

## **CITY OF BUCKEYE 2020 SEWER UTILITIES AND USE OF PUBLIC SEWERS CODE UPDATES**

AMENDING THE CITY OF BUCKEYE CODE OF ORDINANCES, CHAPTER 16 – SEWER UTILITIES AND USE OF PUBLIC SEWERS, TO READ AS FOLLOWS:

### **Chapter 16 - SEWER UTILITIES AND USE OF PUBLIC SEWERS**

#### **PURPOSE AND POLICY**

This ordinance sets forth uniform requirements for Users of the Publicly Owned Treatment Works for the City of Buckeye and enables the city to comply with all applicable State and Federal laws, including Arizona Pretreatment Regulations established in accordance with the Arizona Revised Statutes § 49-255.02, Arizona Administrative Code Chapter 18, Article 9, the Clean Water Act (33 United States Code [U.S.C.] Section 1251 *et seq.*) and the General Pretreatment Regulations for Existing and New Sources of Pollution (Title 40 of the *Code of Federal Regulations* [CFR] Part 403). The objectives are:

- A. To prevent the introduction of pollutants into the Publicly Owned Treatment Works that will interfere with its operation;
- B. To 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;
- C. To 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;
- D. To promote reuse and recycling of industrial wastewater and sludge from the Publicly Owned Treatment Works;
- E. To provide for fees for the equitable distribution of the cost of operation, maintenance, and improvement of the Publicly Owned Treatment Works; and
- F. To enable the city to comply with its National Pollutant Discharge Elimination System permit conditions, sludge use and disposal requirements, and any other Federal or State laws to which the Publicly Owned Treatment Works is subject.

This ordinance shall apply to all Users of the Publicly Owned Treatment Works. The ordinance authorizes the issuance of individual wastewater discharge permits or general 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.

#### **Article 16-1 - ADMINISTRATION**

##### **Sections:**

##### **Section 16-1-1 - Authority of Director of Water Resources**

Except as otherwise provided herein, the director of the water resources department (the “Director”) shall administer, implement, and enforce the provisions of this ordinance. Any powers granted to or duties imposed upon director may be delegated by the director to a duly authorized city employee.

#### Section 16-1-2 - Sewer Service

All sewer service provided by the city is subject to the provisions of this chapter and each User accepting sewer service shall be considered as having expressly consented to be bound thereby.

#### Article 16-2 - APPLICATION FOR SERVICE

##### **Sections:**

#### Section 16-2-1 - Application for Service; Charges and Fees

In advance of receiving any utility service provided by the city, a formal application shall be made a minimum of three days in advance of the requested service date by the property owner, his agent, or the occupant of the property to a representative of the water resources department, utility billing division, on a form provided by the city. Proof of purchase date or a copy of the lease agreement may be required. As a term and condition of providing service, the city may require that outstanding amounts owed by the requesting customer for service to a previous location be paid. If a service is activated with an outstanding indebtedness owed by the requesting customer to the city, the account will be considered delinquent and subject to the disconnection of services in accordance with the provisions of this chapter. The city may reject any application for sewer service for any good and sufficient reason, including, but not limited to, the failure to meet any condition of rendering service specified in Section 16-2-3 (Conditions of Receipt of Sewer Service).

#### Section 16-2-2 - Deposit Required

The city may require deposits of any customer for any service provided by the city before such service is provided. The total amount of the deposit shall be determined by taking into consideration the anticipated amounts which will be billed for services provided, the past payment record, if any, of the customer, and any other information the city may deem necessary in order to provide an adequate deposit. The deposit will not be less than the amount established by resolution of the council. Deposits shall be noninterest bearing and shall be refunded to the consumer upon discontinuance of service, provided that outstanding charges may be deducted from said deposit before the refund is made. In addition, customers may request that their deposits be refunded when their utility bill has been paid in full by the due date for 12 consecutive billing periods. Refunds will be applied to the account on the next billing.

#### Section 16-2-3 - Conditions of Receipt of Sewer Service

- A. No utility service shall be initiated, continued or reestablished unless all of the following are met:
  - 1. The city offers and determines it is capable of providing the utility service under an established rate.

2. Providing the utility service would not involve excessive cost to the city.
  3. Providing the utility service would not adversely affect the service to existing customers.
  4. The customer has executed a service agreement for the utility service in a form provided by the city.
  5. All deposits, fees and other charges applicable to the utility service have been paid.
  6. All bills rendered for utility service provided to the customer and any required deposits have been paid.
  7. All extensions to the city's system necessary to provide service to the customer have been constructed and accepted by the city, without cost to the city.
  8. All improvements at the service location necessary to enable the city to provide the utility service have been completed, without cost to the city.
  9. Adequate easements and rights-of-way, satisfactory to the city, have been granted to the city to ensure the city can provide proper utility service to the service location.
  10. The dwelling or residence, if intended for human habitation, is equipped with a water closet in good working order, properly connected to a sanitary sewer or where such sanitary sewer is not available, connected to a sanitary cesspool that is in good working order and that is in compliance with state, local and city requirements.
  11. The customer and the service location are in compliance with all provisions of this Code and all rules, regulations and procedures adopted thereunder.
  12. If a customer with more than one account seeks to open a new account, the customer must be current on all its existing utility accounts before service can be initiated for the new account.
- B. The initiation, continuation or reestablishment of utility service shall not constitute a determination by the city that the conditions for service set forth in subsection (A) of this section have been met; nor does it preclude the city from pursuing any remedy available to the city arising from the consumer's failure to satisfy the condition including, but not limited to, termination of utility service with or without notice, pursuant to Article 16-3, Section 16-3-2B, and Article 16-7, Section 16-7-7B.

## Article 16-3 - DISCONTINUANCE OF SERVICE

### Sections:

#### Section 16-3-1 - Notice Required by Customer to Discontinue Service

Any person who desires to discontinue utility services shall make a formal written request to the utility billing department at least three working days in advance of the requested termination

of service. Until a request to discontinue service is received, such premises shall be deemed occupied by such consumer and the consumer's liability for services provided to the property will continue.

#### Section 16-3-2 - Discontinuance of Service by City under Certain Conditions

- A. The city may discontinue utility service under any of the following conditions:
  - 1. To prevent fraud or abuse.
  - 2. Noncompliance with the provisions of this chapter.
  - 3. Emergency repairs.
  - 4. Direction of public authorities.
  - 5. Local emergency requiring emergency measures.
  - 6. Non-payment of any monies due to the city for any services, fees, fines, or assessments billed to the customer.
  - 7. Failure to correct an unauthorized discharge as required by the water resources department.
- B. Before discontinuing utility service as provided herein the water resources department shall give written notice to the User of the discontinuance of utility service and an opportunity to appear before the director or designee on any disputed matter relative to the discontinuance of utility service. The director's decision shall be final. Upon notice of the director's final determination of a fee or charge owing or order to correct an unauthorized discharge, payment shall be due to the city within ten (10) days of the date of the notice or discontinue the unauthorized discharge as ordered by the water resources department. If payment is not made within ten (10) days of the date of the notice, the payment shall be considered delinquent and subject to collection, discontinuance of service, or other remedies as provided by law or this chapter. In the event the unauthorized discharge is not corrected as ordered, it is hereby declared to be, and is a public nuisance which may be abated by order of a Court of competent jurisdiction and its continued operation is unlawful. The foregoing remedy shall be in addition to any other remedy authorized by this chapter. This section shall not prohibit the water resources department from discontinuing utility service if deemed immediately necessary to protect public health and safety.

#### Article 16-4 - DEFINITIONS

##### **Sections:**

##### Section 16-4-1 - Definitions

In this chapter unless the context otherwise requires:

- A. *"Act" or "Clean Water Act"* means the Federal Water Pollution Control Act as amended, 33 U.S.C. 1251, et.seq.
- B. *"Approved Laboratory Procedures"* means the measurements, tests, and analyses in accordance with analytical procedures as established in Title 40, CFR, part 136

that are performed by an environmental laboratory licensed by the state pursuant to Arizona Revised Statutes, Title 36, Chapter 43 (A.R.S. § 36-495 *et seq.*). Alternative procedures may be approved by the water resources department in accordance with applicable federal regulations.

C. Authorized or Duly Authorized Representative of the User.

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

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.

- D. *"Best Management Practices"* or *BMPs* means the schedules of activities, pollution treatment practices or devices, prohibition of practices, general good housekeeping practices, pollution prevention, waste minimization, educational practices, maintenance procedures, and other management practices or devices to prevent or reduce the amount of pollutants entering the sanitary sewer system, surface water, air, land or groundwater. BMPs include treatment requirements, operating procedures, and practices to control plant site runoff, spillage or leaks, sludge or waste disposal, or drainage from raw materials storage.

- E. *"BOD (biochemical oxygen demand)"* means the quantity of oxygen utilized in the biochemical oxidation of organic matter under standard laboratory conditions for five (5) days at twenty degrees Celsius, expressed in milligrams per liter.
- F. *"Building Connection"* means the extension from a sewer tap to the property line, or to the easement line of the property to be served.
- G. *"Building Sewer"* means the extension from the building drain to the building connection or other place of disposal.
- H. *"Categorical Standard (National Federal Categorical Pretreatment)"* means pretreatment standards specifying quantities or concentrations of pollutant or pollutant properties which may be discharged to a POTW by Industrial Users in specific industrial categories and which are published in 40 CFR (parts 405-471).
- I. *"CFR"* means the Code of Federal Regulations.
- J. *"COD (chemical oxygen demand)"* means the quantity of oxygen consumed by the chemical oxidation of inorganic and organic matter present in the water or wastewater, expressed in milligrams per liter.
- K. *"Combined Sewer"* means a sewer receiving both surface runoff (stormwater) and sewage.
- L. *"Control Authority"* means the city.
- M. *"Cooling Water"* means the clean wastewater discharged from any heat transfer system such as condensation, air conditioning, cooling or refrigeration.
- N. *"Composite Sample"*
  - 1. A combination of individual samples obtained at regular intervals over a specified time period. The volume of each individual sample shall be either proportional to the flow rate during the sample period (flow-proportional composite) or constant and collected at equal time intervals during the composite period (time-proportional composite) as defined in the permit. Aliquots may be collected manually or automatically. Each sample aliquots must be at least 100 ml in volume unless collected using automatic self-purging sampling equipment.
  - 2. For volatile pollutants required to be combined for analysis, aliquots must be combined in the laboratory immediately before analysis. The volatile composite samples must be collected by flow proportional means; either the time interval between each aliquot or the volume of each aliquot must be proportional to either the stream flow at the time of sampling or the total stream flow since the collection of the previous aliquot.
  - 3. If one day is defined as a 24-hour period other than a calendar day, the analytical result for the 24-hour period will be considered as the result for the calendar day in which the 24-hour period ends.
- O. *"Daily Discharge"*. Daily Discharge is defined as either: (1) the total mass of the constituent discharged over the calendar day (12:00 am through 11:59 pm) or any

24-hour period that reasonably represents a calendar day for purposes of sampling (as specified in the permit), for a constituent with limitations expressed in units of mass; or (2) the unweighted arithmetic mean measurement of the constituent over the day for a constituent with limitations expressed in other units of measurement (e.g., concentration).

The daily discharge may be determined by the analytical results of a composite sample taken over the course of one day (a calendar day or other 24-hour period defined as a day) or by the arithmetic mean of analytical results from one or more grab samples taken over the course of the day.

- P. *"Daily Maximum Limit or Limitation"* means the maximum allowable concentration in the discharge as measured in a representative sample during a sampling day. In determining compliance with the daily average effluent limitation, city samples shall not be combined with non-city samples.
- Q. *"Developer"* means any person engaged in the organizing and financing of a wastewater collecting system within an area contributing to a branch, main, or trunk sewer of the city sewer system. Such may be either a subdivider or a legally constituted improvement district.
- R. *"Discharge"* means the disposal of any sewage, pollutant(s), water or any liquid from any sewer User into the sewage system.
- S. *"Domestic Waste"* means a typical, residential-type waste which requires no pretreatment under the provisions of this chapter before discharging into the sanitary sewer system, excluding all commercial, manufacturing, and industrial waste.
- T. *"EPA"* means the United States Environmental Protection Agency or, where appropriate, the Regional Water Management Division Director, the Regional Administrator, or other duly authorized official of said agency
- U. *"Existing Source"* means any source of discharge that is not a "New Source."
- V. *"Grab Sample"* means an individual sample of at least 100 ml collected over a period not exceeding 15 minutes that is representative of conditions at the time the sample is collected.
- W. *"Indirect Discharge"* means the introduction or pollutants into the POTW from any nondomestic source.
- X. *"Industrial User"* or *"User"* means a source of Indirect Discharge.
- Y. *"Industrial User Permit (or Permit)"* means the permit granted by the city which each Industrial User must first obtain prior to causing or allowing any industrial discharge to the POTW.
- Z. *"Industrial Waste"* means any liquid, free-flowing waste, including cooling water, resulting from any industrial or manufacturing process or from the development, recovery or processing of natural sources, with or without suspended solids excluding uncontaminated water.

- AA. *"Inflow"* means water other than wastewater that enters a sewage system (including sewer service connections) from sources such as roof leaders, cellar drains, foundation drains, drains from springs and swampy areas, manhole covers, cross connections between storm sewers and sanitary sewers, catch basins, cooling towers, stormwaters, surface runoff, street wash waters or drainage.
- BB. *"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.
- CC. *"Interference"* means a discharge which, alone or in conjunction with a discharge or discharges from other sources either:
1. Inhibits or disrupts the POTW, its treatment processes, or operations, or its sludge processes, use or disposal.
  - or
  2. Is a cause of a violation of any requirement of any environmentally related permit issued by a government entity (including an increase in the magnitude or duration of a violation) or of the prevention of sewage sludge use or disposal in compliance with the following statutory provisions and regulations or permits issued thereunder (or more stringent state or local regulations): Section 405 of the Clean Water Act, the Solid Waste Disposal Act (SWDA), and state regulations contained in any state sludge management plan prepared pursuant to subtitle D of the SWDA, the Clean Air Act, the Toxic Substances Control Act, and the Marine Protection, Research and Sanctuaries Act.
- DD. *"Local Limit"* means the 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).
- EE. *"Maintenance"* means keeping the sewage works in a state of repair, including expenditures necessary to maintain the capacity for which said works were designed and constructed.
- FF. *"Medical Wastes"* 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.
- GG. *"National Pretreatment Standard"* means any regulation containing pollutant discharge limits promulgated by EPA in accordance with Section 307(b) and (c) of the Clean Water Act (33 United States Code Section 1317, *et seq.*) which applies to industrial Users. This term includes prohibitive discharge limits established pursuant to 40 Code of Federal Regulations Part 403.
- HH. *"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 Clean Water 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 of Section (1)(b) or (c) 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;
    - b. Any placement, assembly, or installation of facilities or equipment;
    - c. 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
    - d. 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.
- II. *"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.
- JJ. *"NPDES Permit"* means a national pollution discharge elimination system permit, issued to the city by the EPA, or an Arizona Pollutant Discharge Elimination System Permit (AZPDES), issued to the city by the State of Arizona, which imposes standards governing the quality of the treated effluent discharged from the POTW.

- KK. *"Pass Through"* means a discharge which exits the POTW into waters of the United States in quantities or concentrations which, alone or in conjunction with a discharge or discharges from other sources, is a cause of a violation of any requirement of the POTW NPDES permit (including an increase in the magnitude or duration of a violation) or which causes or contributes to a violation of an applicable numeric or narrative water quality standard.
- LL. *"pH"* means the inverse log of the hydronium ion concentration of a solution.
- MM. *"Person"* means any individual, partnership, co-partnership, firm, company, corporation, association, joint stock company, trust, estate, governmental entity, or any other legal entity; or their legal representatives, agents, or assigns. This definition includes all Federal, State, and local governmental entities.
- NN. *"Pollutant"* means any dredged soil, solid waste, incinerator residue, sewage sludge, munitions, chemical wastes, biological materials, radioactive materials, heat, wrecked or discharged equipment, rock, sand, cellar dirt, and industrial, municipal and agricultural wastes. This includes any substance and effluent limitation identified in Chapter 16 of the city code.
- OO. *"Pretreatment"* means the physical, chemical, biological, or other treatment of any industrial discharge prior to discharge to the POTW, for the purpose of:
1. Reducing the concentration of any pollutant; or
  2. Eliminating the discharge of any pollutant; or
  3. Altering the nature of any pollutant characteristic to a less harmful state.
- PP. *"Pretreatment Requirements"* means all of the duties or responsibilities imposed upon POTW Users by this chapter.
- QQ. *"Pretreatment Standards or Standards"* means prohibited discharge standards, Categorical Pretreatment Standards, and Local Limits.
- RR. *"Prohibited Discharge Standards or Prohibited Discharges"* means the absolute prohibitions against the discharge of certain substances; these prohibitions appear in Section 16-9-1 of this ordinance.
- SS. *"Public Sewer"* means a branch, main, or trunk sewer controlled and maintained by the city and to which storm, surface, and groundwaters are not intentionally admitted.
- TT. *"POTW"* means the Publicly Owned Treatment Works and connecting sewer collection system which are owned and/or operated, in whole or in part, by the city and which provide the city with wastewater collection and disposal services.
- UU. *"Replacement"* means those expenditures made for obtaining and installing equipment, accessories and/or appurtenances during the useful life of the treatment works which are necessary to maintain the capacity and performance of the treatment works for which they were designed and constructed.
- VV. *"Septic Tank Waste"* means any sewage from holding tanks such as vessels, chemical toilets, campers, trailers, and septic tanks.

- WW. *"Sewage"* means a combination of the water carried wastes from residences, business buildings, institutions and industrial establishments together with such ground, surface and stormwaters as may be present.
- XX. *"Sewer Connection"* means the connection to the public sewer and the extension therefrom of the sewer to the property line at the alley or the curb line of the street, whichever is applicable, depending on the location of the public sewer.
- YY. *"Sewer Connection Fee"* means the initial sewer connection charge as set forth in Sections 16-5-7 and 16-5-10 of this chapter and shall apply to all sewer connections to the public sewer.
- ZZ. *"Significant Industrial User (SIU)"* Except as provided in paragraphs (3) and (4) of this definition, a Significant Industrial User is:
1. An Industrial User subject to Categorical Pretreatment Standards; or
  2. An Industrial User that:
    - a. Discharges an average of 25,000 gallons per day ("gpd") or more of process wastewater to the POTW (excluding sanitary, noncontact cooling and boiler blowdown wastewater);
    - b. Contributes a process wastestream which makes up 5 percent or more of the average dry weather hydraulic or organic capacity of the POTW treatment plant; or
    - c. Is designated as such by the director on the basis that it has a reasonable potential for adversely affecting the POTW's operation or for violating any Pretreatment Standard or Requirement.
  3. The city may determine that an Industrial User subject to Categorical Pretreatment Standards is a Non-Significant Categorical Industrial User (NSCIU) rather than a Significant Industrial User on a finding that the Industrial User 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:
    - a. The Industrial User, prior to city's finding, has consistently complied with all applicable Categorical Pretreatment Standards and Requirements;
    - b. The Industrial User annually submits the certification statement required in Section 16-13-14B [see 40 CFR 403.12(q)], together with any additional information necessary to support the certification statement; and
    - c. The Industrial User never discharges any untreated concentrated wastewater.
  4. Upon a finding that a User meeting the criteria in Subsection (2) of this part has no reasonable potential for adversely affecting the POTW's operation or for violating any Pretreatment Standard or Requirement, the city may at

any time, on its own initiative or in response to a petition received from an Industrial User, and in accordance with procedures in 40 CFR 403.8(f)(6), determine that such User should not be considered a Significant Industrial User.

- AAA. *"Slug Discharge or Slug Load"* means 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.
- BBB. *"Standard Industrial Classification (S.I.C.)"* means a coded classification of industries based upon economic activity developed by the U.S. Department of Commerce as published in the Standard Industrial Classification Manual, 1972.
- CCC. *"Storm Water or Stormwater"* means rainwater, snow melt, and surface drainage.
- DDD. *"Suspended Solids or Total Suspended Solids"* means solids measured in milligrams per liter that either float on the surface of, or are in suspension in water, wastewater or other liquids and which are removable by a laboratory filtering device.
- EEE. *"Total Organic Carbon (TOC)"* means the total of all organic compounds expressed in milligrams per liter as determined by the combustion-infrared method prescribed by approved laboratory procedures.
- FFF. *"Wastewater"* means the 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.
- GGG. *"Water Resources Department"* means those officers and agents of the city supervising sewer operations for the city.
- HHH. *"Zero Process Discharge User"* means those Users that have no discharge of process wastewaters, but may have the potential to discharge a process wastewater or has significant quantities of hazardous materials or high strength waste which, if discharged, would be regulated by this chapter. Such facilities may be regulated by requiring them to have zero discharge of process wastes, thus allowing only domestic wastes to be discharged.

. . .

. . .

## Article 16-5 - DEPARTMENT AND CONSUMER RESPONSIBILITIES

### Sections:

#### Section 16-5-1 - City Not Responsible for User's Building Sewer, Piping, or Defects

The city shall not be responsible for the installation, maintenance, repair or inspection of the User's building sewer, piping or apparatus, or for any defects therein, located on the User's side of the point of delivery.

#### Section 16-5-2 - Consumer Responsibility for Sewer Service Connections

- A. Building sewer connections on the User's premises shall be so arranged as to provide service to one lot. If additional service is required, it will be considered as a separate and individual account.
- B. The User's building sewer line, sewer connection and apparatus shall be installed and maintained by the User, at the User's expense, in a safe and efficient manner and in accordance with city requirements and in full compliance with the applicable state law and county regulations.
- C. The User shall safeguard the public infrastructure placed on the User's premises and shall permit access to it by the authorized representatives of the water resources department.
- D. In the event that any loss or damage to public infrastructure on User's premises or any accident or injury to persons or property is caused by or results from the negligence or wrongful act of the User, his agents or employees, the cost of necessary repairs or replacements and damages shall be paid by the User to the city and any liability otherwise resulting shall be the responsibility of the User. The User agrees to indemnify the city, its mayor, council members, agents, and employees for, from, and against any claims, costs, and any loss or liability in connection with the requirements of this Section 16-5-2(D). The amount of such loss or damage or the cost of repairs may be added to the User's bill, and, if not paid, service may be discontinued as set forth in this chapter.
- E. Persons who lease, rent or otherwise permit the occupancy of their real property within the city or which are eligible to receive utility service from the city shall notify the city if the property is not to be provided utility service by the city. Property owners who fail to notify the city shall be jointly and severally liable for any utility service requested or received by the tenant, lessee or other occupant of their property and authorizes the city to enforce liens against their real property.
- F. When service to a User shall require installation of sewer lines or other public improvements on, under, across or over the User's property, the User will grant to the city, at no cost to the city, an easement, right-of-way or license for such installation.

### Section 16-5-3 - Unsanitary Disposal of Excrement Prohibited

It is unlawful for any person to deposit or permit to be deposited in an unsanitary manner upon public or private property within the city, or in any area under the jurisdiction of the city, any human or animal excrement or other objectionable waste.

### Section 16-5-4 - Private Sewage Systems

- A. Treatment of Polluted Wastes Required. It shall be unlawful in any area under the jurisdiction of the city, to release or maintain any sewage, industrial wastes, or other polluted waters, except where suitable treatment has been provided, in accordance with provisions of this chapter and applicable state and federal laws.
- B. Private Sewage System Overflow. The owner of any property within the city that has a private sewage system on such property and that accepts water service from the city, by acceptance of such service, authorizes the city to remediate any release or overflow of its private sewage system. The cost incurred by the city to remediate such overflow or release will be billed to the owner of the property and shall be paid by such owner in addition to all other penalties and costs provided in this chapter.
- C. Compliance with Article. Except as provided in this article, 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, without the written permission of the water resources director.
- D. When Permitted; Sanitation. Where a public sanitary or combined sewer is not available within the city or in any area under the jurisdiction of the city, the building sewer shall be connected to a private sewage disposal system, which complies with the regulations of the Arizona Department of Health Services. Such private sewage disposal system shall be constructed, maintained and operated at all times in a sanitary manner and in compliance with all applicable laws and regulations.
- E. Discontinuance. Within 90 days after a public sewer becomes available within three hundred feet of any property served by a private sewage disposal system, a direct connection shall be made to the public sewer in accordance with the provisions of this chapter, and any septic tanks, cesspools and similar private sewage facilities shall be abandoned and filled with suitable material in accordance with all applicable laws and regulations.

### Section 16-5-5 - Tampering with Equipment Prohibited

It is unlawful for any person to break, damage, destroy, uncover, deface or tamper with any structure, appurtenance or equipment that is a part of the POTW.

#### Section 16-5-6 - Authorization Required

It is unlawful for any unauthorized personnel to uncover, make any connections with or opening into, use, alter or disturb any POTW without first obtaining written authorization from the water resources department.

#### Section 16-5-7 - Application

Upon issuance of a required written authorization to any person, each and every written authorization issued shall be presented by the person to the water resources department and application made for the building connection. No sewer connection to the city POTW shall be made by any person or the city except upon written application furnished to the city by the owner of the premises to which sanitary sewer service is to be furnished or his authorized agent. An initial sewer connection fee shall be required in addition to a monthly charge for such sanitary sewer connection according to the rates fixed by the city until the service is discontinued by order of the water resources department or written order of the owner or his authorized agent. A charge shall be made for re-application of service to an existing connection. Any sewer connection fee is nonrefundable.

#### Section 16-5-8 - Inspection and Approval by Water Resources Department or Building Inspector

No building sewer will be connected to the POTW until it has been inspected and approved by the water resources department or building inspector.

#### Section 16-5-9 - Records to be kept by Water Resources Department

The water resources department will keep a record of all building and sewer connections made and the purpose for which they are to be used, together with the name of the owner of the property, his agent or representative.

#### Section 16-5-10 - Fees

The fee for each building sewer connection for all Users shall be set by resolution of the city council in accordance with the provisions of A.R.S. § 9-511.01. Classes may be established for different Users, and different fees established for each class.

#### Article 16-6 - [RESERVED]

#### Article 16-7 - SEWER SERVICE CHARGES

##### **Sections:**

##### Section 16-7-1 - User Charge Formula

- A. The following formulas shall be used to develop the various elements of the User charge portion of the sewer service charge:
  1. A treatment plant charge (T) will be made to all customers on the basis of flow and strength of sewage discharged. It shall be calculated as follows:

Flow Rate = Total Flow Costs / Total Gallons of Flow Treated

B.O.D. Rate = Total B.O.D. Costs / Total Pounds of B.O.D. Treated

Suspended Solids Rate = Total SS Costs / Total Pounds of SS Treated

Any other pollutant which causes an increase in the cost of treatment will be assessed in a similar fashion.

Other Pollutant Rate = Total Cost to Treat Other Pollutant / Total Pounds of Other Pollutant

$T = \text{User Gallons} \times \text{Flow Rate} + \text{User B.O.D.} \times \text{B.O.D. Rate} + \text{User SS} \times \text{SS Rate} + \text{User Other Pollutant} \times \text{Other Pollutant Rate}.$

#### Section 16-7-2 - Determination of Wastewater Quantity

- A. All Users for which the water supply is from the city will be billed on the basis of the actual metered water use and/or a fixed rate as determined by the city.
- B. All Users for which the water supply is from other suppliers of water may furnish to the water resources department either a certified meter reading of water delivered or a copy of the billings from the water supplier. The water resources department shall have the exclusive authority to determine the adequacy of this information and request additional documentation or tests if it finds the information supplied inadequate. If the water resources department finds the information adequate, the User's charges will be calculated and the same conditions will apply as if the city were the supplier of water to the User. If the information furnished is inadequate, or if such information is unavailable, the User charge will be calculated from the average monthly User charge for the last three months for that class and/or a fixed rate as determined by the city.
- C. The director shall have the authority to investigate and evaluate User complaints and appeals from billing decisions and may correct such billing to reflect what is, in the opinion of the director based on the records, the correct billing in the event a meter has been misread or some other billing error has occurred. The decision of the director shall be final.

#### Section 16-7-3 - Determination of Wastewater Quality

- A. The water resources department shall have the authority to require whatever tests are necessary to carry out a planned sampling program and to require whatever analyses are needed for all commercial and industrial Users including, but not limited to BOD, COD, and/or TOC tests. Wastewater characteristics shall be determined by the department on the basis of monitored wastewater discharged, a certified statement from the User, and/or on the best available data as to the characteristics of such discharges.



- B. Any change in the ongoing process(es) employed by a User contributing industrial wastewater which results in a variation of more than 25% in one or more of the effluent loading concentrations shall be reported to the department within 30 days of said change.
- C. If it is determined through testing that a significant variation exists between the User's certified data and the discharge characteristics monitored by the department, the city may adjust the sewer use charge based on the monitored data from the original date of certification, unless written notice has been provided to the water resources department advising of the changes in loading and giving specific dates of changes. Any changes require approval of the department in accordance with the provisions of this chapter.
- D. Designated discharge. Where sampling and gauging of a specific User is not practical for physical, economic, safety or other reasons, the water resources department may designate values for concentrations of the wastes discharged into the sewage system for all Users in the same standard industrial classification.

#### Section 16-7-4 - Other User Charge Provisions

- A. Biennial Review. The water resources department will review, not less frequently than every two years, the wastewater contribution of Users and User classes, the total costs of operation and maintenance of the POTW, and its approved User charge system. The water resources department shall at such time recommend a revision in the sewer service charge and User classes to accomplish the following:
  - 1. Maintain a reasonable proportionate distribution of operation and maintenance costs among Users and User classes;
  - 2. Generate sufficient revenue to pay the total operation and maintenance costs necessary to the proper operation and maintenance (including replacement) of the treatment works; and
  - 3. Apply excess revenues collected from a class of Users to the costs of operation and maintenance attributable to that class for the next year and adjust the rate accordingly.
- B. Notification of Users. Each User will be notified, at least annually, in conjunction with a regular bill, of the User charge rate and that portion of the total charges which are attributable to User charges.
- C. Inconsistent Agreements. The User charge system set forth in this chapter is applicable to all agreements or contracts between the city and Users including industrial Users, other municipalities or federal agencies or installations, and the terms of this chapter shall take precedence over any such agreements or contracts which are inconsistent with the requirements of this chapter.
- D. Records System. The water resources department shall maintain a financial management records system accurately accounting for operation and maintenance revenues and expenditures associated with the POTW. The accounting system shall segregate operation and maintenance revenue and expenditures from other

wastewater revenue and expenditures to assure adequate revenue to properly operate, maintain, and replace the treatment works. All revenues collected for operation, maintenance, and replacement shall be deposited in a separate fund as outlined in section 16-7-9 of this chapter.

- E. Wastewater Treatment By-Products. All revenue from the sale of treatment-related byproducts shall be used to offset the cost of operation and maintenance. User charges shall be proportionally reduced for all Users. Total annual revenues received from the sale of a byproduct shall be credited to the treatment works operation and maintenance cost no later than the fiscal year immediately following their receipt.

#### Section 16-7-5 - Other Sewer Service Charges

In addition to the User charges described herein, the rate schedules shall be sufficient to cover the following costs:

- A. A portion of the annual debt service costs for retirement of sewer bonds will be charged to all customers served directly by the city's POTW. The water resources department shall make recommendations to the city council at least once every two years as to how these costs shall be proportioned among the Users. Charges to recover these costs will be called "other charges".
- B. Adequate reserve funds to allow for reasonably expected increases in the cost of providing services will be charged to all customers served directly by the city's POTW. The water resources department shall make recommendations to the city council as to the amount of reserve funds necessary and as to how these funds shall be proportioned among the Users.
- C. The costs of billing and collection and performing industrial wastewater services shall be charged to customers on an equitable basis. The water resources department shall make recommendations to the city council as to how these costs shall be proportioned among the Users. Charges to recover these costs will be called Billing and Collection Charges and Industrial Wastewater Charges respectively.

#### Section 16-7-6 - Sewer Service Charges

All utility service charges, fees, and rates imposed by the city pursuant to the provisions of this chapter shall be set by resolution of city council in accordance with the provisions of A.R.S. § 9-511.01.

#### Section 16-7-7 - Payment of Bills and Charges

- A. All sewer User accounts shall be carried on the books of the water resources department by the street address. All notices sent out by the city regarding sewer User accounts, and all notices regarding any other matter pertaining to the use of the city POTW shall be sent to the street address of such property unless the owner of the property advises the city in writing of an alternative mailing address. To

insure proper delivery of notices, any change of address should be promptly reported, in writing, to the water resources department.

- B. All rates and service charges are due and payable when rendered. Payment must be made no later than the due date printed on the bill. If payment is not received by the due date, the next monthly billing will indicate the past due amount and the current amount due. The account is considered delinquent and subject to turnoff for nonpayment by the due date. No further notice by the city is required prior to discontinuation of service. A late fee on the previous amount due may be charged to the customer's account. Late fees will be established by resolution of city council from time to time. The turnoff fee and any reconnection fee shall be paid before restoring service, plus the total amount of the bill due. An account may also become delinquent and subject to disconnection for nonpayment of return check amounts and services charges. If a customer disputes the amount of the bill or protests a proposed termination of service as unjustified, the customer may present objections in writing to the director as provided in Section 16-3-2(B).
- C. A customer's water and/or sewer service may be disconnected for nonpayment of a bill for water and/or sewer service served by the city to the customer's previous location.
- D. Any expense incurred by the city for the repair or replacement of damaged, stolen, tampered with or misused sewer or water facilities shall be charged against and collected from the person or persons who caused the expense.
- E. All requests for discontinuing service must be made by the owner or authorized agent of the owner of the property or by the named applicant on a service account or his authorized agent. The customer requesting discontinuance of service must also furnish the city with a forwarding address.
- F. Until a written request to discontinue service is received, such premises shall be deemed occupied by such customer and customer's liability continued.
- G. In the event that such customer shall have paid a deposit to the city, and said deposit is still being retained by the city, the balance of the deposit amount paid will be refunded, after deducting from the deposit the amount owing on any water and sewer account.
- H. When a User or former User of the sewer and/or water system has been notified of the amount of charges remaining due on the account and payment for same has not been received, the city may assign the account for collection.

#### Section 16-7-8 - Liens for Nonpayment

- A. Whenever a property owner has entered into an agreement with the city for sewer utility service to his property, the property owner consents to a lien against the property for the amount of unpaid utility bills, together with late payment, penalty, interest and collection costs until the bill is paid in full.

- B. Whenever a utility bill for sewer utility service remains unpaid for 90 days after the due date, the city may file a lien on the property for nonpayment of the sewer utility fees pursuant to and in accordance with the provisions of A.R.S. § 9-511.02, as amended.

#### Section 16-7-9 - Distribution of Sewage System Revenues and Utilization of Funds

- A. Funds shall be established for the proper distribution of sewer revenues. They shall include, but not be limited to, the following:
  - 1. Sewage system operations and maintenance;
  - 2. Sewage system replacement;
  - 3. Sewage system betterments and improvements;
  - 4. Sewage system debt service;
  - 5. Sewage system construction and expansion.
- B. The distribution of sewer charges shall be as follows:
  - 1. Sewer use charge revenues shall be allocated as follows:
    - a. To the sewage system operations and maintenance fund or account.
    - b. To the sewage system replacement fund or account.
    - c. To the sewage system reserve fund or account.
  - 2. Sewage system capacity charge revenues shall be allocated as follows:
    - a. That portion of the charge levied to service the debt of sanitary sewer bonds or long-term construction contracts shall be allocated to the sewage system debt service fund or account.
    - b. The remainder of the charge shall be allocated to the sewage system construction and expansion fund or account.
- C. The utilization of the fund or accounts shall be as follows:
  - 1. Sewage system operation and maintenance fund or account shall be utilized for personal services, operational expenses associated with the provision of sewage system services.
  - 2. Sewage system replacement fund or account shall be utilized for equipment replacement expenses associated with the provision of sewage system services.
  - 3. Sewage system reserve fund or account shall be utilized for emergency expenditures, betterments, and improvements. Reserve funds can be transferred by council action to the construction and expansion fund or account.
  - 4. Sewage system debt service fund or account shall be utilized in servicing the debt retirement of sanitary bonds or long-term construction contracts.

5. Sewage system construction or expansion fund or account shall be utilized for the construction or expansion costs associated with the sewer system and the sewage treatment facilities.

#### Article 16-8 – [RESERVED]

#### Article 16-9 - GENERAL SEWER USE REQUIREMENTS

##### **Sections**

##### Section 16-9-1 - Prohibited Discharge Standards

- A. General Prohibitions. No User 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 Users of the POTW whether or not they are subject to Categorical Pretreatment Standards or any other National, State, or local Pretreatment Standards or Pretreatment Requirements.
- B. Specific Prohibitions. No User 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, or pollutants which cause an exceedance of 10 percent of the lower explosive limit (LEL) at any point within the POTW for any single reading or more than 5 percent for any two consecutive readings;
  2. Wastewater having a pH less than 5.0 or more than 10.5, 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 but in no case solids greater than one-quarter inch (1/4") in any dimension;
  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 (66 degrees C), 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, non-biodegradable 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;
9. Noxious or malodorous liquids, gases, solids, or other wastewater which, either singly or by interaction with other wastes, are sufficient to create a public nuisance or a hazard to life, or to prevent entry into the sewers for maintenance or repair;
10. 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 NPDES permit;
11. Wastewater containing any radioactive wastes or isotopes except in compliance with applicable State or Federal regulations;
12. Storm Water, surface water, ground water, artesian well water, roof runoff, subsurface drainage, swimming pool drainage, condensate, deionized water, Noncontact Cooling Water, and unpolluted wastewater, unless specifically authorized by the Director;
13. Sludges, screenings, or other residues from the pretreatment of industrial wastes;
14. Medical Wastes, except as specifically authorized by the Director in an individual wastewater discharge permit or a general permit;
15. Wastewater causing, alone or in conjunction with other sources, the treatment plant's effluent to fail toxicity test;
16. Detergents, surface-active agents, or other substances which might cause excessive foaming in the POTW;
17. Fats, oils, or greases of animal or vegetable in amounts that will cause Interference or Pass Through;
18. Any water or waste which contains any contaminant at a concentration in excess of the limits set below, as measured in a Grab Sample or composite sample, in units of milligrams per liter (mg/L):

<b>Substance</b>	<b>Limitation mg/L</b>
Benzene	0.035
Chloroform	0.420
Ethylbenzene	0.200
Toluene	0.200
Xylenes	0.200
Polyaromatic hydrocarbons	0.050
Phenols	1.000

19. Any of the following prohibited substances:

- a. 4,4'—DDE
- b. 4,4'—DDT
- c. Aldrin
- d. BHC-alpha
- e. BHC-beta
- f. BHC-gamma (Lindane)
- g. Chlorinated phenols

Pollutants, substances, or wastewater prohibited by this Section shall not be processed or stored in such a manner that they could be discharged to the POTW.

#### Section 16-9-2 - National Categorical Pretreatment Standards

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

- A. Where a Categorical Pretreatment Standard is expressed only in terms of either the mass or the concentration of a pollutant in wastewater, the Director may impose equivalent concentration or mass limits in accordance with Section 16-9-2E and 16-9-2F.
- B. When the limits in a Categorical Pretreatment Standard are expressed only in terms of mass of pollutant per unit of production, the Director may convert the limits to equivalent limitations expressed either as mass of pollutant discharged per day or effluent concentration for purposes of calculating effluent limitations applicable to individual Industrial Users.
- C. When wastewater subject to a Categorical Pretreatment Standard is mixed with wastewater not regulated by the same Standard, the Director shall impose an alternate limit in accordance with 40 CFR 403.6(e).

- D. When a Categorical Pretreatment Standard is expressed only in terms of pollutant concentrations, an Industrial User may request that the city convert the limits to equivalent mass limits. The determination to convert concentration limits to mass limits is within the discretion of the Director. The city may establish equivalent mass limits only if the Industrial User meets all the conditions set forth in Sections 16-9-2D(1)(a) through 16-9-2D(1)(e) below.

1. To be eligible for equivalent mass limits, the Industrial User must:
  - a. Employ, or demonstrate that it will employ, water conservation methods and technologies that substantially reduce water use during the term of its individual wastewater discharge permit;
  - b. Currently use control and treatment technologies adequate to achieve compliance with the applicable Categorical Pretreatment Standard, and not have used dilution as a substitute for treatment;
  - c. Provide sufficient information to establish the facility's actual average daily flow rate for all wastestreams, based on data from a continuous effluent flow monitoring device, as well as the facility's long-term average production rate. Both the actual average daily flow rate and the long-term average production rate must be representative of current operating conditions;
  - d. Not have daily flow rates, production levels, or pollutant levels that vary so significantly that equivalent mass limits are not appropriate to control the Discharge; and
  - e. Have consistently complied with all applicable Categorical Pretreatment Standards during the period prior to the Industrial User's request for equivalent mass limits.
2. An Industrial User subject to equivalent mass limits must:
  - a. Maintain and effectively operate control and treatment technologies adequate to achieve compliance with the equivalent mass limits;
  - b. Continue to record the facility's flow rates through the use of a continuous effluent flow monitoring device;
  - c. Continue to record the facility's production rates and notify the Director whenever production rates are expected to vary by more than 20 percent from its baseline production rates determined in paragraph 16-9-2D(1)(c) of this Section. Upon notification of a revised production rate, the Director will reassess the equivalent mass limit and revise the limit as necessary to reflect changed conditions at the facility; and
  - d. Continue to employ the same or comparable water conservation methods and technologies as those implemented pursuant to paragraph 16-9-2D(1)(a) of this Section so long as it discharges under an equivalent mass limit.



3. When developing equivalent mass limits, the Director:
  - a. Will calculate the equivalent mass limit by multiplying the actual average daily flow rate of the regulated process(es) of the Industrial User by the concentration-based Daily Maximum and Monthly Average Standard for the applicable Categorical Pretreatment Standard and the appropriate unit conversion factor;
  - b. Upon notification of a revised production rate, will reassess the equivalent mass limit and recalculate the limit as necessary to reflect changed conditions at the facility; and
  - c. May retain the same equivalent mass limit in subsequent individual wastewater discharger permit terms if the Industrial User's actual average daily flow rate was reduced solely as a result of the implementation of water conservation methods and technologies, and the actual average daily flow rates used in the original calculation of the equivalent mass limit were not based on the use of dilution as a substitute for treatment pursuant to Section 16-9-5. The Industrial User must also be in compliance with Section 16-20-3 regarding the prohibition of bypass.
- E. The Director may convert the mass limits of the Categorical Pretreatment Standards of 40 CFR Parts 414, 419, and 455 to concentration limits for purposes of calculating limitations applicable to individual Industrial Users. The conversion is at the discretion of the Director.
- F. Once included in its permit, the Industrial User must comply with the equivalent limitations developed in this Section (16-9-2) in lieu of the promulgated Categorical Standards from which the equivalent limitations were derived.
- G. Many Categorical Pretreatment Standards specify one limit for calculating maximum daily discharge limitations and a second limit for calculating maximum Monthly Average, or 4-day average, limitations. Where such Standards are being applied, the same production or flow figure shall be used in calculating both the average and the maximum equivalent limitation.

Any Industrial User operating under a permit incorporating equivalent mass or concentration limits calculated from a production-based Standard shall notify the Director within two (2) business days after the User has a reasonable basis to know that the production level will significantly change within the next calendar month. Any User not notifying the Director of such anticipated change will be required to meet the mass or concentration limits in its permit that were based on the original estimate of the long term average production rate.

#### Section 16-9-3 - Local Limits

- A. The Director is authorized to establish Local Limits pursuant to 40 CFR 403.5(c).

- B. The following pollutant limits are established to protect against Pass Through and Interference. In addition to the Prohibited Discharge Standards at Section 16-9-1, Users discharging under a Class I Permit pursuant to Section 16-11-2C(1) shall not discharge wastewater containing in excess of the following Daily Maximum Limits.

<b>Pollutant (1) (2)</b>	<b>Daily Maximum Limit, mg/L</b>
BOD	<b>User-Specific Limit (3)</b>
TSS	<b>User-Specific Limit (3)</b>
TKN	<b>User-Specific Limit (3)</b>
Arsenic (As)	<b>0.035</b>
Boron (B)	<b>1.1</b>
Cadmium (Cd)	<b>0.028</b>
Chromium (Cr)	<b>User-Specific Limit (3)</b>
Copper (Cu)	<b>5.0</b>
Cyanide, Total (CN-T)	<b>0.78</b>
Fluoride (F)	<b>11</b>
Lead (Pb)	<b>0.74</b>
Mercury (Hg)	<b>0.0080</b>
Nickel (Ni)	<b>User-Specific Limit (3)</b>
Selenium (Se)	<b>0.0074</b>
Zinc (Zn)	<b>166</b>

1. All concentrations for metallic substances are for total metal unless indicated otherwise.
  2. The Director may impose mass limitations in addition to the concentration-based limitations above.
  3. User-Specific Limits are derived by the Director pursuant to Section 16-9-3D.
- C. In addition to the Prohibited Discharge Standards at Section 16-9-1, Users discharging under a Class II Permit pursuant to Section 16-11-2C(2) shall not discharge wastewater containing in excess of the following Daily Maximum Limits.

<b>Pollutant (1) (2)</b>	<b>Daily Maximum Limit, mg/L</b>
BOD	<b>User-Specific Limit (1)</b>
TSS	<b>User-Specific Limit (1)</b>
TKN	<b>User-Specific Limit (1)</b>

1. User-Specific Limits are derived by the Director pursuant to Section 16-9-3D.

**D. The application of User Specific Limits.**

1. The Director is authorized to calculate User-Specific Limits based on available capacity of the treatment plant served by the Industrial User.
2. Available capacity is affected by several factors such as Industrial User flows, pollutant discharge levels, POTW performance, and regulatory controls imposed upon the POTW.

- E. The Director may develop Best Management Practices (BMPs), by ordinance or in individual wastewater discharge permits or general permits, to implement Local Limits and the requirements of Section 16-9.**

**Section 16-9-4 - City's Right of Revision**

The city reserves the right to establish, by ordinance or in individual wastewater discharge permits or in general permits, more stringent Standards, modify existing limitations, establish new effluent limitations, best management practices, or pretreatment requirements on discharges to the POTW consistent with the purpose of this ordinance.

**Section 16-9-5 - Dilution**

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 Director may impose mass limitations on Users who are using dilution to meet applicable Pretreatment Standards or Pretreatment Requirements, or in other cases when the imposition of mass limitations is appropriate.

**Article 16-10 - PRETREATMENT OF WASTEWATER  
Sections**

**Section 16-10-1 - Pretreatment Facilities**

- A. Users shall provide wastewater treatment as necessary to comply with this ordinance and shall achieve compliance with all Categorical Pretreatment**

Standards, Local Limits, and the prohibitions set out in Section 16-9-1 of this ordinance within the time limitations specified by EPA, the State, or the Director, whichever is more stringent.

- B. Any facilities necessary for compliance shall be provided, operated, and maintained at the User's expense.
- C. Detailed plans describing such facilities and operating procedures shall be submitted to the Director for review and shall be acceptable to the Director before such facilities are constructed. The review of such plans and operating procedures shall in no way relieve the User from the responsibility of modifying such facilities as necessary to produce a discharge acceptable to the city under the provisions of this ordinance.

#### Section 16-10-2 - Additional Pretreatment Measures

##### A. Restriction and Control of Discharges

- 1. Whenever deemed necessary, the Director may require Users to restrict their discharge during peak flow periods, designate that certain wastewater be discharged only into specific sewers, relocate and/or consolidate points of discharge, separate sewage wastestreams from industrial wastestreams, and such other conditions as may be necessary to protect the POTW and determine the User's compliance with the requirements of this ordinance.
- 2. The Director may require any person discharging into the POTW to install and maintain, on their property and at their expense, a suitable storage and flow-control facility to ensure equalization of flow. An individual wastewater discharge permit or a general permit may be issued solely for flow equalization.

##### B. Control of Grease, Oil and Solids Discharges

- 1. Grease, oil and sand interceptors or traps shall be provided when, in the opinion of the water resources department, they are necessary for the proper handling of liquid wastes containing grease and/or oil in excessive amounts or any flammable wastes, sand and other harmful ingredients except that such interceptors shall not be required for private living quarters or dwelling units.
- 2. When installed grease, oil and sand interceptors or traps shall be sized and installed in accordance with the city's Building and Plumbing Code requirements.
- 3. Grease and oil and sand interceptors shall be constructed of impervious material capable of withstanding abrupt and extreme changes in temperature. They shall be of substantial construction, watertight and equipped with easily removable covers which, when bolted in place, shall be gastight and watertight.

4. Where installed, all grease, oil and sand interceptors shall be maintained by the owner, at his expense, in continuously efficient operation at all times. The use of chemicals, bacteria, or other agents to dissolve grease and/or oil or otherwise clean grease and/or oil interceptors or traps is specifically prohibited.
5. Unless approved by the Director no interceptor installed pursuant to this section shall have a capacity less than 750 gallons nor greater than 2,500 gallons.
6. The owner shall keep written records and documentation of all cleaning, repair, calibration and maintenance required to demonstrate compliance with this chapter. Records shall be kept at the facility for a minimum of three (3) years and be made available to an authorized employee of the water resources department upon request.

C. Control of Flammable Substance Discharges

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

D. Control of Chloride or TDS

1. Users with the potential to discharge Chloride or TDS at or above the following threshold levels may be required by the Director to implement appropriate pretreatment or BMP:
  - a. The threshold level for Chloride is 350 mg/L
  - b. The threshold level for TDS is 1,800 mg/L

### Section 16-10-3 - Accidental Discharge/Slug Discharge Control Plans

The Director shall evaluate whether each SIU needs an accidental discharge/slug discharge control plan or other action to control Slug Discharges. The 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 Director may develop such a plan for any User. An accidental discharge/slug discharge control plan shall address, at a minimum, the following:

- A. Description of discharge practices, including nonroutine batch discharges;
- B. Description of stored chemicals;
- C. Procedures for immediately notifying the Director of any accidental or Slug Discharge, as required by Section 16-13-6 of this ordinance; and
- D. Procedures to prevent adverse impact from any accidental or Slug Discharge. Such procedures include, but are not limited to, inspection and maintenance of storage

areas, handling and transfer of materials, loading and unloading operations, control of plant site runoff, worker training, building of containment structures or equipment, measures for containing toxic organic pollutants, including solvents, and/or measures and equipment for emergency response.

## Article 16-11 - INDIVIDUAL WASTEWATER DISCHARGE PERMITS and GENERAL PERMITS

### Sections

#### Section 16-11-1 - Wastewater Analysis

When requested by the Director, a User must submit information on the nature and characteristics of its wastewater within 90 days of the request. The Director is authorized to prepare a form for this purpose and may periodically require Users to update this information. All tests and analyses of the characteristics of water and wastewater shall be determined in accordance with Approved Laboratory Procedures as that term is defined in Article 16-4 of this chapter.

#### Section 16-11-2 - 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 Director, except that a Significant Industrial User that has filed a timely application pursuant to Section 16-11-3 of this ordinance may continue to discharge for the time period specified therein.
- B. The 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. The Director is authorized to issue the following types of Industrial User Permits:
  - 1. Class I Permits shall be issued to Significant Industrial Users (SIUs).
  - 2. Class II Permits may be issued to High Strength Users who are not otherwise required to obtain a Permit. A High Strength User is one whose discharge equals or exceeds 2.5 percent of the loading capacity (by mass) of either BOD or TSS or TKN irrespective of the actual discharge volume.
  - 3. Class III Permits may be issued to a Zero Process SIU or to a User meeting the definition of NSCIU at Section 16-4-1ZZ(3).
  - 4. Class IV Permits (General Permits) may be issued to Users meeting the criteria in Section 16-11-6.
- D. 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 this ordinance. Obtaining an individual wastewater discharge permit or a general permit does not relieve a permittee of its obligation to comply with all Federal and State Pretreatment Standards or Pretreatment Requirements or with any other requirements of Federal, State, and local law.

### Section 16-11-3 - 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 sixty (60) days after said date, apply to the Director for an individual wastewater discharge permit or a general permit in accordance with Section 16-11-5 of this ordinance, and shall not cause or allow discharges to the POTW to continue after one-hundred-twenty (120) days of the effective date of this ordinance except in accordance with an individual wastewater discharge permit or a general permit issued by the Director.

### Section 16-11-4 - 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 a general permit, in accordance with Section 16-11-5 of this ordinance, must be filed at least 90 days prior to the date upon which any discharge will begin or recommence.

### Section 16-11-5 - 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 16-11-6. The 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 wastestream formula set out in Section 16-9-2C (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 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 16-13-10 of this ordinance. Where the Standard requires compliance with a BMP or pollution prevention alternative, the User shall submit documentation as required by the Director or the applicable Standards to determine compliance with the Standard.
  - e. Sampling must be performed in accordance with procedures set out in Section 16-13-11 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 16-13-4B [40 CFR 403.12(e)(2)].
  9. Any request to be covered by a general permit based on Section 16-11-6.
  10. Any other information as may be deemed necessary by the Director to evaluate the permit application.
- B. Incomplete or inaccurate applications will not be processed and will be returned to the User for revision.

#### Section 16-11-6 - Wastewater Discharge Permitting: General Permits

- A. At the discretion of the Director, the Director may use general permits to control non-SIU or commercial User 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 and pollutant controls;
  4. Require the same or similar monitoring; and
  5. In the opinion of the Director, are more appropriately controlled under a general permit than under individual wastewater discharge permits.
- B. To be covered by the general permit, the User 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 16-13-4B 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 Director has provided written notice to the SIU that such a waiver request has been granted in accordance with Section 16-13-4B.
- C. The Director will retain a copy of the general permit, documentation to support the POTW's determination that a specific User meets the criteria in Section 16-11-6A(1) to (5) 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 Director may not control a User 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 industrial Users whose limits are based on the Combined Wastestream Formula (Section 16-9-2C) or Net/Gross calculations (Section 16-9-2D).

#### Section 16-11-7 - 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 16-13-14A.
- 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 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 Director pursuant to 16-4-1ZZ(3) must annually submit the signed certification statement in Section 16-13-14B.

#### Section 16-11-8 - Individual Wastewater Discharge and General Permit Decisions

The Director will evaluate the data furnished by the User and may require additional information. Within 90 days of receipt of a complete permit application, the Director will determine whether to issue an individual wastewater discharge permit or a general permit. The Director may deny any application for an individual wastewater discharge permit or a general permit.

### Article 16-12 - INDIVIDUAL WASTEWATER DISCHARGE AND GENERAL PERMIT ISSUANCE

#### **Sections**

#### Section 16-12-1 - 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 Director. Each individual wastewater discharge permit or a general permit will indicate a specific date upon which it will expire.

## Section 16-12-2 - 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 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 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 16-12-5 of 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 16-13-4B.
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 Director to be necessary.
8. Any grant of the monitoring waiver by the Director (Section 16-13-4B) must be included as a condition in the User's permit.

### B. General wastewater discharge 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 16-12-5 of 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 and/or best management practice to be monitored, sampling location, sampling frequency, and sample type based on Federal, State, and local law.
  5. 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.
  6. Requirements to control Slug Discharge, if determined by the Director to be necessary.
- C. 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;
    - a. When installed such devices must at all times be properly operated and maintained.
    - b. Written operating and maintenance logs shall be maintained on-site.
  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 Director to ensure compliance with this ordinance, and State and Federal laws, rules, and regulations.

#### Section 16-12-3 - Permit Issuance Process

- A. Permit Appeals. The User may petition the Director to reconsider the terms of an individual wastewater discharge permit within twenty (20) business days of notice of its issuance. Written appeals will be deemed to have been submitted on the date postmarked. For appeals, which are not mailed, postage prepaid, into a mail facility serviced by the United States Postal Service, the date of receipt of the appeal shall govern.
  1. Failure to submit a timely petition for reconsideration shall be deemed to be a waiver of the administrative appeal.
  2. In its petition, the appealing party must indicate the individual wastewater discharge permit provisions objected to, the reasons for this objection, and the alternative condition, if any, it seeks to place in the individual wastewater discharge permit.
  3. The effectiveness of the individual wastewater discharge permit not be stayed pending the appeal.
  4. If the Director fails to act within 30 days of the appeal's submittal, a request for reconsideration shall be deemed to be denied. Decisions not to reconsider an individual wastewater discharge permit, not to issue an individual wastewater discharge permit, or not to modify an individual wastewater discharge permit shall be considered final administrative actions for purposes of judicial review.
- B. General Permit Appeals. The User may petition the Director to reconsider the decision to require a general permit within twenty (20) business days of notice of its issuance. Written appeals will be deemed to have been submitted on the date postmarked. For appeals, which are not mailed, postage prepaid, into a mail facility serviced by the United States Postal Service, the date of receipt of the appeal shall govern.
  1. Failure to submit a timely petition for reconsideration shall be deemed to be a waiver of the administrative appeal.
  2. In its petition, the appealing party must indicate the general permit objected to, the reasons for this objection, and the alternative permit, if any, it finds applicable.

3. The effectiveness of the general permit shall not be stayed pending the appeal.
  4. If the Director fails to act within 30 days of the appeal's submittal, a request for reconsideration shall be deemed to be denied. Decisions not to reconsider a general permit, or not to issue a general permit shall be considered final administrative actions for purposes of judicial review.
- C. Aggrieved parties seeking judicial review of the final administrative individual wastewater discharge permit or general permit decision must do so by filing a complaint with the Superior Court for Maricopa County, Arizona

#### Section 16-12-4 - Permit Modification

- A. The 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 Pretreatment 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 16-12-5.
- B. The 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 Pretreatment 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 16-12-5.

#### Section 16-12-5 - 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 sixty (60) days advance notice to the Director and the Director approves the individual wastewater discharge permit or the general permit coverage transfer. The notice to the 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.

#### Section 16-12-6 - Individual Wastewater Discharge Permit and General Permit Revocation

The 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 Director of significant changes to the wastewater prior to the changed discharge;
- B. Failure to provide prior notification to the Director of changed conditions pursuant to Section 16-13-5 of this ordinance;
- C. Misrepresentation or failure to fully disclose all relevant facts in the wastewater discharge permit application;
- D. Falsifying self-monitoring reports and certification statements;
- E. Tampering with monitoring equipment;
- F. Refusing to allow the 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 or 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.

#### Section 16-12-7 - 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 16-11-5 of this ordinance, a minimum of 90 days prior to the expiration of the User's existing individual wastewater discharge permit or general permit.

### Article 16-13 - REPORTING REQUIREMENTS

#### **Sections**

#### Section 16-13-1 - Baseline Monitoring Reports

- A. Within either 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 Director a report which contains the information listed in Section 16-13-1 B, below. At least 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 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 in paragraph A above shall submit the information set forth below.
1. All information required in Section 16-11-5A(1)(a), Section 16-11-5A(2), Section 16-11-5A(3)(a), and Section 16-11-5A(6).
  2. Measurement of pollutants.
    - a. The User shall provide the information required in Section 16-11-5A(7)(a) through (e).
    - 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 16-13-10;
    - e. The 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 in Section 16-4 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 16-13-2 of this ordinance.

5. Signature and Report Certification. All baseline monitoring reports must be certified in accordance with Section 16-13-14A of this ordinance and signed by an Authorized Representative as defined in Section 16-4.

#### Section 16-13-2 - Compliance Schedule Progress Reports

The following conditions shall apply to the compliance schedule required by Section 16-13-1B(4) 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 Director no later than 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 Director. More frequent reporting may be required by the Director.
- E. The Director is authorized to review and approve compliance schedules and may require shorter increments of progress between events.

#### Section 16-13-3 - Reports on Compliance with Categorical Pretreatment Standard Deadline

Within 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 Director a report containing the information described in Section 16-11-5A(6) and (7) and 16-13-1B(2) of this ordinance. For Users subject to equivalent mass or concentration limits established in accordance with the procedures in Section 16-9-2, this report shall contain a reasonable measure of the User's long-term production rate. For all other Users subject to Categorical Pretreatment Standards expressed in terms of allowable pollutant discharge per unit of production (or other measure of operation), this report shall include the User's actual production during the appropriate sampling period. All compliance reports must be signed and certified in accordance with Section 16-13-14A of this ordinance. All sampling will be done in conformance with Section 16-13-11.

#### Section 16-13-4 - Periodic Compliance Reports

- A. Except as specified in Section 16-13-4C, all Significant Industrial Users must, at a frequency determined by the Director submit no less than twice per year (June and

December or on dates specified in its Permit) reports 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 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. [See 40 CFR 403.12(e)(2)] 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 five (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 16-11-5A(8).
  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 in accordance with Section 16-4-1C, and include the certification statement in 16-13-14 A (40 CFR 403.6(a)(2)(ii)).
  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 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 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 Director, the Industrial User must certify on each report with the statement in Section 16-13-14C, 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 16-13-4A, or other more frequent monitoring requirements imposed by the Director, and notify the 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. The city may reduce the requirement for periodic compliance reports to a requirement to report no less frequently than once a year, unless required more frequently in the Pretreatment Standard, where the Industrial User's total categorical wastewater flow does not exceed any of the following:
1. 0.01 percent of the POTW's design dry-weather *hydraulic capacity* of the POTW, or five thousand (5,000) gallons per day, whichever is smaller, as measured by a continuous effluent flow monitoring device unless the Industrial User discharges in batches;
  2. 0.01 percent of the design dry-weather *organic treatment capacity* of the POTW; and
  3. 0.01 percent of the maximum allowable headworks loading for any pollutant regulated by the applicable Categorical Pretreatment Standard for which approved Local Limits were developed in accordance with Section 16-9-3 of this ordinance.

Reduced reporting is not available to Industrial Users that have in the last two (2) years been in Significant Noncompliance, as defined in Section 16-16 of this ordinance. In addition, reduced reporting is not available to an Industrial User with daily flow rates, production levels, or pollutant levels that vary so significantly that, in the opinion of the Director, decreasing the reporting requirement for this Industrial User would result in data that are not representative of conditions occurring during the reporting period.

- D. All periodic compliance reports must be signed and certified in accordance with Section 16-13-14A of this ordinance.
- E. 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.

- F. 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 Director, using the procedures prescribed in Section 16-13-11 of this ordinance, the results of this monitoring shall be included in the report.

#### Section 16-13-5 - Reports of Changed Conditions

Each User must notify the 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 90 days before the change. For purposes of this section any increase or decrease in the volume of discharge or mass of any pollutant discharged that equals or exceeds 20 percent shall constitute a significant change.

- A. The 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 16-11-5 of this ordinance.
- B. The Director may issue an individual wastewater discharge permit or a general permit under Section 16-12-2 of this ordinance or modify an existing wastewater discharge permit or a general permit under Section 16-12-4 of this ordinance in response to changed conditions or anticipated changed conditions.

#### Section 16-13-6 - Reports of Potential Problems

- A. In the case of any discharge, including, but not limited to, accidental discharges, discharges of a non-routine, episodic nature, a non-customary batch discharge, a Slug Discharge or Slug Load, that might cause potential problems for the POTW, the User shall immediately telephone and notify the 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 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 Director immediately of any changes at its facility affecting the potential for a Slug Discharge.

#### Section 16-13-7 - Reports from Unpermitted Users

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

#### Section 16-13-8 - Notice of Violation/Repeat Sampling and Reporting

If sampling performed by a User indicates a violation, the User must notify the Director within 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 Director within 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's facility 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.

#### Section 16-13-9 - 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 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 12 months. All notifications must take place no later than 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 16-13-5 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 16-13-1, 16-13-3, and 16-13-4 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 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 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 Director, the EPA Regional Waste Management Waste Division Director, and State hazardous waste authorities of the discharge of such substance within 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.

#### Section 16-13-10 - 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 Director or other parties approved by EPA.

#### Section 16-13-11 - 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 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 16-13-1 and 16-13-3 [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 Director may authorize a lower minimum. For the reports required by paragraphs Section 16-13-4 (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.

#### Section 16-13-12 - 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.

#### Section 16-13-13 - Recordkeeping

- A. Availability - 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 Section 16-9-3E.
- B. Contents - All monitoring required by this ordinance or by discharge permits must be supported by Chain-of-Custody records. 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.
- C. Retention - 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 Director.

#### Section 16-13-14 - 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 16-11-7; Users submitting baseline monitoring reports under Section 16-13-1B(5); Users submitting reports on compliance with the Categorical Pretreatment Standard deadlines under Section 16-13-3; Users submitting periodic compliance reports required by Section 16-13-4A–D, and Users submitting an initial request to forego sampling of a pollutant on the basis of Section 16-13-4B(4). The following certification statement must be signed by an Authorized Representative as defined in Section 16-4:

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 Director pursuant to 16-4-1ZZ(3) and 16-11-7C must annually submit the following certification statement signed in accordance with the signatory requirements in 16-4-C. This certification must accompany an alternative report required by the 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, 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 16-4-1ZZ(3);

(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 16-13-4B 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 16-13-4A.

**Article 16-14 - INSPECTION AND COMPLIANCE MONITORING  
Sections**

**Section 16-14-1 - Right of Entry: Inspection and Sampling**

A. The 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 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.

1. 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 Director shall be permitted to  
enter without delay for the purposes of performing specific responsibilities.

2. 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 Director and shall not be replaced. The costs of clearing such access shall be borne by the User.
3. Unreasonable delays in allowing the Director access to the User's premises shall be a violation of this ordinance.

B. Monitoring Facilities

1. The 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.
2. The 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 annually to ensure their accuracy. More frequent calibration may be required by the Director.

C. Digital Images

Digital images may be used to document conditions observed during inspections and investigations and sampling. Digital image means any photograph or video taken using a digital camera or device, including the audio portion of the video. Inspections and sampling are conducted to evaluate a User for the purpose of gathering information to determine if the User is in compliance with applicable environmental requirements. Inspections and sampling may also assess a regulated entity's ability to maintain compliance. Standard Operating Procedures for the taking, use and storage of Digital Images shall be made available to the User.

D. The User has the following rights during any inspection by an authorized employee of the water resources department:

1. to be presented with photo identification by the inspector;
2. to be informed of the purpose of the inspection and the legal authority for the inspection;
3. to know of any inspection fees;
4. to accompany the inspector during the inspection, unless the inspection is for the purposes of a confidential interview;
5. to obtain copies of any original documents taken from the premises during the inspection;
6. to obtain a split or duplicate of any samples taken during the inspection if the split or duplicate of any samples, where appropriate, would not prohibit an analysis from being conducted or render an analysis inconclusive;
7. to obtain copies of any analysis performed on samples taken during the inspection;

8. to be informed if any conversation with the inspector is recorded; and
9. to be informed that each person interviewed during the inspection shall be notified that statements made by the person may be included in the inspection report.

#### Section 16-14-2 - Search Warrants

If the 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 Director may seek issuance of a search warrant from the appropriate Court or legal authority.

#### Article 16-15 - 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 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 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.

#### Article 16-16 - PUBLICATION OF USERS IN SIGNIFICANT NONCOMPLIANCE

The Director shall publish annually, in a newspaper of general circulation that provides meaningful public notice within the jurisdictions served by the POTW, a list of the Users which, at any time during the previous 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) of this Section) and shall mean:

- A. Chronic violations of wastewater discharge limits, defined here as those in which 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 16-4-1BB;

- B. Technical Review Criteria (TRC) violations, defined here as those in which 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 Article 16-4-1BB 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 Article 16-9 (Daily Maximum, long-term average, Instantaneous Limit, or narrative standard) that the 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 Director's exercise of its emergency authority to halt or prevent such a discharge;
- E. Failure to meet, within 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 30 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 Director determines will adversely affect the operation or implementation of the local pretreatment program.

. . .

. . .

## Article 16-17 - ADMINISTRATIVE ENFORCEMENT REMEDIES

### Sections

#### Section 16-17-1 - Notification of Violation

##### A. Issuance of Notice of Violation

1. When the 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 Director may serve upon that User a written Notice of Violation (NOV).
2. The NOV shall be served personally or by registered or certified mail (return receipt requested) on the User and identify the nature of the alleged violation, the specific time frame for follow-up and/or other corrective actions and include a statement that additional enforcement actions may be pursued by the city if corrective actions are not achieved as required.

##### B. Response to Notification of Violation.

The User shall respond in writing to the Director within the specified time frame, but not later than 15 calendar days from receipt of the NOV by the User. The response shall provide an explanation of the violation and the corrective action taken. Submission of this response in no way relieves the User of criminal and civil liability for any violations occurring before or after receipt of the NOV.

##### C. If the response to a NOV requires an order to Show Cause, the User shall respond by demonstrating why the Director should not ask the City Attorney to file a court action requesting injunctive relief and criminal and/or civil penalties.

##### D. The Director will determine the validity or appropriateness of the response. If the Director finds the response to be appropriate and satisfactory, the NOV will be closed and recorded in the facility file as part of compliance history. Closure to the NOV will be documented in writing and provided to the User. Closure of the NOV does not preclude further enforcement action.

##### E. Deficient Response to Notification of Violation.

Upon review of a response to a notification of violation the Director finds the response to be deficient, the Director may require additional information, suspend or revoke the User's permit, order the User to cease discharge, and/or seek appropriate injunctive relief and criminal and/or civil penalties.

#### Section 16-17-2 - Consent Orders

The 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 16-17-4 and 16-17-5 of this ordinance and shall be judicially enforceable.

#### Section 16-17-3 - Show Cause Hearing

The 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 Director and show cause why the proposed enforcement action should not be taken. Notice shall be served personally or by registered or certified mail (return receipt requested) 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 14 days prior to the hearing. Such notice may be served on any Authorized Representative of the User as defined in Section 16-4 and required by Section 16-11-7A. A Show Cause hearing shall not be a bar against, or prerequisite for, taking any other action against the User.

#### Section 16-17-4 - Compliance Orders

When the 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 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.

#### Section 16-17-5 - Cease and Desist Orders

When the 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 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.

#### Section 16-17-6 - Emergency Suspensions

The Director may immediately suspend a User's discharge, after informal notice to the User, whenever such suspension is necessary to stop an actual or threatened discharge, which reasonably appears to be present, or cause an imminent or substantial endangerment to the health or welfare of persons. The 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 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 Director may allow the User to recommence its discharge when the User has demonstrated to the satisfaction of the Director that the period of endangerment has passed, unless the termination proceedings in Section 16-17-7 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 Director prior to the date of any Show Cause or termination hearing under Sections 16-17-3 or 16-17-7 of this ordinance.

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

#### Section 16-17-7 - Termination of Discharge

In addition to the provisions in Section 16-12-6 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 Article 16-9 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 16-17-3 of this ordinance why the proposed action should not be taken. Exercise of this option by the Director shall not be a bar to, or a prerequisite for, taking any other action against the User.

## Article 16-18 - JUDICIAL ENFORCEMENT REMEDIES

### Sections

#### Section 16-18-1 - Injunctive Relief

When the 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 Director may petition the appropriate Court through the City 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 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.

#### Section 16-18-2 - 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 twenty-five thousand dollars (\$25,000) 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 averaging period of the violation.
- B. The 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.

#### Section 16-18-3 - 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 class one misdemeanor, punishable by a fine of not more than \$2,500.00 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 one misdemeanor, punishable by a fine of not more than \$2,500.00 per violation, per day, or 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 a 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 guilty of a class one misdemeanor, punishable by a fine of not more than \$2,500.00 per violation, per day, or imprisonment for not more than six (6) months, or both.

#### Section 16-18-4 - Remedies Nonexclusive

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

#### Article 16-19 - SUPPLEMENTAL ENFORCEMENT ACTION

##### **Sections**

#### Section 16-19-1 - Administrative Fine for Late Reports

An Administrative fine of \$100.00 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 fines may also be assessed where reports are more than 30 days

late. Actions taken by the Director to collect late reporting fines shall not limit the Director's authority to initiate other enforcement actions that may include fines for late reporting violations.

#### Section 16-19-2 - Public Nuisances

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 Director. Any person(s) creating a public nuisance shall be subject to the provisions of the City Code Section 9-4-1 governing such nuisances, including reimbursing the city for any costs incurred in removing, abating, or remedying said nuisance.

#### Article 16-20 - AFFIRMATIVE DEFENSES TO DISCHARGE VIOLATIONS

##### **Sections**

#### Section 16-20-1 - 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 Director within 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.

#### Section 16-20-2 - 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 16-9-1A of this ordinance or the specific prohibitions in Sections 16-9-1B(3) through 19 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.

#### Section 16-20-3 - 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 Pretreatment 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 Director, at least ten (10) days before the date of the bypass, if possible.
2. A User shall submit oral notice to the Director of an unanticipated bypass that exceeds applicable Pretreatment Standards within 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 Director may waive the written report on a case-by-case basis if the oral report has been received within 24 hours.

D. Bypass

1. Bypass is prohibited, and the 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 Director may approve an anticipated bypass, after considering its adverse effects, if the Director determines that it will meet the three conditions listed in paragraph (D)(1) of this Section.

## Article 16-21 - MISCELLANEOUS PROVISIONS

### Sections

#### Section 16-21-1 - Pretreatment Charges and Fees

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

- A. Fees for wastewater discharge permit applications 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 16-21-1B associated with the enforcement activity taken by the Director to address industrial User 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.

#### Section 16-21-2 - Recovery of Costs and Damages

In addition to the charges and fees included in Section 16-21-1, all Users shall be financially responsible for all injury, damage, and/or loss suffered by any person as a result of any industrial discharge, by such User, which violates any categorical standard, pretreatment requirement, or permit condition enforced pursuant to this chapter. In particular, such User shall be liable for the:

- A. Personal injury suffered by any person, including the city, as a result of such discharge;
- B. Costs reasonably incurred by any person, including the city, in correcting, or otherwise mitigating, any adverse environmental impact which resulted from such discharge; and
- C. Economic loss and property damage suffered by any person, including the city, as a result of such discharge.

#### Section 16-21-3 - Recovery of Extraordinary Expenses

The Director is authorized to determine and bill any User for all extraordinary expenses reasonably incurred by the city in insuring User's compliance with the applicable requirements of this chapter. An extraordinary expense is any cost not otherwise reimbursed from the normal collection of sewer fees. Such extraordinary expenses include, but are not limited to, the costs in:

- A. Issuing permits;
- B. Conducting inspection, surveillance, and monitoring activities;
- C. Obtaining laboratory analyses of waste samples;
- D. Taking and pursuing enforcement actions against Users not in compliance with the requirements of this chapter; and

Carrying out any measure needed for the protection of human health or safety, the environment, the POTW or any other property in order to correct or mitigate any harm caused by the violation of any categorical standard or pretreatment requirement.