

RESOLUTION NO. 1808

A RESOLUTION OF THE MAYOR AND COMMON COUNCIL OF THE TOWN OF PRESCOTT VALLEY, A MUNICIPAL CORPORATION OF ARIZONA, AMENDING RESOLUTION NO. 1760 TO REVISE WASTEWATER RATES, FEES AND SERVICE CHARGES FOR THE TOWN WASTEWATER COLLECTION AND TREATMENT SYSTEM IN ACCORDANCE WITH ARS §9-511.01; PROVIDING THAT IF ANY PROVISION IN THIS RESOLUTION IS HELD INVALID BY A COURT OF COMPETENT JURISDICTION, THE REMAINING PROVISIONS SHALL NOT BE AFFECTED, BUT SHALL CONTINUE IN FULL FORCE AND EFFECT; AND PROVIDING THAT THIS RESOLUTION SHALL BE EFFECTIVE AFTER ITS PASSAGE AND APPROVAL ACCORDING TO LAW.

WHEREAS, on November 6, 1990, the electors of the Town of Prescott Valley ("Town") authorized the Town to engage in the business of operating a Wastewater Treatment System ("System") pursuant to ARS §9-514(A), and to issue up to \$10 million in revenue bonds to finance construction of a Wastewater Treatment Facility ("WWTF") pursuant to ARS §9-523; and

WHEREAS, a plan was developed to construct the System throughout the Town over a period of years by constructing the collection system (pipelines) in three (3) phases, and the WWTF in two (2) phases; and

WHEREAS, System construction was to be financed by (a) creating an improvement district in each collection system phase which would sell assessment bonds paid from assessments against benefited property in order to build the collection system and chip-seal adjacent roadways, (b) selling revenue bonds approved by the voters for each phase of the WWTF (which would then be refunded using bonds purchased by Rural Development [RD] at a reduced interest rate), repaid out of monthly wastewater rates, and (c) obtaining grant moneys from RD to pay for abandonment of existing private septic systems, connection of individual homes to the System, and aid towards payment of improvement district assessments for the indigent; and

WHEREAS, among the commitments made by the Town to obtain RD assistance was an open-ended agreement to subsidize monthly wastewater rates at no more than eighteen dollars (\$18.00) a month for residential customers [see, Resolution No. 372c, dated December 20, 1990, and Resolution No. 534, dated February 24, 1994]; and

WHEREAS, said commitments were contradictory to ARS §9-512(B) which requires the fixing of utility service rates as nearly as practicable so as to pay the interest and not less than three percent (3%) per annum on the principal of bonds used to build a utility system, in excess of the expense of maintenance and operation; and

WHEREAS, the commitments to RD to subsidize monthly wastewater rates were subsequently contradicted by commitments made when the Town issued revenue bonds to build the WWTF, including a commitment to raise rates as needed to pay the principal and interest of the bonds [see, Resolution No. 600, dated December 28, 1994 (\$8,000,000.00 Sewer Revenue Refunding Bonds, Phase 1 WWTF); and Resolution No. 724, dated November 21, 1996 (\$4,140,000.00 Sewer Revenue Refunding Bonds, Phase 2 WWTF)]; and

WHEREAS, the Town Council adopted Ordinance No. 284 (dated October 8, 1992) creating Town Code Article 9-05 "WASTEWATER TREATMENT" to establish procedures for setting and collecting System rates, fees and service charges; and

WHEREAS, as the first phases of the System began operation, the Town Council adopted by Resolution No. 513 (dated August 28, 1993) a flat wastewater rate of eighteen dollars (\$18.00) per month for each residence and a flat rate of \$18.00 per month for each separate commercial/industrial user [plus three dollars (\$3.00) per 1,000 gallons of water used above 6,000 gallons each month) for Fiscal Year 1993/1994; and

WHEREAS, the Council carried said wastewater rates through Fiscal Year 1994/1995; and

WHEREAS, by Resolution No. 636 (dated July 13, 1995) the Council formally carried said rates through Fiscal Year 1995/1996, and indicated that they would continue thereafter until such time as the rates were formally modified by resolution; and

WHEREAS, by Resolution No. 665 (dated November 30, 1995) the Council moved certain administrative fees listed in Resolution No. 636 to another resolution, but left in place the same wastewater rates; and

WHEREAS, by Ordinance No. 391 (dated June 27, 1996) the Council amended Town Code Article 9-05 to begin establishing an industrial waste pretreatment program as part of the Town's administration of the System; and

WHEREAS, by Ordinance No. 466 (dated July 8, 1999) the Council further amended Article 9-05 to implement the pretreatment program, and adopted Resolution No. 898 (dated July 8, 1999) to amend Resolution No. 636 to add industrial wastewater pretreatment permit fees; and

WHEREAS, by Resolution No. 1033 (dated August 30, 2001) the Council amended Resolution No. 636 to (a) change the wastewater rate from a flat rate to a volume-based rate, and (b) remove the Town general fund subsidy of the wastewater rate so that the rate more fully reflected principal and interest costs of the revenue bonds and the expense of System maintenance and operation; and

WHEREAS, by Resolution No. 1096 (dated July 11, 2002), the Council amended Resolution No. 1033 and established a new methodology for calculating system capacity charges, eliminating the cumbersome administration of the existing methodology as well as the inconsistent effect thereof that resulted in the assessment of excessive and inordinate charges for certain developments; and

WHEREAS, by Resolution No. 1320 (dated December 2, 2004), the Council amended Resolution No. 1096 to increase the Volume Rates (per 1000 gallons) and to move administrative fees from the wastewater rate resolution to the current administrative fee resolution; and

WHEREAS, by Resolution No. 1394 (dated December 1, 2005), the Council amended Resolution No. 1320 to increase the Volume Rates (per 1000 gallons); and

WHEREAS, by Resolution No. 1457 (dated August 31, 2006), the Council amended Resolution No. 1394 to increase the wastewater System Capacity Charges, wastewater Base User Rates and wastewater Volume Rates; and

WHEREAS, by Resolution No. 1603 (dated August 28, 2008), the Council amended Resolution No. 1457 to increase the wastewater Volume Rates; and

WHEREAS by Resolution No. 1666 (dated September 24, 2009), the Council amended Resolution No. 1603 to increase the wastewater Volume Rates; and

WHEREAS by Resolution No. 1715 (dated September 23, 2010), the Council amended Resolution No. 1666 to increase the wastewater Volume Rates; and

WHEREAS by Resolution No. 1760 (dated September 22, 2011), the Council amended Resolution No. 1715 to increase the Volume Rates of the Wastewater system and impose a modest increase in wastewater Deposits to more closely correspond to previous increases in the wastewater Volume Rates in the past three to five years;

WHEREAS, Town staff has continued to monitor revenues received through wastewater rates, fees and service charges to ensure that applicable bond covenants are being kept and that service costs are being covered, and has determined that it is now advisable to increase the Volume Rates of the Wastewater system; and

WHEREAS, the Town Council finds that the adoption of these revised wastewater rates, fees and service charges provides for the health, safety and welfare of the entire community and is an essential planning tool for the long-term viability of the community;

NOW, THEREFORE, BE IT RESOLVED BY THE MAYOR AND COMMON COUNCIL OF THE TOWN OF PRESCOTT VALLEY, ARIZONA, THAT:

1. The wastewater rates, fees and service charges for the System, heretofore established by Resolution No. 636 (and subsequently amended by Resolutions No. 665, No. 898, No. 1033, No. 1096, No. 1320, No. 1394, No. 1457, No. 1603, No. 1666, No. 1715 and No. 1760), are hereby amended as follows:

WASTEWATER SYSTEM CONNECTION CHARGES

System Capacity Charge	<u>Charge</u>
Per Single-Family Residential Dwelling Unit Equivalent (RDE)	\$3,162.00

Multi-Family Residential Dwellings -

Duplexes/Triplexes/Fourplexes	0.85 RDE	\$2,687.70/unit
Apartments/Condominiums	0.80 RDE	\$2,529.60/unit
Motels/Hotels	0.50 RDE	\$1,581.00/unit

Commercial/Industrial/Institutional Facilities \$ 126.48/fixture per unit

[Note: system capacity charges for commercial/industrial/institutional facilities that do not have identifiable fixtures per unit (e.g., private park or school irrigation, gravel or mining operations, etc.) shall be based upon the size of the water meter in accordance with AWWA water meter standards. In the event system capacity charges are limited by the provisions of any development agreement with the Town, the provisions of said development agreement shall supercede the system capacity charges set forth herein. Nothing herein shall preclude the Town from entering into a development agreement containing provisions limiting the aforementioned system capacity charges. Note also that payment of the system capacity charge does not satisfy the requirement to pay "in-lieu of assessment fees" as set forth in Town Code §9-05-060(B) and Resolution No. 686 (as amended).]

NEW ACCOUNT FEES

Deposits	<u>Amount</u>
Residential Classification	\$ 50.00
Commercial/Industrial/Multi-Family Classifications	\$ 50.00 [or 2x estimated monthly average billing, whichever greater]*

* Estimates shall be made by the Town Engineer based on use classification. Deposits paid by property owners shall be returned to them after one (1) calendar year of no delinquencies or upon closing of the account (net of any delinquencies), whichever is sooner. Deposits paid by tenants shall be returned to them upon closing of the account (net of any delinquencies). No interest shall be paid on deposits.

WASTEWATER TREATMENT RATES

Base User Rates (Per Billing Period)	<u>Rate</u>
<u>Water Meter Size (Inches)</u>	
5/8 and 3/4	\$ 5.07
1	\$ 8.06
1 1/2	\$ 11.06
2	\$ 14.05
3	\$ 17.04
4	\$ 20.03
6	\$ 23.03
8	\$ 26.02

Volume Rates (Per 1,000 Gallons)

Rate

Residential Classification

\$ 4.54*

Commercial/Industrial Classifications

\$ 4.54**

*Total billings are equalized over twelve (12) month periods by applying Volume Rates to ninety percent (90%) of average water usage for the months of November – March. Partial usage history during that period may be used so long as it constitutes at least three (3) months; otherwise, billing will be at ninety percent (90%) of the user classification average for that period. If actual usage is ever below the average during a billing period, then that lower actual usage is billed.

**Volume Rates are charged on actual metered usage each billing period.

2. That, if any provision in this Resolution is held invalid by a court of competent jurisdiction, the remaining provisions shall not be affected but shall continue in full force and effect.

3. That, in accordance with ARS §9-511.01(C), the wastewater rates, fees and service charges for the System established herein shall be effective with the first billing after November 1, 2012.

4. That this Resolution shall be effective after its passage and approval according to law.

RESOLVED by the Mayor and Common Council of the Town of Prescott Valley this 13th day of September 2012.

Harvey C. Skoog, Mayor

ATTEST:

Diane Russell, Town Clerk

APPROVED AS TO FORM:

Ivan Legler, Town Attorney