

WHEN RECORDED, RETURN TO:

City of Buckeye
ATTN: City Clerk, Lucinda J. Aja
530 East Monroe Avenue
Buckeye, Arizona 85326

ORDINANCE NO. 21-22

AN ORDINANCE BY THE MAYOR AND COUNCIL OF THE CITY OF BUCKEYE, ARIZONA, DECLARING THE DOCUMENT ENTITLED “CITY OF BUCKEYE 2022 WATER UTILITIES CODE UPDATES” AS A PUBLIC RECORD; ADOPTING THE SAME BY REFERENCE; AND AMENDING THE BUCKEYE CITY CODE, CHAPTER 17, WATER UTILITIES, IN ACCORDANCE WITH THE “CITY OF BUCKEYE 2022 WATER UTILITIES CODE UPDATES”; PROVIDING FOR THE REPEAL OF CONFLICTING PROVISIONS; AND PROVIDING FOR SEVERABILITY.

WHEREAS, Buckeye City Code Chapter 17 governs water utilities; and

WHEREAS, the Mayor and Council of the City of Buckeye find that certain updates to the provisions of Chapter 17 will improve City operations.

NOW, THEREFORE, BE IT ORDAINED BY THE MAYOR AND COUNCIL OF THE CITY OF BUCKEYE, ARIZONA, as follows:

Section 1. The recitals set forth above are hereby incorporated as if fully set forth herein.

Section 2. That certain document entitled the “City of Buckeye 2022 Water Utilities Code Updates,” of which at least three paper copies or one paper copy and one electronic copy are on file in the Office of the City Clerk and open for public inspection during normal business hours, is hereby referred to, adopted, and made a part hereof as if fully set out in this Ordinance.

Section 3. The City Code is hereby amended by amending Chapter 17, Water Utilities, Article 17-1 (General) and Article 17-2 (Rates and Bills) as set forth in the “City of Buckeye 2022 Water Utilities Code Updates.”

Section 4. All ordinances and parts of ordinances in conflict with the provisions of this Ordinance are hereby repealed.

Section 5. 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 hereof.

Section 6. The Mayor, the City Manager, the City Clerk, and the City Attorney are hereby authorized and directed to take all steps and to execute all documents necessary to carry out the purpose and intent of this Ordinance.

PASSED AND ADOPTED by the Mayor and Council of the City of Buckeye, Arizona, this 18th day of October, 2022.



Eric Orsborn, Mayor

ATTEST:



Lucinda J. Aja, City Clerk

APPROVED AS TO FORM:



Gust Rosenfeld P.L.C., City Attorneys

CITY OF BUCKEYE 2022 WATER UTILITIES CODE UPDATES

SECTION 1. The following provisions of Chapter 17 (Water Utilities) of the Buckeye City Code, Article 17-1 (General) Sections 17-1-2 (Authority of Director of Water Resources), 17-1-3 (Receipts and Deposits), 17-1-4 (Agreement for Utility Service), 17-1-6 (Deposits), and 17-1-7 (Discontinuation of Service) are hereby amended as follows (deletions shown as ~~strikethroughs~~ and additions shown in **bold type**), with all other provisions of Article 17-1 remaining unchanged:

Chapter 17 WATER UTILITIES

Article 17-1 *GENERAL*

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Section 17-1-2 Authority of Director of Water Resources

Except as otherwise provided herein, The—“director” means the director of water resources. **The director** is authorized to exercise the powers and perform the duties set forth in this chapter and to administer and enforce the provisions of this chapter, **except as such duties are otherwise assigned herein to another department.** The ~~director of water resources may~~ designate other city employees to exercise such powers and perform such duties as he deems appropriate.

Section 17-1-3 Receipts and Deposits

The ~~director of water resources—finance department~~ shall keep a correct account of all receipts, make out all bills for water service charges, fees and materials furnished to consumers, collect the same, and deposit the proceeds so collected to the credit of the city, and in accordance with the direction of the council.

Section 17-1-4 Agreement for Utility Service

- A. ~~Requests for Services—Services.~~ **Services.** The act of requesting or receiving utility service from the city constitutes an agreement by the customer to comply with all the terms and conditions related thereto which are imposed by the city.
- B. ~~Application—~~ **Application.** As a condition of initiating, continuing, or re-establishing water utility service, a formal application shall be made a minimum of three (3) business days in advance of the requested service date by the property owner, his agent, or the occupant of the property to a representative of the ~~water resources department—finance department~~, utility billing division, on a form provided by the city. Proof of purchase date or a copy of the lease agreement may be required by the city. A service fee for activation of service will be charged as established by resolution of the city council from time to time in accordance with A.R.S. § 9-511.01 as amended. As a term and condition of providing service, the city may require that outstanding amounts owed by the requesting customer for service to a previous location be paid. If a service is activated with an outstanding indebtedness owed by the requesting customer to the city, the account will be considered delinquent for the outstanding indebtedness and subject to the disconnection of services in accordance with the provisions of this chapter.

- C. ~~Rejection of Application.~~ **Application.** The city may reject any application for water service for any good and sufficient reason including, but not limited to, the failure to meet any condition of rendering service specified in Section 17-1-5 (Conditions of Utility Service).

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Section 17-1-6 Deposits

- A. ~~Deposit Required.~~ **Required.** The city may require deposits of any customer for any service provided by the city before such service is provided. The total amount of the deposit shall be determined by taking into consideration the anticipated amounts which will be billed for services provided, the past payment record, if any, of the customer, and any other information the city may deem necessary in order to provide an adequate deposit. The deposit will not be less than the amount established by council resolution from time to time in accordance with A.R.S. § 9-511.01, as amended. Deposits shall be non-interest bearing and shall be refunded to the consumer upon discontinuance of service and payment of charges, provided that outstanding charges may be deducted from said security deposit before the refund is made. In addition, customers may request that their deposits be refunded when their utility bill has been paid in full by the due date for twelve consecutive billing periods. Refunds will be applied to the account on the next billing.
- B. ~~Payment Responsibility.~~ **Responsibility.** The individual in whose name such deposit is made shall be responsible for payment of all bills incurred in connection with the service furnished.

Section 17-1-7 Discontinuation of Service

- A. ~~Notice by User.~~ **User.** Any person who wishes to permanently discontinue a utility service shall provide a minimum of three (3) business days in advance, written notice to the city of the intended termination of the utility service. The notice shall include the customer's name, service location, account number, and the proposed termination date, and shall not be deemed given unless in writing and received by the ~~water resources~~ **finance department**, utility billing division. The ~~water resources director~~ **finance department** may establish in writing an alternative notice procedure such as telephonic or electronic notice. Until a request to discontinue service is received by the city, such premises shall be deemed occupied by such consumer and the consumer's liability for services provided to the property will continue. If termination of the utility service would violate this chapter, the customer shall be so notified and the utility service shall not be discontinued.
- B. ~~Discontinuance by City Under certain Conditions.~~ **Conditions.** The city may discontinue water service under any of the following conditions:
1. To prevent fraud or abuse.
 2. Noncompliance with the provisions of this chapter.
 3. Emergency repairs.
 4. Direction of public authorities.

5. Local emergency requiring emergency measures.
 6. Nonpayment of any monies due to the city for any services, fees, charges, fines or assessments billed to the customer.
 7. An unauthorized turn-on.
 8. At the direction of council.
 9. Tampering with meter by the consumer.
- C. Notice by City Prior to Discontinuation of Service. ~~Service.~~ Before any discontinuation, suspension or refusal of utility service takes effect, the city shall notify the person in whose name the service is provided in writing of the violation and the date such service shall cease. The written notification shall also provide for an opportunity to meet with the city prior to the cessation of such service.

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SECTION 2. The following provisions of Chapter 17 (Water Utilities) of the Buckeye City Code, Article 17-2 (Rates and Bills) Sections 17-2-3 (Billing and Payment: Collection) and 17-2-4 (Procedure to Challenge Utility Bills; Correction of Utility Bills) are hereby amended as follows (deletions shown as ~~striketroughs~~ and additions shown in **bold type**), with all other provisions of Article 17-2 remaining unchanged:

Chapter 17 WATER UTILITIES

Article 17-2 *RATES AND BILLS*

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Section 17-2-3 Billing and Payment: Collection

- A. Charges for city services will be billed monthly and are due and payable on receipt and shall be deemed delinquent twenty-one (21) days after the statement date. A late charge established by resolution of the city council from time to time in accordance with A.R.S. § 9-511.01, as amended, may be assessed on any unpaid balance for charges that are past due at the time of billing. It is the responsibility of the person or persons in whose name or names an account has been established to timely pay all charges in full. Failure to receive a utility bill will not excuse the account holder or holders from full and timely payment for the services. The ~~water resources director~~ **finance department** may consider medical and financial hardship when evaluating past due accounts. The ~~director~~ **finance department** may waive certain fees or allow alternative payment methods at the discretion of the ~~director~~ **finance department**. The city reserves the right to vary the dates or length of billing periods, temporarily or permanently.

- B. Any account requiring collection efforts for nonpayment may be assessed collection charges as established by resolution of city council from time to time. Prior to terminating services for nonpayment of amounts due, the city will send, by U.S. first class mail, written notice of the scheduled disconnect date to the account holder. Utility services may be considered delinquent and subject to special collection efforts, up to and including the disconnection of any or all services, for any of the following reasons.
1. Failure to pay for any services, fees, or assessments by the due date.
 2. Nonpayment of a bill for services rendered to the account holder at a previous location in the city.
 3. Nonsufficient fund check.
 4. Stop payments imposed on checks after their tender to the city.
 5. Termination of automatic payment by the customer and failure to make payment in some other fashion.
- C. Payment for any and all monies due to the city, including any reinstatement costs or fees, will be required prior to the reinstatement of services. If an account has been delinquent three times in a twelve (12) month period, the ~~director~~**finance department** may require payment of additional deposits prior to reestablishing service. The city may elect to assign unpaid charges, fees, or assessments to a collection agency or attorney to collect. The city may recover all costs of litigation and collection from the account holder.

Section 17-2-4 Procedure to Challenge Utility Bills; Correction of Utility Bills

- A. All bills tendered for utility services are presumed to be correct.
- B. A person who believes a utility bill or any charge related to a utility service is incorrect shall:
1. Submit a claim in writing to the billing division of the water resources department. The dispute will be reviewed by the department. An adjustment or determination will be provided to the customer in writing.
 2. Any customer who feels aggrieved by the determination of the department, or by the discontinuation, suspension, or refusal of utility service, may file an appeal, in writing, within fifteen (15) days from receipt of the determination. The appeal must be in writing and filed with the ~~director~~**finance department**. The decision of the ~~director~~**finance department** is final.
- C. Disputing a bill or contacting the city regarding a bill shall not relieve the customer of the obligation to make timely payment as specified in section 17-2-3(A), or preclude the city from terminating utility service or taking any other action permitted by this chapter or otherwise.

- D. If utility service is provided to a customer and the city fails to bill for such service, a correction will be made to the active utility account within the next billing cycle after the inaccuracy is identified, pursuant to the following terms:
1. If the city determines that the customer was reasonably unaware that it was not being billed the full amount of the utilities being provided, the city shall bill the account back to the date the utility service was provided and not billed, or for a 12-month period, whichever is shorter in duration. The city will allow the customer to repay the difference over the length of time equivalent to the period for which the customer was under-billed or for a 12-month period, whichever is shorter in duration.
 2. If a customer knowingly receives services without paying for those services in full, the customer will be back-billed to the initial date when services were provided and not billed. Payment is due and payable on receipt of the bill.
- E. If utility service is not provided and the city bills and collects payment for such service, a correction will be made to the utility account within the next billing cycle after the inaccuracy is identified, pursuant to the following terms:
1. The city will credit to the utility account the amount of the fees paid while the service was not provided, or for a one-year period, whichever is shorter in duration. If the account is closed, or the credit exceeds three months of utility service, the customer may request the credit be refunded to them after any outstanding utility bills are paid in full.

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