



**City of Prescott**  
Pretreatment Program

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# Chapter 2: Legal Authority

June 2013

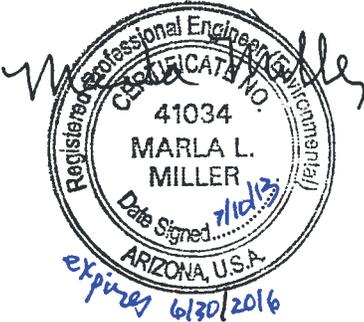


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## Acronyms

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|       |                                      |
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| AAC   | Arizona Administrative Code          |
| CFR   | Code of Federal Regulations          |
| City  | City of Prescott                     |
| CWA   | Clean Water Act                      |
| POTW  | Publicly Owned Treatment Works       |
| USC   | United States Code                   |
| USEPA | U.S. Environmental Protection Agency |

## 2. Legal Authority

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### 2.1 Background

In 1978, the United States Environmental Protection Agency (USEPA) promulgated the General Pretreatment Regulations, Title 40 Code of Federal Regulations (CFR) Section 403 (40 CFR 403), which defines the National Pretreatment Program. The Arizona Administrative Code (AAC) R18-9-A905(A)(8)(b) incorporates the General Pretreatment Regulations for existing and new sources of pollution contained in 40 CFR 403 and Appendices A, D, E, and G. The discharge of toxic and other harmful pollutants from Industrial Users can be effectively controlled through a local pretreatment program that is based on these regulations, structured to address specific local concerns, and enforced through the City of Prescott (City) Code.

The City has revised its City Code to incorporate a revised pretreatment program. The revised pretreatment ordinance is incorporated in City Code, Title II, Chapter 2-1, Public Works Department through Ordinance 4856-1313, and is included in Appendix A.

The ordinance sets forth uniform requirements for Industrial Users of the Publicly Owned Treatment Works (POTW) and enables the City to comply with all applicable federal, state, and local laws, including the Clean Water Act (CWA), 33 United States Code (USC) Section 1251 et seq., and the General Pretreatment Regulations (40 CFR 403). The objectives of the pretreatment ordinance are:

- Prevent the introduction of pollutants into the POTW that will interfere with its operations;
- Prevent the introduction of pollutants into the POTW that will pass through the POTW, inadequately treated into the receiving water, or otherwise be incompatible with the POTW;
- Protect the POTW personnel who may be affected by wastewater and sludge in the course of their employment and the general public;
- Promote the reuse and recycling of industrial wastewater and sludge from the POTW;
- Provide fees for the equitable distribution of the cost of operation, maintenance, and improvement of the City's pretreatment program;

- Prevent the introduction of pollutants into the POTW in amounts that could cause or contribute to a sanitary sewer overflow; and
- Enable the City to comply with the POTW's effluent discharge and sludge disposal requirements.

This ordinance applies to all Industrial and Commercial Users discharging wastewater to the POTW. The ordinance authorizes the issuance of wastewater discharge permits, provides for monitoring, compliance, and enforcement activities, establishes administrative review procedures, requires User reporting, and provides for setting of fees for the equitable distribution of costs resulting from establishing the pretreatment program.

## **Appendix A**

**Ordinance No. 4856-1313 & Revised Prescott City Code, Title II, Chapter 2-1**

**ORDINANCE NO. 4856-1313**

**AN ORDINANCE OF THE MAYOR AND COUNCIL OF THE CITY OF PRESCOTT, YAVAPAI COUNTY, ARIZONA, AMENDING THE PRESCOTT CITY CODE BY AMENDING CITY CODE TITLE II, CHAPTER 2-1, BY ADOPTING THE PUBLIC RECORD DOCUMENTS GENERALLY ENTITLED "CITY CODE, TITLE II, CHAPTER 2-1, PUBLIC WORKS DEPARTMENT", "CITY OF PRESCOTT LOCAL LIMITS UPDATE" AND "CITY OF PRESCOTT CHAPTER 7 ENFORCEMENT RESPONSE PLAN" AND ADOPTING PENALTIES FOR VIOLATIONS THEREOF**

**RECITALS:**

WHEREAS, the City of Prescott desires to amend its City Code in reference to the City of Prescott's Public Works Department to implement a Wastewater Pretreatment Program in the interest of public health and safety and water quality in conformance with local, state, and federal laws; and

WHEREAS, it is in the best interests of the City of Prescott to amend its City Code in reference to the Public Works Department to implement a Wastewater Pretreatment Program to protect the environment and public in conformance with local, state, and federal laws; and

WHEREAS, documents entitled "City Code Title II, Chapter 2-1, Public Works Department", "City of Prescott Local Limits Update" and "Chapter 7 Enforcement Response Plan" were made a public record by Resolution No.4167-1329.

**ENACTMENTS:**

NOW, THEREFORE, BE IT ORDAINED BY THE COUNCIL OF THE CITY OF PRESCOTT AS FOLLOWS:

Section 1. THAT "City Code Title II, Chapter 2-1, Public Works Department", "City of Prescott Local Limits Update" and "Chapter 7 Enforcement Response Plan" made public records by Resolution No. 4166-1329, are hereby adopted, thereby replacing and repealing that previous document entitled "City Code, Title II, Chapter 2-1, Public Works Department".

Section 2. PENALTIES. THAT unless otherwise stated or provided for in the public records entitled "City Code Title II, Chapter 2-1, Public Works Department", the "City of Prescott Local Limits Update" and "Chapter 7 Enforcement Response Plan":

Any person, firm or corporation violating any provision of Chapter 2-1, and those documents incorporated by reference ("City of Prescott Local Limits Update" and "Chapter 7 Enforcement Response Plan") in that Chapter, except those provisions

covered in Section 2-1-59, "Nonpayment Of Fees; Penalty", of said Chapter shall be deemed guilty of a misdemeanor, and upon conviction thereof shall be punished as provided in Section 1-3-1 of this Code. Each and every day any such violation continues shall be deemed and considered a separate offense. Any person, firm or corporation violating any provisions of this Chapter shall become liable to the City for any expense, loss or damage occasioned by the City by reason of such violation. The penalties shall be cumulative and nonexclusive.

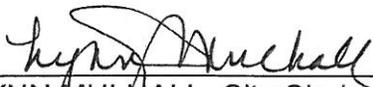
Section 3. THAT if any provision of this Ordinance is invalidated by any court of competent jurisdiction, the remaining provisions shall not be effected and shall continue in full force and effect.

PASSED AND ADOPTED by the Mayor and Council of the City of Prescott this 28th day of May, 2013.

  
MARLIN D. KUYKENDALL, Mayor

ATTEST:

APPROVED AS TO FORM:

  
LYNN MULHALL, City Clerk

  
JON M. PALADINI, City Attorney

## CLERK'S CERTIFICATION

CITY OF PRESCOTT        )  
COUNTY OF YAVAPAI    ) SS.  
STATE OF ARIZONA        )

I, Lynn J. Mulhall, City Clerk of the City of Prescott, Arizona, a Municipal Corporation, Organized and Existing pursuant to the laws of the State of Arizona, hereby certify that the foregoing is a full, true, and correct copy of **ORDINANCE NO. 4856-131 ADOPTED BY THE PRESCOTT CITY COUNCIL ON May 28, 2013.**

In witness whereof, I hereunto set my hand and affix the seal of the City of Prescott, Arizona, this 29 day of May, 2013.



Lynn J. Mulhall, City Clerk  
City of Prescott, Arizona

Affix City Seal

## CHAPTER 2-1: PUBLIC WORKS DEPARTMENT

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**2-1-1: DEPARTMENT CREATED:**

- (A) There is hereby created a Public Works Department; said department to be under the supervision of the Director of Public Works. The director will report to and be responsible for the operation of the department to the City manager. The department shall have the divisions provided for in Section 2-1-2 of this Chapter, and such other divisions as shall be established from time to time by the City manager. (Ord. 687, 11-9-1964)

**2-1-2: DIVISIONS CREATED:**

The Public Works Department shall have those duties and consist of those divisions, over and above those provided for in this Code, as may be established from time to time by the City Manager. (Ord. 4451, 1-25-2005; Ord. 4480, 6-28-2005)

**2-1-3: STREETS DIVISION; FUNCTION:**

- (A) Function: It shall be the responsibility of the streets division to effectively maintain a clean street system that is reasonably safe for motor vehicles, and to maintain street lighting where deemed appropriate.
- (B) Streetlight Assessment: A monthly fee in the amount of seventy five cents (\$0.75) per unit shall be assessed against every City customer utilizing City water, sewer or garbage collection service. The revenues from these fees shall be utilized by the City for the purpose of defraying the costs of operation, maintenance, installation and replacement of streetlights within the City limits. For the purposes of this section, "unit" shall be calculated as follows:
1. A single-family residential customer shall constitute one unit.
  2. A commercial or industrial customer that services only one business or entity shall constitute one unit.
  3. Any customer which has multiservice connections through one master meter shall constitute one unit for each such connection.

The effective date of Ordinance 3271, and the charges to be levied herein, shall be November 1, 1994. (Ord. 3271, 9-27-1994; amd. Ord. 3317, eff. 2-14-1995; Ord. 3473, 2-12-1996, eff. retroactive to 2-1-1996)

**2-1-4: ENGINEERING SERVICES DIVISION; FUNCTION:**

(Ord. 1360, 8-27-1979; Rep. by Ord. 4504, 10-25-2005)

**2-1-5: CONSTRUCTION SERVICES DIVISION; FUNCTION:**

(Ord. 4317, 5-27-2003, eff. 7-1-2003; Rep. by Ord. 4504, 10-25-2005)

**2-1-6: GENERAL SERVICES DIVISION; FUNCTION:**

(Rep. by Ord. 4451, 1-25-2005)

**2-1-7: UTILITIES DIVISION; FUNCTION:**

The utilities division shall have charge of the water system and sanitary sewer system of the City, including the enforcement of all related provisions contained herein. (Ord. 4317, 5-27-2003, eff. 7-1-2003)

**2-1-8: UTILITIES DIVISION; PROVISION OF WATER TO AREAS OUTSIDE OF THE CITY LIMITS; RULES AND REGULATIONS:**

- (A) Water Service To Areas Outside The City Limits: No property outside of the City limits shall be served water, nor shall any main extensions outside of the City limits be allowed. (Ord. 3527, eff. 9-12-1996; amd. Ord. 4317, 5-27-2003, eff. 7-1-2003)

Notwithstanding the foregoing, the following are exempt from the provisions of this subsection:

1. Where the City has previously entered into a valid contractual agreement to provide water service to a specific property, in which event water service or a main extension shall only be allowed to the extent necessary to allow the City to comply with its contractual obligations. (Ord. 2133, 11-28-1989; amd. Ord. 4317, 5-27-2003, eff. 7-1-2003)
2. Where there is a City water main fronting residential property desiring to be served on or before October 4, 2005, and there is sufficient capacity in the existing main to allow service to the property, and the service connection does not exceed one hundred feet (100'), and the Public Works Director determines that there will be no adverse impact upon the City's water system nor upon the City's ability to deliver sufficient water at sufficient pressure to existing water customers and expected future customers within the City limits; provided, however, that as a condition to obtaining water service pursuant to this subsection, any such property must also connect onto the City's sanitary sewer main at the property

owner's cost. (Ord. 4305, 4-8-2003; amd. Ord. 4317, 5-27-2003, eff. 7-1-2003; Ord. 4503, 10-25-2005, eff. imm.)

3. If water service is provided for pursuant to an intergovernmental agreement.
- (B) Rules and Regulations: Water will be furnished subject to rules and regulations of the City, which rules and regulations are made a part of every application, contract, agreement or license entered into between the property owner or consumer and the City. (Ord. 2133, 11-28-1989; amd. Ord. 4317, 5-27-2003, eff. 7-1-2003)
- (C) Unless otherwise required pursuant to Subsections 2-1-8(A)(1), (2) or (3), if potable water is provided to property outside of the City limits in accordance with this Section 2-1-8, then and in that event no more than one residential dwelling unit per parcel of property shall be provided potable water. The phrase "parcel of property", as used herein, shall mean all of that real property which was contiguous and under common ownership at any time on or after October 4, 2005. (Ord. 4503, 10-25-2005, eff. imm.)

## **2-1-9: UTILITIES DIVISION; ABBREVIATIONS AND DEFINITIONS:**

Where used throughout this Chapter, the following abbreviations shall have the designated meanings:

|        |   |
|--------|---|
| °C     | degrees Celsius                               |
| °F     | degrees Fahrenheit                            |
| ADEQ   | Arizona Department of Environmental Quality   |
| ADHS   | Arizona Department of Health Services         |
| APP    | Aquifer Protection Permit                     |
| A.R.S. | Arizona Revised Statutes                      |
| BMP    | Best Management Practice                      |
| BMR    | Baseline Monitoring Report                    |
| BOD    | Biochemical Oxygen Demand                     |
| cm     | centimeter                                    |
| CFR    | Code of Federal Regulations                   |
| CIU    | Categorical Industrial User                   |
| COD    | Chemical Oxygen Demand                        |
| EPA    | United States Environmental Protection Agency |

|        |  |
|--------|--|
| gpd    | gallons per day                        |
| IU     | Industrial User                        |
| LUST   | Leaking Underground Storage Tanks      |
| mg/l   | milligrams per liter                   |
| O&M    | Operation and Maintenance              |
| POTW   | Publicly Owned Treatment Works         |
| RCRA   | Resource Conservation and Recovery Act |
| SIC    | Standard Industrial Classification     |
| SIU    | Significant Industrial User            |
| SNC    | Significant Noncompliance              |
| TRC    | Technical Review Criteria              |
| TSS    | Total Suspended Solids                 |
| U.S.C. | United States Code                     |

Where used throughout this Chapter, the following words and/or phrases shall be taken to have meanings as indicated below:

**ACT OR THE ACT.** The Federal Water Pollution Control Act, also known as the Clean Water Act, as amended, 33 U.S.C. § 1251 et seq.

**APPROVAL AUTHORITY.** Arizona Department of Environmental Quality (ADEQ).

**AUTHORIZED REPRESENTATIVE OF THE USER.**

(1) If the User is a corporation:

- (a) The president, secretary, treasurer, or a vice-president of the corporation in charge of a principal business function, or any other person who performs similar policy or decision-making functions for the corporation; or
- (b) The manager of one or more manufacturing, production, or operating facilities, provided the manager is authorized to make management decisions that govern the operation of the regulated facility including having the explicit or implicit duty of making major capital investment recommendations, and initiate and direct other comprehensive measures to assure long-term environmental compliance with environmental laws and regulations; can ensure that the necessary systems are established or actions taken to gather complete and accurate information for individual Wastewater Discharge Permit requirements; and where authority to sign

documents has been assigned or delegated to the manager in accordance with corporate procedures.

- (2) If the User is a partnership or sole proprietorship: a general partner or proprietor, respectively.
- (3) If the User is a Federal, State, or local governmental facility: a director or highest official appointed or designated to oversee the operation and performance of the activities of the government facility, or their designee.
- (4) The individuals described in paragraphs 1 through 3, above, may designate another authorized representative if the authorization is in writing, the authorization specifies the individual or position responsible for the overall operation of the facility from which the Discharge originates or having overall responsibility for environmental matters for the company and the written authorization is submitted to the City.

**AQUIFER PROTECTION PERMIT:** an Aquifer Protection Permit issued by ADEQ to the City regarding any POTW owned and/or operated by the City pursuant to ADEQ's authority under Title 49, Chapter 2, Article 3 of the Arizona Revised Statutes.

**ADEQ:** The Arizona Department of Environmental Quality.

**AZPDES PERMIT:** Any Arizona Pollution Discharge Elimination System permit issued by ADEQ to the City regarding any POTW owned and/or operated by the City pursuant to ADEQ's authority under Title 49, Chapter 2, Article 3.1 of the Arizona Revised Statutes.

**BEST MANAGEMENT PRACTICES OR BMPs.** Schedules of activities, prohibitions of practices, maintenance procedures, and other management practices to implement the prohibitions listed in Sections 2-1-38 and 2-1-39 [40 CFR 403.5(a) (1) and (b)]. BMPs include treatment requirements, operating procedures, and practices to control plant site runoff, spillage or leaks, sludge or waste disposal, or drainage from raw materials storage. [Note: BMPs also include alternative means (i.e., management plans) of complying with, or in place of certain established Categorical Pretreatment Standards and effluent limits.]

**BIOCHEMICAL OXYGEN DEMAND OR BOD:** Denoting biochemical oxygen demand, means the quantity of oxygen utilized in the biochemical oxidation of organic matter under standard laboratory procedure in five (5) calendar days at twenty degrees centigrade (20°C), usually expressed in milligrams per liter (mg/L).

**BUILDING OFFICIAL:**

**BYPRODUCTS:** A treatment related byproduct such as land lease, crops, gas, effluent, etc.

**CATEGORICAL INDUSTRIAL USER OR CIU.** An Industrial User subject to a Categorical Pretreatment Standard or Categorical Standard.

**CATEGORICAL PRETREATMENT STANDARD OR CATEGORICAL STANDARD.** Any regulation containing Pollutant discharge limits promulgated by United States Environmental Protection Agency (EPA) in accordance with Sections 307(b) and (c) of the Act (33 U.S.C. § 1317) which apply to a specific category of Users and which appear in 40 CFR Chapter I, Subchapter N, Parts 405-471 and are incorporated in this Chapter by reference.

**CHEMICAL OXYGEN DEMAND OR COD.** The quantity of oxygen consumed from a chemical oxidation of inorganic and organic matter present in the water or wastewater, expressed in milligrams per liter.

**CITY:** The City of Prescott.

**COMPOSITE SAMPLE:** A combination of individual samples obtained at regular intervals over a specified time period. The volume of each individual sample shall be either proportional to the flow rate during the sample period (flow composite) or constant and collected at equal time intervals during the composite period (time composite) as defined in the permit.

**CONCENTRATION-BASED LIMITS:** Local limit expressed in terms of weight per volume (e.g., milligrams per liter, mg/L).

**CONSUMER:** A person, firm or corporation contracting with the City for the furnishing of water or sewer services to property subject to the following classifications:

Apartment Consumer: Any apartment, house or complex which has multi-service connection through one master meter. This classification shall be considered a Residential Multi-Family consumer.

Commercial Consumer: Any premises located within the service area on which a commercial business is operated, other than a home occupation business. This classification shall be considered a Non-Residential consumer.

Industrial Consumer: Any commercial or industrial consumer whose water usage exceeds two hundred thousand (200,000) gallons per month.

Multi-Family Consumer: Any permanent housing unit having one or more common walls within another housing unit located in a multi-family residential structure serviced by a common master meter, including a unit in a duplex, triplex, four-plex, condominium development, townhouse development or apartment complex. It also includes mobile homes located in a mobile home park, and other residential developments sharing a common master meter.

**Residential Consumer:** Any permanent housing unit located within the service area used as a residence, including but not limited to mobile home parks, apartment houses, single family and multi family residences.

**Trailer And Mobile Home Park Consumer:** A trailer park and mobile home consumer is any property, park or complex containing trailers or mobile homes which has multiservice connection through one master meter. This classification shall be considered a residential consumer.

**CONTROL AUTHORITY:** The City.

**ENFORCEMENT RESPONSE PLAN OR ERP:** Plan containing detailed procedures indicating how a POTW will investigate and respond to instances of Industrial User noncompliance, as defined in 40 CRF 403.8(f)(5).

**ENVIRONMENTAL PROTECTION AGENCY OR EPA.** The United States Environmental Protection Agency or, where appropriate, the Regional Water Management Division Director, or other duly authorized official of said agency.

**EXISTING SOURCE.** Any source of Discharge that is not a New Source.

**FOOD SERVICE FACILITY:** Any facility that processes, prepares, and/or serves food, including but not limited to industrial and commercial establishments, such as delicatessens, bakeries, and restaurants, and private and public institutions, such as schools, hospitals, churches, day-care and residential facilities with common food preparation and dining areas, but excluding private dwellings.

**GARBAGE:** Solid wastes from the preparation, cooking and dispensing of food and from the handling, storage and sale of produce.

**GRAB SAMPLE:** A sample which is taken from a waste stream without regard to the flow or time of day in the waste stream and over a period of time not to exceed fifteen (15) minutes.

**INDIRECT DISCHARGE OR DISCHARGE:** The introduction of Pollutants into the Publicly Owned Treatment Works (POTW) from any nondomestic source.

**INDUSTRIAL USER:** A User that discharges treated or untreated process wastewater to the POTW (including, without limitation, sanitary, noncontact cooling and boiler blowdown wastewater). A source of Indirect Discharge, as defined in 40 CFR 403.3, not including discharges typical of residences.

**INDUSTRIAL WASTES:** Any liquid, free-flowing waste resulting from any industrial or manufacturing process or from the development, recovery, or processing of natural

resources with or without suspended solids, excluding sanitary sewage and uncontaminated water.

**INFILTRATION/INFLOW:** Water other than wastewater that enters a sewerage system (including sewer service connections) from sources such as roof leaders, cellar drains, foundation drains, drains from springs and swampy areas, manhole covers, cross connections between Storm Sewers and sanitary sewers, catch basins, cooling towers, Storm Waters, surface runoff, street wash waters or drainage.

**INSTANTANEOUS LIMITS:** The maximum concentration of a Pollutant allowed to be discharged at any time, determined from the analysis of any discrete or composited sample collected, independent of the industrial flow rate and the duration of the sampling event.

**INTERFERENCE:** A Discharge, which alone or in conjunction with a Discharge or Discharges from other sources, including an increase in magnitude or duration, inhibits or disrupts the POTW, its treatment processes or operations or its sludge processes, use or disposal; and therefore, is a cause of a violation of the City's Aquifer Protection Permit (APP) or of the prevention of biosolids use or disposal in compliance with any of the following statutory/regulatory provisions or permits issued thereunder, or any more stringent State or local regulations: Section 405 of the Act; the Solid Waste Disposal Act, including Title II commonly referred to as the Resource Conservation and Recovery Act (RCRA); any State regulations contained in any State sludge management plan prepared pursuant to Subtitle D of the Solid Waste Disposal Act; the Clean Air Act; and the Toxic Substances Control Act.

**LOCAL LIMIT:** Specific discharge limits developed and enforced by the City upon non-residential facilities to implement the general and specific discharge prohibitions listed in 40 CFR 403.5(a) (1) and (b).

**MAINS:** The City owned water lines laid in or along the public streets or highways or on City acquired easements, but shall not include service connections.

**MASS-BASED LIMITS:** Local limits reported as weight per time (e.g., pounds per day, lb/day).

**MEDICAL WASTE:** Isolation wastes, infectious agents, human blood and blood products, pathological wastes, sharps, body parts, contaminated bedding, surgical wastes, potentially contaminated laboratory wastes, and dialysis wastes.

**MONTHLY AVERAGE:** The sum of all daily Discharges measured during a calendar month divided by the number of daily Discharges measured during that month.

**MONTHLY AVERAGE LIMIT:** The highest allowable average of daily Discharges over a calendar month, calculated as the sum of all daily Discharges measured during a calendar month divided by the number of daily Discharges measured during that month.

NATURAL OUTLET: Any outlet into a watercourse, ditch, or other body of surface or ground water.

NEW SOURCE:

- (1) Any building, structure, facility, or installation from which there is (or may be) a Discharge of Pollutants, the construction of which commenced after the publication of proposed Pretreatment Standards under Section 307(c) of the Act which will be applicable to such source if such standards are thereafter promulgated in accordance with that Section, provided that:
  - (a) The building, structure, facility, or installation is constructed at a site at which no other source is located; or
  - (b) The building, structure, facility, or installation totally replaces the process or production equipment that causes the Discharge of Pollutants at an Existing Source; or
  - (c) The production or wastewater generating processes of the building, structure, facility, or installation are substantially independent of an Existing Source at the same site. In determining whether these are substantially independent, factors such as the extent to which the new facility is integrated with the existing plant, and the extent to which the new facility is engaged in the same general type of activity as the Existing Source, should be considered.
- (2) Construction on a site at which an Existing Source is located results in a modification rather than a New Source if the construction does not create a new building, structure, facility, or installation meeting the above criteria but otherwise alters, replaces, or adds to existing process or production equipment.
- (3) Construction of a New Source as defined under this paragraph has commenced if the owner or operator has:
  - (a) Begun, or caused to begin, as part of a continuous onsite construction program
    - (i) any placement, assembly, or installation of facilities or equipment; or
    - (ii) significant site preparation work including clearing, excavation, or removal of existing buildings, structures, or facilities which is necessary for the placement, assembly, or installation of New Source facilities or equipment; or
  - (b) Entered into a binding contractual obligation for the purchase of facilities or equipment which are intended to be used in its operation within a

reasonable time. Options to purchase or contracts which can be terminated or modified without substantial loss, and contracts for feasibility, engineering, and design studies do not constitute a contractual obligation under this paragraph.

**O&M COST:** All costs (including personnel, material, energy and administration) needed to assure the dependable and economical operation of treatment works. O&M includes replacement.

**PASS THROUGH:** A Discharge which exits the POTW into the receiving aquifer in quantities or concentrations which, alone or in conjunction with a Discharge or Discharges from other sources, is a cause of a violation of any requirement of the City's APP, including an increase in the magnitude or duration of a violation.

**PERMIT:** Any written authorization required pursuant to this or any other regulations of the City for the installation of any sewage works.

**PERMITTEE:** Any User that has been issued a Wastewater Discharge Permit under this Chapter.

**PERSON:** Any individual, partnership, co-partnership, firm, company, corporation, association, joint stock company, trust, estate, limited liability company, governmental entity, or any other legal entity; or their legal representatives, agents, or assigns. This definition includes all Federal, State, and local governmental entities.

**pH:** A measure of the acidity or alkalinity of a solution, expressed in standard units; the logarithm of the reciprocal of the weight of hydrogen ions in grams per liter or solution.

**POLLUTANT:** Dredged spoil, solid waste, incinerator residue, filter backwash, Sewage, garbage, biosolids, munitions, Medical Wastes, chemical wastes, biological materials, radioactive materials, heat, wrecked or discarded equipment, rock, sand, cellar dirt, municipal, agricultural and Industrial Wastes, and certain characteristics of wastewater (e.g., fats, oils, grease, pH, temperature, TSS, turbidity, color, BOD, COD, toxicity, or odor).

**PRETREATMENT:** The reduction of the amount of Pollutants, the elimination of Pollutants, or the alteration of the nature of Pollutant properties in wastewater prior to, or in lieu of, introducing such Pollutants into the POTW. This reduction or alteration can be obtained by physical, chemical, or biological processes; by process changes; or by other means, except by diluting the concentration of the Pollutants unless allowed by an applicable Pretreatment standard.

**PRETREATMENT REQUIREMENTS:** Any substantive or procedural duties, responsibilities, or requirements related to Pretreatment imposed on a User, other than a Pretreatment standard.

**PRETREATMENT SECTIONS:** The Sections of this Chapter pertaining to the City's Pretreatment program, which Sections are Sections 2-1-38, 2-1-39, 2-1-44, 2-1-45, 2-1-46, 2-1-48, 2-1-49, 2-1-50, 2-1-51, 2-1-58, 2-1-61, 2-1-62, 2-1-63, 2-1-64, 2-1-65, 2-1-66, 2-1-67, 2-1-68, 2-1-69, 2-1-70, 2-1-71, 2-1-72, 2-1-73, and 2-1-74.

**PRETREATMENT STANDARDS OR STANDARDS:** Pretreatment Standards shall mean Prohibited Discharge Standards, Categorical Pretreatment Standards, and Local Limits.

**PRIVATE LINE:**

- (A) A water line owned by a party other than the City and extending from the meter at the service connection onto private or other public property or properties;
- (B) Any service line which does not furnish water to any water outlet located within two hundred feet (200') from the property line on the abutting street, highway or City right of way on which such property is located; and for which application is made for a private line.

**PRIVATE SEWER:** A sewer line owned by a party other than the City of Prescott, which extends from the service connection at the public sewer main onto private or other public property or properties.

**PROHIBITED DISCHARGE STANDARDS:** Absolute prohibitions against the Discharge of certain substances; these prohibitions appear in Sections 2-1-38 and 2-1-39 of this Ordinance.

**PROPERLY SHREDDED GARBAGE:** Garbage that has been shredded to such a degree that all particles will be carried freely under the flow conditions normally prevailing in public sewers with no particle greater than one-half inch (1/2") in any dimension.

**PUBLIC WORKS DIRECTOR:** The Person designated by the City to supervise the operation of the POTW, and who is charged with certain duties and responsibilities by this Ordinance, or a duly authorized representative.

**PUBLICLY OWNED TREATMENT WORKS OR POTW:** A "treatment works," as defined by Section 212 of the Act (33 U.S.C. § 1292) which is owned by the City. This definition includes any devices or systems used in the collection, storage, treatment, recycling, and reclamation of Sewage or Industrial Wastes of liquid nature, recharge/reuse systems and facilities, and any conveyances which convey wastewater to a Wastewater Treatment Plant.

**PUBLIC SEWER:** A sanitary sewer controlled and maintained by Control Authority.

**REPLACEMENT:** Expenditures for obtaining and installing equipment, accessories, or appurtenances which are necessary during the design or useful life, whichever is longer, of the treatment works to maintain the capacity and performance for which such works were designed and constructed. The term "operation and maintenance" includes replacement. Replacement does not include the replacement of treatment works.

**READY ACCESS:** The ability of the Public Works Director to enter and approach sampling and monitoring locations such that equipment can be safely and easily delivered by truck, installed, operated, maintained, and inspected.

**REPRESENTATIVE SAMPLE:** A Composite Sample obtained by flow proportional sampling techniques except where another sampling method is specified by the User's Wastewater Discharge Permit or authorized by the Public Works Director.

**SANITARY SEWER:** A sewer which carries sewage and to which storm, surface and ground waters are not intentionally admitted.

**SEPTIC TANK WASTE:** Any Sewage from holding tanks such as vessels, chemical toilets, campers, trailers, and septic tanks.

**SEWAGE OR SANITARY SEWAGE:** Any and all waste substances, liquids or solids associated with human habitation, but excluding storm, surface and ground water, and industrial waste.

**SEWAGE TREATMENT PLANT:** Any arrangement of devices and structures used for treating sewage.

**SEWAGE WORKS:** All facilities for collecting, pumping, pretreating, treating and disposing of sewage.

**SEWER CONNECTION:** The connection to the public sewer and the extension therefrom of the sewer to the property line at the alley or the curb line of the street, whichever is applicable, depending on the location of the public sewer.

**SEWER CONNECTION FEE:** The initial sewer connection charge as set forth in Section 2-1-22 of this Chapter and shall apply to all sewer connections to the public sewer after the effective date of this Chapter.

**SEWER DIVISION:** Those officers and agents of the City supervising sewer operation for the City.

**SIGNIFICANT INDUSTRIAL USER OR SIU:** Except as provided in paragraphs (3) and (4) of this Section, a Significant Industrial User, as defined in 40 CFR 403.3, is:

- (1) An Industrial User subject to Categorical Pretreatment Standards; or

- (2) An Industrial User that:
  - a) Discharges an average of twenty-five thousand (25,000) gallons per day (gpd) or more of process wastewater to the POTW (excluding sanitary, noncontact cooling, and boiler blowdown wastewater);
  - b) Contributes a process waste stream which makes up five (5) percent or more of the average dry weather hydraulic or organic capacity of the POTW Treatment Plant; or
  - c) Is designated as such by the City on the basis that it has a reasonable potential for adversely affecting the POTW's operation or for violating any Pretreatment Standard or requirement.
- (3) The City may determine that an Industrial User subject to Categorical Pretreatment Standards is a non-significant Categorical Industrial User (CIU) rather than a SIU on a finding that the Industrial User never discharges more than one hundred (100) gpd of total categorical wastewater (excluding sanitary, non-contact cooling and boiler blowdown wastewater, unless specifically included in the Pretreatment Standard) and the following conditions are met:
  - a) The Industrial User, prior to City's findings, has consistently complied with all applicable Categorical Pretreatment Standards and requirements; and
  - b) [Reserved]
  - c) The Industrial User never discharges any untreated concentrated wastewater.
- (4) Upon a finding that a User meeting the criteria in Subsection (2) of this part has no reasonable potential for adversely affecting the POTW's operation or for violating any Pretreatment Standard or requirement, the City may at any time, on its own initiative or in response to a petition received from an Industrial User, and in accordance with procedures in 40 CFR 403.8(f)(6), determine that such User should not be considered a SIU.

SHALL: Mandatory.

**SLUG LOAD OR SLUG DISCHARGE:** Any Discharge at a flow rate or concentration, which could cause a violation of the Prohibited Discharge Standards in Sections 2-1-38 and 2-1-39 of this Ordinance. A Slug Discharge is any Discharge of a non-routine, episodic nature, including but not limited to an accidental spill or a non-customary batch Discharge, which has a reasonable potential to cause Interference or Pass Through, or in any other way violate the POTW's regulations, Local Limits or permit conditions.

**STANDARD INDUSTRIAL CLASSIFICATION OR SIC:** A classification pursuant to the Standard Industrial Classification Manual issued by the United States Office of Management and Budget.

**STORM SEWER OR STORM DRAIN:** A sewer which carries storm and surface waters and drainage but excludes sewage and polluted industrial wastes.

**STORM WATER:** Any flow occurring during or following any form of natural precipitation, and resulting from such precipitation, including snowmelt.

**STREET:** Any public highway, road, street, avenue, alleyway, place, easement or right of way.

**TOTAL SUSPENDED SOLIDS OR SUSPENDED SOLIDS:** The total suspended matter that floats on the surface of, or are in suspension in, water, wastewater, or other liquids and which are removed by laboratory filtering.

**USER:** Any person or entity that uses or obtains from the City any water, wastewater, sewage, sanitary, or other utility service governed by this Chapter.

**USER CHARGE:** A charge levied on Users of a treatment works, or that portion of the ad valorem taxes paid by a User, for the User's proportionate share of the cost of operation and maintenance (including replacement) of such works.

**VEHICLE SERVICE FACILITY:** Any facility, excluding residential homes, that conducts one or more of the following operations with respect to vehicles or components of vehicles: vehicle repair, fuel dispensing, vehicle fluid replacement, engine and parts cleaning, body repair, vehicle salvage and wrecking, or vehicle washing.

**WASTE HAULER:** Any Person carrying on or engaging in vehicular transport of wastewater or wastes as part of, or incidental to, any business for the purpose of discharging such waste into the POTW.

**WASTEWATER DISCHARGE PERMIT:** A permit issued by the Public Works Director pursuant to Section 2-1-65 of this Ordinance.

**WASTEWATER TREATMENT PLANT OR TREATMENT PLANT:** That portion of the POTW which is designed to provide treatment of municipal Sewage and Industrial Waste.

**WATER SERVICE CONNECTION:** The tap of the main and that portion of the line extending from the tap to where the meter is set at or near the property line on the street, highway or right of way on which the main is located. Where the meter is not set at or near the property line of the street, highway or right of way on which the main is located, only that portion of the line extending from the tap to such property line shall be included as a part of the "service connection".

**WATER SERVICE LINE:** The water lines extending from the service connection to and within the improvements on such property.

**WATERCOURSE:** A channel in which a flow of water occurs either continuously or intermittently. (Ord. 4317, 5-27-2003, eff. 7-1-2003)

(Ord. 4523, 2-7-2006, eff. 7-1-2006)

**2-1-10: UTILITIES DIVISION; EXTENSION OF WATER MAINS:**

The City may extend or cause to be extended or permit to be extended water mains. Extensions at the request of private parties will be made on application of one or more property owners to be benefited by said extension and only after the applicant or applicants have made a deposit equal to the estimated cost of the extension if it is not to be built through an improvement district. In those cases where an improvement district is to be formed, these procedures would be followed. The extensions shall be at the expense of the initial applicant or applicants in accordance with the following criteria: (Amended Ord. 3651, eff. 8-21-1997; amd. Ord. 4317, 5-27-2003, eff. 7-1-2003)

- (A) **Cost Paid By Applicant:** The applicant or applicants shall pay the total cost of said extension. The applicant or applicants shall have the right to establish reimbursement districts for connection thereto to compensate them for portions of the cost of the extension.

No applicant shall be entitled to the formation of a reimbursement district unless the design engineer for that project first certifies, in writing, to the Public Works Director that the solicitation for bids for the construction for said project was publicly advertised, with proof of said advertisement, and that the contract was awarded to the lowest and most responsible bidder. Prior to awarding any bids on a project for which a reimbursement district is to be formed, the applicant shall provide the City with copies of all such bids for review by the Public Works Director or his designee, who shall approve the bid to be awarded prior to the start of construction. Additionally, the applicant shall require that payment and performance bonds be posted in accordance with Arizona Revised Statutes Section 34-222.

- (B) **Application For Reimbursement District:** In order for the applicant or applicants to establish a reimbursement district, written notice of intent to form a reimbursement district must be given to the Public Works Director prior to the applicant receiving approval of the submitted plans. A written notice to the Public Works Director shall be made within sixty (60) calendar days after the completion and acceptance of said main extension for which the reimbursement district is being requested, which notice shall include the costs associated therewith; the applicant shall enter into an agreement with the City setting forth the conditions

of reimbursement within one calendar year after the completion and acceptance of said main extension for which the reimbursement district is being established.

[Any reimbursement districts which have been formed and approved by the City council prior to May 13, 1993, and which comply with the time provisions of this section, are hereby ratified and approved.]

The plat map (reimbursement map) shall be drawn at a scale of not less than two hundred feet (200') to the inch, and the plat shall be eight and one-half inches by fourteen inches (8 1/2"x 14") in size, or seventeen inches by twenty eight inches (17" x 28"). The plat map shall specifically identify the terminus of the existing main, the exact location, route and distance of the main extension, the nonreimbursable area to be benefited by the extension, and the reimbursable area to be benefited by the extension and subject to the reimbursement district.

Contemporaneous with the application for a reimbursement district pursuant to the provisions of this section, the applicant for said district shall tender to the City Public Works Department an application fee equal to 0.5 percent of the estimate project cost, provided, however, that the application fee shall be not less than five hundred dollars (\$500.00). Upon the completion of the project, and prior to acceptance by the City of the project and approval by the City of the formation of the reimbursement district, if the final construction cost results in the fee deposited pursuant to this section being less than 0.5 percent of the final construction cost, the applicant for said district shall pay additional monies to the Public Works Department to equal 0.5 percent of the final construction cost of the project.

For a period of fifteen (15) years from the date upon which a new line has been put into service, each new applicant for service shall be required to pay a pro rata share in the initial cost of the line, which share shall be calculated by the Public Works Director, subject to the approval of the City council. In determining the pro rata share attributable to each property within the reimbursement area, the City shall determine the respective benefit to be received by each area, together with the distance of the property from the main to be extended, the proposed or contemplated uses and density of the property, and such other factors as may be relevant in arriving at said pro rata share. The determination of the pro rata share for each property within the reimbursement district shall be determined at the time of formation of the district by the City council, which determination shall be considered final thirty (30) calendar days after the recordation of the reimbursement district agreement. Notwithstanding the foregoing, the Public Works Director shall be empowered to equitably divide the obligation of a property within a reimbursement district upon the sale or partition of a portion of a property within a designated reimbursement district. In the foregoing event, the Public Works Director will record an amended, and updated, reimbursement map with the Yavapai County recorder. The total initial cost shall be adjusted by the rate of inflation in the construction industry since the date of final acceptance of

the extension by the City, to be calculated in accordance with the engineering news record construction cost index. The base index shall be the index reported in the engineering news record publication closest to the date of acceptance of the project. In no event shall the pro rata share be less than the pro rata share would have been at the time of construction. Each new applicant for a service connection will be required to pay to the City, for disbursement to the person, group, association, corporation or City that made the extension, for their pro rata share before they are permitted to connect to the extension. After fifteen (15) years from the date the new extension has been put into service, an applicant desiring to connect to the line may do so without having to pay for the service units as specified in this section. Subsequent extensions located outside of the established reimbursement district shall be treated as new extensions and shall not affect the calculating of service units of the original extension nor will such extensions be required to share in the cost of the original extension. [This section shall apply to any reimbursement district which has been formed and approved by the City council between May 13, 1983, and May 13, 1993.]

Notwithstanding any of the conditions hereinbefore specified pertaining to the fifteen (15) year limit to collect from new applicants a pro rata share of the cost of new lines, the City is hereby exempt from said fifteen (15) year limitation and the City will collect from all new applicants their pro rata share for such service connections until the City's total initial installation cost is reimbursed.

The size and specifications of the material used in the main to be installed shall be designated by the City. Sterilization of the main upon completion will be performed by the City.

At the discretion of the City, the necessary engineering and construction of said water mains may be performed or contracted by the City. In either case, the total actual cost of installation shall be borne by the initial applicant or applicants and funds estimated to cover the cost of the installation shall be deposited with the City prior to construction unless improvement district procedures are being followed.

In the event the applicant is directed to construct or contract for construction of said main or mains, with person or persons other than the City, complete plans and specifications shall be submitted for approval by the City. After approving the plans, the City will furnish necessary inspection of the installation of said main or mains. Upon satisfactory completion and final inspection, the City will give written notice of acceptance, at which time said main or mains will become the property of the City subject to the rules and regulations set forth herein.

Should the extension of mains require easements or rights of ingress and egress, said agreements or easements shall be provided by the applicant for use by the City.

Temporary connections to said extension will not be considered as consumers or applicants in connection with this regulation.

- (C) Design and Construction: Prior to an extension or construction of a water line, a civil engineer registered in Arizona must perform the necessary field engineering and prepare detailed plans and specifications for the line extension or construction. The final detailed plans and specifications for the line construction or extension must be approved by the Arizona Department of Environmental Quality (ADEQ) and by the City before construction begins. The design and engineering will be in accordance with the specifications of ADEQ and the City prior to construction. The construction shall meet the City's specifications, requirements and approval, and will be subject to inspection by the City's agent during construction.
- (D) Plans And Specifications: All construction under this Chapter shall conform to the specifications of the City entitled "Uniform Standard Specifications For Public Works Construction Sponsored And Distributed By The Maricopa Association Of Governments" (most recent edition), with all supplements thereto and all construction shall also conform to that certain document entitled "City Of Prescott Department Of Public Works Standard Specifications And Drawings" (the most recent edition), together with all applicable federal, state, county and City laws, rules and regulations.
- (E) Construction; Upgrades: The provisions of this section shall also apply to the construction and/or upgrades of any and all facilities associated with the provision of water service. (Ord. 687, 11-9-1964; amd. Ord. 4317, 5-27-2003, eff. 7-1-2003)
- (F) Economic Hardship: Unless the City council finds that compliance with this section would result in an economic hardship to the applicant which would not be outweighed by the public benefit to be received, as a condition to extending any water mains, if an applicant is within the sewer service area of a City wastewater treatment facility, the applicant must also agree to and upsize or extend sewer mains and construct or install such related facilities, at the applicant's cost, and connect the applicant's property to the City sanitary sewer system. Any applicant failing to comply with this section shall entitle the City to install or upgrade such sewer mains and facilities as are necessary to provide adequate sewer services to the applicant's property, and to make labor and material charges therefore in an amount equal to the going or customary rate or price for such labor and materials; and the City shall have the further right to file a lien against the affected property for the amount of the foregoing charges, in addition to any other relief to which the City may be entitled. (Ord. 3824, 12-15-1998; amd. Ord. 4317, 5-27-2003, eff. 7-1-2003)
- (G) Compliance: The City council may approve the formation of a reimbursement district pursuant to this section where there is substantial compliance with this

section, where the intent of this section has been met, and where the failure to strictly follow the requirements of this section did not result in any additional costs to the project. (Ord. 4239, 7-23-2002; amd. Ord. 4317, 5-27-2003, eff. 7-1-2003)

## **2-1-11: UTILITIES DIVISION; EXTENSION OF SEWER MAINS:**

The City may extend or cause to be extended or permit to be extended sewer mains. Extensions at the request of private parties will be made on application of one or more property owners to be benefited by said extension and only after the applicant or applicants have made a deposit equal to the estimated cost of the extension if it is not to be built through an improvement district. In those cases where an improvement district is to be formed, those procedures would be followed. The extensions shall be at the expense of the initial applicant or applicants in accordance with the following criteria:

- (A) The applicant or applicants shall pay the total cost of said extension. The applicant or applicants shall have the right to establish reimbursement districts for connection thereto to compensate them for portions of the cost of the extension.

No applicant shall be entitled to the formation of a reimbursement district unless the design engineer for that project first certifies, in writing, to the Public Works Director that the solicitation for bids for the construction for said project was publicly advertised, with proof of said advertisement, and that the contract was awarded to the lowest and most responsible bidder. Prior to awarding any bids on a project for which a reimbursement district is to be formed, the applicant shall provide the City with copies of all such bids for review by the Public Works Director or his designee, who shall approve the bid to be awarded prior to the start of construction. Additionally, the applicant shall require that payment and performance bonds be posted in accordance with Arizona Revised Statutes Section 34-222.

- (B) In order for the applicant or applicants to establish a reimbursement district, written notice of intent to form a reimbursement district must be given to the Public Works Director prior to the applicant receiving approval of the submitted plans. A written notice to the Public Works Director shall be made within sixty (60) calendar days after the completion and acceptance of said main extension for which the reimbursement district is being requested, which notice shall include the costs associated therewith; the applicant shall enter into an agreement with the City setting forth the conditions of reimbursement within one calendar year after the completion and acceptance of said main extension for which the reimbursement district is being established. The agreement shall also contain a plat map indicating thereon the applicant's or applicants' area of development, the location of the proposed or constructed extension from the development, to the point of connection with the City sewer main providing sewer service to the development, and the map shall also indicate the area that will benefit from the extension, which area shall constitute the total area outside of

the applicant's or applicants' development, but shall be subject to reimbursement under the agreement.

The plat map shall be drawn at a scale of not less than two hundred feet (200') to the inch, and the plat shall be eight and one-half inches by fourteen inches (8 1/2" x 14") in size, or seventeen inches by twenty eight inches (17" x 28") in size. The plat map shall specifically identify the terminus of the existing main, the exact location, route and distance of the main extension, the non-reimbursable area to be benefited by the extension and the reimbursable area to be benefited by the extension and subject to the reimbursement district.

Contemporaneous with the application for a reimbursement district pursuant to the provisions of this section, the applicant for said district shall tender to the City Public Works Department an application fee equal to 0.5 percent of the estimate project cost, provided, however, that the application fee shall be not less than five hundred dollars (\$500.00). Upon the completion of the project, and prior to acceptance by the City of the project and approval by the City of the formation of the reimbursement district, if the final construction cost results in the fee deposited pursuant to this section being less than 0.5 percent of the final construction cost, the applicant for said district shall pay additional monies to the Public Works Department to equal 0.5 percent of the final construction cost of the project.

For a period of fifteen (15) years from the date upon which a new line has been put into service, each new applicant for service shall be required to pay a pro rata share in the initial cost of the line, which share shall be calculated by the Public Works Director, subject to the approval of the City council. In determining the pro rata share attributable to each property within the reimbursement area, the City shall determine the respective benefit to be received by each area, together with the distance of the property from the main to be extended, the proposed or contemplated uses and density of the property, and such other factors as may be relevant in arriving at said pro rata share. The determination of the pro rata share for each property within the reimbursement district shall be determined at the time of formation of the district by the City council, which determination shall be considered final thirty (30) calendar days after the recordation of the reimbursement district agreement. Notwithstanding the foregoing, the Public Works Director shall be empowered to equitably divide the obligation of a property within a reimbursement district upon the sale or partition of a portion of a property within a designated reimbursement district. In the foregoing event, the Public Works Director will record an amended (and updated) reimbursement map with the Yavapai County recorder. The total initial cost shall be adjusted by the rate of inflation in the construction industry since the date of final acceptance of the extension by the City, to be calculated in accordance with the engineering news record construction cost index. The base index shall be the index reported in the engineering news record publication closest to the date of acceptance of the project. In no event shall the pro rata share be less than the pro rata share

would have been at the time of construction. Each new applicant for a service connection will be required to pay to the City, for disbursement to the person, group, association, corporation or City that made the extension, for their pro rata share before they are permitted to connect to the extension. After fifteen (15) years from the date the new extension has been put into service, an applicant desiring to connect to the line may do so without having to pay for the service units as specified in this section. Subsequent extensions located outside of the established reimbursement district shall be treated as new extensions and shall not affect the calculating of service units of the original extension nor will such extensions be required to share in the cost of the original extension. [This section shall apply to any reimbursement district which has been formed and approved by the City council between May 13, 1983 and May 13, 1993.]

Notwithstanding any of the conditions herein before specified pertaining to the fifteen (15) year limit to collect from new applicants a pro rata share of the cost of new lines, the City is hereby exempt from said fifteen (15) year limitation and the City will collect from all new applicants their pro rata share for such service connections until the City's total initial installation cost is reimbursed.

The size and specifications of the material used in the main to be installed shall be designated by the City.

At the discretion of the City, the necessary engineering and construction of said sewer mains may be performed or contracted by the City. In either case, the total actual cost of installation shall be borne by the initial applicant or applicants and funds estimated to cover the cost of the installation shall be deposited with the City prior to construction unless improvement district procedures are being followed.

In the event the applicant is directed to construct or contract for construction of said main or mains, with person or persons other than the City, complete plans and specifications shall be submitted for approval by the City. After approving the plans, the City will furnish necessary inspection of the installation of said main or mains. Upon satisfactory completion and final inspection, the City will give written notice of acceptance, at which time said main or mains will become the property of the City subject to the rules and regulations set forth herein.

Should the extension of mains require easements or rights of ingress and egress, said agreements or easements shall be provided by the applicant for use by the City.

- (C) The provisions of this section shall also apply to the construction and/or upgrades of any and all facilities associated with the provision of sewer service. (Ord. 1329, 6-11-1979; amd. Ord. 1458, 7-14-1980; Ord. 1522, 4-27-1981; Ord. 4317, 5-27-2003, eff. 7-1-2003)

- (D) The City council may approve the formation of a reimbursement district pursuant to this section where there is substantial compliance with this section, where the intent of this section has been met, and where the failure to strictly follow the requirements of this section did not result in any additional costs to the project. (Ord. 4239, 7-23-2002; amd. Ord. 4317, 5-27-2003, eff. 7-1-2003)

**2-1-12: UTILITIES DIVISION; WATER SERVICE CONNECTION AND METER INSTALLATION CHARGES:**

- (A) All meter installations shall be made by the City upon written application. Meters shall be placed at suitable locations approved by the City. The consumer or property owner at the time of making application shall pay to the City the following installation charges:

| Meter Size  | Installation Charge                         |
|-------------|---|
| 5/8" x 3/4" | Cost plus 10%, but not less than \$420.00   |
| 3/4"        | Cost plus 10%, but not less than \$440.00   |
| 1"          | Cost plus 10%, but not less than \$600.00   |
| 1 1/2"      | Cost plus 10%, but not less than \$1,000.00 |
| 2"          | Cost plus 10%, but not less than \$1,200.00 |
| All others  | Cost plus 10%, but not less than \$1,500.00 |

- (B) Property must be abutting a water main for a service connection to be made, unless otherwise allowed pursuant to this section. In cases where the main is not abutting, the main must be extended at the expense of the property owner before a connection is made. Private lines will not be allowed to be extended over areas that could be provided water by public mains; provided, however, that notwithstanding anything to the contrary herein, if it is determined by the Public Works Director that no benefit to the water system would be realized from a main extension, the City manager or his designee may grant permission for a private line extension to service not more than one customer.
- (C) A contractor shall have the right to install individual stub-in service connections provided that the stub-in service connections are constructed in conjunction with a development, and the costs for said service connections are included as a part of the financial assurances of an approved subdivision, planned area development or other development.
- (D) All service connections installed by contractors shall be according to City standards and specifications. In the event a contractor makes such installation, which installation includes the stub-in service line, meter yokes and boxes, there shall be a credit allowance in the amount of two hundred dollars (\$200.00) towards the purchase of the water meter for such stub-in service connection.
- (E) In the event a service connection must cross an Arizona Department of Transportation highway right-of-way, the consumer or property owner shall obtain

the necessary permits directly from the Arizona Department of Transportation to make said service connection and the consumer or property owner shall obtain their own contractor to make said service connection. Said service connection shall include the meter yoke and box and the service line from the meter box to the water main. The City will install the water main tap and the water meter after the contractor exposes the water main and the service connection in the right of way is in place and has been inspected and approved by the Arizona Department of Transportation. There shall be a credit allowance in the amount of two hundred dollars (\$200.00) toward the purchase of the water meter for such installation.

- (F) All service connections installed prior to the effective date of this section that do not include the meter box and yoke shall only receive a credit of fifty dollars (\$50.00) toward the purchase of the water meter for such service connection.
- (G) All applications for a meter installation shall be processed upon the receipt of a five dollar (\$5.00) permit fee for each meter.
- (H) Service Connections: Service connections for: 1) residential lots in a plat which had not received preliminary plat approval and a designation of assured water supply by August 21, 1998, based upon water being provided by the City; 2) new construction on vacant unplatted residential lots; 3) multi-family residential units; 4) mobile home parks and manufactured home parks; 5) timeshares; 6) apartment houses; 7) RV parks; and 8) similar high intensity uses, shall only be provided pursuant to an agreement with the property owner or applicant and the City council for the provision of water. No such agreement may be entered into unless the council finds that:
  - 1. The project or development is consistent with and conforms to, furthers the implementation of, and is not contrary to the adopted water management policy.
  - 2. The project or development is consistent with and conforms to, furthers the implementation of, and is not contrary to the adopted general plan.
  - 3. The project or development is consistent with and conforms to, furthers the implementation of, and is not contrary to any applicable adopted plans, including, but not limited to, specific area plans, circulation plans, capital improvement plans, open space and trail plans, neighborhood plans, local historic district plans, growth planning or growth management plans, and redevelopment plans.
  - 4. Is in accord with the duly adopted City water budget.
  - 5. In determining compliance with the foregoing, the council shall consider the overall intent and goals of the applicable plan or policy.

6. That notwithstanding the foregoing, a variance or exception may be granted by the City Council, in accordance with the council's duly adopted policy providing for same.

(I) Additional fees:

1. That in the event that an irrigation meter is installed, or a meter placed upon vacant property without the issuance of a building permit, or a meter upsized without the issuance of a building permit, then and in that event the applicant must pay to the City, in addition to all other fees required by this Section, a fee equivalent to those fees which would have been levied pursuant to Prescott City Code Section 3-14-13 and 3-14-14.
2. In the event of a charge pursuant to this subsection for an upsized meter, the applicant shall be assessed the difference between the fees which would have been levied pursuant to Prescott City Code Sections 3-14-13 and 3-14-14 for the upsized meter versus the fees which would have been assessed for the existing meter according to the fee schedule in effect at the time of the application for the upside meter.”

(Ord. 3824, 12-15-1998; amd. Ord. 4317, 5-27-2003, eff. 7-1-2003; Ord. 4523, 2-7-2006, eff. 7-1-2006)

(J) Irrigation Meters:

1. A water service meter shall only be issued and installed by the City when accompanied by an approved City building permit for development of the property to be served by such meter.
2. A water service meter shall not be issued or installed by the City for any property for which the land use is single family residential when and where such meter would be used solely for irrigation and not for domestic supply purposes.
3. A water service meter may be approved, issued, and installed by the City for irrigation of lands within master planned developments, common areas managed by homeowner associations, improved areas of multiple family developments, and landscaped areas within other commercial, industrial, and institutional developments upon approval of a site development plan conforming to the requirements of the Land Development Code of the City and payment of all applicable development and water service fees.

(Ord. 4535, 4-11-2006)

**2-1-13: UTILITIES DIVISION; WATER SERVICE LINES:**

Service lines shall be installed by the consumers at their own expense. Temporary lines must be buried two feet (2') and backfilled ten feet (10') from the meter. All service lines shall be installed at least two feet (2') deep and not less than two feet (2') from an open area or vault. (Ord. 3733, 3-10-1998; amd. Ord. 4317, 5-27-2003, eff. 7-1-2003)

#### **2-1-14: UTILITIES DIVISION; PRIVATE WATER LINES:**

- (A) Future Private Lines: From and after the effective date of these rules and regulations, the City will make only one service connection and meter installation for each private line. This connection and installation will be made after receiving a written application from a responsible person, firm or corporation which is eligible for "private line" service as defined in Section 2-1-9 of this Chapter.

Each applicant shall assume full liability for all water metered to his private line.

At the time of making such application, the applicant shall pay to the City the standard installation charge as set forth in Section 2-1-12 of this Chapter.

All charges for water metered to a private line and for damage to the meter settings and/or meter as provided for in this Chapter will be billed to the person, firm or corporation who applies for the line and who will be responsible for all amounts billed.

The private line shall be installed and maintained at the expense of the person, firm or corporation making the application and the line shall be and remain the property of this person, firm or corporation.

The City reserves the right to extend at any time, at its discretion, its mains. If by the construction and extension of any City main, such main is placed in or along a street, highway or City right of way contiguous to the property of any User of water furnished by a private line, or which private line application has been made after the effective date of these rules, and which main is within two hundred feet (200') of any water outlet of such User, the City may, after the completion of construction of extension, refuse to furnish water to the private line until the User is disconnected therefrom. Such User, if water is desired by him from any of the City's mains, shall obtain water through a service connection from the main. A service line shall be constructed from such service connection in accordance with Section 2-1-13 of this Chapter.

Service connection and meter installation for this service line shall be made and paid for in accordance with Section 2-1-12 of this Chapter. After connections have been made water will be supplied to the consumer in accordance with Section 2-1-17 of this Chapter.

In all applications made from and after the effective date of these regulations for service connection for a private line, the applicant shall expressly agree that the foregoing provisions of this section shall be binding upon him and upon any and

every other party served by or through such private line and the application for the private line shall expressly authorize the City to discontinue furnishing water to the private line until any service line connection required by this section has been made.

- (B) Existing Private Lines: Whenever, at any date subsequent to the initial effective date of these rules and regulations, a main is placed in or along a street, highway or City right of way contiguous to the property of any User, or water furnished by a private line which is in use on the initial effective date of these rules (including any hereafter constructed addition to or extension of such private line) and which main is within two hundred feet (200') of any water outlet of such User, the City may refuse to furnish water to the User through the private line and if the User desires to obtain water from the City or from its mains, it will only be furnished through a service connection and a service line constructed in accordance with Section 2-1-13 of this Chapter. The service line shall be made in accordance with Section 2-1-12 of this Chapter, and water will then be supplied to the consumer in accordance with Section 2-1-17 of this Chapter.

The City will not make or permit to be made, any additional connections to any private line which is in use on the initial effective date of these rules and regulations unless the City has in its possession a written contract executed by all individuals, firms and corporations to whom water is metered and billed from the line, and by written agreement there is an acceptance of full responsibility for maintenance of the private line, including any loss of water therefrom.

Where the City has in its possession a written contract, the private line may be extended or additions made thereto, provided all persons, firms and corporations responsible for the maintenance and water loss on such line agree in writing to such extension or addition, and provided written application for connection to such private line is filed with the City. One meter must be set for each additional consumer hereafter made to the private line and all water furnished through each addition will be metered through the individual meters, and all charges for water and damages, if any, to the meter as provided in Section 2-1-24 of this Chapter will be billed to the applicant, who is responsible for the payment thereof.

Any extension or addition to an existing private line (including the connection with the existing private line) shall be installed and maintained at the expense of the person making application, and the addition shall remain the property of each applicant. Any meter installation shall be provided and installed by the City in accordance with Section 2-1-12 of this Chapter, upon written application. Before any meter is installed and before water is furnished to an extension or addition, a deposit shall be made if necessary with the City in accordance with the provisions of Section 2-1-17 of this Chapter. (Ord. 4317, 5-27-2003, eff. 7-1-2003)

- (C) Private Fire Lines: Private fire lines may be installed at the expense of the consumer, in accordance with specifications of the City. These lines shall be owned and maintained by the consumer. (Ord. 3473, eff. 2-1-1996; amd. Ord. 4317, 5-27-2003, eff. 7-1-2003)

**2-1-15: UTILITIES DIVISION; SEWER CONNECTIONS:**

All connections to the City's main sewer lines shall require the issuance of a permit by the Public Works Department. Said permit will be issued upon the payment of the sewer service fees and all other charges herein required by this Chapter. A separate sewer connection to the main sewer line shall be constructed for every separate building except as provided in the plumbing code adopted by the City and any exception requires the written permission of the building official and the Public Works Director. No person having a sewer service connection shall otherwise permit a connection to that sewer service connection by another person or User whether gratuitously or for charges.

All sewer connections shall be approved by the City and the actual tap into the main sewer shall be accomplished by City personnel, unless otherwise approved in writing by the superintendent of utilities, in which event the sewer tap connection fee shall be waived. (Ord. 1329, 6-11-1979; amd. Ord. 1458, 7-14-1980; Ord. 1522, 4-27-1981; Ord. 4317, 5-27-2003, eff. 7-1-2003)

**2-1-16: RESERVED**

(Ord. 4650-0852, 5/27/2008, eff. 6/28/2008)

**2-1-17: UTILITIES DIVISION; WATER SERVICE DEPOSITS:**

Water deposits in the following amounts will be required of all persons making application for water service unless they have a good payment record or they are Users whose credit ratings in the community are representative of persons who promptly pay their creditors.

(Ord. 1552, 9-28-1981; amd. Ord. 2232, 11-27-1990; Ord. 4317, 5-27-2003, eff. 7-1-2003; Ord. 4523, 2-7-2006, eff. 7-1-2006)

|                                   |   |
|-----------------------------------|---|
| Residential consumer              | \$ 125.00   |
| Multi-service (2 through 5 units) | \$ 150.00   |
| Multi-service (over 5 units)      | \$ 200.00   |
| Commercial and industrial         | Minimum of \$125.00 (calculated on an individual basis to cover at least two (2) months' estimated bills) |

(Ord. 4174, 11-27-2001, eff. 3-1-2002; amd. Ord. 4317, 5-27-2003, eff. 7-1-2003; Ord. 4523, 2-7-2006, eff. 7-1-2006)

For the purpose of this Chapter, a present User with a good credit rating will be defined as a consumer who has not received more than one (1) delinquency letter in the last twelve (12) months and has not had his water service discontinued for nonpayment during the same period. Unless the City has had experience with the persons applying for water service or knows of their credit ratings, they will be required to leave the deposit for one year or until such time the City's good credit definition is satisfied. (Ord. 4523, 2-7-2006, eff. 7-1-2006)

The finance director is given the power of discretion for considering special cases involving the requirement of water deposits. His judgment in these cases may be appealed to the City manager whose decision shall be considered final. If the finance director requires a larger deposit than those specified above, it shall not exceed three (3) times the average monthly billing. (Ord. 1552, 9-28-1981; amd. Ord. 4317, 5-27-2003, eff. 7-1-2003)

After the effective date hereof, deposits presently held will not be refunded for a period of twelve (12) months. This twelve (12) month period will be used to determine which present Users will be entitled to refunds according to the criteria established in paragraph one of this section. (Ord. 1166, 9-20-1976; amd. Ord. 4317, 5-27-2003, eff. 7-1-2003)

After deposits have been held for the time specified in this section, a customer may, upon written request, have the deposit applied in payment of current monthly bills. The deposit shall in no way affect the City's right to discontinue service arising from nonpayment of bills as provided for in these rules and regulations. (Ord. 1329, 6-11-1979; amd. Ord. 4317, 5-27-2003, eff. 7-1-2003)

The City will refund deposits upon written application to discontinue its service and upon receipt of payment in full for water metered to such consumer and for any meter damage or other damage to the City system, for which such consumer may be liable under these rules and regulations.

The consumer or property owner shall notify the City at the time each property becomes vacant. Otherwise, the consumer or property owner shall be responsible for any damage to the property until the City receives a vacancy notice.

The City will presume service is being rendered from the time water is turned on by application of the consumer until the consumer or property owner gives written notice to discontinue service. When the discontinue service notice has been given to the City, the City may at that time apply a consumer's deposit to his final bill and send the consumer a bill or check for the difference. (Ord. 1166, 9-20-1976; amd. Ord. 4317, 5-27-2003, eff. 7-1-2003)

Residential or multiservice consumers in incorporated municipalities other than the City shall be required to make a deposit of one hundred thirty percent (130%) of the deposit listed in this section. Additionally, residential or multiservice consumers in all areas other than incorporated municipalities shall be required to make a deposit that is double the amount of the deposit listed in this section. (Ord. 2232, 11-27-1990; amd. Ord. 4317, 5-27-2003, eff. 7-1-2003)

**2-1-18: UTILITIES DIVISION; WATER RATES:**

- (A) Residential (including but not limited to mobile home parks and apartment houses): A monthly water charge shall be assessed against all residential consumers having a service connection with the City water mains in accordance with the following table:

| <b>Single Family</b>              |                           |                         |                         |                      |
|-----------------------------------|---------------------------|-------------------------|-------------------------|----------------------|
| <b>Block Thresholds (gallons)</b> | <b>Rate (\$/1000 gal)</b> |                         |                         |                      |
|                                   | Through 01/31/2011        | 02/01/2011 – 12/31/2011 | 01/01/2012 – 12/31/2012 | Beginning 01/01/2013 |
| First 3,000                       | \$ 2.86                   | \$ 2.86                 | \$ 3.06                 | \$ 3.21              |
| Next 7,000                        | 4.30                      | 4.30                    | 4.60                    | 4.83                 |
| Next 10,000                       | 6.45                      | 6.45                    | 6.90                    | 7.25                 |
| Over 20,000                       | 12.90                     | 12.90                   | 13.80                   | 14.49                |

| <b>Multi-Family</b>               |                               |                         |                         |                      |
|-----------------------------------|-------------------------------|-------------------------|-------------------------|----------------------|
| <b>Block Thresholds (gallons)</b> | <b>Rate (\$/1000 gallons)</b> |                         |                         |                      |
|                                   | Through 01/31/2011            | 02/01/2011 – 12/31/2011 | 01/01/2012 – 12/31/2012 | Beginning 01/01/2013 |
| First 1,700                       | \$ 2.30                       | \$ 2.30                 | \$ 2.46                 | \$ 2.58              |
| Next 3,300                        | 3.46                          | 3.46                    | 3.70                    | 3.89                 |
| Next 5,000                        | 5.19                          | 5.19                    | 5.55                    | 5.83                 |
| Over 10,000                       | 10.39                         | 10.39                   | 11.12                   | 11.68                |

(Ord. 4523, 02-07-06, Sec. 5 eff. 07-01-07; Ord. 4773-1124, eff. 1-13-11)

(B) Non-residential rates: A monthly water charge shall be assessed against all non-residential consumers having a service connection with the City water mains in accordance with the following tables.

1. Non-residential properties will be assessed according to meter size, based upon the following table:

| <b>Nonresidential Monthly Usage in Blocks (1,000 gallons)</b> |          |          |          |          |
|---|----------|----------|----------|----------|
| <b>Meter Size</b>   | <b>1</b> | <b>2</b> | <b>3</b> | <b>4</b> |
| 5/8"<br>3/4"  | 6        | 22       | 32       | > 60     |
| 1"  | 15       | 55       | 80       | > 150    |
| 1 1/2"  | 30       | 110      | 160      | > 300    |
| 2"  | 48       | 176      | 256      | > 480    |
| 3"  | 96       | 352      | 512      | > 960    |
| 4"  | 150      | 550      | 800      | > 1,500  |
| 6"  | 300      | 1,100    | 1,600    | > 3,000  |
| 8"  | 480      | 1,760    | 2,560    | > 4,800  |

2. Non-residential rates will be in accordance with the following table:

| <b>Block</b> | <b>Rate (\$/1000 gallons)</b> |                            |                            |                         |
|--------------|-------------------------------|----------------------------|----------------------------|-------------------------|
|              | Through<br>01/31/2011         | 02/01/2011 –<br>12/31/2011 | 01/01/2012 –<br>12/31/2012 | Beginning<br>01/01/2013 |
| 1            | \$ 2.61                       | \$ 2.61                    | \$ 2.79                    | \$ 2.93                 |
| 2            | 3.92                          | 3.92                       | 4.19                       | 4.40                    |
| 3            | 5.88                          | 5.88                       | 6.29                       | 6.60                    |
| 4            | 11.76                         | 11.76                      | 12.58                      | 13.21                   |

(Ord. 4523, 02-07-06, Sec. 5 eff. 07-01-07; Ord. 4773-1124, eff. 1-13-11)

(C) In addition to the charges provided for herein, there shall be assessed an alternative water sources fee per one thousand gallons of water consumed per month on each monthly bill for all City water customers. The revenues from this fee are restricted to defray expenses of the City associated with obtaining alternative water sources in order to comply with the groundwater laws of the State. The amount of the alternative water sources fee shall be as follows:

| Effective Period                     | Volume Rate Per 1,000 Gallons |
|--------------------------------------|-------------------------------|
| Through January 31, 2011             | \$0.65                        |
| February 1, 2011 – December 31, 2011 | \$0.70                        |
| January 1, 2012 – December 31, 2012  | \$0.80                        |
| Beginning January 1, 2013            | \$0.85                        |

(Ord. 4650-0852, 5/27/2008, eff. 6/28/2008; Ord. 4773-1124, eff. 1-13-11)

- (D) In addition to the charges provided for herein, there shall be a monthly fixed charge based upon meter size, as set forth in the following table:

| <b>Meter Size</b> | Through 01/31/2011 | 02/01/2011 – 12/31/2011 | 01/01/2012 – 12/31/2012 | Beginning 01/01/2013 |
|-------------------|--------------------|-------------------------|-------------------------|----------------------|
| 5/8"              | \$ 6.60            | \$ 10.60                | \$ 11.70                | \$ 12.90             |
| 3/4"              | 7.05               | 11.30                   | 12.40                   | 13.60                |
| 1"                | 7.95               | 12.70                   | 14.00                   | 15.40                |
| 1 1/2"            | 10.20              | 16.30                   | 17.90                   | 19.70                |
| 2"                | 12.90              | 20.60                   | 22.70                   | 25.00                |
| 3"                | 19.20              | 30.70                   | 33.80                   | 37.20                |
| 4"                | 28.20              | 45.10                   | 49.60                   | 54.60                |
| 6"                | 50.70              | 81.10                   | 89.20                   | 98.10                |
| 8"                | 77.70              | 124.30                  | 136.70                  | 150.40               |

(Ord. 4523, 02-07-06, Sec. 5 eff. 07-01-07; Ord. 4773-1124, eff. 1-13-11)

(E) OTHER INCORPORATED MUNICIPALITIES

Water furnished to consumers in incorporated municipalities other than the City shall be charged at the same rate as water furnished similar consumers within the City (inside City limits rates) plus a surcharge equal to thirty percent (30%) of the inside City limits rates. The surcharge shall also apply to the monthly fixed charge and to the alternative water sources fee.

(F) ALL OTHER AREAS

Water furnished to consumers in all areas other than incorporated municipalities shall be charged at the same rate as water furnished to similar consumers within the City (inside City limits rates) plus a surcharge equal to thirty nine percent (39%) of the inside City limits rates. The surcharge shall also apply to the monthly fixed charge and to the alternative water sources fee.

- (G) Rates For Private Fire Protection Connections: When fire service connections are required by applicable City code or state law provisions they shall include a

detector check of a type to be approved by the City. The indicating meter to be used with the check shall be furnished by the City. If unmetered water available under this subsection is used for other than fire protection purposes, the quantity so used shall be estimated and the same shall be charged according to applicable rates. If such use is continued for more than twenty (20) calendar days a recording meter will be installed at the consumer's expense and water furnished thereafter will be charged for in accordance with applicable rates.

(H) Private Fire and Drainage Service (Payable Yearly In Advance):

|  |         |
|--|---------|
| Each fire hydrant, yearly                                | \$60.00 |
| Water for public sewer flush tanks,<br>per 1,000 gallons | 0.59    |

(I) Test Charge: A charge of fifty dollars (\$50.00) shall be assessed whenever City personnel are requested to perform pressure tests or flow tests upon fire hydrants. A separate assessment shall be levied for each test performed on each fire hydrant, and shall be payable at the time such request is made.

(J) Fees And Assessments Due: All fees and assessments are due and payable on the date billed. Water may be discontinued for the nonpayment of any of the fees, penalties or assessments set forth in this section. Late charges of one and one-half percent (1.5%) per month of the unpaid balance due will be imposed on bills not paid within thirty (30) calendar days after the billing date.

(K) Governmental Entities: That notwithstanding any provision to the contrary in this section, charges and rates to other governmental entities and customers within other governmental entities may be determined as set forth in an intergovernmental agreement between the City and that governmental entity.

(L) Industrial User: That notwithstanding the rates as set forth in subsection (B) of this section, in order to foster conservation of water resources, any water used by an Industrial User in excess of an average of four thousand (4,000) gallons per day per acre within a calendar year shall result in a surcharge of five thousand dollars (\$5,000.00) per acre foot for each acre foot of excess water used, unless a variance or exception is granted by the City council, in accordance with the council's duly adopted policy providing for same. Calculations shall be made by the City annually, for the period January 1 through December 31. In order to determine the maximum allowable amount of water prior to the foregoing surcharge becoming effective, the calculation per acre shall be based upon the total acreage owned, leased or otherwise controlled by the consumer within the City's water service area, which is not otherwise provided potable water.

(M) Turf Or Irrigation Purposes: That notwithstanding the rates as set forth in this Section, in order to foster conservation of water resources, any water used for turf or irrigation purposes in excess of an average of one acre foot per irrigated

acre per year within a calendar year shall result in a surcharge of five thousand dollars (\$5,000.00) per acre foot for each acre foot of excess water used, unless a variance or exception is granted by the City council, in accordance with the council's duly adopted policy providing for same. Calculations shall be made by the City annually, for the period January 1 through December 31. In order to determine the maximum allowable amount of water prior to the foregoing surcharge becoming effective, the calculation per acre shall be based upon the total acreage owned, leased or otherwise controlled by the consumer within the City's water service area which is not otherwise irrigated.”

(Ord. 3824, 12-15-1998; amd. Ord. 4317, 5-27-2003, eff. 7-1-2003; Ord. 4523, 2-7-2006, eff. 7-1-2006)

### **2-1-19: UTILITIES DIVISION; WATER METER READING AND BILLING:**

Beginning June 1, 1990, water meters will be read and billed monthly. All bills shall be payable at the City's office or at places designated by the City for the convenience of the consumers. All bills to consumers shall be due and immediately payable upon receipt of notice. If a bill remains unpaid longer than thirty (30) calendar days after the original written notice, the City may discontinue water service. In the event a customer disputes the amount due, said customer may request a review of their account by the utility billing supervisor. Such review shall take place within seven (7) calendar days of the request. If the billing dispute is not resolved as a result of this review, the customer may then request a hearing before the finance director. Such hearing shall be informal and shall be held within seven (7) calendar days of receipt by the finance director of a written request for the hearing, unless otherwise agreed between both parties. Said hearings shall not prevent the discontinuance of water service for nonpayment. In order to maintain water service, the customer must pay the disputed amount within the time period stated in the original bill. If a meter is found stopped during a meter reading period, the bill will be estimated from similar periods, but consideration shall be given for any excessive use of water or water wasted during such period. (Ord. 2154, 2-27-1990; amd. Ord. 4317, 5-27-2003, eff. 7-1-2003)

### **2-1-20: UTILITIES DIVISION; WASTEWATER TREATMENT CHARGES:**

- (A) All Users: The basic wastewater treatment bill to be paid monthly by all users shall consist of the User charges for operation, maintenance and replacement, and the fixed charge as shown in Sections 2-1-17 and 2-1-18 of this Chapter. The sewer charge calculated in accordance with Subsection 2-1-21(B) of this Chapter shall be applied to each User's total metered water flow.
- (B) Additional Charges: Additional charges as described in Sections 2-1-17 and 2-1-18 of this Chapter shall, if required, be listed on the wastewater treatment bill. (Ord. 4317, 5-27-2003, eff. 7-1-2003)

## **2-1-21: UTILITIES DIVISION; SEWER RATES:**

- (A) There is hereby established a sewer user charge system designed to recover operation, maintenance and replacement costs of the sewer system. This charge system shall be applied to, and a monthly sewer charge shall be assessed against, all Users and all premises connected to and served by the City sanitary sewer collection system and all properties required to connect to the City sanitary sewer system pursuant to Section 2-1-37 of this Chapter, whether or not said property is connected to a sewer main. A monthly User charge shall be assessed to all Users by the City in accordance with the provisions of this Chapter.
  
- (B) The methodology used to determine User charges shall consider the sewage strength, suspended solids and flow volume. The basis for charges shall be a combination of a fixed monthly base charge allocated equally among all Users and a volume charge related to metered water usage. The formula for calculating the volume charge shall use the average monthly water consumption for each User for the winter months of October through March (billings of November through April). Those consumers with no water consumption during the months listed shall, for the purposes of calculating a volume charge, be assigned a water volume amount equal to the average for their classification. The fixed base charge and volume charge shall be as follows:

|                                      | Through<br>01/31/2011 | 02/01/2011 –<br>12/31/2011 | 01/01/2012 –<br>12/31/2012 | Beginning<br>01/01/2013 |
|--------------------------------------|-----------------------|----------------------------|----------------------------|-------------------------|
| <b>Residential</b>                   |                       |                            |                            |                         |
| Monthly Base                         | \$ 12.54              | \$ 14.42                   | \$ 16.58                   | \$ 19.07                |
| Volume Charge                        | 2.71                  | 3.12                       | 3.59                       | 4.13                    |
| <b>Non-Residential</b>               |                       |                            |                            |                         |
| Monthly Base                         | \$ 15.18              | \$ 16.70                   | \$ 18.37                   | \$ 20.21                |
| Volume Charge by Category            |                       |                            |                            |                         |
| Uniform Non-Residential <sup>1</sup> | \$ 3.89               | \$ 4.28                    | \$ 4.71                    | \$ 5.18                 |
| Bar w/o Dining Facilities            | 3.89                  | 4.28                       | 4.71                       | 5.18                    |
| Car Wash                             | 3.89                  | 4.28                       | 4.71                       | 5.18                    |
| Department/Retail Stores             | 3.89                  | 4.28                       | 4.71                       | 5.18                    |
| Hospital/Convalescent                | 3.89                  | 4.28                       | 4.71                       | 5.18                    |
| Hotel w/Dining Facilities            | 4.18                  | 4.28                       | 4.71                       | 5.18                    |
| Hotel w/o Dining Facilities          | 3.89                  | 4.28                       | 4.71                       | 5.18                    |
| Laundromat                           | 3.89                  | 4.28                       | 4.71                       | 5.18                    |
| Markets w/Garbage Disposal           | 5.84                  | 5.84                       | 5.84                       | 5.84                    |
| Mortuaries                           | 5.84                  | 5.84                       | 5.84                       | 5.84                    |
| Professional Offices                 | 3.89                  | 4.28                       | 4.71                       | 5.18                    |
| Repair Shops/Service Stations        | 3.89                  | 4.28                       | 4.71                       | 5.18                    |
| Restaurants                          | 6.28                  | 6.28                       | 6.28                       | 6.28                    |
| Schools and Colleges                 | 3.89                  | 4.28                       | 4.71                       | 5.18                    |

<sup>1</sup> The Uniform Non-Residential rate applies to all non-residential uses not otherwise specifically listed in the table.

(Ord. 4650-0852, 5/27/2008, eff. 6/28/2008; Ord. 4773-1124, eff. 1/13/2011)

- (C) Industrial Users: All Industrial Users will be required to comply with the federal industrial costs recovery requirements, which are hereby incorporated by reference as if fully set forth herein.

- (D) Recreational Vehicles: Recreational vehicles are exempt from the above fees; provided, however, their use of the City's septage receiving facility is restricted to the hours when the wastewater treatment plant personnel are on duty.
- (E) All septage must be unloaded at the septage receiving facility located at the main wastewater treatment plant on Sundog Ranch Road, and in conformance with all requirements and procedures established by the City, including pretreatment.
- (F) Financial Management System: The City will establish and maintain an adequate financial management system which will accurately account for operation and maintenance plus replacement (O&M+R) revenues and expenditures.

The accounting system will segregate O&M+R revenues and expenditures from other wastewater revenues and expenditures to assure adequate revenues to properly operate and maintain the treatment works. The sewer utility fund will have two (2) accounts, one for O&M and one for replacement costs. The User charge rates will be revised as needed to generate sufficient revenue to pay the total O&M+R.

- (G) Notification of Users: Each User shall be notified, at least annually, in conjunction with a regular bill, of the rate and that portion of the User charges which are attributable to wastewater treatment services.
- (H) Inconsistent Agreements: The User charge system shall take precedence over any terms or conditions of agreements or contracts between the grantee and Users (including Industrial Users, special districts, other municipalities, or federal agencies or installations) which are inconsistent with the requirements of Section 204(b)(1)(A) of the Federal Clean Water Act.
- (I) Wastewater Treatment Byproducts: Revenue from the sale of treatment related byproducts shall be used to offset the costs of operation and maintenance. User charges shall be proportionally reduced for all Users. Annual revenues from contracts for sale of byproducts will be credited to the treatment works operation and maintenance costs no later than the fiscal year immediately following their receipt.
- (J) Right of Review: All Users shall have the right to request that their rate and estimated contributions be reviewed. If a User can demonstrate to the finance director that a significant portion of the water as measured by the water meter does not and cannot enter the sewer system, their rate shall be adjusted accordingly. In considering the request, the finance director may make an equitable rate adjustment which may more accurately reflect the amount of metered water being returned to the sewer system. The decision of the finance director pursuant to the User's request under this section shall be final.

(K) Additional Charges: Additional charges shall be billed, as required, for the following:

1. Actual costs incurred for User requested samplings and analyses.
2. Actual costs incurred for water meter inspection requested by the User or as required because of damage.
3. Actual costs incurred for special handling not provided for elsewhere in this Chapter.
4. Actual costs incurred for handling a User's check returned because of insufficient funds.
5. Actual costs of capital outlay and debt service.

(L) Irrigation Meters: Water service meters for irrigation use shall only be permitted as set forth in Section 2-1-12(J) of this Ordinance. The City shall maintain approved irrigation meters and shall charge all maintenance costs, in addition to usage charges, to the User; provided, however, that sewer fees shall not be charged for the water supplied through such irrigation meters.

(Ord. 4650-0852, 5/27/2008, eff. 6/28/2008)

**2-1-22: UTILITIES DIVISION; SEWER BUY IN FEES:**

There shall be a mandatory charge for connections being served by any of the City's wastewater treatment plant systems that are owned, operated and maintained by the City. This charge shall be the equivalent of the customer's share of the costs to the City for the wastewater treatment plant systems, lift stations, and certain interceptor lines.

(A) Residential: The charge shall be fifty-six dollars (\$56.00) per fixture unit for a residential connection to the sewer system. Single-family residences, mobile homes, condominiums, apartments, and hotel/motels shall be classified as residential.

1. Number: The following shall be the number of fixture units per plumbing fixture:

| Fixture  | Number of Fixture Units— |
|--|--------------------------|
| <hr/>  |                          |
| Residential Use                                      |                          |
| Bar Sink   | 1                        |
| Bathtub (with or without shower)                     | 2                        |
| Floor drains   | 2                        |
| Laundry tub or clothes washer (each pair of faucets) | 2                        |
| Lavatory   | 1                        |

|                    |   |
|--------------------|---|
| Shower (each head) | 2 |
| Sink or dishwasher | 2 |
| Water Closet       | 3 |

2. Permit Fee: A fee of five dollars (\$5.00) per residential permit shall be charged in addition to the fees charged in Subsection (A)1 of this Section.

(B) Commercial: The charge shall be fifty-six dollars (\$56.00) per fixture unit for a commercial connection to the sewer system. "Commercial connection" is hereby defined as any connection other than residential. (Ord. 3288, eff. 2-20-1995; amd. Ord. 4317, 5-27-2003, eff. 7-1-2003).

1. Commercial Number: the following shall be the number of fixture units per plumbing fixture:

| Fixture<br>Commercial Use                            | Number of Fixture<br>Units |
|--|----------------------------|
| Bar Sink   | 2                          |
| Bathtub (with or without shower)                     | 4                          |
| Dental unit or cuspidor                              | 1                          |
| Drinking fountain (each head)                        | 1                          |
| Laundry tub or clothes washer (each pair of faucets) | 4                          |
| Lavatory   | 2                          |
| Lavatory (dental)                                    | 1                          |
| Shower (each head)                                   | 4                          |
| Sink (flushing rim, clinic)                          | 10                         |
| Sink (washup, circular spray)                        | 4                          |
| Sink (washup, each set of faucets)                   | 2                          |
| Sink or dishwasher                                   | 4                          |
| Urinal (flush tank)                                  | 3                          |
| Urinal (pedestal or similar type)                    | 10                         |
| Urinal (stall)                                       | 5                          |
| Urinal (wall)  | 5                          |
| Water closet (flush tank)                            | 5                          |
| Water closet (flushometer valve)                     | 10                         |
| 2 inch floor drains                                  | 4                          |
| 3 inch floor drains                                  | 4                          |
| 4 inch floor drains                                  | 4                          |
| All other traps of fixtures based upon trap size     |                            |

2. Permit fee: A fee of five dollars (\$5.00) per commercial permit shall be charged in addition to the fees charged in Subsection (B)1 of this Section.

(C) Addition or Remodeling: Fees for connection made to the sewer system under any of the above classifications contained in Subsection (A) or (B) of this Section

where connection is for the purpose of addition or remodeling, shall be in accordance with the sewer buy in fees stated in Subsection (A) or (B) of this Section, except that charges shall be made only for the number of fixture units in the addition or remodeling construction.

- (D) Charges Due and Payable: Charges and/or fees imposed under this Section shall be due and payable when construction permits for units are issued (Ord. 2164, 4-10-1990; amd. Ord. 4317, 5-27-2003, eff. 7-1-2003).
- (E) Connection to City Main Line Sewer: For each sewer tap connection to a City main line sewer, there shall be a connection charge in the amount of two hundred dollars (\$200.00) to cover the labor and material costs incurred by the City for making the actual main line sewer tap connection. (Ord. 4174, 11-27-2001, eff. 3-1-2002; amd. Ord. 4317, 5-27-2003, eff. 7-1-2003).
- (F) Change of Use: In the event of a change of use of a structure from residential to commercial purposes, there shall be paid to the City additional connection fees required in Subsection (B) of this section, with a credit to be given for any connection fees which would have been assessed for that structure pursuant to Subsection (A) of this Section.
- (G) Fees Nontransferable: All fees paid pursuant to this section shall apply to the real property upon which the structure containing the fixture units is located. Connection fees are not transferable between properties. Structures moved from one location to another location must pay new connection fees for the new location, with a credit to be given for any connection fees previously paid for that location.
- (H) Connection Fees Waived: The City manager is hereby authorized to waive the provisions of Subsection (G) of this section regarding transfer of connection fees between properties in the event that the City manager determines that compliance with Subsection (G) of this section would result in gross inequity in a particular situation. (Ord. 3670, eff. 11-27-1997; amd. Ord. 4317, 5-27-2003, eff. 7-1-2003).

(Ord. 3670, eff. 11-27-1997; amd. Ord. 4317, 5-27-2003, eff. 7-1-2003; deleted Ord. 4665, 10-28-2008, eff. 7-11-2009; Ord. 4665 suspended by Ord. 4721-1018, eff. 03-23-2010)

### **2-1-23: UTILITIES DIVISION; PAYMENT OF SEWER FEES:**

All fees and assessments are due and payable on the date billed. Late charges of one and one-half percent (1.5%) per month of the unpaid balance due will be imposed on bills not paid within thirty (30) calendar days after the billing date. (Ord. 2363, 4-14-1992; amd. Ord. 4317, 5-27-2003, eff. 7-1-2003)

## **2-1-24: UTILITIES DIVISION; WATER METERS:**

All water furnished or sold by the City shall be delivered or supplied through meter only, and every separate building supplied with the City water must have its own separate service connection and meter, except that two (2) or more buildings located on the same lot or on contiguous lots under the same ownership, or property known as a court, apartment house or block covering more than one lot, may, upon written permission granted by the City manager, be supplied through the same connection and meter as long as the single ownership continues. Upon change from such single ownership, a new and separate connection shall be immediately made for the building or premises for the indirect connection. No person having a water service connection shall otherwise furnish or deliver water to any other water User, whether gratuitously or for a charge.

All meter settings shall be furnished, owned and maintained by the City unless otherwise provided in these regulations or by agreement. (Ord. 1166, 9-20-1976; amd. Ord. 4317, 5-27-2003, eff. 7-1-2003)

Meters and meter settings must be accessible at all times and not covered with rubbish or material of any kind. No one other than an authorized agent of the City shall be permitted to repair, adjust, remove or replace any meter or any part thereof. In the event a meter is determined not to be accessible, notice will be given to the customer of record. If the meter is not accessible within ten (10) calendar days of notice, a twenty five dollar (\$25.00) penalty will be assessed for each thirty (30) calendar day period the violation remains in effect. In general, all meters must be located in an accessible location and at a slope to prevent drainage from coming into their setting. (Ord. 1552, 9-28-1981; amd. Ord. 4317, 5-27-2003, eff. 7-1-2003)

The consumer shall be responsible for damage to meters and/or meter settings where such damage is caused by a change in grade of the lot or by carelessness or negligence of the consumer or his agent, employee or any member of his family. Such consumer will be billed for the actual cost of repair or replacement and amount is payable within ten (10) calendar days of mailing thereof.

Temporary hydrant water meters for construction purposes and other temporary purposes may be issued by the Public Works Department pursuant to any rules or regulations which may be adopted by the Public Works Director, upon making proper application and tendering a deposit in an amount of one thousand dollars (\$1,000.00). (Ord. 3099, eff. 7-22-1993; amd. Ord. 4317, 5-27-2003, eff. 7-1-2003)

## **2-1-25: UTILITIES DIVISION; WATER METER TESTS:**

Should any consumer doubt the correctness of his/her water meter or water bill, the consumer may have his/her meter retested and/or reread by making written application to the City and paying a fee of thirty five dollars (\$35.00).

If during a meter test an error is found exceeding four percent (4%), allowance shall be made covering a period not to exceed the prior billing and the current consumption to date of removal of the meter. Should an error be found exceeding four percent (4%), all of the expenses incurred in the meter removal and replacement shall be borne by the City, and the thirty five dollar (\$35.00) deposit refunded to the consumer. If the error of the meter does not exceed four percent (4%) in either direction, the deposit shall be retained by the City, and the consumer shall bear all of the expenses incurred in the meter removal and replacement, provided however that in no event shall the charge for said removal and replacement be less than one hundred dollars (\$100.00). The amount of such bill shall be paid by the consumer within ten (10) calendar days from the date of billing or be subject to discontinuance of service. (Ord. 4174, 11-27-2001, eff. 3-1-2002; amd. Ord. 4317, 5-27-2003, eff. 7-1-2003)

**2-1-26: UTILITIES DIVISION; RELOCATION OF WATER METERS:**

All meters which, as of the effective date of these rules and regulations, are located inside of buildings or in meter settings which the City deems to be unsatisfactory may be moved to more suitable locations at the discretion of, and at the expense of the City.

The City may discontinue water service to any consumer who refuses permission to remove a meter in accordance with this regulation.

If any meter is relocated on application of, and to suit the convenience of the consumer, or where relocation of meter is required because of change in grade of a lot, such relocation and setting shall be made by the City at the expense of the consumer. A bill rendered to the consumer for the expense thereof shall be paid within ten (10) calendar days from the date of its mailing or service shall be discontinued. (Ord. 1166, 9-20-1976; amd. Ord. 4317, 5-27-2003, eff. 7-1-2003)

**2-1-27: UTILITIES DIVISION; WATER CONSUMERS NOT TO SUPPLY WATER TO OTHERS:**

Consumers (other than a private line system) shall not supply water or allow water to be carried or run through a hose or pipe to any premises other than that described in the application, agreement or contract without first having received written permission from the City. (Ord. 1166, 9-20-1976; amd. Ord. 4317, 5-27-2003, eff. 7-1-2003)

**2-1-28: UTILITIES DIVISION; DISCONTINUANCE OF WATER SERVICE FOR NONPAYMENT:**

(A) If service has been discontinued for nonpayment of bills, or for violation of the rules of the City, service to such consumer will not be resumed by the City until the unpaid bill, including penalties, has been paid in full and/or the violation of any of the City's rules and regulations has ceased or been eliminated.

In the event the water service discontinued be that of a private line (either "existing" or "future" as such lines are designated in these rules), service to such private line will not be resumed until the full amount of such unpaid bill, including penalties, has been paid. (Ord. 1166, 9-20-1976; amd. Ord. 4317, 5-27-2003, eff. 7-1-2003)

(B)

1. In leased or rental residential properties where multiple apartments, units or dwellings are serviced by a single water meter, for water provided by the City, including apartment consumers and trailer and mobile home park consumers, the service contract with the City water department shall be in the name of the owner or lessor thereof. The owner or lessor shall be the consumer or customer of the City water department and the party responsible for payment for water service.
2. Based upon then current City records, prior to discontinuing water service to properties defined in Subsection (B)1 of this Section, for nonpayment of the water bill, the City shall cause at least one notice of intent to discontinue service to be posted on each individual residential rental apartment, unit or dwelling at least thirty (30) calendar days prior to actual discontinuance of service. After diligent effort to gain entry, in the event that entry to the properties defined in Subsection (B)1 of this Section is denied, then notice by United States mail shall be sufficient. The notice period shall begin upon deposit in the United States mail addressed to the last known tenant address. An affidavit by a City employee with knowledge shall be prima facie and conclusive proof of compliance with the notice requirements set forth herein. The notice shall also inform the tenant or lessee of the amount of the outstanding bill and that they may pay the outstanding bill directly to the City and deduct the amount paid from their next rental or lease payment. A copy of said notice shall also be provided the owner of lessor thirty (30) calendar days before water service is discontinued. Mailing the notice to the last known address of the owner- lessor shall be sufficient.
3. No water service which is the subject of this section shall be discontinued until the notice provisions of Subsection (B)2 of this Section shall have been complied with. (Ord. 2126, 10-24-1989; amd. Ord. 4317, 5-27-2003, eff. 7-1-2003)

#### **2-1-29: UTILITIES DIVISION; WATER TURN ON:**

Water shall not be turned into any water line and fire hydrants shall not be turned on for any purpose by anyone except an authorized employee of the City. Unauthorized turn ons and turn offs will be subject to punitive action by the City. In addition to such punitive action, a consumer whose water was turned on or off by unauthorized

personnel shall be subject to a fifty dollar (\$50.00) surcharge, which amount shall be added to their billing for water service.

Whenever water service has been discontinued for nonpayment of any bill rendered, or because of violation of any rules or regulations of the City, a fee of fifty dollars (\$50.00) shall be assessed to cover the cost of turning the water on again. Said fee shall be paid prior to turning on the water.

In the event the consumer requests that the water be turned on at any time other than during the City's scheduled working hours, the consumer shall be charged an additional fifty dollar (\$50.00) fee. Said fee shall be paid prior to turning on the water.

A fee of twenty five dollars (\$25.00) shall be charged for a turn on request for water which has been voluntarily discontinued by the consumer, and not for nonpayment of any bill rendered, or because of violation of any rules or regulations of the City. (Ord. 4174, 11-27-2001, eff. 3-1-2002; amd. Ord. 4317, 5-27-2003, eff. 7-1-2003)

#### **2-1-30: UTILITIES DIVISION; WATER CROSS CONNECTIONS:**

In no event will cross connections between the City's water and other source of water be allowed. Violations will result in loss of service until the cross connection is corrected. (Ord. 1166, 9-20-1976; amd. Ord. 2363, 4-14-1992; Ord. 3193, eff. 5-26-1994; Ord. 4317, 5-27-2003, eff. 7-1-2003)

#### **2-1-31: UTILITIES DIVISION; SPECIAL SERVICE FOR WATER CUSTOMERS:**

Persons desiring small amounts of water for a short time or service which will require the special attention of an employee of the City will be required to make a deposit, the amount of which will be set by the finance director. For water used by such person a charge will be made at rates fixed by the finance director in keeping with the service rendered and the deposit made may be applied against this charge. Any difference between the deposit and charge shall be paid by the party owing the difference. (Ord. 1166, 9-20-1976; amd. Ord. 2363, 4-14-1992; Ord. 3193, eff. 5-26-1994; Ord. 4317, 5-27-2003, eff. 7-1-2003)

#### **2-1-32: UTILITIES DIVISION; WATER CUT OFF FOR REPAIRS:**

The City reserves the right to shut off the water in the mains at any time for the purpose of making repairs or extensions or for other necessary purposes. It will endeavor to give notice of such shutoff except in cases of accident or emergency. All owners and consumers having boilers on their premises are hereby cautioned against dangers arising from interrupted service. (Ord. 1166, 9-20-1976; amd. Ord. 2363, 4-14-1992; Ord. 3193, eff. 5-26-1994; Ord. 4317, 5-27-2003, eff. 7-1-2003)

**2-1-33: UTILITIES DIVISION; INTERRUPTIONS OF WATER SERVICE:**

All contracts for furnishing water shall be made subject to interruptions or inability to fulfill same from any and all causes whatsoever beyond the control of the City and the City will not be liable for damages for such failure to furnish water or to carry out its contacts to furnish water from any cause or causes beyond its control. (Ord. 1166, 9-20-1976; amd. Ord. 2363, 4-14-1992; Ord. 3193, eff. 5-26-1994; Ord. 4317, 5-27-2003, eff. 7-1-2003)

**2-1-34: UTILITIES DIVISION; TESTING FIRE HYDRANTS:**

The City reserves the right to use or test fire hydrants without liability for any damage claims resulting from water discoloration or chemical or other change that might be caused by such practice. (Ord. 1166, 9-20-1976; amd. Ord. 2363, 4-14-1992; Ord. 3193, eff. 5-26-1994; Ord. 4317, 5-27-2003, eff. 7-1-2003)

**2-1-35: UTILITIES DIVISION; FAILURE OF CONSUMER TO COMPLY WITH REGULATIONS:**

The City may refuse to furnish water or sewer services to the premises of any applicant who fails to meet all the applicable conditions and terms of the regulations or requirements set forth in this Code relating to water or sewer service. (Ord. 4317, 5-27-2003, eff. 7-1-2003)

**2-1-36: UTILITIES DIVISION; TAMPERING WITH THE WATER SYSTEM:**

- (A) It shall be unlawful for any person to break, deface, tamper with or damage any hydrant, pipe or other water system appliance or fixture, or in any other manner interfere with the operation of any part of the water system of the City.
- (B) It shall be unlawful for any person to connect any pipe, tube or other instrument with any main or service pipe for conducting water belonging to the City, for the purpose of taking water from such main or service pipe without first obtaining a written permit from the Public Works Department.
- (C) No unauthorized person shall uncover, make any connections with or open into, use, alter or disturb any mains, appurtenances or service connections, without first obtaining a written permit from the Public Works Department. (Ord. 4201, 2-26-2002; amd. Ord. 4317, 5-27-2003, eff. 7-1-2003)

**2-1-37: UTILITIES DIVISION; SEWER COLLECTION SYSTEMS CONSTRUCTED:**

- (A) Construction Within The City:
  - 1. In the event the City/County Health Department shall determine that there exists on any property having access to a sanitary main belonging to the

City a condition which is a menace to health arising from improper sewer disposal, said property owner shall connect his property to such sanitary sewer main within sixty (60) calendar days after receiving written notification from the City/County Health Department to do so.

2. If the City shall determine that any property owner refuses after notice to connect, or does not have the financial ability necessary to make connection to a sanitary sewer main belonging to the City as herein required, the City shall have the right to install such sewer mains and facilities as are necessary to provide adequate sewer services to the affected property and to make labor and material charges therefore in an amount equal to the going or customary rate or price for such labor and materials within the City at the time of such work, and the City shall have the further right to file a lien against the affected property for the amount of the foregoing charges in the manner and form provided by the statutes of the State of Arizona.
3. The owner of any property, having access to a sanitary sewer main belonging to the City but not included within any sewer improvement district, who may request to connect to such sanitary sewer main or who may have been ordered to make such connection pursuant to Subsection (A)2 of this Section, shall pay as a connection charge an amount equal to that charge the owner of property of equal or equivalent size within the sewer improvement district closest to the location of the affected property and such connection shall be and become a lien against the affected property until fully paid. (Ord. 1166, 9-20-1976; amd. Ord. 1320, 3-26-1979; Ord. 4317, 5-27-2003, eff. 7-1-2003)
4. The term "access" as used in this Subsection shall be defined as meaning any possible method or means of obtaining a service line connection to a sanitary sewer main belonging to the City. For the purpose of this Subsection, the term "access" shall include any mechanical or artificial method of improving the subject property to the extent that a sanitary sewer main may be physically utilized by the owner. (Ord. 1320, 3-26-1979; amd. Ord. 4317, 5-27-2003, eff. 7-1-2003)

(B) Construction Outside Of City:

1. Complete sanitary sewer collection systems which have been constructed and installed as part of subdivision or land development projects in accordance with plans and specifications previously approved by the Public Works Director and under his supervision and inspection, by private contract at the sole cost and expense of other than the City, on land situated outside the City limits, may be served by, and become a part of, the City sanitary sewer collection system, upon approval of the mayor and City council and satisfaction of all liens and encumbrances and payment

to the City of costs incurred by the City in connecting said system to the City sanitary system. (Ord. 4504, 10-25-2005)

2. Premises situated within a subdivision or land development project within which a complete sanitary sewer system has been constructed and installed, as provided in Subsection (B)1 of this Section and which are situated outside the City limits, may be served by the City sanitary sewer collection system, subject to the rates provided in this Chapter as they may be amended by the council, in its discretion. (Ord. 1166, 9-20-1976; amd. Ord. 4317, 5-27-2003, eff. 7-1-2003)
  3. Before any permit for sewer service may be issued as provided in Subsection (B)2 of this Section, the owner of property to be served shall deliver, in duplicate, an executed sewer service agreement complying in all respects to all the provisions of this Chapter. It shall be the duty of the director of the Public Works Department to examine the agreement submitted and if the director determines that said agreement conforms in all respects with the provisions of this Chapter, he may approve the same and accept said service agreement for and on behalf of the City and issue permits as herein provided. Upon approval and acceptance of said agreement, the director of the Public Works Department shall cause the original thereof to be recorded in the office of the county recorder of Yavapai County, Arizona, the recording fee thereof to be paid by said owner of the property to be served. (Ord. 1166, 9-20-1976; amd. Ord. 1432, 4-10-1980; Ord. 3473, eff. retroactive to 2-1-1996; Ord. 4317, 5-27-2003, eff. 7-1-2003)
- (C) Sewer Design And Construction: Prior to the construction or extension of sewer facilities, a civil engineer registered in Arizona must perform the necessary field engineering and prepare detailed plans and specifications for the sewer extension or construction. The final detailed plans and specifications for the sewer extension or construction must be approved by the ADEQ and by the City before construction begins. The design and engineering will be in accordance with the specifications of ADEQ and the City prior to construction. The construction shall meet the City's specifications, requirements and approval, and will be subject to inspection by the City's agent during construction. (Ord. 3651, eff. 8-21-1997; amd. Ord. 4317, 5-27-2003, eff. 7-1-2003)
- (D) Plans And Specifications: All construction under this Chapter shall conform to the specifications of the City entitled "Uniform Standard Specifications For Public Works Construction Sponsored And Distributed By The Maricopa Association Of Governments" (most recent edition), with all supplements thereto, and all construction shall also conform to that certain document entitled "City Of Prescott Department Of Public Works Standard Specifications And Drawings" (the most recent edition), together with all supplements thereto, together with all applicable

federal, state, county and City laws, rules and regulations. (Ord. 2279, 6-25-1991; amd. Ord. 4317, 5-27-2003, eff. 7-1-2003)

- (E) Deposits Into Sewer System: All wastes and inflow deposited into the City sanitary sewer system, as well as any effluent and byproducts produced as a result thereof, are the property of the City. (Ord. 3824, 12-15-1998; amd. Ord. 4317, 5-27-2003, eff. 7-1-2003)

**2-1-38: UTILITIES DIVISION; PROHIBITED SUBSTANCES IN THE SEWER SYSTEM; GENERALLY:**

No User shall introduce or cause to be introduced into the POTW any Pollutant or wastewater which causes Pass Through or Interference, or any water or waste that could cause a violation of any Categorical Standard or Pretreatment or recharge requirement. These general prohibitions apply to all Users of the POTW whether or not they are subject to Categorical Pretreatment Standards or any other Federal, State, or local Pretreatment Standards or requirements.

No Person shall discharge or cause to be discharged any storm water, surface water, ground water, roof runoff, subsurface drainage, cooling water or unpolluted industrial process water to any sanitary sewer. Storm water and all other surface drainage shall be discharged to such sewers or drains as are specifically designated as such, or to a natural outlet approved by the City. (Ord. 1360, 8-27-1979; amd. Ord. 4317, 5-27-2003, eff. 7-1-2003)

**2-1-39: UTILITIES DIVISION; PROHIBITED SUBSTANCES IN THE SEWER SYSTEM; SPECIFICALLY:**

Except as provided in this Section, no User shall discharge or cause to be discharged, or process or store in such a manner that they could be discharged, any of the following described water or wastes to any public sewer:

- (A) Wastewater having a temperature greater than 110 °F (43.3 °C), or which will inhibit biological activity in the POTW resulting in Interference, but in no case causes the temperature at the introduction into the POTW to exceed 104°F (40°C).
- (B) Fats, oils, or greases of animal or vegetable origin in amounts that will cause or contribute to obstruction of the flow or reduced treatment effectiveness in the POTW.
- (C) Any gasoline, benzene, naphtha, fuel oil or other flammable or explosive liquids, solids or gases which, by reason of their nature or quantity could be sufficient, either alone or by interaction with other substances, to cause injury to the POTW from fire or explosion.
- (D) Any Garbage that has not been properly shredded.

- (E) Any ashes, cinders, sand, mud, straw, shavings, metal, glass, rags, feathers, tar, plastics, wood, paunch, manure, grit, such as brick, cement, onyx, carbide or any other solid or viscous substance capable of obstructing flow in the POTW or other interference with the proper operation of the Sewage Works.
- (F) Any water or waste having a pH lower than five and one-half (5 1/2) or higher than nine (9) or having any other corrosive property capable of causing damage or hazard to structures, equipment or personnel to the sewerage works.
- (G) Any water or waste containing a toxic, poisonous or radioactive or other substance in sufficient quantities to cause, or have the potential to cause, injury or interfere with wastewater treatment process, cause effluent of the Wastewater Treatment Plant to come out of ADEQ compliance, cause corrosive structural damage or equipment degradation, constitute a hazard to humans or animals or create any hazard to the POTW system or in the effluent of the Wastewater Treatment Plant, or Pollutants which result in the presence of toxic gasses, vapors, or fumes within the POTW System in a quantity that may cause acute worker health and/or safety problems.
- (H) Any waters or wastes containing Suspended Solids of such character or quantity that unusual attention or expense is required to handle such materials at the Wastewater Treatment Plant unless specifically authorized by the Public Works Director. Compensation will be determined by the City to be paid by the User who contributes any such authorized substance.
- (I) Any noxious or malodorous gas or substance capable of creating a public nuisance.
- (J) Any water containing a five (5) day biological oxygen demand (BOD) greater than three hundred (300) milligrams per liter (mg/L), unless specifically authorized by the Public Works Director.
- (K) Any water containing more than three hundred fifty (350) mg/L of Total Suspended Solids, unless specifically authorized by the Public Works Director.
- (L) Any water or wastewater having an average daily flow of greater than two and one-half percent (2.5%) of the treatment capacity of the Wastewater Treatment Plant to which it is discharged, unless specifically authorized by the Public Works Director.
- (M) Pollutants which create a fire or explosive hazard in the POTW, including, but not limited to, waste streams with a closed-cup flashpoint of less than 140°F (60°C) using the test methods specified in 40 CFR 261.21.

- (N) Wastewater causing two readings on an explosion hazard meter at the point of discharge into the POTW, or at any point in the POTW, of more than five percent (5%) or any single reading over ten percent (10%) of the Lower Explosive Limit of the meter.
- (O) Petroleum oil, non-biodegradable cutting oil, or products of mineral oil origin, in amounts which will cause or contribute to obstruction of the flow in the POTW, Interference, Pass Through, or damage to the POTW.
- (P) Solid or viscous substances in amounts which will cause or contribute to obstruction of the flow in the POTW, but in no case solids greater than one-half inch (1/2") or 1.27 centimeters (cm) in any dimension.
- (Q) Any Pollutant in concentrations that pose a risk of fume toxicity or other health and safety risks to POTW workers. The City reserves the right to establish, by Ordinance or in Wastewater Discharge Permits, specific instantaneous effluent limitations for these Pollutants.
- (R) Any new Discharge of water or waste, whether associated with a new User or with increased flows from an existing User, which would cause the average daily flow to any of the City's Wastewater Treatment Plant to exceed eighty percent of the treatment capacity of the Wastewater Treatment Plant, unless specifically allowed by the Public Works Director.
- (S) Trucked or hauled Pollutants, except at discharge points designated by the Public Works Director in accordance with Section 2-1-46-3 of this Ordinance, including any water or waste that is transported from the point of generation to the POTW by any septic tank pumper or chemical Waste Hauler, or similarly transported unless the transporter has first:
  1. Disclosed to the Public Works Director the origin, nature, concentration and volume of all Pollutants to be discharged; and
  2. Obtained written consent of the Public Works Director to discharge.
- (T) Storm Water, surface water, ground water, roof runoff, or subsurface drainage to any sanitary sewer. No rain spout, roof drain or other form of surface drainage and no foundation drainage or sump pump shall be connected to, or discharge into, any sanitary sewer. Storm Water and all other unpolluted drainage shall be discharged to such sewers or drains as are specifically designated as such, or to a Natural Outlet approved by the City.
- (U) Sludges, screenings, or other residues from the Pretreatment of Industrial Wastes.

- (V) Medical Wastes, except as specifically authorized by the Public Works Director in a Wastewater Discharge Permit.
- (W) Wastewater causing, alone or in conjunction with other sources, the Wastewater Treatment Plant's effluent to fail a toxicity test.
- (X) Detergents, surface-active agents, or other substances which may cause excessive foaming in the POTW.
- (Y) Any Pollutant, including pesticides or polychlorinated biphenyls, that is not registered to be legally used in the United States. The City reserves the right to establish, by Ordinance or in Wastewater Discharge Permits, specific prohibitions for these Pollutants.

**2-1-40: UTILITIES DIVISION; INTERCEPTORS REQUIRED:**

Grease, oil and sand interceptors shall be provided for the proper handling of liquid waste containing grease in excessive amounts or any flammable waste, sand or other harmful ingredients except that such interceptors shall not be required for private living quarters or dwelling units. Grease traps shall be required at all public premises where food is served, such as restaurants, cafeterias, hospitals, schools, and day-care facilities. (Ord. 687, 11-9-1964; amd. Ord. 4317, 5-27-2003, eff. 7-1-2003)

**2-1-41: UTILITIES DIVISION; INTERCEPTORS; TYPE, CAPACITY AND LOCATION:**

All interceptors shall be of a type and capacity approved by the Public Works Director, and shall be located as to be readily and easily accessible for cleaning and inspection. (Ord. 687, 11-9-1964; amd. Ord. 4317, 5-27-2003, eff. 7-1-2003)

**2-1-42: UTILITIES DIVISION; INTERCEPTORS, CONSTRUCTION OF GREASE AND OIL INTERCEPTORS:**

Grease and oil interceptors shall be constructed of impervious materials capable of withstanding abrupt and extreme changes in temperature. They shall be of a substantial construction, watertight, and equipped with easily removable covers which, when bolted in place, shall be gastight and watertight. (Ord. 687, 11-9-1964; amd. Ord. 4317, 5-27-2003, eff. 7-1-2003)

**2-1-43: UTILITIES DIVISION; INTERCEPTORS; MAINTENANCE:**

Where installed, all grease, oil and sand interceptors shall be maintained by the owner, at his expense, in continuous, efficient operation at all times in conjunction with requirements listed in this Chapter. (Ord. 1360, 8-27-1979; amd. Ord. 4317, 5-27-2003, eff. 7-1-2003)

**2-1-44: UTILITIES DIVISION; AUTHORITY OF PUBLIC WORKS DIRECTOR:**

- (A) Consistent with applicable federal and state laws and regulations (including, without limitation, the Federal Clean Water Act (33 U.S.C. §§ 1251 et seq.), Federal Pretreatment Regulations (40 CFR Part 403), Arizona Revised Statutes, Section 49-391 and Section 9-276, the Arizona Administrative Code Sections R18-9-B204(B)(6)(b)(ii) and R18-9-B206, and the City Charter, Article I, Section 3), the City has jurisdiction and authority to regulate all Users of the POTW, including Significant Industrial Users, with respect to the volume and flow rate of discharge to the POTW and to establish permissible limits of concentration for various specific substances, materials, waters or wastes that are prohibited from entering the POTW. (Ord. 687, 11-9-1964; amd. Ord. 4317, 5-27-2003, eff. 7-1-2003). The Public Works Director is authorized to establish, implement and enforce such limits and regulations.
- (B) In addition to the prohibitions specifically listed under Section 2-1-39 of this Chapter, The Public Works Director is authorized to establish Local Limits Pursuant to 40 CFR 403.5(c). Table A of this Section lists the Pollutant concentration limits that have been established to protect the POTW against Pass Through and Interference. Each User who discharges an Indirect Discharge to the POTW and is designated as a Significant Industrial User as defined in Section 2-1-9 shall not discharge or cause to be discharged at any entry point to the POTW any wastewater containing in excess of the following Local Limits:

TABLE A

| Parameter | Local Limit | Sample Type |
|-----------|-------------|-------------|
| Arsenic   | 0.1 mg/l    | Composite   |
| Cadmium   | 1.2 mg/l    | Composite   |
| Copper    | 2.7 mg/l    | Composite   |
| Cyanide   | 1.0 mg/l    | Grab        |
| Fluoride  | 16.3 mg/l   | Composite   |
| Lead      | 0.4 mg/l    | Composite   |
| Mercury   | 0.001 mg/l  | Composite   |
| Nickel    | 1.04 mg/l   | Composite   |
| Silver    | 0.7 mg/l    | Composite   |
| Chromium  | 4.0 mg/l    | Composite   |
| Zinc      | 2.6 mg/l    | Composite   |

Notes: mg/l = milligrams per liter

- (C) The City reserves the right to establish standards for substances not contained in Table A. The above limits apply at the point where wastewater is discharged to the POTW. The Local Limit shall be the maximum allowable concentration permitted in a discharge as measured, where feasible and appropriate for a given parameter, in a 24-hour composite sample obtained by flow-proportional sampling techniques. If the Public Works Director determines that flow-proportional sampling is not feasible, the Public Works Director may allow

composite sampling by time-proportional techniques or by compositing or averaging of one or more grab samples.

- (D) The Public Works Director may impose Mass-Based Limits in addition to the Concentration-Based Limits listed above. The Public Works Director may incorporate local limits on a User-specified basis into Wastewater Discharge Permits where necessary to meet Maximum Allowable Industrial Loading limitations. Any violation of User-specified pollutant limitations as may be set forth by the Public Works Director shall subject the User to the same administrative actions, penalties, and enforcement actions as would be available for any other violations described in this Ordinance.

#### **2-1-45: UTILITIES DIVISION; PRETREATMENT FACILITIES;**

Where necessary in the opinion of the Public Works Director, the owner shall provide, at his expense, such Pretreatment as may be necessary to: (Ord. 1615, 2-28-1983; amd. Ord. 4317, 5-27-2003, eff. 7-1-2003)

- (A) Reduce objectionable characteristics or constituents to within maximum limits provided for in Sections 2-1-39 and 2-1-44 of this Chapter. (Ord. 4317, 5-27-2003, eff. 7-1-2003)
- (B) Control the quantities and the rate of discharge of such waters, or wastes.
- (C) Comply with the Pretreatment Sections.

Users shall achieve compliance with all Categorical Pretreatment Standards; effluent limits based on applicable Pretreatment Standards, such as Local Limits; and/or requirements for Best Management Practices (BMPs) within the time limitations specified by EPA, the State, or the Public Works Director, whichever is more stringent. Any facilities necessary for compliance shall be provided, operated, and maintained at the User's expense.

Plans, specifications and any other pertinent information relating to proposed Pretreatment facilities shall be submitted for review by and the approval of the Public Works Director. No such construction of such facilities shall be commenced until such approvals are obtained in writing. The completed facilities shall not be placed in service until they have been inspected for conformance to the approved plans and the final construction approved by the Public Works Director. The approval of the plans and inspection of construction shall not relieve the User from complying with, and achieving, discharge limitations set forth in this Chapter. The review of such plans and operating procedures shall in no way relieve the User from the responsibility of modifying such facilities as necessary to produce a Discharge acceptable to the City under the provisions of this Chapter.

Federal and State pretreatment regulations shall be enforced as applicable. No discharge may exceed any federal categorical standard or cause the POTW to exceed any limitation set forth in any and all permits that govern discharge from the City's POTWs. (Ord. 1615, 2-28-1983; amd. Ord. 4317, 5-27-2003, eff. 7-1-2003)

**2-1-46: UTILITIES DIVISION; PRETREATMENT:**

2-1-46-1 Additional Measures

- (A) Where preliminary treatment facilities are provided for any water or wastes, they shall be maintained continuously in satisfactory and effective operation by the owner at his own expense. (Ord. 687, 11-9-1964; amd. Ord. 4317, 5-27-2003, eff. 7-1-2003)
- (B) The Public Works Director may require Users to restrict their Discharge during peak flow periods, designate that certain wastewater be discharged only into specific sewers, relocate and/or consolidate points of discharge, separate Sewage waste streams from industrial waste streams, and such other conditions as may be necessary to protect the POTW and determine the User's compliance with the requirements of this Chapter.
- (C) The Public Works Director may require any Person discharging into the POTW to install and maintain, on their property and at their expense, a suitable storage and flow-control facility to ensure equalization of flow. A Wastewater Discharge Permit may be issued solely for flow equalization.
- (D) Dischargers of waste streams from leaking underground storage tank (LUST) groundwater remediation projects and any other type of groundwater remediation project that results in the Discharge of a waste stream to the POTW shall meet the following requirements:
  - 1. The User shall submit an application for a Wastewater Discharge Permit to the Public Works Director, as required by Section 2-1-65-2.B.
  - 2. No connection to the City's POTW will be made prior to receiving a permit.
  - 3. A flow meter as specified in the User's Wastewater Discharge Permit shall be installed prior to the discharge point and be easily accessible to the Public Works Director to record discharge flows.
  - 4. All maintenance and sampling activities for the groundwater remediation equipment shall be recorded and a copy of those records shall be kept on site and accessible to the Public Works Director.
  - 5. The waste stream piping shall be constructed in such a way that Discharge can be terminated by closing a valve.
  - 6. No connection will be made between the groundwater remediation system and any potable water supply.
  - 7. The Public Works Director may incorporate additional requirements into the User's Wastewater Discharge Permit in order to fulfill the purposes of this Ordinance.

- (E) As specified in the current adopted Plumbing Code (City Code 3-6-1), pretreatment devices for the removal of fats, oils, and grease and sand, grit, and/or other solids shall be installed by Food Service Facilities and Vehicle Service Facilities. They shall also be installed by other Users when, in the opinion of the Building Official, they are necessary for the proper handling of wastewater containing excessive amounts of these materials except that such interceptors shall not be required for residential Users. Requirements for the proper handling of these constituents in wastewater are as follows:
1. Grease interceptors shall be required, installed, and maintained as specified in the currently adopted Plumbing Code and per manufacturer's recommendations for the sizing and cleaning of interceptors for the food service industry.
  2. Sand/oil interceptors and oil/water separators shall be required, installed, and maintained as specified in the currently adopted Plumbing Code and per manufacturer's recommendations for the sizing and cleaning of interceptors for the vehicle service industry.
  3. All interceptors and separators shall be of a type and capacity specified in the currently adopted Plumbing Code; located as to be readily and easily accessible for cleaning and inspection; constructed of impervious materials capable of withstanding abrupt and extreme changes in temperature; and provided with traffic-rated vaults and lids. They shall be of a substantial construction, watertight, and equipped with easily removable covers which, when bolted in place, shall be gastight and watertight.
  4. Where installed, all interceptors and separators shall be maintained by the owner, at his expense, in continuous, efficient operation at all times. Interceptors and separators shall be inspected, cleaned and repaired regularly by the User at the User's expense as specified in the Public Works Director's policies and procedures. The User shall have grease removed and disposed by grease haulers that are approved by the Public Works Director. The User shall keep records of all cleaning, repair and maintenance for at least three (3) years on the site where the interceptor, separator or trap is located. These records shall include copies of manifests indicating the point of discharge for each load. Such records shall be available for inspection by the Public Works Director upon request.
  5. The Public Works Director may require, in addition to the installation of Pretreatment devices, other actions by Industrial Users as necessary to implement the City's program to manage fats, oil, and grease, including but not limited to adoption and implementation of BMPs.
- (F) Users with the potential to discharge flammable substances may be required to install and maintain an approved combustible gas detection meter.

## **2-1-46-2 Accidental Discharge/Slug Discharge Control Plans**

At least once every two (2) years, the Public Works Director shall evaluate whether each SIU needs an accidental Discharge/Slug Discharge control plan. The Public Works Director may require any User to develop, submit for approval, and implement such a plan. An accidental Discharge/Slug Discharge control plan shall address, at a minimum, the following:

- A. Description of discharge practices, including non-routine batch Discharges;
- B. Description of stored chemicals;
- C. Procedures for immediately notifying the Public Works Director of any accidental or Slug Discharge, as required by Section 2-1-67-6 of this Ordinance; and
- D. Procedures to prevent adverse impact from any accidental or Slug Discharge. Such procedures include, but are not limited to, inspection and maintenance of storage areas, handling and transfer of materials, loading and unloading operations, control of plant site runoff, worker training, building of containment structures or equipment, measures for containing toxic organic Pollutants, including solvents, and/or measures and equipment for emergency response.

## **2-1-46-3 Hauled Wastewater**

- A. The Public Works Director shall require haulers of Septic Tank Waste to obtain Wastewater Discharge Permits.
- B. Septic Tank Waste haulers may discharge loads only at locations designated by the Public Works Director and at such times as are established by the Public Works Director. The Public Works Director may collect samples of each hauled load to ensure compliance with applicable Standards. The Public Works Director may require the Septic Tank Waste hauler to provide a waste analysis of any load prior to discharge. The Discharge of hauled Septic Tank Waste is subject to all other requirements of this Ordinance.
- C. Septic Tank Waste haulers must provide a completed City waste-tracking form for every load. This form shall include, at a minimum, the name and address of the Septic Tank Waste hauler, permit number, truck identification, names and addresses of sources of waste, and volume and characteristics of waste. Septic Tank Waste haulers shall maintain records of all waste-tracking forms for at least three (3) years.
- D. The Public Works Director shall require grease haulers to obtain Wastewater Discharge Permits.

- E. Grease haulers shall not discharge mixed loads of grease and septic tank waste or any other type of waste. Grease haulers may discharge loads only at locations designated by the Public Works Director and at such times as are established by the Public Works Director. The Public Works Director may collect samples of each hauled load to ensure compliance with applicable Standards. The Public Works Director may require the grease hauler to provide a waste analysis of any load prior to discharge. The Discharge of hauled grease is subject to all other requirements of this Ordinance.
- F. Grease haulers must provide a completed City waste-tracking form for every load. This form shall include, at a minimum, the name and address of the grease hauler, permit number, truck identification, names and addresses of sources of waste, and volume and characteristics of waste. Grease haulers shall maintain records of all waste-tracking forms for at least three (3) years.
- G. The Public Works Director shall require haulers of Industrial Waste to obtain Wastewater Discharge Permits. The Public Works Director may require generators of hauled Industrial Waste to obtain Wastewater Discharge Permits. The Public Works Director also may prohibit the disposal of hauled Industrial Waste. The Discharge of hauled Industrial Waste is subject to all other requirements of this Ordinance.
- H. Industrial Waste haulers may discharge loads only at locations designated by the Public Works Director and at such times as established by the Public Works Director. No load may be discharged without prior consent of the Public Works Director. The Public Works Director may collect samples of each hauled load to ensure compliance with applicable Standards. The Public Works Director may require the Industrial Waste hauler to provide a waste analysis of any load prior to discharge.
- I. Industrial Waste haulers must provide a completed City waste-tracking form for every load. This form shall include, at a minimum, the name and address of the Industrial Waste hauler, permit number, truck identification, names and addresses of sources of waste, and volume and characteristics of waste. The form shall identify the type of industry, known or suspected waste constituents, and whether any wastes are RCRA hazardous wastes. Industrial Waste haulers shall maintain records of all waste-tracking forms for at least three (3) years.

**2-1-47: UTILITIES DIVISION; MANHOLES:**

When required by the City, the owner of any property served by a building sewer carrying industrial waste shall install a suitable control manhole in the building sewer to facilitate observation and sampling of the waste. Such manholes, when required, shall

be accessible and safely located and shall be constructed in accordance with the plans approved by the Public Works Director. The manholes shall be installed by the owner at his expense and shall be maintained by him, so as to be safe and accessible at all times. (Ord. 1360, 8-27-1979; amd. Ord. 4317, 5-27-2003, eff. 7-1-2003)

#### **2-1-48: UTILITIES DIVISION; SAMPLE COLLECTION AND ANALYTICAL REQUIREMENTS**

- (A) All Significant Industrial Users shall provide, at their own expense, sampling and analyses at least twice each year, in June and December, according to 40 CFR 403.12. If any sample that is taken by the Significant Industrial User or the City is not within the limits of this Chapter or the Federal Categorical Standards, then the User will be required to perform the sampling and analyses as often as is determined by the City to be necessary.
- (B) The flow must be measured by the Industrial User at the time that the sample is taken according to 40 CFR 403.12(d). The methods of sampling and analyses must be in accordance with the latest edition of standard methods and/or the applicable EPA categorical standards. The laboratory must be certified by the Arizona Department of Health Services (ADHS). Analyses using onsite equipment, such as in-line pH meters, will be acceptable at the discretion of the Public Works Director. An authorized representative of the Industrial User must sign a statement verifying the validity of the methods and stating that the sample is representative of the discharge according to 40 CFR 403.12(k).
- (C) All records of sampling, analysis and flows must be kept by the Industrial User for at least three (3) years. Information and data obtained from reports, questionnaires, permit applications, permits and monitoring programs and from inspections shall be available to the public or other governmental agencies without restriction unless the Industrial User specifically requests and is able to demonstrate to the satisfaction of the City that the release of such information would divulge information, processes or methods of production entitled to protection as trade secrets of the User, except that the City cannot restrict information on effluent data. Information accepted by the City as confidential shall not be transmitted to any governmental agency or to the general public by the City unless a ten (10) day notification is given to the Industrial User.
- (D) The City will maintain records of monitoring, inspections and correspondence relating to this Chapter for a minimum of three (3) years. These records will be available to the EPA and ADEQ.
- (E) The City will maintain records of monitoring that are necessary to enforce this Chapter. The City will sample randomly and analyze for any pollutants that would be anticipated for that particular user whose effluent was sampled. In accordance with 40 CFR 403.8(f), the City will maintain adequate funding and personnel to operate a Pretreatment Program as prescribed in this Chapter. The City may

designate an independent laboratory to do the sampling and testing, and this laboratory will be allowed to enter the premises of any Industrial User to sample any discharge which may enter the wastewater collection system.

- (F) The Industrial User will be financially responsible for any sampling and analysis done by the City that is not routine as provided for in this Chapter. (Ord. 687, 11-9-1964; amd. Ord. 4317, 5-27-2003, eff. 7-1-2003)
- (G) Samples collected to satisfy reporting requirements must be based on data obtained through appropriate sampling and analysis performed during the period covered by the report, based on data that is representative of conditions occurring during the reporting period.
  - 1. Except as indicated below, the Industrial User must collect wastewater samples using 24-hour flow-proportional composite sampling techniques, unless time-proportional composite sampling or grab sampling is authorized by the Public Works Director. Where time-proportional composite sampling or grab sampling is authorized by the City, the samples must be representative of the Discharge. Using protocols (including appropriate preservation) specified in 40 CFR Part 136 and appropriate EPA guidance, multiple Grab Samples collected during a 24-hour period may be composited prior to the analysis as follows: for cyanide, total phenols, and sulfides the samples may be composited in the laboratory or in the field; for volatile organics and oil and grease, the samples may be composited in the laboratory. Composite Samples for other parameters unaffected by the compositing procedures as documented in approved EPA methodologies may be authorized by the City, as appropriate. In addition, Grab Samples may be required to show compliance with Instantaneous Limits.
  - 2. Samples for oil and grease, temperature, pH, cyanide, total phenols, sulfides, and volatile organic compounds must be obtained using grab collection techniques.
  - 3. For sampling required in support of baseline monitoring and 90-day compliance reports required in Section 2-1-67 [40 CFR 403.12(b) and (d)], a minimum of four (4) Grab Samples must be used for pH, cyanide, total phenols, oil and grease, sulfide and volatile organic compounds for facilities for which historical sampling data do not exist; for facilities for which historical sampling data are available, the Public Works Director may authorize a lower minimum. For the reports required by Section 2-1-67 (40 CFR 403.12(e) and 403.12(h)), the Industrial User is required to collect the number of Grab Samples necessary to assess and assure compliance by with applicable Pretreatment Standards and requirements.

4. The flow must be measured by the Industrial User at the time that the sample is taken according to 40 CFR 403.12(d).
- (H) All Pollutant analyses, including sampling techniques, to be submitted as part of a Wastewater Discharge Permit application or report shall be performed in accordance with the techniques prescribed in 40 CFR Part 136, unless otherwise specified in an applicable Categorical Pretreatment Standard. If 40 CFR Part 136 does not contain sampling or analytical techniques for the Pollutant in question, sampling and analyses must be performed in accordance with procedures approved by EPA.
- (I) The analysis of all samples in order to be considered for compliance with the requirements of this article must be conducted by a laboratory licensed by the State of Arizona as an environmental laboratory (Arizona Revised Statutes (A.R.S.) 36-495, et seq. Analyses using onsite equipment, such as in-line pH meters, will be acceptable at the discretion of the Public Works Director.

**2-1-49: UTILITIES DIVISION; SPECIAL AGREEMENT WITH INDUSTRIAL CONCERNS; SANITARY SEWER SYSTEM:**

Nothing in this Chapter shall be construed to prevent any special arrangement between the City and any industrial concern whereby an industrial waste of unusual strength or character may be accepted by the City for treatment, subject to payment for the cost of such treatment by the industrial concern, except that any special agreement must be at least as stringent as applicable state and federal requirements. (Ord. 687, 11-9-1964; amd. Ord. 4317, 5-27-2003, eff. 7-1-2003)

**2-1-50: UTILITIES DIVISION; PROCEDURES FOR ENFORCEMENT:**

Descriptions of enforcement procedures are described in the City's Enforcement Response Plan. A copy of the Enforcement Response Plan will be available through a public records request from the City Clerk.

- (A) A compliance schedule, as required by 40 CFR 403.12(b)(7)), will be established for Significant Industrial Users that do not meet applicable standards. The dates of the compliance schedule will be determined by the City.
- (B) Procedures for enforcement of hazardous discharge violations shall be administered as follows:
1. The City shall give written notice to the Industrial User regarding the violation and explain the enforcement action to be taken in the event of continued noncompliance.

2. If the Industrial User does not immediately stop such discharge, the City may discontinue water and/or sewer service, and may undertake any legal proceedings as may be necessary or appropriate to halt such discharge.
  3. The Industrial User shall be responsible for any expenses to the City for handling or stopping such discharge, for reasonable cost and attorney fees, and for any damage resulting from the discharge.
- (C) Procedures for other violations which do not involve hazardous materials or present an imminent danger to the POTW or the environment shall be handled as follows:
1. Oral and written notification shall be given to the Industrial User regarding the nature and severity of the violation.
  2. A compliance schedule for eliminating the violation shall be established. The specific schedule shall be determined by the nature and severity of the violation.
  3. In the event of continued noncompliance, measures listed under Subsection (B) of this section may be implemented. (Ord. 1615, 2-28-1983; amd. Ord. 4317, 5-27-2003, eff. 7-1-2003)

#### **2-1-50-1: Administrative Enforcement Remedies**

(A) Notification of Violation:

When the Public Works Director finds that a User has violated, or continues to violate, any provision of the Pretreatment Sections, a Wastewater Discharge Permit or order issued pursuant to the Pretreatment Sections, or any other Pretreatment Standard or requirement, the Public Works Director may serve upon that User a written Notice of Violation. Within fifteen (15) calendar days of the receipt of this notice, an explanation of the violation and a plan for the satisfactory correction and prevention thereof, to include specific required actions, shall be submitted by the User to the Public Works Director. Submission of this plan in no way relieves the User of liability for any violations occurring before or after receipt of the Notice of Violation. Nothing in this Section shall limit the authority of the Public Works Director to take any action, including emergency actions or any other enforcement action, without first issuing a Notice of Violation.

(B) Consent Orders:

The Public Works Director may enter into Consent Orders, assurances of voluntary compliance, or other similar documents establishing an agreement with any User responsible for noncompliance. Such documents will include specific action to be taken by the User to correct the noncompliance within a time period

specified by the document. Such documents shall have the same force and effect as the administrative orders issued pursuant to Sections 2-1-50 of this Ordinance and shall be judicially enforceable.

(C) Show Cause Hearing:

The Public Works Director may order an User which has violated, or continues to violate, any provision of the Pretreatment Sections, a Wastewater Discharge Permit or order issued under the Pretreatment Sections, or any other Pretreatment Standard or requirement, to appear before the Public Works Director and show cause why the proposed enforcement action should not be taken. Notice shall be served on the User specifying the time and place for the meeting, the proposed enforcement action, the reasons for such action, and a request that the User show cause why the proposed enforcement action should not be taken. The notice of the meeting shall be served personally or by registered or certified mail (return receipt requested) at least ten (10) calendar days prior to the hearing. Such notice may be served on any Authorized Representative of the User. A show cause hearing shall not be a bar against, or prerequisite for, taking any other action against the User.

(D) Compliance Orders:

When the Public Works Director finds that an User has violated, or continues to violate, any provision of the Pretreatment Sections, a Wastewater Discharge Permit or order issued under the Pretreatment Sections, or any other Pretreatment Standard or requirement, the Public Works Director may issue an order to the User responsible for the Discharge directing that the User come into compliance within a specified time. If the User does not come into compliance within the time provided, sewer service may be discontinued unless adequate treatment facilities, devices, or other related appurtenances are installed, maintained and/or properly operated. Compliance orders also may contain other requirements to address the noncompliance, including additional self-monitoring and management practices designed to minimize the amount of Pollutants discharged to the sewer. A compliance order may not extend the deadline for compliance established for a Pretreatment Standard or requirement, nor does a compliance order relieve the User of liability for any violation, including any continuing violation. Issuance of a compliance order shall not be a bar against, or a prerequisite for, taking any other action against the User.

(E) Cease and Desist Orders:

When the Public Works Director finds that a User has violated, or continues to violate, any provision of the Pretreatment Sections, a Wastewater Discharge Permit or order issued under the Pretreatment Sections, or any other Pretreatment Standard or requirement, or that the User's past violations are likely to recur, the Public Works Director may issue an order to the User directing it to cease and desist all such violations and directing the User to:

1. Immediately comply with all requirements; and

2. Take such appropriate remedial or preventive action as may be needed to properly address a continuing or threatened violation, including halting operations and/or terminating the Discharge. Issuance of a cease and desist order shall not be a bar against, or a prerequisite for, taking any other action against the User.

(F) Administrative Fines:

1. When the Public Works Director finds that a User has violated, or continues to violate, any provision of the Pretreatment Sections, a Wastewater Discharge Permit or order issued under the Pretreatment Sections, or any other Pretreatment Standard or requirement, the Public Works Director may fine such User in an amount described in the Enforcement Response Plan, in accordance with A.R.S. 49-391. Such fines shall be assessed on a per violation, per day basis. In the case of monthly or other long term average discharge limits, fines shall be assessed for each day during the period of violation. In addition, the Public Works Director may add to the administrative fines an amount equal to any penalties, liquidated damages or expenses that the City is required to pay to ADEQ or EPA (pursuant to a consent order, consent decree or otherwise) as a result of User's violation of any provision of this Chapter.
2. Unpaid charges, fines, and penalties shall, after thirty (30) calendar days, be assessed an additional penalty of the unpaid balance, and interest shall accrue thereafter at a rate per month as specified in the Enforcement Response Plan. A lien against the User's property will be sought for unpaid charges, fines, and penalties.
3. Each and every day any violation continues shall be deemed and considered a separate offense. Any User violating any provisions of this Chapter shall become liable to the City for any expense, loss or damage occasioned by the City by reason of such violation.
4. The penalties set forth above shall be cumulative and nonexclusive. In addition to those penalties set forth herein, the City may institute any other remedial actions available, including, but not limited to, a civil action to recover any and all monies due the City.
5. Users desiring to dispute such fines must file a written request for the Public Works Director to reconsider the fine along with full payment of the fine amount within fifteen (15) calendar days of being notified of the fine. Where a request has merit, the Public Works Director may convene a hearing on the matter. In the event the User's appeal is successful, the payment, together with any interest accruing thereto, shall be returned to

the User. The Public Works Director may add the costs of preparing administrative enforcement actions, such as notices and orders, to the fine.

6. Issuance of an administrative fine shall not be a bar against, or a prerequisite for, taking any other action against the User.

(G) Emergency Suspensions:

The Public Works Director may immediately suspend a User's Discharge, after informal notice to the User, whenever such suspension is necessary to stop an actual or threatened Discharge which reasonably appears to present or cause an imminent or substantial endangerment to the health, safety or welfare of Persons and/or POTW employees; damage or cause to damage the collection, treatment recharge/reuse system, or any part thereof, or cause a detrimental decrease in recharge water quality. The Public Works Director may also immediately suspend a User's Discharge, after notice and opportunity to respond, that threatens to interfere with the operation of the POTW, or which presents, or may present, an endangerment to the environment.

1. Any User notified of a suspension of its Discharge shall immediately stop or eliminate its wastewater Discharge. In the event of a User's failure to immediately comply voluntarily with the suspension order, the Public Works Director may take such steps as deemed necessary including, but not limited to, immediate severance of the Sewer Connection, to prevent or minimize damage to the POTW, the aquifer or other receiving waters, or endangerment to any individuals. The Public Works Director may allow the User to recommence its Discharge when the User has demonstrated to the satisfaction of the Public Works Director that the period of endangerment has passed, unless the termination proceedings in Section 2-1-50-1(H) of this Chapter are initiated against the User.
2. A User that is responsible, in whole or in part, for any Discharge presenting imminent endangerment shall submit a detailed written statement, describing the causes of the harmful contribution and the measures taken to prevent any future occurrence, to the Public Works Director prior to the date of any show cause or termination hearing under Sections 2-1-50-1(C) or 2-1-50-1(H) of this Chapter.

Nothing in this Section shall be interpreted as requiring a hearing prior to any emergency suspension under this Section.

(H) Termination of Discharge:

In addition to the provisions in Section 2-1-66-6 of this Chapter, any User who violates the following conditions is subject to discharge termination:

1. Violation of Wastewater Discharge Permit conditions;

2. Failure to accurately report the wastewater constituents and characteristics of its Discharge;
3. Failure to report significant changes in operations or wastewater volume, constituents, and characteristics prior to Discharge;
4. Refusal of reasonable access to the User's premises for the purpose of inspection, monitoring, or sampling; or
5. Violation of the Pretreatment Standards in Section 2-1-44 of this Chapter.

Such Industrial User will be notified of the proposed termination of its Discharge and be offered an opportunity to show cause under Section 2-1-50-1(C) of this Ordinance why the proposed action should not be taken. Exercise of this option by the Public Works Director shall not be a bar to, or a prerequisite for, taking any other action against the Industrial User.

(I) Alternative Administrative Enforcement:

As an alternative to the administrative enforcement procedures and remedies delineated in Section 2-1-50-1 of this Chapter, the Public Works Director may elect to administratively prosecute violations of this Chapter in accordance with the procedures delineated in the City's Enforcement Response Plan promulgated and adopted by the City pursuant to statutory requirements set forth in the Federal Water Pollution Control Act as amended by the Clean Water Act of 1977.

**2-1-50-2: Judicial Enforcement Remedies:**

(A) Injunctive Relief:

When the Public Works Director finds that a Person has violated, or continues to violate, any provision of Pretreatment Sections, a Wastewater Discharge Permit, or order issued under the Pretreatment Sections, or any other Pretreatment Standard, the Public Works Director may, through the City Attorney, commence a civil action in the Superior Court of Arizona, Yavapai County, for the issuance of a temporary or permanent injunction, as appropriate, which restrains or compels the specific performance of the Wastewater Discharge Permit, order, or other requirement imposed by the Pretreatment Sections on activities of the Industrial User. Such civil action may also seek other appropriate legal or equitable relief, including a requirement for the User to conduct environmental remediation. An action for injunctive relief shall not be a bar against, or a prerequisite for, the City taking any other action against the Person.

(B) Civil Penalties:

1. A Person who has violated, or continues to violate, any provision of the Pretreatment Sections, a Wastewater Discharge Permit, or any

order issued under the Pretreatment Sections, or any other Pretreatment Standard shall be liable to the City for a civil penalty per violation, per day, as described in the Enforcement Response Plan, in accordance with A.R.S. § 49-391. In the case of a monthly or other long-term average discharge limit, penalties shall accrue for each day during the period of the violation. A.R.S. § 49-391 permits recovery of civil penalties provided therein by an action in superior court or negotiated settlement agreement. No consent decree in superior court, or in a negotiated settlement, may not become final until the City has provided a period of thirty (30) calendar days for public comment. In addition to any civil penalties, the City may also recover as damages an amount equal to all penalties, liquidated damages or expenses that the City incurs or is required to pay to ADEQ or EPA (pursuant to a consent order, consent decree or otherwise) as a result of User's violation of any provision of Pretreatment Sections or a Wastewater Discharge Permit.

2. The City may recover reasonable attorneys' fees, court costs, and other expenses associated with enforcement activities, including sampling and monitoring expenses, and any actual damages incurred by the City (including, but not limited to, penalties and costs under a consent order or consent decree or as a result of an ADEQ or EPA enforcement action, if those penalties or costs are caused by a violation of any provision of Pretreatment Sections or a Wastewater Discharge Permit).
3. In determining the amount of civil penalties, the City or Court shall take into account all relevant circumstances, including, but not limited to, the extent of harm caused by the violation, the magnitude and duration of the violation, any economic benefit gained through the User's violation, corrective actions taken by the User to reduce, mitigate and/or eliminate the violation and any future potential violations of a similar nature, the compliance history of the User, and any other factor as justice requires.
4. Filing an action for civil penalties shall not be a bar against, or a prerequisite for, taking any other action against a User.

(C) Criminal Prosecution:

1. A User who willfully or negligently violates any provision of Pretreatment Sections, a Wastewater Discharge Permit, or order issued under the Pretreatment Sections, or any other Pretreatment Standard or requirement shall, upon conviction, be guilty of a misdemeanor, punishable by a fine per violation, per day as described in the Enforcement Response Plan, or imprisonment for not more than six (6) months, or both.
2. A User who willfully or negligently introduces any substance

into the POTW which causes personal injury or property damage shall, upon conviction, be guilty of a misdemeanor and be subject to a penalty per violation, per day as described in the Enforcement Response Plan, or the cost of property repairs, whichever is greater, or be subject to imprisonment for not more than six (6) months, or both. This penalty shall be in addition to any other cause of action for personal injury or property damage available under State law.

3. A User who knowingly makes any false statements, representations, or certifications in any application, record, report, plan, or other documentation filed, or required to be maintained, pursuant to this Ordinance, Wastewater Discharge Permit, or order issued hereunder, or who falsifies, tampers with, or knowingly renders inaccurate any monitoring device or method required under this Ordinance shall, upon conviction, be punished by a fine per violation, per day as described in the Enforcement Response Plan, or imprisonment for not more than six (6) months, or both.
4. In the event of a second conviction, a User shall be punished by a fine per violation, per day as described in the Enforcement Response Plan, or imprisonment for not more than two (2) years, or both.

(D) Remedies Nonexclusive:

The remedies provided for in this Ordinance are not exclusive. The Public Works Director may take any, all, or any combination of these actions against a noncompliant User. Enforcement of Pretreatment violations will generally be in accordance with the City's Enforcement Response Plan. However, the Public Works Director may take other action against any User when the circumstances warrant. Further, the Public Works Director is empowered to take more than one enforcement action against any noncompliant User.

**2-1-50-3: Supplemental Enforcement Action**

(A) Penalties for Late Reports:

A penalty shall be assessed to any Significant Industrial User for each day that a report required by this Ordinance, a permit, or order issued hereunder is late, beginning five (5) calendar days after the date the report is due, according to the schedule in the City's Enforcement Response Plan. Actions taken by the Public Works Director to collect late reporting penalties shall not limit the Public Works Director's authority to initiate other enforcement actions that may include penalties for late reporting violations.

(B) Performance Bonds:

The Public Works Director may decline to issue or reissue a Wastewater Discharge Permit to any User who has failed to comply with any provision of the Pretreatment Sections, a previous Wastewater Discharge Permit, or order issued those sections, or any other Pretreatment Standard or requirement, unless such Industrial User first files a satisfactory bond, letter of credit, cash, or other security device payable to the City, in a sum not to exceed a value reasonably determined by a third-party engineering analyses procured by the Public Works Director to be necessary to achieve consistent compliance.

(C) Liability Insurance:

The Public Works Director may decline to issue or reissue a Wastewater Discharge Permit to any Industrial User who has failed to comply with any provision of this Ordinance, a previous Wastewater Discharge Permit, or order issued hereunder, or any other Pretreatment Standard or requirement, unless the User first submits proof that it has obtained financial assurances sufficient to restore or repair damage to the POTW caused by its Discharge.

(D) Payment of Outstanding Fees and Penalties:

The Public Works Director may decline to issue or reissue a Wastewater Discharge Permit to any Industrial User who has failed to pay any outstanding fees, fines or penalties incurred as a result of any provision of this Ordinance, a previous Wastewater Discharge Permit, or order issued hereunder.

(E) Water Supply Severance:

Whenever a User has violated or continues to violate any provision of this Chapter, a Wastewater Discharge Permit, or order issued under the Pretreatment Sections, or any other Pretreatment Standard or requirement, water and/or sewer service to the User may be severed. Service will only recommence, at the User's expense, after it has demonstrated its ability to comply to the satisfaction of the Public Works Director.

(F) Public Nuisances:

A violation of any provision of Pretreatment Sections, a Wastewater Discharge Permit, or order issued under the Pretreatment Sections, or any other Pretreatment Standard or requirement is hereby declared a public nuisance and shall be corrected or abated as directed by the Public Works Director. Any Person(s) creating a public nuisance shall be subject to the provisions of the City Code Section 3-4 governing such nuisances, including reimbursing the City for any costs incurred in removing, abating, or remedying said nuisance. The remedy provided herein shall be in addition to any other remedy authorized by this Chapter.

(G) Contractor Listing:

Industrial Users which have not achieved compliance with applicable Pretreatment Standards and requirements are not eligible to receive a

contractual award for the sale of goods or services to the City. Existing contracts for the sale of goods or services to the City held by a User found to be in Significant Noncompliance (as defined in Section 2-1-70 of this Chapter) with Pretreatment Standards or requirements may be terminated at the discretion of the Public Works Director.

**2-1-51: UTILITIES DIVISION; PROHIBITED ACTS; SANITARY SEWER SYSTEM:**

- (A) It is unlawful for any person to deposit, or permit to be deposited, in any unsanitary manner upon public or private property within the City or in any area under the jurisdiction of the City any human or animal excrement or other objectionable waste.
- (B) It shall be unlawful and designated a Class 1 misdemeanor for any person to dump or deposit sewage or septic tank effluent upon public or private property within the City at a location not then under valid permit by the county of Yavapai for such purpose. (Ord. 2279, 6-25-1991; amd. Ord. 4317, 5-27-2003, eff. 7-1-2003)
- (C) No person shall maliciously, willfully or negligently break, damage, destroy, uncover, deface, or tamper with any structure, appurtenances or equipment which is a part of the municipal sewage works. (Ord. 2037, 11-22-1988, eff. 1-1-1989; amd. Ord. 4317, 5-27-2003, eff. 7-1-2003)

**2-1-52: UTILITIES DIVISION; PERMIT REQUIRED FOR ACTIONS AFFECTING PUBLIC SEWER OR APPURTENANCES:**

No unauthorized person shall uncover, make any connections with or opening into, use, alter, or disturb any public sewer or appurtenance thereof without first obtaining a written permit from the Public Works Department. (Ord. 1360, 8-27-1979; amd. Ord. 1432, 3-10-1980; Ord. 1458, 7-14-1980; Ord. 4317, 5-27-2003, eff. 7-1-2003)

**2-1-53: UTILITIES DIVISION; INDUSTRIAL COST RECOVERY (ICR) SYSTEM:**

At such time as industrial wastes, as defined under Section 35.905.8 of the construction grants regulations 40 CFR part 35, are discharged to the facilities constructed under EPA grant no. CO40143, the City shall develop and adopt an ICR system acceptable to the USEPA. The cost recovery system shall comply with the requirements of PL 92-500 and all regulations and guidelines pertaining thereto. (Ord. 1360, 8-27-1979; amd. Ord. 4317, 5-27-2003, eff. 7-1-2003)

**2-1-54: USE OF WATER FOR ARTIFICIAL LAKES:**

The use of treated, metered, potable water for the purpose of filling or refilling artificial lakes shall be regulated as set forth in Title III, Chapter 10 of the City Code, incorporated herein by this reference as if set forth in full. (Ord. 1884, 5-12-1987; amd. Ord. 4317, 5-27-2003, eff. 7-1-2003)

**2-1-55: CROSS CONNECTION CONTROL PROGRAM:**

- (A) Adoption Of Program: That certain Code entitled "Cross Connection Control Program", as adopted by the City Council pursuant to Resolution 2471, and as the same may be amended from time to time, is hereby adopted and made a part of this Chapter, the same as though said program were specifically set forth in full herein.
- (B) Civil Violation: A violation of any provision of the cross connection control program shall be a civil violation, and shall be subject to the provisions of Section 1-3-2 of the City Code for each day that the violation continues. (Ord. 687, 11-9-1964; amd. Ord. 4317, 5-27-2003, eff. 7-1-2003)

**2-1-56: EXTENSION OR CONSTRUCTION OF EFFLUENT LINES:**

The City may extend or cause to be extended or permit to be extended or constructed effluent lines. Extensions or construction at the request of private parties will be made on application of one or more property owners to be benefited by said extension or construction and only after the applicant or applicants have made a deposit equal to the estimated cost of the extension or construction if it is not to be built through an improvement district. In those cases where an improvement district is to be formed, those procedures would be followed. The extensions and/or construction shall be at the expense of the initial applicant or applicants in accordance with the following criteria:

- (A) Payment: The applicant or applicants shall pay the total cost of said extension or construction. The applicant or applicants shall have the right to establish reimbursement districts for connection thereto to compensate them for portions of the cost of the extension or construction.

No applicant shall be entitled to the formation of a reimbursement district unless the design engineer for that project first certifies, in writing, to the Public Works Director that the solicitation for bids for the construction for said project was publicly advertised, with proof of said advertisement, and that the contract was awarded to the lowest and most responsible bidder. Prior to awarding any bids on a project for which a reimbursement district is to be formed, the applicant shall provide the City with copies of all such bids for review by the Public Works Directors or his designee, who shall approve the bid to be awarded prior to the start of construction. Additionally, the applicant shall require that payment and performance bonds be posted in accordance with Arizona Revised Statutes Section 34-222.

- (B) Establishment Of Reimbursement District: In order for the applicant or applicants to establish a reimbursement district, written notice of intent to form a reimbursement district must be given to the Public Works Director prior to the applicant receiving approval of the submitted plans. A written notice to the Public Works Director shall be made within sixty (60) calendar days after the completion and acceptance of said line extension or construction for which the reimbursement district is being requested, which notice shall include the costs associated therewith; the applicant shall enter into an agreement with the City setting forth the conditions of reimbursement within one calendar year after the completion and acceptance of said line extension or construction for which the reimbursement district is being established. The agreement shall also contain a plat map indicting thereon the applicant's or applicants' area of development, the location of the proposed or constructed extension from the development, to the point of connection with the existing City effluent line, and the map shall also indicate the area that will benefit from the extension or construction, which area shall constitute the total area outside of the applicant's or applicants' development, but shall be subject to reimbursement under the agreement.

The plat map shall be drawn at a scale of not less than two hundred feet (200') to the inch, and the plat shall be eight and one-half inches by fourteen inches (8 1/2" x 14") in size, or seventeen inches by twenty eight inches (17" x 28") in size. The plat map shall specifically identify the terminus of the existing effluent line, the exact location, route and distance of the line extension, the nonreimbursable area to be benefited by the extension and the reimbursable area to be benefited by the extension or construction and subject to the reimbursement district.

Contemporaneous with the application for a reimbursement district pursuant to the provisions of this section, the applicant for said district shall tender to the City Public Works Department an application fee equal to 0.5 percent of the estimate project cost, provided, however, that the application fee shall be not less than five hundred dollars (\$500.00). Upon the completion of the project, and prior to acceptance by the City of the project and approval by the City of the formation of the reimbursement district, if the final construction cost results in the fee deposited pursuant to this section being less than 0.5 percent of the final construction cost, the applicant for said district shall pay additional monies to the Public Works Department to equal 0.5 percent of the final construction cost of the project.

For a period of fifteen (15) years from the date upon which a new line has been put into service, each new applicant for service shall be required to pay a pro rata share in the initial cost of the line, which share shall be calculated by the Public Works Director, subject to the approval of the City council. In determining the pro rata share attributable to each property within the reimbursement area, the City shall determine the respective benefit to be received by each area, together with the distance of the property from the line to be extended, the proposed or contemplated uses and density of the property, and such other factors as may be

relevant in arriving at said pro rata share. The determination of the pro rata share for each property within the reimbursement district shall be determined at the time of formation of the district by the City council, which determination shall be considered final thirty (30) calendar days after the recordation of the reimbursement district agreement.

Notwithstanding the foregoing, the Public Works Director shall be empowered to equitably divide the obligation of a property within a reimbursement district upon the sale or partition of a portion of a property within a designated reimbursement district. In the foregoing event, the Public Works Director will record an amended (and updated) reimbursement map with the Yavapai County recorder. The total initial cost shall be adjusted by the rate of inflation in the construction industry since the date of final acceptance of the extension by the City, to be calculated in accordance with the engineering news record construction cost index. The base index shall be the index reported in the engineering news record publication closest to the date of acceptance of the project. In no event shall the pro rata share be less than the pro rata share would have been at the time of construction. Each new applicant for a connection to the effluent line will be required to pay to the City, for disbursement to the person, group, association, corporation or City that made the extension, for their pro rata share before they are permitted to connect to the extension. After fifteen (15) years from the date the new extension has been put into service, an applicant desiring to connect to the line may do so without having to pay for the service units as specified in this section. Subsequent extensions located outside of the established reimbursement district shall be treated as new extensions and shall not affect the calculating of service units of the original extension nor will such extensions be required to share in the cost of the original extension.

Notwithstanding any of the conditions herein before specified pertaining to the fifteen (15) year limit to collect from new applicants a pro rata share of the cost of new lines, the City is hereby exempt from said fifteen (15) year limitation and the City will collect from all new applicants their pro rata share for such service connections until the City's total initial installation cost is reimbursed.

The size and specifications of the material used in the main to be installed shall be designated by the City.

At the discretion of the City, the necessary engineering and construction of said effluent lines may be performed or contracted by the City. In either case, the total actual cost of installation shall be borne by the initial applicant or applicants and funds estimated to cover the cost of the installation shall be deposited with the City prior to construction unless improvement district procedures are being followed.

In the event the applicant is directed to construct or contract for construction of said line or lines, with person or persons other than the City, complete plans and

specifications shall be submitted for approval by the City. After approving the plans, the City will furnish necessary inspection of the installation of said line or lines. Upon satisfactory completion and final inspection, the City will give written notice of acceptance, at which time said line or lines will become the property of the City subject to the rules and regulations set forth herein.

Should the extension or construction of effluent lines require easements or rights of ingress and egress, said agreements or easements shall be provided by the applicant for use by the City.

- (C) Effluent Line Design And Construction: Prior to an extension or construction of an effluent line, a civil engineer registered in Arizona must perform the necessary field engineering and prepare detailed plans and specifications for the line extension or construction. The final detailed plans and specifications for the effluent construction or extension must be approved by the ADEQ and by the City before construction begins. The design and engineering will be in accordance with the specifications of ADEQ and the City prior to construction. The construction shall meet the City's specifications, requirements and approval, and will be subject to inspection by the City's agent during construction.
- (D) Plans And Specifications: All construction under this Chapter shall conform to the specifications of the City entitled "Uniform Standard Specifications For Public Works Construction Sponsored And Distributed By The Maricopa Association Of Governments" (most recent edition), with all supplements thereto and all construction shall also conform to that certain document entitled "City Of Prescott Department Of Public Works Standard Specifications And Drawings" (the most recent edition), together with all applicable federal, state, county and City laws, rules and regulations.
- (E) Reimbursement: Notwithstanding anything to the contrary contained herein, reimbursement to an applicant from an approved reimbursement may also include partial reimbursement for any and all associated effluent facilities and systems constructed by the applicant, under the same terms, conditions and provisions as set forth in this section.
- (F) Construction; Upgrades: The provisions of this Section shall also apply to the construction and/or upgrades of any and all facilities associated with the provision of effluent services. (Ord. 687, 11-9-1964; amd. Ord. 4317, 5-27-2003, eff. 7-1-2003)
- (G) Compliance: The City Council may approve the formation of a reimbursement district pursuant to this section where there is substantial compliance with this section, where the intent of this section has been met, and where the failure to strictly follow the requirements of this section did not result in any additional costs to the project. (Ord. 4239, 7-23-2002; amd. Ord. 4317, 5-27-2003, eff. 7-1-2003)

## **2-1-57: EFFLUENT LINES; CONNECTIONS:**

All connections to the City's effluent lines shall require the issuance of a permit by the Public Works Department. Said permit will only be issued upon the approval by the City council and all applicable regulatory agencies of an agreement between the consumer/User and the City relating to the use of effluent, together with the payment of any and all fees and charges agreed upon in said contract. The failure of the consumer/User to comply with any and all provisions of its agreement with the City for use of City effluent shall entitle the City, at its sole option, to immediately discontinue said service.

All effluent line connections shall be approved by the City and the actual tap into the effluent line shall be accomplished by City personnel, unless otherwise approved in writing by the Public Works Director. (Ord. 687, 11-9-1964; amd. Ord. 4317, 5-27-2003, eff. 7-1-2003)

The approval of any agreement to connect to the City's effluent lines, and the permission to utilize City effluent, shall be at the sole discretion of the City, taking into consideration the then current effluent management policy. (Ord. 3824, 12-15-1998; amd. Ord. 4317, 5-27-2003, eff. 7-1-2003)

## **2-1-58: INSPECTIONS; ADMINISTRATIVE WARRANTS:**

- (A) The Public Works Director or his designee is hereby authorized to carry out periodic inspections or reinspections of facilities, equipment, property, records, and such other and further locations and/or items as may be deemed desirable, to determine compliance with this Chapter.
- (B) The Public Works Director or his designee is hereby authorized to investigate the cause, origin and circumstances of water, sewer or solid waste contamination. (Ord. 3689, eff. 12-12-1997; amd. Ord. 4317, 5-27-2003, eff. 7-1-2003)

## **2-1-59: NONPAYMENT OF FEES; PENALTY:**

- (A) All fees specified to be paid under this Chapter shall be paid prior to the final inspection and/or issuance of a certificate of occupancy by the building division. Failure to pay the specified fees under this Chapter shall result in discontinuance of water service.
- (B) The final inspection and/or issuance of a certificate of occupancy will not be made unless all fees specified by this Chapter have been fully paid.
- (C) Occupancy of any building prior to the payment of any fees specified to be paid in this Chapter shall be deemed a violation of this Code, and the violator shall be

subject to the penalty provisions of Title I, Chapter 3 of this Code. (Ord. 4317, 5-27-2003, eff. 7-1-2003)

**2-1-60: ENFORCEMENT PROVISIONS:**

- (A) Any person, firm or corporation violating any provision of this Chapter, except those provisions covered in Section 2-1-59, "Nonpayment Of Fees; Penalty", of this Chapter shall be deemed guilty of a misdemeanor, and upon conviction thereof shall be punished as provided in Section 1-3-1 of this Code. Each and every day any such violation continues shall be deemed and considered a separate offense. Any person, firm or corporation violating any provisions of this Chapter shall become liable to the City for any expense, loss or damage occasioned by the City by reason of such violation.
- (B) The penalties set forth above shall be cumulative and nonexclusive. In addition to those penalties set forth herein, the City may institute any other remedies available, including, but not limited to, a civil action to recover any and all monies due the City. (Ord. 4317, 5-27-2003, eff. 7-1-2003)

**2-1-61 CITY'S RIGHT OF REVISION:**

The City reserves the right to establish, by Ordinance or in individual Wastewater Discharge Permits, more stringent Standards or requirements on Discharges to the POTW consistent with the purpose of this Chapter.

**2-1-62: DILUTION:**

No Industrial User shall ever increase the use of process water, or in any way attempt to dilute a Discharge, as a partial or complete substitute for adequate treatment to achieve compliance with a discharge limitation unless expressly authorized by an applicable Pretreatment Standard or requirement. The Public Works Director may impose Mass-Based Limits on Industrial Users who are using dilution to meet applicable Pretreatment Standards or requirements, or in other cases when the imposition of Mass-Based Limits is appropriate.

**2-1-63: NATIONAL CATEGORICAL STANDARDS**

The Categorical Pretreatment Standards found at 40 CFR Chapter I, Subchapter N, Parts 405-471 are hereby incorporated in this Chapter.

- (A) Where a Categorical Pretreatment Standard is expressed only in terms of either the mass or the concentration of a Pollutant in wastewater, the Public Works Director may impose equivalent concentration or mass limits in accordance with 40 CFR 403.6(c).

When the limits in a Categorical Pretreatment Standard are expressed only in terms of mass of Pollutant per unit of production, the Public Works Director may

convert the limits to equivalent limitations expressed either as mass of Pollutant discharged per day or effluent concentration for purposes of calculating effluent limitations applicable to individual Industrial Users.

- (B) When wastewater subject to a Categorical Pretreatment Standard is mixed with wastewater not regulated by the same Standard, the Public Works Director shall impose an alternate limit using the combined waste stream formula in 40 CFR 403.6(e).

**2-1-64: STATE PRETREATMENT STANDARDS**

State Pretreatment Standards currently set forth at Arizona Administrative Code R18-9-A905 (A) (8) (b) and any amendments and/or revisions hereto are hereby incorporated in this Chapter.

**2-1-65: WASTEWATER DISCHARGE PERMIT APPLICATION**

**2-1-65-1 Wastewater Analysis**

When requested by the Public Works Director, an Industrial User must submit information on the nature and characteristics of its wastewater within forty-five (45) calendar days of the request. The Public Works Director is authorized to prepare a form for this purpose and may periodically require Industrial Users to update this information.

**2-1-65-2: Wastewater Discharge Permit Requirement:**

- (A) No SIU shall discharge wastewater into the POTW without first obtaining a Wastewater Discharge Permit from the Public Works Director, except that a SIU that has filed a timely application pursuant to Section 2-1-65 of this Chapter may continue to discharge for the time period specified therein.
- (B) The Public Works Director may require Industrial Users in addition to those described in Subsection A above, to obtain individual Wastewater Discharge Permits as necessary to carry out the purposes of this Chapter. The Public Works Director may also elect to issue a general permit or set general requirements, including implementation of Pretreatment and BMPs, which apply to all individual Industrial Users in a particular category. For the purposes of this Subsection 2-1-65-2(B), Industrial Users in a category:
  1. Involve the same or substantially similar types of operations;
  2. Discharge the same types of wastes;
  3. Require the same effluent limitations;
  4. Require the same or similar monitoring; and

5. In the opinion of the Public Works Director, are more appropriately controlled under a general permit or general requirements than under individual Wastewater Discharge Permits.

(C) Any violation of the terms and conditions of a Wastewater Discharge Permit shall be deemed a violation of this Chapter and shall subject the Wastewater Discharge Permittee to the sanctions set out in Sections 2-1-50-1 through 2-1-50-2 of this Chapter. Obtaining a Wastewater Discharge Permit does not relieve a permittee of its obligation to comply with all Federal and State Pretreatment Standards or requirements or with any other requirements of Federal, State, and local law.

**2-1-65-3: Wastewater Discharge Permitting: Existing Connections:**

Any Industrial User required to obtain a Wastewater Discharge Permit who was discharging wastewater into the POTW prior to June 27, 2013, and who wishes to continue such Discharges in the future, shall, within forty-five (45) calendar days after June 27, 2013, apply to the Public Works Director for a Wastewater Discharge Permit in accordance with Section 2-1-65 of this Chapter, and shall not cause or allow Discharges to the POTW to continue after thirty (30) calendar days September 10, 2013, except in accordance with either (1) a Wastewater Discharge Permit issued by the Public Works Director or (2) an extension granted for good cause by the Public Works Director.

**2-1-65-4: Wastewater Discharge Permitting: New Connections:**

Any Industrial User required to obtain a Wastewater Discharge Permit who proposes to begin or recommence discharging into the POTW must obtain such permit prior to the beginning or recommencing of such Discharge. An application for this Wastewater Discharge Permit, in accordance with Section 2-1-65 of this Chapter, must be filed at least forty-five (45) calendar days prior to the date upon which any Discharge will begin or recommence.

**2-1-65-5: Wastewater Discharge Permit Application Contents and other Information:**

(A) All Industrial Users required to obtain a Wastewater Discharge Permit must submit a permit application. The Public Works Director may require all Industrial Users to submit either independently or as part of an application the following information:

1. Identifying Information;

- a. The name and address of the facility, including the name of the operator and owner; and
- b. Contact information, description of activities, facilities, and plant production processes on the premises.

2. Environmental Permits. A list of any environmental control permits held by or for the facility;
3. Description of Operations;
  - a. A brief description of the nature, average rate of production (including each product produced by type, amount, processes, and rate of production), and SICs of the operation(s) carried out by such Industrial User. This description should include a schematic process diagram, which indicates points of discharge to the POTW from the regulated processes.
  - b. Types of wastes generated, and a list of all raw materials and chemicals used or stored at the facility which are, or could accidentally or intentionally be, discharged to the POTW;
  - c. Number and type of employees, hours of operation, and proposed or actual hours of operation;
  - d. Type and amount of raw materials processed (average and maximum per day);
  - e. Site plans, floor plans, mechanical and plumbing plans, and details to show all sewers, floor drains, and appurtenances by size, location, and elevation, and all points of discharge; and
  - f. Pretreatment processes and equipment.
4. Time and duration of Discharges;
5. The location for monitoring all wastes covered by the permit;
6. Flow Measurement. Information showing the measured average daily and maximum daily flow, in gallons per day, to the POTW from regulated process streams and other streams, as necessary, to allow use of the combined waste stream formula set out in Section 2-1-63 (40 CFR 403.6(e));
7. Measurement of Pollutants;
  - a. The Categorical Pretreatment Standards applicable to each regulated process and any new categorically regulated processes for Existing Sources.
  - b. The results of sampling and analysis identifying the nature and concentration, and/or mass, where required by the Standard or by the Public Works Director, of regulated Pollutants in the Discharge from each regulated process.
  - c. Instantaneous, Local Limits, and long-term average concentrations, or mass, where required, shall be reported.
  - d. The sample shall be representative of daily operations and shall be analyzed in accordance with procedures set out in Section 2-1-48 of this

Ordinance. Where the Standard requires compliance with a BMP or pollution prevention alternative, the Industrial User shall submit documentation as required by the Public Works Director or the applicable Standards to determine compliance with the Standard.

- e. Sampling must be performed in accordance with procedures set out in Section 2-1-48 of this Ordinance.
  - 8. [Reserved]
  - 9. Any other information as may be deemed necessary by the Public Works Director to evaluate the permit application; and
- (B) Incomplete or inaccurate applications will not be processed by the Public Works Director and will be returned to the Industrial User for revision.

**2-1-65-6: [Reserved – Wastewater Discharger Permitting: General Permits]:**

**2-1-65-7: Application Signatories and Certifications:**

- (A) All Wastewater Discharge Permit applications, Industrial User reports and certification statements must be signed by an Authorized Representative of the Industrial User and contain the certification statement specified in Section 2-1-67-12.
- (B) If the designation of an authorized representative is no longer accurate because a different individual or position has responsibility for the overall operation of the facility or overall responsibility for environmental matters for the company, a new written authorization satisfying the requirements of this Section must be submitted to the Public Works Director prior to or together with any reports to be signed by an Authorized Representative.

**2-1-65-8: Wastewater Discharge Permit Decisions:**

The Public Works Director will evaluate the data furnished by the Industrial User and may require additional information. Within sixty (60) calendar days of receipt of a complete Wastewater Discharge Permit application, the Public Works Director will determine whether or not to issue a Wastewater Discharge Permit. The Public Works Director may deny any application for a Wastewater Discharge Permit or place upon it such conditions and restrictions as authorized by this Chapter.

**2-1-66: WASTEWATER DISCHARGE PERMIT ISSUANCE:**

**2-1-66-1: Wastewater Discharge Permit Duration:**

A Wastewater Discharge Permit shall be issued for a specified time period, not to exceed five (5) years from the effective date of the permit. A Wastewater Discharge Permit may be issued for a period of up to five (5) years, at the discretion of the Public Works Director. Each Wastewater Discharge Permit shall indicate a specific date upon which it will expire.

## **2-1-66-2: Wastewater Discharge Permit Contents:**

A Wastewater Discharge Permit shall include such conditions as are deemed reasonably necessary by the Public Works Director to prevent Pass Through or Interference, protect the quality of the water body receiving the Wastewater Treatment Plant's effluent, protect worker health and safety, facilitate sludge management and disposal, protect against damage to the POTW, and prevent sanitary sewer overflows.

(A) Wastewater Discharge Permits for Significant Industrial Users must contain:

1. A statement that indicates Wastewater Discharge Permit duration;
2. A statement that the Wastewater Discharge Permit is nontransferable without prior notification to the City in accordance with Section 2-1-66-5 of this Chapter, and provisions for furnishing the new owner or operator with a copy of the existing Wastewater Discharge Permit;
3. Effluent limits based on applicable Pretreatment Standards and/or requirements for BMPs;
4. Self-monitoring, sampling, reporting, notification, and recordkeeping requirements. These requirements shall include an identification of Pollutants to be monitored, sampling location, sampling frequency, and sample type based on Federal, State, and local law;
5. [Reserved]
6. A statement of applicable civil and criminal penalties for violation of Pretreatment Standards and requirements, and any applicable compliance schedule. Such schedule may not extend the time for compliance beyond that required by applicable Federal, State, or local law; and
7. Requirements to control Slug Discharge, if determined by the Public Works Director to be necessary.
8. [Reserved]

(B) Wastewater Discharge Permits may contain, but need not be limited to, the following conditions:

1. Limits on the average and/or maximum rate of discharge, time of discharge, and/or requirements for flow regulation and equalization;
2. Requirements for the installation of Pretreatment technology, pollution control, or construction of appropriate containment devices, designed to reduce, eliminate, or prevent the introduction of Pollutants into the treatment works;

3. Requirements for the development and implementation of spill control plans or other special conditions including management practices necessary to adequately prevent accidental, unanticipated, or non-routine Discharges;
4. Development and implementation of waste minimization plans, including but not limited to BMPs, to reduce the amount of Pollutants discharged to the POTW;
5. The unit charge or schedule of Industrial User charges and fees for the management of the wastewater discharged to the POTW;
6. Requirements for installation and maintenance of inspection and sampling facilities and equipment, including flow measurement devices;
7. A statement that compliance with the Wastewater Discharge Permit does not relieve the permittee of responsibility for compliance with all applicable Federal and State Pretreatment Standards, including those which become effective during the term of the Wastewater Discharge Permit; and
8. Other conditions as deemed appropriate by the Public Works Director to ensure compliance with this Chapter, and State and Federal laws, rules, and regulations.

**2-1-66-3: Wastewater Discharge Permit Issuance Process:**

- (A) Reserved.
- (B) Notice of Decision. The Public Works Director shall provide written notice to an applicant for a Wastewater Discharge Permit of the decision to issue or deny the permit and the terms of the permit, if a permit is issued, and shall provide public notice of the issuance of the Wastewater Discharge Permit.
- (C) Petition to Reconsider. Any person, including the applicant for a Wastewater Discharge Permit, may petition the Public Works Director to reconsider the terms and conditions of a Wastewater Discharge Permit within twenty (20) calendar days after service and publication of the notice of its issuance as required by Subsection B of this Section.
  1. A petition for reconsideration shall indicate, if applicable, the Wastewater Discharge Permit provisions objected to, the reasons for this objection, the alternative provisions, if any, sought, and the grounds for the requested relief.
  2. The effectiveness of the Wastewater Discharge Permit shall not be stayed pending reconsideration.
  3. If the Public Works Director fails to act within thirty (30) calendar days, a request for reconsideration shall be deemed to be denied.

4. A request for reconsideration shall not be required as a condition for taking an administrative appeal or seeking judicial review.

**2-1-66-4: Wastewater Discharge Permit Modification:**

- (A) The Public Works Director may modify a Wastewater Discharge Permit for good cause, including, but not limited to, the following reasons:
1. To incorporate any new or revised Federal, State, or local Pretreatment Standards or requirements;
  2. To address significant alterations or additions to the Industrial User's operation, processes, or wastewater volume or character since the time of Wastewater Discharge Permit issuance;
  3. A change in the POTW that requires either a temporary or permanent reduction or elimination of the authorized Discharge;
  4. Information indicating that the permitted Discharge poses a threat to the City's POTW, City Personnel, or the receiving waters;
  5. Violation of any terms or conditions of the Wastewater Discharge Permit;
  6. Misrepresentations or failure to fully disclose all relevant facts in the Wastewater Discharge Permit application or in any required reporting;
  7. Revision of or a grant of variance from Categorical Pretreatment Standards pursuant to 40 CFR 403.13;
  8. To correct typographical or other errors in the Wastewater Discharge Permit;  
or
  9. To reflect a transfer of the facility ownership or operation to a new owner or operator where requested in accordance with Section 2-1-66-5.

(B) [Reserved]

**2-1-66-5: Wastewater Discharge Permit Transfer:**

Wastewater Discharge Permits may be transferred to a new owner or operator only if the permittee gives at least sixty (60) calendar days advance notice to the Public Works Director and the Public Works Director approves the Wastewater Discharge Permit transfer. The notice to the Public Works Director must include a written certification by the new owner or operator which:

- (A) States that the new owner and/or operator has no immediate intent to change the facility's operations and processes;
- (B) Identifies the specific date on which the transfer is to occur; and

- (C) Acknowledges full responsibility for complying with the existing Wastewater Discharge Permit.

Failure to provide advance notice of a transfer renders the Wastewater Discharge Permit void as of the date of facility transfer.

**2-1-66-6: Wastewater Discharge Permit Revocation:**

The Public Works Director may revoke a Wastewater Discharge Permit for good cause, including, but not limited to, the following reasons:

- (A) Failure to notify the Public Works Director of significant changes to the wastewater prior to the changed Discharge;
- (B) Failure to provide prior notification to the Public Works Director of changed conditions pursuant to Section 2-1-67-5 of this Ordinance;
- (C) Misrepresentation or failure to fully disclose all relevant facts in the Wastewater Discharge Permit application;
- (D) Falsifying self-monitoring reports and certification statements;
- (E) Tampering with monitoring equipment;
- (F) Refusing to allow the Public Works Director timely access to the facility premises and records;
- (G) Failure to meet effluent limitations;
- (H) Failure to pay fines;
- (I) Failure to pay sewer charges;
- (J) Failure to meet compliance schedules;
- (K) Failure to complete a wastewater survey or the Wastewater Discharge Permit application;
- (L) Failure to provide advance notice of the transfer of business ownership of a permitted facility; or
- (M) Violation of any Pretreatment Standard or requirement, or any terms of the Wastewater Discharge Permit or Pretreatment Sections.

Wastewater Discharge Permits shall be voidable upon cessation of operations or transfer of business ownership. All Wastewater Discharge Permits issued to a particular Industrial User are void upon the issuance of a new Wastewater Discharge Permit to that Industrial User.

**2-1-66-7: Wastewater Discharge Permit Reissuance:**

An Industrial User with an expiring Wastewater Discharge Permit shall apply for Wastewater Discharge Permit reissuance by submitting a complete permit application, in accordance with Section 2-1-65 of this Ordinance, a minimum of forty-five (45) calendar days prior to the expiration of the Industrial User's existing Wastewater Discharge Permit.

**2-1-66-8: [Reserved – Regulation of Waste Received from Other Jurisdictions]:**

**2-1-67: REPORTING REQUIREMENTS:**

**2-1-67-1: Baseline Monitoring Reports:**

- (A) Within either one hundred eighty (180) calendar days after the effective date of a Categorical Pretreatment Standard, or the final administrative decision on a category determination under 40 CFR 403.6(a) (4), whichever is later, existing CIUs currently discharging to or scheduled to discharge to the POTW shall submit to the Public Works Director a report which contains the information listed in paragraph B, below. At least ninety (90) calendar days prior to commencement of their Discharge, New Sources, and sources that become CIUs subsequent to the promulgation of an applicable Categorical Standard, shall submit to the Public Works Director a report which contains the information listed in paragraph B, below. A New Source shall report the method of Pretreatment it intends to use to meet applicable Categorical Standards. A New Source also shall give estimates of its anticipated flow and quantity of Pollutants to be discharged. The Public Works Director may designate in permits issued to other Industrial Users that they must file the reports required by this Section.
- (B) Industrial Users described above shall submit the information set forth below.
1. All information required in Section 2-1-65-5.
  2. Measurement of Pollutants.
    - a. The Industrial User shall provide the information required in Section 2-1-65-5.A (7) (a) through (d).
    - b. The Industrial User shall take a minimum of one Representative Sample to compile that data necessary to comply with the requirements of this paragraph.
    - c. Samples should be taken immediately downstream from Pretreatment facilities if such exist or immediately downstream from the regulated process if no Pretreatment exists. If other wastewaters are mixed with the regulated wastewater prior to Pretreatment the Industrial User should measure the flows and concentrations necessary to allow use of the combined waste stream formula in 40 CFR 403.6(e) to evaluate compliance with the Pretreatment Standards. Where an alternate concentration or mass limit has been calculated in accordance with 40 CFR 403.6(e) this adjusted limit along with supporting data shall be submitted to the Control Authority.
    - d. Sampling and analysis shall be performed in accordance with Section 2-1-48.

- e. The Public Works Director may allow the submission of a baseline report which utilizes only historical data so long as the data provides information sufficient to determine the need for industrial Pretreatment measures.
  - f. The baseline report shall indicate the time, date and place of sampling and methods of analysis, and shall certify that such sampling and analysis is representative of normal work cycles and expected Pollutant Discharges to the POTW.
- 3. Compliance Certification. A statement, reviewed by the Industrial User's authorized representative and certified by a qualified professional, indicating whether Pretreatment Standards are being met on a consistent basis, and, if not, whether additional operation and maintenance (O&M) and/or additional Pretreatment is required to meet the Pretreatment Standards and requirements.
  - 4. Compliance Schedule. If additional Pretreatment and/or O&M will be required to meet the Pretreatment Standards, the shortest schedule by which the Industrial User will provide such additional Pretreatment and/or O&M must be provided. The completion date in this schedule shall not be later than the compliance date established for the applicable Pretreatment Standard. A compliance schedule pursuant to this Section must meet the requirements set out in Section 2-1-67-2 of this Chapter.
  - 5. Signature and Report Certification. All baseline monitoring reports (BMRs) must be signed and certified in accordance with Section 2-1-67-12 of this Chapter.

**2-1-67-2: Compliance Schedule Progress Reports:**

The following conditions shall apply to the compliance schedule required by Section 2-1-67-1.B.(4) of this Chapter:

- (A) The schedule shall contain progress increments in the form of dates for the commencement and completion of major events leading to the construction and operation of additional Pretreatment required for the Industrial User to meet the applicable Pretreatment Standards (such events include, but are not limited to, hiring an engineer, completing preliminary and final plans, executing contracts for major components, commencing and completing construction, and beginning and conducting routine operation);
- (B) No increment referred to above shall exceed nine (9) months;
- (C) The Industrial User shall submit a progress report to the Public Works Director no later than fourteen (14) calendar days following each date in the schedule and the final date of compliance including, as a minimum, whether or not it complied

with the increment of progress, the reason for any delay, and, if appropriate, the steps being taken by the Industrial User to return to the established schedule; and

- (D) In no event shall more than nine (9) months elapse between such progress reports to the Public Works Director.

**2-1-67-3: Reports on Compliance with Categorical Pretreatment Standard Deadline:**

Within ninety (90) calendar days following the date for final compliance with applicable Categorical Pretreatment Standards, or in the case of a New Source following commencement of the introduction of wastewater into the POTW, any Industrial User subject to such Pretreatment Standards and requirements shall submit to the Public Works Director a report containing the information described in Sections 2-1-65-5.A (6) and (7) and 2-1-67-1.B (2) of this Chapter. For Industrial Users subject to equivalent mass or concentration limits established in accordance with the procedures in 40 CFR 403.6(c), this report shall contain a reasonable measure of the Industrial User's long-term production rate. For all other Industrial Users subject to Categorical Pretreatment Standards expressed in terms of allowable Pollutant Discharge per unit of production (or other measure of operation), this report shall include the Industrial User's actual production during the appropriate sampling period. All compliance reports must be signed and certified in accordance with Section 2-1-67-12 of this Chapter.

**2-1-67-4: Periodic Compliance Reports:**

- (A) SIUs and other Industrial Users as may be designated by the Public Works Director shall provide, at their own expense, sampling and analysis at least twice each year, in June and December, according to 40 CFR 403.12. If any sample that is taken by the SIU or the City is not within the limits of the Federal Categorical Standards or State Pretreatment Standards, then the Industrial User will be required to perform the sampling and analyses as often as is determined by the City to be necessary.
- (B) All SIUs and other Industrial Users as may be designated by the Public Works Director shall, at a frequency determined by the Public Works Director but in no case less than twice per year (in June and December), submit a report indicating the nature and concentration of Pollutants in the Discharge which are limited by Pretreatment Standards and the measured or estimated average and maximum daily flows for the reporting period. In cases where the Pretreatment Standard requires compliance with BMPs or pollution prevention alternatives, the Industrial User must submit documentation required by the Public Works Director or the Pretreatment Standard necessary to determine the compliance status of the Industrial User. All periodic compliance reports must be signed and certified in accordance with Section 2-1-65-7 of this Chapter.
- (C) All wastewater samples must be representative of the Industrial User's Discharge and analyzed in compliance with Section 2-1-48. Wastewater monitoring and

flow measurement facilities shall be properly operated, kept clean, and maintained in good working order at all times. The failure of an Industrial User to keep its monitoring facility in good working order shall not be grounds for the Industrial User to claim that sample results are unrepresentative of its Discharge.

- (D) If an Industrial User subject to the reporting requirement in this Section monitors any Pollutant more frequently than required by the Public Works Director, using the procedures prescribed in Section 2-1-48 of this Ordinance, the results of this monitoring shall be included in the report.

**2-1-67-5: Reports of Changed Conditions:**

Each Industrial User must notify the Public Works Director of any planned significant changes to the Industrial User's operations or system which might alter the nature, quality, or volume of its wastewater at least forty-five (45) calendar days before the change.

- (A) The Public Works Director may require the Industrial User to submit such information as may be deemed necessary to evaluate the changed condition, including the submission of a Wastewater Discharge Permit application under Section 2-1-65 of this Ordinance.
- (B) The Public Works Director may issue a Wastewater Discharge Permit under Section 2-1-65 of this Ordinance or modify an existing Wastewater Discharge Permit under Section 2-1-65-3 of this Chapter in response to changed conditions or anticipated changed conditions.
- (C) For purposes of this requirement, significant changes include, but are not limited to, flow increases of twenty percent (20%) or greater, and the Discharge of any previously unreported Pollutants.

### **2-1-67-6: Reports of Potential Problems:**

- (A) In the case of any Discharge, including, but not limited to, accidental Discharges, Discharges of a non-routine, episodic nature, a non-customary batch Discharge, Slug Discharge or a Slug Load, that may cause potential problems for the POTW, the Industrial User shall immediately telephone and notify the Public Works Director of the incident. This notification shall include the location of the Discharge, type of waste, concentration and volume, if known, and corrective actions taken by the Industrial User.
- (B) Within five (5) calendar days following such Discharge, the Industrial User shall submit a detailed written report describing the cause(s) of the Discharge and the measures to be taken by the Industrial User to prevent similar future occurrences. Such notification shall not relieve the Industrial User of any expense, loss, damage, or other liability which may be incurred as a result of damage to the POTW, natural resources, or any other damage to Person or property; nor shall such notification relieve the Industrial User of any fines, penalties, or other liability which may be imposed pursuant to this Chapter.
- (C) A notice shall be permanently posted on the Industrial User's bulletin board or other prominent place advising employees to notify the POTW in the event of a Discharge described in paragraph A, above. Employers shall ensure that all employees, who may cause such a Discharge to occur, are advised of the emergency notification procedure.
- (D) SIUs are required to notify the Public Works Director immediately of any changes at its facility affecting the potential for a Slug Discharge.

### **2-1-67-7: Reports from Unpermitted Industrial Users:**

All Industrial Users not required to obtain a Wastewater Discharge Permit shall provide appropriate reports to the Public Works Director as the Public Works Director may require.

### **2-1-67-8: Notice of Violation/Repeat Sampling and Reporting:**

If sampling performed by an Industrial User indicates a violation, the Industrial User must notify the Public Works Director within twenty-four (24) hours of becoming aware of the violation. The Industrial User shall also repeat the sampling and analysis and submit the results of the repeat analysis to the Public Works Director within thirty (30) calendar days after becoming aware of the violation. Re-sampling by the Industrial User is not required if the Public Works Director performs sampling at the Industrial User's facility at least once a month, or if the Public Works Director performs sampling at the Industrial User between the time when the initial sampling was conducted and the time when the Industrial User or the Public Works Director receives the results of this sampling, or if the Public Works Director has performed the sampling and analysis in lieu of the Industrial User.

## **2-1-67-9: Notification of the Discharge of Hazardous Waste:**

- (A) Any Industrial User who commences the Discharge of hazardous waste shall notify the POTW, the EPA Regional Waste Management Division Director, and State hazardous waste authorities, in writing, of any Discharge into the POTW of a substance which, if otherwise disposed of, would be a hazardous waste under 40 CFR Part 261. Such notification must include the name of the hazardous waste as set forth in 40 CFR Part 261, the EPA hazardous waste number, and the type of Discharge (continuous, batch, or other). If the Industrial User discharges more than fifty (50) kilograms of such waste per calendar month to the POTW, the notification also shall contain the following information to the extent such information is known and readily available to the Industrial User: an identification of the hazardous constituents contained in the wastes, an estimation of the mass and concentration of such constituents in the waste stream discharged during that calendar month, and an estimation of the mass of constituents in the waste stream expected to be discharged during the following twelve (12) months. All notifications must take place no later than one hundred and eighty (180) calendar days after the Discharge commences. Any notification under this paragraph need be submitted only once for each hazardous waste discharged. However, notifications of changed conditions must be submitted under Section 2-1-67-5 of this Chapter. The notification requirement in this Section does not apply to Pollutants already reported by Industrial Users subject to Categorical Pretreatment Standards under the self-monitoring requirements of Sections 2-1-67-1, 2-1-67-3, and 2-1-67-4 of this Chapter.
- (B) Dischargers are exempt from the requirements of paragraph A, above, during a calendar month in which they discharge no more than fifteen (15) kilograms of hazardous wastes, unless the wastes are acute hazardous wastes as specified in 40 CFR 261.30(d) and 261.33(e). Discharge of more than fifteen (15) kilograms of non-acute hazardous wastes in a calendar month, or of any quantity of acute hazardous wastes as specified in 40 CFR 261.30(d) and 261.33(e), requires notification. Subsequent months during which the Industrial User discharges more than such quantities of any hazardous waste require additional notification.
- (C) In the case of any new regulations under Section 3001 of RCRA identifying additional characteristics of hazardous waste or listing any additional substance as a hazardous waste, the Industrial User must notify the Public Works Director, the EPA Regional Waste Management Waste Division Director, and State hazardous waste authorities of the Discharge of such substance within ninety (90) calendar days of the effective date of such regulations.
- (D) In the case of any notification made under this Section, the Industrial User shall certify that it has a program in place to reduce the volume and toxicity of hazardous wastes generated to the degree it has determined to be economically practical.

- (E) This provision does not create a right to discharge any substance not otherwise permitted to be discharged by this Ordinance, a permit issued thereunder, or any applicable Federal or State law.

**2-1-67-10: Date of Receipt of Reports:**

Written reports will be deemed to have been submitted on the date postmarked. For reports which are not mailed, postage prepaid, into a mail facility serviced by the United States Postal Service, the date of receipt of the report shall govern.

**2-1-67-11: Recordkeeping:**

Industrial Users subject to the reporting requirements of this Ordinance shall retain, and make available for inspection and copying, all records of information obtained pursuant to any monitoring activities required by this Ordinance and any additional records of information obtained pursuant to monitoring activities undertaken by the Industrial User independent of such requirements, and documentation associated with BMPs established under Section 2-1-45. Records shall include the date, exact place, method, and time of sampling, and the name of the Person(s) taking the samples; the dates analyses were performed; who performed the analyses; the analytical techniques or methods used; and the results of such analyses. These records shall remain available for a period of at least three (3) years. This period shall be automatically extended for the duration of any litigation concerning the Industrial User or the City, or where the Industrial User has been specifically notified of a longer retention period by the Public Works Director.

**2-1-67-12: Certification Statements:**

- (A) Certification of Permit Applications and Industrial User Reports - The following certification statement is required to be signed and submitted by Industrial Users submitting permit applications in accordance with Section 2-1-65-7; Industrial Users submitting BMRs under Section 2-1-67-1.B (5) [Note: See 40 CFR 403.12 (l)]; Industrial Users submitting reports on compliance with the Categorical Pretreatment Standard deadlines under Section 2-1-67-3 [Note: See 40 CFR 403.12(d)]; Industrial Users submitting periodic compliance reports required by Section 2-1-67-4 [Note: See 40 CFR 403.12(e) and (h)]. The following certification statement must be signed by an Authorized Representative as defined in Section 2-1-9:

*I certify under penalty of law that this document and all attachments were prepared under my direction or supervision in accordance with a system designed to assure that qualified Personnel properly gather and evaluate the information submitted. Based on my inquiry of the Person or Persons who manage the system, or those Persons directly responsible for gathering the information, the information submitted is, to the best of my knowledge and belief, true, accurate, and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fine and imprisonment for knowing violations.*

## **2-1-68: COMPLIANCE MONITORING:**

### **2-1-68-1: Right of Entry: Inspection and Sampling:**

The Public Works Director shall have the right to enter the premises of any User to determine whether the User is complying with all requirements of Pretreatment Sections and any Wastewater Discharge Permit or any order issued under Pretreatment Sections. Permittees shall allow the Public Works Director Ready Access to all parts of the premises, to the extent stated in the Wastewater Discharge Permit, for the purposes of inspection, sampling, records examination and copying, and the performance of any additional duties. With regard to Users (other than Permittees), the Public Works Director shall have the authority to request permission to enter upon and inspect any such User's premises and sample any such User's Discharge to determine whether the User is in compliance with all requirements of the Pretreatment Sections.

- (A) Where a User has security measures in force which require proper identification and clearance before entry into its premises, the User may be required by the Wastewater Discharge Permit to make necessary arrangements with its security guards so that, upon presentation of suitable identification, the Public Works Director will be permitted to enter without delay for the purposes of performing responsibilities as specified in the Wastewater Discharge Permit.
- (B) The Public Works Director shall have the right to set up on the User's property, or require installation of, such devices as are necessary to conduct sampling and/or metering of the User's operations, as specified in the Permittee's Wastewater Discharge Permit.
- (C) The Public Works Director may require the User to install monitoring equipment as necessary and as specified in the Permittee's Wastewater Discharge Permit. The facility's sampling and monitoring equipment shall be maintained at all times in a safe and proper operating condition by the User at its own expense. All devices used to measure wastewater flow and quality shall be calibrated annually to ensure their accuracy.
- (D) If specified in the Wastewater Discharge Permit, any temporary or permanent obstruction to safe and easy access to the facility to be inspected and/or sampled shall be promptly removed by the User at the written or oral request of the Public Works Director. The costs of clearing such access shall be borne by the Permittee to the extent required by the Wastewater Discharge Permit.
- (E) Unreasonable delays allowing the Public Works Director access to the User's premises shall be a violation of the Wastewater Discharge Permit. Unreasonable delays are defined in the City's Enforcement Response Plan.
- (F) The City shall maintain records of monitoring that are necessary to enforce the requirements of the Pretreatment Sections.
- (G) The City may sample randomly and analyze for any Pollutants that would be anticipated in the effluent of the User as may be designated in the Wastewater Discharge Permit. The City may designate an independent laboratory to conduct the sampling and analyses, and the staff of the designated laboratory shall be

allowed to enter the premises of any User to sample any Discharge which may enter the wastewater collection system.

- (H) The User shall be financially responsible for any sampling and analysis done by the City that is not routine as provided in the Wastewater Discharge Permit.

**2-1-68-2: Search Warrants:**

If the Public Works Director has been refused, or is unable to obtain consent for, access to a building, structure, or property, or any part thereof, and is able to demonstrate probable cause to believe that there may be a violation of any provision of the Pretreatment Sections, or that there is a need to inspect and/or sample as part of a routine inspection and sampling program of the City designed to verify compliance with the Pretreatment Sections or any permit or order issued hereunder, or to protect the overall public health, safety and welfare of the community, then the Public Works Director may request that the City Attorney seek issuance of a search warrant authorizing the Public Works Director to conduct searches, inspections or testing as shall be specified in the search warrant.

**2-1-69: CONFIDENTIAL INFORMATION:**

Information and data obtained from any Person or contained in reports, surveys, Wastewater Discharge Permit applications, Wastewater Discharge Permits, and monitoring programs, or from the Public Works Director's inspection and sampling activities, shall be available to the public without restriction, unless a Person supplying the information or data (or a Person having a protectable interest in preserving the confidentiality of the information or data) specifies that the release of certain information or data would divulge private, propriety or competitively sensitive information, processes, or methods of production entitled to protection, as trade secrets or otherwise, under applicable law (collectively, the "Specified Information"). Any such specification must be asserted in writing at the time of submission (or collection) of the information or data. Upon such specification, the Specified Information shall not be made available for inspection by the public, to the extent permitted by law, but shall be made available immediately upon request to a governmental agency (if such governmental agency first agrees to preserve confidentiality consistently with this Section) and only for uses related to the APP program or Pretreatment program, and in enforcement proceedings involving the Person furnishing the information. Wastewater constituents and characteristics and other "effluent data" as defined by 40 CFR 2.302 shall not be recognized as confidential information and shall be available to the public without restriction. In the event the City determines that Specified Information is nevertheless subject to disclosure pursuant to a public records request, subpoena or otherwise, the City shall provide written notice of the City's determination to the Person(s) claiming trade secret status or requesting confidentiality, which notice shall state that such Person(s) have twenty (20) calendar days from the receipt of such notice from the City to petition a court of competent jurisdiction for injunctive, declaratory or other relief to preserve the confidentiality of the Specified Information. After expiration of the twenty (20) calendar day waiting period, the City shall not be required to preserve confidentiality of the information or data, except to the extent a court of competent jurisdiction so requires.

**2-1-70: PUBLICATION OF SIGNIFICANT INDUSTRIAL USERS IN SIGNIFICANT NONCOMPLIANCE:**

The Public Works Director shall publish annually, in a newspaper of general circulation that provides meaningful public notice within the jurisdictions served by the POTW, a list of the Significant Industrial Users which, during the previous twelve (12) months, were in Significant Noncompliance (SNC) with applicable Pretreatment Standards and requirements. The term Significant Noncompliance shall be applicable to all Significant Industrial Users (or any other Industrial User that violates paragraphs (C), (D) or (H) of this Section) and shall mean:

- (A) Chronic violations of wastewater discharge limits, defined here as those in which sixty-six percent (66%) or more of all the measurements taken for the same Pollutant parameter taken during a six- (6-) month period exceed (by any magnitude) a numeric Pretreatment Standard or requirement, including Instantaneous Limits as defined in Section 2-1-9;
- (B) Technical Review Criteria (TRC) violations, defined here as those in which thirty-three percent (33%) or more of wastewater measurements taken for each Pollutant parameter during a six- (6-) month period equals or exceeds the product of the numeric Pretreatment Standard or requirement including Instantaneous Limits, as defined by Section 2-1-9 multiplied by the applicable criteria (1.4 for BOD, TSS, fats, oils and grease, and 1.2 for all other Pollutants except pH);
- (C) Any other violation of a Pretreatment Standard or requirement as defined by Section 2-1-9 (Local Limits, long-term average, Instantaneous Limit, or narrative Standard) that the Public Works Director determines has caused, alone or in combination with other Discharges, Interference or Pass Through, including endangering the health of POTW personnel or the general public;
- (D) Any Discharge of a Pollutant that has caused imminent endangerment to the public or to the environment, or has resulted in the Public Works Director's exercise of its emergency authority to halt or prevent such a Discharge;
- (E) Failure to meet, within ninety (90) calendar days of the scheduled date, a compliance schedule milestone contained in a Wastewater Discharge Permit or enforcement order for starting construction, completing construction, or attaining final compliance;
- (F) Failure to provide within thirty (30) calendar days after the due date, any required reports, including BMRs, reports on compliance with Categorical Pretreatment Standard deadlines, periodic self-monitoring reports, and reports on compliance with compliance schedules;
- (G) Failure to accurately report noncompliance; or
- (H) Any other violation(s), which may include a violation of BMPs, which the Public Works Director determines will adversely affect the operation or implementation of the local Pretreatment program.

## **2-1-71: AFFIRMATIVE DEFENSES TO DISCHARGE VIOLATIONS:**

### **2-1-71-1: Upset:**

- (A) For the purposes of this Section, “Upset” means an exceptional incident in which there is unintentional and temporary noncompliance with Categorical Pretreatment Standards because of factors beyond the reasonable control of the Industrial User. An Upset does not include noncompliance to the extent caused by operational error, improperly designed treatment facilities, inadequate treatment facilities, lack of preventive maintenance, or careless or improper operation.
- (B) An Upset shall constitute an affirmative defense to an action brought for noncompliance with Categorical Pretreatment Standards if the requirements of paragraph (C), below, are met.
- (C) An Industrial User who wishes to establish the affirmative defense of Upset shall demonstrate, through properly signed, contemporaneous operating logs, or other relevant evidence that:
  - 1. An Upset occurred and the Industrial User can identify the cause(s) of the Upset;
  - 2. The facility was at the time being operated in a prudent and workman-like manner and in compliance with applicable O&M procedures; and
  - 3. The Industrial User has submitted the following information to the Public Works Director within twenty-four (24) hours of becoming aware of the Upset [if this information is provided orally, a written submission must be provided within five (5) calendar days]:
    - a. A description of the Discharge to the POTW and cause of noncompliance;
    - b. The period of noncompliance, including exact dates and times or, if not corrected, the anticipated time the noncompliance is expected to continue; and
    - c. Steps being taken and/or planned to reduce, eliminate, and prevent recurrence of the noncompliance.
- (D) In any enforcement proceeding, the Industrial User seeking to establish the occurrence of an Upset shall have the burden of proof.
- (E) Industrial Users will have the opportunity for a judicial determination on any claim of Upset only in an enforcement action brought for noncompliance with Categorical Pretreatment Standards.
- (F) Industrial Users shall control production of all Discharges to the extent necessary to maintain compliance with Categorical Pretreatment Standards upon reduction, loss, or failure of its treatment facility until the facility is restored or an alternative

method of treatment is provided. This requirement applies in the situation where, among other things, the primary source of power of the treatment facility is reduced, lost, or fails.

**2-1-71-2: Prohibited Discharge Standards:**

A User shall have an affirmative defense to an enforcement action brought against it for noncompliance with the general prohibitions in Section 2-1-38 or the specific prohibitions in Sections 2-1-39 of this Chapter if it can prove that it did not know, or have reason to know, that its Discharge, alone or in conjunction with Discharges from other sources, would cause Pass Through or Interference and that either:

- (A) A Local Limit exists for each Pollutant discharged and the Industrial User was in compliance with each limit directly prior to, and during, the Pass Through or Interference; or
- (B) No Local Limit exists, but the Discharge did not change substantially in nature or constituents from the User's prior Discharge when the City was regularly in compliance with its APP, and in the case of Interference, was in compliance with applicable sludge use or disposal requirements.

**2-1-71-3: Bypass:**

- (A) For the purposes of this Section,
  - 1. "Bypass" means the intentional diversion of waste streams from any portion of an Industrial User's treatment facility.
  - 2. "Severe property damage" means substantial physical damage to property, damage to the treatment facilities which causes them to become inoperable, or substantial and permanent loss of natural resources which can reasonably be expected to occur in the absence of a bypass. Severe property damage does not mean economic loss caused by delays in or reduction of production, or the additional cost of treatment/Pretreatment facilities.
- (B) An Industrial User may allow any bypass to occur which does not cause Pretreatment Standards or requirements to be violated, but only if it also is for essential maintenance to assure efficient operation. These bypasses are not subject to the provision of paragraphs (C) and (D) of this Section.
- (C) Bypass Notifications:
  - 1. If an Industrial User knows in advance of the need for a bypass, it shall submit written prior request and notice to the Public Works Director, at least ten (10) calendar days before the date of the bypass.
  - 2. An Industrial User shall submit oral notice to the Public Works Director of an unanticipated bypass that exceeds applicable Pretreatment Standards within

twenty-four (24) hours from the time it becomes aware of the bypass. A written submission shall also be provided within five (5) calendar days of the time the Industrial User becomes aware of the bypass. The written submission shall contain a description of the bypass and its cause; the duration of the bypass, including exact dates and times, and, if the bypass has not been corrected, the anticipated time it is expected to continue; and steps taken or planned to reduce, eliminate, and prevent reoccurrence of the bypass.

(D) Bypass:

1. Bypass is prohibited, and the Public Works Director may take an enforcement action against an Industrial User for a bypass, unless:
  - a. Bypass was unavoidable to prevent loss of life, Personal injury, or severe property damage as defined in Section 2-1-71-3;
  - b. There were no feasible alternatives to the bypass, such as the use of auxiliary treatment facilities, retention of untreated wastes, or maintenance during normal periods of equipment downtime. This condition is not satisfied if adequate back-up equipment should have been installed in the exercise of reasonable engineering judgment to prevent a bypass which occurred during normal periods of equipment downtime or preventive maintenance; and
  - c. The Industrial User submitted notices as required under paragraph (C) of this Section.
2. The Public Works Director may approve an anticipated bypass, after considering its adverse effects, if the Public Works Director determines that it will meet the three conditions listed in paragraph (D)(1) of this Section.

**2-1-72: MISCELLANEOUS PROVISIONS:**

**2-1-72-1: Pretreatment Charges and Fees:**

The City may adopt reasonable fees for reimbursement of costs of setting up and operating the City's Pretreatment Program which may include:

- (A) Fees for Wastewater Discharge Permit applications;
- (B) Fees to recover legal costs resulting from enforcement response to any Industrial User noncompliance including, but not limited to, administrative expenses, investigation, sampling, testing, legal proceedings and filings, and continued compliance monitoring; and
- (C) Other fees as the City may deem necessary to carry out the requirements contained in the Pretreatment Sections. These fees relate solely to the matters

covered by the Pretreatment Sections and are separate from all other fees, fines, and penalties chargeable by the City.

**2-1-72-2: Severability:**

If any provision of this Chapter is invalidated by any court of competent jurisdiction, the remaining provisions shall not be effected and shall continue in full force and effect.

**2-1-73: ADMINISTRATIVE APPEALS CONCERNING PRETREATMENT DECISIONS:**

- (A) Any Person aggrieved by a final action or decision of the Public Works Director pursuant to Pretreatment Sections may appeal that action or decision to the Deputy City Manager by submitting to the Deputy City Manager, with copies to the Public Works Director, a written notice of appeal setting forth the relief sought and supported by a written memorandum setting forth the factual and legal grounds for the relief sought on appeal. The notice of appeal and supporting memorandum shall be submitted not more than thirty (30) calendar days after the decision from which the appeal is taken or, if a petition for reconsideration is permitted by Section 2-1-66-3 and timely filed, the notice of appeal shall be submitted not less than thirty (30) calendar days after the decision on the petition for reconsideration is issued or the petition for reconsideration is deemed denied.
- (B) The Deputy City Manager shall issue a written notice of decision within thirty (30) calendar days after a notice of appeal is submitted, after holding such hearings and conducting such investigation as the Deputy City Manager deems necessary or appropriate. The decision of the Deputy City Manager shall be the final decision of the City with respect to the subject matter thereof.
- (C) Completion of the administrative appeal process pursuant to this Section 2-1-73 shall be a condition precedent to judicial review pursuant to Section 2-1-74.

**2-1-74: JUDICIAL REVIEW OF PRETREATMENT DECISIONS:**

Any Person aggrieved by a final action or decision of the City pursuant to [the Pretreatment Sections], may commence a civil action in the Superior Court of Arizona in and for Yavapai County seeking judicial review of that decision or action by the City. In civil actions pursuant to this Section 2-1-74, the court shall determine whether the City's action or decision was (a) arbitrary, capricious or an abuse of discretion; (b) contrary to law; or (c) supported by substantial evidence in the entire record. The Court shall consider the entire record before the City, giving due deference to the factual findings of the Public Works Director (and the Deputy City Manager, if applicable) and to the City's construction and interpretation of City Code provisions. If the Court finds that the City's action or decision was arbitrary, capricious, contrary to law, or an abuse of discretion or not supported by substantial evidence in the record, the court may: (i) invalidate or overrule the City's final action or decision; (ii) remand the matter back to the City for further proceedings consistent with the court's order; or (iii) grant such other relief as the court deems appropriate.

This Section 2-1-74 is intended to, and shall provide, the sole and exclusive judicial remedy with respect to actions or decisions within its scope.

**2-1-75: EFFECTIVE DATE:**

This Amended Chapter 2-1, adopted under Ordinance No. 4856-1313, shall be in full force and effect immediately following its passage, approval, and publication, as provided by law.