

ORDINANCE NO. 4833

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF MESA, MARICOPA COUNTY, ARIZONA, AMENDING SECTION 3 SERVICE OF MAIN LINES AND CONNECTIONS FOR CLARIFICATION OF CONNECTIONS AND MODIFYING CROSS REFERENCE AND SECTION 23 OF THE TERMS AND CONDITIONS FOR THE SALE OF UTILITIES TO ELIMINATE CERTAIN EXCEPTIONS AND ADD AN EXCEPTION FOR COUNCIL TO APPROVE UTILITIES SERVICES WITHOUT THE REQUIREMENT OF ANNEXATION

BE IT ORDAINED BY THE MAYOR AND CITY COUNCIL OF THE CITY OF MESA, MARICOPA COUNTY, ARIZONA, AS FOLLOWS:

Note:
BOLD AND ALL CAPS --- indicates proposed addition
Strikethrough --- indicates deletions

Section 1. That The Terms and Conditions for the Sale of Utilities, Section 23 Exceptions are amended to read as follows:

23. Exceptions

~~A. All individual parcels of real property located outside the City of Mesa's corporate limits and zoned for unsubdivided single residential land uses may connect to, and receive service from, City water and/or wastewater mainlines if:~~

- ~~1. The property has legal frontage on dedicated public rights-of-way and/or easements; and~~
- ~~2. A City of Mesa public water mainline (designated to serve the appropriate water zone) and/or wastewater mainline presently exists a minimum of twenty feet (20') directly adjacent to the property (extension of existing public water and/or wastewater mainlines will not be permitted to achieve the adjacency described in this subsection); or~~
- ~~3. The property is located within the former boundaries of a private water and/or wastewater company that has been acquired by the City of Mesa, and that the property has the legal right to receive water and/or wastewater service as a condition of the City's acquisition of the company; or~~
- ~~4. An executed agreement exists which is a covenant running with the land~~

~~that obligates the City of Mesa to provide water and/or wastewater service to the property; and~~

~~5. The owner and/or developer of the property have executed a "Utility Service" agreement requiring payment to the City of Mesa in lieu of all applicable development impact fees; and~~

~~6. The owner and/or developer of the property have executed a "Utility Service" agreement requiring payment to the City of Mesa in lieu of causing the design and construction of required public street improvements (for roadways approved as viable public street alignments by Mesa's Transportation Director), when a deferral of said improvements is approved by the Deputy City Manager (said in lieu payment shall be based upon a cost estimate prepared by the City or as specified in section 9-8-4(b)1 of the Mesa City Code); and~~

~~7. The proposed land use for the property is consistent with the City of Mesa General Plan and complies with City development regulations.~~

~~B. All individual parcels of real property located outside City of Mesa's corporate limits and zoned for commercial, industrial, multiple residential, subdivided residential and/or other comparable land uses may connect to, and receive service from, City water and/or wastewater mainlines if:~~

~~1. The property received Maricopa County Technical Advisory Committee ("TAC") approval prior to September 1, 2001; and~~

~~2. The property obtained full development approval and construction permits from the City of Mesa and Maricopa County on or before February 28, 2002; and~~

~~3. The property obtained full acceptance of all development improvements from the City of Mesa and Maricopa County on or before February 28, 2003; and~~

~~4. The owners and/or developers of the property have executed a "Utility Service" agreement requiring a payment in lieu of all applicable development impact fees to the City of Mesa; and~~

~~5. The owners and/or developers of the property have executed a "Utility Service" agreement requiring payment to the City of Mesa in lieu of causing the design, installation and/or construction of certain required public improvements, when a deferral of the improvements is approved by the Deputy City Manager (said in lieu payment shall be based upon a cost estimate as specified in sections 9-6-7(b)1 and 9-8-4(b)1 of the Mesa City Code); and~~

~~6. The proposed land use for the property is consistent with the City of Mesa General Plan and complies with City development regulations.~~

- ~~C.~~ **A.** In order to promote the interests of the City of Mesa, the City Council may modify, eliminate or approve alternatives from the requirements of section 3 of this ordinance ~~the TERMS AND CONDITIONS FOR THE SALE OF UTILITIES~~ for an individual parcel of real property located outside Mesa's corporate limits. Any such decision shall be at the discretion of the City Council and shall be made only upon a recommendation from the Transportation and Infrastructure Committee to allow such modifications, eliminations or alternatives. **AN APPROVED MODIFICATION MAY BE CONTINGENT UPON THE APPLICANT ENTERING INTO A UTILITY SERVICE AGREEMENT AS DEFINED IN THE CITY'S ANNEXATION GUIDELINES.**
- B.** ~~COUNCIL MAY DENY THE RELEASE OF AN ANNEXATION PETITION IF IT IS DETERMINED THAT THE ANNEXATION IS NOT IN THE BEST INTEREST OF THE CITY. IF THE COUNCIL DETERMINES THAT ANNEXATION IS NOT IN THE BEST INTEREST OF THE CITY, BUT THE PROPERTY OWNER WILL SUFFER A HARDSHIP IF NOT PROVIDED ONE OR MORE CITY UTILITY SERVICES, COUNCIL MAY CONSIDER ENTERING INTO A UTILITY SERVICE AGREEMENT SUBJECT TO ALL ASSOCIATED UTILITY SERVICE FEES AT THE TIME OF THE ANNEXATION RELEASE OF PETITION HEARING WITHOUT A RECOMMENDATION FROM THE TRANSPORTATION AND INFRASTRUCTURE COMMITTEE.~~
- ~~D.~~ **C.** Parcels of real property within Mesa's corporate limits that are developed as new or converted commercial or residential condominiums, as defined in ARS 33-1202, may be excepted from some or all of the requirements of Sections 3A, 3C or 3E by the City Engineer as follows:
1. A group of structures or parcels may be served by one (1) meter and service connection when the real property under ownership by multiple parties is governed by a Homeowner's Association or a Unit Owners Association; or
 2. A group of structures or parcels may be served by more than one (1) meter when the main lines are located in public utility easements or public utility facility easements.

Section 2. That The Terms and Conditions for the Sale of Utilities, Section 3 Service and Main Line Connections are amended to read as follows:

3. Service and Main Connections and Charges:
- A. Each parcel of real property within Mesa's corporate limits will be served from a public main line (**DESIGNATED TO SERVE THE APPROPRIATE WATER ZONE**) and separate service connection. **SUCH MAIN LINE AND SERVICE CONNECTIONS SHALL BE** directly adjacent to the real property receiving service, unless excepted under Section 23D B herein. Each such parcel shall have frontage on dedicated public rights-of-way and easements meeting the

requirements of the City of Mesa. The minimum width of such frontage shall be the minimum required by the applicable zoning classification.

- B. All real property authorized to receive service shall develop in compliance with all applicable City regulations, standards and requirements established by the City of Mesa.
- C. No group of structures may be served by one (1) meter unless situated on the same real property, under one (1) ownership, or unless approved by the City, or unless excepted under Section 23D B herein.
- D. When the City requires a public main line extension to make the utility adjacent to a parcel requesting connection, the owner or developer will extend the public main line(s) across all appropriate frontages of the real property, or unless otherwise approved.
- E. No sale or transfer of service from one real property ownership to another shall be permitted. In the event that any real property with utility service is subdivided and any portion of that real property is subsequently sold to another party, a public main extension and/or meter relocation will be required as necessary to make service directly adjacent to each new lot so created, or unless excepted under Section 23D B herein.
- F. All meters will be supplied by the City of Mesa. Charges for installing new services and/or meters will be in accordance with the current schedule of Charges for Utility Related Services.
- G. The following criteria is required for water meter installations:
 - 1. Water piping on customer side must coincide with the requested meter size for a minimum distance of 48 inches, after which such piping may transition to alternative sizes and/or materials.
 - 2. Customer installation of proper-sized water meter box.
 - 3. Meter installation site is marked with the Identification for Water Meter Card.
 - 4. Sites not properly prepared at the time of request are subject to Trip Charges. See Schedule of Fees and Charges.
- H. All applicable development impact fees shall be paid in accordance Chapter 17 of Title 5. When the parcel to be served is located outside Mesa's corporate limits as approved under Section 23 herein, an additional Utility Service Agreement fee shall be paid. The Utility Service Agreement fee shall be equal to the sum of all development impact fees charged for parcels of the same or similar land use receiving service within the Mesa corporate limits in accordance with Chapter 17 of Title 5, except water and wastewater impact fees. The Utility

- Service Agreement fee shall be in addition to the applicable water and wastewater development impact fees.
- I. Buy-ins for the right to use certain utility main lines will be in accordance with the private line agreement on file with the City or as determined by the City for a specific utility main.
 - J. All monies must normally be paid at the time service is requested.
 - K. All unsubdivided single residential parcels of real property located outside Mesa's corporate limits shall be annexed into the City's corporate limits before connecting to and receiving water and/or wastewater service from the City, unless exempted under Section 23 herein.
 - L. All commercial, industrial, multiple residential, subdivided residential and/or other comparable zoned parcels of real property located outside Mesa's corporate limits shall be annexed into the City's corporate limits before connecting to and receiving water and/or wastewater service from the City unless excepted under Section 23 ~~B~~ **B** herein.

Section 3. Effective Date.

The effective date of this Ordinance shall be July 1, 2008.

Section 4. Applicability to Pending Requests for Service.

The provisions in this ordinance eliminate exceptions in Section 23 (B) of the Terms and Conditions for the Sale of Utilities (the "Eliminated Exceptions"), and this ordinance re-letters and modifies the subsequent subsections. Property may connect to, and receive services from, the City water and /or wastewater mainlines under the terms of the Eliminated Exceptions only if the property complies with an Eliminated Exception and a Utility Service agreement is executed and approved by the property owners (s) and the City prior to the effective date of this ordinance.

Section 5. Severability.

If any section, subsection, sentence clause, phrase or portion of this Ordinance or any part of the material adopted herein by reference is for any reason held to be invalid or unconstitutional by the decision of a Court of competent jurisdiction such decision shall not affect the validity of the remaining portions thereof.

Section 6. Penalty.

Penalties shall be as prescribed in Section 24 of the Terms and Conditions for the Sale of Utilities.

PASSED AND ADOPTED BY THE CITY COUNCIL OF THE CITY OF MESA,
MARICOPA COUNTY, ARIZONA, THE 5th DAY OF May, 2008.

APPROVED:

Keno L. Hawker

MAYOR

ATTEST:

Sinda Crocker

CITY CLERK

