

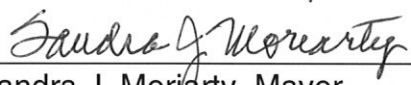
RESOLUTION NO. 2021-23

**A RESOLUTION OF THE MAYOR AND COUNCIL OF THE CITY OF SEDONA,
ARIZONA, ESTABLISHING AS A PUBLIC RECORD CHANGES TO SEDONA CITY
CODE CHAPTER 13.15 (CONNECTIONS TO WASTEWATER SYSTEM).**

BE IT RESOLVED BY THE MAYOR AND COUNCIL OF THE CITY OF SEDONA, ARIZONA that the changes to Sedona City Code Chapter 13.15 (Connections to Wastewater System) as set forth in Exhibit A, "2021 Amendments to Chapter 13.15 (Connections to Wastewater System) of the Sedona City Code," constitutes a public record to be adopted by reference in Ordinance 2021-07 pursuant to A.R.S. § 9-802.

One paper copy and one electronic copy of this public record shall be filed in the office of the City Clerk and kept available for public use and inspection.

APPROVED AND ADOPTED by the Mayor and Council of the City of Sedona, Arizona this 28th day of September, 2021.



Sandra J. Moriarty, Mayor

ATTEST:



Susan L. Irvine, CMC, City Clerk

APPROVED AS TO FORM:



Kurt W. Christianson, City Attorney

Exhibit A

"2021 Amendments to Chapter 13.15 (Connections to Wastewater System) of the Sedona City Code"

Chapter 13.15

CONNECTIONS TO WASTEWATER SYSTEM

Sections:

- 13.15.010 Private sewage disposal systems prohibited – Exceptions.**
- 13.15.020 Notice of sewer availability.**
- 13.15.030 Mandatory connection to city wastewater system once available.**
- 13.15.040 Permits for service connections.**
- 13.15.050 Property owner and user's responsibility.**
- 13.15.060 Wastewater fees - Installment payments for capacity fees and lift pumps.**
- 13.15.070 Charge for failure to timely pay capacity fee.**
- 13.15.080 Procedure and penalties for failure to pay capacity fee.**
- 13.15.090 Dry sewers.**
- 13.15.100 Capacity fee schedule.**
- A ~~Wastewater deferred connection agreement with the city of Sedona, Arizona.~~**

13.15.010 Private sewage disposal systems prohibited – Exceptions.

A. It is unlawful to construct, operate and maintain any new septic tank, privy vault, cesspool, evapotranspiration system or other private sewage disposal facility except as provided in this division.

B. Where the city wastewater system is not yet available to a property, as defined in SCC 13.05.020, a private sewage disposal system may operate as long as:

1. The property owner or user operates and maintains the private sewage disposal system in a sanitary manner and in compliance with all city, county and state health and environmental regulations and permits.
2. The property owner or user designs, constructs, alters or maintains the private sewage disposal system in compliance with all city, county and state standards, regulations, specifications and details, and only after being granted all required permits.
3. The property owner acknowledges that any permit to construct, alter, improve or operate a private sewage disposal system is only temporary in duration and the property owner agrees to connect to the city wastewater system once it is available, as required by SCC 13.15.030.

C. Once there is sewer availability to a property, no permits shall be issued nor shall work be permitted for construction or alteration of any private sewage disposal system on the property unless it is for connection to the city wastewater system. [Code 2006 § 13-5-1. Ord. 2009-04, 4-14-2009; Ord. 2014-06 § 1, 5-27-2014; Res. 2014-10 Exh. A, 5-27-2014].

13.15.020 Notice of sewer availability.

After completion of any extension of the city wastewater collection system, the finance director shall send a written “notice of sewer availability” to all affected property owners or their agents or lessees, as shown on the last assessment of the property, that the city wastewater system is available and that property owners must connect within 180 days. Such notice shall be given by certified mail to the property owner or agent or lessee, and by publishing the same notice, together with a description of the affected parcels, in not less than two issues of a newspaper of general circulation within the city. The times prescribed in this section shall run from the date of such notice. [Code 2006 § 13-5-3. Ord. 2010-14 § 1, 9-28-2010; Res. 2010-27 § 1 Exh. A, 9-28-2010; Ord. 2014-06 § 1, 5-27-2014; Res. 2014-10 Exh. A, 5-27-2014].

13.15.030 Mandatory connection to city wastewater system once available.

A. Within 180 days from the date that the finance director provides notice of sewer availability, as defined in SCC 13.05.020, a real property owner with building or water fixtures thereon shall make direct connection to the city wastewater system in accordance with the city design requirements, the adopted plumbing code, as amended, and all applicable state, county and city regulations.

B. If the sewer availability notice is given to a group of real property owners with private roads as the only access, the property owners shall either build and maintain the proper local wastewater collection system in accordance with the city design requirements or donate an easement at no cost to the city for access to the private roads so that the city will, at the city's expense, extend the city wastewater system to points adjacent to the individual real property.

C. *Cluster Systems.*

1. If the sewer availability notice is given to property owners that are both the users and owners of an existing collector cluster system, the city shall request that the property owners shall pay to the city an administrative processing fee, together with a fee to be set by the city manager to reimburse the city for the cost of inspecting the system. The administrative processing fee shall be \$5,000 beginning in September 2008 and increase no more than two percent annually thereafter over the previous year's fee beginning in August 2009. The applicable fee shall be stated within and approved as part of the annual city budget. The property owners shall provide to the city an acceptable set of as-built drawings of the system, copies of all applicable permits and copies of all records of inspection, maintenance, repair, expansion and improvement of the system. If the city is not provided with the administrative processing and inspection fees, or information regarding the system stated herein, the city may proceed to perform the required work and pursue any legal remedies on properties served by the existing system or upon the common disposal field as the city may deem appropriate.

2. If, upon inspection, it appears that the physical condition of the system does not meet the standards adopted by city council for sewer connection to the city's wastewater system, then it shall be the responsibility of the property owners to bring the system into

compliance with such standards before the city will accept sewer connection to the city's wastewater system. If the system needs to be connected because it is necessary for public health or environmental reasons, then the city may proceed with such connection and assess the property owners using the system for the incurred cost or at the city's discretion treat the improvement as a city-initiated extension.

3. Once it is determined the cluster system meets city standards, the city shall allow the cluster system to be connected to the city wastewater system only after every property owner in that area has paid or made arrangements to pay the capacity fee pursuant to SCC [13.15.060](#) and the cluster system owners have presented to the city an acceptable written plan for responding to spills, overflows, blockages and damage to the cluster system.

D. If a property owner fails to connect to the city wastewater system within the time limits set forth in subsection [\(A\)](#) of this section, the city shall assess a monthly environmental penalty charge for every month such property remains unconnected. This charge shall be equal to twice the current monthly service charge for the property in question and shall be due and payable monthly. The city may employ the procedures set forth in SCC [13.20.060](#) and [13.20.070](#) for collection of such environmental penalty charge if not paid when due and payable. Outstanding environmental penalties owed are not considered to be outstanding late charges for purposes of this section.

E. Upon connection to the city wastewater system, any septic, STEP or alternate disposal system shall be pumped and abandoned and either removed or filled in at the owner's expense, in accordance with the city's adopted plumbing code, as may be amended from time to time, and all local and state laws, rules and regulations.

F. Failure to abandon a septic or other alternate disposal system in accordance with subsection [\(E\)](#) of this section shall constitute a public nuisance pursuant to SCC [8.10.020\(A\)](#). Pursuant to the provisions of SCC [1.15.010\(A\)](#), as amended or as may be amended from time to time, any person found guilty of violating this provision shall be guilty of a class 1 misdemeanor and, upon conviction thereof, shall be punished by a fine not to exceed \$2,500 or by imprisonment for a period not to exceed six months, or by both such fine and imprisonment. Each day that a violation continues is a separate offense punishable as set forth herein or by civil sanction.

G. Single connections to the city sewer system serving two or more land parcels shall not be allowed prior to the city being presented with an acceptable written plan for responding to spills, overflows, blockages, pump failures and conveyance system damage by the owner of the private collection and conveyance system and demonstrating compliance with state regulations regarding private sewer systems. [Code 2006 § 13-5-4. Ord. 98-04, 3-11-1998; Ord. 2009-04, 4-14-2009; Ord. 2010-07 § 1, 4-13-2010; Res. 2010-08 § 3 Exh. B, 4-13-2010; Ord. 2010-14 § 1, 9-28-2010; Res. 2010-27 § 1 Exh. A, 9-28-2010; Ord. 2014-06 § 1, 5-27-2014; Res. 2014-10 Exh. A, 5-27-2014].

13.15.040 Permits for service connections.

A. Before physical connection is made to the city wastewater system, a permit must be secured from and 48 hours' notice given to the city. The issuance of a permit is subject to sewer availability and approval of the city engineer as to the point and type of connection. The director shall be consulted as regards available capacity for treatment at the plant. Sewer connection permits shall run with the land and shall not be transferable from one parcel to another parcel or from property to property. All such connections shall be made and all such work done at the expense of the applicant. All connections shall be made under the supervision of the city, and no such connection shall be covered until the work has been inspected and approved by the city. The city engineer shall issue permits for connection. The director of wastewater shall issue a written finding of available collection and treatment plant capacity as necessary.

B. Connection to city sewer shall also be a grant of permission to conduct announced inspections of the connected premises to verify compliance with city requirements regarding sewer facilities, materials directed to the sewer system, and flows directed to the sewer system. Subject to approval of the city attorney or other legal authority, the city may conduct unannounced inspections based upon reasonable suspicion that prohibited activities related to the city sewer are taking place or being maintained or allowed to exist on the connected premises.

C. When the lowest drain fixture for a facility served by a gravity sewer lateral is less than four inches higher than the nearest upstream manhole, a backwater prevention device shall be installed on the lateral on private property exterior to and down stream of the facility served by

the lateral. A backwater device shall be installed on existing laterals by December 31, 2011, or when the lateral is replaced or repaired, whichever occurs first.

D. All gravity laterals shall have a cleanout near the property or right-of-way line in a location approved by the city engineer. The city may require that an on-site pressure system deliver flow to a city gravity main using a gravity sewer lateral.

E. All pressure systems shall have a backflow prevention device on private property between the force main and the facility served by the sewer lateral. This requirement shall be met by December 31, 2011, for all existing pressure systems and before connection and operation of new pressure systems connected thereafter.

F. Pretreatment devices shall be installed when required by city code.

G. Connection shall be made utilizing one sewer lateral per parcel of one acre or less. Properties over one acre in size may appeal to the city engineer for more than one lateral. A lateral may serve no more than one parcel. The city shall not be obligated to install a lateral if it is not extending a main wastewater collection pipe intended to serve more than one parcel. The city shall not be obligated to provide a lateral for a vacant parcel exceeding two acres in area. In cases in which the city is not obligated to install a sewer lateral, the property owner shall install the lateral and/or main to the city's main sewer line.

H. In cases where the city becomes aware of a sewer lateral not meeting these standards, the city may require that a lateral meeting these standards be installed and the old lateral abandoned. If the lateral was installed prior to July 2007 under a city-issued permit, then the city of Sedona shall bear the cost to replace the lateral between the city system and the portion of the connected facility closest to the connection to the city system, with the exception of backflow and backwater prevention devices, which remain a property owner responsibility. If the lateral was installed without a city-issued permit or after July 2007, the property owner shall bear the cost to replace the new lateral.

I. The city shall determine the point of connection to its system. The city is not required to allow connection to its system at a point other than it determines as appropriate, even if a property owner obtains an easement which might facilitate making connection to another location. Connections to sewer mains are to be located within the addressed street of a

connecting facility, unless otherwise approved by the city engineer. [Code 2006 § 13-5-5. Ord. 98-18, 8-11-1998; Ord. 2009-04, 4-14-2009; Ord. 2014-06 § 1, 5-27-2014; Res. 2014-10 Exh. A, 5-27-2014].

13.15.050 Property owner and user's responsibility.

When a piece of property is connected to the city's wastewater system, the property owner shall be responsible for the maintenance, operation, repair and replacement of all pretreatment devices, flow measurement devices, backwater valves, backflow prevention devices, conveyance lines, lift pumps, septic tanks or alternate wastewater treatment systems located on the property. The owner shall also remove any connections between the storm water drainage system and the wastewater system.

A. Where, prior to the amendment of the wastewater code on March 11, 1998, there exists a STEP or SDG system already connected to the city wastewater system, or a STEP or SDG system has been already approved by the city in writing to be connected to the city wastewater system, the property owner, lessee or user of the city wastewater system, at his or her own expense, shall be responsible for pumping septage or wastewater from his or her property as required, and for cleaning, unstopping, maintaining and repairing the conveyance sewer from the building or residence up to and including the connection to the city wastewater system in the public right-of-way or utility easement (collectively referred to herein as on-site system maintenance). If, from time to time, the city wastewater system is modified so as to eliminate the need for a STEP or SDG system, the property owner shall comply with SCC [13.15.030\(E\)](#), as may be amended from time to time. Nothing herein shall require the city to provide or be responsible for on-site system maintenance for any STEP or SDG system, unless expressly agreed to by contract or other agreement.

B. Where there exists a cluster system connected to the city's wastewater system, the individual property owners are responsible as stated in subsection [\(A\)](#) of this section. If an easement is granted on private roads as the only access and the existing sewer lines comply with the city design requirements and are considered acceptable for donation, the city may, at its discretion, accept responsibility for the sewer lines as designated main sewer lines on the city's wastewater system. If an easement is granted for access to existing lift or pump stations that are or have been brought into compliance with city standards of operation and are

considered acceptable for donation, the city may, at its discretion, accept responsibility for the stations as part of the city's wastewater system.

C. Where a cluster system that is to be connected to the city wastewater system is a septic effluent wastewater system (referred to herein as a cluster system), the city, in its discretion, may allow septic tanks to remain as an integral component of that system until such time as the cluster system is converted to a raw wastewater collection system. At the time of such conversion to a raw wastewater collection system, all septic tanks in the cluster system shall be pumped and abandoned and either removed or filled in, all at the owner's expense, in accordance with the city's adopted plumbing code, as may be amended from time to time, and all local and state laws, rules and regulations.

D. The property owner shall be responsible to install and maintain in proper operation all backwater valves and backflow prevention devices. The property owner shall be responsible for the consequences of not providing and not maintaining these devices as required by this code.

E. The property owner shall be responsible to install and maintain in proper operation pretreatment devices. The property owner shall be responsible to maintain records demonstrating the periodic cleaning and proper disposal of material collected by such devices.

F. The portions of a sewer lateral located on private property shall be removed if the facility to which it is connected is removed. The property owner may request and the city engineer may approve an exemption from this requirement, provided the sewer lateral or portions thereof will be reused for wastewater disposal within one year or less. The property owner shall, if an exemption is granted, commit in writing to restore use or remove the portions of the sewer lateral within one year. If the commitment is not kept, the city may enter the property to remove the portions of the lateral and cap the lateral, and seek all legal remedies for reimbursement of its costs.

G. The owner shall be responsible to contact the director prior to performing work between the sewer clean out and the city sewer main or within the city right-of-way or easement. The owner shall be responsible to notify the director should it appear that a problem with the sewer system between the facility and the sewer clean out or right-of-way or easement is due to improper operation of the city sewer system.

H. The city shall not be responsible for costs or impacts due to the owner's failure to perform owner's responsibilities. The city shall not be responsible for work that may occur between the sewer clean out and the city sewer main or within the city right-of-way or easement, if the city has not granted permission for such work prior to it proceeding. If work is performed without prior permission between the sewer clean out and the city sewer main or within the city right-of-way or easement the city may hold the individual or entity performing the work responsible for any damages or repair work resulting from such work.

I. The property owner shall be responsible for making sure that the allowable capacity for a parcel or nonresidential development is not exceeded. The allowable capacity is the sewer capacity, in terms of ~~ERUs-WSFUs (equivalent residential water supply fixture~~ units) for which sewer permits have been issued. No owner shall make or maintain nonresidential uses that would require ~~ERUs-WSFUs~~ in excess of the allowable capacity. If the city determines that an owner's sewer connections exceed the allowable capacity, then upon notice by the city, the owner must make the necessary modifications to ensure that the development configuration of the property does not exceed the allowable capacity.

J. ~~Owners of facilities whose allowable capacity is based on rooms, fixtures or not being a take-out restaurant,~~ shall provide all requested information concerning the ~~number of rooms or water supply~~ fixtures, ~~or if the restaurant is take-out or not,~~ upon any change of ownership, remodel or change of billing address. The city may require that continuing owners of such facilities provide current requested information to the city regarding the ~~facility room and water supply~~ fixture count ~~or take-out status~~.

~~K. After July 1, 2014, owners of facilities with an area based or water based fees shall only have to pay additional capacity fees in case of change in use category, remodel of the facility, or expansion of the facility, and only to the extent of such new activity.~~ [Code 2006 § 13-5-6. Ord. 98-04, 3-11-1998; Ord. 2009-04, 4-14-2009; Ord. 2014-06 § 1, 5-27-2014; Res. 2014-10 Exh. A, 5-27-2014].

13.15.060 Wastewater fees – Installment payments for capacity fees and lift pumps.

A. At the time an application for connection to the city wastewater system is filed with the city engineer and before any permit for connection is granted or any connection is made to the city wastewater system, the property owner shall pay a capacity fee.

B. The capacity fee and other fees as set forth in the current capacity fee schedule in SCC 13.15.100 shall be established by the council, upon recommendation of the city manager. The capacity fee shall be based upon ~~a basic rate multiplied by the number defined ranges~~ of ERU WSFUs (equivalent residential water supply fixture units).

1. ~~Single-family residential units and single-unit condominiums shall be considered one ERU~~Total WSFUs for each detached structure shall be calculated separately for both residential and non-residential properties, and the capacity fee for each structure determined based on the applicable defined range plus a per-WSFU fee for WSFUs exceeding the maximum range. Exceptions to calculations for commercial properties may be based on individually-owned or individual tenant-operated suites or units within one structure.
2. ~~Accessory dwelling units (ADUs) shall be considered one-half an ERU~~When total WSFUs are altered for a remodel or other changes, the total WSFUs shall be calculated and the capacity fee determined based on the difference between the original applicable defined range and the new applicable defined range. Refunds of capacity fees will not be granted for reductions in WSFUs.
3. ~~Residential accessory dwelling units shall be charged a separate capacity fee equal to the capacity fee assessable for one-half of an ERU as required by SLDC 918.08. Nonresidential accessory buildings connected to the sewer shall be subject to ERU determination based on the method provided in subsection (B)(4) of this section. Residential accessory dwelling units shall be defined as per the definition contained in the Sedona Land Development Code. Nonresidential accessory buildings shall be defined as per the definition of "accessory building" in the Sedona Land Development Code~~Except in cases where total WSFUs are altered within three years of construction or within three years of the most recent remodel or other changes affecting total WSFUs unless otherwise

approved by the chief building official, no additional capacity fees will be incurred for increases in total WSFUs of 3.0 or less from the total calculated WSFUs for the most recent charge for capacity fees.

~~4. The allowable capacity in terms of ERUs for nonresidential uses shall be determined by the city engineer based upon measures including but not limited to allowable occupancy based upon building and fire codes approved for use within the city, area, seating, characteristics and constituents of the discharge, quantity of discharge and number of fixtures. Where practical the city engineer's determination shall be stated in terms of the fee per square foot. The city engineer shall establish the necessary procedures, criteria and formulas to determine the appropriate number of ERUs for nonresidential uses.~~

~~54.~~ In the case of a wastewater generating activity related to a private property, but located on adjoining public property, the allowable capacity shall be assigned to the private property or properties. In the event that the related activity on public lands ceases, the allowable capacity for the private property shall be adjusted accordingly. In such case, no refunds of any applicable capacity fees will be granted.

~~6. For restaurants, area based calculations shall not include, kitchen, area behind a bar, office, and walled storage areas, except in the case of take-out restaurants, in which case the kitchen area shall be included in the calculation. Hallways leading only to kitchens, office, and storage areas shall be counted as part of the excluded area for fee determination. A restaurant shall be considered a take-out restaurant if the city engineer determines it has a drive-up window or the restaurant design or type is such that more than 30 percent of its business based on food sales revenue is anticipated to be take-out. The calculated area for capacity fee purposes shall include but not be limited to waiting areas, food serving areas, and dining areas. Restaurant areas associated with other uses shall be charged the restaurant capacity fee rate. Exterior restaurant area shall be separately determined and food preparation area shall not be excluded. The city engineer shall make the final determination of chargeable area.~~

C. Any person or owner who has paid the fee and been issued a connection permit may, prior to notice of availability, request and receive a refund of capacity fees paid. The refund shall be without interest. Thereafter, any application for a connection permit shall be at the then current capacity fee schedule as set forth in SCC 13.15.100.

D. Upon the expiration of the 180-day period following notice of sewer availability as provided in SCC [13.15.020](#), the capacity fee shall be charged to the property owner [of developed parcels](#) whether or not the property owner has connected to the city wastewater system and whether or not any building on the property is currently occupied unless the property owner has entered into a deferred connection agreement [in the form approved by the city attorney](#). Property owners who enter into a deferred connection agreement shall have the option of either paying the then prevailing capacity fee, or they may defer payment of the fee until the time of actual connection. However, if payment of the capacity fee is deferred until the time of connection [or otherwise remains unpaid until time of connection](#), the fee that is due will be the fee in existence at the time of connection. If the property owner fails to pay the capacity fee upon notice by the [finance](#) director that such capacity fee is due and owing, the [finance](#) director may proceed with any legal or equitable remedies available.

E. Prior to the expiration of the 180-day period following notice of sewer availability as provided in SCC [13.15.020](#), and upon compliance with all other federal, state and local requirements, a property owner may petition the [finance](#) director to establish an installment schedule for payment of the capacity fee. Such installment schedule shall be calculated at the discretion of the [finance](#) director in order to ensure prompt repayment of any and all city indebtedness associated with the operations, maintenance and construction of the city wastewater system. In addition, persons who enter into a deferred connection agreement and comply with the terms thereof shall be eligible for payment of the capacity fee through a financing program. Approval for this program is subject to the terms and conditions of the capacity fee financing agreement program administered through the finance department and requiring application and approval. Interest charges will apply at the federal short-term rate, determined pursuant to Section [6621](#) of the Internal Revenue Code, plus four percentage points, at the time the agreement is executed and remain in effect for the duration of the payment arrangement. Persons who fail to either connect to the city wastewater system within 180 days or enter into a deferred connection agreement will not be eligible for this capacity fee financing program.

F. Payment of the capacity fee shall not guarantee the person or owner connection to the city wastewater system.

G. In the case of a vacant lot, if a property owner requests and obtains a refund of prepaid capacity fee, and subsequently desires to construct a residence or commercial structure on the property, he shall be assessed the current capacity fee rate in force connection. [Except as approved by the council,](#) ~~T~~there will be no refund of [prepaid](#) capacity fees paid after December 31, 1999 [for lots with sewer availability.](#) [Unless authorized by the council,](#) ~~T~~the capacity fee may not be paid prior to receipt of a notice of sewer availability.

H. [Except in the case of withdrawn development plans,](#) ~~T~~there is no refund of nonresidential capacity fees.

I. The council may adopt a procedure to be utilized for those users who demonstrate financial inability to pay the capacity fee. The procedure may provide for assistance in seeking financing of capacity fees. The procedure may include the recordation of a secured lien against the subject real property. ~~A capacity fee assistance committee may be created to process applications for hardship assistance.~~ [Code 2006 § 13-5-7. Ord. 99-13, 8-10-1999; Ord. 2000-09, 10-9-2000; Ord. 2009-04, 4-14-2009; Ord. 2010-01 § 1, 1-12-2010; Res. 2010-01 Exh. B, 1-12-2010; Ord. 2010-07 § 1, 4-13-2010; Res. 2010-08 § 3 Exh. B, 4-13-2010; Ord. 2010-14 § 1, 9-28-2010; Res. 2010-27 § 1 Exh. A, 9-28-2010; Ord. 2012-06 § 1, 6-13-2012; Ord. 2014-06 § 1, 5-27-2014; Res. 2014-10 Exh. A, 5-27-2014].

13.15.070 Charge for failure to timely pay capacity fee.

In the event the capacity fee is not paid as required by this chapter, a late charge for failure to timely pay the capacity fee shall be added to the unpaid balance at the rate of one and one-half percent per month on the amount of the unpaid balance. The city may take any action authorized by law to enforce the payment of any such late charge. [Code 2006 § 13-5-8. Ord. 2014-06 § 1, 5-27-2014; Res. 2014-10 Exh. A, 5-27-2014].

13.15.080 Procedure and penalties for failure to pay capacity fee.

A. 1. Upon a determination by the city that a real property owner has failed to pay the mandatory capacity fee required by SCC [13.15.060](#) when wastewater service became available [for developed properties](#), written notice of the failure to pay shall be mailed to the real property owner.

2. Notice shall be mailed by certified, return receipt requested mail. The notice shall advise the property owner that an objection to the action set forth in the notice of delinquency must be filed in writing within 15 days of the date the notice was received and that a hearing procedure, as described in the notice of delinquency, is available upon request of the real property owner.

3. The notice shall specify that if a timely objection is not filed, the unpaid capacity fee shall be deemed due and owing and failure to pay shall result in the city pursuing all available means of collection as authorized by this code.

4. The notice shall specify that if a hearing before the city wastewater hearing officer is requested and it is determined as a result of the hearing that the unpaid capacity fee is due and owing, failure to pay shall result in the city pursuing all available means of collection as authorized by law.

B. If the real property owner wishes to file an objection and request a hearing, the owner shall submit any objection to the notice of delinquency in writing within 15 days of the receipt of the notice of delinquency. The written objection shall include copies of all documents that support the owner's position that there is no delinquency or that no fee is due and owing.

C. Within 10 days of date of receipt of the objection from the property owner, the city finance director may request, in writing, a meeting to discuss the appeal and attempt to settle the matter prior to the hearing. If this is not acceptable to the property owner, the appeal will be forwarded to the city wastewater hearing officer. The city shall schedule a hearing date within 30 days of receipt of the objection and give written notice to the owner of the scheduled date.

1. The hearing shall be held by a hearing officer who shall be a noncity employee retained by the city or a city employee that is not under the supervision of the city engineer, director of wastewater, or finance director. The duties of the hearing officer shall only extend to issues related to capacity fee, monthly service fee, disconnections, and financial penalties related to these payments. The hearing officer shall be limited to determining if fees and use classifications were required and enforced in accordance with city adopted codes and fee schedules.

2. The hearing shall be held during regular city business hours.

3. The hearing may be continued one time by the hearing officer upon the written request of either party for good cause.
4.
 - a. The property owner and the city shall each be given an opportunity to present their respective cases. The city shall present its case first and presentation may include:
 - i. Sworn testimony;
 - ii. Submission of evidence;
 - iii. Presentation of witnesses; and
 - iv. Cross examination.
 - b. The rules of evidence shall not apply, and the hearing officer may permit any evidence deemed relevant to the issues at hand to be admitted.
5. At the close of the hearing, the city may agree to permit the property owner to participate in the city program which provides for the financing of capacity fees.
6. Unless the city agrees to permit the property owner to participate in the financing program, the hearing officer shall render a written decision within 30 days of the close of the hearing. The hearing officer may find the following:
 - a. The property owner does not owe the connection fee and cancel the notice of delinquency;
 - b. The property owner does owe the connection fee as noticed by the city and order that it be paid within 15 days of receipt of the order;
 - c. A different (lesser) amount than that which was noticed is owed by the property owner and order that amount to be paid within 15 days from receipt of the order.
7. The hearing officer's order shall be mailed to the property owner by certified, return receipt requested mail.

8. If the property owner fails to appear at the scheduled hearing, the hearing officer shall enter an order directing the property owner to pay the delinquent connection fee as set forth in the notice of delinquency.

9. The hearing shall be recorded by an electronic recording device.

D. The city may use all available legal means to collect a delinquent capacity fee, including the following:

1. Report the delinquency to credit bureaus.

2. Record in the official land records of the county in which the subject real property is located, a notice of delinquency, which notice shall not constitute a lien against the real property.

[3. Record debt setoff to intercept any Arizona income tax refunds.](#)

~~34.~~ Referral to a collection agency or service, which collection agency or service may report the delinquency to credit bureaus and take all legal actions necessary to collect the debt including filing suit on the debt and, upon obtaining a judgment against the debtor, pursue garnishment, execution, recordation of a judgment lien against the property and foreclosure.

~~45.~~ Direct the city attorney to file suit in the appropriate court and, upon obtaining a judgment against the debtor, pursue garnishment, execution, recordation of a judgment lien against the property and foreclosure. [Code 2006 § 13-5-9. Ord. 2009-04, 4-14-2009; Ord. 2014-06 § 1, 5-27-2014; Res. 2014-10 Exh. A, 5-27-2014].

13.15.090 Dry sewers.

A. When the city wastewater system is not yet available to serve a new subdivision, the subdivider shall install sewage disposal facilities to serve each lot in conformance with the requirements of the Arizona Department of Environmental Quality (ADEQ) and shall be subject to the approval of the appropriate health authorities. In addition, the subdivider may be required to install "dry" main sewers with laterals to the property line of each parcel if extension of the sewer collection system is anticipated in the then current capital improvement plan. The

“dry” main sewers with laterals will be specified and installed so as to be capable of accepting raw sewage. At such time there is sewer availability within the city wastewater system, the city will accept “raw sewage” only.

B. When the city wastewater system becomes available, the subdivision must be connected thereto and the owner shall, within six months of connection to the city wastewater system, disable and abandon septic tanks, effluent lines and any common leach field or wastewater treatment facility in accordance with the Arizona Department of Environmental Quality (ADEQ) regulations existing at the time. Any salvage value shall accrue to the owner, and all costs associated with the removal of wastewater treatment facilities, or the reclamation of the land, shall be borne by the owner. Reuse of land previously occupied by such wastewater disposal system shall be subject to all applicable federal, state and local regulations. Abandonment of on-site disposal systems shall conform to ADEQ regulations. [Code 2006 § 13-5-10. Ord. 2014-06 § 1, 5-27-2014; Res. 2014-10 Exh. A, 5-27-2014].

13.15.100 Capacity fee schedule.

A. The city council shall from time to time, by ordinance, and in accordance with the provisions of A.R.S. Section 9-511.01, establish and publish a capacity fee schedule for connection to city of Sedona collection systems with flows to any city of Sedona wastewater treatment system. Capacity fees shall be incorporated into the city’s consolidated fee schedule upon formal adoption by the city council.

B. A capacity standby fee will be charged to property owners of undeveloped property located in an area where the city wastewater system is available for connection. A capacity standby fee will not be charged for vacant parcels that, as determined by the city engineer, are not capable of being developed for reasons such as their size, unique configuration, governmental ownership, or zoning designation as open space. [Code 2006 § 13-5-11. Ord. 99-13, 8-10-1999; Ord. 2009-04, 4-14-2009; Ord. 2010-14 § 1, 9-28-2010; Res. 2010-27 § 1 Exh. A, 9-28-2010; Ord. 2014-06 § 1, 5-27-2014; Res. 2014-10 Exh. A, 5-27-2014].

Appendix A ~~Wastewater deferred connection agreement with the city of Sedona, Arizona.~~

THIS AGREEMENT (the "Agreement") is entered into this ____ day of _____, 20__, by and between _____, and _____ (the "Property Owner(s)") and the City of Sedona, an Arizona municipal corporation (the "City").

RECITALS

A. WHEREAS, _____ & _____ is (are) the owner(s) of _____ (the "Property"), real property located at _____ in Sedona, Arizona, (the "Property Owner(s)"), which consists of a single-family residence, and

B. WHEREAS, City of Sedona (SCC 13.15.030(C)13.15.100) provides that the time for connection of single-family dwellings to the City Sewer wastewater system may be extended provided that certain conditions as further set forth herein are met, and,

C. WHEREAS, upon the satisfaction of the terms of this agreement, the Property Owner's legal obligation to make a wastewater connection to the City Wwastewater system is deferred for up to two five-year periods commencing from the expiration of the 180-day time frame to connect to the City wastewater system conditioned upon complete compliance with this agreement, and

OR

C. WHEREAS, upon the satisfaction of the terms of this agreement, the Property Owner(s) legal obligation to make a wastewater connection to the City wastewater system is deferred for a final five-year period commencing from the expiration of the prior deferred connection agreement, and

D. WHEREAS, the City's governing body has authorized execution of this Agreement by the City of Sedona (SCC 13.15.03013.15.100 et. seq.)

NOW, THEREFORE, the parties agree as follows:

AGREEMENT

I. The ~~p~~Property ~~o~~Owner(s) warrant that the above-described property is currently being served by a legally functioning septic or alternative wastewater treatment system that complies with all state and federal regulations and guidelines, and is capable of treating wastewater effluent in a manner that will not create an environmental hazard. Within 180 days after receiving a notice of sewer availability,

the ~~pProperty oOwner(s)~~ will ~~have submitted~~ an inspection report from a licensed engineer, licensed plumbing contractor, or licensed septic system installer evidencing that the system has been inspected within the past 90 days, and is in proper working order and is not in danger of failure. If the ~~pProperty oOwner(s)~~ fails to submit an inspection report within the above-prescribed time period, ~~the Property Owner(s)~~ will be considered to be in breach of this agreement. In addition, the ~~pProperty oOwner(s)~~ agrees to have their septic or alternative wastewater treatment system inspected every five years during the term of this agreement. The ~~pProperty oOwner(s)~~ agrees that if and when this agreement is breached, the City may retroactively assess the ~~pProperty oOwner(s)~~ the environmental penalty for the past six months, and may continue to assess the environmental penalty until the ~~pProperty oOwner(s)~~ connects to the ~~cCity~~ wastewater system.

OR

~~I. The Property Owner(s) warrant that the above-described property is currently being served by a legally functioning septic or alternative wastewater treatment system that complies with all state and federal regulations and guidelines, and is capable of treating wastewater effluent in a manner that will not create an environmental hazard. Within 30 days of the expiration of the prior deferred connection agreement, the Property Owner(s) will have submitted an inspection report from a licensed engineer, licensed plumbing contractor, or licensed septic system installer evidencing that the system has been inspected within the past 30 days, and is in proper working order and is not in danger of failure. If the Property Owner(s) fail to submit an inspection report within the above-prescribed time period, the Property Owner(s) will be considered to be in breach of this agreement. The Property Owner(s) agree that if and when this agreement is breached, the City may retroactively assess the Property Owner(s) the environmental penalty fee for the past six months, and may continue to assess the environmental penalty fee until the Property Owner(s) connect to the City wastewater system.~~

II. Beginning one year after the date of the notice of sewer availability, the Property Owner(s) ~~A~~ agrees to pay a monthly non-user service fee that is equivalent to one half the prevailing monthly residential sewer rate as adjusted annually in accordance with the following schedule.:

<u>Category</u>	<u>Billing Classifications</u>	<u>Billing Unit</u>	<u>Sewage Strength</u>	<u>Updated ERU per Billing Unit</u>	<u>FY 20 -</u>	<u>FY 20 -</u>	<u>FY 20 -</u>	<u>FY 20 -</u>
Rate Increase								
<u>new</u>	<u>Non-User Service Fee</u>	<u>Parcel</u>	<u>R</u>	<u>0.500</u>				

~~In addition, if upon the end of this above schedule, these fees are increased, the Property Owner(s) agree to pay this fee at any rate adopted by the City in the future.~~

III. ~~The Property Owner(s) agrees to connect the property to the Sedona City Wwastewater Ssystem, at his or her own cost and expense, within 30 days after any of the following events or conditions occur:~~

~~a. The failure of or determined need to replace or make major repairs to an existing on-site sewer system serving the property. A major repair is deemed to be any repair, the cost of which exceeds 50% of the existing capacity fee.~~

~~b. Five (5) years from the date of this agreement, unless the pProperty oOwner(s) hashave, within 30 days of the expiration of this 5 -year period, another inspection of the on-site system serving the property in accordance with the same requirements as set forth in paragraph I above. Upon complying with this requirement of a second inspection, this agreement may be renewed for one additional 5-year term. Under no condition will connection to the City wastewater system be deferred for a period of more than 10 years beyond the date of this agreement.~~

~~c. Notice by the City that the pProperty oOwner(s) is are in breach of any of the terms of this agreement.~~

~~d. The Property Owner(s) are more than 90 days delinquent on fees owed.~~

IV. ~~In consideration of entering into the agreement, the City will allow the pProperty oOwner(s) to elect to defer the assessment of the wastewater capacity fee until the time that the pProperty oOwner(s) makes a connection to the City Wwastewater Ssystem. However, if the pProperty oOwner(s) so elects, the Property Owner(s) will be assessed the prevailing capacity fee in existence at the time of connection. In the alternative, the pProperty oOwner(s) may elect to prepay the capacity fee within thirty days, at the prevailing rate at the time of entering into this agreement. The pProperty oOwner(s) also has have the option of entering into a "Capacity Fee Financing Agreement" with the City Ffinance Ddepartment whereby they Property Owner(s) may agree to pay the current capacity fee rate in installment payments with interest accruing on the outstanding balance. If the pProperty oOwner(s) does not enter into a Capacity Fee Financing Agreement, or pay the current prevailing rate within 30 days, then they Property Owner(s) will be assessed the prevailing capacity fee rate at the time they actuallyof connection to the city wastewater system.~~

~~V. The property owner(s) agree to pay the monthly non-user service fee in accordance with the following schedule:~~

Category	Billing Classifications	Billing Unit	Sewage Strength	Updated ERU per Billing Unit	FY 2014-15	FY 2015-16	FY 2016-17	FY 2017-18
Rate Increase					base	4%	4%	4%
new	Non-User Service Fee	Parcel	R	0.500	\$27.16	\$28.25	\$29.83	\$30.55

In addition, if upon the end of this above schedule, these fees are increased, the property owner(s) agree to pay this fee at any rate adopted by the City in the future.

VI. The Property Owner(s) understand(s) and agree(s) that failure to pay the monthly non-user service fee, or to make a timely wastewater connection in accordance with the terms and conditions of this agreement shall subject the Property Owner(s), his heirs, assigns or future property owner(s) to the penalty provisions of Sedona City Code Chapter 13. These penalties can include but are not limited to, late charges for failure to pay a capacity fee in the amount of 1.5% of the unpaid balance per month; determination of an environmental nuisance per the City of Sedona (Sec. 13-9-1 SCC 13.35.020) of the City Code and assessment of potential fines and penalties as set forth in the City of Sedona (Article 13-11 SCC 13.45.010) of the City Code, or such other charges as may be assessed by amendment of the Sedona City Code.

VII. The Property Owner(s) further agrees that in connection with any sale of the property, he/she/they the Property Owner(s) will fully disclose to any and all potential purchasers, the existence and terms of this agreement. This agreement is deemed to run with the land, and any future property owner(s) assumes the same rights and obligations as are set forth under this agreement. However, under no circumstance will any future property owner(s) be able to negotiate a new agreement with the City that would enable them to further defer connection to the City's wastewater system beyond the time allowed per this agreement.

VIII. The Property Owner(s) hereby covenant and agree that in the event the monthly non-user service fee for the above-described property becomes delinquent for more than 90 days, the City of Sedona Arizona shall have a voluntary, consensual lien upon the real property in the amount of all such unpaid non-user service fees, with said lien to continue until such time as the City of Sedona receives full payment of any unpaid non-user service fees. Prior to filing such lien, the City shall comply with the same procedures set forth in per the City of Sedona City Code Section 13-6-7(SCC 13.20.070). Any voluntary lien imposed pursuant to this procedure shall constitute a continuing lien

upon the real property and shall continue in full force and effect until released by a properly recorded instrument executed by the City of Sedona.

IN WITNESS WHEREOF, the parties have executed this Agreement as of the day and year first above written.

THE CITY OF SEDONA, an Arizona municipal corporation

By: _____

City Manager

Date: _____

Property

Owner(s):

Signature: _____

Print

Signature: _____

Signature: _____

Print

Signature: _____

Date: _____

VERIFICATION

STATE OF ARIZONA)

)

County of _____)

On this ___ day of _____, 20__,

before me personally appeared the following

persons: _____,

_____ known to me to be the person(s) whose name(s) is (are) subscribed in the foregoing instrument and acknowledged that

he/she/they executed the same for the purposes herein contained.

IN witness hereof, I hereunto set my hand and official seal.

Notary Public

My Commission Expires:

[Ord. 2010-14 § 1, 9-28-2010; Res. 2010-27 § 1 Exh. A, 9-28-2010; Ord. 2014-06 § 1, 5-27-2014; Res. 2014-10 Exh. A, 5-27-2014].

The Sedona City Code is current through Ordinance 2021-02, passed January 26, 2021, and Resolution 2021-03, passed January 26, 2021.

Disclaimer: The city clerk's office has the official version of the Sedona City Code. Users should contact the city clerk's office for ordinances passed subsequent to the ordinance cited above.

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