

ORDINANCE NO. (O)12-14

AN ORDINANCE OF THE MAYOR AND COUNCIL OF THE TOWN OF ORO VALLEY, ARIZONA, AMENDING CHAPTER 15, WATER CODE OF THE ORO VALLEY TOWN CODE, SECTIONS 15-12-1 THROUGH 15-12-4 AND ADDING SECTION 15-12-5; AND SECTIONS 15-13-1 THROUGH 15-13-2 AND REPEALING ALL RESOLUTIONS, ORDINANCES, AND RULES OF THE TOWN OF ORO VALLEY IN CONFLICT THEREWITH; AND PRESERVING THE RIGHTS AND DUTIES THAT HAVE ALREADY MATURED AND PROCEEDINGS THAT HAVE ALREADY BEGUN THEREUNDER.

WHEREAS, on March 25, 1996, the Town Council approved Ordinance No. (O)96-13, which adopted that certain document entitled Chapter 15, Water Code of the Oro Valley Town Code; and,

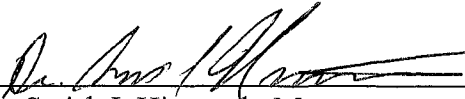
WHEREAS, proposed changes to be made to Chapter 15, Water Code of the Oro Valley Town Code, primarily include language that protected main line extension agreements may be executed by the Water Utility Director on behalf of the Town. Additionally, these protected main line extension agreements may be administered for a period of 15 years, may include provisions for oversizing of facilities, and may include protection of facilities constructed by the Water Utility.

NOW, THEREFORE, BE IT ORDAINED by the Mayor and the Council of the Town of Oro Valley, Arizona that:

1. The certain amended Chapter 15, Water Code of the Oro Valley Town Code, including Sections 15-12-1 through 15-12-5 and Sections 15-13-1 through 15-13-2, which amendments are attached hereto as Exhibit "A" with additions shown in ALL CAPS and deletions in strikethrough, is hereby adopted.
2. All Oro Valley Ordinances, Resolutions, or Motions and parts of Ordinances, Resolutions or Motions of the Council in conflict with the provisions of this Ordinance are hereby repealed.
3. If any section, subsection, sentence, clause, phrase or portion of this Ordinance 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.

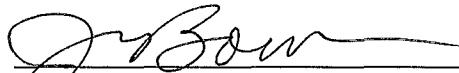
PASSED AND ADOPTED by the Mayor and Town Council of the Town of Oro Valley, Arizona 19th day of September, 2012.

TOWN OF ORO VALLEY



Dr. Satish I. Hiremath, Mayor

ATTEST:




Julie K. Bower, Town Clerk

Date: 9/20/12

PUBLISH: DAILY TERRITORIAL
SEPTEMBER 24, 25, 26, 27, 2012

APPROVED AS TO FORM:



Tobin Rosen, Town Attorney

Date: 9/19/12

POSTED: 9/24/12 - 10/24/12

EXHIBIT "A"

Article 15-12
CONSTRUCTION OF FACILITIES OTHER THAN BY TOWN

Sections:

- 15-12-1 Approval of Construction of Facilities Other than By Town WATER UTILITY
- 15-12-2 Approval of Construction Plans and Inspection
- 15-12-3 Line Extension Agreement
- 15-12-4 LINE EXTENSION Construction Agreements; WITH Protected Facilities
- 15-12-5 CONSTRUCTION OF PROTECTED FACILITIES BY THE WATER UTILITY

15-12-1 Approval of Construction of Facilities Other than By Town WATER UTILITY

The Town Council and/or the Town of Oro Valley Water Utility Director, at its discretion and option, may permit the construction of water facilities by parties- A PARTY other than the Town through the use of line extension agreements. The facilities shall be constructed at the sole expense of the applicantPARTY. THESE FACILITIES MAY BE CONSTRUCTED within ROADWAYS, avenues, alleys and WITHIN right-of-ways pursuant to grants-ANDdef easements and subject to payment of any excavation, permits, or other fees OR CHARGES, which are due the Town AND ITS WATER UTILITY. Facilities shall include, but are not limited to, wells, pumps, storage tanks and reservoirs, WATER mains, valves, HYDRANTS, meters and other appurtenances to the water system both within THE PARTY'San applicant's proposed development as well as outside the development. It shall be any such configuration of the facilities deemed necessary or desirable by the Town Water Utility to MEET DESIGN REQUIREMENTS AND serve the new development. All titles, rights, or interests IN THE FACILITIES shall be transferred to the Town of Oro Valley upon acceptance of fully constructed improvements. Private contractors-THE PARTY shall provide the TownWater Utility with the minimum following information: Approved construction plans (WATER PLAN); approval to construct issued by the Pima County Department of Environmental Quality; itemized invoices of the actual costs to construct; lien releases; proof of insurance; and, upon completion of construction, as-built plans of the project, RECORDED EASEMENTS and applicable testing and inspection documentation.

(00-05, Amended, 02/02/2000; 96-13, Enacted, 03/25/1996)

15-12-2 Approval of Construction Plans and Inspection

~~Prior to issuance of a grading permit,~~ Plans for construction of water facilities to be constructed by parties other than by the Town WATER UTILITY -shall be provided by the applicantPARTY, certified by a registered professional engineer, and approved by the Water Utility Director OR THE DIRECTOR'S DESIGNEE. The applicantPARTY shall be responsible to pre-pay construction WATER plan review fees AND CONSTRUCTION INSPECTION FEES as directed by the Town Water Utility. CONSTRUCTION OF WATER FACILITIES SHALL NOT START UNTIL A GRADING PERMIT AND/OR RIGHT-OF-WAY PERMIT HAS BEEN ISSUED. The

construction of water facilities, as authorized and approved by the Town WATER UTILITY shall be regularly inspected by the Water Utility Director, or an ITS authorized agent, and shall comply with the engineering, construction, material, and installation standards adopted by the Town of Oro Valley.

(00-26, Amended, 08/16/2000; 00-05, Amended, 02/02/2000; 96-13, Enacted, 03/25/1996)

15-12-3 Line Extension Agreements

A line extension agreement for water facilities constructed in accordance with Articles 15-11 and 15-12, shall be prepared by the Water Utility Director, or THE DIRECTOR'S DESIGNEE an authorized agent, and shall be executed by the applicant-PARTY prior to final-acceptance-THE START of CONSTRUCTION, the-project. THE WATER UTILITY DIRECTOR MAY EXECUTE ANY LINE EXTENSION AGREEMENT ON BEHALF OF THE TOWN SUBJECT TO THE REQUIREMENTS OF SECTIONS 15-12-4 AND 15-13-3.

LINE EXTENSION AGREEMENTS ~~The agreement shall contain no refund provisions with the exception of applicable oversizing refunds. The agreement shall, at a minimum, identify the applicant~~PARTY; the project; the engineer's plan number; fees; oversizing refunds (if applicable); engineering requirements; inspection authority; construction procedures; indemnity, dedication of EASEMENTS AND facilities; description of subject property; cost estimate details for on-site and off-site facilities; cost estimate detail for facility oversizing; AND PROTECTED MAIN FACILITIES IF APPLICABLE; ~~meter installation calculations; impact fee calculations;~~ and A certificate of approval to construct the project issued by the Arizona Department of Environmental Quality and/or the Pima County Department of Environmental Quality. The Town Attorney shall review and approve all line extension agreements prior to execution. ~~The Water Utility Director may execute an agreement on behalf of the Town if there is no financial commitment to the Town for protected facilities and/or oversizing refunds. All agreements containing such provisions shall be subject to final approval by the Town Council.~~

(00-05, Amended, 02/02/2000; 96-13, Enacted, 03/25/1996)

15-12-4 Construction-LINE EXTENSION Agreements WITH; Protected Facilities

The general policy of the Town regarding extension of the water system through private contracts is that all costs associated with construction of water system facilities needed to serve a new customer OR PROPERTY, shall be paid by that-customer PARTY DEVELOPING THE PROPERTY. However, in some cases facilities are installed in such a manner as to provide MAKE water service AVAILABLE to a property that did not participate in the original installation of the facility, therefore; the participating party may be eligible for a refund of a portion of the construction costs through the collection of a protected facilities fee-CHARGE levied against ANY AND all non-participating applicants-PARTY(IES) WHO REQUEST for-service from AND WILL CONNECT TO the PROTECTED facility.

A. Definitions.

Agreement (or) Protected Facility Agreement: that portion of the "Agreement for Construction of Water Facilities Under Private Contract" pertaining to the protected facility program.

~~**Fees (or) Protected Facility Charges:** those charges levied on a non-participating applicant for water service from a connection onto a protected facility.~~

~~**Non-Participating Party:** applicants for water service from the protected facility that did not participate in the actual facility installation costs. DEVELOPERS, PROPERTY OWNERS, AND/OR OTHER APPLICANTS FOR WATER SERVICE FROM THE PROTECTED FACILITY THAT DID NOT PARTICIPATE IN THE ORIGINAL INSTALLATION AND CONSTRUCTION COSTS OF THE PROTECTED FACILITIES.~~

~~**Participating Party:** DEVELOPERS, PROPERTY OWNERS, AND/OR OTHER APPLICANTS any property owner sharing in the construction costs of water facility installation designated as a protected facility. Note: When an applicant requests a protected facility, all properties owned by the applicant that could be served by the new facility will be considered participating parties.~~

~~**Protected Facility:** any water facility installed by private contract in such a manner as to provide water service to any property adjacent to the water facility that did not participate in the costs of the facility.~~

~~**PROTECTED FACILITY CHARGES:** THE AMOUNT OF THE FEE REQUIRED TO BE PAID BY A PARTICIPATING PARTY FOR WATER SERVICE FROM A CONNECTION TO A PROTECTED FACILITY.~~

~~**Refunds:** reimbursement of construction costs on protected facilities TO THE PARTICIPATING PARTY from the collection of Protected Facility Charges LESS THE PARTICIPATING PARTY'S SHARE OF THE PROTECTED FACILITIES CHARGES.~~

B. Policy. Any extension of the Town's water distribution system, installed by private contract, that may potentially provide water service to properties which have not participated in the installation costs, will be designated as a "protected facility," WHEN REQUESTED BY THE PARTICIPATING PARTY. Whenever a water facility is installed as a protected facility, it will be the policy of the Town to refund a portion of the construction costs to the party that financed the original water facility installation through the collection of a protected facility fee, levied against all non-participating applicants for service from the facility. ~~The rate of this fee will be set at fifty percent (50%) of the current installation cost for the minimum size facility installation, based on~~

~~the lineal footage of the non-participating property fronting the protected facility. This agreement will remain in effect until either the full sum, less the participating parties' pro-rata share, has been refunded or for a period of ten (10) years from the effective date of the agreement. Any balances remaining unpaid after this time shall be considered cancelled, and the Town shall be fully discharged from any further obligation under the agreement.~~

C. THE WATER UTILITY DIRECTOR MAY EXECUTE LINE EXTENSION AGREEMENTS WITH PROTECTED FACILITIES IF FUNDS ARE EXPECTED TO BE AVAILABLE FROM PAYMENTS FROM NON-PARTICIPATING PARTY(IES). THE TOWN AND/OR ITS WATER UTILITY WILL NOT CONVEY OR TRANSFER ANY REFUNDS TO THE PARTICIPATING PARTY UNDER ANY LINE EXTENSION AGREEMENT THAT INCLUDES PROTECTED FACILITIES UNLESS AND UNTIL THE REQUIRED PAYMENTS ARE COLLECTED AND RECEIVED FROM A NON-PARTICIPATING PARTY.

D. ~~Fee Calculation.~~ THE PROTECTED FACILITIES CHARGES WILL BE SET AT FIFTY PERCENT (50%) OF THE PER FOOT COST, INCLUDING ANY APPURTENANCES SUCH AS VALVES AND HYDRANTS, AT THE TIME OF CONSTRUCTION FOR THE MINIMUM SIZE FACILITY INSTALLATION AND BASED ON THE LINEAL FOOTAGE OF THE NON-PARTICIPATING PROPERTY FRONTING THE PROTECTED FACILITY. ~~An illustration of the fee calculation is as follows: if the average cost for construction of a six (6) inch water line in an undeveloped area is fifteen dollars (\$15.00) per lineal foot, the protected facility fee would be seven dollars and fifty cents (\$7.50) per lineal foot of frontage to the main. This fee-CHARGE will be calculated based on current-~~THE construction costs AT THE TIME OF CONSTRUCTION AS SET FORTH IN THE LINE EXTENSION AGREEMENT. The fee-CHARGE for other protected facilities (NOT PIPELINES AND APPURTENANCES) will be determined by the Utility Director OR THE DIRECTOR'S DESIGNEE based on the specific facility and the benefit realized by non-participating parties.

E. THIS AGREEMENT WILL REMAIN IN EFFECT UNTIL EITHER THE FULL SUM, LESS THE PARTICIPATING PARTY'S(IES') SHARE OF THE PROTECTED FACILITIES CHARGES BASED ON THEIR FRONTING FOOTAGE, HAS BEEN REFUNDED OR FOR A PERIOD OF FIFTEEN (15) YEARS FROM THE EFFECTIVE DATE OF THE AGREEMENT. ANY BALANCES REMAINING UNPAID AFTER THIS TIME SHALL BE CONSIDERED CANCELLED, AND THE TOWN SHALL BE FULLY DISCHARGED FROM ANY FURTHER OBLIGATIONS AND PAYMENT OF REFUNDS UNDER THE AGREEMENT.

DF. Procedures.

1. Designation of water facilities as protected.

a. The Utility Director OR THE DIRECTOR'S DESIGNEE will have the responsibility of determining whether a facility should be ~~classified~~ DESIGNATED as protected based on a review of the WATER plan(s).

b. The Utility Administrator-DIRECTOR OR THE DIRECTOR'S DESIGNEE will then initiate the "Agreement for Construction of Water Facilities Under Private Contract" indicating that portion, if any, of the facility installation DESIGNATED AS A PROTECTED FACILITY AND relevant to the protected facility section of the agreement.

c. The Utility Director OR THE DIRECTOR'S DESIGNEE will be responsible for ensuring that all participating properties are noted on the WATER plan(s) and that the plan(s) clearly indicateS all protected facilities.

d. The Utility Director OR THE DIRECTOR'S DESIGNEE will calculate the total refund due based on the length of pipeline specified as protected facilities on the plans and current construction costs.

2. Refunds from non-participating connections to protected facilities.

a. Upon completion and acceptance of the water facilities installed pursuant to a protected facility agreement, the participating party may be eligible for refund of that portion of the cost that is not directly attributable to providing water service solely to participating properties.

b. When application is received by the Town for a water service or water main connection to a protected facility by a non-participating property benefiting from the facility, the Town will collect the appropriate fees THE PROTECTED FACILITIES CHARGES. These CHARGES ~~sums, or portions thereof,~~ shall be refunded to the participating party ~~a pro-rata share of the refundable portion of the cost of the facility~~ based upon PER FOOT COSTS AT THE TIME OF CONSTRUCTION, FRONTING FOOTAGE AND the "as-built" plans of the protected facility installed.

c. In no event will the aggregate amount refunded exceed the full, authorized refundable portion of the cost of the water facility installed. ~~In the event the full authorized amount has not been refunded within ten (10) years from the date of the agreement, any balances remaining unpaid shall be considered cancelled, and the Town shall be fully discharged from any further obligations under the agreement.~~

d. The WATER UTILITY ~~Town~~ will maintain an accounting record of each protected facility agreement. Within this record, all protected facility payments and refunds will be monitored and logged. Protected facilities fees will continue to be collected until either the total refund amount

has been collected or for a period of ~~ten (10)~~-FIFTEEN (15) years from the effective date of the agreement.

e. Waiver of protected facility ~~fees~~CHARGES can only be granted by the party that originally financed the installation of the protected facility. The WATER UTILITY ~~Town~~ will require a notarized letter granting the waiver prior to waiving the fee FROM THE PARTICIPATING PARTY(IES).

3. Collection of protected facility ~~fees~~-CHARGES from non-participating properties.

a. As early in the platting and/or plan review process as is practical, the Water Utility Director OR THE DIRECTOR'S DESIGNEE will inform THE non-participating applicants PARTY APPLYING FOR -for WATER service that a protected facility ~~fee~~CHARGE is required, whenever their property has frontage on a protected facility and their WATER plan(s) calls for service and/or water main connections to that PROTECTED facility.

b. At the time of WATER plan-~~approval~~REVIEW FOR A NON-PARTICIPATING PARTY, an estimate of the applicable protected facility ~~fee~~-CHARGES will be calculated based on the ~~current~~ front footage-fee. Payment of this ~~fee~~-CHARGE will be required prior to installation of meters.

G. ALL PROPERTY OWNED BY THE PARTICIPATING PARTY(IES) THAT COULD BE SERVED BY THE PROTECTED FACILITIES WILL BE CONSIDERED PARTICIPATING PARTIES

H. IF AN APPLICANT FOR WATER SERVICE CONNECTS TO THE END OF A PROTECTED FACILITY AND THERE IS NO FRONTING FOOTAGE FOR THE APPLICANT'S PROPERTY FOR THE PROTECTED FACILITY, NO PROTECTED FACILITY CHARGES WILL BE ASSESSED TO OR COLLECTED FROM THE APPLICANT.

15-12-5 CONSTRUCTION OF PROTECTED FACILITIES BY THE WATER UTILITY

THE WATER UTILITY IS AUTHORIZED AND MAY CHOOSE TO PROTECT FACILITIES IT CONSTRUCTS THAT ARE NOT PAID FOR BY WATER DEVELOPMENT IMPACT FEES.

((O)07-41, Amended, 11/07/2007; 98-28, Added, 07/15/1998)

Article 15-13
WATER SYSTEM CAPACITY REQUIREMENTS, OVERSIZING, REFUNDS FOR
OVERSIZED CAPACITY

Sections:

- 15-13-1 Water System Capacity Requirements
- 15-13-2 Oversizing Refunds

15-13-1 Water System Capacity Requirements

~~The Director of the Town Water Utility~~ DIRECTOR OR THE DIRECTOR'S DESIGNEE may require ~~an applicant development (participating property)~~ THE PARTICIPATING PARTY to install "on-site" or "off-site" water facilities of a size greater than is required to provide service to ~~applicant's~~ THE development OR PROPERTY.

(96-13, Enacted, 03/25/1996)

15-13-2 Oversizing Refunds

A. ~~The Town Utility~~ may require the oversizing of transmission lines that extend the water lines to the subject property. ~~The Town Utility~~ will refund the oversizing of a transmission line by reimbursing the ~~contractor/developer~~ PARTICIPATING PARTY for the ~~material~~ CONSTRUCTION cost difference between what was required to deliver water to the subject property and what was requested to enhance the water system for future growth. Should a distribution main be requested to be oversized BY THE UTILITY, the ~~Town Utility~~ would use the same manner of refund as with an oversized transmission line.

B. THE WATER UTILITY DIRECTOR MAY EXECUTE A LINE EXTENSION AGREEMENT WITH OVERSIZING OF FACILITIES ON BEHALF OF THE TOWN FOR OVERSIZING REFUNDS.

(96-13, Enacted, 03/25/1996)