

ATTACHMENT A

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ORDINANCE NO. G-

AN ORDINANCE AMENDING PHOENIX CITY CODE
CHAPTER 37, ARTICLE III, PERTAINING TO SERVICE
CONNECTIONS, TO ADD A DIVISION 2, PERTAINING TO
LARGE WATER USERS.

BE IT ORDAINED BY THE COUNCIL OF THE CITY OF PHOENIX as
follows:

SECTION 1. Phoenix City Code, Chapter 37, Article III, "Service Connections"
is hereby amended to read:

DIVISION 1. GENERALLY

Sec. 37-39. Connection to water mains required.

A. To protect and support public health and welfare, where property abuts a street in which a water main is laid, the property must be connected with the City public water system. These service connections must extend at right angles from the main to the curblines and must be installed pursuant to City design standards.

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SECTION 2. Phoenix City Code, Chapter 37, Article III, "Service Connections"
is hereby amended to add a Division 2, "Large Water Users," to read:

DIVISION 2. LARGE WATER USERS

SEC. 37-52.01. PURPOSE AND INTENT.

A. THE PHOENIX CITY COUNCIL HAS DETERMINED THAT IT IS IN THE BEST INTERESTS OF THE CITY TO ESTABLISH CERTAIN TERMS, CONDITIONS, LIMITATIONS AND OTHER REQUIREMENTS REGARDING THE CITY PUBLIC WATER SYSTEM TO ENSURE WATER SECURITY FOR ALL CUSTOMERS.

B. THE PHOENIX CITY COUNCIL ALSO DESIRES TO PROMOTE WATER CONSERVATION AND IMPLEMENT CERTAIN MEASURES THAT WILL PROVIDE FOR A SUSTAINABLE WATER SUPPLY FOR EXISTING AND FUTURE CUSTOMERS OF THE CITY PUBLIC WATER SYSTEM.

SEC. 37-52.02. APPLICABILITY.

A. THIS DIVISION APPLIES TO A PERSON WHO APPLIES TO BECOME A LARGE WATER USER AFTER THE EFFECTIVE DATE OF THIS DIVISION.

B. THIS DIVISION ALSO APPLIES TO AN EXISTING CUSTOMER WHO REQUESTS WATER-METER UPSIZING AT THE CUSTOMER'S FACILITY THAT WILL ALLOW FOR WATER USE THAT EQUALS OR EXCEEDS 250,000 GALLONS PER DAY AFTER THE EFFECTIVE DATE OF THIS DIVISION AND AN EXISTING CUSTOMER WHOSE WATER USE EQUALS OR EXCEEDS 250,000 GALLONS PER DAY ON THE EFFECTIVE DATE OF THIS DIVISION AND, WHO, AFTER THE EFFECTIVE DATE, REQUESTS WATER-METER UPSIZING AT THE CUSTOMER'S FACILITY.

C. THIS DIVISION DOES NOT APPLY TO AN EXISTING CUSTOMER WHOSE WATER USE AT THE CUSTOMER'S FACILITY EQUALS OR EXCEEDS 250,000 GALLONS PER DAY ON THE EFFECTIVE DATE OF THIS DIVISION WHO DOES NOT REQUEST WATER-METER UPSIZING.

SEC. 37-52.03. DEFINITIONS.

IN ADDITION TO THE DEFINITIONS SET OUT IN SEC. 37-1, IN THIS DIVISION:

“APPLICANT” MEANS A PERSON TO WHOM THIS DIVISION APPLIES, AS IS SET OUT IN SECTION 37-52.02.

“DEVELOPMENT ENTITLEMENT” MEANS APPROVALS BY THE CITY UNDER APPLICABLE PHOENIX CITY CODE PROVISIONS, INCLUDING BUT NOT LIMITED TO CHAPTER 32, FOR DEVELOPMENT, CONSTRUCTION AND/OR INSTALLATION OF IMPROVEMENTS ON SPECIFIED PROPERTY.

“FACILITY” MEANS A SITE USED FOR A PARTICULAR PURPOSE. A FACILITY INCLUDES MULTIPLE SITES THAT ARE CONTIGUOUS OR PROXIMATELY LOCATED UNDER A COMMON OWNERSHIP OR CONTROL WHICH ARE USED FOR A PARTICULAR PURPOSE OR CLOSELY-RELATED PURPOSES.

“GALLONS PER DAY” MEANS DAILY WATER DEMAND CALCULATED ON AN ANNUAL AVERAGE BASIS.

“LARGE WATER USER” MEANS A CUSTOMER OR POTENTIAL CUSTOMER OF THE CITY PUBLIC WATER SYSTEM WHOSE WATER DEMAND AT THE CUSTOMER’S FACILITY IS PROJECTED TO EQUAL OR EXCEED 250,000 GALLONS PER DAY.

“SUSTAINABLE WATER SERVICE APPLICATION” MEANS THE FORM TO BE COMPLETED BY AN APPLICANT THAT WILL BE A LARGE WATER USER. A SUSTAINABLE WATER SERVICE APPLICATION MUST INCLUDE A WATER CONSERVATION PLAN.

“USE OF RECYCLED WATER” MEANS CAUSING WATER TO BE REUSED OR SAVED AT AN APPLICANT’S FACILITY OR OTHERWISE CAUSING REUSE OR SAVINGS OF WATER AT A DIFFERENT LOCATION WITHIN THE CITY’S WATER SERVICE AREA THAT WOULD NOT HAVE OCCURRED WITHOUT THE APPLICANT’S EFFORTS.

“WATER CONSERVATION PLAN” MEANS A PLAN THAT SPECIFIES THE INDUSTRY STANDARDS, BEST PRACTICES, MEANS, AND DILIGENCE THAT AN APPLICANT WILL UNDERTAKE TO USE WATER AS EFFICIENTLY AS IS PRACTICABLE AND TO ENSURE THAT WATER IS NOT WASTED.

“WATER MASTER PLAN” MEANS THE PLAN, AS MAY BE PERIODICALLY UPDATED, THAT REVIEWS THE CITY’S WATER RESOURCES AND ITS CURRENT AND PROJECTED DEMANDS BASED ON ANTICIPATED AND ENCOURAGED DEVELOPMENT WITHIN THE CITY.

“WATER-METER UPSIZING” MEANS REPLACING EXISTING WATER METERS WITH WATER METERS OF A GREATER CAPACITY OR INSTALLING ADDITIONAL WATER METERS AT AN EXISTING FACILITY SO AS TO ALLOW GREATER USE OF WATER AT THE FACILITY.

SEC. 37-52.04. LARGE WATER USERS.

A. A LARGE WATER USER MAY NOT CONNECT TO THE CITY PUBLIC WATER SYSTEM OR USE CITY WATER EXCEPT AS PROVIDED BY THIS DIVISION.

B. APPLICATION TO BECOME A LARGE WATER USER.

1. AN APPLICANT MUST SUBMIT TO THE DIRECTOR A SUSTAINABLE WATER SERVICE APPLICATION, WHICH MUST INCLUDE A WATER CONSERVATION PLAN, IF ANY OF THE FOLLOWING APPLY:
 - a. AN APPLICANT WILL BE A NEW CUSTOMER, AND THE APPLICANT’S PROJECTION OF THE APPLICANT’S WATER USE, AS REVIEWED BY THE DIRECTOR, EQUALS OR EXCEEDS 250,000 GALLONS PER DAY.
 - b. AN APPLICANT IS AN EXISTING CUSTOMER AND REQUESTS WATER-METER UPSIZING THAT WILL

ALLOW FOR WATER USE THAT EQUALS OR EXCEEDS 250,000 GALLONS PER DAY.

- c. AN APPLICANT IS AN EXISTING CUSTOMER WHOSE WATER USE EQUALS OR EXCEEDS 250,000 GALLONS PER DAY AND REQUESTS WATER-METER UPSIZING.
2. FOR UNDEVELOPED PROPERTY, A SUSTAINABLE WATER SERVICE APPLICATION MUST BE SUBMITTED AT THE TIME THE APPLICANT SUBMITS FOR ANY DEVELOPMENT ENTITLEMENTS. AN APPLICANT WHO WILL BECOME OR IS A LARGE WATER USER ON PREVIOUSLY DEVELOPED PROPERTY MUST SUBMIT A SUSTAINABLE WATER SERVICE APPLICATION AT THE TIME THE APPLICANT REQUESTS WATER-METER UPSIZING.
 3. THE SUSTAINABLE WATER SERVICE APPLICATION MUST IDENTIFY THE PHASING OF CONSTRUCTION OR DEVELOPMENT, THE APPROXIMATE NUMBER AND SIZE OF THE STRUCTURES TO BE SERVED, A REASONABLE DESCRIPTION OF THE NATURE AND TYPE OF WATER USE PROPOSED ON THE PROPERTY, AND A REASONABLE ESTIMATE OF THE PROJECTED ANNUAL AND MONTHLY WATER DEMAND.
 4. THE WATER CONSERVATION PLAN MUST INCLUDE TECHNIQUES AND TECHNOLOGIES THAT WILL REDUCE THE CONSUMPTION OF WATER, REDUCE THE LOSS OR WASTE OF WATER, IMPROVE THE EFFICIENCY IN THE USE OF WATER, OR ESTABLISH USE OF RECYCLED WATER BY THE LARGE WATER USER.

C. CITY REVIEW OF SUSTAINABLE WATER SERVICE APPLICATIONS AND WATER CONSERVATION PLANS.

1. THE DIRECTOR WILL REVIEW PROPERLY COMPLETED SUSTAINABLE WATER SERVICE APPLICATIONS AND WATER CONSERVATION PLANS. THE DIRECTOR MAY REQUIRE ADDITIONAL INFORMATION TO BE SUBMITTED AS THE DIRECTOR DEEMS NECESSARY, AND THE APPLICANT MUST SUBMIT ANY ADDITIONAL INFORMATION REQUESTED WITHIN 60 DAYS OF RECEIVING THE REQUEST.
2. THE DIRECTOR WILL ALLOW THE APPLICANT TO CONNECT TO THE CITY PUBLIC WATER SYSTEM AND USE CITY WATER AS A CUSTOMER OF THE CITY PUBLIC WATER SYSTEM, IF ALL OF THE FOLLOWING APPLY:
 - a. THE DIRECTOR DETERMINES, IN THE DIRECTOR'S SOLE AND ABSOLUTE DISCRETION, THAT THE SUSTAINABLE WATER SERVICE APPLICATION AND WATER CONSERVATION PLAN DEMONSTRATE THAT THE LARGE WATER USER WILL UNDERTAKE TO USE WATER AS EFFICIENTLY AS IS PRACTICABLE AND TO ENSURE THAT WATER IS NOT WASTED. IN DETERMINING WHETHER WATER WILL BE USED AS EFFICIENTLY AS IS PRACTICABLE, THE DIRECTOR WILL CONSIDER IF THE APPLICANT'S FACILITY IS EXISTING AND THE PRACTICABILITY OF RETROFITTING THE EXISTING FACILITY WITH WATER CONSERVING TECHNOLOGIES AND PRACTICES.
 - b. THE DIRECTOR, IN THE DIRECTOR'S SOLE AND ABSOLUTE DISCRETION, DETERMINES THAT THE PROPOSED WATER USE IS CONSISTENT WITH THE WATER MASTER PLAN.
 - c. THE APPLICANT'S PROJECTED USE OF WATER IS LESS THAN 500,000 GALLONS PER DAY.

3. IF AN APPLICANT IS PROJECTED TO USE 500,000 GALLONS PER DAY OF WATER OR MORE, THE DIRECTOR MAY GRANT THE APPLICANT'S REQUEST TO CONNECT TO THE CITY PUBLIC WATER SYSTEM, UNLESS THE DIRECTOR, IN THE DIRECTOR'S SOLE AND ABSOLUTE DISCRETION, FINDS THAT ANY OF THE FOLLOWING APPLY:
 - a. THE APPLICANT'S SUSTAINABLE WATER SERVICE APPLICATION AND WATER CONSERVATION PLAN FAIL TO DEMONSTRATE THAT THE LARGE WATER USER WILL UNDERTAKE TO USE WATER AS EFFICIENTLY AS IS PRACTICABLE AND TO ENSURE THAT WATER IS NOT WASTED. IN DETERMINING WHETHER WATER WILL BE USED AS EFFICIENTLY AS IS PRACTICABLE, THE DIRECTOR WILL CONSIDER IF THE APPLICANT'S FACILITY IS EXISTING AND THE PRACTICABILITY OF RETROFITTING THE EXISTING FACILITY WITH WATER CONSERVING TECHNOLOGIES AND PRACTICES.
 - b. THE APPLICANT'S WATER USE WOULD BE INCOMPATIBLE WITH THE CITY'S AVAILABLE WATER RESOURCES.
 - c. THE APPLICANT'S WATER USE WOULD BE INCONSISTENT WITH THE WATER MASTER PLAN.
 - d. THE APPLICANT'S WATER USE WOULD BE OF AN INSUFFICIENT ECONOMIC BENEFIT TO WARRANT THE LARGE USE OF WATER.
 - e. THE APPLICANT HAS NOT AGREED TO USE OF RECYCLED WATER TO OFFSET AT LEAST 30% OF ITS WATER USE OR SUCH OTHER PERCENTAGE AS THE DIRECTOR DETERMINES IS THE MAXIMUM USE OF

RECYCLED WATER THAT IS WARRANTED FOR THE APPLICANT'S FACILITY.

4. IN MAKING THE DETERMINATION WHETHER TO ALLOW AN APPLICANT THAT IS PROJECTED TO USE 500,000 GALLONS PER DAY OF WATER OR MORE TO CONNECT AND BE SERVED BY THE CITY PUBLIC WATER SYSTEM, THE DIRECTOR SHALL CONSIDER ALL OF THE FOLLOWING:
 - a. THE AVAILABILITY OF WATER TO WHICH THE CITY HAS LEGAL RIGHTS AND THE PHYSICAL ABILITY TO USE THAT IS NOT NEEDED TO SERVE EXISTING CUSTOMERS AND ANTICIPATED DEMAND AS SET OUT IN THE WATER MASTER PLAN.
 - b. WHETHER THE PROPOSED WATER USE IS CONSISTENT WITH THE WATER MASTER PLAN.
 - c. ECONOMIC IMPACT STUDIES SUBMITTED BY THE APPLICANT THAT PROVIDE EVIDENCE OF THE PROJECTED IMPACT RESULTING FROM THE PROPOSED WATER USE TO THE CITY'S ECONOMY AND THE ECONOMIC VALUE OF THE WATER TO BE USED EXPRESSED IN DOLLARS/GALLON OF WATER.
 - d. WHETHER THE PROPOSED WATER USE WILL SUPPORT A KEY INDUSTRY CONSISTENT WITH THE CITY'S ECONOMIC DEVELOPMENT AND EDUCATION STRATEGIC PLAN.
 - e. THE IMPACT OF THE WATER USE TO THE CITY'S DESIGNATION OF ASSURED WATER SUPPLY UNDER A.R.S. SEC. 45-576.

- f. ANY EXTRAORDINARY CONSERVATION TECHNIQUES AND TECHNOLOGIES PROPOSED BY THE APPLICANT IN THE WATER CONSERVATION PLAN.
- g. WHETHER THE APPLICANT WILL CONVEY OR ASSIGN TO THE CITY ALL LEGAL RIGHTS TO A PHYSICAL WATER SUPPLY THAT WILL FULLY OFFSET THE APPLICANT'S PROJECTED WATER USE, WHICH WATER SUPPLY, WHEN ASSIGNED TO THE CITY, WILL MEET ALL REQUIREMENTS OF A.R.S. SEC. 45-576 AND THE REGULATIONS ADOPTED BY DWR [ARIZONA DEPARTMENT OF WATER RESOURCES] TO IMPLEMENT THAT SECTION.
- h. ANY OTHER INFORMATION THE DIRECTOR DEEMS RELEVANT.

- 5. A LARGE WATER USER WHO BECOMES A CUSTOMER OF THE CITY IS SUBJECT TO ALL TERMS AND CONDITIONS OF SERVICE AS SPECIFIED BY THIS CHAPTER 37.

D. AS A TERM AND CONDITION OF CONTINUED WATER SERVICE FOR A LARGE WATER USER, BOTH OF THE FOLLOWING MUST OCCUR:

- 1. A LARGE WATER USER MUST SUBMIT AN UPDATED WATER CONSERVATION PLAN TO THE DIRECTOR EVERY FIVE YEARS.
- 2. THE DIRECTOR DETERMINES, IN THE DIRECTOR'S SOLE AND ABSOLUTE DISCRETION, THAT THE UPDATED WATER CONSERVATION PLAN DEMONSTRATES THAT THE LARGE WATER USER WILL USE WATER AS EFFICIENTLY AS IS PRACTICABLE AND ENSURE THAT WATER IS NOT WASTED.

E. TERMS AND CONDITIONS OF SERVICE FOR LARGE WATER USERS.

1. IN ADDITION TO THE OTHER TERMS AND CONDITIONS OF WATER SERVICE AS SPECIFIED BY THIS CHAPTER 37, THE FOLLOWING ARE TERMS AND CONDITIONS OF SERVICE OF A LARGE WATER USER:
 - a. THE LARGE WATER USER MAY NOT IN ANY YEAR USE WATER IN EXCESS OF 120% OF THE AMOUNT SET OUT IN THE APPLICANT'S SUSTAINABLE WATER SERVICE APPLICATION, AS THAT APPLICATION HAS BEEN APPROVED BY THE DIRECTOR.
 - b. THE LARGE WATER USER MUST IMPLEMENT, OPERATE, AND MAINTAIN ALL USE OF RECYCLED WATER, TECHNIQUES, AND TECHNOLOGIES CONSISTENT WITH THE LARGE WATER USER'S MOST RECENTLY APPROVED WATER CONSERVATION PLAN.
2. IN ADDITION TO ANY OTHER SANCTION AVAILABLE UNDER THIS CHAPTER, THE DIRECTOR MAY SUSPEND WATER SERVICE TO A LARGE WATER USER WHO VIOLATES THIS SUBSECTION. THE DIRECTOR WILL PROVIDE NOTICE OF ANY DISCONTINUATION OF WATER SERVICE AS PROVIDED BY SECTION 37-88(B). IF WATER SERVICE IS SUSPENDED UNDER THIS SUBSECTION, THE WATER SERVICE WILL NOT BE RESTORED UNTIL THE LARGE WATER USER HAS COME INTO COMPLIANCE WITH THE REQUIREMENTS OF THIS SUBSECTION.

SEC. 37-52.05. ADDITIONAL REMEDIES.

A. A LARGE WATER USER WHO VIOLATES ANY PROVISION OF THIS DIVISION, IN ADDITION TO ANY OTHER SANCTION AUTHORIZED BY THIS CHAPTER, IS SUBJECT TO A CIVIL SANCTION OF NOT MORE THAN THE FOLLOWING AMOUNTS:

1. TWO HUNDRED PERCENT OF THE CHARGES FOR WATER USED, OR ESTIMATED TO HAVE BEEN USED, IN VIOLATION OF THIS DIVISION, IF THE VIOLATION IS THE LARGE WATER USER'S FIRST VIOLATION OF THIS DIVISION AND THE VIOLATION CONTINUED FOR LESS THAN ONE YEAR.
2. FIVE HUNDRED PERCENT OF THE CHARGES FOR WATER USED, OR ESTIMATED TO HAVE BEEN USED, IN VIOLATION OF THIS DIVISION, IF THE VIOLATION IS THE LARGE WATER USER'S SECOND VIOLATION OF THIS DIVISION OR IF THE VIOLATION CONTINUED FOR MORE THAN ONE YEAR BUT LESS THAN TWO YEARS.
3. ONE THOUSAND PERCENT OF THE CHARGES FOR WATER USED, OR ESTIMATED TO HAVE BEEN USED, IN VIOLATION OF THIS DIVISION, IF THE VIOLATION IS THE LARGE WATER USER'S THIRD VIOLATION OF THIS DIVISION OR IF THE VIOLATION CONTINUED FOR MORE THAN TWO YEARS BUT LESS THAN THREE YEARS.
4. TWO THOUSAND PERCENT OF THE CHARGES FOR WATER USED, OR ESTIMATED TO HAVE BEEN USED, IN VIOLATION OF THIS DIVISION, IF THE VIOLATION IS THE LARGE WATER USER'S FOURTH OR MORE VIOLATION OF THIS DIVISION OR IF THE VIOLATION CONTINUED FOR MORE THAN THREE YEARS.

B. IF, AS A RESULT OF A LARGE WATER USER'S VIOLATION OF THIS DIVISION OR STATE LAW, THE CITY IS ASSESSED A CIVIL PENALTY OR IS ORDERED TO TAKE REMEDIAL ACTION BY DWR [ARIZONA DEPARTMENT OF WATER RESOURCES], THE LARGE WATER USER MUST PAY TO THE CITY THE AMOUNT OF THE CIVIL PENALTY, ALONG WITH ALL COSTS AND EXPENSES INCURRED BY THE CITY DUE TO THE LARGE WATER USER'S VIOLATION.

C. THE DIRECTOR MAY ISSUE A REQUEST FOR COMPLIANCE, NOTICE OF VIOLATION, AND CIVIL CITATION FOR A VIOLATION OF THIS DIVISION. CIVIL CITATIONS WILL BE ISSUED AND PROSECUTED IN ACCORDANCE WITH THE LOCAL RULES OF PRACTICE AND PROCEDURES OF THE PHOENIX CITY COURT.

SECTION 3. It is hereby declared to be the intention of the City Council that the sections, paragraphs, sentence, clauses, and words of the City Code are severable, and if any word, clause, sentence, paragraph, or section of the City Code is declared unconstitutional or invalid for any reason by the valid judgment or decree of any court of competent jurisdiction, such unconstitutionality or invalidity shall not affect any of the remaining words, clauses, sentences, paragraphs, or sections of the City Code, since the same would have been enacted by the City Council without the incorporation in the City Code of any such unconstitutional or invalid word, clause, sentence, paragraph, or section.

PASSED by the City Council of the City of Phoenix this ____ day of _____,
2024.

MAYOR

ATTEST:

Denise Archibald, City Clerk

APPROVED AS TO FORM:
Julie M. Kriegh, City Attorney

BY: _____

REVIEWED BY:

Jeffrey Barton, City Manager
CLC;2423308;LF24-0459;3-6-24