

ORDINANCE NO. 1011

AN ORDINANCE OF THE MAYOR AND COMMON COUNCIL OF THE TOWN OF WICKENBURG, ARIZONA AMENDING THE TOWN OF WICKENBURG CODE BY AMENDING CHAPTER 13 UTILITIES, ARTICLE 13-3 SEWER SERVICE, BY AMENDING SECTION 13-3-1 DEFINITIONS TO ADD A DEFINITION OF "NEW CONSTRUCTION", BY REPEALING SECTIONS 13-3-2 SEWER DISTRICT ESTABLISHED AND 13-3-15 CONNECTION TO SEWER REQUIRED, AND ADOPTING NEW SECTION 13-3-2 SEWER DISTRICT ESTABLISHED; CONNECTION REQUIRED TO MODIFY THE REQUIREMENT FOR MANDATORY CONNECTION TO THE TOWN'S SEWER SYSTEM AND REQUIRE CONNECTION OF NEW CONSTRUCTION; AMENDING CHAPTER 13 UTILITIES, ARTICLE 13-5 WATER SERVICE EXTENSION, BY AMENDING SECTION 13-5-1 DEFINITIONS TO ADD A DEFINITION OF "NEW CONSTRUCTION", AMENDING ARTICLE 13-5 WATER SERVICE EXTENSION BY REPEALING SECTION 13-5-10 CONNECTION REQUIRED; SEPARATION REQUIRED, AND ADOPTING NEW SECTION 13-5-10 CONNECTION REQUIRED TO MODIFY THE REQUIREMENT FOR MANDATORY HOOKUP TO THE TOWN'S WATER SYSTEM AND REQUIRE CONNECTION BY NEW CONSTRUCTION; PROVIDING FOR PENALTIES; PROVIDING FOR REPEAL OF CONFLICTING ORDINANCES; AND PROVIDING FOR SEVERABILITY.

BE IT ORDAINED by the Mayor and Common Council of the Town of Wickenburg, Arizona as follows:

Section 1. In General.

The Code of Wickenburg, Chapter 13 Utilities, Article 13-3 Sewer Service, is amended by amending Section 13-3-1 Definitions, to add a new definition to read as follows (deleted text appears in ~~strikeout~~; new text in ALL CAPS):

Section 13-3-1 Definitions

* * *

O. "NEW CONSTRUCTION" SHALL MEAN A NEW BUILDING OR DEVELOPMENT FOR WHICH A BUILDING PERMIT IS ISSUED AFTER SEPTEMBER 3, 2008. "NEW CONSTRUCTION" DOES NOT INCLUDE NEW ACCESSORY BUILDINGS OR ALTERATIONS OR MODIFICATIONS TO AN EXISTING DWELLING.

* * *

Re-letter to conform.

The Code of Wickenburg, Chapter 13 Utilities, Article 13-3 Sewer Service, is amended by repealing Sections 13-3-2 Sewer District Established and 13-3-15 Connection to Sewer Required, and adopting new Section 13-3-2 Sewer District Established; Connection Required to read as follows (deleted text appears in ~~strikeout~~; new text in ALL CAPS):

~~Sec. 13-3-2 Sewer District Established~~

~~For the better protection of the health and convenience of the inhabitants, all that portion of the town now or hereafter embraced within the district reached by the sewer system is hereby declared to be a sewer district. All persons owning real property adjoining the streets or alleys in which there are sewer lines or lateral, branch, main or trunk sewers of said sewer system, and all persons owning, leasing or using real property or buildings or fixtures thereon which can be served by sewers, shall cause to be connected all privies, cesspools and~~

~~open or unconnected drains, with the sewer system, at such time and in such manner as hereinafter provided, and as the council by resolution may require. All expenses of such connection shall be borne by the owner of the real property or building and the persons leasing or using same. It is unlawful to fail to abate all such privies, cesspools and open or unconnected drains, at the time and in the manner herein required and in the manner required by the council by resolution.~~

SECTION 13-3-2

SEWER DISTRICT ESTABLISHED; CONNECTION REQUIRED

A. SEWER DISTRICT: FOR THE BETTER PROTECTION OF THE HEALTH AND CONVENIENCE OF THE INHABITANTS OF THE TOWN, REAL PROPERTY LOCATED WITHIN THE TOWN OR ANNEXED INTO THE TOWN IN THE FUTURE IS HEREBY DECLARED TO BE A SEWER DISTRICT.

B. CONNECTION REQUIRED: EXCEPT AS PROVIDED IN PARAGRAPH C, ALL NEW CONSTRUCTION WITHIN THE SEWER DISTRICT SHALL CONNECT TO THE TOWN'S SEWER SYSTEM. WHERE CONNECTION TO THE SEWER SYSTEM IS REQUIRED PURSUANT TO THIS SECTION, THE OWNER OF THE REAL PROPERTY SHALL CAUSE TO BE CONNECTED TO THE SEWER SYSTEM ALL PRIVIES, CESSPOOLS AND OPEN OR UNCONNECTED DRAINS WITHIN NINETY DAYS OF THE DATE OF WRITTEN NOTICE FROM THE TOWN REQUIRING CONNECTION. SUCH CONNECTION SHALL BE IN ACCORDANCE WITH TOWN REQUIREMENTS AND THE COST OF CONNECTION SHALL BE BORNE BY THE OWNER OF THE NEW CONSTRUCTION.

C. EXCEPTIONS: CONNECTION TO THE SEWER SYSTEM SHALL NOT BE REQUIRED FOR:

1. AN INDIVIDUAL SINGLE FAMILY DWELLING WHEN IT IS DETERMINED BY THE TOWN ENGINEER AND THE PUBLIC WORKS DIRECTOR THAT EITHER (i) THE DWELLING WAS SERVED BY AN ALTERNATIVE SEWAGE DISPOSAL SYSTEM AS OF SEPTEMBER 3, 2008, OR (ii) THE COST OF THE REQUIRED EXTENSION EXCEEDS THE COST OF AN APPROVED ALTERNATIVE SEWAGE DISPOSAL SYSTEM BY FOUR (4) TIMES.

2. A DEVELOPMENT, OTHER THAN AN INDIVIDUAL SINGLE-FAMILY DWELLING, THAT IS A SINGLE-FAMILY PROJECT, MULTI-FAMILY PROJECT OR COMMERCIAL OR INDUSTRIAL BUILDING OF LESS THAN 50,000 SQUARE FEET, WHEN IT IS DETERMINED BY THE TOWN ENGINEER AND THE PUBLIC WORKS DIRECTOR THAT EITHER (i) THE PROJECT OR BUILDING WAS SERVED BY AN ALTERNATIVE SEWAGE DISPOSAL SYSTEM AS OF SEPTEMBER 3, 2008, OR (ii) THE COST OF THE REQUIRED EXTENSION EXCEEDS THE COST OF AN APPROVED ALTERNATIVE SEWAGE DISPOSAL SYSTEM BY SIX (6) TIMES.

3. A DEVELOPMENT THAT INCLUDES A COMMERCIAL OR INDUSTRIAL BUILDING OF 50,000 SQUARE FEET OR GREATER, WHEN IT IS DETERMINED BY THE TOWN ENGINEER AND THE PUBLIC WORKS DIRECTOR THAT EITHER (i) THE BUILDING WAS SERVED BY AN ALTERNATIVE SEWAGE DISPOSAL SYSTEM AS OF SEPTEMBER 3, 2008, OR (ii) THE COST OF THE REQUIRED EXTENSION EXCEEDS THE COST OF AN APPROVED ALTERNATIVE SEWAGE DISPOSAL SYSTEM BY TEN (10) TIMES

D. OWNER ELECTION TO CONNECT: OWNERS OF REAL PROPERTY THAT ARE EXEMPT FROM THE REQUIREMENT TO CONNECT TO THE TOWN'S SEWER

SYSTEM MAY ELECT TO DO SO, IN WHICH EVENT THE COST OF SUCH CONNECTION SHALL BE BORNE BY THE OWNER.

E. STATE OR FEDERAL LAW REQUIRING CONNECTION: NOTWITHSTANDING ANYTHING CONTAINED HEREIN TO THE CONTRARY, IF STATE OR FEDERAL LAW REQUIRE ABANDONMENT OF A SEPTIC SYSTEM, CONNECTION TO THE TOWN'S SEWER SYSTEM SHALL BE REQUIRED AT THE EXPENSE OF THE AFFECTED PROPERTY OWNERS.

The Code of Wickenburg, Chapter 13 Utilities, Article 13-5 Water Service Extension, is amended by amending Section 13-5-1 Definitions, to read as follows (deleted text appears in ~~strikeout~~; new text in ALL CAPS):

Section 13-5-1 Definitions

* * *

C. "NEW CONSTRUCTION" SHALL MEAN A NEW BUILDING OR DEVELOPMENT FOR WHICH A BUILDING PERMIT IS ISSUED AFTER SEPTEMBER 3, 2008. "NEW CONSTRUCTION" DOES NOT INCLUDE NEW ACCESSORY BUILDINGS OR ALTERATIONS OR MODIFICATIONS TO AN EXISTING DWELLING OR BUILDING.

* * *

The Code of Wickenburg, Chapter 13 Utilities, Article 13-5 Water Service Extension, is amended by repealing Section 13-5-10 Connection Required; Separation Required, and adopting new Section 13-5-10 Connection Required to read as follows (deleted text appears in ~~strikeout~~; new text in ALL CAPS):

~~Sec. 13-5-10~~ Connection Required; Separation Required

- A. ~~All real or personal properties in connection with which water is used and which lie adjacent to rights of ways or easements, in which water mains have been installed shall be serviced by such water mains except, that properties in connection with which irrigation water is the only water used shall not be required to be serviced by such town water mains. Connection to the water system under the above described circumstances shall be accomplished within ninety days after receipt of written notice from the town requiring said connection.~~
- B. ~~All development within the town limits of Wickenburg but not adjacent to a right-of-way or easement in which water lines, pipes or mains have been installed shall extend the water distribution system in accordance with Section 13-5-2, subsection A of this Code except individual single family dwelling units when it is determined and found by the town engineer and public works director that the cost of the required extension exceeds the cost of an approved alternative water delivery system by four (4) times. (6/96)~~
- C. ~~In the event that, in keeping with the provisions of this article, any properties are serviced both by town and non-town water supply systems, then no component part of one such system shall be closer than ten feet from any component part of such other system.~~
- D. **Private Water Wells**
 - 1. ~~Existing single family residences may continue to utilize private water wells; however, at such time as a municipal water main is installed within any right of way to which the property is adjacent, connection said main shall be completed in accordance with Section 13-5-10 (A) of this Code.~~
 - 2. ~~Existing multiple family residences and commercial uses may continue to utilize~~

~~existing private water wells which were in existence at the time of annexation as long as the following can be demonstrated to the satisfaction of the Town Engineer and Director of Public Works:~~

- ~~a. That there is not an existing water main capable of serving the demands of the customer within 1,000 lineal feet of said customer's property line. At such time as a municipal water main is installed within any right of way to which the property is adjacent, connection to said main shall be completed in accordance with Section 13-5-10 (A).~~
- ~~b. That the private on-site water system is capable of maintaining a minimum pressure at all fixture units of 30 psi.~~
- ~~c. At such time as the on-site water system can no longer provide a minimum pressure of 30 psi at all fixture units due to increased demand or decreased efficiency, the Town's water system shall be extended to the property.~~
- ~~d. That the customer agrees to install at his or her sole expense, a meter to measure sewage discharge from the property or, if more feasible, a meter measuring the total water use on the property for use by the Town in measuring the sewage discharged by the user into the Town's sewer system so as to provide a measurement upon which to base charges for sewer services.~~
- ~~e. This subsection in no way abrogates or annuls the requirements to connect to the Town's sewer system.~~

~~This subsection shall cease to apply when: (a) the customer's existing water system requires repairs or renovations costing one half or more of the costs of replacement, not including the servicing water lines; (b) when the customer is unable to demonstrate to engineers, health regulators and fire suppression officials employed on behalf of the town that his existing water supply is safe for human consumption and adequate for fire suppression; and (c) when the customer fails to demonstrate to the satisfaction of the council that a hardship would exist if he were required to extend the town water main to his property.~~

SECTION 13-5-10 CONNECTION REQUIRED

A. CONNECTION REQUIRED: EXCEPT AS PROVIDED IN PARAGRAPH B, ALL NEW CONSTRUCTION ON REAL PROPERTY WITHIN THE TOWN OR ANNEXED INTO THE TOWN IN THE FUTURE SHALL CONNECT TO THE TOWN'S WATER SYSTEM. WHERE CONNECTION TO THE WATER SYSTEM IS REQUIRED PURSUANT TO THIS SECTION, SUCH CONNECTION SHALL BE COMPLETED WITHIN NINETY DAYS OF THE DATE OF WRITTEN NOTICE FROM THE TOWN REQUIRING CONNECTION. SUCH CONNECTION SHALL BE IN ACCORDANCE WITH TOWN REQUIREMENTS AND THE COST OF CONNECTION SHALL BE BORNE BY THE OWNER OF THE NEW CONSTRUCTION.

B. EXCEPTIONS: CONNECTION TO THE WATER SYSTEM SHALL NOT BE REQUIRED FOR:

1. AN INDIVIDUAL SINGLE FAMILY DWELLING WHEN IT IS DETERMINED BY THE TOWN ENGINEER AND THE PUBLIC WORKS DIRECTOR THAT EITHER (i) THE DWELLING WAS SERVED POTABLE WATER BY A PRIVATE WELL AS OF SEPTEMBER 3, 2008, OR (ii) THE COST OF THE REQUIRED EXTENSION EXCEEDS THE COST OF AN APPROVED ALTERNATIVE WATER DELIVERY SYSTEM BY FOUR (4) TIMES.

2. A DEVELOPMENT, OTHER THAN AN INDIVIDUAL SINGLE-FAMILY DWELLING, THAT IS A SINGLE-FAMILY PROJECT, MULTI-FAMILY PROJECT OR COMMERCIAL OR INDUSTRIAL BUILDING OF LESS THAN 50,000 SQUARE FEET, WHEN IT IS DETERMINED BY THE TOWN ENGINEER AND THE PUBLIC WORKS DIRECTOR THAT EITHER (i) THE PROJECT OR BUILDING WAS SERVED

POTABLE WATER BY A PRIVATE WELL AS OF SEPTEMBER 3, 2008, OR (ii) THE COST OF THE REQUIRED EXTENSION EXCEEDS THE COST OF AN APPROVED ALTERNATIVE WATER DELIVERY SYSTEM BY SIX (6) TIMES.

3. A DEVELOPMENT THAT INCLUDES A COMMERCIAL OR INDUSTRIAL BUILDING OF 50,000 SQUARE FEET OR GREATER. WHEN IT IS DETERMINED BY THE TOWN ENGINEER AND THE PUBLIC WORKS DIRECTOR THAT EITHER (i) THE BUILDING WAS SERVED POTABLE WATER BY A PRIVATE WELL AS OF SEPTEMBER 3, 2008, OR (ii) THE COST OF THE REQUIRED EXTENSION EXCEEDS THE COST OF AN APPROVED ALTERNATIVE WATER DELIVERY SYSTEM BY TEN (10) TIMES

4. PROPERTIES WHERE ONLY IRRIGATION WATER IS USED.

D. OWNER ELECTION TO CONNECT: OWNERS OF REAL PROPERTY THAT ARE EXEMPT FROM THE REQUIREMENT TO CONNECT TO THE TOWN'S WATER SYSTEM MAY ELECT TO DO SO, IN WHICH EVENT THE COST OF SUCH CONNECTION SHALL BE BORNE BY THE OWNER.

E. SEPARATION: IN THE EVENT THAT ANY PROPERTIES ARE SERVICED BOTH BY THE TOWN AND NON-TOWN WATER SUPPLY SYSTEMS, THEN NO COMPONENT PART OF ONE SUCH SYSTEM SHALL BE CLOSER THAN TEN FEET FROM ANY COMPONENT PART OF SUCH OTHER SYSTEM.

Section II. Repeal of Conflicting Ordinance.

All ordinances and parts of ordinances in conflict with the provisions of this ordinance or any part of the code adopted herein by reference are hereby repealed.

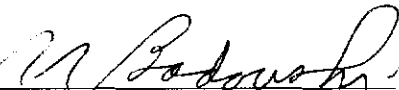
Section III. Providing for Severability.

If any section, subsection, sentence, clause, phrase or portion of this Ordinance or any part of the Code adopted herein by reference, is for any reason held to be invalid or unconstitutional by the decision of any court of competent jurisdiction, such decision shall not affect the validity of the remaining portions thereof.

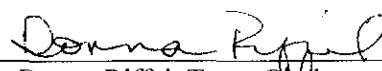
Section IV. Providing for Penalties.

Any person found guilty of violating any provision of this Ordinance shall be guilty of a misdemeanor, and upon conviction thereof shall be punished by a fine not to exceed Two Thousand Five Hundred Dollars (\$2,500) or by imprisonment for a period not to exceed six (6) months, or both such fine and imprisonment. Each day that a violation continues shall be a separate offense punishable as herein described.

PASSED AND ADOPTED by the Town Council of the Town of Wickenburg, Arizona, this 4th day of August, 2008.

By: 
R. R. Badowski, Mayor

ATTEST:

By: 
Donna Riffel, Town Clerk

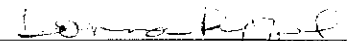
APPROVED AS TO FORM:

By: 
Susan D. Goodwin, Town Attorney
Curtis, Goodwin, Sullivan, Udall & Schwab, P.L.C.

Number of Councilmembers Present: 7
Number of Votes For: 7
Number of Votes Against: 0
Number of Abstentions: 0

CERTIFICATION

I HEREBY CERTIFY that the foregoing Ordinance Number 1011 was duly passed and adopted by the Common Council of the Town of Wickenburg, Arizona, at a regular meeting held on the 4th day of August 2008, and that a quorum was present at the meeting.


Donna Riffel, Town Clerk