Chapter 27

SEWERS AND SEWAGE DISPOSAL

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ARTICLE I. SEWERS - PRETREATMENT[1]

DIVISION 1. GENERAL PROVISIONS

Sec. 27-1. Purpose and policy.

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

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

(2) 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;

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[1]**Editor's Note**—Ord. No. 93.40, 11-18-93, amended Chapter 27 by deleting Articles IV and V thereof (except for Section 27-78 which was moved to a new Article II and renumbered as Section 27-196), renumbered prior Articles I, II, III and VI as Divisions 1, 2, 3 and 4 of Article II, and adopting new Article I on Pretreatment.

Cross references—Plumbing, § 8-600 et seq.; water and sewer extensions to newly developed areas, § 25-81 et seq.; Solid waste, Ch. 28; Water, Ch. 33.

(3) 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;

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

(5) Provide for fees for the equitable distribution of the cost of operation, maintenance, and improvement of the Publicly Owned Treatment Works;

(6) Enable the city to comply with its Arizona 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;

(7) Promote waste minimization and pollution prevention; and

(8) Protect the environment.

(b) This article shall apply to all persons discharging to the Publicly Owned Treatment Works. This article establishes discharge prohibitions/limitations; authorizes the issuance of wastewater discharge permits; provides for monitoring, compliance, and enforcement activities; establishes administrative review procedures; requires user reporting; and provides for the setting of fees for the equitable distribution of costs resulting from the program established herein.
(Ord. No. 93.40, 11-18-93; Ord. No. 2004.38, 9-30-04)

Sec. 27-2. Administration.

Except as otherwise provided herein, the public works director shall administer, implement, and enforce the provisions of this article. Any powers granted to or duties imposed upon the public works director may be delegated by the public works director to other city personnel, but remain the responsibility of the public works director.
(Ord. No. 93.40, 11-18-93; Ord. No. 2001.17, 7-26-01; Ord. No. 2010.02, 2-4-10)

Sec. 27-3. Abbreviations.

The following abbreviations, when used in this chapter, shall have the designated meanings:

- ADEQ - Arizona Department of Environmental Quality
- ARS - Arizona Revised Statutes
- AZPDES - Arizona Pollutant Discharge Elimination System
- BMPS - Best Management Practices
- BOD - Biochemical Oxygen Demand

- CFR - Code of Federal Regulations
- COD - Chemical Oxygen Demand
- EPA - U.S. Environmental Protection Agency
- gpd - gallons per day
- IU - Industrial User
- mg/l - milligrams per liter
- NPDES - National Pollutant Discharge Elimination System
- POTW - Publicly Owned Treatment Works
- RCRA - Resource Conservation and Recovery Act
- TCC - Tempe City Code
- SIC - Standard Industrial Classification
- SIU - Significant Industrial User
- SNC - Significant Noncompliance
- TSS - Total Suspended Solids
- µg/l - micrograms per liter
- U.S.C. - United States Code

(Ord. No. 93.40, 11-18-93; Ord. No. 97.08, 2-13-97; Ord. No. 2004.38, 9-30-04; Ord. No. 2007.83, 1-10-08)

Sec. 27-4. Definitions.

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

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

Approval Authority means the State of Arizona Department of Environmental Quality (ADEQ) or Regional Administrator for Region IX of the U.S. EPA.

Arizona Department of Environmental Quality or ADEQ means the State of Arizona agency granted oversight for pretreatment programs by the U.S. Environmental Protection Agency.

Authorized Representative of the User means:

a. If the user is a corporation:

1. 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

2. The manager of one or more manufacturing, production, or operation facilities employing more than two hundred fifty (250) persons or having gross annual sales or expenditures exceeding twenty-five million dollars ($25,000,000) (in second-quarter 1980 dollars), if authority to sign documents has been assigned or delegated to the manager in accordance with corporate procedures;

b. If the user is a partnership or sole proprietorship: a general partner or proprietor, respectively;

c. 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;

d. The individuals described in subparagraphs a through c, above, may designate another authorized representative if the authorization is in writing, the authorization specifies the individual or position responsible for the overall operation of the facility from which the discharge originates or having overall responsibility for environmental matters for the company, and the written authorization is submitted to the city;

e. A user not falling within one of the above categories must designate as the authorized representative an individual responsible for the overall operation of the facility.

AZPDES means the Arizona Pollutant Discharge Elimination System.

Best Management Practices or BMPS means schedules of activities, pollution treatment practices or devices, prohibitions of practices, good housekeeping practices, pollution prevention, waste minimization, educational practices, maintenance procedures, or other management practices or devices to prevent or reduce the amount of pollutants entering the Publicly Owned Treatment Works.

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

Categorical Pretreatment Standard or Categorical Standard means any regulation containing pollutant discharge limits promulgated by EPA in accordance with Sections 307(b) and (c) of the Act (33 U.S.C. § 1317) which apply to a specific category of users and which

appear in 40 CFR Chapter I, Subchapter N, Parts 405-471.

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

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

Director means the director of public works who is hereby designated by the city to supervise the operation of the city's interest in the POTW, and who is charged with certain duties and responsibilities by this article, or other city personnel designated by the public works director to act on his behalf under this article.

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

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

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

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

Interference means a discharge, which alone or in conjunction with a discharge or discharges from other sources, inhibits or disrupts the POTW, its treatment processes or operations or its sludge processes, use or disposal; and therefore, is a cause of a violation of any applicable NPDES or AZPDES permit or of the prevention of sewage sludge use or disposal in compliance with any of the following statutory/regulatory provisions or permits issued thereunder, or any more stringent state or local regulations: Section 405 of the Act; the Solid Waste Disposal Act, including Title II commonly referred to as the Resource Conservation and Recovery Act (RCRA); any state regulations contained in any state sludge management plan prepared pursuant to Subtitle D of the Solid Waste Disposal Act; the Clean Air Act; the Toxic Substances Control Act; and the Marine Protection, Research, and Sanctuaries Act.

New Source means:

a. Any building, structure, facility, or installation from which there is (or may be) a discharge of pollutants, the construction of which commenced after the publication of proposed pretreatment standards under Section 307(c) of the Act which will be applicable to such source if such standards are thereafter promulgated in accordance with that section, provided that:

    1. The building, structure, facility, or installation is constructed at a site at which no other source is located; or

2. The building, structure, facility, or installation totally replaces the process or production equipment that causes the discharge of pollutants at an existing source; or

3. 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;

b. 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 subparagraph a.1 or a.3 above but otherwise alters, replaces, or adds to existing process or production equipment;

c. Construction of a new source as defined under this paragraph has commenced if the owner or operator has:

1. Begun, or caused to begin, as part of a continuous onsite construction program

(i) any placement, assembly, or installation of facilities or equipment; or

(ii) significant site preparation work including clearing, excavation, or removal of existing buildings, structures, or facilities which is necessary for the placement, assembly, or installation of new source facilities or equipment; or

2. Entered into a binding contractual obligation for the purchase of facilities or equipment which are intended to be used in its operation within a reasonable time. Options to purchase or contracts which can be terminated or modified without substantial loss, and contracts for feasibility, engineering, and design studies do not constitute a contractual obligation under this paragraph.

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

Nondomestic Discharge or Nondomestic Source means discharges of any substances other than human excrement and household gray water derived from the ordinary living process of residential family homes.

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 any applicable AZPDES permit,

including an increase in the magnitude or duration of a violation.

Person means any individual, partnership, copartnership, firm, company, corporation, limited liability company, association, joint stock company, trust, estate, governmental entity, or any other legal entity; or their legal representatives, agents, or assigns. This definition includes all users and all federal, state, and local governmental entities.

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

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

Pretreatment means the reduction of the amount of pollutants, the elimination of pollutants, or the alteration of the nature of pollutant properties in wastewater prior to, or in lieu of, introducing such pollutants into the POTW. This reduction or alteration can be obtained by physical, chemical, or biological processes; by process changes; or by other means. This reduction or alteration cannot be accomplished by diluting the concentration of the pollutants unless allowed by an applicable pretreatment standard.

Pretreatment Device means equipment, material or structures to reduce, eliminate, or alter the nature of pollutant properties in wastewater before, or in lieu of, introducing pollutants into the POTW.

Pretreatment Requirements means any substantive or procedural requirement including Best Management Practices (BMPS) related to pretreatment imposed on a user as may have been established pursuant to the laws or regulations of the United States, State of Arizona or the city, other than a pretreatment standard.

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

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

Prohibited Discharge Standards or Prohibited Discharges means absolute prohibitions against the discharge of certain substances and limitations on others; these prohibitions appear in Section 27-10 of this article.

Publicly Owned Treatment Works or POTW means a “treatment works,” as defined by Section 212 of the Act (33 U.S.C. § 1292) in which the city owns an interest. This definition includes any devices or systems used in the collection, storage, treatment, recycling, and reclamation of sewage or industrial wastes of a liquid nature and any conveyances which convey wastewater to a treatment plant.

Sanitary Sewer Overflow (SSO) means the discharge of sanitary sewage into the environment.

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

Significant Industrial User or SIU means:

a. A user subject to categorical pretreatment standards; or

b. A user that:

1. Discharges an average of twenty-five thousand (25,000) gpd or more of process wastewater to the POTW (excluding sanitary, noncontact cooling, and boiler blowdown wastewater);

2. Contributes a process wastestream which makes up five (5) percent or more of the average dry weather hydraulic or organic capacity of the POTW treatment plant; or

3. Is designated as such by the public works director on the basis that the user has a reasonable potential for adversely affecting the POTW's operation or for violating any pretreatment standard or requirement.

c. Upon a finding that a user meeting the criteria in subparagraph b has no reasonable potential for adversely affecting the POTW's operation or for violating any pretreatment standard or requirement, the public works director may at any time, on his own initiative or in response to a petition received from a 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.

Slug Load or Slug means any discharge at a flow rate or concentration which could cause a violation of the prohibited discharge standards in Section 27-10 of this article.

Standard Industrial Classification (SIC) Code means a classification pursuant to the *Standard Industrial Classification Manual* issued by the United States Office of Management and Budget.

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

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

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

Wastewater means liquid and water-carried industrial wastes and sewage from residential

dwellings, commercial buildings, industrial and manufacturing facilities, and institutions, whether treated or untreated, which are contributed to the POTW.

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

(Ord. No. 93.40, 11-18-93; Ord. No. 97.08, 2-13-97; Ord. No. 2001.17, 7-26-01; Ord. No. 2004.38, 9-30-04; Ord. No. 2007.83, 1-10-08; Ord. No. 2010.02, 2-4-10)

Secs. 27-5—27-9. Reserved.

DIVISION 2. GENERAL SEWER USE REQUIREMENTS

Sec. 27-10. Prohibited discharges.

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

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

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

(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, fats, oils and grease, in amounts or sizes which will cause obstruction of the flow in the POTW but in no case solids greater than one-half inch(es) (1/2") or one and twenty-seven hundredths centimeter(s) (1.27 cm) 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°F (66°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°F (40°C);

(6) Petroleum oil, nonbiodegradable cutting oil, or products of mineral oil origin, in amounts that may cause interference or pass through or which may form persistent oil emulsions;

(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 or any other connection or discharge not otherwise permitted, except at discharge points designated by the public works director in accordance with Section 27-24 of this article;

(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 any applicable NPDES or AZPDES 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, condensate, deionized water, noncontact cooling water, and unpolluted wastewater, unless specifically authorized by the public works director;

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

(14) Sludges, screenings, debris, silt or other nonliquid residues from the cleaning of the sanitary sewer collection system;

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

(16) Detergents, surface-active agents, or other substances which may cause excessive foaming in the POTW;

(17) Any of the following prohibited substances:

4,4’-DDE
4,4’-DDT
Aldrin
BHC-Alpha
BHC-Beta
BHC-Gamma (Lindane)
Heptachlor
Heptachlor Epoxide
Polyclorinated Biphenyl Compounds (PCBs)

(18) Wastewater causing a reading on an explosion hazard meter at the point of discharge into the POTW, or at any point in the POTW, of more than ten percent (10%) of the Lower Explosive Limit of the meter; or

(19) Any water or waste exceeding the limits for the following substances that are expressed in the total form except if otherwise stated:

Instantaneous Maximum Allowable Discharge Limitations	
Substance	Effective on January 1, 2005
Benzene	35 (µg/l)*
Chloroform	2000 (µg/l)

*µg/l = micrograms per liter

(c) *Wastewater Discharge Permit Required.* No person shall discharge nondomestic wastewater unless permitted as follows:

(1) Direct or indirect discharge from a nondomestic source to the city's sanitary sewer system is prohibited without a permit issued by the public works department; and

(2) 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. No industrial waste or sewage shall be discharged to a storm sewer culvert, collection system or waters of the state unless properly permitted.

(Ord. No. 93.40, 11-18-93; Ord. No. 2001.17, 7-26-01; Ord. No. 2004.38, 9-30-04; Ord. No. 2007.83, 1-10-08; Ord. No. 2010.02, 2-4-10; Ord. No. 2010.04, 3-25-10)

Sec. 27-11. National categorical pretreatment standards.

The categorical pretreatment standards found at 40 CFR Chapter I, Subchapter N, Parts 405-471 are hereby incorporated.

(1) Where a categorical pretreatment standard is expressed only in terms of either the mass or the concentration of a pollutant in wastewater, the public works director may impose equivalent concentration or mass limits in accordance with 40 CFR 403.6(c).

(2) When wastewater subject to a categorical pretreatment standard is mixed with wastewater not regulated by the same standard, the public works director shall impose an alternate limit using the combined wastestream formula in 40 CFR 403.6(e).

(3) A user may obtain a variance from a categorical pretreatment standard, pursuant to the procedural and substantive provisions in 40 CFR 403.13.

(4) A user may obtain a net gross adjustment to a categorical standard in accordance with 40 CFR 403.15.

(Ord. No. 93.40, 11-18-93; Ord. No. 2001.17, 7-26-01; Ord. No. 2010.02, 2-4-10)

Sec. 27-12. Local limits.

(a) All persons owning or operating facilities or engaged in activities that will or may reasonably be expected to result in pollutants entering the City of Tempe sanitary sewer system or affecting the sanitary sewer system or affecting the POTW, shall undertake all practicable best

management practices identified by the public works director to minimize the discharge of pollutants. Such measures shall include the requirements imposed by this chapter, any applicable NPDES or AZPDES permits, and any written guidelines promulgated for general use by the public works director.

(b) The public works director shall have the authority to:

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

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

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

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

(c) All affected individual users or classes of users shall comply with the prohibitions and effluent limitations established pursuant to this section, and with any best management practices required by the public works director.

(d) All prohibitions and effluent limitations so established and all best management practices identified by the public works director will be placed on file with the city clerk and will become effective and enforceable on the thirty-first (31st) day after the date of filing.

(e) The following pollutant limitations are established to protect the POTW against pass through and interference. No user shall discharge wastewater exceeding the limits set forth below:

Daily Average Effluent Limitations	
Substance	Effective on January 1, 2005
Arsenic	0.13 mg/l*
Cadmium	0.047 mg/l
Copper	1.5 mg/l
Cyanide	2.0 mg/l
Lead	0.41 mg/l
Mercury	0.0023 mg/l
Selenium	0.10 mg/l
Silver	1.2 mg/l
Zinc	3.5 mg/l

*mg/l = milligrams per liter
All concentrations are expressed in the "total" form unless indicated otherwise. The public works director may impose mass limitations in addition to, or in place of, the concentration-based limitations above.
(Ord. No. 93.40, 11-18-93; Ord. No. 2001.17, 7-26-01; Ord. No. 2004.38, 9-30-04; Ord. No. 2010.02, 2-4-10)

Sec. 27-13. City's right of revision.

The city reserves the right to establish new, additional or more stringent standards or requirements on discharges to the POTW.
(Ord. No. 93.40, 11-18-93)

Sec. 27-14. Dilution.

No user shall increase the use of process water, or in any way attempt to dilute a discharge, as a partial or complete substitute for adequate treatment to achieve compliance with a discharge limitation unless expressly authorized by an applicable pretreatment standard or requirement. The public works director may impose mass limitations on users who are using dilution to meet applicable pretreatment standards or requirements, or in other cases when the imposition of mass limitations is appropriate.
(Ord. No. 93.40, 11-18-93; Ord. No. 2001.17, 7-26-01; Ord. No. 2010.02, 2-4-10)

Sec. 27-15. No tampering.

(a) It shall be unlawful for any person to tamper with, damage, or destroy any monitoring equipment with the knowledge or intention of altering the sampling analysis or readings or causing damage or destruction of the monitoring/sampling equipment being utilized to determine compliance with this article.

(b) It shall be unlawful for any person to tamper with a manhole, and to enter any city manhole unless authorization has been obtained in writing from the public works director prior to entry.

(c) It is unlawful for any person to tamper with a pretreatment device. Tampering includes but is not limited to non-authorized, non-permitted alteration of the original equipment or structure design, discharge of waste into the pretreatment device from any source other than originally intended, or removal of a source of discharge from the pretreatment device as originally intended or designed.
(Ord. No. 93.40, 11-18-93; Ord. No. 2004.38, 9-30-04; Ord. No. 2007.83, 1-10-08; Ord. No. 2010.02, 2-4-10)

Secs. 27-16—27-20. Reserved.

DIVISION 3. PRETREATMENT OF WASTEWATER

Sec. 27-21. Pretreatment facilities.

Users shall provide wastewater treatment as necessary to comply with this article and shall achieve compliance with all categorical pretreatment standards, local limits, and the prohibitions set out in Section 27-10 of this article within the time limitations specified by EPA, the state, or the public works director, whichever is more stringent. Any facilities necessary for compliance shall be provided, operated, and maintained at the user's expense. Detailed plans describing such facilities and operating procedures shall be submitted to the public works director for review, and shall be acceptable to the public works 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 in compliance with the provisions of this article.
(Ord. No. 93.40, 11-18-93; Ord. No. 2001.17, 7-26-01; Ord. No. 2010.02, 2-4-10)

Sec. 27-22. Additional pretreatment measures.

(a) Whenever deemed necessary, the public works director may require users to restrict their discharge during peak flow periods, designate that certain wastewater be discharged only into specific sewers, relocate and/or consolidate points of discharge, separate sewage 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 article.

(b) The public works director may require any user discharging into the POTW to install and maintain, on their property and at their expense, a suitable storage and flow-control facility to ensure equalization of flow. A wastewater discharge permit may be issued solely for flow equalization.

(c) The public works director is authorized to develop and submit to the city council for its approval by resolution rules and procedures to require users to install, clean, maintain, repair and allow inspection of grease, lint, and sand/oil interceptors, oil/water separators, and hair or grease traps as needed for the proper handling of wastewater containing excessive amounts of fats, oils, grease, lint or sand; except that such interceptors or traps shall not be required for residential users. Requirements for the proper handling of fats, oils, grease, lint, sand and solids in wastewater are as follows:

(1) For the food service industry, grease interceptors and grease traps shall be required, installed, and maintained as specified in this article and the rules and procedures approved in accordance with this section. For the purposes of improving the sustainability of the city’s publicly owned treatment works and exploring the development of waste fats, oils and grease as a renewable energy supply, the rules and procedures approved in accordance with this section may provide for:

(i) Measures to promote compliance with the requirements for installation of grease interceptors and grease traps; and

(ii) City-procured maintenance and cleaning services for interceptors and traps used by food service establishments;

(2) Lint, and sand/oil interceptors and oil/water separators shall be installed in compliance with the plumbing code and the rules and procedures approved in accordance with this section; and

(3) All interceptors, separators and traps shall be of the type and capacity set forth by the rules and procedures approved in accordance with this section and shall be located to be easily accessible for cleaning and inspection. Interceptors, separators and traps shall be inspected, cleaned, and repaired regularly by the user at the user's expense in accordance with the rules and procedures approved in accordance with this section. The user shall keep records of all cleaning, repair and maintenance for at least three (3) years on the site where the interceptor, separator or trap is located. Such records shall be available for inspection by the public works director upon request.

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

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

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

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

a. Determine total fixture-unit value by multiplying fixture type count by drainage value;

b. Total all values;

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

d. Multiply total flow by 12; and

e. Round up to the next nearest size interceptor.

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

a. A minimum of five hundred (500) gallon capacity, two (2) chamber concrete container (fiber glass and/or other type material must be approved by the public works director);

b. When calculated to have a capacity of seven hundred fifty (750) gallons or more, the interceptor must have three (3) chambers, each with a manway;

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

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

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

f. Constructed with the appropriate traffic rated cover. The cover(s) must not be marked with any wording indicating it is owned by the City of Tempe.

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

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

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

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

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

(f) Users with the potential to discharge flammable substances may be required to install and maintain an approved combustible gas detection meter.
(Ord. No. 93.40, 11-18-93; Ord. No. 2001.17, 7-26-01; Ord. No. 2004.38, 9-30-04; Ord. No. 2007.83, 1-10-08; Ord. No. 2010.02, 2-4-10; Ord. No. 2012.19, 4-12-12)

Sec. 27-23. Accidental discharge/slug control plans.

The public works director shall evaluate whether each significant industrial user (SIU), and other users as may be designated by the public works director, needs an accidental discharge/slug control plan within thirty (30) days of issuing the initial wastewater discharge permit and upon the renewal of any subsequent wastewater discharge permit. The public works director may require any user to develop, submit for approval, and implement such a plan. An accidental discharge/slug control plan shall address, at a minimum, the following:

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

(2) Description of stored chemicals;

(3) Procedures for immediately notifying the public works director of any accidental or slug discharge, as required by Section 27-56 of this article; and

(4) Procedures to prevent adverse impact from any accidental or slug discharge. Such procedures include, but are not limited to, inspection and maintenance of storage areas, handling and transfer of materials, loading and unloading operations, control of plant site runoff, worker training, building of containment structures or equipment, measures for containing toxic organic pollutants, including solvents, and/or measures and equipment for emergency response.

(Ord. No. 93.40, 11-18-93; Ord. No. 2001.17, 7-26-01; Ord. No. 2007.83, 1-10-08; Ord. No. 2010.02, 2-4-10)

Sec. 27-24. Hauled wastewater.

(a) Septic tank waste may be introduced into the POTW only at locations designated by the public works director, and at such times as are established by the public works director. Such waste shall not violate Division 2 of this article or any other requirements established by the city. The public works director may require septic tank waste haulers to obtain wastewater discharge permits.

(b) The public works director shall require haulers of industrial waste and nonhazardous liquid waste operating within the city to obtain wastewater discharge or pumping permits. The public works director may require generators of hauled industrial waste to obtain wastewater discharge permits. The public works director also may prohibit the disposal of hauled industrial and nonhazardous liquid waste. The discharge of hauled industrial waste is subject to all other requirements of this article.

(c) Industrial waste and nonhazardous liquid waste haulers may discharge loads only at locations designated by the public works director. No load may be discharged without prior consent of the public works director. The public works director may collect samples of each hauled load to ensure compliance with applicable standards. The public works director may require the industrial waste hauler to provide a waste analysis of any load prior to discharge.

(d) Industrial waste and nonhazardous liquid waste haulers must provide a waste-tracking form for every load. This form shall include, at a minimum, the name and address of the industrial waste hauler, permit number, truck identification, names and addresses of sources of waste, and volume and characteristics of waste. The form shall identify the type of industry IU, known or suspected waste constituents, and whether any wastes are RCRA hazardous wastes.
(Ord. No. 93.40, 11-18-93; Ord. No. 2001.17, 7-26-01; Ord. No. 2007.83, 1-10-08; Ord. No. 2010.02, 2-4-10)

Sec. 27-25. Disposal of pretreatment sludges.

Any sludge or other material removed from the industrial waste by the pretreatment facility shall be disposed of in accordance with applicable federal, state and local laws.
(Ord. No. 93.40, 11-18-93)

Secs. 27-26—27-30. Reserved.

DIVISION 4. WASTEWATER DISCHARGE PERMIT APPLICATION

Sec. 27-31. Wastewater analysis.

When requested by the public works director, a user must submit information on the nature and characteristics of its wastewater within forty-five (45) days of the request. The public works director is authorized to prepare a form for this purpose and may periodically require users to update this information.
(Ord. No. 93.40, 11-18-93; Ord. No. 2001.17, 7-26-01; Ord. No. 2010.02, 2-4-10)

Sec. 27-32. Wastewater discharge permit requirement.

(a) A permit to discharge wastewater to the city's sanitary sewer system is issued to all nondomestic users who meet the requirements of this section.

(b) Before discharging directly or indirectly to the city's sanitary sewer system, all nondomestic users shall complete and submit to the public works director a notice of intent (NOI) to discharge. The NOI shall be submitted on a form provided by the public works department and shall include the following information:

(1) Business name;

(2) Business address;

(3) Business owner;

(4) Owner's mailing address;

(5) Type of business;

(6) Business premise status; and

(7) A statement signed by the business owner or operator certifying that the user understands the requirements of this section and has a system in place to ensure the requirements of this section are met.

(c) All nondomestic users discharging pursuant to this section shall:

(1) Comply with all applicable state and federal laws, including the Clean Water Act (33 United States Code § 1251 et seq.) and the general pretreatment regulations (40 Code of Federal Regulations Part 403);

(2) Not introduce pollutants into the publicly owned treatment works that will interfere with its operation and efficient functioning of the system;

(3) Conduct periodic maintenance of the private system including but not limited to cleaning all pretreatment devices in accordance with the public works department policies and Section 27-22 of this article;

(4) Take all necessary actions to prevent the discharge of sewage from the user's private system. If a sanitary sewer overflow (SSO) occurs, the user shall mitigate the SSO and properly sanitize any area that could create a public health hazard; and

(5) Notify the public works department immediately if an SSO enters the public right-of-way and comply with Section 27-197 of this chapter.

(d) No significant industrial user (SIU) shall discharge wastewater into the POTW without first obtaining a Class I wastewater discharge permit from the public works director, except that a SIU that has filed a timely application pursuant to Section 27-33 of this article may continue to discharge for the time period specified therein.

(e) The public works director may require other users to obtain a Class II, III, or IV wastewater discharge permits as necessary to carry out the purposes of this article.

(f) Any violation of the terms and conditions of a wastewater discharge permit shall be deemed a violation of this article and subjects the wastewater discharge permittee to the sanctions set out in Divisions 10 through 12 of this article. Obtaining a wastewater discharge permit does not relieve a permittee of its obligation to comply with all federal and state pretreatment standards or requirements or with any other requirements of federal, state, and local law.
(Ord. No. 93.40, 11-18-93; Ord. No. 2001.17, 7-26-01; Ord. No. 2007.83, 1-10-08; Ord. No. 2010.02, 2-4-10)

Sec. 27-33. Wastewater discharge permitting: existing connections.

Any user not permitted under existing pretreatment requirements who is required to obtain a wastewater discharge permit, who was discharging to the POTW prior to the effective date of this article and who wishes to continue such discharges in the future, shall, within thirty (30) days after the effective date of this article, apply to the public works director for a wastewater discharge permit in accordance with this article, and shall not cause or allow discharges to the POTW to continue after thirty (30) days of the effective date of this article except in accordance with a wastewater discharge permit issued by the public works director. Permits issued by the city, pursuant to prior pretreatment requirements, shall remain valid for their stated terms or until terminated or amended pursuant to this article.
(Ord. No. 93.40, 11-18-93; Ord. No. 2001.17, 7-26-01; Ord. No. 2010.02, 2-4-10)

Sec. 27-34. Wastewater discharge permitting: new connections.

Any user required to obtain a wastewater discharge permit who proposes to begin or recommence discharging into the POTW must obtain such permit prior to the beginning or recommencing of such discharge.
(Ord. No. 93.40, 11-18-93)

Sec. 27-35. Wastewater discharge information.

The public works director may require all users to submit either independently or as part of an application the following information:

(1) All information required by Section 27-51(b) of this article;

(2) Description of activities, facilities, and plant processes on the premises, including a list of all raw materials and chemicals used or stored at the facility;

(3) Number and type of employees, hours of operation, and proposed or actual hours of operation;

(4) Each product produced by type, amount, process or processes, and rate of production;

(5) Type and amount of raw materials processed and disposal methods (average and maximum per day);

(6) 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;

(7) Time and duration of discharges; and

(8) Any other information as may be deemed necessary by the public works director to evaluate the wastewater discharge permit application.

Incomplete or inaccurate applications will not be processed and will be returned to the user for revision.
(Ord. No. 93.40, 11-18-93; Ord. No. 2001.17, 7-26-01; Ord. No. 2010.02, 2-4-10)

Sec. 27-36. Application signatories and certification.

(a) All wastewater discharge permit applications and user reports must be signed by an authorized representative of the user and contain the following certification statement:

> "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) The person signing the permit application and/or user permit shall sign on behalf of the user and together with the user will be and remain personally liable until properly replaced by another person indicating themselves to be the authorized representative or user responsible for the operation of the facility either upon a new permit or transfer pursuant to Section 27-45. (Ord. No. 93.40, 11-18-93)

Sec. 27-37. Wastewater discharge permit decisions.

The public works director will evaluate the data furnished by the user and may require additional information. Within sixty (60) days of receipt of a complete wastewater discharge permit application, the public works director will determine whether or not to issue a wastewater discharge permit. The public works director may deny any application for a wastewater discharge permit or place upon it such conditions and restrictions as authorized by this chapter. (Ord. No. 93.40, 11-18-93; Ord. No. 2001.17, 7-26-01; Ord. No. 2010.02, 2-4-10)

Secs. 27-38—27-40. Reserved.

DIVISION 5. WASTEWATER DISCHARGE PERMIT ISSUANCE PROCESS

Sec. 27-41. Wastewater discharge permit duration.

A wastewater discharge permit shall be issued for a specified time period, not to exceed five (5) years from the effective date of the permit. A wastewater discharge permit may be issued for a period less than five (5) years, at the discretion of the public works director. Each wastewater discharge permit will indicate a specific date upon which it will expire.
(Ord. No. 93.40, 11-18-93; Ord. No. 2001.17, 7-26-01; Ord. No. 2010.02, 2-4-10)

Sec. 27-42. Wastewater discharge permit contents.

A wastewater discharge permit shall include such conditions as are deemed reasonably necessary by the public works director to prevent pass through or interference, protect the quality of the water body receiving the treatment plant's effluent, protect worker health and safety, facilitate sludge management and disposal, and protect against damage to the POTW.

(1) Wastewater discharge permits for SIUs must contain and for all other users permitted by the public works director may contain:

a. A statement that indicates wastewater discharge permit duration, which in no event shall exceed five (5) years;

b. A statement that the wastewater discharge permit is nontransferable without prior notification to the public works director in accordance with Section 27-45 of this article, and provisions for furnishing the new owner or operator with a copy of the existing wastewater discharge permit;

c. Effluent limits based on applicable pretreatment standards;

d. Self monitoring, sampling, reporting, notification, and record-keeping requirements. These requirements shall include an identification of pollutants to be monitored, sampling location(s), sampling frequency, and sample type(s) based on federal, state, and local law; and

e. 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.

(2) Wastewater discharge permits may contain the following conditions:

a. Limits on the average and/or maximum rate of discharge, time of discharge, and/or requirements for flow regulation and equalization;

b. 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;

c. 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;

d. Development and implementation of waste minimization plans to reduce the amount of pollutants discharged to the POTW;

e. The unit charge or schedule of user charges and fees for the management of the wastewater discharged to the POTW;

f. Requirements for installation and maintenance of inspection and sampling facilities and equipment;

g. A statement that compliance with the wastewater discharge permit does not relieve the permittee of responsibility for compliance with all applicable federal and state pretreatment standards, including those which become effective during the term of the wastewater discharge permit; and

h. Other conditions as deemed appropriate by the public works director to ensure compliance with this article, and state and federal laws, rules, and regulations.

(Ord. No. 93.40, 11-18-93; Ord. No. 2001.17, 7-26-01; Ord. No. 2010.02, 2-4-10)

Sec. 27-43. Wastewater discharge permit appeals.

The public works director shall provide notice of the issuance of a wastewater discharge permit to the applicant. Any permit applicant or permittee (aggrieved party) may petition the public works director to reconsider the terms of a wastewater discharge permit within twenty (20) days of notice of its issuance.

(1) Failure to submit a timely petition for review shall be deemed to be a waiver of the administrative appeal.

(2) In its petition, the appealing party must indicate the wastewater discharge permit provisions objected to, the reasons for this objection, and the alternative condition, if any, it seeks to place in the wastewater discharge permit. If appeal is from denial the appeal should set forth all reasons the application for permit, renewal or reissuance should have been granted.

(3) The effectiveness of the wastewater discharge permit shall not be stayed pending the appeal.

(4) If the public works director fails to act within thirty (30) days, a request for reconsideration shall be deemed to be denied. Decisions not to reconsider a wastewater discharge permit, not to issue a wastewater discharge permit, or not to modify a wastewater discharge permit shall be considered final administrative actions for purposes of judicial review.

(5) Aggrieved parties seeking judicial review of the final administrative wastewater discharge permit decision must do so by filing a special action petition with the Arizona Superior Court for Maricopa County within thirty (30) days of final administrative action. This article cannot confer jurisdiction upon the Arizona Superior Court for Maricopa County but only establishes when action may be ripe and administrative remedies have been exhausted.

(Ord. No. 93.40, 11-18-93; Ord. No. 2001.17, 7-26-01; Ord. No. 2010.02, 2-4-10)

Sec. 27-44. Wastewater discharge permit modification.

The public works director may modify a wastewater discharge permit for good cause, including, but not limited to, the following reasons:

(1) To incorporate any new or revised federal, state, or local pretreatment standards or requirements;

(2) To address significant alterations or additions to the user's operation, processes, or wastewater volume or character since the time of wastewater discharge permit issuance;

(3) A change in the POTW that requires either a temporary or permanent reduction or elimination of the authorized discharge;

(4) Information indicating that the permitted discharge poses a threat to the POTW, city personnel, personnel of other jurisdictions, or the receiving waters;

(5) Violation of any terms or conditions of the wastewater discharge permit;

(6) Misrepresentations or failure to fully disclose all relevant facts in the wastewater discharge permit application or in any required reporting;

(7) Revision of or a grant of variance from categorical pretreatment standards pursuant to 40 CFR 403.13;

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

(9) To reflect a transfer of the facility ownership or operation to a new owner or operator.

(Ord. No. 93.40, 11-18-93; Ord. No. 2001.17, 7-26-01; Ord. No. 2010.02, 2-4-10)

Sec. 27-45. Wastewater discharge permit transfer.

Wastewater discharge permits may be transferred to a new owner or operator only if the permittee gives at least sixty (60) days advance notice to the public works director and the public works director approves the wastewater discharge permit transfer. The notice to the public works director must include a written certification by the new owner or operator which:

(1) States that the new owner and/or operator has no immediate intent to change the facility's operations and processes;

(2) Identifies the specific date on which the transfer is to occur; and

(3) Acknowledges full responsibility for complying with the existing wastewater discharge permit.

Failure to provide advance notice of a transfer renders the wastewater discharge permit void as of the date of facility transfer.
(Ord. No. 93.40, 11-18-93; Ord. No. 2001.17, 7-26-01; Ord. No. 2010.02, 2-4-10)

Sec. 27-46. Wastewater discharge permit revocation.

The public works director may revoke a wastewater discharge permit for good cause, including, but not limited to, the following reasons:

(1) Failure to notify the public works director of significant changes to the wastewater prior to the changed discharge;

(2) Failure to provide prior notification to the public works director of changed conditions pursuant to Section 27-55 of this article;

(3) Misrepresentation or failure to fully disclose all relevant facts in the wastewater discharge permit application;

(4) Falsifying self-monitoring reports;

(5) Tampering with monitoring equipment;

(6) Refusing to allow the public works director timely access to the facility premises and records;

(7) Failure to meet effluent limitations;

(8) Failure to pay fines;

(9) Failure to pay sewer charges;

(10) Failure to meet compliance schedules;

(11) Failure to complete a wastewater survey or the wastewater discharge permit application;

(12) Failure to provide advance notice of the transfer of business ownership of a permitted facility; or

(13) Violation of any pretreatment standard or requirement, or any terms of the wastewater discharge permit or this article.

Wastewater discharge permits shall be voidable upon cessation of operations or transfer of business ownership. All wastewater discharge permits issued to a particular user are void upon the issuance of a new wastewater discharge permit to that user.
(Ord. No. 93.40, 11-18-93; Ord. No. 2001.17, 7-26-01; Ord. No. 2010.02, 2-4-10)

Sec. 27-47. Wastewater discharge permit reissuance.

A user with an expiring wastewater discharge permit shall apply for reissuance of the wastewater discharge permit as follows:

(1) If no significant changes have been made to processes or responsible personnel since the last inspection conducted by the city, submit a letter, at least thirty (30) days before the permit expires, requesting that the discharge permit be reissued; or

(2) If significant changes to the processes or responsible personnel have occurred since the last inspection conducted by the city, submit a complete permit application, in accordance with Section 27-35 of this article, a minimum of thirty (30) days prior to the expiration of the user's existing wastewater discharge permit.

(Ord. No. 93.40, 11-18-93; Ord. No. 2007.83, 1-10-08)

Secs. 27-48—27-50. Reserved.

DIVISION 6. REPORTING REQUIREMENTS

Sec. 27-51. Baseline monitoring reports.

(a) Within either one hundred eighty (180) days after the effective date of a categorical pretreatment standard, or the final administrative decision on a category determination under 40 CFR 403.6(a)(4), whichever is later, existing categorical users currently discharging to or scheduled to discharge to the POTW shall submit to the public works director a report which contains the information listed in paragraph (b) below. At least ninety (90) days prior to commencement of their discharge, new sources, and sources that become categorical users subsequent to the promulgation of an applicable categorical standard, shall submit to the public works director a report which contains the information listed in paragraph (b) below. A new source shall report the method of pretreatment it intends to use to meet applicable categorical standards. A new source shall also give estimates of its anticipated flow and quantity of pollutants to be discharged. The public works director may designate in permits issued to other users that they must file the reports required by this section.

(b) Users described above or designated by the public works director shall submit the information set forth below.

(1) *Identifying Information.* The name and address of the facility, including the name of the operator, owner, and SIC number.

(2) *Environmental Permits.* A list of any environmental control permits held by or for the facility.

(3) *Description of Operations.* A brief description of the nature, average rate of production, and standard industrial classifications of the operation(s) carried out by such user. This description will include a schematic process diagram in relation to a site plan which indicates points of discharge to the POTW from the regulated processes.

(4) *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 40 CFR 403.6(e).

(5) *Measurement of Pollutants.*

a. The categorical pretreatment standards applicable to each regulated process.

b. The results of sampling and analysis identifying the nature and concentration, and/or mass, where required by the standard or by the public works director, of regulated pollutants in the discharge from each regulated process. Instantaneous, daily maximum, and long-term average concentrations, or mass, where required, shall be reported. The sample shall be representative of daily operations and shall be analyzed in accordance with procedures set out in Section 27-60 and 27-61 of this article.

c. Sampling must be performed in accordance with procedures set out in Section 27-60 and 27-61 of this article.

(6) *Certification.* A statement, reviewed by the user's authorized representative and certified by a qualified professional, indicating whether pretreatment standards are being met on a consistent basis, and, if not, whether additional operation and maintenance (O&M) and/or additional pretreatment is required to meet the pretreatment standards and requirements.

(7) *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. 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 27-52 of this article.

(8) *Signature and Certification.* All baseline monitoring reports must be signed and certified in accordance with Section 27-36 of this article.

(Ord. No. 93.40, 11-18-93; Ord. No. 2001.17, 7-26-01; Ord. No. 2010.02, 2-4-10)

Sec. 27-52. Compliance schedule progress reports.

The following conditions shall apply to the compliance schedule required by Section 27-51(b)(7) of this article:

(1) 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);

(2) No increment referred to above shall exceed nine (9) months;

(3) The user shall submit a progress report to the public works director no later than fourteen (14) days following each date in the schedule and the final date of compliance including, as a minimum, whether or not it complied with the increment of progress, the reason for any delay, and, if appropriate, the steps being taken by the user to return to the established schedule; and

(4) In no event shall more than nine (9) months elapse between such progress reports to the public works director.

(Ord. No. 93-40, 11-18-93; Ord. No. 2001.17, 7-26-01; Ord. No. 2010.02, 2-4-10)

Sec. 27-53. Reports on compliance with categorical pretreatment standard deadline.

Within ninety (90) days following the date for final compliance with applicable categorical pretreatment standards, or in the case of a new source following commencement of the introduction of wastewater into the POTW, any user subject to such pretreatment standards and requirements shall submit to the public works director a report containing the information described in Section 27-51(b)(4-6) of this article. For users subject to equivalent mass or concentration limits established in accordance with the procedures in 40 CFR 403.6(c), this report shall contain a reasonable measure of the 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 27-36 of this article.
(Ord. No. 93.40, 11-18-93; Ord. No. 2001.17, 7-26-01; Ord. No. 2010.02, 2-4-10)

Sec. 27-54. Periodic compliance reports.

(a) All SIUs and other users as may be designated by the public works director in the user's permit shall, at a frequency determined by the public works director but in no case less than twice per year (in June and December), submit a report indicating the nature and concentration of pollutants in the discharge which are limited by pretreatment standards, such other information as required by the public works director and the measured or estimated average and maximum daily flows for the reporting period. All periodic compliance reports must be signed and certified in accordance with Section 27-36 of this article.

(b) All wastewater samples must be representative of the user's discharge and obtained and analyzed in compliance with Section 27-60 and 27-61. 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.

(c) If a user subject to the reporting requirement in this section monitors any pollutant more frequently than required by the public works director, using the procedures prescribed in Section 27-60 and 27-61 of this article, the results of this monitoring shall be included in the report.
(Ord. No. 93.40, 11-18-93; Ord. No. 2001.17, 7-26-01; Ord. No. 2010.02, 2-4-10)

Sec. 27-55. Reports of changed conditions.

Each user must notify the public works director of any planned significant changes to the user's operations or system which might alter the nature, quality, or volume of its wastewater at least forty-five (45) days before the change.

(1) The public works 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 27-35 of this article.

(2) The public works director may issue a wastewater discharge permit under Section 27-37 of this article or modify an existing wastewater discharge permit under Section 27-44 of this article in response to changed conditions or anticipated changed conditions.

(3) For purposes of this requirement, significant changes include, but are not limited to, flow increases of twenty percent (20%) or greater, and the discharge of any previously unreported pollutants.

(Ord. No. 93.40, 11-18-93; Ord. No. 2001.17, 7-26-01; Ord. No. 2010.02, 2-4-10)

Sec. 27-56. Reports of potential problems.

(a) In the case of any discharge, including, but not limited to, accidental discharges, discharges of a nonroutine, episodic nature, a noncustomary batch discharge, or a slug load, that may cause potential problems for the POTW, the user shall immediately telephone and notify the public works director of the incident. This notification shall include the location of the discharge, type of waste, concentration and volume, if known, and corrective actions taken by the user.

(b) Within five (5) days following such discharge, the user shall, unless waived by the public works 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 may be incurred as a result of damage to the POTW, natural resources, or any other damage to person or property; nor shall such notification relieve the user of any fines, penalties, or other liability which may be imposed pursuant to this article.

(c) A notice shall be permanently posted on the user's bulletin board or other prominent place advising employees whom to call in the event of a discharge described in subsection (a), above. Employers shall ensure that all employees, who may cause such a discharge to occur, are advised of the emergency notification procedure.

(Ord. No. 93.40, 11-18-93; Ord. No. 2001.17, 7-26-01; Ord. No. 2010.02, 2-4-10)

Sec. 27-57. Reports from unpermitted users.

All users not required to obtain a wastewater discharge permit shall provide appropriate reports and surveys to the public works director as the public works director may require.

(Ord. No. 93.40, 11-18-93; Ord. No. 2001.17, 7-26-01; Ord. No. 2010.02, 2-4-10)

Sec. 27-58. Notice of violation/repeat sampling and reporting.

If sampling performed by a user indicates a violation, the user must notify the public works director within twenty-four (24) hours of becoming aware of the violation. The user shall also repeat the sampling and analysis and submit the results of the repeat analysis to the public works director within thirty (30) days after becoming aware of the violation. The user may not be required to resample if the public works director monitors at the user's facility at least once a month, or if the public works director samples between the user's initial sampling and when the user receives the results of this sampling.

(Ord. No. 93.40, 11-18-93; Ord. No. 2001.17, 7-26-01; Ord. No. 2010.02, 2-4-10)

Sec. 27-59. Notification of the discharge of hazardous waste.

(a) Any user who commences the discharge of hazardous waste shall notify the POTW, the EPA Regional Waste Management Division Director, and state hazardous waste authorities, in writing, of any discharge into the POTW of a substance which, if otherwise disposed of, would be a hazardous waste under 40 CFR Part 261. Such notification must include the name of the hazardous waste as set forth in 40 CFR Part 261, the EPA hazardous waste number, and the type of discharge (continuous, batch, or other). If the user discharges more than one hundred (100) kilograms of such waste per calendar month to the POTW, the notification also shall contain the following information to the extent such information is known and readily available to the user: an identification of the hazardous constituents contained in the wastes, an estimation of the mass and concentration of such constituents in the wastestream discharged during that calendar month, and an estimation of the mass of constituents in the wastestream expected to be discharged during the following twelve (12) months. All notifications must take place no later than one hundred and eighty (180) days after the discharge commences. Any notification under this paragraph need be submitted only once for each hazardous waste discharged. However, notifications of changed conditions must be submitted under Section 27-55 of this article. 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 27-51, 27-53 and 27-54 of this article.

(b) Dischargers are exempt from the requirements of paragraph A, above, during a calendar month in which they discharge no more than fifteen (15) kilograms of hazardous wastes, unless the wastes are acute hazardous wastes as specified in 40 CFR 261.30(d) and 261.33(e). Discharge of more than fifteen (15) kilograms of nonacute hazardous wastes in a calendar month, or of any quantity of acute hazardous wastes as specified in 40 CFR 261.30(d) and 261.33(e), requires a one-time notification. Subsequent months during which the user discharges additional amounts of 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 public works director, the EPA Regional Waste Management Waste Division Director, and state hazardous waste authorities of the discharge of such substance within ninety (90) 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 article, a permit issued thereunder, or any applicable federal or state law.

(Ord. No. 93.40, 11-18-93; Ord. No. 2001.17, 7-26-01; Ord. No. 2010.02, 2-4-10)

Sec. 27-60. Sampling and analysis requirements.

(a) All samples collected for purposes of analysis to determine compliance with this article must be obtained using sampling techniques/procedures as published by the EPA in 40 CFR Part 136.

(b) The analysis of all samples in order to be considered for compliance with the requirements of this article must be conducted pursuant to the techniques and procedures published by the EPA in 40 CFR Part 136 by a laboratory licensed by the state of Arizona as an environmental laboratory (A.R.S. § 36-495, et seq.) or such other approval authority deemed acceptable by the public works director.
(Ord. No. 93.40, 11-18-93; Ord. No. 2001.17, 7-26-01; Ord. No. 2010.02, 2-4-10)

Sec. 27-61. Sample collection.

(a) Except as indicated in subsection (b), below, the user must collect wastewater samples using flow proportional composite collection techniques. In the event flow proportional sampling is infeasible, the public works director may authorize the use of time proportional sampling or a minimum of four (4) grab samples where the user demonstrates that this will provide a representative sample of the effluent being discharged.

(b) Samples for oil and grease, temperature, pH, cyanide, sulfides, and those pollutants and limits set forth in Section 27-10(b)(19) must be obtained using grab collection techniques unless otherwise specified in the wastewater discharge permit.
(Ord. No. 93.40, 11-18-93; Ord. No. 2001.17, 7-26-01; Ord. No. 2007.83, 1-10-08; Ord. No. 2010.02, 2-4-10)

Sec. 27-62. Timing.

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.
(Ord. No. 93.40, 11-18-93)

Sec. 27-63. Record keeping.

Users subject to the reporting requirements of this article or by designation of the public works director shall retain, and make available for inspection and copying, all records of information obtained pursuant to any monitoring activities required by this article or user's permit and any additional records of information obtained pursuant to monitoring activities undertaken by the user independent of such requirements. Records shall include the date, exact place, method, and time of sampling, and the name of the person(s) taking the samples; the dates analyses were performed; who performed the analyses; the analytical techniques or methods used; and the results of such analyses. These records shall remain available for a period of at least three (3) years. This period shall be automatically extended for the duration of any litigation concerning the user or the city, or where the user has been specifically notified of a longer retention period by the public works director.
(Ord. No. 93.40, 11-18-93; Ord. No. 2001.17, 7-26-01; Ord. No. 2010.02, 2-4-10)

Sec. 27-64. Reserved.

Sec. 27-65. Repealed.
(Ord. No. 90.13, 4-12-90; Ord. No. 2012.41, 9-6-12)

Sec. 27-66. Repealed.
(Ord. No. 90.13, 4-12-90; Ord. No. 2001.17, 7-26-01; Ord. No. 2010.02, 2-4-10; Ord. No. 2012.41, 9-6-12)

Secs. 27-67—27-70. Reserved.

DIVISION 7. COMPLIANCE MONITORING

Sec. 27-71. Right of entry: inspection and sampling.

The public works director shall have the right to enter the premises of any user to determine whether the user is complying with all requirements of this article and any wastewater discharge permit or order issued hereunder. Users shall allow the public works 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 public works director will be permitted to enter without delay for the purposes of exercising all inspection and review authorities under this article.

(2) The public works director shall have the right to set up on the user's property, or require installation of, such devices as are necessary to conduct sampling and/or metering of the user's operations.

(3) The public works director may require the user to install monitoring and/or measuring 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 annually to ensure their accuracy.

(4) 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 public works director and shall not be replaced. The costs of clearing such access shall be born by the user.

(5) Unreasonable delays in allowing the public works director access to the user's premises shall be a violation of this article.

(Ord. No. 93.40, 11-18-93; Ord. No. 2001.17, 7-26-01; Ord. No. 2010.02, 2-4-10)

Sec. 27-72. Search warrants.

If the public works 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 article, 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 article or any permit or order issued hereunder, or to protect the overall public health, safety and welfare of the community, then the public works director may seek issuance of a search warrant from the Municipal Court of the city. The public works director may, in addition, obtain an "inspection warrant" pursuant to Chapter 34 of the Tempe City Code.

(Ord. No. 93.40, 11-18-93; Ord. No. 2001.17, 7-26-01; Ord. No. 2010.02, 2-4-10)

Secs. 27-73—27-80. Reserved.

DIVISION 8. CONFIDENTIAL INFORMATION

Sec. 27-81. Confidential information.

Information and data on a user obtained from reports, surveys, wastewater discharge permit applications, wastewater discharge permits, and monitoring programs, and from the public works 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 public works 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 by 40 CFR 2.302 will not be recognized as confidential information and will be available to the public without restriction.
(Ord. No. 93.40, 11-18-93; Ord. No. 2001.17, 7-26-01; Ord. No. 2010.02, 2-4-10)

DIVISION 9. PUBLICATION OF USERS IN SIGNIFICANT NONCOMPLIANCE

Sec. 27-82. Publication of users.

The public works director shall publish at least annually, in a newspaper of general circulation to provide public notice within the area served by the POTW, a list of industrial users which, at any time during the previous twelve (12) months, were in significant noncompliance with applicable pretreatment standards and requirements. Significant noncompliance is determined at the beginning of each quarter based on data of the previous six (6) months. The term significant noncompliance shall mean:

(1) Chronic violations of wastewater discharge limits, defined here as those in which sixty-six percent (66%) or more of all wastewater measurements taken for the same pollutant parameter during a six (6) month period exceed a numeric pretreatment standard or requirement, including instantaneous limits as defined by 40 CFR 403.3(1);

(2) Technical Review Criteria (TRC) violations, defined here as those in which thirty-three percent (33%) or more of all the measurements taken for the same 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 40 CFR 403.3(1) multiplied by the applicable TRC (TRC = 1.4 for BOD, TSS, fats, oils and grease, and 1.2 for all other pollutants except pH);

(3) Any other violation of a pretreatment standard or requirement as defined by 40 CFR 403.3(1) (daily maximum, long term average, instantaneous limit, or narrative standard) that the public works director determines has caused, alone or in combination with other discharges, interference or pass through, including endangering the health of POTW personnel or the general public;

(4) Any discharge of pollutants that has caused imminent endangerment to human health, welfare of the public or to the environment, or has resulted in the public works director's exercise of its emergency authority to halt or prevent such a discharge;

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

(6) Failure to provide within thirty (30) days after the due date, any required reports, including but not limited to baseline monitoring reports, ninety (90) day compliance reports, periodic self-monitoring reports, and reports on compliance with compliance schedules;

(7) Failure to accurately report noncompliance; or

(8) Any other violation, which may include a violation of best management practices, that the public works director determines will adversely affect the operation or implementation of the local pretreatment program.

(Ord. No. 93.40, 11-18-93; Ord. No. 2001.17, 7-26-01; Ord. No. 2007.83, 1-10-08; Ord. No. 2010.02, 2-4-10)

Secs. 27-83—27-85. Reserved.

DIVISION 10. ADMINISTRATIVE ENFORCEMENT AUTHORITIES

Sec. 27-86. Notification of violation.

When the public works director finds that a person has violated, or continues to violate, any provision of this article, a wastewater discharge permit or order issued hereunder, or any other applicable federal, state or local pretreatment standard or requirement, the public works director may serve upon that person a written Notice of Violation. The public works director in the notice will require the person within ten (10) working days of the receipt of this notice, to provide in writing to the public works director an explanation of the violation and a plan for the satisfactory correction and prevention thereof, to include specific actions to be taken by the person in violation to prevent subsequent violations. Submission of this plan in no way relieves the person of liability for any violations in the notice or that occurred before or after receipt of the Notice of Violation nor limits the public works director's authority to take further enforcement actions. Nothing in this section shall limit the authority of the public works director to take any action, including emergency actions or any other enforcement action, without first issuing a Notice of Violation. In appropriate situations the public works director may notify the person orally either in person or by telephone prior to, and in some cases in lieu of, written notification.
(Ord. No. 93.40, 11-18-93; Ord. No. 2001.17, 7-26-01; Ord. No. 2010.02, 2-4-10)

Sec. 27-87. Consent orders.

The public works director may enter into consent orders, assurances of voluntary compliance, negotiated settlement agreements or other similar documents establishing an agreement with any person responsible for noncompliance. Such documents will include specific action to be taken by the person 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 27-89 and 27-90 of this article and shall be judicially enforceable.
(Ord. No. 93.40, 11-18-93; Ord. No. 2001.17, 7-26-01; Ord. No. 2010.02, 2-4-10)

Sec. 27-88. Show cause hearing.

The public works director may order a person which has violated, or continues to violate, any provision of this article, a wastewater discharge permit or order issued hereunder, or any other applicable federal, state or local pretreatment standard or requirement, to appear before the public works director and show cause why the proposed enforcement action should not be taken. Notice shall be served on the person specifying the time and place for the meeting, the proposed enforcement action, the reasons for such action, and a request that the person show cause why the proposed enforcement action should not be taken. The notice of the meeting shall be served personally or by registered or certified mail (return receipt requested) at least ten (10) days prior to the hearing. Such notice may be served on any authorized representative of the person. A show cause hearing shall not be a bar against, or prerequisite for, taking any other action against the person.
(Ord. No. 93.40, 11-18-93; Ord. No. 2001.17, 7-26-01; Ord. No. 2010.02, 2-4-10)

Sec. 27-89. Compliance orders.

When the public works director finds that a person has violated, or continues to violate, any provision of this article, a wastewater discharge permit or order issued hereunder, or any other applicable federal, state or local pretreatment standard or requirement, the public works director may issue an order to the person responsible for the discharge directing that the person come into compliance within a specified time. If the person does not come into compliance within the time provided, sewer and/or water 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 person 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 person.
(Ord. No. 93.40, 11-18-93; Ord. No. 2001.17, 7-26-01; Ord. No. 2010.02, 2-4-10)

Sec. 27-90. Cease and desist orders.

When the public works director finds that a person has violated, or continues to violate, any provision of this article, a wastewater discharge permit or order issued hereunder, or any other applicable federal, state or local pretreatment standard or requirement, or that the person's past violations are likely to recur, the public works director may issue an order to the person directing them to cease and desist all such violations and direct the person to:

(1) Immediately comply with all requirements; and

(2) Take such appropriate remedial or preventive action as may be needed to properly address a continuing or threatened violation, including halting operations and/or terminating the discharge.

Issuance of a cease and desist order shall not be a bar against, or a prerequisite for, taking any other action against the person. A person's failure to comply with an order of the public works director issued pursuant to this division shall constitute a violation of this article.
(Ord. No. 93.40, 11-18-93; Ord. No. 2001.17, 7-26-01; Ord. No. 2010.02, 2-4-10)

Sec. 27-91. Administrative fines.

(a) When the public works director finds that a person has violated, or continues to violate, any provision of this article, a wastewater discharge permit or order issued hereunder, or any other pretreatment standard or requirement, the public works director may fine such person in an amount determined pursuant to the city enforcement response plan and penalty policy adopted pursuant to Section 27-95. For continuing violations, each day may constitute a violation. Such fines shall be assessed on a per violation, per day basis. In the case of monthly or other long term average discharge limits, fines shall be assessed for each day during the period of violation. The public works director may add the costs of preparing administrative enforcement actions, such as notices and orders, to the fine.

(b) Unpaid charges, fines, and penalties shall, after thirty (30) calendar days, be assessed an additional penalty of ten percent (10%) of the unpaid balance, and interest shall accrue thereafter at a rate of one percent (1%) per month or part thereof until paid in full. A lien against the person's property may be sought for unpaid charges, fines, and penalties.

(c) Persons desiring to dispute such fines must file a written request for the public works director to reconsider the fine along with full payment of the fine amount within fifteen (15) days of being notified of the fine. Where a request has merit, the public works director may convene a hearing on the matter. In the event the person's appeal is successful, the payment, together with any interest accruing thereto, shall be returned to the person.

(d) Issuance of an administrative fine shall not be a bar against, or a prerequisite for, taking any other action against the person.
(Ord. No. 93.40, 11-18-93; Ord. No. 2001.17, 7-26-01; Ord. No. 2010.02, 2-4-10)

Sec. 27-92. Emergency suspensions.

The public works director may immediately suspend a person's discharge, after informal notice to the person, whenever such suspension is necessary to stop an actual or threatened discharge which reasonably appears to present or cause an imminent or substantial endangerment to the health or welfare of persons or imminent threat of substantial damage to the POTW. The public works director may also immediately suspend a person's discharge, after notice and opportunity to respond, that threatens to interfere with the operation of the POTW, or which presents, or may present, an endangerment to the environment.

(1) Any person notified of a suspension of its discharge shall immediately stop or eliminate its contribution. In the event of a person's failure to immediately comply voluntarily with the suspension order, the public works 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 public works director may allow the person to recommence its discharge when the person has demonstrated to the satisfaction of the public works director that the period of endangerment has passed, unless the termination proceedings in Section 27-93 of this article are initiated against the person.

(2) A person that is responsible, in whole or in part, for any discharge presenting imminent endangerment shall submit a detailed written statement within ten (10) working days, describing the causes of the harmful contribution and the measures taken to prevent any future occurrence, to the public works director prior to the date of any show cause or termination hearing under Sections 27-88 or 27-93 of this article.

Nothing in this section shall be interpreted as requiring a hearing prior to any emergency suspension under this section. For the purposes of this section, informal notice may mean either oral or written notice and does not mean actual notice.
(Ord. No. 93.40, 11-18-93; Ord. No. 2001.17, 7-26-01; Ord. No. 2010.02, 2-4-10)

Sec. 27-93. Termination of discharge.

(a) In addition to the provisions in Sections 27-46 and 27-113 of this article, as deemed appropriate by the public works director, any person who violates any of the following conditions is subject to discharge termination:

(1) Violation of wastewater discharge permit conditions;

(2) Failure to accurately report the wastewater constituents and characteristics of its discharge;

(3) Failure to report significant changes in operations or wastewater volume, constituents, and characteristics prior to discharge;

(4) Refusal of reasonable access to the person's premises for the purpose of inspection, monitoring, or sampling;

(5) Violation of the pretreatment standards in Division 2 of this article;

(6) Failure to timely pay any sewer user fees or charges, fines or penalties under this chapter; or

(7) Failure to properly maintain pretreatment equipment.

(b) A person that violates any of the conditions in this section will be notified of the proposed termination of its discharge and will be offered an opportunity to show cause under Section 27-88 of this article why the proposed action should not be taken. Exercise of this option by the public works director shall not be a bar to, or a prerequisite for, taking any other action against the person.
(Ord. No. 93.40, 11-18-93; Ord. No. 2001.17, 7-26-01; Ord. No. 2007.83, 1-10-0; Ord. No. 2010.02, 2-4-108)

Sec. 27-94. Discharge violations defined as nuisance.

All discharges into the POTW in violation of the laws and regulations of the United States, the State of Arizona or the ordinances of the city are hereby defined by the city council to be a nuisance to the POTW, which nuisance shall be abated and fined pursuant to the laws and regulations of the United States, the State of Arizona and the city. A nuisance under this chapter is not subject to the procedures, definitions and provisions of Chapter 21 of the TCC.
(Ord. No. 93.40, 11-18-93)

Sec. 27-95. Enforcement response plan and penalty policy; penalties non-exclusive.

(a) The public works director is authorized to develop and submit to the city council for its approval by resolution:

(1) An enforcement response plan; and

(2) Penalty policy.

(b) The enforcement response plan will at a minimum satisfy the requirements of 40 CFR § 403.8(f)(5). The penalty policy shall establish the factors to be considered and the method of calculating administrative fines to be assessed pursuant to Section 27-91(a) and the factors to be considered in utilizing the judicial enforcement remedies set forth in Division 11 of this article.

(c) The enforcement response plan and penalty policy developed by the public works director pursuant to this section may be combined with the plans and policies developed pursuant to §§ 12-153 and 33-111, as determined appropriate by the public works director, to ensure consistent enforcement response plans and penalty policies.

(d) The remedies provided for in this article are not exclusive. Each day's noncompliance constitutes a new violation. The city may take any, all or any combination of these actions against a noncompliant person.
(Ord. No. 93.40, 11-18-93; Ord. No. 2001.17, 7-26-01; Ord. No. 2010.02, 2-4-10; Ord. No. 2012.41, 9-6-12)

Secs. 27-96—27-100. Reserved.

DIVISION 11. JUDICIAL ENFORCEMENT REMEDIES

Sec. 27-101. Injunctive relief.

When the public works director finds that a person has violated, or continues to violate, any provision of this article, a wastewater discharge permit, or order issued hereunder, or any other applicable federal, state, or local pretreatment standard or requirement, the public works director may petition the Superior Court of Arizona, Maricopa County, through the city attorney for the issuance of a temporary or permanent injunction, as appropriate, which restrains or compels the specific performance of the wastewater discharge permit, order, or other requirement imposed by this article on activities of the person. The public works director may also seek such other action as is appropriate for legal and/or equitable relief, including a requirement for the person 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 person.
(Ord. No. 93.40, 11-18-93; Ord. No. 2001.17, 7-26-01; Ord. No. 2010.02, 2-4-10)

Sec. 27-102. Civil penalties.

(a) A person who has violated, or continues to violate, any provision of this article, a wastewater discharge permit, or order issued hereunder, or any other applicable federal, state or local pretreatment standard or requirement shall be liable to the city for a maximum civil penalty of $25,000 per violation, per day in accordance with A.R.S. § 49-391. In the case of a monthly or other long-term average discharge limit, penalties shall accrue for each day during the period of the violation. A.R.S. § 49-391 permits recovery of civil penalties provided therein by action in superior court or negotiated settlement agreement. No consent decree in superior court or negotiated settlement may become final until the city has provided a period of thirty (30) days for public comment.

(b) The public works 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 penalty, the city or court shall consider: (1) the seriousness of the violation, (2) the economic benefit, if any, resulting from the violation, (3) any history of such violation, (4) any good faith efforts to comply with the applicable requirements, (5) the economic impact of the penalty on the violator, and (6) such other factors as justice may require including but not limited to the extent of harm caused by the violation, the magnitude and duration of the violation, and corrective actions taken by the violator.

(d) Filing a suit for civil penalties shall not be a bar against, or a prerequisite for, taking any other action against a person.
(Ord. No. 93.40, 11-18-93; Ord. No. 2001.17, 7-26-01; Ord. No. 2010.02, 2-4-10)

Sec. 27-103. Criminal prosecution.

(a) A person who willfully or negligently violates any provision of this article, a wastewater discharge permit, or order issued hereunder, or any other applicable federal, state or local pretreatment standard or requirement shall, upon conviction, be guilty of a class one (1) misdemeanor, punishable by a fine of not more than $2,500 per violation, per day, or imprisonment for not more than six (6) months, or both.

(b) A person who willfully or negligently introduces any substance into the POTW which causes personal injury or property damage shall, upon conviction for violation of this article, be guilty of a class one misdemeanor and be subject to a penalty of at least $2,500, or be subject to imprisonment for not more than six (6) months, or both. This penalty shall be in addition to any other cause of action for personal injury or property damage available under state or federal law.

(b) A person 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 article, wastewater discharge permit, or order issued hereunder, or who falsifies, tampers with, or knowingly renders inaccurate any monitoring device or method required under this article shall, upon conviction, be punished by a fine of not more than $2,500 per violation, per day, or imprisonment for not more than six (6) months, or both.
(Ord. No. 93.40, 11-18-93)

Sec. 27-104. Remedies nonexclusive.

The remedies provided for in this article are not exclusive. The public works director may take any, all, or any combination of these actions against a noncompliant person. Enforcement of pretreatment violations will generally be in accordance with the city's enforcement response plan. However, the public works director may take other action against any person when the circumstances warrant. Further, the public works director is empowered to take more than one enforcement action against any noncompliant person.
(Ord. No. 93.40, 11-18-93; Ord. No. 2001.17, 7-26-01; Ord. No. 2010.02, 2-4-10)

Secs. 27-105—27-110. Reserved.

DIVISION 12. SUPPLEMENTAL ENFORCEMENT ACTION

Sec. 27-111. Performance bonds.

The public works director may decline to issue or reissue a wastewater discharge permit to any user or authorized representative who has failed to comply with any provision of this article, a previous wastewater discharge permit, or order issued hereunder, or any other applicable federal, state or local pretreatment standard or requirement, unless such user first files a satisfactory bond, letter of credit, cash, or other security device, payable to the city, in a sum not to exceed a value determined by the public works director to be necessary to achieve consistent compliance.
(Ord. No. 93.40, 11-18-93; Ord. No. 2001.17, 7-26-01; Ord. No. 2010.02, 2-4-10)

Sec. 27-112. Liability insurance.

The public works director may decline to issue or reissue a wastewater discharge permit to any user who has failed to comply with any provision of this article, a previous wastewater discharge permit, or order issued hereunder, or any other pretreatment standard or requirement, unless the user first submits proof that it has obtained financial assurances sufficient to restore or repair damage to the POTW caused by its discharge.
(Ord. No. 93.40, 11-18-93; Ord. No. 2001.17, 7-26-01; Ord. No. 2010.02, 2-4-10)

Sec. 27-113. Water supply/sewer service severance.

Whenever a user has violated or continues to violate any provision of this article, a wastewater discharge permit, or order issued hereunder, or any other applicable federal, state or local pretreatment standard or requirement, water and/or sewer service to the user may be severed. Service will only recommence, at the user's expense, after it has satisfactorily demonstrated its ability to comply.
(Ord. No. 93.40, 11-18-93)

Secs. 27-114—27-120. Reserved.

DIVISION 13. AFFIRMATIVE DEFENSES TO DISCHARGE VIOLATIONS

Sec. 27-121. 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 subsection(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 public works director within twenty-four (24) hours of becoming aware of the upset if this information is provided orally, a written submission must be provided within five (5) 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 will have the opportunity for a judicial determination on any claim of upset only in an enforcement action brought for noncompliance with categorical pretreatment standards.

(f) 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.

(Ord. No. 93.40, 11-18-93; Ord. No. 2001.17, 7-26-01; Ord. No. 2010.02, 2-4-10)

Sec. 27-122. 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 27-10(a) of this article or the specific prohibitions in Sections 27-10(b)(3) through 27-10(b)(14) but excluding 27-10 (b)(8) of this article 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:

(1) 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

(2) 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.

(Ord. No. 93.40, 11-18-93)

Sec. 27-123. Bypass.

(a) For the purposes of this section,

(1) "Bypass" means the intentional diversion of wastestreams from any portion of a user's treatment facility.

(2) "Severe property damage" means substantial physical damage to property, damage to the treatment facilities which causes them to become inoperable, or substantial and permanent loss of natural resources which can reasonably be expected to occur in the absence of a bypass. Severe property damage does not mean economic loss caused by delays in production.

(b) A user may allow any bypass to occur which does not cause pretreatment standards or requirements to be violated, but only if it also is for essential maintenance to assure efficient operation. These bypasses are not subject to the provision of subsections (c) and (d) of this section.

(c) (1) If a user knows in advance of the need for a bypass, it shall submit prior notice to the public works director, at least ten (10) days before the date of the bypass, if possible.

(2) A user shall submit oral notice to the public works director of an unanticipated bypass that exceeds applicable pretreatment standards within twenty-four (24) hours from the time it becomes aware of the bypass. A written submission shall also be provided within five (5) 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 public works director may waive the written report on a case-by-case basis if the oral report has been received within twenty-four (24) hours.

(d) (1) Bypass is prohibited, and the public works 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 subsection (c) of this section.

(2) The public works director may approve an anticipated bypass, after considering its adverse effects, if the public works director determines that it will meet the three (3) conditions listed in paragraph (d)(1) of this section.

(Ord. No. 93.40, 11-18-93; Ord. No. 2001.17, 7-26-01; Ord. No. 2010.02, 2-4-10)

Secs. 27-124—27-125. Reserved.

DIVISION 14. RESERVED

Secs. 27-126—27-140. Reserved.

DIVISION 15. MISCELLANEOUS PROVISIONS

Sec. 27-141. Pretreatment charges and fees.

The city may adopt by resolution reasonable fees for reimbursement of costs of setting up and operating the city's pretreatment program which may include:

(1) Fees for wastewater discharge permit applications including the cost of processing such applications;

(2) Fees for monitoring, inspection, and surveillance procedures including the cost of collection and analyzing a user's discharge, and reviewing monitoring reports submitted by users;

(3) Fees for reviewing and responding to accidental discharge procedures and construction;

(4) Fees for filing appeals; and

(5) 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 article and are separate from all other fees, fines, and penalties chargeable by the city.

(Ord. No. 93.40, 11-18-93)

Sec. 27-142. Public works director to enforce all state and federal laws, rules and regulations.

The public works director is hereby authorized to enforce all applicable laws, rules, and regulations of the State of Arizona and the United States concerning direct or indirect discharges to the POTW including but not limited to those set forth in 40 Code of Federal Regulations Part 403 and as it may from time to time be amended.

(Ord. No. 93.40, 11-18-93; Ord. No. 2001.17, 7-26-01; Ord. No. 2010.02, 2-4-10)

Sec. 27-143. Reserved.

DIVISION 16. EFFECTIVE DATE AND SAVINGS PROVISION

Sec. 27-144. Effective date.

The provisions contained in Sections 27-61 through 27-100 of Chapter 27 of the City Code (1967) (Articles IV and V of Chapter 27, repealed by Ord. 93.40 as new Sections 27-1 through 27-144) will continue in full force and effect until January 1, 1994, but as of January 1, 1994, those articles [prior Sections 27-61 through 27-100] shall be considered repealed; however, all violations of the repealed provisions which occurred prior to their repeal may be fully prosecuted and enforced. All permits issued under the repealed sections of Chapter 27 shall remain valid for their stated term unless sooner terminated or amended pursuant to new Sections 27-1 through 27-144 as adopted by Ord. 93.40. Specifically, the discharge prohibitions and limitations contained in Division 2 [new Sections 27-10 through 27-20] will be deemed to apply to all existing permits and users as of its effective date. This article shall be effective as of the 1st day of January, 1994. (Ord. No. 93.40, 11-18-93)

ARTICLE II. SEWERS - GENERAL[2]

Div. 1. In General, §§ 27-151—27-170
Div. 2. Connections, §§ 27-171—27-190
Div. 3. Charges for Sanitary Sewer System Use, §§ 27-191—27-210
Div. 4. Sewer Development Fees, §§ 27-211—27-214

DIVISION 1. IN GENERAL

Sec. 27-151. Definitions.

For the purposes of this article, the following words and phrases shall have the meanings respectively ascribed to them by this section, unless the context clearly indicates a different meaning:

Building connection or *house connection* means the connection to the public sewer and the extension from the sewer.

Garbage means solid wastes from the preparation, cooking, dispensing of food and from the handling, storage and sale of produce.

Industrial wastes means the liquid, gaseous or solid wastes produced as a result of any industrial or commercial operation.

Properly shredded garbage means garbage that has been shredded to such a degree that all particles will be carried freely under the flow conditions normally prevailing in public sewers, with no particle greater than one-fourth of an inch in any dimension. Devices used to shred garbage shall not be installed in commercial or industrial sources.

Sanitary sewer system means all facilities for collecting, pumping, transporting and treating domestic or industrial wastes of any nature, including all such facilities both inside and outside of the city as to which the City has an interest in its ownership, operation, control or capacity.

Standard methods or *standard laboratory procedure* means the procedure outlined in the latest edition of the book, "Standard Methods for the Examination of Water and Sewage," published by the American Public Health Association.
(Code 1967, § 28-1, 27-1; Ord. No. 93.40, 11-18-93; Ord. No. 97.08, 2-13-97; Ord. No. 2007.83, 1-10-08)

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[2]**Editor's Note**—Ord. No. 93.40, adopted 11-18-93, moved Articles I, II, III [Sections 27-1 to 27-60] and Article VI [Sections 27-101 to 27-104] into this new Article II entitled "Sewers - General", and redesignated these articles as Divisions 1, 2, 3 and 4 respectively. Sections 27-61 through 27-100 were renumbered as new Sections 27-151 to 27-210 here, and Sections 27-101 to 27-104 were renumbered as new Sections 27-211 to 27-214.

Cross references—Plumbing, § 8-181 et seq.; water and sewer extensions to newly developed areas, § 25-81 et seq.; Solid waste, Ch. 28; Water, Ch. 33.

Sec. 27-152. Applicability.

The provisions of this article shall be applicable to any building, structure or property situated within the city, including that which may be owned, leased, controlled, operated or occupied by the United States, the state, the county, the Tempe School District or by any public or quasi-public agency, corporation or association, except the city.
(Code 1967, § 28-2, 27-2; Ord. No. 93.40, 11-18-93)

Sec. 27-153. Nonliability of city for inadequate service.

The city shall not be held liable for any damage that may result from its inability to provide adequate sewer service, or from a discontinuance thereof for any cause.
(Code 1967, § 28-6, 27-3; Ord. No. 93.40, 11-18-93)

Sec. 27-154. Violations; discontinuance of service; charges.

The violation of this article shall be sufficient cause for the public works department to discontinue sewer service to any premises, and such service shall not be restored until such violations have been discontinued or eliminated. The discontinuance of sewer service shall be accomplished by physically cutting and blocking the building connection. The actual cost for disconnecting and reconnecting the sewer service, plus a service charge of twenty-five dollars ($25), shall be paid to the city prior to reconnecting the sewer.
(Code 1967, § 28-7, 27-4; Ord. No. 93.40, 11-18-93; Ord. No. 2001.17, 7-26-01; Ord. No. 2010.02, 2-4-10)

Sec. 27-155. Enforcement.

(a) The public works director is hereby charged with the duty of enforcing this division. The public works director shall have the authority to decide any question that may arise which is not fully covered by the provisions contained in this division, and his decision in such cases shall be final subject only to the general discretion of the city manager.

(b) The officers, employees and inspectors of the public works department shall have the right to enter upon the premises of any person at reasonable hours to inspect and to determine whether this article is being violated.

(c) The public works director shall have the authority to approve the design of, issue permits for, and conduct inspections of sewer facilities that are to be connected to the city's sanitary sewer system.

(d) The design and construction of all sanitary sewers under the jurisdiction of the city must conform to the standard sewer design and construction specifications as identified in the Maricopa Association of Governments Specifications, Tempe Standard Details, and the Arizona State Health Services Bulletin No. 11.

(e) The public works director shall incorporate the pertinent requirements of this article into every city contract with any POTW user located outside the municipal jurisdiction of the city. Such contracts shall also provide for liquidated damages and, if applicable, specific performance as remedies for breach of contract.

(f) All sewers to be attached directly or indirectly to a city sanitary sewer shall be inspected by personnel of the city during construction. No physical alteration of the city's facilities shall commence until an inspector is present. No waste water shall be discharged into any sewerage facility tributary to a city facility prior to obtaining inspections and approval of construction by the city.

(Code 1967, §§ 28-8, 28-24, 27-5; Ord. No. 93.40, 11-18-93; Ord. No. 2001.17, 7-26-01; Ord. No. 2010.02, 2-4-10)

Secs. 27-156—27-170. Reserved.

DIVISION 2. CONNECTIONS

Sec. 27-171. When required.

(a) All persons owning real property adjoining streets and alleys in which there are sewer pipes or mains of the city sanitary sewer system and all persons leasing or using real property, buildings or fixtures thereon which can be served by sewers shall cause to be connected all privies, cesspools and open or unconnected drains with such sewer system. All expense of such connections shall be borne by the owner of such real property or building or the person leasing or using the same. In addition to any other remedy provided for by law, the city shall charge sewer service rental in accordance with the applicable rate schedule for each property, building or structure which has not made connection to available sewer pipes or mains of the city.

(b) All persons owning real property adjoining streets and alleys in which there are thereafter installed sewer pipes or mains of the sanitary sewer system of the city and all persons leasing or using real property, buildings or fixtures thereon which can be served by sewers shall cause to be connected all privies, cesspools and open or unconnected drains with such sewer system prior to the end of one year from the time such sewer system becomes available. All expense of such connection shall be borne by the owner of such real property or the person using or leasing the same. In addition to any other remedy provided for by law, the city shall charge sewer service rental in accordance with the applicable rate schedule for each property, building or structure which has not made connection to sewer pipes or mains of the city prior to the end of one year from the time such sewer system becomes available.

(c) No person shall fail to abate all privies, cesspools and open or unconnected drains within one year from the date sanitary sewer service becomes available. Such abatement shall include filling in such privies, cesspools or septic tank systems, seepage pits and open or unconnected drains with earth, sand, gravel, concrete or other approved material.
(Code 1967, § 28-9, 27-21; Ord. No. 93.40, 11-18-93)

Sec. 27-172. Inspection, approval.

All sewer taps shall be inspected and approved by the city.
(Code 1967, § 28-10, 27-22; Ord. No. 93.40, 11-18-93)

Sec. 27-173. Fees.

(a) Before any sewer tap is made, the sewer participation charge computed in accordance with Sections 25-81 - 25-100 (and all amendments thereto) of this code shall be paid to the city.

(b) Multiple sewer taps will be made by those persons requiring such connections. The city will make individual sewer taps for the fees set by the city council (Appendix A of this code).
(Code 1967, § 28-11, 27-23; Ord. No. 93.40, 11-18-93)

Sec. 27-174. Taps made by user; inspection.

Any person desiring to make his own sewer tap shall notify the public works director at least twenty-four (24) hours prior to making the tap, and shall pay to the city an inspection fee set by the city council (Appendix A of this code). No sewer tap shall be made unless a city inspector is present at the tap site.
(Code 1967, § 28-12, 27-24; Ord. No. 93.40, 11-18-93; Ord. No. 2001.17, 7-26-01; Ord. No. 2010.02, 2-4-10)

Sec. 27-175. Maintenance.

The sewer service customer shall maintain the building connection or house connection at his sole expense.
(Code 1967, § 28-13, 27-25; Ord. No. 93.40, 11-18-93)

Sec. 27-176. Control manholes.

When required by the public works director, the owner of any property served by a building sewer carrying industrial wastes shall install a suitable control manhole in the building sewer to facilitate observation and sampling of the wastes. Such manholes when required shall be accessible and safely located and shall be constructed in accordance with plans approved by the public works director. The manhole shall be installed by the owner at his expense and shall be maintained by him so as to be safe and accessible at all times.
(Code 1967, § 28-22, 27-26; Ord. No. 93.40, 11-18-93; Ord. No. 2001.17, 7-26-01; Ord. No. 2010.02, 2-4-10)

Secs. 27-177—27-190. Reserved.

DIVISION 3. CHARGES FOR SANITARY SEWER SYSTEM USE

Sec. 27-191. "Unit of service" defined; determination of units.

For the purposes of this article, "unit of service" shall be each separate occupancy, house, store or building so situated upon any lot within the city that is served by the city sewer system, or in the opinion of the city manager could be served separately from any other occupancy, residence, house, store or building upon the same lot, irrespective of the number of residences, houses, stores or buildings upon such lot, even though two (2) or more of such occupancies, residences, houses, stores or buildings are held or owned by the same person. The determination of the city manager as to whether any house, occupancy, residence, store or building comes within the meaning of this section so as to require a separate sewer connection shall be final; provided, that the owner or occupant of such premises shall have the right to appeal from such decision of the city manager to the city council at its next regular meeting, and in the event of any such appeal being taken the determination of the city council shall be final.
(Code 1967, § 28-14, 27-41; Ord. No. 93.40, 11-18-93)

Sec. 27-192. When due and payable; disconnection upon delinquency.

(a) All persons using the sewerage system of the city shall pay for such service and for the privilege of connecting to the sewer at the rates, at the time and under the conditions set forth in this article and Resolution 1925 of the city, and shall comply with all regulations set forth in this article relating to the use of such sewerage system.

(b) Sewer service rental shall be due and payable at the office of the finance and technology director when the monthly statement is rendered and shall be delinquent ten (10) days thereafter. If the total bill for any such charge is not paid within five (5) days after the date of delinquency, service of all domestic water shall be discontinued to such user and additional service charges as specified in Section 33-58 shall be charged and collected plus the total amount of the delinquent bill before service is again resumed.
(Code 1967, §§ 28-4, 28-16, 27-42; Ord. No. 93.40, 11-18-93; Ord. No. 2001.17, 7-26-01; Ord. No. 2010.02, 2-4-10)

Sec. 27-193. Payment guaranteed by property owner.

In all cases where sewer service is used on any premises and the payment thereof is guaranteed by the property owner, the property owner or his agent shall settle for the full amount of sewer service rental against such property, and the collector of sewer service rental shall not receive pay from the tenant unless the tenant sees fit to pay the whole of such sewer service rental charged against such property.
(Code 1967, § 28-17, 27-43; Ord. No. 93.40, 11-18-93)

Sec. 27-194. Deposit.

All sewer service users other than property owners shall place a deposit with the city to ensure the payment of sewer service rental equal to one month's sewer service rental for the property occupied or used by him.
(Code 1967, § 28-18, 27-44; Ord. No. 93.40, 11-18-93)

Sec. 27-195. Lien.

(a) Delinquent sewer service rental shall constitute a lien against such property upon which such lien may be imposed. The procedure to perfect such lien shall be as follows:

(1) The finance and technology director shall give written notice to the owner, occupant or lessee of the property within thirty (30) days after the statement is rendered by either personally serving or mailing to such owner, occupant or lessee, at his last-known address by certified or registered mail, or the address to which the sewer service rental billing was sent. This written notice shall indicate that the city shall impress and secure a lien on the subject property unless the owner, occupant or lessee brings his delinquent bill current within thirty (30) days from service or receipt of the letter, and, in addition, pays any penalties that may be due pursuant to Section 27-192. The notice shall also contain a statement that the owner, occupant or lessee may appeal the delinquency to the city council by filing such appeal within the thirty-day time period after receipt of such notice.

(2) If the owner, occupant or lessee of the property does not bring his delinquency current or successfully prosecute his appeal to the city council within the thirty (30) days from service or receipt of the registered or certified letter, the finance and technology director shall prepare duplicate copies of a notice and claim of lien and file one copy with the county recorder, and within a reasonable time thereafter serve or mail by registered or certified mail the remaining copy to the owner, occupant or lessee of the property. The notice and claim of lien shall be made under oath by the finance and technology director or his duly authorized representative and shall contain the following:

a. A description of the property sufficient for its identification;

b. The name of the owner or reputed owner of the property if known; otherwise the name of the occupant or lessee to whom service was rendered; and

c. The amount of the delinquent bill.

(3) From and after the date of its recording in the office of the county recorder, the lien shall attach to the property until paid. A sale of the property to satisfy the lien shall be made upon judgment of foreclosure and order of sale. The city shall have the right to bring an action to enforce the lien in the county superior court at any time after its recording, but failure to enforce the lien by such action shall not affect its validity. The recorded notice and claim of lien shall be prima facie evidence of the truth of all matter recited therein and of the regularity of all proceedings prior to the recording therein.

(b) A prior recording for the purposes provided in this section shall not be a bar to a subsequent recording of a lien for such purposes, and any number of liens on the same lot or tract of land may be enforced in the same action.
(Code 1967, § 28-19, 27-45; Ord. No. 93.40, 11-18-93; Ord. No. 2001.17, 7-26-01; Ord. No. 2010.02, 2-4-10)

Sec. 27-196. Sewer charges.

(a) It is hereby determined necessary for the protection of the public health, safety and welfare and to conform with federal, state and local laws and regulations that a system of charges for sanitary sewer system use be established which allocates the cost to each user in such a manner that the allocated costs are proportionate to the cost of providing sanitary sewer system service to that user insofar as those costs can reasonably be determined. A proportionate charge shall be made to all users that discharge wastewater, either directly or indirectly, into the city sanitary sewer system. Such charges shall be based on the rates established pursuant to this article. In addition, each user which discharges any toxic pollutants which cause an increase in the cost of managing the effluent or the sludge of the sanitary sewer system shall pay for such increased costs.

(b) There are hereby established the following charges, which are in addition to any other charges set by city code, for sanitary sewer system use:

(1) Sewer charge which for the purposes of this division shall mean a charge for the recovery of sanitary sewer system operating and maintenance (O&M) costs, treatment costs and monitoring and testing costs; and

(2) Sewer service charge which for the purposes of this division shall mean a charge for the recovery of the costs of capital improvement and replacement in the sanitary sewer system.

(c) Users shall be assigned by the public works department to user classifications for billing purposes. A sewer bill may be rendered on a monthly, quarterly or annual basis. The bill shall distinguish between the sewer charge and the sewer service charge.

(d) A schedule of charges for the sewer charge and the sewer service charge shall establish separate charges for each user classification established by the public works department as required in subsection (c) of this section. The schedule of charges and user classifications may provide for a customized industrial user classification in which charges would reflect variations in discharge quality and quantity which may be adjusted monthly. Charges shall be designed to recover the cost of rendering sanitary sewer services for the year during which the charges shall be in effect. Charges shall be established maintaining adequate fund reserves to provide for reasonably expected variations in the cost of providing services, as well as variations in the demand for service.

(e) The finance and technology department shall annually review the sewer charge and the sewer service charge to determine whether any adjustments are necessary to properly recover the cost of providing sanitary sewer system services to each user. If any adjustments are necessary, the finance and technology department shall submit, in a report to the city council, a recommended schedule of charges for each user classification. The report shall contain data

utilized in determining the schedule of charges. The city council at a regular meeting shall adopt a notice of intention to adjust the charges and set a date for a public hearing on the proposed adjustment not less than thirty (30) days after the adoption of the notice of intention. After the public hearing, the city council may adopt, by ordinance or resolution, the proposed adjustment. If adopted, the adjustment shall become effective thirty (30) days after the adoption of the ordinance or resolution.

(f) The sewer charge for each user classification will be determined by the following formula. The sewer charge includes two (2) components, a base charge and a rate per 1,000 gallons discharged. [Sewer charge = base charge + rate per 1,000 gallons].

(1) The base charge constitutes all monitoring and testing costs, allocated only between industrial and commercial users.

(2) The rate per 1,000 gallons discharged shall include the following components:

a. Operating and maintenance (O&M) costs, allocated by flow between all users: [user flow contribution x $/1,000 gallons].

b. Treatment costs allocated by flow between all users:

i. [User flow contribution x $/1,000 gallons].

ii. [User biological oxygen demand (BOD) loading x $/1,000 gallons].

iii. [User suspended solids (SS) loading x $/1,000 gallons].

(g) The sewer service charge for each user classification will be determined by the following formula: capital improvement and replacement costs allocated by flow between all users. [User flow contribution x $/1,000 gallons].

(h) Each user annually, in conjunction with a regular bill, will be given a summary of the sanitary sewer system charges and the basis for those charges.

(i) The charge system as set forth in this article for use of the sanitary sewer system shall take precedence over any terms or conditions of agreements or contracts between the city users which are inconsistent with the requirements of Public Law 95-217 and federal regulations issued pursuant thereto.

(j) Each sewer charge rendered under or pursuant to this article is hereby made a lien upon the corresponding lot, parcel of land, building or premises served by a connection to the sanitary sewer system of the city.

(k) The funds received from the collection of the sewer charge and sewer service charge shall be deposited daily by the finance and technology department into accounts within the water/ wastewater enterprise fund for the purpose of paying the costs of the sanitary sewer system including operation, maintenance, treatment, monitoring/testing and capital improvement and replacement.

(l) Wastewater quantity shall be determined as follows:

(1) For industrial users with installed water meters, the charges established in this section shall become effective from and after each user's first regular meter reading after the issuance of the industrial waste permit.

(2) Any user who fails or refuses to install a water meter to any source of water supply used, within thirty (30) days after written notice by the public works director to do so, shall be charged on water usage estimated by the public works director.

(3) If a user discharges sanitary sewage, industrial wastes, water or other liquids into the city sanitary sewer system, either directly or indirectly, and it can be shown by such party to the satisfaction of the public works director that a portion of the water as measured by the water meter or meters does not and cannot enter the sanitary sewer system, then the public works director may determine in such manner and by such method as he may find practical the percentage of metered water entering the sanitary sewer system. The quantity of water used to determine the sewer charge shall be that percentage, so determined, of the water measured by the water meter or meters; or the public works director may require or permit the installation of acceptable additional water or sewer meters at such party's expense and in such a manner as to determine the quantity of water actually entering the sanitary sewer system as so determined. If such additional water or sewer meters are installed, an additional charge may be made to cover the cost of reading and computing the flow of each such meter and such additional charge shall be added to each sewer charge bill rendered.

(4) After the installation of the measuring equipment is approved by the public works director, it shall be the obligation of such industrial user to conduct a test on such measuring equipment at least once every twelve (12) months to determine its accuracy and the results thereof shall be furnished in writing to the public works director. Those users seeking renewal of an industrial wastewater discharge permit or an interim industrial wastewater discharge permit shall file the results as part of the report required by Section 27-35 or Section 27-51, or both, of this chapter. It shall also be the industrial user's responsibility to notify the public works department within a reasonable time in advance so that the department may, if it chooses, have a witness present during such test. If upon any such test the percentage of accuracy is found to be within the accuracy tolerance as established by the manufacturer's specifications, such measuring equipment shall be determined to have correctly measured the quantity delivered to the sanitary sewer system. If, however, upon any such test the percentage of accuracy is found to be in excess of the accuracy tolerance specified by the manufacturer's specifications, then such measuring equipment shall be immediately adjusted to register correctly the quantity delivered to the sanitary sewer system. The billings to such industrial user shall be adjusted for a period extending back to the time when the inaccuracy began, if such time is ascertainable, or for a period extending back one-half of the time elapsed since the date of the last test or the date of the last adjustment, if the time is not

ascertainable.

(5) All users for which the water supply is from other suppliers of water shall furnish to the city either a certified meter reading of water delivered to its plant or company, or a copy of the billing from the water supplier. In this event, 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.

(6) For residential and commercial users with installed water meters, the charges established in this section shall become effective from and after each user's first regular meter reading.

(m) Wastewater quality shall be determined as follows:

(1) Testing by direct sampling, utilizing recognized field techniques, equipment and procedures, will be used for all industrial users permitted in Article I. The BOD (5) tests shall be considered the standard test, however, COD or TOC tests may be substituted in cases where it has been determined by the public works director that the BOD (5) test is not representative of actual wastewater loading. Waste water characteristics shall be determined by the public works department on the basis of monitored wastewater discharged, a certified statement from the user, or on the best available data as to the characteristics of such discharges.

(2) Any change in the ongoing process(es) employed by a user contributing industrial waste which results in a variation of more than twenty-five percent (25%) in one or more of the effluent loading concentrations shall be reported to the public works department within thirty (30) days of such change.

(3) If it is determined through testing that a variation exists between the user's certified data and the discharge characteristics monitored by the public works department, the city may adjust the sewer charge based on the monitored data from the original date of certification, unless written communication has occurred notifying the department of changes in loading and giving specific dates of changes.

(4) *Designated discharge*. Where sampling and gauging of a specific user is not practical for physical, economic, safety or other reasons, the public works director may designate values for concentrations of the wastes discharged into the sanitary sewer system for all users in the same standard industrial classification or subclassification.

(Code 1967, § 28-25, 27-78; Ord. No. 93.40, 11-18-93; Ord. No. 97.08, 2-13-97; Ord. No. 2001.17, 7-26-01; Ord. No. 2010.02, 2-4-10)

Sec. 27-197. Reimbursement for remediation.

(a) When it is necessary to remediate a private sanitary sewer spill, release of industrial waste, or chemical release that has entered the city’s right-of-way, has the potential to enter the public right-of-way, or poses a threat to public health, safety and welfare, the property owner or responsible party using the property will be issued a written notice ordering the remediation of the area of concern.

(b) The property owner or responsible party using the property shall commence the remediation within one hour of receiving the written notice ordering remediation. Failure to follow the order to remediate within the specified time shall be cause for the city to remediate the city's right-of-way and any area that poses a threat to public health, safety and welfare.

(c) The property owner or responsible party using the property shall be charged for time and materials necessary to remediate the property to the extent necessary to eliminate the threat to public health, safety, and welfare and an administrative fee of five percent (5%) of the total remediation costs.

(d) Failure to comply with the written order to remediate or failure to reimburse the city for the costs of remediation and pay the administrative fee shall be cause for termination of water and sewer services to the property.
(Ord. No. 2007.83, 1-10-08)

Secs. 27-198—27-210. Reserved.

DIVISION 4. SEWER DEVELOPMENT FEES

Sec. 27-211. Purpose.

Due to the increasing costs associated with the expansion of the city's sewer system, it is necessary to implement a method of direct cost recovery from persons, firms or corporations responsible for new physical development within the city to provide a source of funding for the city's continued capital investment in the system.
(Code 1967, § 28-34, 27-101; Ord. No. 93.40, 11-18-93)

Sec. 27-212. Definitions.

The following words, terms and phrases, when used in this division, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

Commercial/industrial user means any user or establishment not defined as a dwelling unit.

Detached dwelling unit means any dwelling unit located on its own lot and not sharing a common wall with or not having adjoining walls with another dwelling unit.

Developer means the individual, firm, corporation, partnership, association, syndication, trust or other legal entity that is responsible for new physical development within the city and creating a demand for city sewer service.

Dwelling unit means a room or group of rooms within a building containing cooking accommodations. An apartment and a mobile home shall be considered a dwelling unit.

Townhouse means any dwelling unit located on its own lot and sharing a common wall with or having adjoining walls with another dwelling unit.
(Code 1967, § 28-35, 27-102; Ord. No. 91.15, 4-25-91; Ord. No. 93.40, 11-18-93)

Sec. 27-213. Fee schedule; collection; exemptions; disposition.

(a) The sewer development fee to be charged by the city is established by the city council (Appendix A of this code) and it may be amended by resolution of the city council.

(b) The fee imposed by this division shall be collected by the community development director, who shall be charged with the administration of this division. The fee for each dwelling unit or, in the case of commercial and industrial construction, the fee for each connection shall be collected by the community development director prior to the issuance of a building permit, and the fee with respect to any mobile home or recreation vehicle space shall be collected prior to the issuance of a construction permit for the development of a mobile home or recreation vehicle park. The community development director shall not issue a building permit or construction permit until the fees required by this division have been paid.

(c) Any separate water meter installed for irrigation purposes only will not be included in the calculation of the sewer development fee. In addition, no sewer development fee will be collected for the installation of fire lines not served by a water meter or unmetered fire taps to the water main for residential fire sprinkler systems.

(d) All revenue received from the sewer development fee shall be deposited in a utility revenue account to be used for capital expansion and enlargement of the city sanitary sewer system and/or for the retirement of debt service, both principal and interest, related to sanitary sewer system development.

(e) Multiple water meters used to serve a single service, or a single occupancy building, are not permitted unless approved by the community development director. If multiple meters are approved, the sewer development fees charged will be equivalent to the fee charged for a single meter installation based on demand requirements.
(Code 1967, § 28-36, 27-103; Ord. No. 936.6A, 3-15-84; Ord. No. 936.7, 6-6-85; Ord. No. 86.64, 10-9-85; Ord. No. 88.80, 1-26-89; Ord. No. 91.15, 4-25-91; Ord. No. 93.40, 11-18-93; Ord. No. 97.08, 2-13-97; Ord. No. 97.20, 4-10-97; Ord. No. 97.03, 7-10-97; Ord. No. 2000.22, 5-31-00; Ord. No. 2001.17, 7-26-01; Ord. No. 2009.35, 9-10-09; Ord. No. 2010.02, 2-4-10)

Sec. 27-214. Effective date.

This division shall become effective and have application to all work for which building permits are applied for on or after July 1, 2000.
(Code 1967, § 28-36, 27-104; Ord. No. 936.6A, 3-15-84; Ord. No. 936.7, 6-6-85; Ord. No. 86.64, 10-9-85; Ord. No. 88.80, 1-26-89; Ord. No. 93.40, 11-18-93; Ord. No. 97.03, 7-10-97; Ord. No. 2000.22, 5-31-00)