconnect services to such premises after giving twenty-four (24) hours' notice to the property owner or occupant of its intention to do so if the obstruction is not removed.

D. If the property owner or occupant, having received a notice of accessibility/obstruction, removes such obstruction and notifies the TofQCWD within twenty-four (24) hours of such removal, a service fee as set forth in the Water Rate Schedule will be assessed to cover expenses for returning to the property to gain access to the meter.

16-5-9 Changes or alterations

Any person receiving domestic water service from the Town desiring to make any changes or alterations in the existing water connection shall be required to furnish the Town water director a statement of the changes or alterations to be made, and receive the Town water director's written permission before any such changes or alterations are made.

16-5-10 Testing of meters

It shall be the privilege of each customer of the TofQCWD to insist upon a meter test. After the meter has been field tested by the TofQCWD and if such meter is found incorrect, it shall be immediately replaced by the Town. If the field test indicates that the meter is registering correctly, the customer may insist that the meter be removed and subjected to a shop test. If the shop test indicates that the meter is registering correctly, a service fee as set forth in the Water Rate Schedule will be levied against the customer requesting such test.

16-5-11 Defective meters

When a meter in service less than thirteen (13) months is proven defective, the charge for any month affected shall be equal to an average based upon the charges for the three (3) preceding months or length of service, whichever is lesser. In instances where water service has been supplied for a period in excess of thirteen (13) months, the charge for any month affected shall be equal to an average based upon the charges for that month in the previous year together with one month next preceding and next following the previous year in question.

16-5-12 Tampering with, damaging meters; unlawful possession of equipment or reinstatement of service

A. It shall be unlawful for any unauthorized person to knowingly have and keep in his possession or under his control any turn-off valve key or hydrant wrench to the PWS system and no person shall, without authority from the Town water director, make, construct, buy, sell or in any way dispose of to any person any turn-off valve key or hydrant wrench for use on the PWS system.

B. It shall be unlawful to remove unmetered water from Town mains without express approval of the Town water director.

C. Water meters shall be sealed by the proper Town representatives in such a manner as to prevent all tampering with or damage to the mechanism thereof, without breaking the seal, and no person shall break or remove a seal, or willfully damage or destroy a meter.

D. No person shall destroy, obstruct or damage any meter box; or remove such box except for the purpose of inspecting meter readings; or destroy the lid or cover belonging thereto; or place refuse or debris therein.

E. No person whose domestic water service has been discontinued and rendered inoperable by the Town placing a seal on the turn-off valve of the water meter shall break or remove such seal in an effort to reinstate domestic water service. Any person who breaks or removes such seal, in addition to other penalties provided by law, shall pay an administrative charge as set forth in the Water Rate Schedule prior to the Town reinstating domestic water service.

16-5-13 Schedule of rates

A. The Town Council may biennially by separate ordinance set the schedule of rates to be assessed for domestic water service.

B. Water service rates shall be apportioned to include a user charge relating to the volume of water usage, applicable taxes and fees, and customer billing and administration.

C. Water service rates shall be allocated in such a manner that is proportionate to the cost of providing water service to each customer insofar as those costs can reasonably be determined.

D. In addition to the water service charges listed above, the Town Council may set other fees or charges as desired.

16-5-14 Customer Billing

A. Monthly statements shall be rendered by the TofQCWD to each customer, billing periods to normally consist of approximately thirty (30) days. Statements shall be rendered for each customer based upon the service rendered thereby. Second Notices shall also inform the customer of the consequences of nonpayment and the telephone numbers of appropriate personnel authorized to resolve billing disputes. Each statement shall contain the customer's account number; the reading date; the delinquent date; the present and previous meter reading; the consumption in thousand gallons; the amount of charges for water services; new account fee or service call fee, if applicable; previous balance, if any; applicable taxes; and total amount due.

B. First and/or final statements rendered for periods of less or more than thirty (30) days shall have the minimum monthly water charges prorated daily. In addition to the prorated water charges, the statement shall include a charge for each thousand gallons of water metered during said period plus applicable taxes.

C. Any property upon which domestic water services may have been furnished by the Town, and which may not for any reason have been assessed for such use on the books of the Town, shall be assessed for the use for which it is in arrears. Upon the failure of the payment of these charges, the supply of water shall be turned off in accordance with Section 16-5-15, pending settlement.

16-5-15 Payment of bills; delinquent bills

A. All bills rendered are due and payable upon presentation and are past due (delinquent) fifteen (15) calendar days after date rendered. If the total of such bill is not paid within ten (10) days after delinquency, domestic water service is subject to discontinuance in accordance with subsection B below.

B. Before any discontinuance of water service shall be made, other than for such purposes as specified in Section 16-5-16 below, the customer shall receive a second notice of the reason for the discontinuance from the TofQCWD and be advised, also in writing, of the opportunity to contact TofQCWD customer service personnel to present any objections within one (1) business day of the due date listed on the second notice. If, after the due date listed, the customer has not cured the delinquency and/or has not presented any reasonable objections regarding discontinuance of service, domestic water services shall be discontinued.

C. Water services shall not be resumed until such delinquent bill and the applicable service fee as set forth in the Water Rate Schedule has been collected in full from the delinquent customer. In addition, the delinquent customer may be required to place a new or additional security deposit with the TofQCWD prior to resumption of domestic water service.

D. If a customer's bill remains delinquent after discontinuance of water service in accordance with subsection B. above, the TofQCWD may assign the account to a collection agency for collection.

16-5-16 Creation of lien for unpaid charges

A. Delinquent water charges shall constitute a lien against the property upon which such lien may be imposed. In order to impress and secure such lien, which shall be at the discretion of the Town water director, the following procedure shall be utilized:

1. The Town water director shall give written notice to the owner or occupant of the property within thirty (30) days after the statement is rendered by either personally serving or mailing to such owner or occupant, at his last-known address by certified or registered mail, or the address to which the water charges billing was sent. This written notice shall indicate that the Town may impress and secure a lien on the subject property unless the owner or occupant lessee brings his delinquent bill current within thirty (30) days from service or receipt of the letter, and in addition, pays any penalties that may be due pursuant to Section 16-5-15. The notice shall also contain a statement that the owner or occupant may appeal the delinquency to the Town Council by

filing such appeal within the thirty (30) day time period after receipt of such notice.

2. If the owner or occupant of the property does not bring his delinquency current or successfully prosecute his appeal to the Town Council within the thirty (30) days from service or receipt of the registered or certified letter, the Town water director may prepare duplicate copies of a notice and claim of lien and file one copy with the county recorder and within a reasonable time thereafter service or mail by registered or certified mail the remaining copy with the owner or occupant of the property. The notice and claim of lien shall be made under oath by the Town water director or his duly authorized representative and shall contain the following:

- a. A description of the property sufficient for its identification;
- b. The name of the owner or reputed owner of the property if known, otherwise the name of the occupant to whom service was rendered; and
- c. The amount of the delinquent bill.

B. From and after the date of its recording in the office of the county recorder, the lien shall attach to the property until paid. A sale of the property to satisfy the lien shall be made upon judgment of foreclosure and order of sale. The Town shall have the right to bring an action to enforce the lien in the county superior court at any time after its recording, but failure to enforce the lien by such action shall not affect its validity. The recorded notice and claim of lien shall be *prima facie* evidence of the truth of all matters recited therein and of the regularity of all proceedings prior to the recording therein.

C. A prior recording for the purposes provided in this section shall not be a bar to a subsequent recording of a lien for such purposes, and any number of liens on the property may be enforced in the same action.

16-5-17 Discontinuance of service

In the case of unnecessary waste, fraudulent representation on the part of any water customer, or in an emergency, the Town reserves the right to turn off water without notice until all charges have been paid in full and/or waste or emergency is corrected.

16-5-18 Town not liable for damages

The Town shall not be held liable for any damages that may result from the shutting off or turning on of any potable or non-potable water unit supply piping or main for any purpose whatsoever, even should no notice have been given, nor for damages caused by any break or leak in any water pipe.

16-5-19 Urban irrigation service; rules and regulations governing service; applicable rates.

- A. Urban irrigation service is available to customers in select areas of the Town.
- B. The rules and regulations governing the availability, character, and conditions of urban irrigation service are promulgated by the TofQCWD and adopted by resolution of the Town Council. Those rules are available to the public at the TofQCWD or online at <http://www.queencreek.org/>.
- C. Applicable rates for urban irrigation service within the Town are set forth in the Water Rate Schedule.
- D. No person shall destroy, obstruct, damage or alter any irrigation service without prior written permission from the Town Water Director.