

RESOLUTION NO. 2007-02

PINETOP WATER COMMUNITY FACILITIES DISTRICT
RESOLUTION APPROVING RULES AND REGULATIONS

WHEREAS, the Pinetop Water Community Facilities District was formed pursuant to Arizona Revised Statutes Section 48-701 et. seq. for purposes of acquiring and operating the assets of the Pinetop Water Company, and

WHEREAS, the Pinetop Water Community Facilities District is desirous of adopting and implementing rules and regulations governing water connections, guarantee deposits and use of the water provided by the District.

THEREFORE, BE IT RESOLVED THAT:

The District adopts the following rules and regulations governing the use of its water system and connections thereto;

RULES AND REGULATIONS

ARTICLE I

GENERAL CONDITIONS GOVERNING THE BOARD OF DIRECTORS; WATER CONNECTIONS, GUARANTEE DEPOSITS AND USE OF WATER

Section 1. Functions of the Pinetop Water Community Facilities District Board of Directors; Requirements of Board Members; Removal of Board Members

A. It shall be the duty of the Pinetop Water Community Facilities District Board of Directors (the "Board") to control and manage all matters pertaining to the water system of the Pinetop Water Community Facilities District (the "District") in conformity with all applicable federal, state, county, and local laws, regulations included within this resolution, and any other resolutions of the District. The Board shall have general supervision over the District's water system, all real and personal property connected with the water system, and the employees of the District.

B. In addition to the requirements stated in A.R.S. § 48-711(B), a Board Member must reside within the boundaries of the District during his or her entire term of office.

C. Because the participation of the Board Members is necessary and helpful to carry out the duties of the District in the best interest of the citizens of the District, consistent attendance by Board Members is of the utmost importance. For this reason, the following attendance guidelines shall apply to the Board Members:

1. Board members may be removed for Inadequate Attendance. Inadequate Attendance is considered absence from either (i) three consecutive meetings; or (ii) a total of six meetings in one year, calculated from the date of appointment to each anniversary date thereof.

2. If the above-described absences occur without prior notifications to the Board, such absences will be deemed to be automatic resignation from the board and the Town Council will be notified of the vacancy.

3. If the above-described absences occur with prior notification to the Board, the Board Member in violation of the attendance policy may, by request, meet with the members of the Board to discuss the reasons for the absence in a regularly scheduled meeting. If it is then agreed, upon a majority vote of the members, that such absences are not likely to reoccur and that the absences have not caused undue hardship to the Board's duties, the Board may, in its sole and absolute discretion, allow the Board Member to remain on the board to fulfill his or her term. If the Board determines to the contrary, the board shall notify the member of his/her removal and the Town Council shall be notified of the vacancy.

Section 2. Conditions for connections made to District water system.

It shall be unlawful for any person to connect to the water line or lines of any portion of the District's water system unless the person has first made proper application to connect to the water system, has paid all fees required by the District to accompany the application and the application has been approved by the proper District authorities. All connections to the District shall be made pursuant to any rules, regulations or resolutions pertaining to the payment of connection fees. All connections shall be made in compliance with any specifications adopted by the District (and the current edition of the Uniform Plumbing Code and subject to inspection by the District, its agents and assigns, at the time of connection). A water connection shall be deemed to have occurred when there has been a connection to a water line of the District or tributary line, regardless of the terminus of said connection.

Section 3. Property Owner Application for Service.

A. Only the record title holder of the property (the "Property Owner") to be served by the District may request water service.

B. The Property Owner shall complete an application for service, in person or by first-class mail to the District at its office, and at that time, shall provide a guarantee deposit, as set forth in Section 4.

C. The District may reject any application for service when, and so long as, the applicant is delinquent in the payment of bills incurred for service previously supplies by the District at any location or under a previous name.

Section 4. Guarantee Deposits.

A. A deposit not in excess of two months normal charge will be required of a Property Owner; however, the District may require the Property Owner to increase the deposit to twice the amount of any monthly bill rendered thereafter.

B. The Property Owner in whose name the deposit is made shall be responsible for timely payment of all bills incurred in connection with the service furnished. Only the Property Owner may apply for services in his own name.

C. The guarantee deposit receipt is not negotiable and can be redeemed at the District's office, or mailed to the customer.

D. When services are discontinued and all bills are paid, the deposit will be refunded. The Property Owner may request the deposit refunded sooner if the bill has been paid on time for twelve (12) consecutive months.

E. Where the District finds that the request for a refund of guarantee deposit is questionable, the District may require the applicant to produce the deposit

F. Upon discontinuance of service for the nonpayment of bills, the deposit shall be applied by the District toward the settlement of the account, however, the District does not waive the right to exert any claim it may have for the delinquency against any person or customer and a lien will be placed on the property until the final bill is paid in full.

Section 5. Installation of Meters.

The District requires a meter be installed at the property line, or at the District's option, on the Property Owner's property or in a location mutually agreed upon by the District and the Property Owner. The District and Property Owner shall agree to the location of the meter in writing. If the meter is to be located on the Property Owner's property, the District retains the right to cross such property in order to service and read the meter and the District and the Property Owner shall execute an Easement Agreement in the form provided for by the District. The Property Owner is responsible for their line from the meter, which includes the spud on the Property Owner's side of the meter, to their home. The Property Owner must have a valve between the meter and their home before the service is turned on.

Section 6. Access to Water System.

Only the District may tap the water main and set the meter. If a customer wished to access the system, the necessary work to install and connect the meter shall be conducted by the District.

Section 7. Access to Premises.

Duly authorized agents of the District shall have access at all times to the premises of the Property Owner for the purpose of installing or removing the District's property, inspecting piping, or for any other purpose in connection with the District's service and facilities.

Section 8. Construction Specifications.

A. All mains and distribution lines to be constructed shall comply with and conform to the specifications of the District and all applicable rules and regulations of the Arizona Department of Environmental Quality in effect at the time of construction.

B. All persons presently on the District water system and those wishing to connect to the water system must install a valve on the service connection to their property.

Section 9. Ownership and Maintenance of Water Meters.

The water meters required to be installed by authorized personnel of the District prior to connecting to the line of the District are District owned water meters. The District will operate and maintain all said water meters.

Section 10. Connections to Water System.

Each residence, apartment unit, rental unit, business or other improvement shall have a separate water meter. Master meters may be allowed at the discretion of the District. A Master meter will be billed in accordance with the current District Tariff. Each water meter shall be billed separately by the Water District.

ARTICLE II

FEES AND CHARGES, ACCOUNTING AND REPORTING

Section 1. Minimum Charge.

A. The initial or minimum charge shall be as set forth in the rate schedule adopted by the District.

B. Excess water will be billed at the District's authorized rates.

C. If service is to be established at the same location for a Property Owner who has ordered a service disconnection within the preceding twelve month period, or for any member of such Property Owner's household, a non-refundable charge may be required as a precondition to the establishment of such service, such amount as set forth in the authorized water rates. A fee equal to the number of months off the system times the current minimum plus tax will also be required.

Section 2. Billing and Collecting.

A. Bills will be rendered at least monthly; the District may, however, vary the dates or lengths of the billing period.

B. Bills for water use will be computed in accordance with the District's authorized rate schedule.

C. Charge for service commences when the connection is made, whether water is used or not.

D. Bills are due when rendered and delinquent twenty days thereafter. After the delinquent date, the District may, upon ten days notice, discontinue service to the Property Owner whose bill is delinquent.

E. Failure to receive bills or notices shall not prevent such bills from becoming delinquent nor relieve the Property Owner of his or her obligation to pay such bills.

F. If the Property Owner believes the bill to be in error the Property Owner shall present their claim to the District in writing before the bill becomes delinquent.

G. Service that is disconnected for delinquency of bills will be restored only after all due bills are paid in full, re-deposit made if required, and a service charge, as set forth in the authorized rate schedule, paid for each service re-established.

Section 3. Change of Occupancy.

A. Except as set forth in Article II, Section 2(D), not less than three days notice must be given to the District to discontinue service or to change occupancy.

B. The outgoing Property Owner shall be responsible for all water consumed up to the time of actual departure or the time specified for departure, whichever is the longest.

Section 4. Connection Fees.

The connection non-refundable fees to be paid by a Property Owner for the initiation of a new service shall be as set forth on the approved rates of the District, as amended from time to time. The charges may be changed by the Board in the same manner as water rates pursuant to Arizona Revised Statutes.

ARTICLE III

DISTRICT'S RESPONSIBILITIES AND LIABILITIES; CONSUMER RESPONSIBILITIES

Section 1. The District's Responsibilities and Liabilities.

A. The District does not assume the responsibility of inspecting the Property Owner's piping or apparatus and will not be responsible therefor.

B. The District reserves the right to refuse service unless the Property Owner's lines or piping are installed in such manner as to prevent cross connections or backflow.

C. When possible, the Property Owner will be notified of any anticipated interruption of service.

D. The District shall not be responsible for negligence of third persons or forces beyond the control of the District resulting in any interruption of service.

E. At the request of a Property Owner, a District representative will make a service call to the Property Owner's residence or place of business. There will be no charge to the Property Owner for such a service call if the problem necessitating the service call is determined to be the District's responsibility. There will be a charge per the current tariff added to the Property Owner's next bill for such a service call if the problem necessitating the service call is found to be the Property owner's responsibility. The District will be solely responsible for determining whether a charge for a service call is required.

Section 2. Consumer's Responsibilities.

A. If the Property Owner's piping on the Property Owner's premises is so arranged that the District is called upon to provide extra services, each additional service to the Property Owner's property will be considered as a separate and individual account.

B. The Property Owner's piping and apparatus shall be installed and maintained by the Property Owner, at the Property Owner's expense.

C. The Property Owner shall safeguard the District's property placed on the Property Owner's premises and shall permit access to it only by the authorized representatives of the District. Except in the event of any emergency, no Property Owner shall, or direct another person to, initiate or discontinue water service from the District's valve designated to provide service to any Property Owner.

D. In the event that any loss or damage to the property of the District or any accident or injury to persons or property is caused by or results from the negligence or wrongful act of the consumer, his agents, or employees, the cost of necessary repairs or replacements shall be paid by the Property Owner to the District and any liability otherwise resulting shall be assumed by the Property Owner.

E. The amount of such loss or damage or the cost of repairs may be added to the Property Owner's bill and if not paid, service may be discontinued by the District.

F. During a critical water condition, as determined by the District or a public agency, Property Owners shall use water only for those purposes specified by the District. Disregard for this rule shall be sufficient cause for refusal or discontinuance of service.

G. The District may discontinue its service without notice for the following additional reasons:

(1) To prevent fraud or abuse.

(2) The Property Owner's willful disregard of or refusal to comply with these Rules and Regulations or such special rules as may be adopted by the District with the approval of the Board of Directors.

(3) Emergency repairs.

(4) Insufficiency of water supply due to circumstances beyond the District's control.

(5) Legal processes.

(6) Direction of public authorities.

(7) Strike, riot, fire, flood, accident or any unavoidable cause.

(8) Unauthorized connections.

(9) The District may suspend the service or refuse service to any Property Owner who tampers with the property of the District.

ARTICLE IV

EASEMENTS

All Property Owners and Developers (as defined in Article VI, Section 1) requesting to connect improvements on their property to the District's water system shall grant to the District all easements required by the District to provide water service to, across or on the property for which the connection is being sought. Any party not granting such required easements shall not be granted a connection by the District. Existing customers of the District shall grant easements to the District from the customer's property line to the water meter. Previously existing meters may be moved by the District only. If at all possible, unless the customer presents good cause in writing against it, the District will locate or relocate all meters on the property line.

ARTICLE V

GENERAL

Section 1. Variation of Rules and Regulations.

Variation from the terms and conditions of these rules and regulations shall be permitted only upon the verified application of an affected party to the Board, setting forth the circumstances whereby the public interest requires such variation, and upon the issuance of a special order of the District. The District may require an application for such variation to be presented in a public hearing.

Section 2. Segregation.

If any section, paragraph, subdivision, sentence, clause or phrase of these Rules and Regulations shall for any reason be held illegal or unenforceable, such decision shall not affect the validity of the remaining portions of these Rules and Regulations.

Section 3. Enforcement of Rules and Regulations.

The District hereby authorizes its attorneys, agents, and employees to take all steps necessary to enforce the Rules and Regulations.

ARTICLE VI

NEW DEVELOPMENTS

Section 1. Development Agreement.

A. Any Property Owner constructing a development of such size that the Town of Pinetop-Lakeside would require the submission of a plat shall be considered a “Developer” for purposes of these Rules and Regulations.

B. All Developers seeking water service for their development shall be required to enter into a Development Agreement with the District specifying the water infrastructure to be constructed and the fees and costs due to the District.

Section 2. Submission of Plans.

A. All Property Owners or Developers desiring to connect newly constructed improvements to the District water facilities must first submit copies of the Engineering Plans for their Property to the District for review, comment and approval.

B. All Engineering Plans shall be submitted and approved by the District prior to submitting the plans to the Arizona Department of Environmental Quality (“ADEQ”). The District shall approve the Engineering Plans in its sole and absolute discretion. After approval by the District, Developer shall submit the Engineering Plans together with the District’s revisions and comments to ADEQ for approval.

C. Upon approval by ADEQ, Developer shall provide the District with a copy of the approved Engineering Plans.

D. The District shall not review any Engineering Plans until payment of the Development Deposit.

E. Developer and Property Owner shall not construct any water infrastructure on their property until the engineering Plans have been approved by the district and ADEQ and the Development Deposit has been paid to the District.

Section 3. Development Deposit.

A. All Property Owners and Developers desiring to construct improvements to be connected to the District’s water facilities shall deposit with the District a Development Deposit.

B. The Development Deposit shall be calculated based on six percent (6.0%) of the “Cost of the Water Infrastructure.” The “Cost of the Water Infrastructure” shall be determined based on the Developer’s engineer’s estimate of the costs associated with constructing the water infrastructure on the property to be developed.

C. The Development Deposit shall be used to pay for the following:

1. Review of the plans by the District.
2. Inspection fee (equal to \$2.00 per linear foot of water line constructed for the improvements.)
3. Legal fees.
4. Engineering
5. Administration Fees.

D. The Development Deposit shall be paid by cash or a certified check and shall be due and payable at the time of submitting plans for District's review.

E. Following the actual review of the plans, and the inspection of the water lines constructed, the actual cost of such review and inspection will be deducted from the Development Deposit and the surplus, if any, shall be refunded to the person posting the fee within ten business days from the determination of surplus. In the event the actual cost of review of the plans and inspection of the water lines constructed exceeds the amount of the Development Deposit, the person posting the fee shall pay the District in cash or certified funds, the amount due in excess of the fee. Such amount is payable to the District on demand by the District.

Section 4. Development Fee.

A. All Developers and Property Owners shall be required to pay to the District a Development Fee in the amount per the current District Tariff.

B. The Development Fee shall be calculated based on the total number of units or lots appearing on the Developer's plat.

C. Developers shall be required to pay Development Fees for all units or lots appearing on the plat upon the signing of the Development Agreement.

Section 5. Inspection.

All water lines and other appurtenant facilities shall be inspected by a District representative prior to permitting completion of any connection to the District's water facilities. Such inspection shall occur prior to pressure testing any line with District water.

ADOPTED this 20th day of February, 2007.

PINETOP WATER COMMUNITY FACILITIES DISTRICT

BY: _____

ATTEST:
