# Title 13

## PUBLIC SERVICES

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## Chapter 13.04

## WATER AND SEWER CODE

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### 13.04.010. Pretreatment Program Purpose and Intent.

This code sets forth uniform requirements for users of the Publicly Owned Treatment Works for the City of Douglas, hereinafter referred to as "city" and enables the city to comply with all applicable state and federal laws; including the Clean Water Act (33 United States Code §1251 et seq.) and the General Pretreatment Regulations (40 Code of Federal Regulations, Part 403). The objectives of this code are to:

Prevent the introduction of pollutants into the Publicly Owned Treatment Works that will interfere with its operation and efficient functioning of its parts;

Prevent the introduction of pollutants into the Publicly Owned Treatment Works that will pass through the Publicly Owned Treatment Works, inadequately treated, into receiving waters, or otherwise be incompatible with the Publicly Owned Treatment Works;

Protect both Publicly Owned Treatment Works personnel who may be affected by wastewater and sludge in the course of their employment and the general public;

Promote reuse and recycling of industrial wastewater and sludge away from the Publicly Owned Treatment Works;

Enable the city to comply with its Arizona Pollutant Discharge Elimination System permit conditions, sludge use and disposal requirements,

Promote waste minimization and pollution prevention; and,

Protect the environment.

This code shall apply to all persons discharging to the Publicly Owned Treatment Works. This article establishes discharge prohibitions/limitations; authorizes the issuance of wastewater discharge permits; provides for monitoring, compliance, and enforcement activities; establishes administrative review procedures; requires user reporting; and provides for the setting of fees for the equitable distribution of costs resulting from the program established herein.

This chapter is intended to:

Establish pollutant discharge limits for wastewater discharged into the Publicly Owned Treatment Works;

Establish the authority for the City Manager to designate a Director of Public Works to implement and enforce the provisions of this code;

Establish a requirement for pretreatment of wastewater that does not meet the pollutant limitations;

Establish steps the city will use to monitor and enforce the discharge limitations to protect water and bio-solids resources; and,

Establish special procedures for receiving and processing discharges from septic pumpers.

**13.04.011. Administration.**
The provisions of this code shall be administered and enforced by the City Manager or the designated Director of Public Works, and such other officers or employees of the city as the City Manager may approve, direct, or designate.

The designated Director of Public Works shall be responsible to develop, implement and enforce policies, procedures, and/or guidelines to ensure the water reclamation facility pretreatment design, permitting, and discharge limitation requirements are met by all users of the sewer system.

As such, a written inventory or survey of each significant industrial user will be conducted to determine permit status.

Results of the survey or inventory will be analyzed and appropriate measures will be established, in the form of an industrial wastewater permit, to ensure the Publicly Owned Treatment Works is protected.

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

**13.04.012. Authority to Enforce.**
Authorization for the regulations set forth in this chapter is granted to the City of Douglas pursuant to Arizona Revised Statutes §9-240(B)(5)(a) as such may be amended from time to time.

Jurisdiction for enforcement of the regulations set forth in this chapter is granted to the City of Douglas pursuant to Arizona Revised Statutes §9-240(B)(28)(b) as such may be amended from time to time and all proceedings to enforce the provisions of this article, whether civil or criminal, shall be in the City of Douglas Magistrate Court.

**13.04.013. Acronyms and Definitions.**
**Acronyms**. The following acronyms, when used in this chapter, shall have the designated meanings:

ADEQ - Arizona Department of Environmental Quality

AZPDES - Arizona Pollutant Discharge Elimination System

BMPs - Best Management Practices

BOD - Biochemical Oxygen Demand

CFR - Code of Federal Regulations

COD - Chemical Oxygen Demand

EPA - U.S. Environmental Protection Agency

gpd - gallons per day

IU - Industrial User

mg /l - milligrams per liter

NPDES - National Pollutant Discharge Elimination System

NSCIU - Nonsignificant Categorical Industrial User

POTW - Publicly Owned Treatment Works

RCRA - Resource Conservation and Recovery Act

SIU - Significant Industrial User

SNC - Significant Noncompliance

TSS - Total Suspended Solids

ug /1 - micrograms per liter

U.S.C. - United States Code

**Definitions.** Unless a provision explicitly states otherwise, the following terms and phrases, as used in this chapter, shall have the meanings hereinafter designated.

*Act or "the Act"* means the Federal Water Pollution Control Act, also known as the Clean Water Act, as amended, 33 U.S.C. § 1251 et seq.

*Alert level* means the concentration or loading at which a contaminant in the liquid or solid products of the POTW must be reported to regulators prior to a violation in the permit.

*Authorized or Duly Authorized Representative of the User means*

(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 or general 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 a Duly 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.

*Best Management Practices or BMPs* means schedules of activities, prohibitions of practices, maintenance procedures, and other management practices to implement the prohibitions listed in 13.04.015. BMPs

also 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.

*Biochemical Oxygen Demand or BOD* means the quantity of oxygen utilized in the biochemical oxidation of organic matter under standard laboratory procedures for five (5) days at 20° centigrade, usually expressed as a concentration (e.g., mg/1).

*By-pass* means the intentional diversion of wastewater flows from any portion of a treatment process or the POTW.

*Categorical Pretreatment Standard or Categorical Standard* means any regulation containing pollutant discharge limits promulgated by 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.

*Clean Water Act* means the Federal Water Pollution Control Act, as amended, 33 United States Code § 1251 et seq.

*Concentration* means the chemical and physical results indicating the amount of a characteristic in a defined unit of mass.

*Contaminant* means any chemical, biologic mass, metal or non-metal that at some concentration may become a pollutant or combine with any other characteristic of the wastewater to become a pollutant.

*Control Manhole* means an access point into the sanitary sewer for the purpose of collecting a representative sample of wastewater discharge to determine compliance with this chapter. Access points used as control manholes will be approved by the water utilities manager.

*Daily Maximum Limit* means the maximum allowable discharge limit of a pollutant during a 24-hour period. Where Daily Maximum Limits are expressed in units of mass, the daily discharge is the total mass discharged over the course of the day. Where Daily Maximum Limits are expressed in terms of a concentration, the daily discharge is the arithmetic average measurement of the pollutant concentration derived from all measurements taken that day.

*Discharge* means the disposal of sewage, pollutants, suspended solids, wastewater or any liquid from any user into the wastewater sewer and treatment system of the city.

*Discharge Limit* means the concentration or loading defining the limitation of acceptable discharge of a contaminant in the liquid or solid products to a POTW.

*Environmental Protection Agency or EPA* means the U.S. Environmental Protection Agency, the federal agency charged with enforcement of the Clean Water Act.

*Existing Source* means any source of discharge, the construction or operation of which commenced prior to the publication by EPA of proposed categorical pretreatment standards, which will be applicable to such source if the standard is thereafter promulgated in accordance with Section 307 of the Act.

*Garbage* means solid wastes from the preparation, cooking and dispensing of

food, and from the handling, storage and sale of produce.

*Grab Sample* means a sample which is taken from a waste stream without regard to the flow in the waste stream and over a period of time not to exceed fifteen (15) minutes.

*Grease Trap or Interceptor* means a device used to separate oil, grease, and sand or any flammable wastes from wastewater.

*Indirect Discharge or Discharge* means the introduction of pollutants into the POTW from any Nondomestic Source regulated under any laws, rules or regulations of the United States, the State of Arizona or any political subdivision thereof.

*Industrial Process Water.* means any liquid, pollutants, regulated substance, free-flowing waste, including polluted cooling water, resulting from any industrial or manufacturing process or from the development, recovery or processing of natural resources, with or without suspended solids, discharged from any non-single-family residential source.

*Industrial User* means any facility that discharges wastewater into the city's sewer system, including industrial facilities, commercial businesses, government agencies, food service and medical facilities, wastewater haulers, multi-family housing units consisting of five or more units, and or any other facility that is not designated as a single-family residential user.

*Instantaneous Limit* means 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* means a discharge, which alone or in conjunction with a discharge or discharges from other sources, 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 any applicable NPDES or AZPDES permit or of the prevention of sewage sludge 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; the Toxic Substances Control Act; and the Marine Protection, Research, and Sanctuaries Act.

*Local Limit* means specific discharge limits developed and enforced by the city upon industrial or commercial facilities to implement the general and specific discharge prohibitions listed in 40 CFR 403.5(a)(1) and (b).

***Monthly Average* means t**he arithmetic average value of all daily results for a calendar month for an individual pollutant parameter. Historically, EPA has considered a 30-day average to mean a monthly average.

*Medical Waste* means 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.

*New Source* means

(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 that 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 criteria above 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.

*Noncontact Cooling Water* means water used for cooling that does not come into direct contact with any raw material, intermediate product, waste product, or finished product.

*Nondomestic Source* means discharges of any substances other than human

excrement and household gray water derived from the ordinary living process of residential family homes.

*Nonsignificant Categorical Industrial User or NSCIU* means an Industrial User that never discharges more than 100 gallons per day (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:

The Industrial User, prior to city's finding, has consistently complied with all applicable categorical Pretreatment Standards and Requirements;

The Industrial User annually submits the certification statement required in Section 4.14 B [see 40 CFR 403.12(q)], together with any additional information necessary to support the certification statement; and

The Industrial User never discharges any untreated concentrated wastewater.

*Non-significant Industrial User* is an Industrial User the city has determined is not a significant industrial user.

*Pass Through* means a contaminant or pollutant that may pass through and exit the POTW in concentrations that result in a violation or an alert of any end disposition of the liquid or solid products of the POTW. This shall include any contaminant or pollutant that may combine with any other characteristic of the wastewater and pass through the POTW that result in a violation of any end disposition of the liquid or solid products of the POTW.

*Person* means any individual, partnership, co- partnership, firm, company, corporation, Limited Liability Company, association, Joint Stock Company, trust, estate, governmental entity, or any other legal entity; or their legal representatives, agents, or assigns. This definition includes all users and all federal, state, and local governmental entities.

*PH* means a measure of the acidity or alkalinity of a solution, expressed in standard units.

*Pollutant* means dredged spoil, solid waste, incinerator residue, filter backwash, sewage, garbage, sewage sludge, munitions, medical wastes, chemical wastes, biological materials, radioactive materials, heat, wrecked or discarded equipment, rock, sand, cellar dirt, municipal, agricultural and industrial wastes, commercial food waste including but not limited to fats, oils, and grease, and certain characteristics of wastewater (e.g., pH, temperature, TSS, turbidity, color, BOD, COD, toxicity, or odor).

*Pretreatment* means the reduction of the amount of pollutants, the elimination of pollutants, or the alteration of the nature of pollutant properties in wastewater before or in lieu of discharging, or otherwise introducing, such pollutants into a 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 Device* means equipment, material or structures to reduce, eliminate, or alter the nature of pollutant properties in

wastewater before, or in lieu of, introducing pollutants into the POTW.

*Pretreatment Sludge* means the waste byproduct from a commercial or manufacturing process that is removed as the result of cleaning the pretreatment device, including but not limited to plating sludge, decant water, lint, sand, fats, oil and grease and solids.

*Pretreatment Requirement* means any substantive or procedural requirement related to pretreatment imposed on a User, other than a Pretreatment Standard.

*Pretreatment Standards or Standards* means prohibited discharge standards, categorical pretreatment standards, and local limits as may have been established pursuant to the laws or regulations of the United States, the State of Arizona, or of the city.

*Prohibited Discharge Standards or Prohibited Discharges* means absolute prohibitions against the discharge of certain substances and limitations on others; these prohibitions appear in Section 13.04.015 of this chapter.

*Properly Shredded Garbage* means garbage that has been shredded to a degree that all particles will be carried freely under the flow conditions normally prevailing in sanitary sewers, with no particle greater than one-quarter inch in any dimension.

*Publicly Owned Treatment Works or POTW* means a "treatment works," as defined by Section 212 of the Act (33 U.S.C. § 1292) in which the city owns an interest. This definition includes any devices or systems used in the collection, storage, treatment, recycling, and reclamation of sewage or industrial wastes of a liquid nature and any conveyances which convey wastewater to a treatment plant. The term also means the municipality (the city) that has jurisdiction over the indirect discharges to and the discharges from such treatment works.

*Septic Pumpers* means any mobile wastewater collection provider or contractor in the business of removing and disposing of septic waste.

*Septic Tank Waste* means any sewage from holding tanks such as vessels, chemical toilets, campers, trailers, and septic tanks.

*Severe Non-Compliance* means any willful, negligent or major violation of this code, or the documented, habitual failure of any sewer system user to comply with the meaning or intent of this code. It also means multiple, meaning more than two, accidental discharges resulting in an upset, or bypass caused by a user of the sewer system, or minor failures of any sewer system user to comply with the meaning or intent of this chapter.

*Sewer* means a pipe or conduit that carries sewage to the publicly owned treatment works.

***Significant Industrial User* means:**

Any industrial user that is designated as such and required to obtain a permit by the Director of Public Works, on the basis that the industrial user has the potential for adversely affecting the POTW's operation or for violating any pretreatment standard or requirement; or

Any industrial user that is subject to Categorical Pretreatment Standards as established by the EPA; or

Any industrial user that discharges an average of 25,000 gallons per day or more of process wastewaters (excluding sanitary, noncontact cooling water and boiler blowdown wastewater); or

Any industrial user that contributes a process waste stream that makes up 5% or more of the average dry weather hydraulic or organic capacity of the POTW.

*Significant Noncompliance* or SNC means any single, accidental discharge resulting in an upset, or bypass caused by a user of the sewer system, or any minor failure of any sewer system user to comply with the meaning or intent of this chapter. (See also 13.04.019)

*Slug Load or Slug Discharge* means any discharge at a flow rate or concentration, which could cause a violation of the prohibited discharge standards in Section 13.04.015 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.

*Storm Water* means any flow occurring during or following any form of natural precipitation, and resulting from such precipitation, including snowmelt.

*Suspended Solids* means the total suspended matter that floats on the surface of, or is suspended in, water, wastewater, or other liquid, and which is removable by laboratory filtering or measurable by laboratory process.

*Upset* means any incident in which there is unintentional and temporary noncompliance with discharge limits or alert limits because of factors beyond the reasonable control of the user. An upset is the chemical, biochemical, biological or physical failure of a process to properly treat or control the quality of the wastewater discharged to a sewer, or the liquid and solid products discharged from a POTW. An upset does not include a failure due to consistent operational error, improper design of treatment facilities, inadequate treatment facilities, inadequate preventative maintenance, or careless operation.

*User or Industrial User or Nondomestic User* means a source of discharge into the POTW from a nondomestic use.

*Wastewater* means liquid and water - carried industrial wastes and sewage from residential dwellings, commercial buildings, industrial and manufacturing facilities, and institutions, whether treated or untreated, which are contributed to the POTW.

*Wastewater, Sludge or Biosolid* means the solids or semisolids, residues and precipitate separated from or created in wastewater.

*Wastewater Treatment Plant or Treatment Plant* means that portion of the POTW which is designed to provide treatment of municipal sewage and industrial waste.

**13.04.014. User Requirements.**

A. No person shall uncover, make any connections with, open into, use, alter or disturb any part of the POTW, or appurtenance thereof, without first obtaining written approval from the city.

B. No person shall maliciously, willfully or negligently break, damage, destroy, uncover, deface or tamper with any part of the POTW, or appurtenance thereof.

C. All users of the POTW within the city shall be in compliance with the requirements of this chapter.

D. Users of the sewer system will be required to follow, at their own expense, any policies, procedures or guidelines established by the city to ensure adherence to the proper pretreatment and discharge limitation requirements.

E. No person shall discharge, or cause to be discharged, any storm water, surface water, ground water, roof runoff, subsurface drainage, cooling water, swimming pool water, or unpolluted industrial process waters to any sanitary sewer, without complying with the requirements of this chapter.

F. Any person considered a non - residential or industrial user shall not discharge, or cause to be discharged, any industrial wastewater directly or indirectly to the POTW, without first meeting with city staff to complete an inventory or survey of discharges and potential discharges, then staff shall determine if the user shall be categorized as:

(1) Non-significant industrial user: After conducting the survey, if city staff determines the user to be a non-significant industrial user, the user may discharge wastewater into the POTW, providing they remain in compliance with this chapter in its entirety; or,

(2) Significant industrial user: After conducting the survey, if city staff determine the user to be a significant industrial user, the user will be required to obtain an industrial wastewater permit, and to comply with all of its requirements, before discharge of wastewater into the POTW can occur; and,

(3) Additionally, any costs associated with adhering to the permit, such as testing, pretreatment, maintenance of facility equipment, and reporting shall be at the user's expense.

G. National Categorical Pretreatment Standards - Users must comply with the categorical Pretreatment Standards found at 40 CFR Chapter I, Subchapter N, Parts 405–471.

H. Any sludge or other material removed from the industrial waste by a pretreatment facility shall be disposed of in accordance with applicable federal, state and local laws.

I. No 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 City Manager or Director may impose mass limitations on

users who are using dilution to meet applicable pretreatment standards or requirements or in other cases when the imposition of mass limitations is appropriate.

**13.04.015. Prohibited Discharges.**

A. *General Prohibitions*. No person shall introduce or cause to be introduced into the POTW any pollutant or wastewater which causes pass through or interference. These general prohibitions apply to all persons discharging to the POTW whether or not they are subject to categorical pretreatment standards or any other national, state, or local pretreatment standards or requirements.

B. *Specific Prohibitions*. No person shall introduce or cause to be introduced into the POTW the following pollutants, substances, or wastewater:

(1) Pollutants which create a fire or explosive hazard in the POTW, including, but not limited to, wastestreams with a closed-cup flashpoint of less than 140 degrees F (60 degrees C) using the test methods specified in 40 CFR 261.21;

(2) Wastewater having a pH less than 5.5 or more than 9.5 standard units, or otherwise causing corrosive structural damage to the POTW or equipment; (3) Solid or viscous substances in amounts which will cause obstruction of the flow in the POTW resulting in Interference;

(4) Pollutants, including oxygen-demanding pollutants (BOD, etc.), released in a discharge at a flow rate and/or pollutant concentration which, either singly or by interaction with other pollutants, will cause Interference with the POTW;

(5) Wastewater having a temperature greater than 150 degrees F, or which will inhibit biological activity in the treatment plant resulting in Interference, but in no case wastewater which causes the temperature at the introduction into the treatment plant to exceed 104 degrees F (40 degrees C);

(6) Petroleum oil, nonbiodegradable cutting oil, or products of mineral oil origin, in amounts that will cause Interference or pass through;

(7) Pollutants which result in the presence of toxic gases, vapors, or fumes within the POTW in a quantity that may cause acute worker health and safety problems;

(8) Trucked or hauled pollutants, except at discharge points designated by the City Manager or Director in accordance with Section 1.8 of 13.04.018 of this ordinance;

(9) Any garbage that has not been properly shredded.

(10) Any ashes, cinders, sand, mud, straw, shavings, metal, glass, rags, feathers, tar, plastics, wood, paunch manure, grits, such as brick, cement, onyx, carbide or any other solid or viscous substance capable of causing obstruction to the flow in sewers or other interference with the proper operation of the sewage works.

(11) Any waters or wastes containing a toxic, radioactive or poisonous substance in sufficient quantity to injure or interfere with any sewage treatment process, constitute a hazard to humans or animals, or create any hazard in the receiving waters of the sewage treatment plant.

(12) Any waters or wastes containing dissolved or suspended solids of such character and quantity that unusual attention or expense is required to handle such materials at the sewage treatment plant.

(13) Any noxious or malodorous gas or substance capable of creating a public nuisance.

(14) Wastewater which imparts color which cannot be removed by the treatment process, such as, but not limited to, dye wastes and vegetable tanning solutions, which consequently imparts color to the treatment plant's effluent, thereby violating the City's AZPDES permit;

(15) Wastewater containing any radioactive wastes or isotopes except in compliance with applicable State or Federal regulations;

(16) Sludges, screenings, or other residues from the pretreatment of industrial wastes;

(17) Wastewater causing, alone or in conjunction with other sources, the treatment plant's effluent to fail toxicity test;

(18) Detergents, surface-active agents, or other substances which that might cause excessive foaming in the POTW;

**13.04.016. Local Limits.**

A. All persons owning or operating facilities or engaged in activities that will or may reasonably be expected to result in pollutants entering the City of Douglas sanitary sewer system or affecting the sanitary sewer system or affecting the POTW, shall undertake all practicable best management practices identified by the Director of Public Works to minimize the discharge of pollutants. Such measures shall include the requirements imposed by this chapter, any applicable NPDES or AZPDES permits, and any written guidelines promulgated for general use by the Director of Public Works.

B. The Director of Public Works shall have the authority to:

(1) Establish limitations for individual users or classes of users for various pollutants, materials, waters, or wastes that can be accepted into the sanitary sewer system;

(2) Specify those pollutants, materials, waters, or wastes that are prohibited from entering the sanitary sewer system;

(3) Identify those pollutants, materials, waters, or wastes that shall be controlled with best management practices; and

(4) Require individual users or classes of users to implement best management practices for any pollutant.

C. All affected individual users or classes of users shall comply with the prohibitions and effluent limitations established pursuant to this section, and with any best management practices required by the Director of Public Works.

D. All prohibitions and effluent limitations so established and all best management **practices** identified by the Director of Public Works will be placed on file with the City Clerk and will become effective and enforceable on the thirty -first (31st) day after the date of filing. (Ordinance Adoption)

E. The City Manager or Director is authorized to establish local limits pursuant to 40 CFR 403.5(c). **[Note: The limits share be calculated on the monthly average method.**

F. The following pollutant limits are established to protect against pass through and interference. No person shall discharge wastewater containing in excess of the following maximum allowable daily discharge limits of the following substances:

G. Biochemical Oxygen Demand (BOD) greater than 300 mg /l and/or Total Suspended Solids greater than 350 mg/1 by weight, unless approved by the Public Works Director through an industrial wastewater discharge permit.

H. pH greater than 5.5 and less than 9.5 standard units. {from current SUO}

I. Any water or waste which may contain more than 100 parts per million by weight of fat, oil or grease. {from current SUO}

J. The City Manager or Director may develop BMPs, by ordinance or in individual wastewater discharge permits or general permits, to implement Local Limits and the requirements of 13.04.015.

**13.04.017. City's Right of Revision.**

The city reserves the right to establish new, additional or more stringent standards or requirements on discharges to the POTW consistent with the purpose of this ordinance.

**13.04.018. Pretreatment Requirements.**

**SECTION 1. PRETREATMENT OF WASTEWATER**

1.1 Pretreatment Facilities

A. Users shall provide wastewater treatment as necessary to comply with this article and shall achieve compliance with all categorical pretreatment standards, local limits, and the prohibitions set out in Section 13.04.015 of this chapter within the time limitations specified by EPA, the state, or the Director of Public Works, whichever is more stringent.

B. Where necessary, as determined by the Director of Public Works, the owner shall provide, at his or her expense, the pretreatment needed resulting from the following:

(1) BOD of over 300 mg/l and suspended solids over 350 mg/l by weight;

(2) Objectionable constituents above the levels listed under the discharge limitations; and/or,

(3) Excessive quantities and rates of discharges of such waters or wastes.

C. Whenever deemed necessary, the Director of Public Works 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 article.

D. The Director of Public Works may require any user 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.

1.2 Pretreatment Method and Plans:

A. The method of pretreatment and plans, specifications, and any other pertinent information relating to proposed pretreatment facilities shall be prepared and sealed by a professional engineer familiar with such treatment, and registered in the state.

B. Two copies shall be submitted to the city's Public Works Department, who shall review each submittal and shall be the sole approving authority.

C. 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 in compliance with the provisions of this article.

D. Installation shall be at the user's expense unless the city has been contracted for treating the wastes.

1.3 Maintenance and Inspection of Pretreatment Facilities:

A. Where pretreatment facilities are provided for any industrial waters or wastes, the owner shall maintain them continuously in satisfactory and effective operation, at the owner's expense.

B. Any such pretreatment facilities may also be subject to inspection by the city.

1.4 Grease Traps and Grease Interceptors:

A. Food Service Establishments – Control of Fats, Oils and Grease (FOG) Discharges. All food service establishments are required to comply with City of Douglas, Arizona Fats, Oils & Grease Management Policy. Food service establishments are any establishment, business or facility engaged in preparing, serving or making food available for consumption. Grease interceptor and grease trap type, capacity, components, and location shall be approved by the City. Grease interceptor or grease trap cleaning, maintenance, accessibility, and components shall comply with the City of Douglas, Arizona Fats, Oils & Grease Management Policy.

B. Multi-Dwelling Units/Apartments– Control of Fats, Oils and Grease (FOG) Discharges. Any multi-dwelling unit or apartment or complex shall be subject to enforcement action for discharging FOG that contributes to a sanitary sewer overflow event, or obstruction to the sanitary sewer system.

C. The Director of Public Works may require users to install grease, lint, sand/oil interceptors, oil /water separators, hair or grease trap(s) as needed for the proper handling of wastewater containing excessive amounts of fats, oils, grease, lint or sand; except that such interceptors or traps shall not be required for residential users. Requirements for the proper

handling of fats, oils, grease, lint, sand and solids in wastewater are as follows:

D. Grease interceptors and grease traps shall be required, installed, and maintained as specified in this chapter and the Director of Public Work's policies and procedures for the sizing and cleaning of interceptors and traps for the food service industry.

E. Grease traps and grease interceptors shall be provided by all new and or existing laundries, restaurants, service stations, auto repair shops, car washes and other industrial users when, in the opinion of the city, grease traps or interceptors are necessary.

F. Generally, no facility shall discharge into the POTW any wastewater containing any fat, mineral, organic oil, grease or any waste that may form persistent oil emulsions more than 100 milligrams per liter by weight, or any sand or flammable wastes.

G. Such grease traps and grease interceptors shall not be required for domestic users.

H. Facilities established prior to the execution of this chapter amendment will have one (1) year, from the execution date of this chapter, to conform with the requirements to have or install a grease trap or grease interceptor, as deemed necessary by the Director of Public Works, provided they comply with the discharge limitations established herein.

I. Facilities that cannot meet these standards, however, must install grease traps immediately, or arrange for offsite disposal of their grease.

J. All grease traps and grease interceptors shall be of a type and capacity approved by the city, and in compliance with the International Plumbing Code and shall be so located as to be readily and easily accessible for cleaning and inspection.

K. Where installed, all grease traps and grease interceptors shall be maintained by the industrial user, at his or her expense, in efficient operating condition at all times. The owner shall keep written records and documentation of all cleaning, repair, calibration and maintenance required to demonstrate compliance. Such records shall be available for inspection by the Director of Public Works upon request.

L. The method for determining the size of traps or interceptors is the drainage fixture unit value. The minimum size for all interceptors is a capacity of fifteen hundred (1500) gallons and the maximum size for all interceptors is a capacity of twenty-five hundred (2,500) gallons. Interceptors must be constructed with at least three (3) chambers. Sizing for all traps is a minimum of a fifty (50) gallon per minute, one hundred (100) pound capacity with the flow control valve installed in a manner that provides access at all times. The appropriate size for interceptors and traps is determined as follows:

(1) Interceptor Sizing. The interceptor shall be sized using the drainage fixture-unit value as defined in the following table. Using the drain outlet or trap size, these sizes are converted to discharge rates on the basis that one fixture-unit equals 7.5 gpm.

| **Fixture Outlet or Trap Size (Inches)** | **Drainage Fixture - Unit Value** | **Gpm Equivalent** |
|---|---|---|
| 1 ¼ | 1 | 7.5 |
| 1 ½ | 2 | 15.0 |
| 2 | 3 | 22.0 |
| 2 ½ | 4 | 30.0 |
| 3 | 5 | 37.5 |
| 4 | 6 | 45.0 |
| Floor Drains (All Sizes) | 2 | 15.0 |
| Dishwashers | Double Size | |

(2) Calculating Interceptor Size. The formula to calculate the size of the interceptor is:

Determine total fixture -unit value by multiplying fixture type count by drainage value

Total all values;

Determine total flow by multiplying total value by flow rate of 3 gpm;

Multiply total flow by 12; and

Round up to the next nearest size interceptor.

(3) Requirements for Interceptors. The interceptor shall be:

a. Constructed of impervious materials capable of withstanding abrupt and extreme changes in temperature;

b. They shall be of substantial construction, watertight, and equipped with easily removable covers;

c. Constructed with the appropriate traffic rated cover. The cover(s) shall be gastight and watertight and must not be marked with any wording indicating it is owned by the City of Douglas;

d. A minimum of fifteen hundred (1500) gallon capacity, three (3) chamber concrete container (fiber glass and/or other type material must be approved by the Director of Public Works;

e. Constructed with inlet piping with a ninety degree (90 °) elbow and minimum of an eighteen (18) inch down spout;

f. Constructed with outlet piping with a tee connection and a threaded cover with a minimum of an eighteen (18) inch down spout; and

g. Installed with a two (2) way clean - out within five (5) feet before and five (5) feet after the interception.

(4) Grease Trap Installation and Sizing. Grease traps are allowed only when there are four (4) or fewer than four (4) fixtures used for food preparation. Any facility installing a dishwasher shall install a grease interceptor. For the purpose of sizing a grease trap, a fixture means the entire unit, e.g., a three (3) compartment sink is considered one unit. Grease traps must be installed as follows:

a. A grease trap shall be installed whenever a three (3) compartment sink is required by Cochise County;

b. The minimum size grease trap to be installed shall be rated no smaller than fifty (50) gpm with a one hundred (100) pound grease capacity; and

c. A flow restriction valve shall be installed upstream of the grease trap and vented properly. If placed below floor level the flow restriction valve must be installed in a manner which allows for inspection and maintenance.

M. Except for domestic sources, users shall not install or replace equipment designed to convert garbage or solid waste into liquefied waste and introduce such waste into the POTW by means of a garbage grinder/disposal. Disposal of garbage and solid waste shall be disposed of as solid waste.

N. Users with the potential to discharge flammable substances may be required to install and maintain an approved combustible gas detection meter.

1.5 Grit Interceptor

A. The Director of Public Works may require users to install grit interceptors as needed for the proper handling of wastewater containing excessive amounts of lint or sand; except that such interceptors or traps shall not be required for residential users. Requirements for the proper handling of lint, sand and solids in wastewater are as follows:

B. Grit interceptors shall be provided by all new and or existing laundries, service stations, auto repair shops, car washes and other industrial users when, in the opinion of the city, grit interceptors are necessary;

C. All grit interceptors shall be of a type and capacity approved by the city, and in compliance with the International Plumbing Code and shall be so located as to be readily and easily accessible for cleaning and inspection;

D. Where installed, all grit interceptors shall be maintained by the industrial user, at his or her expense, in efficient operating condition at all times; and

E. The owner shall keep written records and documentation of all cleaning, repair, calibration and maintenance required to demonstrate compliance. Such records shall be available for inspection by the Director of Public Works upon request.

1.6 Control Manholes.

A. Where required by the city and to facilitate observation and sampling of wastes, the owner of any property served by a building sewer carrying industrial wastes shall install a suitable control manhole in the building sewer;

B. When required, the manhole shall be accessible and safely located, and shall be constructed in accordance with plans approved by the city

C. The manhole shall be installed by the owner at the owner's expense, and shall be maintained by the owner so as to be safe and accessible at all times.

1.7 Accidental Discharge/Slug Discharge Control Plans

A. The City Manager or Director shall evaluate whether each Significant Industrial User (SIU) needs an accidental discharge/slug discharge control plan or other action to control Slug Discharges. The City Manager or Director may require any User to develop, submit for approval, and implement such a plan or take such

other action that may be necessary to control Slug Discharges. Alternatively, the City Manager or Director may develop such a plan for any User. An accidental discharge/slug discharge control plan shall address, at a minimum, the following:

(1) Description of discharge practices, including nonroutine batch discharges;

(2) Description of stored chemicals;

(3) Procedures for immediately notifying the City Manager or Director of any accidental or Slug Discharge, as required by Section 6.6 of 13.04.018 of this ordinance; and

(4) 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.

1.8 Hauled Wastewater

A. Septic tank waste may be introduced into the POTW only at locations designated by the City Manager or Director, and at such times as are established by the City Manager or Director. Such waste shall not violate Section 13.04.014 or 13.04.015of this ordinance or any other requirements established by the City. The City Manager or Director may require septic tank waste haulers to obtain individual wastewater discharge permits or general permits.

B. The City Manager or Director may require haulers of industrial waste to obtain individual wastewater discharge permits or general permits. The City Manager or Director may require generators of hauled industrial waste to obtain individual wastewater discharge permits or general permits. The City Manager or 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.

C. Industrial waste haulers may discharge loads only at locations designated by The City Manager or Director. No load may be discharged without prior consent of The City Manager or Director. The City Manager or Director may collect samples of each hauled load to ensure compliance with applicable Standards. The City Manager or Director may require the industrial waste hauler to provide a waste analysis of any load prior to discharge.

D. Industrial waste haulers must provide a 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.

E. The Director of Public Works shall develop and administer specific guidelines

as to the procedure that shall be followed by wastewater haulers; and,

F. Guidelines shall include, at a minimum, the current fee schedule, disposal procedure, testing requirements, and designation of a disposal site.

**SECTION 2—INDIVIDUAL WASTEWATER DISCHARGE PERMITS and GENERAL PERMITS**

2.1 Wastewater Analysis

When requested by the City Manager or Director, a User must submit information on the nature and characteristics of its wastewater within 15 days of the request. The City Manager or Director is authorized to prepare a form for this purpose and may periodically require Users to update this information.

2.2 Individual Wastewater Discharge Permit and General Permit Requirement

A. No Significant Industrial User shall discharge wastewater into the POTW without first obtaining an individual wastewater discharge permit or a general permit from the City Manager or Director, except that a Significant Industrial User that has filed a timely application pursuant to Section 2.3 of 13.04.018 of this ordinance may continue to discharge for the time period specified therein.

B. The City Manager or Director may require other Users to obtain individual wastewater discharge permits or general permits as necessary to carry out the purposes of this ordinance.

C. Any violation of the terms and conditions of an individual wastewater discharge permit or a general permit shall be deemed a violation of this ordinance and subjects the wastewater discharge permittee to the sanctions set out in 13.04.019.

2.3 Individual Wastewater Discharge and General Permitting: Existing Connections

Any User required to obtain an individual wastewater discharge permit or a general permit who was discharging wastewater into the POTW prior to the effective date of this ordinance and who wishes to continue such discharges in the future, shall, within 30 days after said date, apply to the City Manager or Director for an individual wastewater discharge permit or a general permit in accordance with Section 2.5 of 13.04.018 of this ordinance, and shall not cause or allow discharges to the POTW to continue after 90 days of the effective date of this ordinance except in accordance with an individual wastewater discharge permit or a general permit issued by the City Manager or Director.

2.4 Individual Wastewater Discharge and General Permitting: New Connections

Any User required to obtain an individual wastewater discharge permit or a general 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 individual wastewater discharge permit or general permit, in accordance with Section 2.5 of 13.04.018 of this ordinance, must be filed at least 30 days prior to the date upon which any discharge will begin or recommence.

2.5 Individual Wastewater Discharge and General Permit Application Contents

A. All Users required to obtain an individual wastewater discharge permit or a general permit must submit a permit application. Users that are eligible may request a general permit under Section 2.6 of 13.04.018 of this ordinance. The City Manager or Director may require Users to submit all or some of the following information as part of a permit application:

(1) Identifying Information.

a. The name and address of the facility, including the name of the operator and owner.

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 standard industrial classifications of the operation(s) carried out by such 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;

(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 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 City Manager or Director, of regulated pollutants in the discharge from each regulated process.

c. Instantaneous, Daily Maximum, 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 4.10 of 13.04.018 of this ordinance. Where the Standard requires compliance with a BMP or pollution prevention alternative, the User shall submit documentation as required by the City Manager or Director or the applicable Standards to determine compliance with the Standard.

e. Sampling must be performed in accordance with procedures set out in Section 4.11 of 13.04.018 of this ordinance.

(8) Any requests for a monitoring waiver (or a renewal of an approved monitoring waiver) for a pollutant neither present nor expected to be present in the discharge based on Section 4.4 B of 13.04.018 of this ordinance.

(9) Any request to be covered by a general permit based on Section 2.6 of 13.04.018 of this ordinance.

(10) Any other information as may be deemed necessary by the City Manager or Director to evaluate the permit application.

B. Incomplete or inaccurate applications will not be processed and will be returned to the User for revision.

2.6 Wastewater Discharge Permitting: General Permits

A. At their discretion the City Manager or Director may use general permits to control SIU discharges to the POTW if the following conditions are met. All facilities to be covered by a general permit must:

(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 City Manager or Director, are more appropriately controlled under a general permit than under individual wastewater discharge permits.

B. To be covered by the general permit, the SIU must file a written request for coverage that identifies its contact information, production processes, the types of wastes generated, the location for monitoring all wastes covered by the general permit, any requests in accordance with Section 4.4 B of 13.04.018 of this ordinance for a monitoring waiver for a pollutant neither present nor expected to be present in the Discharge, and any other information the POTW deems appropriate. A monitoring waiver for a pollutant neither present nor expected to be present in the discharge is not effective in the general permit until after the City Manager or Director has provided written notice to the SIU that such a waiver request has been granted in accordance with Section 4.4 B of 13.04.018 of this ordinance.

C. The City Manager or Director will retain a copy of the general permit, documentation to support the POTW's determination that a specific SIU meets the criteria in Section 2.6 A(1) to (5) of 13.04.018 of this ordinance and applicable State regulations, and a copy of the User's written request for coverage for three (3) years after the expiration of the general permit.

D. The City Manager or Director may not control an SIU through a general permit where the facility is subject to production-based categorical Pretreatment Standards or categorical Pretreatment Standards expressed as mass of pollutant discharged per day or for IUs whose limits are based on the Combined Waste stream Formula.

2.7 Application Signatories and Certifications

A. All wastewater discharge permit applications, User reports and certification statements must be signed by an Authorized Representative of the User and contain the certification statement in Section 4.14 A of 13.04.018 of this ordinance.

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 City Manager or Director prior to or together with any reports to be signed by an Authorized Representative.

C. A facility determined to be a Non-Significant Categorical Industrial User by the City Manager or Director pursuant to the definition of NSCIU in 13.04.013must annually submit the signed certification statement in Section 4.14 B of 13.04.018 of this ordinance.

2.8 Individual Wastewater Discharge and General Permit Decisions

The City Manager or Director will evaluate the data furnished by the User and may require additional information. Within 15 days of receipt of a complete permit application, the City Manager or Director will determine whether to issue an individual wastewater discharge permit or a general permit. The City Manager or Director may deny any application for an individual wastewater discharge permit or a general permit.

**SECTION 3—INDIVIDUAL WASTEWATER DISCHARGE AND GENERAL PERMIT ISSUANCE**

3.1 Individual Wastewater Discharge and General Permit Duration

An individual wastewater discharge permit or a general permit shall be issued for a specified time period, not to exceed five (5) years from the effective date of the permit. An individual wastewater discharge permit or a general permit may be issued for a period less than five (5) years, at the discretion of the City Manager or Director. Each individual wastewater discharge permit or a general permit will indicate a specific date upon which it will expire.

3.2 Individual Wastewater Discharge Permit and General Permit Contents

An individual wastewater discharge permit or a general permit shall include such conditions as are deemed reasonably necessary by the City Manager or Director to prevent Pass Through or Interference, protect the quality of the water body receiving the treatment plant's effluent,

protect worker health and safety, facilitate sludge management and disposal, and protect against damage to the POTW.

A. Individual wastewater discharge permits and general permits must contain:

(1) A statement that indicates the wastewater discharge permit issuance date, expiration date and effective date;

(2) A statement that the wastewater discharge permit is nontransferable without prior notification to the City in accordance with Section 3.4 of 13.04.018 this ordinance, and provisions for furnishing the new owner or operator with a copy of the existing wastewater discharge permit;

(3) Effluent limits, including Best Management Practices, based on applicable Pretreatment Standards;

(4) Self-monitoring, sampling, reporting, notification, and record-keeping requirements. These requirements shall include an identification of pollutants (or best management practice) to be monitored, sampling location, sampling frequency, and sample type based on Federal, State, and local law.

(5) The process for seeking a waiver from monitoring for a pollutant neither present nor expected to be present in the Discharge in accordance with Section 4.4 B of 13.04.018 of this ordinance.

(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.

(7) Requirements to control Slug Discharge, if determined by the City Manager or Director to be necessary.

(8) Any grant of the monitoring waiver by the City Manager or Director (Section 4.4 B) must be included as a condition in the User's permit.

B. Individual wastewater discharge permits or general 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 nonroutine discharges;

(4) Development and implementation of waste minimization plans to reduce the amount of pollutants discharged to the POTW;

(5) The unit charge or schedule of 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 individual wastewater discharge permit or the general 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 individual wastewater discharge permit or the general permit; and

(8) Other conditions as deemed appropriate by the City Manager or Director to ensure compliance with this ordinance, and State and Federal laws, rules, and regulations.

3.3 Permit Modification

A. The City Manager or Director may modify an individual 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 User's operation, processes, or wastewater volume or character since the time of the individual 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 individual 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 individual 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 3.4 of 13.04.018 of this ordinance.

B. The City Manager or Director may modify a general 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) A change in the POTW that requires either a temporary or permanent reduction or elimination of the authorized discharge;

(3) To correct typographical or other errors in the individual wastewater discharge permit; or

(4) To reflect a transfer of the facility ownership or operation to a new owner or operator where requested in accordance with Section 3.4 of 13.04.018 of this ordinance.

3.4 Individual Wastewater Discharge Permit and General Permit Transfer

Individual wastewater discharge permits or coverage under general permits may be transferred to a new owner or operator only if the permittee gives at least 30 days advance notice to the City Manager or Director and the City Manager or Director approves the individual wastewater discharge permit or the general permit coverage transfer. The notice to the City Manager or 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 individual wastewater discharge permit or general permit.

Failure to provide advance notice of a transfer renders the individual wastewater discharge permit or coverage under the general permit void as of the date of facility transfer.

3.5 Individual Wastewater Discharge Permit Revocation

The City Manager or Director may revoke an individual wastewater discharge permit [or coverage under a general permit for good cause, including, but not limited to, the following reasons:

A. Failure to notify the City Manager or Director of significant changes to the wastewater prior to the changed discharge;

B. Failure to provide prior notification to the City Manager or Director of changed conditions pursuant to Section 4.5 of 13.04.018 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 City Manager or 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 the general permit of this ordinance.

Individual wastewater discharge permits [or coverage under general permits shall be

voidable upon cessation of operations or transfer of business ownership. All individual wastewater discharge permits or general permits issued to a User are void upon the issuance of a new individual wastewater discharge permit or a general permit to that User.

3.6 Individual Wastewater Discharge Permit and General Permit Reissuance

A. User with an expiring individual wastewater discharge permit or general permit shall apply for individual wastewater discharge permit or general permit reissuance by submitting a complete permit application, in accordance with Section 2.5 of 13.04.018 of this ordinance, a minimum of 30 days prior to the expiration of the User's existing individual wastewater discharge permit or general permit.

**SECTION 4—REPORTING REQUIREMENTS**

4.1 Baseline Monitoring Reports

A. Within either one hundred eighty (180) 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 Categorical Industrial Users currently discharging to or scheduled to discharge to the POTW shall submit to the City Manager or Director a report which contains the information listed in paragraph B, below. At least ninety (90) days prior to commencement of their discharge, New Sources, and sources that become Categorical Industrial Users subsequent to the promulgation of an applicable categorical Standard, shall submit to the City Manager or 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.

B. Users described above shall submit the information set forth below.

(1) All information required in Section 2.5A (1) (a), Section 2.5A (2), Section 2.5A (3) (a), and Section 2.5A (6) of 13.04.018 of this ordinance.

(2) Measurement of pollutants.

a. The User shall provide the information required in Section 2.5 A (7) (a) through (d) of 13.04.018 of this ordinance.

b. The 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 User should measure the flows and concentrations necessary to allow use of the combined wastestream 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 4.10 of 13.04.018 of this ordinance;

e. The City Manager or 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 User's Authorized Representative as defined 13.04.013 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 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 4.2 of 13.04.018 of this ordinance.

(5) Signature and Report Certification. All baseline monitoring reports must be certified in accordance with Section 4.14 A of 13.04.018 of this ordinance and signed by an Authorized Representative as defined in 13.04.013.

4.2 Compliance Schedule Progress Reports

The following conditions shall apply to the compliance schedule required by Section 4.1(B)(4) of 13.04.018 of this ordinance:

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 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 User shall submit a progress report to the City Manager or Director no later than fourteen (14) 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 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 City Manager or Director.

4.3 Reports on Compliance with Categorical Pretreatment Standard Deadline

Within ninety (90) 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 User subject to such Pretreatment Standards and Requirements shall submit to the City Manager or Director a report containing the information described in Section 2.5A(6) and (7) and 2.1(B)(2) of 13.04.018 of this ordinance. All compliance reports must be signed and certified in accordance with Section 4.14 A of 13.04.018 of this ordinance. All sampling will be done in conformance with Section 4.11 of 13.04.018 of this ordinance.

4.4 Periodic Compliance Reports

A. All Significant Industrial Users must, at a frequency determined by the City Manager or Director submit no less than twice per year (July 30 and December 31reports indicating the nature, 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 a Best Management Practice (BMP) or pollution prevention alternative, the User must submit documentation required by the City Manager or Director or the Pretreatment Standard necessary to determine the compliance status of the User.

B. The City may authorize an Industrial User subject to a categorical Pretreatment Standard to forego sampling of a pollutant regulated by a categorical Pretreatment Standard if the Industrial User has demonstrated through sampling and other technical factors that the pollutant is neither present nor expected to be present in the Discharge, or is present only at background levels from intake water and without any increase in the pollutant due to activities of the Industrial User. This authorization is subject to the following conditions:

(1) The waiver may be authorized where a pollutant is determined to be present solely due to sanitary wastewater discharged from the facility provided that the sanitary wastewater is not regulated by an applicable categorical Standard and otherwise includes no process wastewater.

(2) The monitoring waiver is valid only for the duration of the effective period of the individual wastewater discharge permit, but in no case longer than 5 years. The User must submit a new request for the waiver before the waiver can be granted for each subsequent individual wastewater discharge permit. See Section 2.5A(8) of. 13.04.018 of this ordinance.

(3) In making a demonstration that a pollutant is not present, the Industrial User must provide data from at least one sampling of the facility's process wastewater prior to any treatment present at

the facility that is representative of all wastewater from all processes.

(4) The request for a monitoring waiver must be signed an authorized representative of the User and include the certification statement in 4.14 A.

(5) Non-detectable sample results may be used only as a demonstration that a pollutant is not present if the EPA approved method from 40 CFR Part 136 with the lowest minimum detection level for that pollutant was used in the analysis.

(6) Any grant of the monitoring waiver by the City Manager or Director must be included as a condition in the User's permit. The reasons supporting the waiver and any information submitted by the User in its request for the waiver must be maintained by the City Manager or Director for 3 years after expiration of the waiver.

(7) Upon approval of the monitoring waiver and revision of the User's permit by the City Manager or Director, the Industrial User must certify on each report with the statement in Section 4.14 C of 13-14-401of this ordinance, that there has been no increase in the pollutant in its wastestream due to activities of the Industrial User.

(8) In the event that a waived pollutant is found to be present or is expected to be present because of changes that occur in the User's operations, the User must immediately: Comply with the monitoring requirements of Section 4.4 A of 13.04.018 of this ordinance, or other more frequent monitoring requirements imposed by the City Manager or Director, and notify the City Manager or Director.

(9) This provision does not supersede certification processes and requirements established in categorical Pretreatment Standards, except as otherwise specified in the categorical Pretreatment Standard.

C. All periodic compliance reports must be signed and certified in accordance with Section 4.14 A of 13.04.018 of this ordinance.

D. All wastewater samples must be representative of the User's discharge. Wastewater monitoring and flow measurement facilities shall be properly operated, kept clean, and maintained in good working order at all times. The failure of a User to keep its monitoring facility in good working order shall not be grounds for the User to claim that sample results are unrepresentative of its discharge.

E. If a User subject to the reporting requirement in this section monitors any regulated pollutant at the appropriate sampling location more frequently than required by the City Manager or Director, using the procedures prescribed in Section 4.11 of 13.04.018 of this ordinance, the results of this monitoring shall be included in the report.

4.5 Reports of Changed Conditions

Each User must notify the City Manager or Director of any significant changes to the User's operations or system which might alter the nature, quality, or volume of its wastewater at least 15 days before the change.

A. The City Manager or Director may require the 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 2.5 of 13.04.018 of this ordinance.

B. The City Manager or Director may issue an individual wastewater discharge permit or a general permit under Section 3.6 of 13.04.018 of this ordinance or modify an existing wastewater discharge permit [or a general permit under Section 3.3 of 13.04.018 of this ordinance in response to changed conditions or anticipated changed conditions.

4.6 Reports of Potential Problems

A. In the case of any discharge, including, but not limited to, accidental discharges, discharges of a nonroutine, episodic nature, a noncustomary batch discharge, a Slug Discharge or Slug Load, that might cause potential problems for the POTW, the User shall immediately telephone and notify the City Manager or 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 User.

B. Within five (5) days following such discharge, the User shall, unless waived by the City Manager or Director, submit a detailed written report describing the cause(s) of the discharge and the measures to be taken by the User to prevent similar future occurrences. Such notification shall not relieve the User of any expense, loss, damage, or other liability which might 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 User of any fines, penalties, or other liability which may be imposed pursuant to this ordinance.

C. A notice shall be permanently posted on the User's bulletin board or other prominent place advising employees who to call in the event of a discharge described in paragraph A, above. Employers shall ensure that all employees, who could cause such a discharge to occur, are advised of the emergency notification procedure.

D. Significant Industrial Users are required to notify the City Manager or Director immediately of any changes at its facility affecting the potential for a Slug Discharge.

4.7 Reports from Unpermitted Users

All Users not required to obtain an individual wastewater discharge permit or general permit shall provide appropriate reports to the City Manager or Director as the City Manager or Director may require.

4.8 Notice of Violation/Repeat Sampling and Reporting

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

or the City receives the results of this sampling, or if the City has performed the sampling and analysis in lieu of the Industrial User.

4.9 Notification of the Discharge of Hazardous Waste

A. Any 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 User discharges more than one hundred (100) 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 User: an identification of the hazardous constituents contained in the wastes, an estimation of the mass and concentration of such constituents in the wastestream discharged during that calendar month, and an estimation of the mass of constituents in the wastestream expected to be discharged during the following twelve (12) months. All notifications must take place no later than one hundred and eighty (180) 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 4.5 of 13.04.018 of this ordinance. The notification requirement in this Section does not apply to pollutants already reported by Users subject to categorical Pretreatment Standards under the self-monitoring requirements of Sections 4.1, 4.3, and 4.4 of 13.04.018 of this ordinance.

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 nonacute 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 a one-time notification. Subsequent months during which the User discharges more than such quantities of any hazardous waste do not 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 User must notify the City Manager or Director, the EPA Regional Waste Management Waste Division Director, and State hazardous waste authorities of the discharge of such substance within ninety (90) days of the effective date of such regulations.

D. In the case of any notification made under this Section, the 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.

4.10 Analytical Requirements

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 and amendments thereto, 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, or where the EPA determines that the Part 136 sampling and analytical techniques are inappropriate for the pollutant in question, sampling and analyses shall be performed by using validated analytical methods or any other applicable sampling and analytical procedures, including procedures suggested by the City Manager or Director or other parties approved by EPA.

4.11 Sample Collection

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

A. Except as indicated in Section B and C below, the 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 City Manager or 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.

B. Samples for oil and grease, temperature, pH, cyanide, total phenols, sulfides, and volatile organic compounds must be obtained using grab collection techniques.

C. For sampling required in support of baseline monitoring and 90-day compliance reports required in Section 4.1 and 4.3 of 13.04.018 of this ordinance [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 City Manager or Director may authorize a lower minimum. For the reports required by

paragraphs Section 4.4 of 13.04.018 of this ordinance (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.

4.12 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.

4.13 Recordkeeping

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, any additional records of information obtained pursuant to monitoring activities undertaken by the User independent of such requirements, and documentation associated with Best Management Practices established under 13.04.016 of this ordinance. 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 User or the City, or where the User has been specifically notified of a longer retention period by the City Manager or Director.

4.14 Certification Statements

A. Certification of Permit Applications, User Reports and Initial Monitoring Waiver—The following certification statement is required to be signed and submitted by Users submitting permit applications in accordance with Section 2.7; Users submitting baseline monitoring reports under Section 4.1 B (5) of 13.04.018 of this ordinance; Users submitting reports on compliance with the categorical Pretreatment Standard deadlines under Section 4.3 of 13.04.018 of this ordinance; Users submitting periodic compliance reports required by Section 4.4 A– C of 13.04.018 of this ordinance, and Users submitting an initial request to forego sampling of a pollutant on the basis of Section 4.4 B(4) of 13.04.018 of this ordinance. The following certification statement must be signed by an Authorized Representative as defined in 13.04.013:

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.

B. Annual Certification for Non-Significant Categorical Industrial Users—A facility determined to be a Non-Significant Categorical Industrial User by the City Manager or Director pursuant to the definition in 13.04.013 and 2.7 C must annually submit the following certification statement signed by an authorized representative of the User. This certification must accompany an alternative report required by the City Manager or Director:

Based on my inquiry of the person or persons directly responsible for managing compliance with the categorical Pretreatment Standards under 40 CFR ____, I certify that, to the best of my knowledge and belief that during the period from _____, _____ to _____, _____ [months, days, year]:

(a) The facility described as _____

[facility name] met the definition of a Non-Significant Categorical Industrial User as described in 13.04.013.

(b) The facility complied with all applicable Pretreatment Standards and requirements during this reporting period; and (c) the facility never discharged more than 100 gallons of total categorical wastewater on any given day during this reporting period.

This compliance certification is based on the following information.

_____

_____

C. Certification of Pollutants Not Present

Users that have an approved monitoring waiver based on Section 4.4 B of 13.04.018 of this ordinance must certify on each report with the following statement that there has been no increase in the pollutant in its wastestream due to activities of the User.

Based on my inquiry of the person or persons directly responsible for managing compliance with the Pretreatment Standard for 40 CFR _____ [specify applicable National Pretreatment Standard part(s)], I certify that, to the best of my knowledge and belief, there has been no increase in the level of _____ [list pollutant(s)] in the wastewaters due to the activities at the facility since filing of the last periodic report under Section 4.4.A of 13.04.018 of this ordinance.

SECTION 5—COMPLIANCE MONITORING

5.1 Right of Entry: Inspection and Sampling

The City Manager or Director shall have the right to enter the premises of any User to determine whether the User is complying with all requirements of this ordinance and any individual wastewater discharge permit or general permit or order issued hereunder. Users shall allow the City Manager or Director ready access to all parts of the premises for the purposes of inspection, sampling, records examination and copying, and the performance of any additional duties.

A. Where a User has security measures in force which require proper identification and clearance before entry into its premises, the User shall make necessary arrangements with its security guards so that, upon presentation of suitable identification, the City Manager or Director shall be permitted to enter without delay for the purposes of performing specific responsibilities.

B. The City Manager or 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.

C. The City Manager or Director may require the User to install monitoring equipment as necessary. 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 at least once a year to ensure their accuracy.

D. 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 verbal request of the City Manager or Director and shall not be replaced. The costs of clearing such access shall be born by the User.

E. Unreasonable delays in allowing the City Manager or Director access to the User's premises shall be a violation of this ordinance.

5.2 Search Warrants

If the City Manager or Director has been refused 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 this ordinance, 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 this ordinance or any permit or order issued hereunder, or to protect the overall public health, safety and welfare of the community, the City Manager or Director may seek issuance of a search warrant from the City of Douglas Magistrate Court.

## SECTION 6—CONFIDENTIAL INFORMATION

Information and data on a User obtained from reports, surveys, wastewater discharge permit applications, individual wastewater discharge permits, general permits, and monitoring programs, and from the City Manager or Director's inspection and sampling activities, shall be available to the public without restriction, unless the User specifically requests, and is able to demonstrate to the satisfaction of the City Manager or Director, that the release of such information would divulge information, processes, or methods of production entitled to protection as trade secrets under applicable State law. Any such request must be asserted at the time of submission of the information or data. When requested and demonstrated by the User furnishing a report that such information should be held confidential, the portions of a report which might disclose trade secrets or secret processes shall not

be made available for inspection by the public, but shall be made available immediately upon request to governmental agencies for uses related to the NPDES program or pretreatment program, and in enforcement proceedings involving the person furnishing the report. Wastewater constituents and characteristics and other effluent data, as defined at 40 CFR 2.302 shall not be recognized as confidential information and shall be available to the public without restriction.

**SECTION 7—WASTEWATER TREATMENT RATES - [RESERVED]**

**SECTION 8— 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 including the cost of processing such applications;

B. Fees for monitoring, inspection, and surveillance procedures including the cost of collection and analyzing a User's discharge, and reviewing monitoring reports and certification statements submitted by Users;

C. Fees for reviewing and responding to accidental discharge procedures and construction;

D. Fees for filing appeals;

E. Fees to recover administrative and legal costs (not included in Section B above) associated with the enforcement activity taken by the City Manager or Director to address IU noncompliance; and

F. Other fees as the City may deem necessary to carry out the requirements contained herein. These fees relate solely to the matters covered by this ordinance and are separate from all other fees, fines, and penalties chargeable by the City.

**13.04.019. <u>VIOLATIONS</u>**

**SECTION 1—PUBLICATION OF USERS IN SIGNIFICANT NONCOMPLIANCE (SNC)**

1.1 Definition of SNC and Publication Requirements

The City Manager or Director shall publish annually, in a newspaper of general circulation that provides meaningful public notice within the jurisdictions served by the City, a list of the Users which, at any time during the previous twelve (12) months, were in Significant Noncompliance 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) or (I) 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;

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 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 (Daily Maximum, long-term average, Instantaneous Limit, or narrative standard) that the City Manager or 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 City Manager or Director's exercise of its emergency authority to halt or prevent such a discharge;

E. Failure to meet, within ninety (90) days of the scheduled date, a compliance schedule milestone contained in an individual wastewater discharge permit or a general permit or enforcement order for starting construction, completing construction, or attaining final compliance;

F. Failure to provide within forty-five (45) days after the due date, any required reports, including baseline monitoring reports, 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 Best Management Practices, which the City Manager or Director determines will adversely affect the operation or implementation of the local pretreatment program.

I. Any single, accidental discharge, upset, bypass or toxic overload caused by a user of the sewer system, or any single failure of any sewer system user to comply with the meaning or intent of this chapter, including failure to maintain any required pretreatment device, such as a grease trap or grease interceptor, upon first inspection by the city.

**SECTION 2—ADMINISTRATIVE ENFORCEMENT REMEDIES**

If a User of the sewer system is identified as being in significant non-compliance, the city may decide, at the discretion of the Director of Public Works, to implement compliance remedies commensurate to the violation.

If a user originally identified as a non-significant industrial user during the initial survey or inventory becomes non-compliant, the city may direct such user to comply with the permitting requirements of a significant industrial user, until such time that the Director of Public Works deems this action no longer necessary.

2.1 Notification of Violation

When the City Manager or Director finds that a User has violated, or continues to violate, any provision of this ordinance, an individual wastewater discharge permit, or a general permit or order issued hereunder, or any other Pretreatment Standard or Requirement, the City Manager or Director may serve upon that User a written Notice of Violation. Within [ ( )] days of the receipt of such 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 City Manager or Director. Submission of such a 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 City Manager or Director to take any action, including emergency actions or any other enforcement action, without first issuing a Notice of Violation.

2.2 Consent Orders

The City Manager or Director may enter into Consent Orders, assurances of compliance, or other similar documents establishing an agreement with any User responsible for noncompliance. Such documents shall 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 2.4 and 2.5 of 13.04.019 of this ordinance and shall be judicially enforceable.

2.3 Show Cause Hearing

The City Manager or Director may order a User which has violated, or continues to violate, any provision of this ordinance, an individual wastewater discharge permit, or a general permit or order issued hereunder, or any other Pretreatment Standard or Requirement, to appear before the City Manager or 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 [_____ (____)] days prior to the hearing. Such notice may be served on any Authorized Representative of the User as defined in 13.04.013 and required by Section 2.7 A of 13.04.018 of this ordinance. A show cause hearing shall not be a bar against, or prerequisite for, taking any other action against the User.

2.4 Compliance Orders

When the City Manager or Director finds that a User has violated, or continues to violate, any provision of this ordinance, an individual wastewater discharge permit, or a general permit or order issued hereunder, or any other Pretreatment Standard or Requirement, the City Manager or 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 and 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.

2.5 Cease and Desist Orders

When the City Manager or Director finds that a User has violated, or continues to violate, any provision of this ordinance, an individual wastewater discharge permit, or a general permit or order issued hereunder, or any other Pretreatment Standard or Requirement, or that the User's past violations are likely to recur, the City Manager or Director may issue an order to the User directing it to cease and desist all such violations and directing the User to:

A. Immediately comply with all requirements; and

B. 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.

2.6 Administrative Fines

A. When the City Manager or Director finds that a User has violated, or continues to violate, any provision of this ordinance, an individual wastewater discharge permit, or a general permit or order issued hereunder, or any other Pretreatment Standard or Requirement, the City Manager or Director may fine such User in an amount not to exceed $25,000 for each violation (Arizona Revised Statutes 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.

B. Unpaid charges, fines, and penalties shall, after ten (10) calendar days, be assessed an additional penalty of ten percent (10%) of the unpaid balance, and interest shall accrue thereafter at a rate of ten percent (10%) per month. A lien against the User's property shall be sought for unpaid charges, fines, and penalties.

C. Users desiring to dispute such fines must file a written request for the City Manager or Director to reconsider the fine along with full payment of the fine amount within five (5) days of being notified of the fine. Where a request has merit, the City Manager or 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 City Manager or Director may add the costs of preparing administrative enforcement actions, such as notices and orders, to the fine.

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

2.7 Emergency Suspensions

The City Manager or Director may immediately suspend a User's discharge, discharge permit, or business license 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 or welfare of persons. The City Manager or 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.

A. Any User notified of a suspension of its discharge shall immediately stop or eliminate its contribution. In the event of a User's failure to immediately comply voluntarily with the suspension order, the City Manager or Director may take such steps as deemed necessary, including immediate severance of the sewer connection, to prevent or minimize damage to the POTW, its receiving stream, or endangerment to any individuals. The City Manager or Director may allow the User to recommence its discharge when the User has demonstrated to the satisfaction of the City Manager or Director that the period of endangerment has passed, unless the termination proceedings in Section 2.8 of 13.04.019 of this ordinance are initiated against the User.

B. 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 City Manager or Director prior to the date of any show cause or termination hearing.

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

2.8 Termination of Discharge

In addition to the provisions in Section 3.5 of 13.04.018 of this ordinance, any User who violates the following conditions is subject to discharge termination:

A. Violation of individual wastewater discharge permit or general permit conditions;

B. Failure to accurately report the wastewater constituents and characteristics of its discharge;

C. Failure to report significant changes in operations or wastewater volume, constituents, and characteristics prior to discharge;

D. Refusal of reasonable access to the User's premises for the purpose of inspection, monitoring, or sampling; or

E. Violation of the Pretreatment Standards in 13.04.014 through 13.04.016 of this ordinance.

Such User will be notified of the proposed termination of its discharge and be offered an opportunity to show cause under Section

2.3 of 13.04.019 of this ordinance why the proposed action should not be taken. Exercise of this option by the City Manager or Director shall not be a bar to, or a prerequisite for, taking any other action against the User.

2.9 Remedies Nonexclusive

The remedies provided for in this ordinance are not exclusive. The City Manager or 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 City Manager or Director may take other action against any User when the circumstances warrant. Further, the City Manager or Director is empowered to take more than one enforcement action against any noncompliant User.

**SECTION 3—JUDICIAL ENFORCEMENT REMEDIES**

3.1 Injunctive Relief

When the City Manager or Director finds that a User has violated, or continues to violate, any provision of this ordinance, an individual wastewater discharge permit, or a general permit or order issued hereunder, or any other Pretreatment Standard or Requirement, the City Manager or Director may petition the City of Douglas Magistrate Court through the City's Attorney for the issuance of a temporary or permanent injunction, as appropriate, which restrains or compels the specific performance of the individual wastewater discharge permit, the general permit, order, or other requirement imposed by this ordinance on activities of the User. The City Manager or Director may also seek such other action as is appropriate for legal and/or equitable relief, including a requirement for the User to conduct environmental remediation. A petition for injunctive relief shall not be a bar against, or a prerequisite for, taking any other action against a User.

3.2 Civil Penalties

A. A User who has violated, or continues to violate, any provision of this ordinance, an individual wastewater discharge permit, or a general permit or order issued hereunder, or any other Pretreatment Standard or Requirement shall be liable to the City for a maximum civil penalty of an amount not to exceed $25,000 for each violation (Arizona Revised Statutes 49-391) and at least the amount of $1,000 per violation, per day. 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.

B. The City Manager or Director may recover reasonable attorneys' fees, court costs, and other expenses associated with enforcement activities, including sampling and monitoring expenses, and the cost of any actual damages incurred by the City.

C. In determining the amount of civil liability, the 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 by the User, the

compliance history of the User, and any other factor as justice requires.

D. Filing a suit for civil penalties shall not be a bar against, or a prerequisite for, taking any other action against a User.

3.3 Criminal Prosecution

A. A User who willfully or negligently violates any provision of this ordinance, an individual wastewater discharge permit, or a general permit or order issued hereunder, or any other Pretreatment Standard or Requirement shall, upon conviction, be guilty of a misdemeanor, punishable by a fine pursuant to state law per violation, per day, or imprisonment for not more than six (6) months, or both.

B. 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 class 1 misdemeanor and be subject to a penalty of at least class 1, 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.

C. 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, individual wastewater discharge permit, or general 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 of not more than by a fine pursuant to state law per violation, per day, or imprisonment for not more than six (6) months, or both.

D. In the event of a second conviction, a user shall be punished by a fine of not more than pursuant to state law second class 1 conviction allowable terms per violation, per day, or imprisonment for not more than six (6) months, or both.

**SECTION 4—AFFIRMATIVE DEFENSES TO DISCHARGE VIOLATIONS**

4.1 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 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. A 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 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 operation and maintenance procedures; and

(3) The User has submitted the following information to the City Manager or 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) days]:

(a) A description of the indirect discharge 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 User seeking to establish the occurrence of an upset shall have the burden of proof.

E. Users shall 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. 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.

4.2 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(A) of 13.04.018 of this ordinance or the specific prohibitions in Sections (B)(1) through (B)( 21) of 13.04.015 of this ordinance 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 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 NPDES permit, and in the case of Interference, was in compliance with applicable sludge use or disposal requirements.

4.3 Bypass

A. For the purposes of this Section,

(1) Bypass means the intentional diversion of wastestreams from any portion of a 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 production.

B. A 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 a User knows in advance of the need for a bypass, it shall submit prior notice to the City Manager or Director, at least ten (10) days before the date of the bypass, if possible.

(2) A User shall submit oral notice to the City Manager or 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) days of the time the 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. The City Manager or Director may waive the written report on a case-by-case basis if the oral report has been received within twenty-four (24) hours.

D. Bypass

(1) Bypass is prohibited, and the City Manager or Director may take an enforcement action against a User for a bypass, unless

(a) Bypass was unavoidable to prevent loss of life, personal injury, or severe property damage;

(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 User submitted notices as required under paragraph (C) of this section.

(2) The City Manager or Director may approve an anticipated bypass, after considering its adverse effects, if the City Manager or Director determines that it will meet the three conditions listed in paragraph (D)(1) of this Section.

## SECTION 5—SUPPLEMENTAL ENFORCEMENT ACTION

5.1 Penalties for Late Reports **{Optional}**

A penalty of $250.00 shall be assessed to any User for each day that a report required by this ordinance, a permit or order issued

hereunder is late, beginning five days after the date the report is due [higher penalties may also be assessed where reports are more than 30-45 days late]. Actions taken by the City Manager or Director to collect late reporting penalties shall not limit the Director's authority to initiate other enforcement actions that may include penalties for late reporting violations.

5.2 Performance Bonds **{Optional}**

The City Manager or Director may decline to issue or reissue an individual wastewater discharge permit or a general permit to any User who has failed to comply with any provision of this ordinance, a previous individual wastewater discharge permit, or a previous general permit or order issued hereunder, or any other Pretreatment Standard or Requirement, unless such User first files a satisfactory bond, payable to the City, in a sum not to exceed a value determined by the City Manager or Director to be necessary to achieve consistent compliance.

5.3 Liability Insurance **{Optional}**

The City Manager or Director may decline to issue or reissue an individual wastewater discharge or a general permit to any User who has failed to comply with any provision of this ordinance, a previous individual wastewater discharge permit, or a previous general 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.

5.4 Payment of Outstanding Fees and Penalties **{Optional}**

The City Manager or Director may decline to issue or reissue an individual wastewater discharge permit or a general permit to any User who has failed to pay any outstanding fees, fines or penalties incurred as a result of any provision of this ordinance, a previous individual wastewater discharge permit, or a previous general permit or order issued hereunder.

5.5 Water Supply Severance **{Optional}**

Whenever a User has violated or continues to violate any provision of this ordinance, an individual wastewater discharge permit, a general permit, or order issued hereunder, or any other Pretreatment Standard or Requirement, water service to the User may be severed. Service will recommence, at the User's expense, only after the User has satisfactorily demonstrated its ability to comply.

5.6 Public Nuisances **{Optional}**

A violation of any provision of this ordinance, an individual wastewater discharge permit, a general permit, or order issued hereunder, or any other Pretreatment Standard or Requirement is hereby declared a public nuisance and shall be corrected or abated as directed by The City Manager or Director. Any person(s) creating a public nuisance shall be subject to the provisions of [the City Code] [insert proper citation] governing such nuisances, including reimbursing the City for any costs incurred in removing, abating, or remedying said nuisance.

5.7 Informant Rewards **{Optional}**

The City Manager or Director may pay up to five hundred dollars ($500.00) for information leading to the discovery of noncompliance by a User. In the event that the information provided results in a civil penalty [or an administrative fine] levied against the User, the City Manager or Director may disperse up to 25 percent of the collected fine or penalty to the informant. However, a single reward payment may not exceed five hundred dollars ($500.00).

5.8 Contractor Listing **{Optional}**

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 with Pretreatment Standards or Requirements may be terminated at the discretion of the City Manager or Director. (Ord. 16-1062 § 1, 2016)

**13.04.020 Unlawful acts—Penalty.**

It is unlawful and a misdemeanor to do or permit to be done any of the following acts, which violation shall be punishable by a fine not exceeding three hundred dollars and/or imprisonment not exceeding six months. The penalties imposed by the water and sewer code may be enforced in addition to any criminal prosecution for violation of any of the following provisions:

A. No person shall place upon or about, any valve, valve box, curb cock, water meter box or water gate connected with the water system of the city any object, material, debris or structure of any kind that shall prevent free access to the same at all times or in any manner tamper with or injure such appurtenances. No person shall fill up or cover over any valve or meter box.

B. It is unlawful for any person intentionally to break, deface or damage any hydrant, valve, pipe or other water works appliance or fixture or in any other manner interfere with the operation of any part of the water system of the city.

C. No person other than an official or employee of the water and sewers department shall turn on water from the city mains without written permission from the superintendent.

D. It is unlawful for any authorized person to knowingly have and keep in his possession or under his control any valve key or hydrant wrench to the city water supply system and no person shall, without authority from the water and sewers department, make, construct, buy, sell or in any way dispose of to any person or entity any valve key or hydrant wrench for use on the city water supply system.

E. It is unlawful for any person to obstruct the access to any fire hydrant by placing around, or within twenty feet of such hydrant, any stone, brick, lumber, dirt, rubbish or other material or to open or operate any fire hydrant or to draw or attempt to draw water or to willfully or carelessly injure such hydrants or in any manner to tamper with or injure such hydrants.

F. It is unlawful for any person to cause a connection to be made or to allow one to exist for any purpose whatsoever between the city water supply and any other source of water supply without the approval of the water and sewers superintendent, the city building official and the health authority having jurisdiction.

G. No person shall connect any pipe, tube or other instrument with any main, surface

pipe, conduit or flume for conducting water belonging to the city, for the purpose of taking water from such without a permit from the proper authorities of the city.

H. Any person who in any manner willfully defaces, damages, illegally uses or interferes with the operation of any well, pump, hydrant, valve, pipe, construction trench or any other water works facility, or anyone who shall pollute the potable water supply of the city shall be guilty of a misdemeanor punishable as provided in this section.

I. It is unlawful for any person to deposit, or permit to be deposited, in an unsanitary manner, or 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.

J. Except as provided in the city water and sewer code it is unlawful to construct or maintain within the city any privy, privy vault, septic tank, cesspool or other facility intended or used for the disposal of sewage.

K. Every person who shall in any way interfere with employees of the water and sewers department in any discharge of their duties, either in the tapping of any sewer pipe, main or lateral belonging to the city, or the cleaning, laying or connecting of any such pipe or main or lateral, or who shall dig up or cause to be dug up, any street or alley in the city for the purpose of connecting with the sewer system of the city without first obtaining a permit from the water and sewers superintendent, or who, having a permit, shall dig up any portion of any street or alley of the city for the purpose of connecting with the sewer system of the city and shall fail or neglect to place the street or alley in its original condition, or who shall maliciously or willfully break, damage, destroy, uncover, deface or tamper with any structure, appurtenance or equipment which is a part of the municipal sewage works shall be guilty of a misdemeanor.

L. 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 water and sewers department.

M. 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 waters into any sanitary sewer.

N. Except as provided in the city water and sewer code no person shall discharge or cause to be discharged any of the following described waters or wastes into any public sewer:

1. Any liquid or vapor having a temperature higher than one hundred fifty degrees Fahrenheit.

2. Any water or waste which may contain more than one hundred parts per million by weight of fat, oil or grease.

3. Any gasoline, benzene, naphtha, fuel oil or other flammable or explosive liquid, solid or gas.

4. Any garbage that has not been properly shredded.

5. Any ashes, cinders, sand, mud, straw, shavings, metal, glass, rags, feathers, tar, plastics, wood, paunch manure, grits, such as brick, cement, onyx, carbide or any other solid or viscous substance capable of causing obstruction to the flow in sewers or other interference with the proper operation of the sewage works.

6. Any waters or wastes having a pH lower than five and one-half or higher than nine and one-half or having any other corrosive property

capable of causing damage or hazard to structures, equipment and personnel of the sewage works.

7. Any waters or wastes containing a toxic, radioactive or poisonous substance in sufficient quantity to injure or interfere with any sewage treatment process, constitute a hazard to humans or animals, or create any hazard in the receiving waters of the sewage treatment plant.

8. Any waters or wastes containing dissolved or suspended solids of such character and quantity that unusual attention or expense is required to handle such materials at the sewage treatment plant.

9. Any noxious or malodorous gas or substance capable of creating a public nuisance.

O. No person, except an authorized employee of the water and sewers department, shall have or exhibit any credentials of the water and sewers department. It shall be the duty of each employee of the department, upon resignation or dismissal, to deliver and surrender at the office of the superintendent of the water and sewers department all credentials of the department in his possession. (Ord. 405 § 5, 1975)

## Chapter 13.06

## FATS, OILS & GREASE (FOG)

**Section**

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13.06.010. - Purpose.

This fats, oils and grease (FOG) Management Policy sets forth requirements to aid in the prevention of sanitary sewer blockages, obstructions, and overflows due to the contribution and accumulation of FOG into the City of Douglas, AZ (City) sewer system from commercial, industrial, and institutional food service establishments. The objective is to eliminate FOG related sanitary sewer overflows and sewer line blockages to protect the area streams, prevent residential and commercial property damage, decrease sewer maintenance costs, and improve environmental quality.

13.06.011. - Definitions

(a) Act or the Act: the Federal Water Pollution Control Act, also known as the Clean Water Act.

(b) Authorized Representative of the Food Service Establishment: a person who may be

(1) The Owner, or

(2) General Manager, or

(3) Manager, or

(4) Duly authorized representative of the individual designated in this definition if such representative is responsible for the overall operation of the facilities from which the indirect discharge originates.

(c) Black Water or Domestic Sanitary Sewage: Wastewater containing human waste from sanitary fixtures such as toilets and urinals.

(d) Brown Grease: Fats, oils and grease that is discharged to the grease control equipment. Brown grease can be discharged from kitchen fixture units (i.e., 3-compartment sink, pre-rinse sink, dish machine, mop sink, etc.) or from floors or other locations where the grease has been contaminated in some fashion.

(e) City: Shall mean the City of Douglas, Arizona.

(f) Director: Shall mean the City of Douglas, Arizona Public Works Director, or their designee.

(g) FOG (fats, oils and grease): Organic polar compounds derived from animal and/or vegetable or plant sources. FOG may be referred to as "grease" or "greases" in this section.

(h) FOG Program Coordinator: Person employed or designated by the City of Douglas, AZ who is charged with the responsibility of administering the provisions of the grease management program to ensure compliance by users with applicable laws, rules, regulations, policies, and ordinances.

(i) Food Service Establishment (FSE): Any establishment, business or facility engaged in preparing, serving or making food available for consumption. Single family residences are not a FSE, however, multi-residential facilities may be considered a FSE at the discretion of the Director. Food Service Establishments will be classified as follows:

(1) *Class 1:* Deli–engaged in the sale of cold-cut and microwaved sandwiches/subs with no frying or grilling on site, ice cream shops and beverage bars as defined by NAICS 722515 (with exception of doughnut shops with on-premise baking and large coffee shops which are classified as Class 2), Day Care facilities (minimum classification-depending on menus, food preparation, culinary cleaning, and number of meals served) as defined by NAICS 624410, and Mobile Food Vendors as defined by NAICS 722330.

(2) *Class 2:* Limited-Service Restaurants (a.k.a. fast food facilities, drive-in, carry-out) as defined by NAICS 722513, Day Care facilities (maximum classification- depending on menus, food preparation, culinary cleaning, and number of meals served) as defined by NAICS 624410, Full Service Restaurants (minimum classification–seating capacity less than 65) as defined by NAICS 722511, Buffet and Cafeteria facilities (minimum classification–seating capacity less than 65) as defined by 722514, and Caterers as defined by NAICS 722320.

(3) *Class 3:* Full Service Restaurants (maximum classification–seating capacity greater than 65) as defined by NAICS 722511.

*Class 4:* Buffet and Cafeteria Facilities (maximum classification–seating capacity greater than 65) as defined by NAICS 722514.

*Class 5:* Institutions (Schools, Hospitals, Nursing Homes, Prisons, etc) which include NAICS classifications 611110, 611310, 623110, 623311, 623312, 722310, 813110, and 922140, but not to exclude self-run operations. The City of Douglas reserves the right to add or subtract categories of the NAICS from the FSE classifications. Using the best professional judgment as part of the decision, the FOG Program Coordinator shall apply these classifications.

(b) Gray Water: Refers to all other wastewater other than black water as defined in this section.

(c) Grease Control Equipment (GCE): A device that is designed and constructed for separating and retaining food service establishments' wastewater fats, oils and grease (FOG) prior to entering the City's sewer system. Devices include grease interceptors, grease traps, or other devices approved by the City.

(d) Grease Interceptor: Grease Control Equipment identified as a large, in-ground tank, usually 1,000-gallon to 3,000-gallon capacity, which provides FOG control for a FSE. Grease interceptors will be located outside the FSE, and be approved by the City.

(e) Grease Trap: Grease Control Equipment identified as an "under the sink" trap, or a

"floor trap" which is a small container or tank with baffles designed for inside installation at kitchen fixtures. For a FSE approved to install a grease trap, the minimum size requirement is the equivalent of a 20-gallon per minute/40 pound capacity trap. All grease traps shall be correctly sized, have a properly installed flow control restrictor and vent pipe, and be approved by the City.

(f) Grease Recycle Container: Container used for the storage of yellow grease.

(g) Health Department: The City of Douglas Public Works Department.

(h) NAICS: North American Industry Classification System, using 2012 (or latest) classifications. The website is found at http://www.census.gov/epcd/www/naics.html).

(i) Publicly Owned Treatment Works (POTW): A treatment works, as defined by section 212 of the Act (33 U.S.C. section 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 a liquid nature and any conveyances, which convey wastewater to a treatment plant.

(j) Series: (Grease Interceptors Installed in Series): Grease interceptor tanks are installed one after another in a row and are connected by plumbing pipe.

(k) Tee or T (Influent & Effluent): A T-shaped pipe extending from the ground surface below grade into the grease interceptor to a depth allowing recovery (discharge) of the water layer located under the layer of FOG. Influent & Effluent T's are recommended to be made of schedule 40 PVC or equivalent material, and extend to within 12" to 15" of the bottom of the interceptor.

(l) User: Any person, corporation, or company who contributes, causes or permits the contribution of wastewater into the City's POTW.

(j) Yellow Grease: Fats, oils and grease that has not been in contact or contaminated from other sources (water, wastewater, solid waste, etc.) and can be recycled. Yellow grease is normally stored in grease recycle container or bin for beneficial reuse.

14-102. - General Requirements

(a) All existing and proposed Food Service Establishments (FSEs) are required to have grease control equipment (GCE) installed, maintained and operating properly, in accordance with this FOG Management Policy.

(b) All FSEs will be required to maintain records of cleaning and maintenance of GCE. GCE maintenance records will be maintained on-site of the FSE and include, at a minimum, the date of cleaning/maintenance, company or person conducting the cleaning/maintenance, volume (in gallons) of grease wastewater removed and the final disposal location. In addition, grease waste haulers shall comply with the City of Douglas manifest documentation requirements for all disposal of FOG waste.

(c) GCE maintenance records will be available at the FSE premises so they can be provided to the City inspector or their representative, and/or the Health Department. The FSE shall maintain GCE maintenance records for three (3) years.

(d) No FSE will discharge oil and grease in concentrations that exceed the City's numerical surcharge level (200 mg/L) for oil and grease (animal or vegetable origin).

(e) Owners of Commercial Property will be held responsible for installation of approved grease control equipment and shall ensure that lease agreements identify the responsible party

for proper maintenance to control wastewater discharges from leaseholder on their property.

(f) Grease Control Equipment Certification Requirement:

All establishments with grease control equipment must have their grease interceptor or grease trap inspected and certified at least annually, defined as period from January 1 through December 31, by a City "certified" grease waste hauler or City licensed plumber. Any FSE that does not provide an annual grease control certification by December 31 of each year will be considered to be in noncompliance. If a grease interceptor or grease trap "Passes" the certification requirement, no further action is required. If a grease interceptor or grease trap "Fails" the certification requirement, a corrective action response is required from the FSE owner or authorized representative to the City within 30 days. Completed certification forms Grease Interceptor Certification (Form A) or Grease Trap Certification (Form B) must be completed and signed by the City "certified" grease waste hauler or City licensed plumber, signed by the FSE owner or authorized representative, and submitted to the City. The original certification form must be submitted to the City at the following address:

City of Douglas
Attn: FOG Program
425 10th Street
Douglas AZ 85607

(g) Failure of a Grease Interceptor Certification or Grease Trap Certification: The FSE owner or authorized representative is responsible for including detailed "Corrective Action Response" information on the Grease Interceptor Certification form or the Grease Trap Certification form that is submitted to the City. If necessary, additional pages may be attached to the certification form. At a minimum, the Corrective Action Response information must include the reason for the failed certification, what corrective action will be taken, and the date the corrective action will be completed. Any additional enforcement action will utilize the *City of* Douglas *Food Service Establishment Enforcement Response Guide*.

(h) FSEs shall observe Best Management Practices (BMPs) for controlling the discharge of FOG from their facility. Examples of BMPs include, but are not limited to:

(1) Recycle waste cooking oil; dispose in grease recycle bin or container. Do NOT pour any grease into sinks, floor drains or mop sinks.

(2) Post "NO GREASE" signs above all kitchen sinks to remind employees.

(3) "Dry wipe", and scrape into a trash container as much food particles and grease residue from pots, pans, and plates as possible.

(4) Use strainers in sink drains and floor drains to prevent large food particles and containers from going into the sewer line.

(5) If an oil or grease spill occurs, clean up using "dry" oil absorbent material or use ice to make grease solidify. Scoop up and dispose into a trash container. Do NOT wash oil or grease into drains!

(6) Dispose of food items in the trash. Food grinder use is discouraged due to build up of solids in the GCE which causes decreased efficiency and the need to increase pumping frequency of the GCE.

(7) Educate and train all employees on grease control and preventing sewer pipe clogs and sewer overflows.

(i) FSEs shall dispose of yellow grease in an approved container, or recycle container, and

the contents shall not be discharged to any sanitary sewer line, storm water grate, drain or conveyance. Yellow grease or oils poured or discharged into the FSE sewer lines or City's sewer system is a violation of this FOG Management Policy.

(j) It shall be a violation of this FOG Management Policy to push or flush the non-water portion of GCE into the public sewer.

13.03.013. - Approved Grease Waste Haulers

To ensure proper maintenance of grease control equipment and proper disposal of the FOG waste, the City will maintain an "Approved Grease Waste Haulers List." Criteria for the grease waste hauler to be placed on the "Approved Grease Waste Haulers List" include, but are not limited to, the following:

(a) The grease waste hauler employees that will be completing the food service establishment grease control equipment certification forms must attend a City of Douglas Grease Control Equipment Certification Class and pass the GCE certification class test. Class information may be obtained at the City of Douglas Wastewater Department or City of Douglas _____.

(b) Grease waste haulers and plumbers that pump grease interceptors or grease traps must comply with the requirements of the City's FOG Management Policy.

(c) Signature of the grease waste hauler company's authorized representative and submittal to the City of a completed "City of Douglas Approved Grease Waste Hauler Agreement" form are required.

(1) The grease waste hauler agreement will include grease waste hauler reporting requirements to the City and making records available to City personnel or their authorized representative. Failure to meet any portion of the grease waste hauler agreement will result in removal of the grease waste hauler from the "City of Douglas Approved Grease Waste Haulers List" and/or additional enforcement action.

13.06.014. - Grease Control Equipment Requirements

(a) Any new FSE, existing FSE, upgrading of an existing FSE, or change of ownership of existing FSE will be required to install and maintain a GCE. Food service establishments in one of these categories must submit a FOG plan to the City for approval. The FOG plan must include identification of all cooking and food preparation equipment (i.e., fryers, grills, woks, etc.), the number and size of all kitchen plumbing fixture drains (i.e., for dishwashers, sinks, floor drains, etc.), type of FSE classification, type of food to be served, and plans for the grease interceptor dimensions and location. The FSE or their representative will complete a City Grease Control Inquiry Form and submit the form to the City. The City's Grease Control Inquiry Form will serve as the FSE's application for a FOG Control Permit. The City will review the FOG plan, grease interceptor sizing and approve, or make changes as necessary, to aid in the protection of a FOG discharge from the FSE.

(b) Prior to installation, all proposed GCEs shall meet the City FOG Program Coordinator's, or their designee's, approval and meet the design specifications as stated in this FOG Management Policy. Only specifically City approved GCE and fixtures can be installed or connected to the grease waste line.

(c) New construction of FSEs shall have separate sanitary (restroom) and kitchen process lines. The kitchen process lines shall be

plumbed to appropriately sized GCE. No sanitary wastewater (black water) or storm water shall be plumbed to the GCE.

(d) All of the FSEs internal plumbing shall be constructed to separate sanitary (restroom) flow from kitchen process flow. Sanitary flow and kitchen process discharges shall be approved separately by the City and shall discharge from the building separately. Kitchen process lines and sanitary lines may combine prior to entering the public sewer; however the lines cannot be combined until after the GCE.

(e) Grease Interceptors or Grease Traps will be installed and connected so that it is easily accessible for inspection, cleaning and removal of grease at any time.

(f) Existing Food Service Establishments are required to meet these FOG Management Policy requirements no later than 120 days after the effective date of this FOG Management Policy. The City may allow additional time on a case-by-case basis for the FSE to meet FOG Management Policy requirements if there are documented extenuating circumstances.

(g) New Multi-Unit (Strip Mall) Facilities: New strip malls or strip centers must have two separate sewer line connections at each unit within the strip mall or strip center. One sewer line will be for sanitary wastewater and one sewer line will be for the kitchen area, or potential kitchen area, of each unit. The kitchen area, or potential kitchen area, sewer line will be connected to floor drains in the specified kitchen area, and will connect, or be able to connect, to other food service establishment kitchen fixtures, such as 3-compartment sink, 2-compartment sink, pre-rinse sink, mop sink and hand wash sink.

(1) New multi-unit facility, or new "strip mall" facility, owners shall contact the City prior to conducting private plumbing work at the multi-unit facility site. Multi-unit facility owners, or their designated contractor, shall have plans for separate private wastewater lines for kitchen and sanitary wastewater for each "individual" unit. In addition, the plans shall identify "stub-out" locations to accommodate a minimum 1,000-gallon grease interceptor for each unit of the multi-unit facility, or provide a larger capacity grease interceptor that could be shared by multiple FSEs in the strip mall. City approval for multiple FSEs connected to one grease interceptor or series of grease interceptors must be approved by the City prior to construction. New multi-unit facility, or new "strip mall" facility owners shall consider suitable physical property space and sewer gradient that will be conducive to the installation of an exterior, in-ground grease interceptor when determining the building location.

(2) FSEs located in a new multi-unit facility shall have a minimum of a 1,000-gallon grease interceptor installed, unless that FSE is identified as a Class 1 facility. Sanitary wastewater, or black water, shall not be connected to GCE.

(h) Variance to Grease Interceptor Installation: At the discretion of the Director, a FSE may receive a variance from the required installation of a grease interceptor. Variances will be limited to existing FSEs that have unusual physical location circumstances that will prevent the installation of a large grease interceptor. Sizing will be based on the Standard PDI-G101 of the Plumbing & Drainage Institute, simplified chart, wherever possible.

(i) Alternative Grease Control Equipment: At the discretion of the Director, alternative grease control equipment may be considered and approved for installation at a FSE. The alternative grease control equipment must control FOG discharges from a FSE and be maintained as outlined in this FOG Management Policy.

(j) Approval of Grease Control Equipment: All new FSEs and FSEs that upgrade their facilities (including the addition of new plumbing fixtures or kitchen equipment which, directly or indirectly, affects grease discharge) must contact the City for final approval of the grease control equipment. This will include onsite inspection of the grease control equipment by the City, or their authorized representative. Failure of the FSE to contact the City to conduct the inspection of the new GCE will result in enforcement action.

13.06.015. - Grease Control Equipment Sizing

(a) Minimum acceptable size of grease control equipment for each FSE Classification will be as follows:

(1) *Class 1:* Delis, Ice Cream shops, Beverage Bars, Mobile Food Vendors, Day Care facilities (minimum classification) - 20-gpm/40 pound Grease Trap (NAICS 722515, 722330, 624410). Exceptions to Class 1 are doughnut shops with on premise baking and large coffee shops, which are classified as Class 2 facilities.

(2) *Class 2:* Limited-Service Restaurants/ Carry-out/Caterers/Day Care facilities (maximum classification)/ Full Service Restaurants (minimum classification)/ Buffet and Cafeteria facilities (minimum classification) - 1,000- gallon Grease Interceptor (NAICS 722513, 722511, 72514, 722320, 624410)

(3) *Class 3:* Full-Service Restaurants - 1,500-gallon Grease Interceptor (NAICS 722511)

(4) *Class 4:* Buffet and Cafeteria Facilities (maximum classification) - 2,000-gallon Grease Interceptor (NAICS 722514)

(5) *Class 5:* Institutions (Schools, Hospitals, Nursing Homes, Prisons, etc.) - 2,000- gallon Grease Interceptor (NAICS 611110, 611310, 623110, 623311, 623312, 722310, 813110, 922140)

(b) To calculate the appropriate size GCE, the FSE's engineer, architect, licensed plumber or contractor should use a formula that considers all kitchen plumbing fixture units, the discharge plumbing pipe for each fixture unit, storage capacity, type of facility and an adequate retention time. The grease control equipment minimum acceptable size for the above listed FSE classifications (Class 1 through 5) shall be met.

(c) The City will review GCE sizing information received from the completed Grease Control Inquiry Form and the FSE's sizing calculations and information. The City will make a decision to approve, or require additional grease interceptor volume, based on the type of FSE, the number of fixture units, and additional calculations. Each grease interceptor tank capacity should not exceed 2,000 gallons. In the event that the grease interceptor calculated capacity needs to exceed 2,000 gallons, the FSE shall install an additional interceptor of the appropriate size in series.

(d) Grease interceptors that are installed in series shall be installed in such a manner to ensure positive flow between the tanks at all times. Therefore, tanks shall be installed so that the inlet invert of each successive tank shall be

a minimum of 2 inches below the outlet invert of the preceding tank.

(e) Grease Control Equipment must remove fats, oils and grease at or below the City of Douglas oil and grease (animal or vegetable origin) limit of 200 mg/L.

13.06.016. - Grease Interceptor Design and Installation

(a) Piping Design

(1) The inlet and outlet piping shall have 2-way cleanout tees installed.

(2) The inlet piping shall enter the receiving chamber 2 ½ inches above the invert of the outlet piping.

*(3)* On the inlet pipe, inside the receiving chamber, a sanitary tee of the same size pipe in the vertical position with the top unplugged shall be provided as a turndown. To provide air circulation and to prevent "air lock", a pipe (nipple) installed in the top tee shall extend to a minimum of 6" clearance from the interceptor ceiling, but not less that the inlet pipe diameter. A pipe installed in the bottom of the tee shall extend to a point of 2/3 the depth of the tank. The inlet T should be made of Schedule 40 PVC or equivalent material. *See illustration Figure 1.*

(4) The outlet piping shall be no smaller than the inlet piping, but in no case smaller than 4" ID.

(5) The outlet piping shall extend to 12" above the floor of the interceptor and shall be made of a non-collapsible material. Minimum materials requirement for outlet piping is Schedule 40 PVC.

*(6)* The outlet piping shall contain a tee installed vertically with a pipe (nipple) installed in the top of the tee to extend to a minimum of 6" clearance from the interceptor ceiling, but not less that the pipe diameter, with the top open. Minimum requirement for the outlet tee is Schedule 40 PVC. *See illustration.*

(a) Baffles

*(1)* The grease interceptor shall have a non-flexing (i.e. concrete, steel, etc.) baffle extending the full width of the interceptor, sealed to the walls and the floor, and extending from the floor to within 6" of the ceiling. The baffle shall have an inverted 90 degree sweep, or schedule 40 PVC tee, fitting at least equal in diameter size to the inlet piping, but in no case less than 6" ID. The bottom of the sweep shall be placed in the vertical position in the inlet compartment 12" above the floor. The sweep shall rise to the horizontal portion, which shall extend through the baffle into the outlet compartment. The baffle wall shall be sealed to the sweep. *See illustration.*

(2) The inlet compartment shall be 2/3 of the total liquid capacity with the outlet compartment at 1/3 liquid capacity of the interceptor.

(b) Access Openings (Manholes)

(1) Access to grease interceptors shall be provided by a minimum of 1 manhole per interceptor division (baffle chamber) and of 24-inch minimum dimensions terminating 1 inch above finished grade with cast iron frame and cover. An 8" thick concrete pad extending a minimum of 12'' beyond the outside dimension of the manhole frame shall be provided. One manhole shall be located above the inlet tee hatch and the other manhole shall be located above the outlet tee hatch. A minimum of 24" of clear opening above each manhole access shall be maintained to facilitate maintenance, cleaning, pumping, and inspections.

(2) Access openings shall be mechanically sealed and gas tight to contain odors and

bacteria and to exclude vermin and ground water, in a manner that permits regular reuses.

(3) The manholes shall be accessible for inspection by the City.

(c) Additional Requirements

(1) Water Tight – Precast concrete grease interceptors shall be constructed to be watertight. A static water test shall be conducted by the installer and timed so as to permit verification through visual inspection by City or regulatory agent. The water test shall consist of plugging the outlet (and the inlet if necessary) and filling the tank(s) with water to the tank top a minimum of 24 hours before the inspection. The tank shall not lose water during this test period. Certification by the plumbing contractor shall be supplied to the City prior to final approval of grease control equipment.

(2) Location – Grease interceptors shall be located so as to be readily accessible for cleaning, maintenance, and inspections. They should be located close to the fixture(s) discharging the greasy wastewater. If possible, grease interceptors should not be installed in "drive-thru" lanes or parking areas. Grease interceptor access manholes shall never be paved over, covered by landscaping, or have any other hindrances to allow access.

(3) Load-Bearing Capacity: Each interceptor shall be structurally designed to withstand any anticipated load to be placed on the interceptor (i.e. vehicular traffic in parking or driving areas). This includes any "risers" or other extensions for the interceptor manholes to insure that any large commercial vehicle will not cause a collapse of the structure.

(4) Construction Material – Grease Interceptors shall be constructed of sound durable materials, not subject to excessive corrosion or decay, and shall be water and gas tight.

(5) Concrete materials and other grease interceptor materials shall meet the American National Standards Institute, Inc. (ANSI) and International Association of Plumbing and Mechanical Officials (IAPMO) standards.

(6) Marking and Identification - Prefabricated gravity grease interceptors shall be permanently and legibly marked with the following:

a. Manufacturer's name or trademark, or both
b. Model number
c. Capacity
d. Month and year of manufacture
e. Load limits and maximum recommended depth of earth cover in feet; and
f. Inlet and outlet

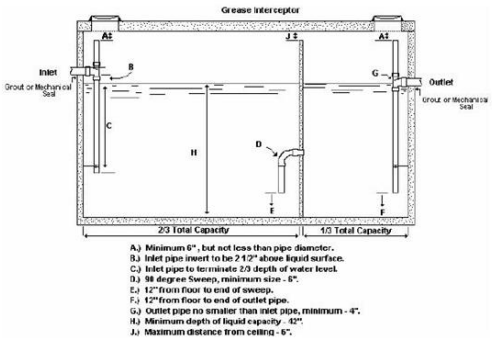


Figure 1 Grease Interceptor Typical Detail

13.06.017. - Grease Interceptor Cleaning and Maintenance Requirements

(a) Partial pump of interceptor contents or on-site pump and treatment of interceptor contents will NOT be allowed due to reintroduction of fats, oils and grease to the interceptor. In no way shall the pumped material be returned to any private or public portion of the sanitary sewer collection system. All grease waste haulers and procedures for pumping grease interceptors shall be in compliance with this FOG Management Policy.

(b) Responsibility – Maintaining the grease interceptor(s), including complete pumping of contents at the required frequency and insuring proper components are installed, is the responsibility of the user/owner. Commercial property owners shall ensure that lease agreements identify the responsible party for proper maintenance to control wastewater discharges from leaseholder on their property.

(c) Grease interceptors must be pumped-in-full (total pump of all contents) when the total accumulations of surface FOG (including floating solids) and settled solids reaches twenty-five percent (25%) of the grease interceptor's inlet liquid depth. This criterion is referred to as the "25 Percent Rule". At no time, shall the cleaning frequency exceed 90 days unless approved in writing by the City. Failure to meet this requirement shall result in enforcement action. Approval will be granted on a case by case situation with submittal by the FSE documenting proof that a reduced cleaning frequency will meet the requirements of this FOG Management Policy. Some existing FSEs in Class 2 through 5 may need to consider a more frequent pumping schedule to meet this requirement. A City approved manifest of grease interceptor cleaning/maintenance, and an FSE grease interceptor self-monitoring checklist shall be maintained onsite at the FSE and provided to the City upon request. These documents need to be provided to the City for review before approval can be granted for a cleaning frequency to exceed 90 days.

(d) The Grease interceptor's influent-T and effluent-T will be inspected during cleaning and maintenance and the condition noted by the grease waste hauler's company or individual conducting the maintenance. Influent and effluent-Ts that are loose, defective, or not attached must be repaired or replaced immediately. Grease waste haulers or individuals conducting any maintenance or pumping will use caution to not damage or dislodge Ts, or cause other grease interceptor component damage. Any repairs to the grease interceptor should be documented and kept on file at the FSE.

(e) Grease Interceptors must have access manholes over the influent-T and effluent-T for inspection and ease of cleaning/maintenance. Access manholes will be provided for all separate compartments of interceptors for complete cleaning (i.e. interceptor with two main baffles or three compartments will have access manholes at each compartment). The manholes are to be accessible for inspection by the City.

(f) Grease Interceptor waste must be hauled offsite and disposed at a State and POTW approved disposal location. All disposal of grease interceptor waste must meet the requirements of City of Douglas Ordinances. City approved manifests must be used.

(g) Grease Interceptors must be "certified" annually by a City approved grease waste hauler or plumber. A Grease Interceptor Certification (Form A) must be completed and submitted to the City annually.

(h) The City may mandate the FSE to require the grease waste hauler to contact the City by telephone at least 24 hours prior to any cleaning, pumping, maintenance, inspection, or certification of the grease interceptor. The City has the right to be present to inspect all maintenance.

13.06.018. - Grease Trap Sizing, Installation, Cleaning, and Maintenance

(a) *All* grease traps will have a properly installed and vented flow control restrictor.

Failure to have the flow restrictor and venting will be considered a violation.

(b) All new FSEs that are allowed to install grease traps must have City written approval prior to starting operations.

(c) A Grease Trap's minimum size requirement is 20-gallon-per-minute/40-pound capacity. Drainage time of particular kitchen fixtures, such as a 3 compartment sink, should be considered when selecting the grease trap size.

(d) Grease Traps must have the Plumbing Drainage Institute certification, and be installed as per manufacturer's specifications.

(e) At the discretion of the Director, alternative grease control equipment may be considered and approved for installation. The alternative grease control equipment must control FOG discharges and be maintained as outlined in this FOG Management Policy.

(f) No automatic dishwasher shall be connected to an under-the-sink grease trap or floor grease trap. Dishwashers will cause hydraulic overload of the grease trap.

(g) No automatic drip or feed system for additives is allowed prior to entering the grease trap without written approval from the City.

(h) A single grease trap device shall be installed for each significant kitchen fixture unit (i.e. each 3 compartment sink), unless the Director or FOG Program Coordinator provides written approval for multiple fixtures to be connected to the grease trap. The City must approve the number of grease traps and connections to the grease trap.

(i) During each cleaning of the grease trap, the flow restrictor shall be checked to ensure it is attached and operational.

(j) Grease Traps will be completely cleaned of fats, oils and grease and food solids at a minimum of every thirty (30) days. If the FOG and food solids content of the grease trap are greater than 25%, then the grease trap must be cleaned as frequently as needed to prevent 25% of capacity being occupied with FOG and food solids. A written record of grease trap cleaning and maintenance shall be maintained onsite at the FSE and provided to the City upon request.

(k) Grease Trap waste shall be sealed or placed in a container to prevent leachate from leaking, and then disposed or hauled offsite by a grease waste hauler or plumber to an approved disposal location. In no way shall the pumped material be returned to any private or public portion of the sanitary sewer collection system. All grease waste haulers, plumbers, and procedures for pumping grease traps shall be in compliance with the City of Douglas Ordinances and this FOG Management Policy.

(l) Grease Trap waste shall not be mixed with yellow grease in the grease recycle container.

(m) Grease Traps must be "certified" annually. See General Requirements of this FOG Management Policy.

(n) The City may mandate the FSE to require the grease waste hauler to contact the City by telephone at least 24 hours prior to any cleaning, pumping, maintenance, inspection, or certification of the grease trap. The City has the right to be present to inspect all maintenance.

13.06.019. - Best Management Practices and Accidental Discharge Prevention

Food Service Establishments shall implement Best Management Practices to prevent the discharge of fats, oils and grease to the City sanitary sewer system. Food Service Establishments shall provide such facilities and institute such procedures as are reasonably necessary to prevent or minimize the potential for accidental discharge of fats, oils, and grease into the sewage collection system.

13.06.020. - "Additives" Limitations and Prohibitions for Use

(a) Additives include but are not limited to products that contain solvents, emulsifiers, surfactants, caustics, acids, enzymes, and bacteria.

(b) Any additive(s) placed into the food service establishment discharge line system or grease interceptor on a constant, regular, or scheduled basis shall be reported to the City. If the City identifies FOG in the downstream sewer system from a FSE that is using an additive, then the City can require the FSE to discontinue use of the additive.

(c) No additive can be used prior to the grease trap (inside under-the-sink or floor trap).

(d) Additive use will not be a substitute for regular, required cleaning, or pumping of grease control equipment as required in this FOG Management Policy.

(e) This FOG Management Policy prohibits the use of chemicals, acids, caustics, enzymes, hot water, emulsifiers, surfactants, or other additives to cause oil or grease to pass through the user's grease trap or grease interceptor designed to remove oil and grease.

13.06.021. - Private Sewer Line Cleaning of FOG Requirement

Any grease waste hauler, plumber, or contractor that cleans FOG from a food service establishments' private sewer lines must insure that the FOG and other debris cleaned from the private sewer lines does not cause an obstruction or blockage in the City's sanitary sewer system. The FOG or other debris cleaned from the private sewer line should be "vactored" or removed by the grease waste hauler, plumber, or contractor prior to entry into the City sanitary sewer system to prevent obstruction or blockage to the City's sanitary sewer system. The grease waste hauler, plumber, or contractor shall immediately contact the City if FOG is "pushed" or "jetted" into the City sanitary sewer system to make the City aware of the FOG and debris at the specific location.

13.06.022. - Right of Entry, Inspections, and Monitoring

(a) The City, or their authorized representative, shall have the right to enter the premises of FSEs to determine whether the FSE is complying with the requirements of this FOG Management Policy as part of the *City of* Douglas, *Municipal Code, Chapter 13.06.* FSEs shall allow City personnel, or their authorized representative, upon presentation of proper credentials, full access to all parts of the premises for the purpose of inspection, monitoring, and/or records examination. Unreasonable delays in allowing City personnel access to the FSE premises shall be a violation of this FOG Management Policy.

(b) All grease interceptors and traps shall be subject to review, evaluation and inspection by the City or their authorized representative. Inspections will determine proper maintenance, changes in operation, proper records and files, ability of interceptor or trap to prevent grease from entering the system, and any other factors pertaining to the control of grease discharges to the City sewer system. The City can require the FSE to notify the City 24 hours prior to any pumping, cleaning, maintenance, or certification of the GCE so the City can do a visual inspection of the total GCE tank. The City can require the FSE to schedule pumping of their interceptor if the City determines that the interceptor may be defective or there is chronic FOG obstruction in the downstream sewer from the FSE. City personnel, or their

authorized representative, reserve the right to make determinations of interceptor or trap condition, and adequacy based on review of all information regarding the interceptor's or trap's performance and can require increased cleaning frequency, additional maintenance, modification or replacement of the GCE. All records will be available on site for review by City personnel, or their authorized representative, for a period of 36 months. Copies shall be provided upon request from the City.

(c) The City may require that the FSE install monitoring or additional pretreatment equipment deemed necessary for compliance with this FOG Management Policy as part of the City of Douglas, Municipal Code, Chapter 13.06.

13.01.023. - Fees and Permits

(a) The City may charge inspection, monitoring, assessment, impact, surcharge, commercial food facility, and/or permit fees to the food service establishments to get reimbursement for the FOG program and/or POTW impact costs.

(b) A monthly FOG program surcharge fee may be added to each FSE's Wastewater bill.

(c) An additional compliance inspection fee may be charged to each food service establishment for each re-inspection due to noncompliance issues.

(d) The City may issue FOG Control Permits to food service establishments. All new FSEs shall complete the City's Grease Control Inquiry Form and submit the form to the City, which will serve as the FSE's FOG permit application. The City's FOG inspection form will serve as the permit application for existing FSEs. FOG Control Permits may be issued for a period or duration of up to 5 years. Additional fees may be implemented by the City for food service establishment wastewater treatment and impacts to the POTW.

13.01.024. - FOG Treatment, Disposal, and Resource Recovery Plan

The City may implement a FOG Treatment, Disposal, and Resource Recovery Plan (Plan). The plan may be implemented if problems continue with FOG disposal, FOG obstruction in the sewer system, or inconsistent maintenance of FSE grease control equipment provided by grease waste haulers to prevent FOG discharges. The plan may include a Request For Proposal (RFP) for the treatment and disposal of FOG waste generated from the City of Douglas food service establishments. The RFP may include that the successful RFP respondent provide some form of beneficial reuse of the FOG waste that is treated. Also, the RFP may include a cost estimate for maintenance (complete pump of grease interceptors and grease traps) and certification of the grease control equipment of all City of Douglas food service establishment grease interceptors and grease traps. The results of the RFP may provide a single source for GCE pumping, GCE certification, FOG treatment, FOG disposal, and reporting to the City. The City will implement quality control practices to ensure that the successful RFP respondent meets all RFP requirements. In addition, the total cost of the food service establishment GCE pumping, and FOG treatment and disposal should be the same or lower cost than the average market cost of GCE maintenance as determined by the City.

13.01.025. - Violations and Enforcement Action

(a) Enforcement action against the food service establishment includes, but is not limited to, failure to clean or pump grease

control equipment, failure to maintain grease control equipment including installation of a properly functioning influent/effluent-T and baffle(s), failure to install grease control equipment, failure to control FOG discharge from the FSE, failure to certify the grease interceptor or trap, FSE responsible for sewer line obstruction, FSE responsible for a sanitary sewer overflow, and FSE use of additives so that FOG is diluted and pushed downstream of the FSE.

(b) Whenever City personnel, or their authorized representative, determine that a grease interceptor or trap is in need of installation, pumping, repairs, maintenance, or replacement, a Noncompliance Notification (NCN) or a Notice of Violation (NOV) will be issued stating the nature of the violation(s) and timeframe for corrective measures.

(c) If the FSE fails to initiate corrective action in response to a NCN or NOV, a second notice will be issued and additional fees may be assessed. Fees may include compliance inspection fees, costs associated with service calls for sewer line blockages, line cleaning, camera trucks, line and pump repairs, including all labor, material and equipment. Further non-compliance will result in escalation in enforcement action.

(d) Immediate discontinuance of City of Douglas wastewater services may be issued if the facility presents an imminent endangerment to the health, welfare of person or to the environment, causes stoppages or excessive City maintenance of the sanitary sewer system, causes significant interference with the wastewater treatment plant, or causes the City to violate any condition of its Aquifer Protection permit. Service shall be reinstated when such conditions have been eliminated and after payment of reconnection fees or other assessed fees.

(e) In addition to any inspection or violation fees, any user who is found to have violated this FOG Management Policy, then enforcement action responses according to the *City of FOG Management Policy as part of the City of Douglas, Municipal Code, Chapter 13.06* may be enforced.

(f) If inspections and field investigations determine that any fats, oils and grease interference or blockage in the POTW (including the sewer system, a sewage pumping station, or the wastewater treatment plant) is caused by a particular user, or food service establishment, then that user, or FSE, may be required to reimburse the City for all labor, equipment, supplies and disposal costs incurred by City to clean the interference or blockage. The charges will be added to the user's or FSE's utility bill. Failure to reimburse the City may result in termination of utility services.

(g) For all other violations not specifically mentioned above, the City will use the *City of* Douglas *Food Service Establishment Enforcement Response Guide* as a guide for enforcement action. (Ord. 17-1070 § 1, 2017).

## Chapter 13.07

## MANAGEMENT POLICY & ENFORCEMENT REPONSE PLAN

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Executive Summary

On November 23, 1988, the United States Environmental Protection Agency (U.S. EPA) amended the General Pretreatment Regulations requiring all Publicly Owned Treatment Works (POTWs) with approved pretreatment programs to develop and implement an Enforcement Response Plan (ERP) to provide guidance to Control Authority personnel in identifying, documenting and responding to pretreatment violations.

The Clean Water Act (CWA) sets forth basic requirements to regulate the nature and quantity of industrial wastes discharged to POTWs; regulations such as 40 CFR § 403. The U.S. EPA has revised part 403 pursuant to sections 307(b) and 402(b) (8) of the CWA. The most recent revision to part 403 resulted in the promulgation of a final rule on October 14, 2005. Contained within part 403.8(f) (5) is a list of minimum requirements for the development of an ERP.

The elements of the ERP identified below describe a process to identify, document and respond to pretreatment violations in a timely and equitable manner consistent with relevant State and Federal law and with the legal authority contained in Title 13, Water and Sewer Code, also known as the sewer use ordinance (SUO). The goal of the ERP is to describe the manner in which the City of Douglas (City) enforces its Pretreatment Program to meet Federal and State pretreatment program requirements.

The key elements of the ERP meet the requirements of Federal regulations at 40 CFR 403.8(f)(5):

- Describe how the POTW will investigate instances of noncompliance;
- Describe the types of escalating enforcement responses the POTW will take in response to all anticipated types of industrial user violations and the time periods within which responses will take place;
- Identify (by title) the official(s) responsible for each type of response; and
- Adequately reflect the POTW's primary responsibility to enforce all applicable pretreatment requirements and standards, as detailed in 40 CFR § 403.8(f) (1) and (2).

Food Service Establishments (FSEs) within the City of Douglas service area are subject to the FSE Enforcement Response Guide (FSE-ERG) which exists as a separate document. The FSE-ERG ensures a consistent response to all food service establishments that cause, or have the potential to cause, interference, obstruction, sanitary sewer overflows, bypasses, or storm water inflow to the City sanitary sewer collection system and wastewater treatment plants. FSEs are nondomestic users and are monitored by the City under its Fats, Oils and Grease (FOG) Control Program. This FSE-ERG is intended to be used for food service establishments and users that contribute FOG to the City's sanitary sewer system. Refer to the City's SUO and FOG Management Policy for additional information on the City's FOG control program.

Section 13.07.010 Methods to Investigate Noncompliance

Methods used by the POTW to investigate the compliance status of the Industrial User (User) include but are not limited to, the following:

1.1 Field Inspections. Field Inspection is an on-site presence of trained personnel to gather data for immediate fact determination or evaluation of compliance. The types of data gathered include documents, statements, and observations. Physical evidence and information may also be collected as evidence that may lead to enforcement.

1.2 Surveillance Sampling. Surveillance sampling is performed by obtaining a representative sample of a discharged substance in accordance with regulatory requirements. Typically, surveillance samples of discharge from User operations are taken by Pretreatment personnel.

1.3 Document Review. Document review includes the analysis of data that relates to the compliance status of a User, such as User

correspondence, Self-Monitoring Report Forms, and Baseline Monitoring Reports.

1.4 Meetings. Meetings, both formal and informal, with a User are utilized to obtain and share information which relates to any aspect of the Pretreatment Program. Meetings may be used to investigate technical issues (laboratory analysis, sampling procedures/locations, application of regulations, etc.) or concerns about the compliance status of a User, or to gather facts concerning alleged violations.

1.5 Increased Monitoring. Increased monitoring by submission of samples and/or records may be required of the User to provide further data to demonstrate the compliance status.

1.6 Technical Evaluation/Research. In making the determination of a User's compliance status when substantial technical considerations exist, an evaluation of the best available scientific and technical information will be made. This evaluation may include the assistance of technical resource people, industrial or regulatory subject matter experts, or documents from research, pilot studies, etc.

1.7 Interaction with other Agencies. Review of local and State files, communication with the State and local Departments of Environmental Quality, the Southern Arizona Environmental Crimes Task Force, and the City's Attorney's Office, is utilized to further investigate the compliance status.

1.8 Other Methods. Other methods to establish the compliance status may be used as the need arises on a case-by-case basis.

Section 13.07.020 Enforcement/Types of Escalating Responses

This section describes the range of available enforcement actions. The enforcement philosophy is progressive; that is, problems are addressed at the lowest level and with the least formality possible, consistent with the specific program. However, it should be remembered that the severity of the enforcement action is not dependent upon the completion of any less formal procedures and, depending upon the factual scenario presented, a formal procedure may be needed for the initial action. Listed below are available enforcement actions.

2.1 Deterrents to Enforcement Actions

2.1.A Annual Public Notice.

In accordance with the requirements and definition of significant noncompliance (SNC) in the City's SUO, a list of Users who are in SNC at any time during the previous year is published in a newspaper(s) of general circulation that provide meaningful public notice within 120 days of the end of the calendar year.

2.2 Pre-Enforcement

2.2.A Request for Information.

A request for information to determine if noncompliance is occurring can be verbal or written.

2.2.B Regulatory Compliance Assistance.

Meetings are held for Users to discuss compliance questions and to assist the User in understanding the requirements of the Permit and to identify available resources.

2.2.C Verbal Warnings.

An attempt to make contact is made by telephone to a User's authorized representative, explaining the nature of the discrepancy. The User is encouraged to return to compliance.

2.2.D Written Warning.

A written warning may be sent to a User's authorized representative explaining the nature of the discrepancy and seeking further information in determining noncompliance.

2.3 Enforcement

2.3.A Notification of Violation (NOV).

A Notification of Violation states the violation(s), may require submittal of information, and requires the User to take any corrective action necessary to prevent the recurrence of the violation(s). An NOV may include, but is not limited to:

• An Order of Corrective Action. This order requires the User to carry out a corrective plan of action to prevent the recurrence of noncompliance. The User has ten (10) days to respond in writing (from the time of receipt of the letter) explaining reasons for the violation(s) and detailing a plan of corrective action.

• An Order to Respond. An Order to respond requires the User to respond in writing to allegations of noncompliance.

• A Compliance Schedule. A Compliance Schedule may be made part of an enforcement order. The deadline dates are subject to civil penalties and are as enforceable as a discharge limit.

• An Order to Show Cause. An Order to Show Cause is an action to allow the User the opportunity to "show cause" why the City should not request the City of Douglas Attorney to petition the courts to impose, assess, and recover a sum not to exceed One Thousand Dollars ($1,000.00) for each day in which the violation(s) has occurred. The User has ten (10) days to respond in writing explaining the reasons for the violation(s) and detailing a plan of corrective action.

• An Order to Cease Discharge. An Order to Cease Discharge orders the User to cease discharge of industrial waste to the POTW by a specified time as provided in the order, and to carry out a corrective plan of action to prevent the recurrence of noncompliance to enable the lifting of the cease discharge order. In addition, a show cause meeting is scheduled. The User is required to respond within ten (10) Days in writing to the NOV. A meeting between the User and the POTW will occur at the earliest convenience of the User, but no later than the date specified in the Order.

• Intent to Suspend. Intent to Suspend establishes a performance standard which must be demonstrated within a specific time limit. Failure to comply invokes permit suspension.

• Permit Suspension. Permit Suspension states the violation(s), informs the User of permit suspension, and outlines the corrective action(s) the User must carry out before the permit is reactivated and the City Manager or Director reallows discharge. In addition, a show cause meeting may be scheduled. The User has ten (10) days to respond in writing to the NOV.

• Permit Revocation. Permit Revocation informs the User of permit revocation and discharge prohibition and outlines corrective action(s) the User must carry out before the User can apply for a new permit. The User has ten (10) days to respond in writing to the NOV.

• Other Orders. The City Manager or Director may issue additional Orders determined appropriate. Additional Orders and changes to a Suspension or Revocation may follow the initial Order at the discretion of the City Manager or Director or as additional information becomes available.

2.3.B Sewer Service Termination.

Sewer Service Termination is authorized when it is necessary to cease a discharge from a User that could present a hazard to public health, safety or welfare, environment, or the POTW.

2.3.C Emergency Authority.

The use of Emergency Authority is authorized when a violation presents an immediate hazard to public health, safety or welfare, environment, or to the POTW. Any of the

enforcement action options can be used in the event of the need for Emergency Authority invocation, including judicial actions consisting of temporary restraining orders or preliminary or permanent injunctions.

2.3.D Judicial Actions.

Whenever the City Manager or Director finds that a User has violated any of the provisions of the City's SUO the City of Douglas Attorney may be requested to take appropriate legal action. This legal action may include, but is not limited to:

- Prohibitive injunctions;
- Mandatory injunctions for corrective action and cleanup;
- Civil penalties pursuant to ARS § 49-391;
- Criminal penalties pursuant to A.R.S. § 11-251.5; A.R.S. § 13-2311 (Fraudulent Schemes and Practices); A.R.S. § 13-1201 (Endangerment); A.R.S. § 13-2407 (Tampering with a Public Record); A.R.S. § 49-803(A)(1) and 49-810 (Discharge of Used Oil to Sewers without a Permit); and
- Recovery of civil damages, penalties and costs to the POTW.

Civil Actions. The City has authority to file a civil suit for violation of any Article of the City's SUO pursuant to A.R.S. § 49-391. A civil action may be settled by Court judgment or Consent Decree. Before a consent decree filed with Superior Court becomes final, the City shall provide a period of thirty (30) days for public comment [A.R.S. § 49-391(C)].

Criminal Prosecution. The City of Douglas Attorney has authority pursuant to A.R.S. § 11-251.05 under State law for criminal prosecution of Users who violate provisions of the ordinance and other State laws. The City may seek criminal prosecution when there is evidence of willfulness, negligence, or bad faith shown by the User for:

- Violations of the Ordinance;
- Violations of industrial wastewater discharge permits (such as discharges in excess of permit limits, or failure to submit self-monitoring reports);
- Violations of Orders for Corrective Actions issued to implement pretreatment requirements (such as orders to Cease Discharge or Show Cause orders);
- Failure to notify the Control Authority of unauthorized discharges (such as slug loads);
- Falsification of records; or
- Tampering with monitoring equipment.

Violations which continue for more than one day shall be deemed separate and distinct offenses for each day.

The EPA Guidance Document for Developing Control Authority Enforcement Response Plans suggests that "bad faith" is typically demonstrated by a lack of cooperation and incompleteness of corrective measures in a timely manner.

2.4 Alternative Conflict Resolution

Conflicts can also be resolved by alternative methods agreed upon by both the User and the City on a case-by-case basis, as not to conflict with State Statutes.

Examples of actions include the Pollution Prevention School (PPS) used to educate nonsignificant Users in lieu of assessing a penalty, and negotiated settlement agreements.

2.4.A Pollution Prevention School (PPS)

Purpose: To educate Users in lieu of assessing a pretreatment penalty, who for the first time have one violation related to Sampling, Monitoring, and Submission of Reports with respect to their Industrial Wastewater Discharge Permits and the Industrial Wastewater Ordinance. PPS attendance may be required when there is a violation of the

pretreatment program and an option when a new permit is issued.

Course Content: The class is approximately four (4) hours in length. It covers the background of the Clean Water Act and NPDES/AZPDES program – Permits, Wastewater Collection, Treatment and Disposal in City of Douglas ; the way in which Permits are written; Actions which the User must take to comply with the Permit; available exemptions; the Enforcement Response Plan and the penalties for violations of a Permit; and a discussion of the City of Douglas 's SUO.

Notice: The User would be sent an NOV advising them of the alternatives: (1) to go to school; or (2) attend a Show Cause Meeting. A fee for the course may be required.

2.4.B Negotiated Settlement Agreements

Purpose: As provided by State Statute (ARS § 49-391(c)), pretreatment programs may seek compliance and recovery of civil penalties by a negotiated settlement agreement. This process is anticipated for Users who are in significant noncompliance.

When to Use Agreements: Negotiated Settlement Agreements are appropriate when the User has not previously entered into an administrative or civil consent decree or been found liable in a State or Federal court for similar violations. Pursuant to ARS § 49-391(C), before a negotiated settlement becomes final, the City shall provide a period of thirty (30) days for public comment as provided in Section 2.4.C below.

Penalty Amount: The proposed settlement will be determined using the procedures of Setion 6, considering the Penalty Evaluation List and the Penalty Amounts sections.

2.4.C Supplemental Environmental Project (SEP)

Introduction

The term Supplemental Environmental Project (SEP) refers to a project that may serve in addition to and in some cases in lieu of a monetary penalty as the basis for the settlement of an enforcement action.

In the settlement of a pretreatment violation, the City may require the alleged violator to achieve and maintain compliance with federal, state and local pretreatment regulations and to pay a civil penalty. To further the City's goals to protect and enhance public health and the environment, one or more SEPs, may be included in a settlement agreement.

The following is a statement of policy by which the City will consider to accept an SEP as part of or all of the settlement of an administrative enforcement action. The City believes these projects provide a useful environmental benefit beyond what can be secured solely through administrative orders.

Guidance for Discretion

The ultimate decision as to the settlement of an administrative enforcement action rests with the City of Douglas City Council. The policies and procedures in this document are intended for the guidance of the City.

Criteria for SEPs

A judgment as to the appropriateness of an SEP in a particular action will generally be made in accordance with the following criteria:

1. Benefit to the Environment from SEP

SEP's will be allowed only when the City is satisfied that an SEP will benefit the environment or promote public health or safety.

2. Planned, Completed or Required Activities

An SEP may not be allowed for projects which the Violator has initiated prior to discovery of the violation.

Projects that have been committed to or started before the identification of a violation or

initiation of enforcement resolution discussions may mitigate the penalty in other ways.

3. Relationship to Monetary Penalty

An SEP may not replace damages. A monetary penalty may still be necessary in order to assure that the City's enforcement actions are effective in deterring future violations by the Violator or others in the regulated community. Penalties maintain a level playing field by ensuring that violators do not obtain an unfair economic advantage over their competitors who made the necessary expenditures to comply. Penalties encourage companies to adopt pollution prevention and recycling techniques, so that they minimize their pollutant discharges and reduce their potential liabilities.

Under the following circumstances, the City may allow an SEP constituting a 100%, dollar-for dollar penalty offset:

1. The proposed SEP constitutes a pollution prevention or pollution reduction/waste minimization project;
2. The Violator's compliance history does not suggest a pattern of non- compliance with environmental laws; or
3. When the Violator is an agency, board, commission, council or department of the state, a municipality, or a non-profit organization or small business.

4. Available Only if Violations and Pollution Corrected

An SEP may be considered only if violations and all pollution created or threatened are fully corrected and abated in a timely manner under an enforceable agreement. A Compliance Schedule timeline shall be no longer than five years.

5. Relationship to Violation ("Nexus" Requirement)

Generally, an SEP may be approved if the City determines there is a direct relationship between the nature of the violation(s) and the environmental benefits to be derived from the SEP. Alternatively, the City Council may approve an SEP which, while lacking a direct nexus to the violation, either furthers the City's statutory mission or reduces the likelihood of future violations similar to those at issue. The City prefers SEPs with a direct nexus. To constitute a "direct nexus," the SEP must:

1. Improve the environment injured by the violation;
2. Reduce the total risk posed to public health or the environment by the violation;
3. Result in the restoration of natural or man-made environments from the actual or potential damage resulting from the violation; or
4. Protect natural environments from actual or potential damage resulting from the violation.

An "indirect nexus" may be consistent with this policy if it substantially furthers the City's statutory mission or reduces the likelihood of future violations similar to those at issue.

6. Initiation

The proposal to do an SEP may be initiated by either the Violator or by the City. The burden of developing the SEP and convincing the staff of its benefits and likelihood of success are the responsibility of the Violator. An SEP proposal may be made at any time during an enforcement action, although the City should consider both the status of the action and the resources that have been committed to it before deciding whether to accept an SEP.

7. Compliance History

The Violator's compliance history and capacity to successfully and promptly complete the project must be examined during evaluation of a proposed SEP.

8. Compliance with SEP

The Negotiated Settlement Agreement or Consent Decree shall specify time- specific milestones to be met in implementing the SEP, including a completion date.

2.4.D ARS § 49-391(C) Public Notice

Public notice and comment will be provided pursuant to the requirements of ARS § 49-391(C) by the following:

(1) Notice by publication in the general agenda of the City Council;

(2) Announcement by the Chairman at the regular agenda meeting that public comment will be received by the City for thirty (30) days from the date of this announcement, on settlements either administrative or civil. Copies of the settlement and the enforcement file shall be available for public review at [insert location]

(3) At the City Councils regular agenda Council meeting thirty (30) days subsequent to the agenda item, or as soon thereafter as possible, depending upon the Council's schedule, the City will report to the Council on the public comments and recommend action to be taken by the Council. If there are sufficient requests from the public for a hearing and oral testimony, the Council may grant a hearing and take oral testimony.

(4) When a settlement is found to be acceptable by the Council and the User, the agreement will be finalized. Consent Decrees will be filed with the State Superior Court and negotiated settlement agreements will be filed with the City.

Section 3: Official Responsible for Response

3.1 Pre-Enforcement

The Compliance Officer is responsible for pre-enforcement responses.

3.2 Enforcement

3.2.A Sewer Service Termination

The City Manager or Director/Designee shall authorize Sewer Service termination.

3.2.B Emergency Authority

The City Manager or Director/Designee requests the City Attorney to obtain appropriate judicial order(s).

3.2.C Notifications of Violation

The City Manager or Director/Designee shall issue all Notifications of Violation. The Designee shall be anyone authorized by the City Manager or Director to implement enforcement actions.

3.2.D Judicial Actions

The City Manager or Director/Designee requests the City Attorney to obtain appropriate judicial action(s).

3.2.E Alternative Enforcement

The City Manager or Director/Designee shall determine if Alternative Enforcement is appropriate.

3.2.F Consent Decrees

The City Council shall approve all Consent Decrees.

3.2.G Negotiated Settlement Agreements

The City Council shall approve all Negotiated Settlement Agreements.

Section 4: City of Douglas Treatment Works Response to Enforcement Requirements

The City's SUO reflects the primary responsibility of the City's treatment works which is to enforce all applicable pretreatment requirements and standards as detailed in ARS § 49-391 and 40 CFR § 403.8(f)(1) and (2).

Section 5: Scheduling Criteria

Field Investigations are scheduled to meet annual requirements, respond to emergency and remedial actions, violations, and technical problems, and to support permit modification.

Section 6: Penalty Policy

The City can propose to the City Council acceptance of a monetary penalty to be

included in a Negotiated Settlement Agreement for violations of pretreatment standards or requirements. Monetary penalties are intended to recapture the full economic benefit of noncompliance and to deter future violations.

6.1 When to Assess Penalties

Penalties are to be sought by the City Manager or Director for any of the following reasons:

- Significant Noncompliance;
- Anytime there is pass-through, interference or upset;
- Whenever the City is required to use emergency authority; or
- For any other noncompliance for which the City Manager or Director finds that the recovery of civil damages, penalties, and costs to the POTW are appropriate.

In determining the amount of a penalty, the following items will be considered:

- The seriousness of the violation.
- The economic benefit, if any, resulting from the violation.
- Any history of such violation.
- Any "good faith" efforts to comply with the applicable requirements.
- The economic impact of the penalty on the violator.
- Such other factors as justice may require.

6.2 Methods of Assessing Penalties

A.R.S. § 49-391 provides for the enforcement of this Ordinance by imposition and recovery of a penalty of not more than $25,000 for each violation. For continuing violations, each day shall constitute a separate offense.

6.3 Penalty Amount(s)

The City shall seek the following penalties. It is the City's policy to seek the maximum penalty available in a court action if not otherwise resolved in settlement pursuant to this policy. The City Manager or Director has the discretion to seek a lesser penalty based on industrial user compliance history and accentuating circumstances. The City Manager or Director may also require that an imposed penalty be applied to purchase and install corrective action equipment or allow a SEP (see section 2.4.C).

6.3.A Unauthorized Discharges (No Permit)

Noncompliance Amount of Penalty

1. Unpermitted Discharge $200 per day of discharge
2. Unpermitted Discharge (failure to renew) $1,000 per incident
3. Discharge of pollutant that causes harm. $200 per incident
4. Others $200 per day of discharge

6.3.B Violations Related to Sampling, Monitoring, and Submission or Reports

This section includes, but is not limited to the following: improperly signing or certifying a report; using incorrect sample collection or analytical procedures; failing to submit self-monitoring information; failing to notify of slug loads; filing late reports.

Noncompliance Amount of Penalty

1. Failure to Provide Report within 45 Days After Due Date $500 per incident
2. Failure to Monitor $200 per pollutant
3. Improper Sampling $200 per incident
4. Failure to Make Notification $400 per incident
5. Enforceable Compliance Schedules $200 per day
6. Inadequate Recordkeeping $200 per day
7. Failure to Report Additional Monitoring $200 per incident
8. Failure to Accurately Report Noncompliance $1,000 per incident
9. Entry Denial $2,000 per day of discharge

10. Failure to Provide Access to Sample Location/Facility $2,000 per day of discharge
11. Others $200 per day

6.3.C Discharge Limit Violation
Noncompliance Amount of Penalty
1. Numeric Violation of Code or Permit $2,000 per day of discharge
2. Numeric Violation of Federal Categorical Monthly Average $1,000 times days in month in which there is a discharge
3. Waste streams are Diluted in Lieu of Treatment $2,000 per day of discharge
4. Failure to Mitigate Noncompliance or Halt Production $2,000 per day of discharge
5. Failure to Properly Operate and Maintain Pretreatment Facility $2,000 per day of discharge
6. Others $2,000 per day of discharge

6.3.D Recovery of Damages and Penalty
Noncompliance Amount of Penalty
1. Reimbursement of costs to City to respond and correct damages by User Actual cost of personnel, equipment utilization, and materials in response and corrective action.
2. Reimbursement of City cost incurred in cleaning, repairing, or replacing private property caused by User Actual cost of payments.

Section 7: Enforcement Response Guide
The Enforcement Response Guide, adopted by City of Douglas, is the standard EPA configuration. It is intended as a "snapshot" or quick overview of the enforcement process. Instructions for using the detailed guidance precede the Guide. Stepping through the Enforcement Response Guide, according to the directions, will allow the User to arrive at a projected course of action under "standard conditions." However, only a small percentage of actual enforcement cases follow "standard conditions;" therefore, the City will still evaluate on a case-by-case basis the most appropriate enforcement course of action.

7.1 Description of Terms
Terms and abbreviations used in the Enforcement Response Guide are defined below. Specific enforcement responses are described in greater detail in Section 7.3.
CA City Attorney
CO Compliance Officer
Civil Action Civil litigation against the User seeking relief, monetary penalties and actual damages
D City Manager or Director/Designee
ERG Enforcement Response Guide
IU Industrial User
NOV OCA Notification of Violation Order of Corrective Action
NOV OSC OCA Notification of Violation Order to Show Cause Order of Corrective Action: Requires the User to appear at a formal meeting and demonstrate why the City should not take a proposed enforcement action.
POTW Publicly Owned Treatment Works.
Review Meeting Informal compliance meeting with User to resolve noncompliance

7.2 Instructions for using the Enforcement Response Guide
(1) Locate the type of noncompliance in the first column.
(2) Using the second column, identify the most accurate description of the nature of the violation.
(3) City staff will assess the appropriateness of the recommended response(s) in the third column. First offenders or those demonstrating

good faith may merit a more lenient response. Similarly, repeat offenders or those demonstrating willful conduct may require a more stringent response. The City may want to use what would normally be reserved as a follow-up response as the initial action for more serious circumstances.

(4) Document the rationale for selecting the particular enforcement response.

(5) Apply the enforcement response to the Industrial User. Specify corrective action or response required from the User.

(6) Document User responses and resolution of noncompliance.

(7) Follow up with escalated enforcement action if the User response is not received or if violations continue.

## *7.3 Wastewater Enforcement Response Guide (ERG)*

I. Unauthorized Discharges (No Permit)

| NONCOMPLIANCE | NATURE OF THE VIOLATION | RANGE OF ENFORCEMENT RESPONSE | PERSONNEL |
|---|---|---|---|
| A. Unpermitted Discharge | 1. IU unaware of requirements; no harm to POTW/environment | Phone call | CO |
| | | NOV OCA with permit application form | D |
| | 2. IU unaware of requirements; harm to POTW/environment | NOV OSC OCA | D |
| | | Civil action | D, CA |
| | 3. Failure to comply; continues after notice from POTW | NOV OSC OCA | D |
| | | Civil action | D, CA |
| | | Criminal Action | CA |
| | | Terminate Services | D |
| | | Revoke Permit | D |
| B. Nonpermitted Discharge (failure to renew) | 1. Permit expired; no application submitted | NOV OSC OCA | D |
| | | Civil action | D, CA |
| | | Criminal Action | CA |
| | | Terminate Services | D |
| | | Revoke Permit | D |

## II. DISCHARGE LIMIT VIOLATION

| NONCOMPLIANCE | NATURE OF THE VIOLATION | RANGE OF ENFORCEMENT RESPONSE | PERSONNEL |
|---|---|---|---|
| Exceedance of Local or Federal Standard (permit limit) | | 1. Isolated | Phone call<br>CO |
| | NOV OCA D<br>Automatic IU resampling CO<br>Inspection CO<br>City sampling CO | | |
| | 2. Recurring; two or more violations within a 90-day period | Automatic IU resampling CO<br>Inspection CO<br>City sampling CO<br>NOV OSC OCA D<br>Civil action D, CA<br>Criminal action CA<br>Terminate services D<br>Revoke permit D | |

~~III. MONITORING AND REPORTING VIOLATIONS~~

| NONCOMPLIANCE | NATURE OF THE VIOLATION | RANGE OF ENFORCEMENT RESPONSE | PERSONNEL |
|---|---|---|---|
| A. Reporting Violation | 1. Report is improperly signed or certified | Phone call<br>NOV OCA | CO<br>D |
| | 2. Report is improperly signed or certified after notice by City | NOV OSC OCA | D |
| | 3. Any single report 45 days or or more late | NOV OSC OCA<br>Civil action | D<br>D, CA |
| | 4. Failure to report spill or change in discharge; IU unaware of requirement | Phone call<br>NOV OCA | CO<br>D |
| | 5. Failure to report spill or change in discharge; IU aware of requirement | NOV OSC OCA<br>Civil action | D<br>D, CA |
| | 6. Repeated failure to report spills | NOV OSC OCA<br>Civil action<br>Terminate services<br>Revoke permit | D<br>D, CA<br>D<br>D |
| | 7. Falsification | Civil action<br>Terminate services<br>Revoke permit | D, CA<br>D<br>D |
| | 8. Missing or incomplete information | Phone call; NOV | CO |

| NONCOMPLIANCE | NATURE OF THE VIOLATION | RANGE OF ENFORCEMENT RESPONSE | PERSONNEL |
|---|---|---|---|
| | 9. Failure to correct report with missing or incomplete information | NOV OSC OCA<br>Civil action | D,<br>D, CA |
| B. Failure to Monitor Correctly | 1. Failure to monitor all pollutants as required by permit | NOV OCA | D |
| | 2. Recurring failure to monitor | NOV OSC OCA<br>Civil action | D<br>D, CA |
| C. Improper Sampling | 1. Evidence of Intent | Civil action<br>Criminal action<br>Terminate services<br>Revoke permit | D, CA<br>CA<br>D<br>D |
| D. Enforceable Compliance Schedule Violation | 1. Missed milestone | NOV OCA<br>Review meeting | D<br>CO |
| | 2. Recurring violation or violation of schedule in Consent Decree/Negotiated Settlement Agreement | NOV OSC OCA<br>Civil action Criminal action<br>Terminate services<br>Revoke permit | D<br>D, CA CA<br>D<br>D |
| | 3. Failure to start construction, complete construction, or achieve compliance within 90 days of the date specified in an enforceable order | NOV OSC OCA<br>Civil action<br>Terminate services<br>Revoke permit | D<br>D, CA<br>D<br>D |
| E. Failure to install monitoring equipment | 1. Delay of less than 30 days | NOV OCA | D |
| | 2. Delay of 30 days or more | NOV OSC OCA | D |
| | 3. Recurring | Civil Action<br>Criminal Investigation<br>Terminate Service<br>Revoke Permit | D, CA |

| NONCOMPLIANCE | NATURE OF THE VIOLATION | RANGE OF ENFORCEMENT RESPONSE | PERSONNEL |
|---|---|---|---|
| IV. OTHER PERMIT VIOLATIONS | | | |
| A. Waste streams are diluted in lieu of treatment | 1. Initial violation | Review meeting | CO |
| | 2. Recurring | NOV OSC OCA | D |
| | | Civil action<br>Terminate services<br>Revoke permit | D, CA<br>D<br>D |
| B. Failure to mitigate noncompliance or halt production | 1. Failure to comply with a requirement to cease discharge | NOV OSC OCA | D |
| | | Civil action Terminate services | D, CA D |
| | | Revoke permit | D |
| C. Failure to properly operate and maintain pretreatment equipment | 1. Initial violation | NOV OCA | CO |
| | | Review meeting | CO |
| V. VIOLATIONS DETECTED DURING SITE VISITS | | | |
| A. Entry Denial | 1. Entry denied or consent withdrawn. Copies of record denied | Obtain warrant<br>Criminal action Revoke permit | CA<br>CA D |
| | | Terminate services | D |
| B. Failure to Provide Access | 1. Initial Violation | NOV OCA | CO |
| | | NOV OSC OCA | D |
| C. Inadequate Recordkeeping | 1. Inspector finds files incomplete to missing. Initial Violation | Phone call; NOV | CO |
| | | Review meeting | CO |
| | 2. Recurring after prior notice to remedy | NOV OSC OCA | D |
| | | Criminal Investigation<br>Terminate Service<br>Revoke Permit | |

| NONCOMPLIANCE | NATURE OF THE VIOLATION | RANGE OF ENFORCEMENT RESPONSE | PERSONNEL | |
|---|---|---|---|---|
| D. Failure to Report Additional Monitoring results; Initial Violation | 1. Inspector finds additional | Phone call<br>NOV OCA<br>Review meeting | CO<br>D<br>CO | |
| 2. Recurring after prior notice to remedy | | Review meeting<br>NOV OSC OCA | CO<br>D | |
| E. Illegal Discharge | 1. No harm to POTW or environment | NOV OSC OCA with fine | | D |
| | 2. Discharges causes harm or evidence of intent/negligence | Civil action<br>Criminal investigation | | D, CA<br>D, CA |
| | 3. Recurring | Terminate service | | D, CA |
| F. Improper Sampling | 1. Unintentional sampling at incorrect location | NOV OCA | | D |
| | 2. Unintentionally using incorrect sample type | NOV OCA | | D |
| | 3. Unintentionally using incorrect sample collection techniques | NOV OCA | | D |

## VI. MISCELLANEOUS SIGNIFICANT NONCOMPLIANCE (SNC)

| | | |
|---|---|---|
| A. Chronic violations of Wastewater discharge limits, defined here as those in which 66 percent or more of all the measurements taken for the same pollutant parameter during a six-month period exceed (by any magnitude) a numeric Pretreatment Standard or Requirement including instantaneous limits, as defined in 40 CFR § 403.3(l) | NOV OSC OCA<br>Civil action<br>Criminal action<br>Terminate services<br>Revoke permit<br>Newspaper Publication | D<br>D, CA<br>CA<br>D<br>D<br>D |
| B. Technical Review Criteria (TRC) violations, defined here as those in which 33 percent or more of all of the measurements for the same pollutant parameter during a six-month period equal or exceed the product of the numeric Pretreatment Standard or Requirement including instantaneous limits as defined in 40 CFR § 403.3(l) multiplied by the | applicable TRC (TRC = 1.4 for BOD, TSS, fats, oil, and grease, and 1.2 for all other pollutants except pH) | |

| | |
|---|---|
| NOV OSC OCA | D |
| Civil action | D, CA |
| Criminal action | CA |
| Terminate services | D |
| Revoke permit | |
| Newspaper Publication | D |

C. Any other violation of a Pretreatment Standard or Requirement as defined by 40 CFR § 403.3(l) (daily maximum, longer-term average, instantaneous limit, or narrative standard) that the City Manager or 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)

| | |
|---|---|
| NOV OSC OCA | D |
| Civil action | D, CA |
| Criminal action | CA |
| Terminate services | D |
| Revoke permit | D |
| Newspaper publication | D required |

| NONCOMPLIANCE | NATURE OF THE VIOLATION | RANGE OF ENFORCEMENT RESPONSE | PERSONNEL |
|---|---|---|---|
| D. Any discharge of a Pollutant that has caused imminent endangerment to human health, welfare or the environment or has resulted in the City Manager or Director's exercise of emergency authority under Section 13.36.195 of this Article to halt or prevent such a discharge | | NOV OSC OCA<br>Civil action<br>Criminal action<br>Terminate services<br>Revoke permit<br>Newspaper publication required | D<br>D, CA<br>CA<br>D<br>D<br>D |
| E. Failure to meet, within 90 days after the schedule date, a compliance schedule milestone contained in a local control mechanism or enforcement order for starting construction, completing construction, or attaining final compliance | | NOV OSC OCA<br>Civil action<br>Criminal action<br>Terminate services<br>Revoke permit | D<br>D, CA<br>CA<br>D<br>D |
| F. Failure to provide, within 45 days after due date, required reports such as baseline monitoring reports, 90-day compliance reports, periodic self-monitoring reports, and reports on compliance with compliance schedules | | NOV OSC OCA<br>Civil action<br>Criminal action<br>Terminate services<br>Revoke permit | D<br>D, CA<br>CA<br>D<br>D |
| G. Failure to accurately report noncompliance | | NOV OSC OCA<br>Civil action<br>Criminal action<br>Terminate services<br>Revoke permit | D<br>D, CA<br>CA<br>D<br>D |
| H. Any other violation or group of violations, which may include a violation of Best Management Practices, which the City Manager or Director determines will adversely affect the operation or implementation of the local Pretreatment program | | NOV OSC OCA<br>Civil action<br>Criminal action<br>Terminate services<br>Revoke permit<br>Newspaper publication required | D<br>D, CA<br>CA<br>D<br>D<br>D |

## 7.4 Timeframes for Responses

A. Violations shall be identified and documented within five days of receiving compliance information.
B. Initial enforcement responses involving contact with the User and requesting information on corrective or preventative action(s) shall occur within 30 days of the City's knowledge of a violation.
C. Violations which threaten health, property, or environmental quality are considered emergencies and will receive immediate responses (not to exceed 24 hours), such as halting the discharge or terminating services.
D. Follow-up compliance activities shall begin no later than 45 days after the initial enforcement action is taken.
E. When follow-up compliance actions indicate that a violation persists or that satisfactory progress is not being made, enforcement shall be escalated within 90 days of the initial enforcement action. (Ord. 17-1070 § 1, 2017).

The key elements of the ERP meet the requirements of Federal regulations at 40 CFR 403.8(f)(5):

- Describe how the POTW will investigate instances of noncompliance;
- Describe the types of escalating enforcement responses the POTW will take in response to all anticipated types of industrial user violations and the time periods within which responses will take place;
- Identify (by title) the official(s) responsible for each type of response; and
- Adequately reflect the POTW's primary responsibility to enforce all applicable pretreatment requirements and standards, as detailed in 40 CFR § 403.8(f) (1) and (2).

Food Service Establishments (FSEs) within the City of Douglas service area are subject to the FSE Enforcement Response Guide (FSE-ERG) which exists as a separate document. The FSE-ERG ensures a consistent response to all food service establishments that cause, or have the potential to cause, interference, obstruction, sanitary sewer overflows, bypasses, or storm water inflow to the City sanitary sewer collection system and wastewater treatment plants. FSEs are nondomestic users and are monitored by the City under its Fats, Oils and Grease (FOG) Control Program. This FSE-ERG is intended to be used for food service establishments and users that contribute FOG to the City's sanitary sewer system. Refer to the City's SUO and FOG Management Policy for additional information on the City's FOG control program.

**Section 13.07.010 Methods to Investigate Noncompliance.**

Methods used by the POTW to investigate the compliance status of the Industrial User (User) include but are not limited to, the following:

1.1 Field Inspections. Field Inspection is an on-site presence of trained personnel to gather data for immediate fact determination or evaluation of compliance. The types of data gathered include documents, statements, and observations. Physical evidence and information may also be collected as evidence that may lead to enforcement.
1.2 Surveillance Sampling. Surveillance sampling is performed by obtaining a representative sample of a discharged

substance in accordance with regulatory requirements. Typically, surveillance samples of discharge from User operations are taken by Pretreatment personnel.

1.3 Document Review. Document review includes the analysis of data that relates to the compliance status of a User, such as User correspondence, Self-Monitoring Report Forms, and Baseline Monitoring Reports.

1.4 Meetings. Meetings, both formal and informal, with a User are utilized to obtain and share information which relates to any aspect of the Pretreatment Program. Meetings may be used to investigate technical issues (laboratory analysis, sampling procedures/locations, application of regulations, etc.) or concerns about the compliance status of a User, or to gather facts concerning alleged violations.

1.5 Increased Monitoring. Increased monitoring by submission of samples and/or records may be required of the User to provide further data to demonstrate the compliance status.

1.6 Technical Evaluation/Research. In making the determination of a User's compliance status when substantial technical considerations exist, an evaluation of the best available scientific and technical information will be made. This evaluation may include the assistance of technical resource people, industrial or regulatory subject matter experts, or documents from research, pilot studies, etc.

1.7 Interaction with other Agencies. Review of local and State files, communication with the State and local Departments of Environmental Quality, the Southern Arizona Environmental Crimes Task Force, and the City's Attorney's Office, is utilized to further investigate the compliance status.

1.8 Other Methods. Other methods to establish the compliance status may be used as the need arises on a case-by-case basis.

## Chapter 13.08

## WATER AND WASTEWATER SERVICE FEES AND CHARGES

**Sections:**


**13.08.005 Rates established.**
**13.08.010 Development Impact Fees and Water meter installation charges.**
**13.080.015 2011 Development Impact Fees.**
**13.08.020 Rates for water usage.**
**13.08.030 Monthly service charge for metered water use.**
**13.08.040 Miscellaneous charges.**
**13.08.050 Monthly sewer rates.**
**13.08.060 Sewer connection fees.**


### 13.08.005 Rates established.

Effective with the first bills issued by the city for water and wastewater services supplied after February 15, 2007, the rates, fees and other charges charged to customers and users of the city of Douglas water and wastewater services shall be as set out in the "Schedule of Charges for Water and Wastewater Services" (collectively the "Schedule of Charges") which are attached to the ordinance codified in this chapter. The minimum monthly charges set out in the schedule of charges reflect the present fees, rates and charges for water and wastewater services plus additional monthly capital improvement surcharges for water and wastewater services. The amount of the monthly service charges to increase annually based on schedules included herein as well as the capital improvement surcharges shall become permanent effective February 15, 2007, (Ord. 794 § 1, 2001)(Ord. 06-904 §1,2007)(Ord. 07-906 §1,2007)

### 13.08.010 Development Impact Fees and Water meter installation charges.

A. A one-time installation charge shall be assessed for each water meter installed or supplied by the city, based on the following schedule:

| Meter Size | Installation Charge | | | | | | |
|---|---|---|---|---|---|---|---|
| | 2006 Current | 02/15/07 | 02/15/08 | 02/15/09 | 02/15/10 | 02/15/11 | 02/15/12 |
| 3/4 inch or smaller | $ 300.00 | $775 | $806 | $838 | $872 | $907 | $943 |
| 1 inch | $350.00 | $1,010 | $1,050 | $1,092 | $1,136 | $1,182 | $1,229 |
| 1 1/2 inch | $470.00 | $1,360 | $1,414 | $1,471 | $1,530 | $1,591 | $1,655 |
| 2 inch | $525.00 | $1,790 | $1,862 | $1,936 | $2,014 | $2,094 | $2,178 |
| 3 inch | $895.00 | $2,380 | $2,475 | $2,574 | $2,677 | $2,784 | $2,896 |
| 4 inch | $1,120.00 | $3,165 | $3,292 | $3,423 | $3,560 | $3,703 | $3,851 |
| 6 inch | $1,510.00 | $4,210 | $4,378 | $4,554 | $4,736 | $4,925 | $5,122 |

B. Expense for each meter will be in addition to the above charges and will change periodically as prices on meters are increased. The charge for the installation of fire hydrants will be one thousand dollars plus the cost of the hydrant itself. (Ord. 755 Exh. A (part), 1999)(Ord. 06-904 § 1, 2007)

C. Effective March 1, 2009, the City of Douglas shall impose a water and wastewater development fee on all new development due and payable at issuance of a Building permit, as follows:

| Meter Size | Amount of Development Fee |
|---|---|
| ¾ inch | $ 3,500 |

| | |
|---|---|
| 1 inch | $ 8,812 |
| 1 ½ inch | $17,624 |
| 2 inch | $28,196 |
| 3 inch | $52,866 |
| 4 inch | $88,112 |

D. Work to be done by owner. All work to connect the property to the main will be done by the property owner in accordance with city specifications.

E. Review of Costs. The sewer connection fee will be reviewed annually and revised, if necessary, to cover estimated current construction costs. (Ord. 755 Exh. A (part), 1999)(Ord. 06-904 § 1, 2007)(Ord. 08-923 § 2, 3, 5, 2008)

**13.08.015 2011 Development Impact Fees.**

**Chapter X - DEVELOPMENT IMPACT FEE ORDINANCE**

Sec. X-1. Title
Sec. X-2. Legislative intent and purpose
Sec. X-3. Definitions
Sec. X-4. Applicability; Repeal of Previous Ordinances
Sec. X-5. Authority for Development Impact Fees
Sec. X-6. Administration of Development Impact Fees
Sec. X-7. Land Use Assumptions
Sec. X-8. Infrastructure Improvement Plan
Sec. X-9. Adoption and Modification Procedures
Sec. X-10. Five-year validity of the Infrastructure Improvements Plan and the Land Use Assumptions
Sec. X-11. Collection of Development Impact Fees
Sec. X-12. Development Impact Fee Credits and Credit Agreements
Sec. X-13. Development Agreements
Sec. X-14. Appeals
Sec. X-15. Refunds of Development Impact Fees
Sec. X-16. Oversight of Development Impact Fee Program
Appendix – Fee Schedule Forms

**Sec. X-1. - Title.**

This chapter shall be known as the "2011 Development Impact Fee Ordinance of the City of Douglas," and may be cited as such.

**Sec. X-2. - Legislative intent and purpose.**

This Chapter is adopted for the purpose of promoting the health, safety and general welfare of the residents of the City by:

A. Requiring new development to pay its proportionate share of the costs incurred by the City that are associated with providing Necessary Public Services to new development.

B. Setting forth standards and procedures for creating and assessing development impact fees consistent with the requirements of Arizona Revised Statutes ("A.R.S.") § 9-463.05, including requirements pursuant to A.R.S. § 9-463.05, Subsection K that, on or before August 1, 2014, the City replace or amend its development impact fees that were adopted prior to January 1, 2012 with development impact fees adopted pursuant to the requirements of A.R.S. § 9-463.05 as amended by the state legislature in SB 1525, Fiftieth Legislature, First Regular Session.

C. Providing for the temporary continuation of certain development impact

fees adopted prior to January 1, 2012 until otherwise replaced or amended pursuant to this Chapter, or longer where such development impact fees were pledged to support Financing or Debt for a Grandfathered Facility as permitted by A.R.S. § 9-463.05, Subsections K, R, and S.

D. Setting forth procedures for administering the development impact fee program, including mandatory offsets, Credits, and refunds of development impact fees. All development impact fee assessments, offsets, Credits, or refunds must be administered in accordance with the provisions of this Chapter.

This Chapter shall not affect the City's zoning authority or its authority to adopt or amend its General Plan, provided that planning and zoning activities by the City may require amendments to development impact fees as provided in Section X-7 of this Chapter.

**Sec. X-3. - Definitions.**

When used in this chapter, the terms listed below shall have the following meanings unless the context requires otherwise. Singular terms shall include their plural.

*Applicant:* A person who applies to the City for a Building Permit.

*Appurtenance:* Any fixed machinery or equipment, structure or other fixture, including integrated hardware, software or other components, associated with a Capital Facility that are necessary or convenient to the operation, use, or maintenance of a Capital Facility, but excluding replacement of the same after initial installation.

*Aquatic Center:* A facility primarily designed to host non-recreational competitive functions generally occurring within water, including, but not limited to, water polo games, swimming meets, and diving events. Such facility may be indoors, outdoors, or any combination thereof, and includes all necessary supporting amenities, including but not limited to, locker rooms, offices, snack bars, bleacher seating, and shade structures.

*Building Permit:* Any permit issued by the City that authorizes vertical construction, increases square footage, authorizes changes to land use, or provides for the addition of a residential or non-residential point of demand to a water or wastewater system.

*Capital Facility*: An asset having a Useful Life of three or more years that is a component of one or more Categories of Necessary Public Service provided by the City. A Capital Facility may include any associated purchase of real property, architectural and engineering services leading to the design and construction of buildings and facilities, improvements to existing facilities, improvements to or expansions of existing facilities, and associated financing and professional services. Wherever used herein, "infrastructure" shall have the same meaning as "Capital Facilities."

*Category of Necessary Public Service:* A category of Necessary Public Services for which the City is authorized to assess development impact fees, as further defined in Section X-8(A)(1) of this Chapter.

*Category of Development:* A specific category of residential, commercial, or industrial development against which a development impact fee is calculated and assessed. The City assesses development impact fees against the following categories of development: commercial, residential, and industrial categories.
*City*: The City of Douglas, Arizona.
*Commercial Land Use:*

**General Commercial**- This district is designed for the central retail marketing function of the Douglas trade area. Office building activities, personal and business services, and minor repair services are compatible with the primary purpose of the district. Regulations are designed to encourage a concentrated development limited by standards to prevent traffic congestion and to protect the district from incompatible uses.

**Limited Commercial**- The district comprises area developed for establishments selling retail goods and providing personal services for residents of the immediate neighborhood. Buildings shall be grouped together in compact arrangements providing maximum shopping convenience and multiple uses of off-street parking and minimal periphery conflicts with abutting residential properties. Development shall preserve the essential neighborhood character of the district, prevent encroachment by more intensive commercial uses, protect abutting residential properties and avoid any undue concentration of vehicular traffic on local streets.

**Neighborhood Convenience (NC) -** The purpose of the NC district is to provide locations for commercial uses within close proximity to residential area. It is to provide for opportunities to serve the needs of residents for convenience shopping and services. Such uses will be limited to professional offices, services, and retail trade that are oriented to the day-to-day commercial needs of the residential neighborhood. Neighborhood commercial uses are intended to be pedestrian oriented. The purpose is also to assure that such development is of a scale and design that is compatible with the residential environment and is an enhancement to neighborhood area.

*Credit*: A reduction in an assessed development impact fee resulting from developer contributions to, payments for, construction of, or dedications for capital facilities included in an Infrastructure Improvements Plan pursuant to Section X-12 of this Chapter (or as otherwise permitted by this Chapter).

*Credit Agreement*: A written agreement between the City and the developer(s) of Subject Development that allocates Credits to the Subject Development pursuant to Section X-12 of this Chapter. A Credit Agreement may be included as part of a Development Agreement pursuant to Section X-13 of this Chapter.

*Credit Allocation*: A term used to describe when Credits are distributed to a particular development or parcel of land after execution of a Credit Agreement, but are not yet issued.

*Credit Issuance*: A term used to describe when the amount of an assessed development impact fee attributable to a particular development or parcel of land is reduced by applying a Credit allocation.

*Developer*: An individual, group of individuals, partnership, corporation, limited liability company, association, municipal corporation, state agency, or other person or entity undertaking land development activity, and their respective successors and assigns.

*Development Agreement*: An agreement prepared in accordance with the requirements of Section X-13 of this Chapter, Section 9-500.05, Arizona Revised Statutes, and any applicable requirements of the City Code.

*Direct Benefit*: A benefit to an EDU resulting from a Capital Facility that: (a) addresses the need for a Necessary Public Service created in whole or in part by the EDU; and that (b) meets either of the following criteria: (i) the Capital Facility is located in the immediate area of the EDU and is needed in the immediate area of the EDU to maintain the Level of Service; or (ii) the Capital Facility substitutes for, or eliminates the need for a Capital Facility that would have otherwise have been needed in the immediate area of the EDU to maintain the City's Level of Service.

*Dwelling Unit*: A house, apartment, mobile home or trailer, group of rooms, or single room occupied as separate living quarters or, if vacant, intended for occupancy as separate living quarters.

*Equipment:* Machinery, tools, materials, and other supplies, not including vehicles, that are needed by a Capital Facility to provide the Level of Service specified by the Infrastructure Improvement Plan but excluding replacement of the same after initial development of the Capital Facility.

*Equivalent Demand Unit (EDU)*: A unit of development within a particular Category of Development, defined in terms of a standardized measure of the demand that a unit of development in that Category of Development generates for Necessary Public Services in relation to the demand generated by a detached single-family Dwelling Unit. For all Categories of Necessary Public Services, the EDU factor for a detached single-family Dwelling Unit is one (1), while the EDU factor for a unit of development within another Category of Development is represented as a ratio of the demand for each Category of Necessary Public Services typically generated by that unit as compared to the demand for such services typically generated by a detached single-family Dwelling Unit. An EDU shall be a "service unit" for purposes of paragraph (T), subparagraph (10) of A.R.S. § 9-463.05.

*Excluded Library Facility:* Library facilities for which development impact fees may not be charged pursuant to A.R.S. § 9-463.05, including that portion of any Library facility that exceeds 10,000 square feet, and Equipment, Vehicles or Appurtenances associated with Library operations.

*Excluded Park Facility:* Park and recreational facilities for which

development impact fees may not be charged pursuant to A.R.S. § 9-463.05, including amusement parks, aquariums, Aquatic Centers, auditoriums, arenas, arts and cultural facilities, bandstand and orchestra facilities, bathhouses, boathouses, clubhouses, community centers greater than three thousand square feet in floor area, environmental education centers, equestrian facilities, golf course facilities, greenhouses, lakes, museums, theme parks, water reclamation or riparian areas, wetlands, or zoo facilities.

*Fee Report*: A written report developed pursuant to Section X-9 of this Chapter that identifies the methodology for calculating the amount of each development impact fee, explains the relationship between the development impact fee to be assessed and the Plan-Based Cost per EDU calculated in the Infrastructure Improvements Plan, and which meets other requirements set forth in A.R.S. § Section 9-463.05.

*Financing or Debt:* Any debt, bond, note, loan, interfund loan, fund transfer, or other debt service obligation used to finance the development or expansion of a Capital Facility.

*Fire Protection*: A Category of Necessary Public Services that includes fire stations, fire Equipment, fire Vehicles and all Appurtenances for fire stations. Fire Protection does not include Vehicles or Equipment used to provide administrative services, or helicopters or airplanes. Fire Protection does not include any facility that is used for training firefighters from more than one station or substation.

*Grandfathered Facilities:* Capital Facilities provided through Financing or Debt incurred before June 1, 2011 for which a development impact fee has been Pledged towards repayment as adopted in City of Douglas Resolution No. 11-849 and as described in Section X-5(C) of this Chapter.

*General Plan:* Refers to the overall land-use plan for the City establishing areas of the City for different purposes, zones and activities, the latest of which was adopted pursuant to City of Douglas Resolution No. 02-244.

*Gross Impact Fee*: The total development impact fee to be assessed against a Subject Development on a per unit basis, prior to subtraction of any Credits.

*Industrial Land Use*:
**IP-Industrial Park**: This district is intended to provide for administrative, professional, research and specialized manufacturing activities at a low intensity. All uses shall be non-nuisance type and residential scale having low silhouette, a variety of separate building masses and landscaped areas. This district is to provide employment near residential areas and the development standards are intended to be compatible with adjacent residential and commercial uses and provide a park-like setting for employment.

**LI-Light Industry**: This district if for industrial development, but not located where development and operational characteristics of the industries will negatively affect nearby residential or commercial uses. Regulations are intended

to encourage development of such manufacturing, fabricating, processing, packaging, and other industries as can be operated in a relatively clean, quiet and safe manner.

**HI-Heavy Industry:** This district is comprised of certain industrial structures and uses having physical and operational characteristics which are offensive or hazardous or which otherwise adversely affect the economic welfare of nearby residential and commercial uses.

*Infrastructure Improvements Plan*: A document or series of documents that meet the requirements set forth in A.R.S. § 9-463.05, including those adopted pursuant to Section X-9 of this Chapter to cover any Category or combination of Categories of Necessary Public Services.

*Institutional Land Use*: City has not yet developed a Planning and Zoning definition for this type of land use.

*Interim Fee Schedule:* Any development impact fee schedule established prior to January 1, 2012 in accordance with then-applicable law, and which shall expire not later than August 1, 2014 pursuant to Section X-11 of this Chapter.

*Land Use Assumptions*: Projections of changes in land uses, densities, intensities and population for a Service Area over a period of at least ten years as specified in Section X-7 of this Chapter.

*Level of Service*: A quantitative and/or qualitative measure of a Necessary Public Service that is to be provided by the City to development in a particular Service Area, defined in terms of the relationship between service capacity and service demand, accessibility, response times, comfort or convenience of use, or other similar measures or combinations of measures. Level of Service may be measured differently for different Categories of Necessary Public Services, as identified in the applicable Infrastructure Improvements Plan.

*Library Facilities*: A Category of Necessary Public Services in which literary, musical, artistic, or reference materials are kept (materials may be kept in any form of media such as electronic, magnetic, or paper) for non-commercial use by the public in a facility providing a Direct Benefit to development. Libraries do not include Excluded Library Facilities, although a Library may contain, provide access to, or otherwise support an Excluded Library Facility.

*Necessary Public Services:* "Necessary Public Services" shall have the meaning prescribed in A.R.S. 9-463.05, subsection T, paragraph 5.

*Offset*: An amount which is subtracted from the overall costs of providing Necessary Public Services to account for those capital components of infrastructure or associated debt that have been or will be paid for by a development through taxes, fees (except for development impact fees), and other revenue sources, as determined by the City pursuant to Section X-8 of this Chapter.

*Parks and Recreational Facilities*: A Category of Necessary Public Services

including but not limited to parks, swimming pools and related facilities and equipment located on real property not larger than 30 acres in area, as well as park facilities larger than 30 acres where such facilities provide a Direct Benefit. Parks and Recreational Facilities do not include Excluded Park Facilities, although Parks and Recreational Facilities may contain, provide access to, or otherwise support an Excluded Park Facility.

*Plan-Based Cost Per EDU*: The total future capital costs listed in the Infrastructure Improvements Plan for a Category of Necessary Public Services divided by the total new equivalent demand units projected in a particular Service Area for that Category of Necessary Public Services over the same time period.

*Pledged:* Where used with reference to a development impact fee, a development impact fee shall be considered "pledged" where it was identified by the City as a source of payment or repayment for Financing or Debt that was identified as the source of financing for a Necessary Public Service for which a development impact fee was assessed pursuant to the then-applicable provisions of A.R.S. § 9-463.05.

*Police Facilities*: A Category of Necessary Public Services, including Vehicles and Equipment, that are used by law enforcement agencies to preserve the public peace, prevent crime, detect and arrest criminal offenders, protect the rights of persons and property, regulate and control motorized and pedestrian traffic, train sworn personnel, and/or provide and maintain police records, vehicles, equipment, and communications systems. Police Facilities do not include Vehicles and Equipment used to provide administrative services, or helicopters or airplanes. Police Facilities do not include any facility that is used for training officers from more than one station or substation.

*Qualified Professional:* Any one of the following: (a) a professional engineer, surveyor, financial analyst or planner, or other licensed professional providing services within the scope of that person's education or experience related to City planning, zoning, or impact development fees and holding a license issued by an agency or political subdivision of the State of Arizona; (b) a financial analyst, planner, or other non-licensed professional that is providing services within the scope of the person's education or experience related to City planning, zoning, or impact development fees; or (c) any other person operating under the supervision of one or more of the above.

*Residential Land Use:*

**SFR-Single Family Residence**: This district is comprised of single-family residential areas and certain areas where such development is desirable. Regulations are designated to stabilize and protect the single-family character of the district, to promote and encourage creation of a desirable environment for family life, and to prohibit all incompatible activities. Principal uses are single-family dwellings on individual lots.

**MFR-Multi-Family Residential**: This district is comprised of medium-density residential areas representing a compatible

mixture of single-family, two-family, multi-family, and attached single-family townhouse dwelling units. Regulations are designed to stabilize and protect the character of the district, to promote and encourage creation of a favorable environment for family-life, and to prohibit all incompatible activities. Principal uses are limited to single-family and two-family dwellings, apartments, and townhomes, which conform to the residential character of the district.

*Service Area*: Any specified area within the boundaries of the City within which: (a) the City will provide a Category of Necessary Public Services to development at a planned Level of Service; and (b) within which (i) a Substantial Nexus exists between the Capital Facilities to be provided and the development to be served, or (ii) in the case of Library Facilities or a Park Facility larger than 30 acres, a Direct Benefit exists between the Library Facilities or Park Facilities and the development to be served, each as prescribed in the Infrastructure Improvements Plan. Some or all of the Capital Facilities providing service to a Service Area may be physically located outside of that Service Area provided that the required Substantial Nexus or Direct Benefit is demonstrated to exist.

*Street Facilities*: A Category of Necessary Public Services including arterial or collector streets or roads, traffic signals, rights-of-way, and improvements thereon, bridges, culverts, irrigation tiling, storm drains, and regional transportation facilities.

*Storm Drainage*: A Category of Necessary Public Services including but not limited to storm sewers constructed in sizes needed to provide for stormwater management for areas beyond major street projects and stormwater detention/retention basins, tanks, pump stations and channels necessary to provide for proper stormwater management, including any appurtenances for those facilities.

*Subject Development:* A land area linked by a unified plan of development, which must be contiguous unless the land area is part of a development agreement executed in accordance with Section X-13 of this Chapter.

*Substantial Nexus:* A substantial nexus exists where the demand for Necessary Public Services that will be generated by an EDU can be reasonably quantified in terms of the burden it will impose on the available capacity of existing Capital Facilities, the need it will create for new or expanded Capital Facilities, and/or the benefit to the development from those Capital Facilities.

*Swimming Pool:* A public facility primarily designed and/or utilized for recreational non-competitive functions generally occurring within water, including, but not limited to, swimming classes, open public swimming sessions, and recreational league swimming/diving events. The facility may be indoors, outdoors, or any combination thereof, and includes all necessary supporting amenities.

*Useful Life*: The period of time in which an asset can reasonably be expected to be

used under normal conditions, whether or not the asset will continue to be owned and operated by the City over the entirety of such period.

*Vehicle:* Any device, structure, or conveyance utilized for transportation in the course of providing a particular Category of Necessary Public Services at a specified Level of Service, excluding helicopters and other aircraft.

*Wastewater*: A Category of Necessary Public Services including but not limited to sewers, lift stations, reclamation plants, wastewater treatment plants, and all other facilities for the collection, interception, transportation, treatment and disposal of wastewater, and any appurtenances for those facilities.

*Water*: A Category of Necessary Public Services including but not limited to those facilities necessary to provide for water services to development, including the acquisition, supply, transportation, treatment, purification and distribution of water, and any appurtenances to those facilities.
[Other Potential Land Use Definitions: Multifamily, Religious, Retail, Office, Warehouse, Manufacturing]

**Sec. X-4. – Applicability**
A. Except as otherwise provided herein, from and after 01/01/2012, this Chapter shall apply to all new development within any Service Area, except for the development of any City facility.

B. The provisions of this Chapter shall apply to all of the territory within the corporate limits of the City and/or within the City's water and wastewater service areas.

C. The City manager or his/her designee is authorized to make determinations regarding the application, administration and enforcement of the provisions of this Chapter.

**Sec. X-5. – Authority for Development Impact Fees**
A. *Fee Report and Implementation*. The City may assess and collect a development impact fee for costs of Necessary Public Services, including all professional services required for the preparation or revision of an Infrastructure Improvements Plan, Fee Report, development impact fee, and required reports or audits conducted pursuant to this Chapter. Development impact fees shall be subject to the following requirements:

1. The City shall develop and adopt a Fee Report that analyzes and defines the development impact fees to be charged in each Service Area for each Capital Facility Category, based on the Infrastructure Improvements Plan and the Plan-Based Cost per EDU calculated pursuant to Section X-8(A)(12) of this Chapter.

2. Development impact fees shall be assessed against all new commercial, residential, and industrial developments, provided that the City may assess different amounts of development impact fees against specific Categories of Development based on the actual burdens and costs that are associated with providing Necessary Public Services to that Category of

Development. No development impact fee shall exceed the Plan-Based Cost per EDU for any Category of Development.

3. No development impact fees shall be charged, or Credits issued, for any Capital Facility that does not fall within one of the Categories of Necessary Public Services for which development impact fees may be assessed as identified in Section X-8(A)(1) of this Chapter.

4. Costs for Necessary Public Services made necessary by new development shall be based on the same Level of Service provided to existing development in the same Service Area. Development impact fees may not be used to provide a higher Level of Service to existing development or to meet stricter safety, efficiency, environmental, or other regulatory standards to the extent that these are applied to existing Capital Facilities that are serving existing development.

5. Development impact fees may not be used to pay the City's administrative, maintenance, or other operating costs.

6. Projected interest charges and financing costs can only be included in development impact fees to the extent they represent principal and/or interest on the portion of any Financing or Debt used to finance the construction or expansion of a Capital Facility identified in the Infrastructure Improvements Plan.

7. Except for any fees included on Interim Fee Schedules, all development impact fees charged by the City must be included in a "Fee Schedule" prepared pursuant to this Chapter and included in the Fee Report; example versions of all Fee Schedules are provided in Appendix A.

8. All development impact fees shall meet the requirements of A.R.S. § 9-463.05.

B. *Costs per EDU.* The Fee Report shall summarize the costs of Capital Facilities necessary to serve new development on a per EDU basis as defined and calculated in the Infrastructure Improvements Plan, including all required Offsets, and shall recommend a development impact fee structure for adoption by the City. The actual impact fees to be assessed shall be disclosed and adopted in the form of impact fee schedules described in Appendix A to this Chapter.

C. *Carry-over of Previously-Established Development Impact Fees and Grandfathered Facilities.* Notwithstanding the requirements of this Chapter, certain development impact fees adopted by the City prior to the effective date of this Chapter shall continue in effect as follows:

1. Until August 1, 2014 or the date a new development impact fee is adopted for the applicable Category of Necessary Public Services in a Service Area pursuant to this Chapter, whichever occurs first, development impact fees established prior to January 1, 2012 shall continue in full force and effect to the extent that the development impact fee is used to provide a Category of Necessary Public Services that is authorized by Section X-8 of this Chapter. Development impact fees collected prior to January 1, 2012, shall be expended on Capital Facilities within the

same Category of Necessary Public Services for which they were collected.

2. The City may continue to collect and use any development impact fee established before January 1, 2012, even if the development impact fee would not otherwise be permitted to be collected and spent pursuant to A.R.S. § 9-463.05, as amended by the state legislature in SB 1525, Fiftieth Legislature, First Regular Session, if either of the following apply:

a. Both of the following conditions are met:

i. Prior to June 1, 2011, the development impact fee was pledged towards the repayment of Financing or Debt incurred by the City to provide a Capital Facility.

ii. The applicable Capital Facility was included in the City's Infrastructure Improvements Plan, or other City planning document prepared pursuant to applicable law, prior to June 1, 2011.

Before August 1, 2014, the City uses the development impact fee to finance a Capital Facility in accordance with A.R.S. § 9-463.05, Subsection (S).

3. Defined terms in any previously established fee schedule shall be interpreted according to the ordinance in effect at the time of their adoption.

**Sec. X-6. – Administration of Development Impact Fees**

A. *Separate Accounts.* Development impact fees collected pursuant to this Chapter shall be placed in separate, interest-bearing accounts for each Capital Facility category within each Service Area.

B. *Limitations on Use of Fees.* Development impact fees and any interest thereon collected pursuant to this Chapter shall be spent to provide Capital Facilities associated with the same Category of Necessary Public Services in the same Service Area for which they were collected, including costs of Financing or Debt used by the City to finance such Capital Facilities and other costs authorized by this Chapter that are included in the Infrastructure Improvements Plan.

C. *Time Limit.* Development impact fees collected after July 31, 2014 shall be used within ten years of the date upon which they were collected for all Categories of Necessary Public Services except for Water and Wastewater Facilities. For Water Facilities or Wastewater Facilities collected after July 31, 2014, development impact fees must be used within 15 years of the date upon which they were collected.

**Sec. X-7. – Land Use Assumptions**

The Infrastructure Improvements Plan shall be consistent with the City's current Land Use Assumptions for each Service Area and each Category of Necessary Public Services as adopted by the City pursuant to A.R.S. § 463.05.

A. *Reviewing the Land Use Assumptions.* Prior to the adoption or amendment of an Infrastructure Improvements Plan, the City shall review and evaluate the Land Use Assumptions on which the Infrastructure Improvements Plan is to be based to ensure that the Land Use Assumptions within each Service Area conform with the General Plan.

B. *Evaluating Necessary Changes.* If the Land Use Assumptions upon which an Infrastructure Improvements Plan is based

have not been updated within the last five years, the City shall evaluate the Land Use Assumptions to determine whether changes are necessary. If, after general evaluation, the City determines that the Land Use Assumptions are still valid, the City shall issue the report required in Section X-10 of this Chapter.

C. *Required Modifications to Land Use Assumptions.* If the City determines that changes to the Land Use Assumptions are necessary in order to adopt or amend an Infrastructure Improvements Plan, it shall make such changes as necessary to the Land Use Assumptions prior to or in conjunction with the review and approval of the Infrastructure Improvements Plan pursuant to Section X-10 of this Chapter.

**Sec. X-8. – Infrastructure Improvements Plan**

A. *Infrastructure Improvements Plan Contents*. The Infrastructure Improvements Plan shall be developed by Qualified Professionals and may be based upon or incorporated within the City's Capital Improvements Plan. The Infrastructure Improvements Plan shall:

1. Specify the Categories of Necessary Public Services for which the City will impose a development impact fee, which may include any or all of the following:
a. Water
b. Wastewater
c. Stormwater, Drainage, and Flood Control
d. Libraries
e. Street Facilities
f. Fire Protection
g. Police
h. Parks

2. Define and provide a map of one or more Service Areas within which the City will provide each Category of Necessary Public Services for which development impact fees will be charged. Each Service Area must be defined in a manner that demonstrates a Substantial Nexus between the Capital Facilities to be provided in the Service Area and the EDUs to be served by those Capital Facilities. For Libraries and for Parks larger than 30 acres, each Service Area must be defined in a manner that demonstrates a Direct Benefit between the Capital Facilities and the EDUs to be served by those Capital Facilities. The City may cover more than one category of Capital Facilities in the same Service Area provided that there is an independent Substantial Nexus or Direct Benefit, as applicable, between each Category of Necessary Public Services and the EDUs to be served.

3. Identify and describe the Land Use Assumptions upon which the Infrastructure Improvements Plan is based in each Service Area.

4. Analyze and identify the existing Level of Service provided by the City to existing EDUs for each Category of Necessary Public Services in each Service Area.

5. Identify the Level of Service to be provided by the City for each Category of Necessary Public Services in each Service Area based on the relevant Land Use Assumptions and any established City standards or policies related to required Levels of Service. If the City provides the

same Category of Necessary Public Services in more than one Service Area, the Infrastructure Improvements Plan shall include a comparison of the Levels of Service to be provided in each Service Area.

6. For each Category of Necessary Public Services, analyze and identify the existing capacity of the Capital Facilities in each Service Area, the utilization of those Capital Facilities by existing EDUs, and the available excess capacity of those Capital Facilities to serve new EDUs including any existing or planned commitments or agreements for the usage of such capacity. The Infrastructure Improvements Plan shall additionally identify: (a) any changes or upgrades to existing Capital Facilities that will be needed to achieve or maintain the planned Level of Service to existing EDUs, or to meet new safety, efficiency, environmental, or other regulatory requirements for services provided to existing EDUs; and (b) those portions of Capital Facilities that will be necessary to serve any new City facility for which development impact fees will not be assessed.

7. Identify any Grandfathered Facilities and the impact thereof on the need for Necessary Public Services in each affected Service Area.

8. Estimate the total number of existing and future EDUs within each Service Area based on the City's Land Use Assumptions and projected new EDUs in each Service Area.

9. Based on the analysis in paragraphs (3)-(6) above, provide a summary table or tables describing the Level of Service for each Category of Necessary Public Services by relating the required Capital Facilities to EDUs in each Service Area, and identifying the applicable EDU factor associated with each Category of Development.

10. For each Category of Necessary Public Services, analyze and identify the projected utilization of any available excess capacity in existing Capital Facilities, and all new or expanded Capital Facilities that will be required to provide and maintain the planned Level of Service in each Service Area as a result of the new projected EDUs in that Service Area, for a period not to exceed ten years. Nothing in this Subsection shall prohibit the City from additionally including in its Infrastructure Improvements Plan projected utilization of, or needs for, Capital Facilities for a period longer than ten years, provided that the costs of such Capital Facilities are excluded from the calculation of the Plan-Based Cost per EDU.

11. For each Category of Necessary Public Services, estimate the total cost of any available excess capacity and/or new or expanded Capital Facilities that will be required to serve new EDUs, including costs of land acquisition, improvements, engineering and architectural services, studies leading to design, design, construction, financing, and administrative costs, as well as projected costs of inflation. Such total costs shall not include costs for ongoing operation and maintenance of Capital Facilities, nor for

replacement of Capital Facilities to the extent that such replacement is necessary to serve existing EDUs. If the Infrastructure Improvements Plan includes changes or upgrades to existing Capital Facilities that will be needed to achieve or maintain the planned Level of Service to existing EDUs, or to meet new regulatory requirements for services provided to existing EDUs, such costs shall be identified and distinguished in the Infrastructure Improvements Plan.

12. Forecast the revenues from taxes, fees, assessments or other sources that will be available to fund the new or expanded Capital Facilities identified in the Infrastructure Improvements Plan, which shall include estimated state-shared revenue, highway users revenue, federal revenue, ad valorem property taxes, construction contracting or similar excise taxes and the capital recovery portion of utility fees attributable to development based on the approved land use assumptions. The Infrastructure Improvements Plan shall additionally estimate the time required to finance, construct and implement the new or expanded Capital Facilities.

13. Calculate required Offsets as follows:
a. From the forecasted revenues in Subsection (12) of this Section, identify those sources of revenue that: (i) are attributable to new development, and (ii) will contribute to paying for the capital costs of Necessary Public Services.

b. For each source and amount of revenue identified pursuant to paragraph (a) of this Subsection, calculate the relative contribution of each Category of Development to paying for the capital costs of Necessary Public Services in each Service Area.
c. Based on the relative contributions identified pursuant to paragraph (b) of this subsection, for each Category of Necessary Public Services, calculate the total Offset to be provided to each Category of Development in each Service Area.

d. For each Category of Necessary Public Services, convert the total Offset to be provided to each Category of Development in each Service Area into an offset amount per EDU by dividing the total Offset for each Category of Development by the number of EDUs associated with that Category of Development.

e. Beginning August 1, 2014, for purposes of calculating the required Offset, if the City imposes a construction, contracting, or similar excise tax rate in excess of the percentage amount of the transaction privilege tax rate that is imposed on the majority of other transaction privilege tax classifications in the City, the entire excess portion of the construction, contracting, or similar excise tax shall be treated as a contribution to the capital costs of Necessary Public Services provided to new development unless the excess portion is already utilized for such purpose pursuant to this Section.

f. In determining the amount of required Offset for land included in a community facilities district established under A.R.S. Title 48, Chapter 4, Article 6, the City shall take into account any Capital Facilities provided by the district that are included in the Infrastructure Improvements Plan and

the capital costs paid by the district for such Capital Facilities, and shall offset impact fees assessed within the community facilities district proportionally.

14. Calculate the Plan-Based Cost per EDU by:

a. Dividing the total projected costs to provide Capital Facilities to new EDUs for each Category of Necessary Public Services in each Service Area as determined pursuant to Subsection (9) of this Section into the number of new EDUs projected for that Service Area over a period not to exceed ten years, considering the specific EDU factor(s) associated with such EDUs for each Category of Necessary Public Services.

b. Subtracting the required Offset per EDU calculated pursuant to Subsection (11) of this Section.

B. *Multiple Plans.* An Infrastructure Improvements Plan adopted pursuant to this Subsection may address one or more of the City's Categories of Necessary Public Services in any or all of the City's Service Areas. Each Capital Facility shall be subject to no more than one Infrastructure Improvements Plan at any given time.

C. *Reserved Capacity.* The City may reserve capacity in an Infrastructure Improvements Plan to serve one or more planned future developments, including capacity reserved through a Development Agreement pursuant to Section X-13 of this Chapter. All reservations of existing capacity must be disclosed in the Infrastructure Improvements Plan at the time it is adopted.

**X-9. – Adoption and Modification Procedures**

A. *Adopting or Amending the Infrastructure Improvements Plan.* The Infrastructure Improvements Plan shall be adopted or amended subject to the following procedures:

1. *Major Amendments to the Infrastructure Improvements Plan.* Except as provided in paragraph 2 of this Subsection, the adoption or amendment of an Infrastructure Improvement Plan shall occur at one or more public hearings according to the following schedule, and may occur concurrently with the adoption of an update of the City's Land Use Assumptions as provided in Section X-7 of this Chapter:

a. Sixty days before the first public hearing regarding a new or updated Infrastructure Improvements Plan, the City shall provide public notice of the hearing and post the Infrastructure Improvements Plan and the underlying Land Use Assumptions on its website; the City shall additionally make available to the public the documents used to prepare the Infrastructure Improvements Plan and underlying Land Use Assumptions and the amount of any proposed changes to the Plan-Based Cost per EDU.

b. The City shall conduct a public hearing on the Infrastructure Improvements Plan and underlying Land Use Assumptions at least 30 days, but no more than 60 days, before approving or disapproving the Infrastructure Improvements Plan.

2. *Minor Amendments to the Infrastructure Improvements Plan.* Notwithstanding the other requirements of this Section, the City may update the Infrastructure Improvements Plan and/or its underlying Land Use Assumptions without a public hearing if all of the following apply:

a. The changes in the Infrastructure Improvements Plan and/or the underlying Land Use Assumptions will not add any new Category of Necessary Public Services to any Service Area.

b. The changes in the Infrastructure Improvements Plan and/or the underlying Land Use Assumptions will not increase the Level of Service to be provided in any Service Area.

c. Based on an analysis of the Fee Report and the City's adopted development impact fee schedules, the changes in the Infrastructure Improvements Plan and/or the underlying Land Use Assumptions would not, individually or cumulatively with other amendments undertaken pursuant to this Subsection, have caused a development impact fee in any Service Area to have been increased by more than five per cent above the development impact fee that is provided in the current development impact fee schedule.

d. At least 30 days prior to the date that the any amendment pursuant to this Section is adopted, the City shall post the proposed amendments on the City website and shall provide the Advisory Committee with written notice of the proposed amendments and the basis for compliance with this Section.

B. *Amendments to the Fee Report.* Any adoption or amendment of a Fee Report and fee schedule shall occur at one or more public hearings according to the following schedule:

1. The first public hearing on the Fee Report must be held at least 30 days after the adoption or approval of and Infrastructure Improvements Plan as provided in subsection A of this Section. The City must give at least 30 days notice prior to the hearing, provided that this notice may be given on the same day as the approval or disapproval of the Infrastructure Improvements Plan.

2. The City shall make the Infrastructure Improvements Plan and underlying Land Use Assumptions available to the public on the City's website 30 days prior to the public hearing described in Paragraph (1) of this Subsection.

3. The Fee Report may be adopted by the City no sooner than 30 days, and no later than 60 days, after the hearing described in Paragraph (1) of this Subsection.

4. The development fee schedules in the Fee Report adopted pursuant to this subsection shall become effective 75 days after adoption of the Fee Report by the City.

**Sec. X-10. – Timing for the Renewal and Updating of the Infrastructure Improvements Plan and the Land Use Assumptions.**

A. *Renewing the Infrastructure Improvements Plan.* Except as provided in Subsection B of this Section, not later than every five years the City shall update the applicable Infrastructure Improvements Plan and Fee Report related to each Category of Necessary Public Services pursuant to Section X-9 of this Chapter. Such five-year period shall be calculated from the date of the adoption of the Infrastructure Improvements Plan or the date of the adoption of the Fee Report, whichever occurs later.

B. *Determination of No Changes.* Notwithstanding Subsection (A) of this Section, if the City determines that no changes to an Infrastructure Improvements Plan, underlying Land Use Assumptions, or Fee Report are needed, the City may elect to continue the existing Infrastructure Improvements Plan and Fee Report without amendment by providing notice as follows:

1. Notice of the determination shall be published at least 180 days prior to the end of the five-year period described in Subsection A of this Section.

2. The notice shall identify the Infrastructure Improvements Plan and Fee Report that shall continue in force without amendment.

3. The notice shall provide a map and description of the Service Area(s) covered by such Infrastructure Improvements Plan and Fee Report.

4. The notice shall identify an address to which any resident of the City may submit, within 60 days, a written request that the City update the Infrastructure Improvements Plan, underlying Land Use Assumptions, and/or Fee Report and the reasons and basis for the request.

C. *Response to Comments.* The City shall consider and respond within 30 days to any timely requests submitted pursuant to Paragraph 4 of Subsection (B) of this Section.

**Sec. X-11. - Collection of Development Impact Fees**

A. *Collection*. Development impact fees, together with administrative charges assessed pursuant to Paragraph (A)(6) of this Section, shall be calculated and collected prior to issuance of permission to commence development; specifically:

1. Unless otherwise specified pursuant to a Development Agreement adopted pursuant to Section X-13 of this Chapter, development impact fees shall be paid prior to issuance of a building permit according to the current development impact fee schedule for the applicable Service Area(s) as adopted pursuant to this Chapter, or according to any other development impact fee schedule as authorized in this Chapter.

2. If a building permit is not required for the development, but water or wastewater connections are required, any and all development impact fees due shall be paid at the time the water service connection is purchased. If only a wastewater connection is required, the development impact fees shall be paid prior to approval of a connection to the sewer system. Wastewater development impact fees shall be assessed if a development connects to the public sewer, or as determined by the

City's Public Works Director, is capable of discharging sewage to a City public sewer.

3. If the development is located in a Service Area with a Stormwater, Drainage, and Flood Control development impact fee, and neither a building permit, water, or sewer service connection is required, the Storm Drainage development impact fee due shall be paid at the time a civil or site permit is issued for the development.

4. No building permit, water or sewer connection, or certificate of occupancy shall be issued if a development impact fee is not paid as directed in the previous paragraphs.

5. If the building permit is for a change in the type of building use, an increase in square footage, a change to land use, or an addition to a residential or non-residential point of demand to the water or wastewater system, the development impact fee shall be assessed on the additional service units resulting from the expansion or change, and following the development impact fee schedule applicable to any new use type.

6. For issued permits that expire or are voided, development impact fees and administrative charges shall be as follows:

a. If the original permittee is seeking to renew an expired or voided permit, and the development impact fees paid for such development have not been refunded, then the permittee shall pay the difference between any development impact fees paid at the time the permit was issued and those in the fee schedule at the time the permit is reissued or renewed.

b. If a new or renewed permit for the same development is being sought by someone other than the original permittee, the new permit Applicant shall pay the full development impact fees specified in the fee schedule in effect at the time that the permits are reissued or renewed. If the original permittee has assigned its rights under the permits to the new permit Applicant, the new permit Applicant shall pay development impact fees as if it were the original permittee.

B. *Exceptions*. Development impact fees shall not be owed under either of the following conditions:

1. Development impact fees have been paid for the development and the permit(s) which triggered the collection of the development impact fees have not expired or been voided.

2. The approval(s) that trigger the collection of development impact fees involve modifications to existing residential or non-residential development that do not: (a) add new EDUs, (b) increase the impact of existing EDUs on existing or future Capital Facilities, or (c) change the land-use type of the existing development to a different category of development for which a higher development impact fee would have been due. To the extent that any modification does not meet the requirements of this paragraph, the development impact fee due shall be the difference between the development impact fee that was or would have been due on the existing development and the development

impact fee that is due on the development as modified.

C. *Temporary Exemptions from Development Impact Fee Schedules.* New developments in the City shall be temporarily exempt from increases in development impact fees that result from the adoption of new or modified development impact fee schedules as follows:

1. Residential Uses. On or after the day that the first building permit is issued for a single-family residential development, the City shall, at the permittee's request, provide the permittee with an applicable development impact fee schedule that shall be in force for a period of 24 months beginning on the day that the first building permit is issued, and which shall expire at the end of the first business day of the 25th month thereafter. During the effective period of the applicable development impact fee schedule, any building permit issued for the same single-family residential development shall not be subject to any new or modified development impact fee schedule.

2. Commercial, Industrial and Multifamily Uses. On or after the day that the final approval, as defined in A.R.S. 9-463.05(T)(4), is issued for a commercial, industrial or multifamily development, the City shall provide an applicable development impact fee schedule that shall be in force for a period of 24 months beginning on the day that final development approval of a site plan or final subdivision plat is given, and which shall expire at the end of the first business day of the 25th month thereafter. During the effective period of the applicable development impact fee schedule, any building permit issued for the same development shall not be subject to any new or modified development impact fee schedule.

3. Other Development. Any Category of Development not covered under paragraphs 1 and 2 of this Subsection shall pay development impact fees according to the fee schedule that is current at the time of collection as specified in Subsection (A) of this Section.

4. Changes to Site Plans and Subdivision Plats. Notwithstanding the other requirements of this Subsection, if changes are made to a development's final site plan or subdivision plat that will increase the number of service units after the issuance of a grandfathered development impact fee schedule, the City may assess any new or modified development impact fees against the additional service units. If the City reduces the amount of an applicable development impact fee during the period that a grandfathered development impact fee schedule is in force, the City shall assess the lower development impact fee.

D. *Option to Pursue Special Fee Determination.* Where a development is of a type that does not closely fit within a particular Category of Development appearing on an adopted development impact fee schedule, or where a development has unique characteristics such that the actual burdens and costs associated with providing Necessary Public Services to that development will differ

substantially from that associated with other developments in a specified Category of Development, the City may require the Applicant to provide the City Public Works Director or authorized designee with an alternative development impact fee analysis. Based on a projection of the actual burdens and costs that will be associated with the development, the alternative development impact fee analysis may propose a unique fee for the development based on the application of an appropriate EDU factor to the applicable Plan-Based Cost per EDU, or may propose that the development be covered under the development impact fee schedule governing a different and more analogous Category of Development. The City Public Works Director or authorized designee shall review the alternative impact fee analysis and shall make a determination as to the development impact fee to be charged. Such decision shall be appealable pursuant to Section X-14 of this Chapter. The City Public Works Director or authorized designee may require the Applicant to pay an administrative fee to cover the actual costs of reviewing the special fee determination application.

**Sec. X-12. - Development Impact Fee Credits and Credit Agreements**

A. *Eligibility of Capital Facility*. All development impact fee Credits must meet the following requirements:

1. One of the following is true:

a. The Capital Facility, or the financial contribution toward a Capital Facility that will be provided by the developer and for which a Credit will be issued, must be identified in an adopted Infrastructure Improvements Plan and Fee Report as a Capital Facility for which a development impact fee was assessed; or

b. The Applicant must demonstrate to the satisfaction of the City that, given the class and type of improvement, the subject Capital Facility should have been included in the Infrastructure Improvements Plan in lieu of a different Capital Facility that was included in the Infrastructure Improvements Plan and for which a development impact fee was assessed. If the subject Capital Facility is determined to be eligible for a Credit in this manner, the City shall amend the Infrastructure Improvements Plan to (i) include the subject replacement facility and (ii) delete the Capital Facility that will be replaced.

2. Credits shall not be available for any infrastructure provided by a developer if the cost of such infrastructure will be repaid to the developer by the City through another agreement or mechanism. To the extent that the developer will be paid or reimbursed by the City for any contribution, payment, construction, or dedication from any City funding source including an agreement to reimburse the developer with future collected development impact fees pursuant to Section X-13 of this Chapter, any Credits claimed by the developer shall be: (a) deducted from any amounts to be paid or reimbursed by the City; or (b) reduced by the amount of such payment or reimbursement.

B. *Eligibility of Subject Development*. To be eligible for a Credit, the Subject Development must be located within the Service Area of the eligible Capital Facility.

C. *Calculation of Credits*. Credits will be based on that portion of the costs for an eligible Capital Facility identified in the adopted Infrastructure Improvements Plan for which a development fee was assessed pursuant to the Fee Report. If the Gross Impact Fee for a particular category of Necessary Public Service is adopted at an amount lower than the Plan-Based Cost per EDU, the amount of any Credit shall be reduced in proportion to the difference between the Plan-Based Cost per EDU and the Gross Impact Fee adopted. A Credit shall not exceed the actual costs the Applicant incurred in providing the eligible Capital Facility.

D. *Allocation of Credits*. Before any Credit can be issued to a Subject Development (or portion thereof), the Credit must be allocated to that development as follows:

1. The Developer and the City must execute a Credit Agreement including all of the following:

a. The total amount of the Credits resulting from provision of an eligible Capital Facility.

b. The estimated number of EDUs to be served within the Subject Development.

c. The method by which the Credit values will be distributed within the Subject Development.

2. It is the responsibility of the developer to request allocation of development impact fee Credits through an application for a Credit Agreement (which may be part of a Development Agreement entered into pursuant to Section X-13 of this Chapter).

3. If a building permit is issued or a water/sewer connection is purchased, and a development impact fee is paid prior to execution of a Credit Agreement for the Subject Development, no Credits may be allocated retroactively to that permit or connection. Credits may be allocated to any remaining permits for the Subject Development in accordance with this Chapter.

4. If the entity that provides an eligible Capital Facility sells or relinquishes a development (or portion thereof) that it owns or controls prior to execution of a Credit Agreement or Development Agreement, Credits resulting from the eligible Capital Facility will only be allocated to the development if the entity legally assigns such rights and responsibilities to its successor(s) in interest for the Subject Development.

5. If multiple entities jointly provide an eligible Capital Facility, both entities must enter into a single Credit Agreement with the City, and any request for the allocation of Credit within the Subject Development(s) must be made jointly by the entities that provided the eligible Capital Facility.

6. Credits may only be reallocated from or within a Subject Development with the

City's approval of an amendment to an executed Credit Agreement, subject to the following conditions:

a. The entity that executed the original agreement with the City, or its legal successor in interest and the entity that currently controls the Subject Development are parties to the request for reallocation.

b. The reallocation proposal does not change the value of any Credits already issued for the Subject Development.

7. A Credit Agreement may authorize the allocation of Credits to a non-contiguous parcel only if all of the following conditions are met:

a. The entity that executed the original agreement with the City or its legal successor in interest, the entity that currently controls the Subject Development, and the entity that controls the non-contiguous parcel are parties to the request for reallocation.

b. The reallocation proposal does not change the value of any Credits already issued for the Subject Development.

c. The non-contiguous parcel is in the same Service Area as that served by the eligible Capital Facility.

d. The non-contiguous parcel receives a Necessary Public Service from the eligible Capital Facility.

e. The Credit Agreement specifically states the value of the Credits to be allocated to each parcel and/or EDU, or establishes a mechanism for future determination of the Credit values.

f. The Credit Agreement does not involve the transfer of Credits to or from any property subject to a Development Agreement.

E. *Credit Agreement*. Credits shall only be issued pursuant to a Credit Agreement executed in accordance with Subsection D of this Section. The City Manager or Authorized Designee is authorized by this Chapter to enter into a Credit Agreement with the controlling entity of a Subject Development, subject to the following:

1. The Developer requesting the Credit Agreement shall provide all information requested by the City to allow it to determine the value of the Credit to be applied.

2. An application for a Credit Agreement shall be submitted to the City by the Developer within one year of the date on which ownership or control of the Capital Facility passes to the City.

3. The Developer shall submit a draft Credit Agreement to the City Manager or authorized designee(s) for review in the form provided to the Applicant by the City. The draft Credit Agreement shall include, at a minimum, all of the following information and supporting documentation:

a. A legal description and map depicting the location of the Subject Development for which Credit is being applied. The map shall depict the location of the Capital

Facilities that have been or will be provided.

b. An estimate of the total EDUs that will be developed within the Subject Development depicted on the map and described in the legal description.

c. A list of the Capital Facilities, associated physical attributes, and the related costs as stated in the Infrastructure Improvements Plan.

d. Documentation showing the date(s) of acceptance by the City, if the Capital Facilities have already been provided.

e. The total amount of Credit to be applied within the Subject Development and the calculations leading to the total amount of Credit.

f. The Credit amount to be applied to each EDU within the Subject Development for each Category of Necessary Public Services.

4. The Credit Agreement shall be approved by the City Council prior to its execution. The City's determination of the Credit to be allocated is final.

5. Upon execution of the Credit Agreement by the City and the Applicant, Credits shall be deemed allocated to the Subject Development.

6. Any amendment to a previously approved Credit Agreement must be initiated within two years of the City's final acceptance of the eligible Capital Facility for which the amendment is requested.

7. Any Credit Agreement approved as part of a Development Agreement shall be amended in accordance with the terms of the Development Agreement and Section X-13 of this Chapter.

F. *Issuance of Credits*. Credits allocated pursuant to Subsection (D) of this Section may be issued and applied toward the Gross Impact Fees due from a development, subject to the following conditions:

1. Credits issued for an eligible Capital Facility may only be applied to the development impact fee due for the applicable Category of Necessary Public Services, and may not be applied to any fee due for another Category of Necessary Public Services.

2. Credits shall only be issued when the eligible Capital Facility from which the Credits were derived has been accepted by the City or when adequate security for the completion of the eligible Capital Facility has been provided in accordance with all terms of an executed Development Agreement.

3. Where Credits have been issued pursuant to paragraph (2) of this Subsection, an impact fee due at the time a building permit is issued shall be reduced by the Credit amount stated in or calculated from the executed Credit Agreement. Where Credits have not yet been issued, the Gross Impact Fee shall be paid in full, and a refund of the Credit amount shall be due when the Developer demonstrates compliance with

Paragraph (2) of this Subsection in a written request to the City.

4. Credits, once issued, may not be rescinded or reallocated to another permit or parcel, except that Credits may be released for reuse on the same Subject Development if a building permit for which the Credits were issued has expired or been voided and is otherwise eligible for a refund under Section X-15(A)(2)(a) of this Chapter.

5. Notwithstanding the other provisions of this Section X-12, Credits issued prior to January 1, 2012 may only be used for the Subject Development for which they were issued. Such Credits may be transferred to a new owner of all or part of the Subject Development in proportion to the percentage of ownership in the Subject Development to be held by the new owner.

**Sec. X-13. - Development Agreements**

Development Agreements containing provisions regarding development impact fees, development impact fee Credits, and/or disbursement of revenues from development impact fee accounts shall comply with the following:

A. *Development Agreement Required.* A Development Agreement is required to authorize any of the following:

1. To issue Credits prior to the City's acceptance of an eligible Capital Facility.

2. To allocate Credits to a parcel that is not contiguous with the Subject Development and that does not meet the requirements of Subparagraph (D)(7) of Section X-12 of this Chapter.

3. To reimburse the developer of an eligible Capital Facility using funds from development impact fee accounts.

4. To allocate different Credit amounts per EDU to different parcels within a Subject Development.

5. For a single family residential Dwelling Unit, to allow development impact fees to be paid at a later time than the issuance of a building permit as provided in this Section.

B. *General Requirements.* All Development Agreements shall be prepared and executed in accordance with A.R.S. 9-500.05 and any applicable requirements of the City Code. Except where specifically modified by this Section, all provisions of Section X-12 of this Chapter shall apply to any Credit Agreement that is authorized as part of a Development Agreement.

C. *Early Credit Issuance.* A Development Agreement may authorize the issuance of Credits prior to acceptance of an eligible Capital Facility by the City when the Development Agreement specifically states the form and value of the security (i.e. bond, letter of Credit, etc.) to be provided to the City prior to issuance of any Credits. The City shall determine the acceptable form and value of the security to be provided.

D. *Non-Contiguous Credit Allocation.* A Development Agreement may authorize the allocation of Credits to a non-contiguous parcel only if all of the following conditions are met:

1. The non-contiguous parcel is in the same Service Area as that served by the eligible Capital Facility.

2. The non-contiguous parcel receives a Necessary Public Service from the eligible Capital Facility.

3. The Development Agreement specifically states the value of the Credits to be allocated to each parcel and/or EDU, or establishes a mechanism for future determination of the Credit values.

E. *Uneven Credit Allocation.* The Development Agreement must specify how Credits will be allocated amongst different parcels on a per-EDU basis, if the Credits are not to be allocated evenly. If the Development Agreement is silent on this topic, all Credits will be allocated evenly amongst all parcels on a per-EDU basis.

F. *Use of Reimbursements.* Funds reimbursed to developers from impact fee accounts for construction of an eligible Capital Facility must be utilized in accordance with applicable law for the use of City funds in construction or acquisition of Capital Facilities, including A.R.S. § 34-201, *et seq.*

G. *Deferral of Fees.* A Development Agreement may provide for the deferral of payment of development impact fees for a residential development beyond the issuance of a building permit; provided that a development impact fee may not be paid later than the 15 days after the issuance of the certificate of occupancy for that Dwelling Unit. The Development Agreement shall provide for the value of any deferred development impact fees to be supported by appropriate security, including a surety bond, letter of credit, or cash bond.

H. *Waiver of Fees.* If the City agrees to waive any development impact fees assessed on development in a Development Agreement, the City shall reimburse the appropriate development impact fee account for the amount that was waived.

I. *No Obligation.* Nothing in this Section obligates the City to enter into any Development Agreement or to authorize any type of Credit Agreement permitted by this Section.

**Sec. X-14. - Appeals**

A development impact fee determination by City staff may be appealed in accordance with the following procedures:

A. *Limited Scope.* An appeal shall be limited to disputes regarding the calculation of the development impact fees for a specific development and/or permit and calculation of EDU's for the development.

B. *Form of Appeal.* An appeal shall be initiated on such written form as the City may prescribe, and submitted to the Director of the Public Works Department.

C. *Department Action.* The Public Works Director shall act upon the appeal within 30 calendar days of the filing of the appeal with the Public Works Department, and the Applicant shall be notified of the Director's decision in writing.

D. *Appeal to Manager* The Applicant may further appeal the decision of the Public Works Director to the City Manager or authorized designee, who shall be in a more senior position than the Public Works Director, within 14 calendar days of the decision.

E. *Action by Manager.* The City Manager or authorized designee shall act upon the appeal within 14 calendar days of receipt of the appeal, and the Applicant shall be notified of the City Manager or authorized designee's decision in writing.

F. *Final Decision.* The City Manager or authorized designee's decision regarding the appeal is final.

G. *Fees During Pendency.* Building permits may be issued during the pendency of an appeal if the Applicant (1) pays the full impact fee calculated by the City at the time the appeal is filed or (2) provides the City with financial assurances in the form acceptable to the City Manager or authorized designee equal to the full amount of the impact fee. Upon final disposition of an appeal, the fee shall be adjusted in accordance with the decision rendered, and a refund paid if warranted. If the appeal is denied by the City Manager or authorized designee, and the Applicant has provided the City with financial assurances as set forth in clause (2) above, the Applicant shall deliver the full amount of the impact fee to the City within ten days of the City Manager or designee's final decision on the appeal. If the Applicant fails to deliver the full amount of the impact fees when required by this Subsection, the City may draw upon such financial assurance instrument(s) as necessary to recover the full amount of the impact fees due from the Applicant.

**Sec. X-15. – Refunds of Development Impact Fees**

A. *Refunds.* A refund (or partial refund) will be paid to any current owner of property within the City who submits a written request to the City and demonstrates that:

1. The permit(s) that triggered the collection of the development impact fee have expired or been voided prior to the commencement of the development for which the permits were issued and the development impact fees collected have not been expended, encumbered, or Pledged for the repayment of Financing or Debt; or

2. The owner of the subject real property or its predecessor in interest paid a development impact fee for the applicable Capital Facility on or after August 1, 2014, and one of the following conditions exists:

a. The Capital Facility designed to serve the subject real property has been constructed, has the capacity to serve the subject real property and any development for which there is reserved capacity, and the service which was to be provided by that Capital Facility has not been provided to the subject real property from that Capital Facility or from any other infrastructure.

b. After collecting the fee to construct a Capital Facility the City fails to complete construction of the Capital Facility within the time period identified in the Infrastructure

Improvements Plan, as it may be amended, and the corresponding service is otherwise unavailable to the subject real property from that Capital Facility or any other infrastructure.

c. For a Category of Necessary Public Services other than Water or Wastewater Facilities, any part of a development impact fee is not spent within ten years of the City's receipt of the development impact fee.

d. Any part of a development impact fee for Water or Wastewater Facilities is not spent within 15 years of the City's receipt of the development impact fee.

e. The development impact fee was calculated and collected for the construction cost to provide all or a portion of a specific Capital Facility serving the subject real property and the actual construction costs for the Capital Facility are less than the construction costs projected in the Infrastructure Improvements Plan by a factor of 10% or more. In such event, the current owner of the subject real property shall, upon request as set forth in this Section A, be entitled to a refund for the difference between the amounts of the development impact fee charged for and attributable to such construction cost and the amount the development impact fee would have been calculated to be if the actual construction cost had been included in the Fee Report. The refund contemplated by this Subsection shall relate only to the costs specific to the construction of the applicable Capital Facility and shall not include any related design, administrative, or other costs not directly incurred for construction of the Capital Facility that are included in the development impact fee as permitted by A.R.S. § 9-463.05.

B. *Earned Interest.* A refund of a development impact fee shall include any interest actually earned on the refunded portion of the development impact fee by the City from the date of collection to the date of refund. All refunds shall be made to the record owner of the property at the time the refund is paid.

C. *Refund to Government.* If a development impact fee was paid by a governmental entity, any refund shall be paid to that governmental entity.

**Sec. X-16. – Oversight of Development Impact Fee Program**

A. *Annual Report.* Within 90 days of the end of each fiscal year, the City's shall file with the City Clerk an unaudited annual report accounting for the collection and use of the fees for each service area and shall post the report on its website in accordance with A.R.S. § 9-463.05, Subsections N and O, as amended.

B. *Biennial Audit.* In addition to the Annual Report described in Subsection A of this Section, the City shall provide for a biennial, certified audit of the City's Land Use Assumptions, Infrastructure Improvements Plan and development impact fees.

1. An audit pursuant to this Subsection shall be conducted by one or more Qualified Professionals who are not employees or officials of the City and who did not prepare the Infrastructure Improvements Plan.

2. The audit shall review the collection and expenditures of development fees for each project in the plan and provide written comments describing the amount of development impact fees assessed, collected, and spent on capital facilities.

3. The audit shall describe the Level of Service in each Service Area, and evaluate any inequities in implementing the Infrastructure Improvements Plan or imposing the development impact fee.

4. The City shall post the findings of the audit on the City's website and shall conduct a public hearing on the audit within 60 days of the release of the audit to the public.

5. For purposes of this Section a certified audit shall mean any audit authenticated by one or more of the Qualified Professionals conducting the audit pursuant to paragraph (1) of this Subsection. (Res. 11-866 § 1, 2011).

**13.08.020 Rates for water usage.**

A. City residents shall pay eighty cents per thousand gallons for metered water consumed, plus all applicable state, county and city sales taxes based on the following schedule:

| **Monthly Rates per 1,000 Gallons of Water Use** | | | | | | |
|---|---|---|---|---|---|---|
| **Consumption** | | | | | | |
| **(Gallons per Month)** | **02/15/07** | **02/15/08** | **02/15/09** | **02/15/10** | **02/15/11** | **02/15/12** |
| Inside 0-3,000 | $0.80 | $0.80 | $0.82 | $0.82 | $0.82 | $0.85 |
| Inside 3,001-8,000 | $.082 | $0.82 | $0.85 | $0.85 | $0.90 | $0.90 |
| Inside 8,001-20,000 | $0.82 | $0.82 | $0.85 | $0.85 | $0.90 | $0.95 |
| Inside 20,001-30,000 | $0.82 | $0.85 | $0.85 | $0.90 | $0.90 | $0.95 |
| Inside 30,001-60,000 | $0.85 | $0.85 | $0.90 | $0.90 | $0.95 | $1.00 |
| Inside 60,000+ | $0.85 | $0.90 | $0.95 | $0.95 | $1.00 | $1.05 |

B. Water users outside the corporate limits of the city shall pay eighty-five cents per thousand gallons for metered water consumed plus applicable state, county and city sales taxes based on the following schedule:

| **Monthly Rates per 1,000 Gallons of Water Use** | | | | | | |
|---|---|---|---|---|---|---|
| **Consumption** | | | | | | |
| **(Gallons per Month)** | **02/15/07** | **02/15/08** | **02/15/09** | **02/15/10** | **02/15/11** | **02/15/12** |
| Outside 0-3,000 | $0.85 | $0.85 | $0.87 | $0.87 | $0.87 | $0.90 |
| Outside 3,001-8,000 | $.087 | $0.87 | $0.90 | $0.90 | $1.00 | $1.00 |
| Outside 8,001-20,000 | $0.87 | $0.87 | $0.90 | $0.90 | $1.00 | $1.05 |
| Outside 20,001-30,000 | $0.87 | $0.87 | $0.90 | $1.00 | $1.00 | $1.05 |
| Outside 30,001-60,000 | $0.90 | $0.90 | $1.00 | $1.00 | $1.05 | $1.10 |
| Outside 60,000+ | $0.90 | $1.00 | $1.05 | $1.05 | $1.10 | $1.15 |

C. Water required for construction or other purposes and supplied through a fire hydrant meter or through the use of unmetered water that has been approved pursuant to Sec. 1-13 of the City Water and Sewer Code, shall pay the rate of two dollars per thousand gallons of water consumed plus applicable state, county and city sales taxes.

D. All water furnished to the city for park irrigation, street sprinklers, fire hydrants or the

unmetered uses shall be charged to the city department using the water at the city's monthly gross operating cost per thousand gallons, so that the city will be able to account for all water furnished to any and all users. State, county and city sales taxes will be charged as applicable. (Ord. 755 Exh. A (part), 1999)(Ord. 06-904 § 1, 2007 and Ord. 07-906 § 1, 2007)

**13.08.030 Monthly service charge for metered water use.**

A. Service Inside City Limits. In addition to the cost of the water supplied, the following monthly service charges shall be assessed against each account supplied with a water meter for each meter located within the city limits based on the following schedule:

| Monthly Base Service Fee per Water Meter | | | | | | | |
|---|---|---|---|---|---|---|---|
| **Water Meter Size** | **2006** | **2/15/07** | **2/15/08** | **2/15/09** | **2/15/10** | **2/15/11** | **2/15/12** |
| | **Base fee** | | **Annual increase to Basic Services Fee** | | | | |
| Inside ¾ inch | $ 5.50 | $ 6.50 | $ 6.50 | $ 7.50 | $ 8.50 | $ 9.50 | $ 10.50 |
| Inside 1 inch | $ 7.50 | $ 8.50 | $ 8.50 | $ 9.50 | $ 10.50 | $ 11.50 | $ 12.50 |
| Inside 1 ½ inch | $ 9.00 | $ 11.00 | $ 11.00 | $ 12.00 | $ 13.00 | $ 14.00 | $ 15.00 |
| Inside 2 inch | $ 10.50 | $ 13.50 | $ 13.50 | $ 14.50 | $ 15.50 | $ 16.50 | $ 17.50 |
| Inside 3 inch | $ 14.50 | $ 18.50 | $ 20.50 | $ 24.50 | $ 28.50 | $ 32.50 | $ 36.50 |
| Inside 4 inch | $ 18.50 | $ 23.50 | $ 25.50 | $ 30.50 | $ 35.50 | $ 40.50 | $ 45.50 |
| Inside 6 inch | $ 26.50 | $ 32.50 | $ 37.50 | $ 44.50 | $ 52.50 | $ 60.50 | $ 68.50 |
| Outside ¾ inch | $ 9.50 | $ 10.50 | $ 10.50 | $ 11.50 | $ 12.50 | $ 13.50 | $ 14.50 |
| Outside 1 inch | $ 11.50 | $ 12.50 | $ 12.50 | $ 13.50 | $ 14.50 | $ 15.50 | $ 16.50 |
| Outside 1 ½ inch | $ 13.50 | $ 15.00 | $ 15.00 | $ 16.00 | $ 17.00 | $ 18.00 | $ 19.00 |

This monthly capital improvement surcharge will increase by one dollar per month per year for a period of five years, and the amount of the monthly service charge as well as the capital improvement surcharge shall become permanent effective February 15, 2007.

B. Service Outside City Limits. Consumers of water outside the city limits shall be charged the monthly service charge set out above for service within city limits, plus an additional service availability charge of four dollars per month per meter connection.

C. Private Fire Connections. Private fire connections of the emergency automatic sprinkler type, if connected without meters, shall be charged a monthly charge of four dollars per inch of diameter, instead of the charges set out above. (Ord. 794 § 2, 2001; Ord. 755 Exh. A (part), 1999)(Ord. 06-904 § 1, 2007 and Ord. 07-906 § 1, 2007)

D. Online Utility Payment Fee of $2.50 per Transaction for Utility Customers. (Ord. 12-1017 §1, 2012).

**13.08.040 Miscellaneous charges.**

A. Deposits Required –. All applicants for City water services shall pay a deposit before domestic water shall be furnished.

1. The deposit will be twice the average monthly charge by meter size, based on the same or similar user classification as that in the application.

2. Deposits shall not be required of any applicant who has had a service account with the City for at least 12 months within the previous two years, provided that during the most recent 12 months period of service the applicant had no payment delinquencies (i.e. payment not made in a timely fashion resulting in the balance being carried to the next billing).

3. If a user's utility bill remains current for 12 consecutive months, the amount of the deposit shall be credited to the first billing following the 12-month period. If the service is discontinued prior to the end of the 12-month period, or if the user is not current for 12 consecutive months, the deposit shall be returned to the user when service is discontinued, but only after all fees, charges and assessments are first paid. Deposits required by this section shall not bear interest.

B. **Application Fee**. An applicant for city water and/or wastewater services shall file with the city an application made on a form provided by the city and proper proof of identity and shall pay a nonrefundable ten dollars application fee to cover the administrative costs of processing the application. A new application form and fifteen dollars application fee shall be required upon any transfer of ownership or other change in the party or parties responsible for the water service charges. A property owner, an immediate family member of the person who does not reside at the property or any other entity, at its sole discretion, may contract for water and wastewater service with the City and shall provide payment. (Ord. 14-1032 §1 and 2, 2014)

C. **Interest Charge for overdue accounts/payment of bills.**

1. All charges for water service shall be paid within 21 days of the billing dates as specified in the monthly Billing Statement. If the charge is not paid within 21 days as required, the account will be considered delinquent and a late charge of $5.00 shall be assessed. Notwithstanding the foregoing, if the twenty-first day falls on a business holiday recognized by the City, payments received before the close of business hours of the next business day shall be considered timely.

2. The amount of any delinquent balance and late charges shall be reflected on the next monthly Billing Statement along with the charges for that month's billing and a Warning that water service shall be turned off without further notice if the entire account balance, including late charges and service fees, is not paid in full within 21 days or a hearing requested within 20 days pursuant to Section 5-4(C) of the Water and Sewer Code. The Warning will also state that once water service is turned off, it will not be resumed until the entire balance and an additional "Turn-off Fee" have been paid in full. The Warning will be sent to the user and to the owner, if the owner is not the user and has requested in writing to be notified at an address other than the service address.

3. Any user or owner disputing any charges levied for water services may request a hearing within 20 days of the date of the Billing Statement showing the delinquency. The request for a hearing must be made to the Finance Director or his or her designee. Once the dispute is acknowledged, payment of the dispute charge is not required until a determination is made. (Ord. 14-1032 §3, 2014).

4. Any amount determined to be due and owing following a hearing must be paid in full within ten days of the determination unless other payment arrangements are approved by the City. If payment is not made in a timely fashion, services may be terminated without further notice, a "Turn-off fee" assessed in the amount set out in the "Schedule of Charges", and, if not appropriate, a Notice of Pending Lien will be served pursuant to Section 6-4(A) of this Code.

5. I f a hearing is not requested within 20 days of the delinquent billing notice, as provided above, service will be discontinued without further notice if the bill is not paid as required. A "Turn-off Fee" will be assessed in the amount set out in the "Schedule of Charges" and, if appropriate, a Notice of Pending Lien will be served pursuant to Section 6-4(A) of this Code.

D. **Turn-off Fee.** A turn-off fee of twenty dollars shall be assessed against an account each time water service is disconnected by the city for failure to pay all due and delinquent charges. If water service is reestablished without city authorization and without payment of all outstanding fees and charges, the city shall again disconnect the water service and assess an additional ten dollars turn-off fee.

E. **Charges to be paid before services restored**. Charges which must be paid before water can be turned on. All charges due and owing to the City for the installation of water or sewer pipes, meters or other equipment to or on the premises and for all charges due and owing to the City for the provision of water, sewer or solid waste services to the premises, including any interest, fines or penalties, shall be paid in full before water will be turned on to any premises. For residential property of four or fewer units, the City shall not require payment of unpaid water and wastewater service rates and charges by anyone other than the person who the City has contracted with to provide the service, who physically resides or resided at the property and who receives or received the service. If the outstanding charges were incurred by a tenant who no longer occupies the premises, water will be turned back on for a new tenant who opens a new account, providing the new tenant does not have an outstanding unpaid bill for service at some other location. The City may continue to pursue all available means to collect the outstanding arrearages from the delinquent account holder For residential property of four or fewer units, the City shall not refuse service within the City's service area for the unpaid water and wastewater rates and charges to anyone other than the person who physically resided and received the service at the property. (Ord. 14-1032 §4, 2014).

F. **Restoration/Resumption of Services.**

1. After the water has been shut off from any premises, the owner, agent of occupant may request the Public Works Department to

resume services. Services will be restored when outstanding charges relating to the premises are brought current in accordance with this Code.

2. When the foregoing conditions are fulfilled, the Department shall cause the water and sewer services to be restored to the premises unless there are extenuating circumstances such as broken or leaking pipes or other conditions which the Public Works Director determines makes it unreasonable or dangerous to restore service to the premises until those conditions are corrected by the owner.

G. **Damage to Meters.** If a water meter is damaged as a result of unauthorized reestablishment of water service or other cause other than normal wear and tear, the reasonable cost of repairing or replacing the meter shall be assessed against the account serviced by that meter. (Ord. 755 Exh. A (part), 1999) (Ord. 06-904 § 1, 2007)

H. **Liens/collection of unpaid balances.** The City may file a lien on property for the nonpayment of utility user fees for services provided to the property as provided by in Ordinance 755 § 7, 1999 and A.R.S. § 9-511.02. (Ord. 14-1032 §3, 2014).

## 13.08.050 Monthly sewer rates.

Effective with the first bills issued by the City for wastewater services supplied after January 1, 2010, the rates fees and other charges charged to customers and users of the City wastewater service inclusive of the permanent surcharge, the following monthly service charges for use of the City wastewater System shall be according to the following schedules increasing yearly as noted herein: The following monthly service charges shall be assessed for use of the city wastewater system based upon where the property serviced is located:

**A. Monthly Wastewater Service Fee Inside City limits.**

| MONTHLY SEWER SERVICE FEE (INCLUDES $5.00 CIP SURCHARGE PER ACCOUNT), PROPOSED FEE INCREASE (ORD. 09-973), INSIDE CITY LIMITS | | | | | |
|---|---|---|---|---|---|
| **CUSTOMER CLASS** | **Current Rate** | **January 1, 2010** | **July 1, 2010** | **July 1, 2011** | **July 1, 2012** |
| Residential, per single family residence/dwelling unit | $ 11.75 | $ 15.00 | $ 22.00 | $ 24.00 | $ 25.00 |
| Commercial 1 (0-199,999 Gal.) | $ 17.35 | $ 20.60 | $ 32.00 | $ 35.00 | $ 37.00 |
| Commercial 2 (200,000 to 399,999 Gal.) | $ 28.70 | $ 30.60 | $ 48.00 | $ 53.00 | $ 57.00 |
| Commercial 3 (400,000 to 599,999 Gal.) | $ 40.05 | $ 47.10 | $ 76.00 | $ 83.00 | $ 90.00 |
| Commercial 4 (600,000 to 799,999 Gal.) | $ 51.40 | $ 60.70 | $ 100.00 | $ 110.00 | $ 120.00 |
| a) Commercial 5 (over 800,000 Gal.) | $ 62.75 | $ 75.00 | $ 125.00 | $ 137.00 | $ 150.00 |
| a) plus the monthly surcharge fee per 100,000 gal. over 1,000,000 gal/yr. | $ 4.71 | $ 5.50 | $ 6.50 | $ 7.50 | $ 8.50 |
| b) Industrial | $ 25.45 | $ 30.00 | $ 50.00 | $ 55.00 | $ 60.00 |
| b) plus the monthly surcharge fee, per 100,000 gal. over 300,000 gal/yr. | $ 4.71 | $ 5.50 | $ 6.50 | $ 7.50 | $ 8.50 |
| c) School, per site + monthly service fee per student | $ 6.08 | $ 7.30 | $ 10.60 | $ 12.60 | $ 13.60 |
| c) Monthly service fee per student | $ 0.15 | $ 0.20 | $ 0.30 | $ 0.35 | $ 0.40 |

**B. Monthly Wastewater Service Fee Outside City Limits:**

| MONTHLY SEWER SERVICE FEE (INCLUDES $5.00 CIP SURCHARGE PER ACCOUNT), PROPOSED FEE INCREASE (ORD. 09-973), OUTSIDE CITY LIMITS | | | | | |
|---|---|---|---|---|---|
| **CUSTOMER CLASS** | **Current Rate** | **January 1, 2010** | **July 1, 2010** | **July 1, 2011** | **July 1, 2012** |
| Residential, per single family residence/dwelling unit | $ 18.50 | $ 20.95 | $ 35.00 | $ 38.00 | $ 40.00 |
| Commercial 1 (0-199,999 Gal.) | $ 28.35 | $ 33.00 | $ 55.00 | $ 60.00 | $ 65.00 |
| Commercial 2 (200,000 to 399,999 Gal.) | $ 41.65 | $ 49.00 | $ 80.00 | $ 88.00 | $ 95.00 |
| Commercial 3 (400,000 to 599,999 Gal.) | $ 54.95 | $ 65.00 | $ 110.00 | $ 121.00 | $ 130.00 |
| Commercial 4 (600,000 to 799,999 Gal.) | $ 68.25 | $ 81.00 | $ 135.00 | $ 150.00 | $ 160.00 |
| a) Commercial 5 (over 800,000 Gal.) | $ 81.55 | $ 97.00 | $ 165.00 | $ 180.00 | $ 195.00 |
| a) plus the monthly surcharge fee per 100,000 gal. over 1,000,000 gal/yr. | $ 4.86 | $ 5.65 | $ 6.65 | $ 7.65 | $ 8.65 |
| b) Industrial | $ 42.30 | $ 50.00 | $ 85.00 | $ 95.00 | $ 105.00 |
| b) plus the monthly surcharge fee, per 100,000 gal. over 300,000 gal/yr. | $ 6.08 | $ 5.65 | $ 6.65 | $ 7.65 | $ 8.65 |
| c) School, per site + monthly service fee per student | $ 6.23 | $ 7.45 | $ 10.75 | $ 12.75 | $ 13.75 |
| c) Monthly service fee per student | $ 0.15 | $ 0.35 | $ 0.45 | $ 0.50 | $ 0.55 |

C. **Connection Fees:** Connection fees were repealed and replaced with Impact Fees ratified in Ordinance No. 08-923.

**D. Septic Tank Discharge Fees:**

1. All domestic waste hauler(s) discharging sanitary waste to the City's Wastewater Treatment Systems shall pay all applicable fees relating to said discharge. Failure to pay any applicable fee may result in the suspension of services to the domestic waste hauler. For discharge, treatment, and disposal of sanitary waste, a domestic waste hauler shall pay a fee to the City of Douglas based on the following schedule of costs:

| SEPTIC TANK WASTE DISPOSAL FEE ($/1,000 GALLONS) | | | | | |
|---|---|---|---|---|---|
| **TYPE OF WASTE** | **Current Rate** | **January 1, 2010** | **July 1, 2011** | **July 1, 2012** | **July 1, 2013** |
| Septic Tank Waste Disposal and Treatment Costs, per 1,000 Gallons | $ 15.00 | $ 68.50 | $ 100.50 | $ 110.50 | $ 115.50 |

2. The treatment and disposal costs shall be prorated for discharges more than 1000 gallons. The minimum septic tank waste dump fee shall be same costs as discharge fee for 1000 gallons.

**E. Single Family Residence and Multi-Family Residence with more than one dwelling unit served by an individual water meter:**

1. For each single family residence (dwelling unit) or multi-family residence with individual water meter, the monthly fee for wastewater services for each single family residence/dwelling unit shall be as follows for each year after final adoption of Ordinance 09-973.

**Inside City Limits:**

| MONTHLY SEWER SERVICE FEE (INCLUDES $5.00 CIP SURCHARGE PER ACCOUNT), FEE INCREASE (ORD. 09-973), INSIDE CITY LIMITS | | | | | |
|---|---|---|---|---|---|
| **CUSTOMER CLASS** | **Current Rate** | **January 1, 2010** | **July 1, 2011** | **July 1, 2012** | **July 1, 2013** |
| Residential, per single family residence/dwelling unit | $ 11.75 | $ 15.00 | $ 22.00 | $ 24.00 | $ 25.00 |

**Outside City Limits:**

| MONTHLY SEWER SERVICE FEE (INCLUDES $5.00 CIP SURCHARGE PER ACCOUNT), FEE INCREASE (ORD. 09-973), OUTSIDE CITY LIMITS | | | | | |
|---|---|---|---|---|---|
| **CUSTOMER CLASS** | **Current Rate** | **January 1, 2010** | **July 1, 2011** | **July 1, 2012** | **July 1, 2013** |
| Residential, per single family residence/dwelling unit | $ 18.50 | $ 20.95 | $ 35.00 | $ 38.00 | $ 40.00 |

1. A dwelling unit is defined and consistent with the City's Planning and Zoning Code, which states that a building unit with cooking or kitchen facilities is considered to be a dwelling unit. Dwelling units are to be charged sewer fees as outlined below. If an accessory building does not have cooking or kitchen facilities, it may be considered a guesthouse and is exempt from the fees, since it is not a dwelling unit. (Ord. 794 § 3, 2001; Ord. 755 Exh. A (part), 1999) (Ord. 06-904 § 1, 2007)(Ord. 09-973 § 2, 2009)

**13.08.060 Sewer connection fees.**

Repealed and supplanted by Section 13.08.010 under Development Impact Fees.

## Chapter 13.12

## BACKFLOW AND CROSS-CONNECTIONS

**Sections:**


| | |
|---|---|
| **13.12.010** | **Purpose.** |
| **13.12.020** | **Definitions.** |
| **13.12.030** | **Application.** |
| **13.12.040** | **Class 1 and Class 2 fire sprinkler systems.** |
| **13.12.050** | **Temporary waiver of permit fees for existing single-family residences.** |
| **13.12.060** | **Termination of water service.** |
| **13.12.070** | **Notice of discontinuance of service.** |
| **13.12.080** | **Assembly requirement, maintenance and repair.** |
| **13.12.090** | **Inspections.** |
| **13.12.100** | **Assembly installation.** |
| **13.12.110** | **Testing.** |
| **13.12.120** | **Records.** |
| **13.12.130** | **Fees.** |
| **13.12.140** | **Exceptions not permitted.** |
| **13.12.150** | **Limitation.** |
| **13.12.160** | **Conflict with other ordinances or codes.** |


### 13.12.010 Purpose.

It is the purpose of this chapter:

A. To protect the public water supply served by the city water department from the possibility of contamination or pollution by isolating, within its customers internal distribution system, such contaminants or pollutants which could backflow or back-siphon into the city's water distribution system;

B. To promote the elimination or control of existing cross-connections, actual or potential, between its customers in-plant potable water system and nonpotable systems; and

C. To provide for the maintenance of a continuing program of backflow prevention and cross-connection control which will effectively prevent the contamination or pollution of all potable water systems by cross-connection. (Ord. 626 § 1, 1993)

### 13.12.020 Definitions.

As used in this chapter:

A. "Approved backflow prevention assembly" means a backflow prevention assembly of the size and type approved by the water and sewer department, that has completely met the laboratory and field performance specifications of the Foundation for Cross-Connection Control and Hydraulic Research of the University of Southern California as are published from time to time and, where on a fire system, has Underwriters Laboratory and Factory Mutual approval, or as otherwise described, limited or provided in Section 13.12.100 of this chapter.

B. "Auxiliary water supply" means any water supply on or available to the premises other than the city's approved public water system. These auxiliary waters may include "used water" or "industrial fluid."

C. "Backflow" means the reversal of the flow of water or mixture of water and other liquids, gases or other substances into any part of the city's water distribution system.

D. "Backflow prevention assembly" or "assembly" means a device or means designed to prevent backflow and includes:

1. Air-Gap. The unobstructed vertical distance through the free atmosphere between the lowest opening from any pipe or faucet supplying water to a tank, plumbing fixture, or

other device and the flood level rim of the vessel. An approved air-gap shall be at least double the diameter of the supply pipe, measured vertically, above the top of the overflow rim of the vessel, and, in no case less than one inch.

2. Reduced Pressure Principle Assembly. An assembly of two independently operating approved check valves with an automatically operating differential relief valve between the two check valves, plus properly located test cocks for the testing of the check and relief valves. The entire assembly shall have been manufactured in full compliance with the American Water Works Association Standards (C511-89) for reduced pressure principle assemblies. The device shall operate to maintain the pressure in the zone between the two check valves at a level less than the pressure on the city's water supply side of the device. At cessation of the normal flow the pressure between the two check valves shall be less than the pressure on the city's water supply side of the device. In case of leakage of either of the check valves the differential relief valve shall operate to maintain the reduced pressure in the zone between the check valves by discharging to the atmosphere. To be approved, these devices must be readily accessible for in-line maintenance and testing and be installed in a location where no part of the device will be submerged. An acceptable method of handling discharge water from the device must be approved by the water and sewer department.

3. Double Check Valve Assembly. An assembly of two independently operating approved check valves with tightly closing shut-off valves on each end of the check valve. The entire assembly must have been manufactured in full compliance with the American Water Works Association Standard (C510-89) for double check valve assemblies. To be approved, these devices must be readily accessible for in-line maintenance and testing.

4. Double Check-Detector Check Valve Assembly. A specially designed assembly composed of a line-size approved double check valve assembly with a specific bypass five-eighths inch by three-fourths inch or three-fourths inch water meter and a three-fourths inch approved double check valve assembly. The meter shall register all rates of flow. This assembly shall only be used to protect against a non-health hazard.

5. Pressure Vacuum Breaker Assembly. An assembly containing an independently operating, loaded check valve and an independently operating, loaded air inlet valve located on the discharge side of the check valve. The assembly shall be equipped with properly located test cocks and tightly closing shut off valves located at each end of the assembly.

6. Atmospheric Vacuum Breaker. An assembly containing a float check, a check seat and an air inlet port. The flow of water into the body causes the float to close the air inlet port. When the flow of water stops, the float falls and forms a check valve against backsiphonage and at the same time opens the inlet port to allow air to enter and satisfy the vacuum. A shutoff valve immediately upstream is also required. An atmospheric vacuum breaker is designed to protect against a health hazard under a backsiphonage condition only. This assembly is also known as the nonpressure type vacuum breaker.

E. "Certified general tester" means a person who holds a valid General tester certification issued by the California-Nevada American Water Works Association Section, the Arizona State Environmental Technical

Training Center or other certifying authority approved by the Arizona Department of Environmental Quality.

F. "Cross-connection" means a cross-connection as defined in Section 104-M of the Uniform Plumbing Code as amended and as adopted by the city from time to time.

G. "Industrial fluids" means any fluid or solution which may be chemically, biologically or otherwise contaminated or polluted in a form or concentration such as would constitute a health, system, pollutant, or plumbing hazard if introduced into the city's water distribution system. This may include, but is not limited to: polluted or contaminated waters; all types of process waters and used waters originating from the city's water distribution system which may have deteriorated in sanitary quality; chemicals in fluid form, plating acids and alkalies, circulated cooling waters connected to an open cooling tower and/or cooling towers that are chemically or biologically treated or stabilized with toxic substances; contaminated natural waters; oils; gases; glycerin; paraffins; caustic and acid solutions; and other liquid and gaseous fluids used in industrial or other purposes or for firefighting purposes.

H. "Used water" means any water supplied by the city to a customer's water system after it has passed through the point of delivery and is no longer under the sanitary control of the city. (Ord. 626 § 5, 1993)

**13.12.030 Application.**

A. Except as provided in this section, the provisions of this chapter shall apply to all existing, new or replacement service connections to the city's water distribution system. Approved backflow prevention assemblies shall be installed on all existing service connections by July 1, 1994 unless the Arizona Department of Environmental Quality approves an installation at a later date.

B. The provisions of this chapter shall not apply to existing single-family residences used solely for residential purposes unless a backflow, backsiphonage or cross-connection problem is identified at a particular residence by inspection or site survey. In the event such a problem is identified, the provisions of this chapter shall apply to that particular single-family residence.

C. Any water truck, wagon or tanker that is filled through any unprotected connection to the city's water distribution system, such as a fire hydrant or water hose, shall be equipped with a reduced pressure backflow prevention assembly or an air-gap separation. Such assemblies shall be subject to the provisions of this chapter.

D. Customers with an existing Class 1 or Class 2 fire sprinkler systems constructed of nonpotable material, which does not have an approved backflow prevention assembly at the time the ordinance codified in this chapter becomes effective, may elect to conduct the annual valve confidence - main drain test and first draw water sample procedures provided in Section III in lieu of installing an approved backflow prevention device.

E. In no event shall a fire protection system be out of service for more than eight consecutive hours for any of the testing, maintenance or repairs required by this chapter. The Douglas fire department shall be immediately notified of any change in the service status of a fire protection system. (Ord. 626 § 2, 1993).

**13.12.040 Class 1 and Class 2 fire sprinkler systems.**

A. This section applies to customers making the election provided by Section 13.12.030 above. All procedures provided in this section must be conducted by a licensed L16 contractor. This option requires an annual valve confidence - main drain test and first draw water sample and is comprised of two parts: (1) an annual fire protection system and valve inspection and (2) an annual first draw water sample collection. The main drain test must be conducted in accordance with the National Fire Prevention Association (NFPA) 25 (1992 Edition). The valve confidence test requires the disassembly of the single check valve to determine if the valve components are in a good working order and function as designed. A reading of pressure gauges to observe differential pressures on each side of the single check valve is not sufficient to meet the requirements of this section. Results of the test must be sent to the water and sewer department and the Douglas fire department within thirty days from the date of the test on forms approved by the water and sewer department.

B. An annual first draw water sample must be collected at the same time as the annual valve confidence - main drain tests. Two water samples must be collected for the Safe Drinking Water Act (SDWA) primary contaminant heavy metals and bacteriological (total coliform, presence/absence) analyses. These water samples must be taken from the upstream (supply) side of the fire protection system before any other water is run from the system. Proper sampling protocol must be followed and chain-of-custody of the water samples must be maintained. The analyses must be performed by a certified laboratory. Lab results must be sent to the water and sewer department and the Douglas fire department with forty-five days from the date of sampling.

C. The single check valve may continue in place indefinitely following each annual valve confidence test and first draw water sample so long as the valve is operable and no upstream (supply side) SDWA maximum contaminant level (MCL) has been exceeded. In the event either of the water sample analysis results exceeds a SDWA MCL, the single check valve shall be immediately replaced with an approved double check valve assembly. A failed main drain test shall require immediate corrective action in accord with all applicable state and local fire codes or as directed by the Douglas fire department. (Ord. 626 § 3, 1993)

**13.12.050 Temporary waiver of permit fees for existing single-family residences.**

It is anticipated that state regulations will require the installation of backflow prevention devices on all single-family residences in the foreseeable future. Therefore, in order to encourage the voluntary installation of backflow prevention devices, the city shall waive the usual permit fees for the installation of such devices in existing single-family residences for a period of one year from the effective date of the ordinance codified in this chapter. (Ord. 626 § 4, 1993)

**13.12.060 Termination of water service.**

A. Water service to any premises connected to the city's water distribution system shall be terminated, after the notice provided in Section 13.12.070, upon a determination by the water and sewer department that one or more of the

conditions identified in subsection (B)(1), (2), (3) or (4) of this section exists. Water service shall not be resumed at such premises until the water and sewer department determines that such conditions have been corrected.

B. Water service to a fire protection system shall not be subject to discontinuance under this section. Any customer failing to correct a condition identified in subsections (B)(1), (2), (3), (4) or (5) in a connection to a fire protection system shall be assessed a fine in the amount of one hundred dollars for each day in which the condition continues to exist after thirty days from the date of notice provided in Section 13.12.070.

1. An unprotected cross-connection exists on the premises; or

2. An approved backflow prevention assembly has not been installed as required by this chapter, is not working, has been altered, removed or bypassed or is found to otherwise require the disconnection of the premises from the city water distribution system by a certified inspector provided in Section 13.12.090; or

3. A backflow, backsiphonage or cross-connection problem is identified at a single-family residence;

4. A test record of a backflow prevention assembly, as required by Section 13.12.120 of this chapter, has not been submitted to the water and sewer department; or

5. A record of the annual valve confidence - main drain test and first water sample is not submitted as required by Section 13.12.040 of this chapter. (Ord. 626 § 6, 1993)

### 13.12.070 Notice of discontinuance of service.

The city shall give written notice to any customer in violation of the provisions of Section 13.12.060 of this chapter stating the nature of the violation and the date on which water service to the premises will be terminated. Except in the case of an emergency, such notice shall be given at least thirty days prior to termination of service. Notice herein shall be deemed given when deposited in the United States mail at Douglas, Arizona, postage paid, and addressed to the water customer at whose premises the violation is alleged to have occurred as such customer's address appears on the record of customers maintained by the city for water billing purposes. Any violation which involves an immediate danger of potentially allowing any substance into the city water distribution system shall constitute an emergency and the notice provided herein shall not be required prior to terminating water service. (Ord. 626 § 7, 1993)

### 13.12.080 Assembly requirement, maintenance and repair.

A. Except as provided in Section 13.12.030, all existing, new or replacement service connections to the city water distribution system shall be fitted with approved backflow prevention assemblies. Approved backflow prevention assemblies shall be installed in each new single-family residence constructed after the effective date of the ordinance codified in this chapter. All assemblies shall be installed and continuously maintained at the customer's expense to prevent the entry of any substance whatsoever into the city's water distribution system, whether by overpressure on the customer side of the meter or by reduced pressure (vacuum) on the city's side.

B. When any inspection or testing reveals that a back-flow prevention assembly is in an

unsatisfactory operating condition or otherwise in a nonpermitted condition under this chapter, it shall be repaired or replaced by the customer, at the customer's expense. Any necessary repairs, including replacement or overhaul of the assembly, if necessary, shall be completed within a reasonable time not to exceed thirty days.

C. In addition to the requirements of this chapter, all backflow prevention devices installed on fire protection systems must be installed in strict accordance with all current National Fire Protection Association Standards for the specific system involved. (Ord. 626 § 8, 1993)

**13.12.090 Inspections.**

A. All approved backflow prevention assemblies and other assemblies which are required by applicable federal, state, local or other regulation to be tested or inspected annually shall be subject to an inspection and certification by the city after each testing of the assembly. In instances where such assemblies, if not properly installed or maintained could pose a serious hazard to the city's water distribution system, those assemblies shall be subject to more frequent inspections.

B. The inspections required under this section shall be conducted to determine whether cross-connection or other sanitary hazards or violations of this chapter, or other applicable regulations, exist. Such inspections shall be carried out by an employee or contractor of the city who is a certified general tester. Such employee or contractor shall have the right to enter any premises supplied with city water in accordance with Section 1-16 of the city water and sewer code.

C. An air-gap approved by the water and sewer department shall be used to protect the city's water distribution system in any case where, because of security requirements, other prohibitions or restrictions, or because of the complexity of the piping system serving the premises, it will be impossible or impractical to make a complete inspection of an assembly or to otherwise ascertain whether any cross-connections exist which may affect the city's water distribution system. (Ord. 626 § 9, 1993)

**13.12.100 Assembly installation.**

A. An assembly shall be installed outside, aboveground, and adjacent to the meter on the customer side. Such assemblies should be protected from the elements. Where construction or equipment located presents siting problems for the assembly, a location variance may be granted by the water and sewer department, provided such request is made in writing and approval is granted prior to the installation of the assembly; in all cases the assembly must be installed before the first branch line leading off the service line. The type of assembly required shall depend on the degree of hazard where the following conditions exist:

1. Contamination. Any premises where any condition, device, practice or material may create an actual or potential introduction of water or substance which would be hazardous to the public health into the city's water distribution system, shall be protected by an approved air-gap separation or an approved reduced pressure principle backflow prevention assembly at the service connection to the premises.

2. Auxiliary Water Supply. Any premises where there is an auxiliary water supply,

whether or not directly connected with the city's water distribution system, shall be protected by an approved air-gap separation or an approved reduced pressure principle backflow prevention assembly at the city's service connection to the premises.

3. Pollution. Any premises where there is a water or substance that would be objectionable but not hazardous to the public health if introduced into the city's water distribution system, would constitute a nuisance, or be aesthetically objectionable, the city's water distribution system shall be protected by an approved double check valve assembly.

B. Assemblies and methods shall be installed by the customer, at the customer's expense.

1. Installation permits for the installation of all assemblies or methods shall be obtained from the water and sewer department prior to installation. A separate permit shall be obtained for each assembly or method to be installed, including replacement.

2. It shall be the duty of the person doing the work authorized by the permit to notify the water and sewer department in writing that the work is ready for inspection and testing. Such notification shall be given not less than twenty-four hours before the work is to be inspected and tested and shall be given only if there is reason to believe that the work done will meet the current requirements of the Uniform Plumbing Code, the city water and sewer code and the University of Southern California Standards, as referred to in the Manual of Cross-Connection Control.

C. The water and sewer department shall maintain a list of backflow prevention assemblies by type and manufacturer. The list, together with instructions for proper installation, shall be available to any customer required to install a backflow prevention assembly.

D. The water and sewer department shall maintain a current list of certified general testers which shall be available to any customer required to maintain a backflow prevention assembly. (Ord. 626 § 10, 1993)

**13.12.110 Testing.**

A. Each backflow prevention assembly shall be tested by the customer, at the customer's expense, upon the occurrence of each of the following:

1. Upon installation or replacement of the assembly; and

2. Annually upon the anniversary date of the installation or replacement of the assembly; and

3. Upon the repair, overhaul or relocation of any assembly.

B. Such testing shall be accomplished by a certified general tester. Testing shall be in accordance with the procedures described in the current edition of the University of Southern California Manual of Cross-Connection Control.

C. No backflow prevention assembly shall be placed in service unless it has been tested and is functioning as designed and in a satisfactory manner. (Ord. 626 § 11, 1993)

**13.12.120 Records.**

Each customer shall maintain records, on forms approved by the water and sewer department, of the results of all tests, services, repairs, overhauls or replacements of backflow assemblies and fire protection systems. The customer shall promptly deliver a copy of each such record to the water and sewer department after completion of the activity for which the

record was made. The water and sewer department shall retain those records for a period of at least three years. (Ord. 626 § 12, 1993)

**13.12.130 Fees.**

In order to defray the city's costs in establishing and administering the provisions of this chapter, beginning with the mailing of the first city water bills in the month following the effective date of the ordinance codified in this chapter, a monthly fee of one dollar shall be charged to each customer required to install a backflow prevention assembly or method. The customer shall be entitled to one inspection per assembly or method of backflow prevention per calendar year. In the event more than one inspection is required, a fee of thirty dollars for each additional inspection shall be charged to the customer. (Ord. 626 § 13, 1993)

**13.12.140 Exceptions not permitted.**

No bypassing of required assemblies or methods of backflow prevention shall be allowed under any circumstances except for fire emergency. Wherever an uninterrupted water supply is required, multiple assemblies mounted for parallel flow shall be required. Temporary or construction service connections shall meet the same backflow prevention requirements as permanent connections. (Ord. 626 § 14, 1993)

**13.12.150 Limitation.**

This chapter shall not create any liability nor shall it impose any affirmative duty upon the city, its officers or employees. (Ord. 626 § 15, 1993)

**13.12.160 Conflict with other ordinances or codes.**

Whenever the provisions of this chapter shall conflict with any other provision of a Douglas city code or other ordinance, the provisions of this chapter shall prevail. Any provision contained in Sections 1-19, 1-20, 1-21, and 1-22 of the city water and sewer code, which are in conflict with the provisions of this chapter are repealed. (Ord. 626 § 16, 1993).

## Chapter 13.16

## FIRE DEPARTMENT TRAINING AND EMERGENCY MEDICAL SERVICES FEES

**Sections:**


**13.16.010 Purpose.**
**13.16.020 Definitions.**
**13.16.030 Fees for Emergency Medical Services**
**13.16.040 Community Training Center Program**


### 13.16.010 Purpose.

It is the purpose of this chapter:

A. To establish EMS Transport for both Basic Life Support and Advanced Life Support fees;

B. To promote the public safety of the City of Douglas residents; and

C. To provide a better and more reliable EMS Ambulance service. (Ord. 10-980 § 1, 2010)

### 13.16.020 Definitions.

A. ALS (Advanced Life Support): a service provided at the level of training of the Paramedic. A Paramedic will accompany the patient to the hospital when the condition of the patient warrants more advanced assessment and invasive medical interventions, such as electrocardiogram, intravenous lines, medication administration, etc.

B. BLS (Basic Life Support): A service provided at the level of training of the Emergency Medical Technician. An EMT will accompany the patient to the hospital when the condition of the patient warrants only basic assessment and medical interventions, such as oxygen, bleeding control, fracture stabilization.

C. Patient loaded miles: The number of miles the patient is transported in an ambulance. It begins at the point where the patient is loaded onto the ambulance, and ends at the destination where patient care will be transferred (hospital, helicopter crew).

D. Waiting time: The time an EMS crew waits for a patient when that patient is transported from one hospital to another for a procedure (such as imaging or cardiac testing) and then returned to the original hospital.

E. Standby time: The time an EMS crew is present at an event (rodeo, football games) in case an emergency arises, as requested by the event's organizer. (Ord. 10-989 §1, 2010)

### 13.16.030 Fees for Emergency Medical Services

A. The fee schedule and rates for Emergency Medical Services (EMS) shall be set as follows:

1. EMS transport rates for both basic life support and advance life support $1,218.85 (one thousand two hundred eighteen and 85/100) dollars.
2. EMS Mileage rate $ 15.95 (patient loaded miles)
3. EMS Standby/waiting time $234.08 per hour

(Ord. 10-980 §1, 2010)(Ord. 10-989 §1, 2010)(Ord. 18-1086 §1, 2018) .

### 13.16.040 Community Training Center Program.

**A.** The fee schedule and rates of the Community Training Center program shall be set as:

1. CPR Heart Saver $50.00 per person
2. CPR Health Care Provider $75.00 per person
3. First Aid Course $50.00 per person

(Ord. 18-1085 §1, 2018)