

# CHAPTER 16 UTILITIES

## ARTICLE 16-1 (RESERVED)

## ARTICLE 16-2 PROVISION OF UTILITY SERVICE

Section 16-2-1	Applicability of article
Section 16-2-2	Related Documents
Section 16-2-3	Definitions
Section 16-2-4	Regulations part of customer contract
Section 16-2-5	Responsibilities
Section 16-2-6	Utility Services Director
Section 16-2-7	Application for service
Section 16-2-8	Deposits
Section 16-2-9	Grounds for refusal of service
Section 16-2-10	Service lines, and water meters
Section 16-2-11	Easements and rights-of-way
Section 16-2-12	Customer responsibility
Section 16-2-13	Payment of bills
Section 16-2-14	Grounds for termination of service
Section 16-2-15	Nonpayment of delinquent bill, filing of lien, interest
Section 16-2-16	Reconnection of service
Section 16-2-17	Deposit required after termination
Section 16-2-18	Termination without notice
Section 16-2-19	Limitation of liability
Section 16-2-20	Right of entry; inspections
Section 16-2-21	System repair fees
Section 16-2-22	Sales taxes; business privilege taxes; in-lieu taxes

Section 16-2-23      Enforcement

Section 16-2-24      Liens

### **Section 16-2-1      Applicability of article**

The intent and purpose of this chapter is to promote the health, safety, order and general welfare of the present and future utility customers of the town. This chapter governs the operation of utility services provided by the town. The provisions of this article shall be applicable generally to all utility services provided by the town. Where provisions of this article conflict with specific provisions of this chapter 16, such specific provisions shall apply.

Utility service shall mean potable water service, irrigation service, reclaimed water service, sewer service, effluent delivery and solid waste/recycling service provided by the town.

The services provided for under this chapter are limited to the town's equipment ability and capacity. The town may reject any application for utility service. Enforcement rights granted to the town under this chapter are cumulative and in addition to any other remedy available to the town at law or equity.

### **Section 16-2-2      Related Documents**

The water master plan, wastewater master plan and the design and construction standards manual for water, wastewater and irrigation systems (collectively "utility system master plans") are incorporated into this chapter by reference and may be periodically reviewed and updated by the utility systems department director to comply with new regulations, requirements, and procedures. Such updates shall be presented to the town council and posted on the town's website at least 60 days prior to implementation, and additional notice of such updates shall be provided by publication in a newspaper of general circulation once each week for two consecutive weeks.

### **Section 16-2-3      Definitions**

**"Applicant"** means a person requesting the town to provide utility service.

**"Application"** means a request to the town for utility services.

**"Customer"** means the person or entity in whose name service is rendered, as evidenced by the name on the application, the contract for service, or utility bills, regardless of the identity of the actual user of the utility service. Customer includes the customer's agent or contractor.

**"Meter"** means the instrument for measuring and indicating or recording the volume of water that has passed through it.

**"Request for service"** means the act of requesting or receiving utility service from the town which constitutes an agreement by the customer to comply with all the terms and conditions which are imposed by the town.

**"Wastewater utility"** means infrastructure used for the collection or treatment of wastewater.

**"Water utility"** means infrastructure used for the extraction, storage, or delivery of potable water or non-potable water but not for the delivery of wastewater or stormwater.

### **Section 16-2-4      Regulations part of customer contract**

All regulations contained in this chapter shall be considered a part of the contract of every customer of the town taking utility service from the town, and such customer taking utility service shall be

considered as having expressly consented to be bound thereby. By accepting utility service provided by the Town of Queen Creek Utility Services Department, the customer agrees to the regulations set forth in this document/ chapter/ article?

### **Section 16-2-5 Responsibilities**

The town council may, by ordinance or resolution, set and amend any rate, rate component, charge, fee, penalty, surcharge or service charge. The town council may adopt comprehensive utility system master plans. Upon adoption of the plans, the council shall assure that no extension, improvement or addition to a town utility shall be constructed or authorized unless and until the extension, improvement or addition conforms to the corresponding utility system master plan. The town council may adopt and amend engineering design and construction standards for improvements to, extensions of, additions to, and modifications of the town's utilities.

A separate fund is established for the town's water utility and for the town's wastewater utility. All funds paid to the town pursuant to provisions of this chapter for, but not limited to, service charges, fees, construction of facilities, fines and penalties shall be deposited into the corresponding utility fund, and all expenditures made by the town in relation to the town's ownership, operation, maintenance, repair, expansion, acquisition, management, salaries, professional fees, debt service, bond payments and other costs and charges shall be paid from the corresponding utility fund. The town council may make loans from the general fund to the town utility funds from time to time to supplement revenues generated by the town utilities to assure the timely payment of all obligations, provided that the loans are timely repaid from the corresponding utility fund to the general fund. The town utilities shall be self-supporting and funded solely from revenues generated from utility operations. **Section 16-2-6 Utility Services Department Director**

The town utilities director shall be responsible for the day-to-day management of the town utilities including, but not limited to:

- A. Provision of safe and reliable service to town utility customers
- B. Compliance with federal, state, and local ordinances and regulations
- C. Preparation and periodic updating of utility system master plans, including but not limited to the water master plan, wastewater master plan and the design and construction standards manual for water, wastewater and irrigation systems
- D. Sufficiency of the town's water utility supply
- E. Adequacy of the town's wastewater utility capacity
- F. Inspection and repair of the utility systems
- G. Review of all engineering plans and contracts related to the town's utilities
- H. Collection of all funds due the town's utilities
- I. Development of utilities elements of the town's capital improvement plan
- J. Preparation and administration of annual budgets
- K. Enforcement of this chapter

**Section 16-2-7            Application for service**

Water and/or wastewater utility service may only be provided pursuant to application to the town. Before providing service, the town shall collect all installation and other charges required by this chapter and all customer information deemed appropriate by the utilities department.

**Section 16-2-8            Deposits**

The town may require a deposit from an applicant for service. A separate deposit may be required for each service connection. No interest shall be paid to customers on deposits. Deposit refunds shall be made to the individual whose name is on the account at the time of the refund. Upon the discontinuance of service, the deposit will be applied by the town toward settlement of the account.

**Section 16-2-9            Grounds for refusal of service**

The town may refuse to establish utility service if any of the following conditions exist:

- A. The applicant has an outstanding amount due for utility service with the town, and the applicant does not bring current any outstanding bills.
- B. A condition exists which in the town’s judgment is unsafe or hazardous to the applicant, a resident of the town or the town’s personnel or facilities.
- C. Refusal by the applicant to provide the town with a deposit.
- D. Failure of customer to furnish such funds, service, equipment or rights-of-way necessary to serve the customer and which has been specified by the town as a condition for providing utility service.
- E. Applicant provides false information for the purpose of obtaining service.

**Section 16-2-10          Service line and water meters**

An applicant for utility service shall be responsible for the cost of installing all customer piping up to the water meter and/or discharge point for the sewer connection. The town will install its water meter at the property line or in the public right-of-way. Where the meter or service line location is changed at the request of the customer or due to alterations on the customer’s premises, the customer shall provide and have installed at his expense all piping necessary for relocation of the meter, and the town may charge for moving the meter service line. **Section 16-2-11 Easements and rights-of-way**

Each town utility customer shall grant adequate easements or rights-of-way satisfactory to the town to ensure that customer service connections are accessible by the town.

The customer’s failure to grant adequate easements or rights-of-way shall be grounds for the town to refuse utility service.

When the town discovers that a customer is performing work or has constructed facilities adjacent to or within an easement or right-of-way and the work, construction or facility poses a hazard or is in violation of federal, state or town laws, ordinances, statutes, rules or regulations, or may interfere with the town’s access to its utility facilities or equipment, the town shall take whatever actions are

necessary to eliminate the hazard, obstruction or violation at customer's expense. **Section 16-2-12 Customer responsibility**

- A. Each town utility customer shall be responsible for the following:
  - a. Maintaining all facilities on the customer's side of the point of connection in a safe and efficient manner and in accordance with all applicable federal, state, and local rules and regulations. The point of connection is the meter for water service and is where the house sewer connects to the sewer collection system for sewer service.
  - b. Safeguarding all town utility property installed in or on the customer's premises for the purpose of providing utility service to that customer.
  - c. Exercising all reasonable care to prevent loss or damage to town utility property, excluding ordinary wear and tear. The customer shall be responsible for loss of or damage to town utility property on the customer's premises arising from neglect, carelessness or misuse and shall reimburse the town for the cost of necessary repairs or replacements.
  - d. Payment of any equipment damage resulting from unauthorized breaking of seals, tampering or bypassing the town water meter.
  - e. Notifying the town of any town utility equipment failure.
  - f. Paying all utility rates, charges and fees when due.
- B. Special provisions relating to water service.
  - a. Water furnished by the town shall be used only on the customer's premises and shall not be resold to any other person.
  - b. During critical water conditions, as determined by the Town Council and/ or Utility Services Department Director, the customer shall use water only for those purposes specified by the Council and/ or Utility Services Department Director.
  - c. Disregard for this provision shall be sufficient cause for refusal or discontinuance of water utility service by the town.
- C. Special provisions relating to sewer service:
  - a. Sewer service provided by the town shall be only for the benefit of the customer's premises and shall not be extended to any other property.
  - b. Nothing shall be discharged into the sewer collection system which is prohibited by law, may lead to a sanitary sewerage overflow, or adversely affects the operation or maintenance of the collection system. This prohibition includes but is not limited to oil, grease, and flammable material.
  - c. Disregard for this provision shall be sufficient cause for refusal or discontinuance of sewer and water service by the town.
  - d. Each customer shall provide the town and its employees and agents the right of safe ingress and egress to the customer's premises for any purpose reasonably related

to the town's provision of utility service to the premises. **Section 16-2-13 Payment of bills**

Utility rates, charges or fees are due and payable to the town upon billing. Any rate, charges or fees not paid in full by the next billing due date are subject to a late charge, in addition to the balance due, in an amount established by a fee schedule adopted by the town council and amended from time to time. Rates, fees, and/ or charges that are not paid in full by the 10<sup>th</sup> day following the original billing due date, may result in water service being discontinued/ disconnected.

**Section 16-2-14 Grounds for termination of service**

Utility service to a customer may be terminated by the town for any of the following reasons:

- A. Customer violation of any of the provisions in this chapter;
- B. Failure of the customer to meet or maintain the utility services department's credit and deposit requirements;
- C. Failure of the customer to provide the town reasonable access to its utility equipment and property;
- D. Failure of a customer to pay a delinquent bill for utility service.

**Section 16-2-15 Nonpayment of delinquent bill; filing lien; interest**

If any bill for a utility rate, charge or fee made to the customer pursuant to this chapter is not paid by the next billing date, the customer shall be given written and/ or electronic notice specifying that the bill is delinquent and outlining the procedure by which the customer may challenge the accuracy of the bill.

The town may file a lien on the property for unpaid fees that are at least 90 days delinquent. The town may enforce the lien by any method permitted by law. Unpaid fees shall accrue interest at the rate provided by A.R.S. § 44-1201.

**Section 16-2-16 Reconnection of service**

In no case shall any individual, other than the town water utility, turn on the water supply to any building or any supply pipe where the supply has been turned off for the nonpayment of the monthly water bill or for the violation of any provision of this chapter. All water that has been turned off by the town water utility shall only be turned on again by the employees or agents of the town water utility.

**Section 16-2-17 Deposit required after termination**

If utility service is terminated due to nonpayment of a delinquent bill, the town shall require payment in full of all amounts due and owing and payment of a utility deposit as a condition of reestablishing service.

**Section 16-2-18 Termination without notice**

Utility service may be terminated by the town without advance written notice under the following conditions:

- A. Existence of a hazard to the safety or health of the customer, town personnel, or general population;

- B. Evidence of water meter tampering or fraud;
- C. Evidence of unauthorized resale of water or utility services;
- D. A customer's failure to comply with the curtailment procedures imposed by the Town Council and/ or Utility Services Department Director during water supply shortages or restrictions.

**Section 16-2-19      Limitation of liability**

The town does not warrant nor guarantee its ability to provide continuous or uninterrupted utility service; nor does the town warrant or guarantee any particular level of utility service. If utility service is interrupted, disconnected, irregular or defective or fails from causes beyond the town's control or due to the negligence of its employees, servants or agents, the town shall not be liable for damages, claims or losses arising therefrom.

**Section 16-2-20      Right of entry; inspections**

The town shall have the right to enter commercial, institutional and industrial establishments and to enter upon residential property for inspection purposes related to the provision of utility service as required by this chapter or any other law, rule, regulation or order of an entity having jurisdiction thereover and for the enforcement of this chapter.

Provision shall be made for regular inspection of the town's facilities used in providing utility service and when required by this chapter or any other law, rule, regulation or order of an entity having jurisdiction thereover, for the inspection of premises receiving utility service for purposes related to the provision of utility service.

**Section 16-2-21      System repair fees**

Any customer, developer, contractor, or other person who damages, cuts, destroys, or causes the need for repair to the town's wastewater or water systems or any part thereof (i.e. mains, laterals, service connections, etc.) shall be held financially responsible for the cost of the repair. The town shall assess the responsible party for the cost of the repair in an amount in accordance with this Code.

**Section 16-2-22      Sales taxes; business privilege taxes; in-lieu taxes**

All applicable sales taxes, business privilege taxes and in-lieu-of-franchise taxes shall be added to utility user fees.

**Section 16-2-23      Enforcement**

A penalty charge may be added to any user fee payment that is delinquent. Interest may accrue on the sum of delinquent payments and penalty charges, compounded monthly.

**Section 16-2-24      Liens**

Delinquent utility service fees and charges shall constitute a lien against the property upon which such lien may be imposed. The Utility Services Director may file a lien on property for the nonpayment of utility services. Before filing the lien, the town shall provide written notice to the owner of the property. The notice shall be given at least 30 days before filing the lien and shall include an opportunity for a hearing with a designated town official. The notice shall either be personally served or mailed to the property owner, at the last known address by certified mail, or to

the address to which the tax bill for the property was last mailed. If the owner does not reside on the property, the notice shall be sent to the last known address.

The unpaid utility service fees and charges, from the date of the date of recording in the office of the county recorder in the county in which the property is located, are a lien on the property until all fees and charges are paid. The lien is subject and inferior to the lien for general taxes and to all prior recorded mortgages and encumbrances of record. A sale of property to satisfy a lien obtained under this article shall be made on judgment of foreclosure and order of sale. The town may bring an action to enforce the lien in the superior court in the county in which the property is located at any time after the recording, but failure to enforce the lien by this action does not affect its validity. The recorded unpaid utility service fees and charges are prima facie evidence of the truth of all matters recited in the recording and of the regularity of all proceedings before the recording.

Unpaid fees and charges pursuant to this article accrue interest at the rate prescribed by A.R.S. § 44-1201. The town shall be entitled to recover its reasonable attorney's fees and costs incurred in the foreclosure of any such lien.

A prior assessment of unpaid fees and charges for the purposes provided in this chapter does not bar a subsequent assessment for these purposes and any number of liens on the same lot or tract of land may be enforced in the same action.

## **ARTICLE 16-3      SANITARY SEWER REGULATIONS**

- 16-3-1      Definitions
- 16-3-2      Digging Up Streets without a Permit
- 16-3-3      Private Wastewater Systems
- 16-3-4      Sanitary Sewers Outside Town
- 16-3-5      Sanitary Sewers: Design, Construction, and Inspection



- 16-3-6 Building Connections: Permits, Approval, Records, and Responsibility
- 16-3-7 Ownership of Public Sewer Lines and Other Equipment Maintained by the Utility Services Department
- 16-3-8 Sewer Service Fees
- 16-3-9 Mandatory Sewer Connections
- 16-3-10 Control Manholes

**Section 16-3-1 Definitions**

The words or phrases used herein shall have the meaning prescribed in the current Town code except as otherwise indicate herein:

**“Branch sewer”** means a sewer which receives wastewater from lateral sewers from a relatively small area.

**“Building connection”** means the connection to the public sewer and the extension there from the sewer to the property line in an alley or street or to the easement line in an easement, whichever is applicable, depending on the location of the public sewer.

**“Building sewer”** means the extension from the building drain to the building connection or other place of disposal.

**“Cooling water”** means the clean wastewater discharged from any heat transfer system.

**“Discharge”** means the disposal of wastewater into the TCS/POTW.

**“Effluent”** means wastewater that has been treated in a POTW.

**“Lateral sewer”** means a sewer which discharges into a branch or other sewer and has no common sewer tributary to it.

**“Main sewer”** means a sewer which receives wastewater from one or more branch sewers as tributaries.

**“Maintenance”** means keeping the TCS/POTW in a state of repair, including expenditures necessary to maintain the capacity for which such works were designed and constructed.

**“Person”** means any individual, partnership, co-partnership, firm , company, corporation, association, joint stock company, trust, state, municipality, Indian tribe, political subdivision of the state, federal governmental agency, or any other legal entity, including their legal representatives, agents or assigns.

**“POTW”** means a public owned treatment works and connecting sewer collection system which are owned and /or operated, in whole or in part, by the Town and which provide the Town with wastewater collection and disposal services.



- B. Where a public sanitary sewer is not available within the Town or in any area under the jurisdiction of the Town, the building sewer shall be connected to a private wastewater disposal system, complying with the provisions and recommendations of the Arizona Department of Environmental Quality and the Sanitary Code of Maricopa County.  
Such private wastewater disposal system shall be constructed, maintained, and operated at all times in a sanitary manner.

**Section 16-3-4 Sanitary Sewers Outside Town**

Any TCS/POTW user located outside of the Town limits who discharges wastewater into a sanitary sewer owned or operated by the Town shall be bound by the requirements of this Article.

**Section 16-3-5 Sanitary Sewers; Design, Construction, and Inspection**

- A. The Town shall have the authority to approve the design, issue permits and conduct inspections of sewer facilities that are to be connected to the Town's sanitary sewer system.
- B. The design and construction of all sanitary sewers under the jurisdiction of the Town must conform to the standard sewer design and construction specifications as identified in the Maricopa Association of Governments Specifications, the Arizona Department of Environmental Quality Bulletin No. 11 and the Town's standards.
- C. All sewers to be attached directly to the TCS/POTW shall be inspected by personnel of the Town during construction. The Town shall be notified at least forty-eight (48) hours prior to cutting into the TCS/POTW prior to obtaining Town approval of sewer construction.

**Section 16-3-6 Building Connections; Permits, Approval, Records, and Responsibility**

- A. No authorized person shall make any connections with or opening into, use, alter, or disturb any public sewer or appurtenance thereof without first obtaining a written permit from the Utility Services Department.
- B. Each person making application for a building connection shall obtain a valid plumbing permit from the Town as a prerequisite for the approval of the required building connection. All applications for building connections shall be accompanied by the current fees for such work.
- C. The number, location, manner of connection and size of all building connections shall be subject to the approval of the Utility Services Department Director or designee and the Utility Services Department Engineering Manager.
- D. The Town shall keep a record of all building sewer connections made and the purpose for which they are to be used, together with the name of the owner of the property, the owner's agent or a representative.

- E. The property owner shall be responsible for the cleaning, unstopping, maintenance, and repair of the building connection piping serving the property from the owner's home or building to the public sewer.
- F. Where the correction of a stoppage requires the repair or replacement of a damaged or broken section of the building connection and the damaged or broken section is located off-property in a street or alley, the property owner shall have the damaged or broken section repaired by a licensed contractor who shall obtain all permits required by the Town.

**Section 16-3-7            Ownership of Public Sewer Lines and Other Equipment Maintained by the Utility Services Department**

The ownership of all public sewer lines, pumping stations, treatment facilities, and equipment and other appurtenances to the sewer system maintained or accepted for maintenance by the Utility Services Department shall be vested in the Town and in no case shall the owner of any premises have the right to claim any part except where otherwise provided in the code.

**Section 16-3-8            Sewer Service Fees**

- A. The Council may, by ordinance or resolution, set and amend any rate, rate component, fee or service charge to be made for sewer service.
- B. Sewer service fees shall be apportioned to include a user charge relating to the volume of effluent contributed by each user, a collection system maintenance and operation charge that includes all costs associated with maintenance of the collection system, customer billing and administration, and a capital reserve charge relating to the volume of effluent contributed. Sewer service fees shall be allocated in such a manner that is proportionate to the cost of providing wastewater service to each user or user class insofar as those costs can reasonably be determined.
- C. The average winter water use or the volume portion of the sewer service fee shall be determined for residential users from the average monthly water use during the winter billing cycles of December, January, and February. For other users the monthly volume shall be used.
- D. If a user can demonstrate that the volume portion of their service fee is significantly in error, they can appeal to the Utility Services department Director or designee for an adjustment of their sewer service fee. The decision of the Utility Services department Director or designee shall be final.
- E. The following sewer user classes are established:

**CLASS**

- R1        Residential I – With an individual water meter such as single family detached.
- R2        Residential II – Other, with landscaping on a separate meter, such as condominiums.
- R3        Residential III – New customers prior to establishing the AWWU.
- C1        Commercial and Industrial I – Landscaping on separate meters and no pretreatment; includes office buildings, apartments, retails, restaurants, schools, employment, etc.

- C2 Commercial and Industrial II – Landscaping on the same meter and no pretreatment; includes Queen Creek Middle School, Canyon State Academy, and some Town Center office conversions.
- C3 Commercial and Industrial III – C1 with pretreatment.
- B1 Builder – Between issuance of building permit and certificate of occupancy.

F. In addition to the sewer service charges listed in (B) and (E), the Council may set other sewer service classes, fees, or charges as desired.

**Section 16-3-9 Mandatory Sewer Connections**

- A. Property currently served by a septic tank system and located within the Town’s sanitary sewer service area shall within six months from the date a public sewer becomes available to the property, connect to the public sewer in accordance with provisions of this section and the Town’s building code. For purposes of this section, a public sewer is available to a property when the Town installs or causes to be installed lateral lines from the public sewer to the property line. It is the Town’s responsibility to notify property owners when sewer service becomes available.
- B. All new development within the Town’s sanitary sewer service area shall be required to connect to a public sewer system. When an existing sewer line is not adjacent to a proposed new development, it shall be the property owner’s responsibility to extend the system in accordance with the Town’s sewer master plan to serve their development.
- C. All property owners within the Town’s sanitary sewer area shall, within six (6) months of the adoption of this ordinance begin paying the sewer service fees provided in Section 6-4-10.

**Section 16-3-10 Control Manholes**

When required by the Utility Services Department Director, the owner of any property served by a building sewer carrying any liquid or free-flowing wastewater, excluding uncontaminated water but including cooling water, resulting from any industrial or manufacturing process or from the development, recovery or processing of natural resources, with or without sanitary sewer, shall install a suitable control manhole in the building sewer to facilitate observation, measurement and sampling of the wastes. Such manhole shall be accessible, safely located and constructed in accordance with plans approved by the Utility Services Department Director. The manhole shall be installed by the owner at the owner’s expense.

**ARTICLE 16-4 WASTEWATER DISCHARGE REGULATIONS**

- 16-4-1 Purpose and Policy
- 16-4-2 Administrative
- 16-4-3 Abbreviations

16-4-4	Definitions
16-4-5	Industrial Users Identified as Class I, II, or III
16-4-6	Prohibited Discharge Standards
16-4-7	National Categorical Pretreatment Standards
16-4-8	State Pretreatment Standards
16-4-9	Local Limits
16-4-10	Town's Right of Revision
16-4-11	Dilution
16-4-12	Pretreatment Facilities
16-4-13	Additional Pretreatment Measures
16-4-14	Accidental Discharge/Slug Discharge Control Plans
16-4-15	Hauled Wastewater
16-4-16	Wastewater Analysis
16-4-17	Wastewater Discharge Permit Requirement
16-4-18	Wastewater Discharge Permitting: Existing Connections
16-4-19	Wastewater Discharge Permitting: New Connections
16-4-20	Wastewater Discharge Permit Application Contents
16-4-21	[Reserved- Wastewater Discharge Permitting: General Permits]
16-4-22	Application Signatories and Certifications
16-4-23	Wastewater Discharge Permit Decisions
16-4-24	Wastewater Discharge Permit Duration
16-4-25	Wastewater Discharge Permit Contents
16-4-26	Wastewater Discharge Permit Issuance Process
16-4-27	Wastewater Discharge Permit Modification
16-4-28	Wastewater Discharge Permit Transfer
16-4-29	Wastewater Discharge Permit Revocation
16-4-30	Wastewater Discharge Permit Reissuance
16-4-31	[Reserved- Regulation of Waste Received from Other Jurisdictions]
16-4-32	Baseline Monitoring Reports
16-4-33	Compliance Schedule Progress Reports

16-4-34	Reports on Compliance with Categorical Pretreatment Standard Deadline
16-4-35	Periodic Compliance Reports
16-4-36	Reports of Changed Conditions
16-4-37	Reports of Potential Problems
16-4-38	Reports from Unpermitted Users
16-4-39	Notice of Violation/Repeat Sampling and Reporting
16-4-40	Notification of the Discharge of Hazardous Waste
16-4-41	Analytical Requirements
16-4-42	Sample Collection
16-4-43	Date of Receipt of Reports
16-4-44	Recordkeeping
16-4-45	Certification Statements
16-4-46	Right of Entry: Inspection and Sampling
16-4-47	Search Warrants
16-4-48	Confidential Information
16-4-49	Publication of Users in Significant
16-4-50	Notification of Violation
16-4-51	Consent Order
16-4-52	Show Cause Hearing
16-4-53	Compliance Orders
16-4-54	Cease and Desist Orders
16-4-55	Administrative Fines
16-4-56	Emergency Suspensions
16-4-57	Termination of Discharge
16-4-58	Alternative Administrative Enforcement
16-4-59	Judicial Enforcement Remedies
16-4-60	Supplemental Enforcement Action
16-4-61	Affirmative Defenses to Discharge Violations
16-4-62	Prohibited Discharge Standards
16-4-63	Bypass

16-4-64 [Reserved - Wastewater Treatment Rates]

16-4-65 Miscellaneous Provisions

### **Section 16-4-1 Purpose and Policy**

This ordinance sets forth uniform requirements for Users of the Town of Queen Creek (Town) Collection System and Publicly Owned Treatment Works and enables the Town 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 [CFR] Part 403). The objectives of this ordinance are:

- A. To prevent the introduction of Pollutants into the Town Collection System and Publicly Owned Treatment Works that will interfere with their operation;
- B. To prevent the introduction of Pollutants into the Town Collection System and Publicly Owned Treatment Works that will pass through the Publicly Owned Treatment Works, inadequately treated, into the receiving waters or aquifer, or otherwise be incompatible with the Publicly Owned Treatment Works;
- C. To protect Publicly Owned Treatment Works Personnel who may be affected by wastewater and sludge in the course of their employment and the general public;
- D. To promote reuse and recycling of Industrial Wastewater and sludge from the Publicly Owned Treatment Works;
- E. To provide for fees for the equitable distribution of the cost of operation, maintenance, and improvement of the Town Collection System and Publicly Owned Treatment Works;
- F. To enable the Town to comply with the applicable Aquifer Protection Permit and Arizona Pollutant Discharge Elimination System conditions, sludge use and disposal requirements, and any other Federal or State laws to which the Publicly Owned Treatment Works is subject; and
- G. To prevent the introduction of Pollutants into the Town Collection System and Publicly Owned Treatment Works in amounts that could cause or contribute to a sanitary sewer overflow.

This ordinance shall apply to all Users of the Town Collection System and Publicly Owned Treatment Works. The ordinance authorizes the issuance of wastewater discharge permits; provides for monitoring, compliance, and enforcement activities; establishes administrative review procedures; requires User reporting; and provides for the setting of fees for the equitable distribution of costs resulting from the program established herein.

### **Section 16-4-2 Administration**

Except as otherwise provided herein, the Utility Services Department Director shall administer, implement, and enforce the provisions of this ordinance. Any powers granted to or duties imposed upon the Utility Services Department Director may be delegated by the Utility Services Department Director to other Town Personnel.



**Section 16-4-3            Abbreviations**

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

°C	degrees Celsius
°F	degrees Fahrenheit
AAC	Arizona Administrative Code
ADEQ	Arizona Department of Environmental Quality
APP	Aquifer Protection Permit
A.R.S.	Arizona Revised Statutes
AZPDES	Arizona Pollution Elimination Discharge System
BMP	Best Management Practice
BMR	Baseline Monitoring Report
BOD	Biochemical Oxygen Demand
cm	centimeter
CFR	Code of Federal Regulations
CIU	Categorical Industrial User
COD	Chemical Oxygen Demand
EPA	United States Environmental Protection Agency
gpd	gallons per day
IU	Industrial User
LUST	Leaking Underground Storage Tanks
mg/l	milligrams per liter
O&M	Operation and Maintenance
POTW	Publicly Owned Treatment Works
RCRA	Resource Conservation and Recovery Act
SIC	Standard Industrial Classification
SIU	Significant Industrial User
SNC	Significant Noncompliance
TCS	Town Collection System
TRC	Technical Review Criteria

TSS	Total Suspended Solids
U.S.C.	United States Code

#### **Section 16-4-4 Definitions**

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

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

**“Approval Authority”** Arizona Department of Environmental Quality (ADEQ).

**“APP”** Aquifer Protection Permit (APP) issued by ADEQ which imposes State standards governing the quality of effluent discharged either directly to an aquifer or to a land surface that will reach an aquifer.

**“Authorized Representative of the User” (1)**

If the User is a corporation:

- (a) The president, secretary, treasurer, or a vice-president of the corporation in charge of a principal business function, or any other person who performs similar policy or decision-making functions for the corporation; or
  - (b) The manager of one or more manufacturing, production, or operating facilities, provided the manager is authorized to make management decisions that govern the operation of the regulated facility including having the explicit or implicit duty of making major capital investment recommendations, and initiate and direct other comprehensive measures to assure long-term environmental compliance with environmental laws and regulations; can ensure that the necessary systems are established or actions taken to gather complete and accurate information for individual wastewater discharge permit requirements; and where authority to sign documents has been assigned or delegated to the manager in accordance with corporate procedures.
- (2) If the User is a partnership or sole proprietorship: a general partner or proprietor, respectively.
- (3) If the User is a Federal, State, or local governmental facility: a director or highest official appointed or designated to oversee the operation and performance of the activities of the government facility, or their designee.
- (4) The individuals described in paragraphs 1 through 3, above, may designate another authorized representative if the authorization is in writing, the authorization specifies the individual or position responsible for the overall operation of the facility from which the Discharge originates or having overall responsibility for environmental matters for the company and the written authorization is submitted to the Town.

**“AZPDES Permit”** Arizona Pollutant Discharge Elimination System Permit (AZPDES) issued by ADEQ which imposes State standards governing the quality of the effluent discharged from the Publicly Owned Treatment Works (POTW).

**“Best Management Practices” (BMPs)** Schedules of activities, prohibitions of practices, maintenance procedures, and other management practices to implement the prohibitions listed in Section 16-4-6 A and B [40 CFR 403.5(a) (1) and (b)]. BMPs include treatment requirements, operating procedures, and practices to control plant site runoff, spillage or leaks, sludge or waste disposal, or drainage from raw materials storage. [Note: BMPs also include alternative means (i.e., management plans) of complying with, or in place of certain established Categorical Pretreatment Standards and effluent limits.]

**“Biochemical Oxygen Demand” (BOD)** The quantity of oxygen utilized in the biochemical oxidation of organic matter under standard laboratory procedures for five (5) days at 20 degrees Centigrade (°C), usually expressed as a concentration (e.g., milligrams per liter [mg/l]).

**“Bypass”** The intentional diversion of wastewater from any portion of a pretreatment process.

**“Categorical Industrial User” (CIU)** An Industrial User subject to a Categorical Pretreatment Standard or Categorical Standard.

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

**“Code of Federal Regulations” (CFR)** Compilation of federal regulations promulgated under the CWA and incorporated herein by reference.

**“Chemical Oxygen Demand” (COD)** The quantity of oxygen consumed from a chemical oxidation of inorganic and organic matter present in the water or wastewater, expressed in milligrams per liter.

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

**“Control Authority”** The Town.

**“Clean Water Act” (CWA)** The Federal Water Pollution Control Act, as amended, 33 U.S.C §§1251 et seq., incorporated herein by reference.

**“Daily Maximum”** The arithmetic average of all effluent samples for a Pollutant collected during a calendar day.

**“Daily Maximum Limits”** The maximum allowable discharge limit of a Pollutant during a calendar day. Where Daily Maximum Limits are expressed in units of mass, the daily Discharge is the total mass discharged over the course of the day. Where Daily Maximum Limits are expressed in terms of a concentration, the daily Discharge is the arithmetic average measurement of the Pollutant concentration derived from all measurements taken that day.

**“Domestic wastewater”** Any wastewater derived from the ordinary living processes in a residential dwelling unit of such character as to permit satisfactory disposal, without special treatment, by conventional POTW processes.

**“Effluent”** Wastewater that has been treated in a POTW.

**“Environmental Protection Agency” (EPA)** The U.S. Environmental Protection Agency or, where appropriate, the Regional Water Management Division Director, or other duly authorized official of said agency.

**“Existing Source”** Any source of Discharge that is not a New Source.

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

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

**“Indirect Discharge” or “Discharge”** The introduction of Pollutants into the TCS and POTW from any nondomestic source regulated under Section 307(b), (c), or (d) of the Act.

**“Industrial Waste”** Any liquid, free-flowing waste, resulting from any industrial or manufacturing process or from the development, recovery or processing of natural resources, with or without Suspended Solids, excluding uncontaminated water.

**“Industrial Wastewater Discharge Permit”** A written authorization issued by the Utility Services Department Director categorized as either Class I or Class II allowing a Class I or Class II industrial user to discharge wastewater into the TCS.

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

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

**“Interference”** A Discharge, which alone or in conjunction with a Discharge or Discharges from other sources, inhibits or disrupts the POTW, its treatment processes or operations or its

sludge processes, use or disposal; and therefore, is a cause of a violation of the applicable APP and AZPDES permits or of the prevention of biosolids use or disposal in compliance with any of the following statutory/regulatory provisions or permits issued thereunder, or any more stringent State or local regulations: Section 405 of the Act; the Solid Waste Disposal Act, including Title II commonly referred to as the Resource Conservation and Recovery Act (RCRA); any State regulations contained in any State sludge management plan prepared pursuant to Subtitle D of the Solid Waste Disposal Act; the Clean Air Act; and the Toxic Substances Control Act.

**“Local Limit”** Specific discharge limits developed and enforced by the Town upon non-residential facilities to implement the general and specific discharge prohibitions listed in 40 CFR 403.5(a) (1) and (b).

**“Maintenance”** Keeping the Town Collection System (TCS) and POTW in a state of repair, including expenditures necessary to maintain the capacity for which such works were designed and constructed.

**“Medical Waste”** Isolation wastes, infectious agents, human blood and blood products, pathological wastes, sharps, body parts, contaminated bedding, surgical wastes, potentially contaminated laboratory wastes, and dialysis wastes.

**“Monthly Average”** The sum of all daily Discharges measured during a calendar month divided by the number of daily Discharges measured during that month.

**“Monthly Average Limit”** The highest allowable average of daily Discharges over a calendar month, calculated as the sum of all daily Discharges measured during a calendar month divided by the number of daily Discharges measured during that month.

**“New Source”**

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

- (a) The building, structure, facility, or installation is constructed at a site at which no other source is located; or
- (b) The building, structure, facility, or installation totally replaces the process or production equipment that causes the Discharge of Pollutants at an Existing Source; or
- (c) The production or wastewater generating processes of the building, structure, facility, or installation are substantially independent of an Existing Source at the same site. In determining whether these are substantially independent, factors such as the extent to which the new facility is integrated with the existing plant, and the extent to which the new facility is engaged in the same general type of activity as the Existing Source, should be considered.

(2) Construction on a site at which an Existing Source is located results in a modification rather than a New Source if the construction does not create a new building, structure, facility, or installation meeting the criteria of Section (1) (b) or (c) above but otherwise alters, replaces, or adds to existing process or production equipment.

(3) Construction of a New Source as defined under this paragraph has commenced if the owner or operator has:

(a) Begun, or caused to begin, as part of a continuous onsite construction program

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

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

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

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

**“Parameter”** A fundamental characteristic of wastewater around which treatment is designed, such as flow, BOD, TSS, and phosphorus.

**“Pass Through”** A Discharge which exits the POTW in quantities or concentrations which, alone or in conjunction with a Discharge or Discharges from other sources, is a cause of a violation of any requirement of the applicable APP or AZPDES permit, including an increase in the magnitude or duration of a violation.

**“Permittee”** Any person who owns, operates, processes or controls an establishment or plant being operated under a valid Industrial Wastewater Discharge Permit to discharge wastewater into the TCS and POTW.

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

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

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

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

**“Pretreatment Requirements”** Any substantive or procedural requirement related to Pretreatment imposed on a User, other than a Pretreatment standard.

**“Pretreatment Standards or Standards”** Pretreatment Standards shall mean Prohibited Discharge Standards, Categorical Pretreatment Standards, and Local Limits.

**“Process Wastewater”** Any water which, during manufacturing or processing, comes into direct contact with or results from the production or use of any raw material, intermediate product, finished product, by-product, or waste product.

**“Prohibited Discharge Standards” or “Prohibited Discharges”** Absolute prohibitions against the Discharge of certain substances; these prohibitions appear in Section 16-4-6 of this ordinance.

**“Publicly Owned Treatment Works” (POTW)** A treatment works as defined by Section 212 of the Act (33 U.S.C. §1292) which is owned in part by the Town and provide the Town with wastewater collection and disposal services. 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, recharge/reuse systems and facilities, and any conveyances which convey wastewater to a Treatment Plant.

**“Ready Access”** The ability of the Utility Services Department Director to enter and approach sampling and monitoring locations such that equipment can be safely and easily delivered by truck, installed, operated, maintained, and inspected.

**“Representative Sample”** A Composite Sample obtained by flow proportional sampling techniques except where another sampling method is specified by the User’s wastewater discharge permit or authorized by the Utility Services Department Director.

**“Sanitary Sewer”** A sewer which carries wastewater and to which storm water, surface water and groundwater are not intentionally admitted.

**“Septic Tank Waste”** Any Sewage from holding tanks such as vessels, chemical toilets, campers, trailers, and septic tanks.

**“Sewage”** Human excrement and gray water (household showers, dishwashing operations, etc.). Any and all waste substances, liquids or solids associated with human habitation, but excluding storm, surface and ground water, and Industrial Waste.

**“Significant Industrial User” (SIU)** Defined as Industrial User that meets the following criteria:

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

**“Slug Load or Slug Discharge”** Any Discharge at a flow rate or concentration, which could cause a violation of the Prohibited Discharge Standards in Section 16-4-6 of this ordinance. A Slug Discharge is any Discharge of a non-routine, episodic nature, including but not limited to an accidental spill or a non-customary batch Discharge, which has a reasonable potential to cause Interference or Pass Through, or in any other way violate the POTW's regulations, Local Limits or permit conditions. In particular, any pollutant concentration, quantity, or flow rate which, during any period of fifteen minutes or more, is greater than five times the average twenty-four hour concentration, quantity, or flow rate for such pollutant during normal operations.

**“Standard Industrial Classification (SIC) Code”** A classification pursuant to the Standard Industrial Classification Manual issued by the U.S. Office of Management and Budget.



**“Storm Water Sewer”** A sewer which carries storm and surface waters and drainage but excludes Sewage and polluted Industrial Wastes.

**“Storm Water”** Any flow occurring during or following any form of natural precipitation, and resulting from such precipitation.

**“Total Suspended Solids” (TSS) or “Suspended Solids”** The total suspended matter that floats on the surface of, or is suspended in, water, wastewater, or other liquid, and that is removable by laboratory filtering.

**“Town”** The Town of Queen Creek, Arizona.

**“Town Collection System” (TCS)** All sanitary sewer lines owned and maintained by the Town.

**“Upset”** 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.

**“User” or “Industrial User”** A source of Indirect Discharge.

**“User Charge”** A portion of the sewer fee levied by the Town which shall be sufficient to fund the estimated annual operation and maintenance (during replacement) cost of the TCS and POTW.

**“User Class”** Any grouping as determined by the Utility Services Department Director of TCS and POTW users, including Class I, II, and III industrial users.

**“Utility Services Department Director”** The person designated by the Town, Section 16-2-2 of the Town Code, to supervise the operation of the Pretreatment Program, and who is charged with certain duties and responsibilities by this ordinance, or a duly authorized representative.

**“Utility Services Department”** The department established by the Town to provide utility service, including water, waste water, irrigation and reclaimed water.

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

**“Waste Hauler”** Any Person carrying on or engaging in vehicular transport of wastewater or wastes as part of, or incidental to, any business for the purpose of discharging such waste into the TCS and POTW.

**“Wastewater”** Liquid and water-carried industrial waste and sewage from residential dwellings, commercial buildings, industrial and manufacturing facilities, and institutions, whether treated or untreated, which are conveyed to the TCS and POTW.

**“Wastewater Treatment Plant” or “Treatment Plant”** That portion of the POTW which is designed to provide treatment of municipal Sewage and Industrial Waste.

**Section 16-4-5 Industrial Users Identified as Class I, II, or III**

The following sewer user classes have been established for Commercial and Industrial Users:

- A. Class I Industrial users are defined as Significant Industrial Users (SIUs)
- B. Class II Industrial users shall be any industrial user that meets all of the following criteria:
  - a. Is not an SIU;
  - b. Is determined in writing by the Utility Services Department Director to be responsible for an industrial discharge which causes or has the reasonable potential to cause harm or damage to the TCS or POTW, worker safety, public safety, or the environment; and
  - c. Has discharges which are any one or more of the following:
    - i. Greater than the equivalent strength of twenty-five thousand (25,000) gpd of domestic waste measured by BOD and TSS.
    - ii. Pollutants in groundwater subject to a remedial action plan that has been approved by an appropriate regulatory agency.
  - iii. Any of the substances described in Section 16-4-6 of this ordinance.
  - iv. Either domestic wastewater or no discharge at all, but such industrial user does have significant quantities of pollutants which, if discharged, would be regulated by this ordinance.
- d. All Commercial Industrial Users that are not Class I or II under subsections A and B of this Section shall be identified as Class III Industrial Users.

**Section 16-4-6 Prohibited Discharge Standards**

A. General Prohibitions

No User shall introduce or cause to be introduced into the TCS and POTW any Pollutant or wastewater which causes Pass Through or Interference, or any water or waste that could cause a violation of any Categorical Standard or Pretreatment or recharge requirement. These general prohibitions apply to all Users of the TCS and 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

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

1. Any gasoline, benzene, naphtha, fuel oil or other flammable or explosive liquids, solids or gases which, by reason of their nature or quantity could be sufficient, either alone or by interaction with other substances, to cause injury to the TCS and POTW from fire or explosion.
2. Pollutants which create a fire or explosive hazard in the TCS and POTW, including, but not limited to, waste streams with a closed-cup flashpoint of less than 140 degrees Fahrenheit (°F) (60 °C) using the test methods specified in 40 CFR 261.21.
3. Wastewater causing two readings on an explosion hazard meter at the point of discharge into the TCS and POTW, or at any point in the TCS and POTW, of more than five percent (5%) or any single reading over ten percent (10%) of the Lower Explosive Limit of the meter.
4. Any water or waste having a pH lower than five (5.0) standard units (SU) or greater than ten and one-half (10.5) SU or having any other corrosive property capable of causing damage or hazard to structures, equipment or personnel to the TCS and POTW.
5. Wastewater having a temperature greater than 150 °F (65.6 °C), or which will inhibit biological activity in the TCS and POTW resulting in Interference, but in no case wastewater which causes the temperature at the introduction into the TCS and POTW to exceed 104 °F (40 °C).
6. Fats, oils, or greases of animal or vegetable origin in amounts that will cause or contribute to obstruction of the flow in the TCS and POTW.
7. Petroleum oil, non-biodegradable cutting oil, or products of mineral oil origin, in amounts which will cause or contribute to obstruction of the flow in the TCS and POTW, Interference, Pass Through, or damage to the TCS and POTW.
8. 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.
9. Solid or viscous substances in amounts which will cause or contribute to obstruction of the flow in the TCS and POTW, but in no case solids greater than one-half inch (1/2") or 1.27 centimeters (cm) in any dimension.
10. Any water or waste containing a toxic, poisonous, radioactive or other substance in sufficient quantities to cause, or have the potential to cause, injury or interfere with any wastewater treatment process, cause effluent of the POTW to come out of ADEQ compliance, cause corrosive structural damage or equipment degradation constitute a

hazard to humans or animals or create any hazard to the TCS and POTW system or in the receiving waters and aquifer, or Pollutants which result in the presence of toxic gasses, vapors or fumes within the TCS and POTW system in a quantity that may cause acute worker health and/or safety problems.

11. Any Pollutant in concentrations that pose a risk of fume toxicity or other health and safety risks to TCS and POTW workers. The Town reserves the right to establish, by ordinance or in wastewater discharge permits, specific instantaneous effluent limitations for these Pollutants.
12. Any noxious or malodorous liquids, gas or substance which, either singly or by interaction with other wastes, are sufficient to create a public nuisance or hazard to life, or prevent entry into the TCS for maintenance and repair.
13. Trucked or hauled Pollutants, except at discharge points designated by the Utility Services Department Director in accordance with Section 16-4-15 of this ordinance, including any water or waste that is transported from the point of generation to the TCS and POTW by any septic tank pumper or chemical Waste Hauler, or similarly transported unless the transporter has first:
  - a. Disclosed to the Utility Services Department Director the origin, nature, concentration and volume of all Pollutants to be discharged; and
  - b. Obtained written consent of the Utility Services Department Director to discharge.
14. Storm Water, surface water, ground water, roof runoff, subsurface drainage, single-pass cooling water or condensate that may constitute inflow to any sanitary sewer. No rain spout, roof drain or other form of surface drainage and no foundation drainage or sump pump shall be connected to, or discharge into, any sanitary sewer. Storm Water and all other unpolluted drainage shall be discharged to such sewers or drains as are specifically designated by the Utility Services Department Director.
15. Sludges, screenings, or other residues from the Pretreatment of Industrial Wastes.
16. Medical Wastes, except as specifically authorized by the Utility Services Department Director in a wastewater discharge permit.
17. Wastewater causing, alone or in conjunction with other sources, the POTW effluent to fail a toxicity test.
18. Detergents, surface-active agents, or other substances which may cause excessive foaming in the TCS and POTW.
19. 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 POTW effluent, thereby violating the AZPDES permit.

20. Wastewater that has been diluted in any way as a substitute for pretreatment for the purpose of obtaining compliance with any categorical standard or pretreatment requirement imposed by this Article except where dilution is expressly authorized by any categorical standard.

21. A discharge, other than domestic wastewater, that exhibits a characteristic of a hazardous waste or contains a substance that is listed as a hazardous waste pursuant to either the Arizona Administrative Code (AAC) R18-8-261 or 40 CFR Part 261, whichever is applicable, whether or not the discharge is otherwise subject to hazardous waste regulations. The Utility Services Department Director may allow a discharge of such wastes, if upon written request of the affected person; the Utility Services Department Director determines that the discharge would not cause Interference or Pass Through with POTW operations.

22. Waste water sampled using the following specified sample type which exceeds the limits for the following parameters, expressed in the total form as micrograms per liter (ug/L):

- a) The instantaneous effluent limitation shall be the maximum allowable concentration permitted in a discharge at any time as measured in a grab sample. The instantaneous effluent limitation for the following parameters shall be:

<u>Parameter</u>	<u>Limit (ug/L)</u>	<u>Sample Type</u>
i. Benzene	35	Grab
ii. Chloroform	2,000	Grab

- b) The following parameters are prohibited from being discharged to the TCS and POTW:

- i. BHC-alpha
- ii. BHC-beta
- iii. BHC-gamma (lindane)
- iv. Chrysene
- v. Heptachlor
- vi. Heptachlor Epoxide
- vii. Phenanthrene
- viii. Polychlorinated Biphenyl Compounds (PBCs)

**Section 16-4-7 National Categorical Pretreatment Standards**

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

- A. Where a Categorical Pretreatment Standard is expressed only in terms of either the mass or the concentration of a Pollutant in wastewater, the Utility Services Department Director may impose equivalent concentration or mass limits in accordance with 40 CFR 403.6(c).
- B. When the limits in a Categorical Pretreatment Standard are expressed only in terms of mass of Pollutant per unit of production, the Utility Services Department Director may convert the limits to equivalent limitations expressed either as mass of Pollutant discharged per day or effluent concentration for purposes of calculating effluent limitations applicable to individual Industrial Users.
- C. When wastewater subject to a Categorical Pretreatment Standard is mixed with wastewater not regulated by the same Standard, the Utility Services Department Director shall impose an alternate limit using the combined waste stream formula in 40 CFR 403.6(e).
- D. [Reserved]
- E. [Reserved]

**Section 16-4-8 State Pretreatment Standards**

State Pretreatment Standards located at Arizona Administrative Code R18-9-A905 (A) (8) (b) are hereby incorporated.

**Section 16-4-9 Local Limits**

- A. The Utility Services Department Director is authorized to establish Local Limits pursuant to 40 CFR 403.5(c).
- B. Class I Industrial Users shall not discharge or cause to be discharged at any entry point into the TCS any wastewater which exceeds the daily average effluent limitation specified in part (3) below. A Class II Industrial User also may be subject to one or more of the daily average effluent limitations if the Utility Services Department Director determines in writing that such user is responsible for an industrial discharge which causes or has the reasonable potential to cause harm or damage to worker safety, public safety or the environment. This written determination shall identify the daily average effluent limitations applicable to the user that are necessary to minimize the potential harm or damage to worker safety, public safety and the environment.
  - 1. The daily average effluent limitation shall be the maximum allowable concentration permitted in a discharge as measured, where feasible, in a composite sample obtained by flow proportional sampling techniques. If the Utility Services Department Director determines that flow-proportional site sampling is not feasible, the Utility Services Department Director may allow or conduct composite sampling by time-proportional techniques or by the compositing or averaging of one or more grab samples.
  - 2. Sampling for the daily average effluent limitation shall be conducted using the sample type specified in part (3) below.

3. The daily average effluent limitation for the following parameters, expressed in the total form as milligrams per liter (mg/L), shall be:

<u>Parameter</u>		<u>Limit (mg/L)</u>	<u>Sample Type</u>
a.	Arsenic	0.1	Composite
b.	Cadmium	0.047	Composite
c.	Copper	1.5	Composite
d.	Cyanide	2.0	Grab
e.	Lead	0.41	Composite
f.	Mercury	0.0023	Composite
g.	Selenium	0.024	Composite
h.	Silver	1.2	Composite
i.	Zinc	3.5	Composite

C. The above limits apply at the point where the wastewater is discharged to the TCS and POTW. The Utility Services Department Director may impose mass limitations in addition to the concentration-based limitations above. The Utility Services Department Director may develop Best Management practices (BMPs), by ordinance or in individual wastewater discharge permits to implement Local Limits and the requirements of Section 16-4-6.

#### **Section 16-4-10 Town's Right of Revision**

The Town reserves the right to establish, by ordinance or in individual wastewater discharge permits, more stringent Standards or requirements on Discharges to the TCS and POTW consistent with the purpose of this ordinance.

#### **Section 16-4-11 Dilution**

No User shall ever increase the use of process water, or in any way attempt to dilute a Discharge, as a partial or complete substitute for adequate treatment to achieve compliance with a discharge limitation unless expressly authorized by an applicable Pretreatment Standard or requirement. The Utility Services Department 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.

#### **Section 16-4-12 Pretreatment Facilities**

Users shall provide wastewater treatment as necessary to comply with this ordinance and achieve compliance with all Categorical Pretreatment Standards, local Limits, and prohibitions outlined in

Section 16-4-6 of this ordinance within the time limitations specified by EPA, ADEQ, or the Utility Services Department Director, whichever is more stringent. Any facilities necessary for compliance shall be provided, operated, and maintained at the User's expense.

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

Federal Pretreatment regulations shall be enforced as applicable. No Discharge may cause the POTW to exceed the applicable APP or AZPDES limitations.

### **Section 16-4-13 Additional Pretreatment Measures**

- A. The Utility Services Department Director may require Users to restrict their Discharge during peak flow periods, designate that certain wastewater be discharged only into specific sewers, relocate and/or consolidate points of discharge, separate Sewage waste streams from industrial waste streams, and such other conditions as may be necessary to protect the TCS and POTW and determine the User's compliance with the requirements of this ordinance.
- B. The Utility Services Department Director may require any Person discharging into the TCS and 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. Pretreatment devices for the removal of fats, oils, and grease and sand, grit, and/or other solids shall be installed by Food Service Facilities and Vehicle Service Facilities. They shall also be installed by other Users when, in the opinion of the Utility Services Department Director, they are necessary for the proper handling of wastewater containing excessive amounts of these materials except that such interceptors shall not be required for residential Users. Requirements for the proper handling of these constituents in wastewater are as follows:
  - 1. Grease interceptors shall be required, installed, and maintained as specified in the Utility Services Department Director policies and procedures for the sizing and cleaning of interceptors for the food service industry.
  - 2. Sand/oil interceptors and oil/water separators shall be required, installed, and maintained as specified in the Utility Services Department Director' policies and procedures for the sizing and cleaning of interceptors for the vehicle service industry.



3. All interceptors and separators shall be of a type and capacity approved by the Utility Services Department Director or designee as defined by the Utility Services Department Design and Specifications Manual; located as to be readily and easily accessible for cleaning and inspection; constructed of impervious materials capable of withstanding abrupt and extreme changes in temperature; and provided with trafficated vaults and lids. They shall be of a substantial construction, watertight, and equipped with easily removable covers which, when bolted in place, shall be gastight and watertight.
4. Where installed, all interceptors and separators shall be maintained by the owner, at his expense, in continuous, efficient operation at all times. Interceptors and separators shall be inspected, cleaned and repaired regularly by the User at the User's expense as specified in the Utility Services Department Director' policies and procedures. The User shall have grease removed and disposed by grease haulers that are approved by the Utility Services Department Director. The User shall keep records of all cleaning, repair and maintenance for at least three (3) years on the site where the interceptor, separator or trap is located. These records shall include copies of manifests indicating the point of discharge for each load. Such records shall be available for inspection by the Utility Services Department Director upon request.
5. The Utility Services Department Director may require, in addition to the installation of Pretreatment devices, other actions by Users as necessary to implement the Town's program to manage fats, oil, and grease, including but not limited to adoption and implementation of BMPs.

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

#### **Section 16-4-14 Accidental Discharge/Slug Discharge Control Plans**

The Utility Services Department Director shall evaluate whether each SIU needs an accidental Discharge/Slug Discharge control plan. The Utility Services Department Director may require any User to develop, submit for approval, and implement such a plan. Alternatively, the Utility Services Department Director may develop such a plan for any User. An accidental Discharge/Slug Discharge control plan shall address, at a minimum, the following:

- A. Description of discharge practices, including non-routine batch Discharges; B. Description of stored chemicals;
- C. Procedures for immediately notifying the Utility Services Department Director of any accidental or Slug Discharge, as required by Section 16-4-37 of this ordinance; and
- D. Procedures to prevent adverse impact from any accidental or Slug Discharge. Such procedures include, but are not limited to, inspection and maintenance of storage areas, handling and transfer of materials, loading and unloading operations, control of plant site runoff, worker training, building of containment structures or equipment, measures for containing toxic organic Pollutants, including solvents, and/or measures and equipment for emergency response.

## **Section 16-4-15      Hauled Wastewater**

- A. The Utility Services Department Director shall require haulers of Septic Tank Waste to obtain wastewater discharge permits.
- B. Septic Tank Waste haulers may discharge loads only at locations designated by the Utility Services Department Director and at such times as are established by the Utility Services Department Director. The Utility Services Department Director may collect samples of each hauled load to ensure compliance with applicable Standards. The Utility Services Department Director may require the Septic Tank Waste hauler to provide a waste analysis of any load prior to discharge. The Discharge of hauled Septic Tank Waste is subject to all other requirements of this ordinance.
- C. Septic Tank Waste haulers must provide a waste-tracking form for every load. This form shall include, at a minimum, the name and address of the Septic Tank Waste hauler, permit number, truck identification, names and addresses of sources of waste, and volume and characteristics of waste. Septic Tank Waste haulers shall maintain records of all waste-tracking forms for at least three (3) years.
- D. The Utility Services Department Director shall require grease haulers to obtain wastewater discharge permits.
- E. Grease haulers shall not discharge mixed loads of grease and septic tank waste or any other type of waste. Grease haulers may discharge loads only at locations designated by the Utility Services Department Director and at such times as are established by the Utility Services Department Director. The Utility Services Department Director may collect samples of each hauled load to ensure compliance with applicable Standards. The Utility Services Department Director may require the grease hauler to provide a waste analysis of any load prior to discharge. The Discharge of hauled grease is subject to all other requirements of this ordinance.
- F. Grease haulers must provide a waste-tracking form for every load. This form shall include, at a minimum, the name and address of the grease hauler, permit number, truck identification, names and addresses of sources of waste, and volume and characteristics of waste. Grease haulers shall maintain records of all waste-tracking forms for at least three (3) years.
- G. The Utility Services Department Director shall require haulers of Industrial Waste to obtain wastewater discharge permits. The Utility Services Department Director may require generators of hauled Industrial Waste to obtain wastewater discharge permits. The Utility Services Department Director also may prohibit the disposal of hauled Industrial Waste. The Discharge of hauled Industrial Waste is subject to all other requirements of this ordinance.
- H. Industrial Waste haulers may discharge loads only at locations designated by the Utility Services Department Director and at such times as established by the Utility Services Department Director. No load may be discharged without prior consent of the Utility Services Department Director. The Utility Services Department Director may collect samples of each hauled load to ensure compliance with applicable Standards. The Utility

Services Department Director may require the Industrial Waste hauler to provide a waste analysis of any load prior to discharge.

- I. Industrial Waste haulers must provide a waste-tracking form for every load. This form shall include, at a minimum, the name and address of the Industrial Waste hauler, permit number, truck identification, names and addresses of sources of waste, and volume and characteristics of waste. The form shall identify the type of industry, known or suspected waste constituents, and whether any wastes are RCRA hazardous wastes. Industrial Waste haulers shall maintain records of all waste-tracking forms for at least three (3) years.

#### **Section 16-4-16 Wastewater Analysis**

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

#### **Section 16-4-17 Wastewater Discharge Permit Requirement**

- A. No SIU shall discharge wastewater into the TCS and POTW without first obtaining a wastewater discharge permit from the Utility Services Department Director, except that a SIU that has filed a timely application pursuant to Section 16-4-20 of this ordinance may continue to discharge for the time period specified therein.
- B. The Utility Services Department Director may require Vehicle Service Facilities and Food Service Facilities to obtain individual wastewater discharge permits. The Utility Services Department Director may also elect to issue a general permit which applies to all individual Users in a particular category (e.g., Vehicle Service Facilities). Vehicle Service Facilities and Food Service Facilities shall also meet the Pretreatment Requirements of Section 16-4-14C.
- C. The Utility Services Department Director may require other Users to obtain individual wastewater discharge permits as necessary to carry out the purposes of this ordinance. The Utility Services Department Director may also elect to issue a general permit or set general requirements, including implementation of Pretreatment and BMPs, which apply to all individual Users in a particular category. For the purposes of this ordinance, Users in a category:
  1. Involve the same or substantially similar types of operations;
  2. Discharge the same types of wastes;
  3. Require the same effluent limitations;
  4. Require the same or similar monitoring; and
  5. In the opinion of the Director of Utilities Services, are more appropriately controlled under a general permit or general requirements than under individual wastewater discharge permits.

- D. Any violation of the terms and conditions of a wastewater discharge permit shall be deemed a violation of this ordinance and subjects the wastewater discharge permittee to the sanctions set out in Sections 16-4-50 through 16-4-60 of this ordinance. 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.

**Section 16-4-18 Wastewater Discharge Permitting: Existing Connections**

Any User required to obtain a wastewater discharge permit who was discharging wastewater into the TCS and POTW prior to the effective date of this ordinance and who wishes to continue such Discharges in the future, shall, within thirty (30) days after the effective date of this ordinance, apply to the Utility Services Department Director for a wastewater discharge permit in accordance with Section 16-4-20 of this ordinance, and shall not cause or allow Discharges to the TCS and POTW to continue after thirty (30) days of the effective date of this ordinance except in accordance with a wastewater discharge permit issued by the Utility Services Department Director.

**Section 16-4-19 Wastewater Discharge Permitting: New Connections**

Any User required to obtain a wastewater discharge permit who proposes to begin or recommence discharging into the TCS and POTW must obtain such permit prior to the beginning or recommencing of such Discharge. An application for this wastewater discharge permit, in accordance with Section 16-4-20 of this ordinance, must be filed at least thirty (30) days prior to the date upon which any Discharge will begin or recommence.

**Section 16-4-20 Wastewater Discharge Permit Application Contents**

- A. All Users required to obtain a wastewater discharge permit must submit a permit application. The Utility Services Department Director may require all Users to submit either independently or as part of an application the following information:
  - 1. Identifying Information:
    - a. The name and address of the facility, including the name of the operator and owner; and
    - b. Contact information, description of activities, facilities, and plant production processes on the premises.
  - 2. Environmental Permits. A list of any environmental control permits held by or for the facility;
  - 3. Description of Operations;
    - a. A brief description of the nature, average rate of production (including each product produced by type, amount, processes, and rate of production), and Standard Industrial Classification (SIC) of the operation(s) carried out by such User. This description should include a schematic process diagram, which indicates points of discharge to the TCS and POTW from the regulated processes.

- b. Types of wastes generated, and a list of all raw materials and chemicals used or stored at the facility which are, or could accidentally or intentionally be discharged to the TCS and POTW;
  - c. Number and type of employees, hours of operation, and proposed or actual hours of operation;
  - d. Type and amount of raw materials processed (average and maximum per day); and
  - e. Site plans, floor plans, mechanical and plumbing plans, and details to show all sewers, floor drains, and appurtenances by size, location, and elevation, and all points of discharge.
4. Time and duration of Discharges;
  5. The location for monitoring all wastes covered by the permit;
  6. Flow Measurement. Information showing the measured average daily and maximum daily flow, in gallons per day, to the TCS and POTW from regulated process streams and other streams, as necessary, to allow use of the combined waste stream formula set out in Section 16-4-7C (40 CFR 403.6(e));
  7. Measurement of Pollutants;
    - a. The Categorical Pretreatment Standards applicable to each regulated process and any new categorically regulated processes for Existing Sources.
    - b. The results of sampling and analysis identifying the nature and concentration, and/or mass, where required by the Standard or by the Utility Services Department Director, of regulated Pollutants in the Discharge from each regulated process.
    - c. Instantaneous, Daily Maximum, and long-term average concentrations, or mass, where required, shall be reported.
    - d. The sample shall be representative of daily operations and shall be analyzed in accordance with procedures set out in Section 16-4-41 of this ordinance. Where the Standard requires compliance with a BMP or pollution prevention alternative, the User shall submit documentation as required by the Director of Utilities Services or the applicable Standards to determine compliance with the Standard.
    - e. Sampling must be performed in accordance with procedures set out in Section 16-4-42 of this ordinance.
  8. [Reserved]
  9. Any other information as may be deemed necessary by the Director of Utilities Services to evaluate the permit application; and

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

**Section 16-4-21 [Reserved - Wastewater Discharge Permitting: General Permits]**

**Section 16-4-22 Application Signatories and Certifications**

- A. All wastewater discharge permit applications, User reports and certification statements must be signed by an Authorized Representative of the User and contain the certification statement in Section 16-4-45A.
- B. If the designation of an authorized representative is no longer accurate because a different individual or position has responsibility for the overall operation of the facility or overall responsibility for environmental matters for the company, a new written authorization satisfying the requirements of this Section must be submitted to the Utility Services Department Director prior to or together with any reports to be signed by an authorized representative.

**Section 16-4-23 Wastewater Discharge Permit Decisions**

The Utility Services Department 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 Utility Services Department Director will determine whether or not to issue a wastewater discharge permit. The Utility Services Department Director may deny any application for a wastewater discharge permit or place upon it such conditions and restrictions as authorized by this ordinance.

**Section 16-4-24 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 Utility Services Department Director. Each wastewater discharge permit will indicate a specific date upon which it will expire.

**Section 16-4-25 Wastewater Discharge Permit Contents**

A wastewater discharge permit shall include such conditions as are deemed reasonably necessary by the Utility Services Department Director to prevent Pass Through or Interference, protect the quality of the water body receiving the POTW's effluent, protect worker health and safety, facilitate sludge management and disposal, protect against damage to the TCS and POTW, and prevent sanitary sewer overflows.

- A. Wastewater discharge permits for SIUs must contain and for all other Users may contain:
  - 1. A statement that indicates wastewater discharge permit duration, which in no event shall exceed five (5) years;
  - 2. A statement that the wastewater discharge permit is nontransferable without prior notification to the Town in accordance with Section 16-4-28 of this ordinance, and

- provisions for furnishing the new owner or operator with a copy of the existing wastewater discharge permit;
3. Effluent limits based on applicable Pretreatment Standards and/or requirements for BMPs;
  4. Self monitoring, sampling, reporting, notification, and recordkeeping requirements. These requirements shall include an identification of Pollutants to be monitored, sampling location, sampling frequency, and sample type based on Federal, State, and local law; and
  5. [Reserved]
  6. A statement of applicable civil and criminal penalties for violation of Pretreatment Standards and requirements, and any applicable compliance schedule. Such schedule may not extend the time for compliance beyond that required by applicable Federal, State, or local law.
  7. [Reserved]
  8. [Reserved]
- B. Wastewater discharge permits may contain, but need not be limited to, the following conditions:
1. Limits on the average and/or maximum rate of discharge, time of discharge, and/or requirements for flow regulation and equalization;
  2. Requirements for the installation of Pretreatment technology, pollution control, or construction of appropriate containment devices, designed to reduce, eliminate, or prevent the introduction of Pollutants into the treatment works;
  3. Requirements for the development and implementation of spill control plans or other special conditions including management practices necessary to adequately prevent accidental, unanticipated, or non-routine Discharges;
  4. Development and implementation of waste minimization plans, including but not limited to BMPs, to reduce the amount of Pollutants discharged to the TCS and POTW;
  5. The unit charge or schedule of User charges and fees for the management of the wastewater discharged to the TCS and POTW;
  6. Requirements for installation and maintenance of inspection and sampling facilities and equipment, including flow measurement devices;
  7. A statement that compliance with the wastewater discharge permit does not relieve the permittee of responsibility for compliance with all applicable Federal and State Pretreatment Standards, including those which become effective during the term of the wastewater discharge permit; and
  8. Other conditions as deemed appropriate by the Utility Services Department Director to ensure compliance with this ordinance, and State and Federal laws, rules, and regulations.

**Section 16-4-26 Wastewater Discharge Permit Issuance Process**

- A. Reserved.
- B. Permit Appeals. The Utility Services Department Director shall provide public notice of the issuance of an individual wastewater discharge permit. Any Person, including the User, may petition the Utility Services Department 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 individual 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 Utility Services Department 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 complaint 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 by only establishes when action may be ripe and administrative remedies have been exhausted.

**Section 16-4-27 Wastewater Discharge Permit Modification**

- A. The Utility Services Department 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 TCS or 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 TCS and/or POTW, Town personnel, or the receiving waters;



5. Violation of any terms or conditions of the wastewater discharge permit;
6. Misrepresentations or failure to fully disclose all relevant facts in the wastewater discharge permit application or in any required reporting;
7. Revision of or a grant of variance from Categorical Pretreatment Standards pursuant to 40 CFR 403.13;
8. To correct typographical or other errors in the wastewater discharge permit; or
9. To reflect a transfer of the facility ownership or operation to a new owner or operator where requested in accordance with Section 16-4-28.

B. [Reserved]

### **Section 16-4-28 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 Utility Services Department Director and the Utility Services Department Director approves the wastewater discharge permit transfer. The notice to the Utility Services Department Director must include a written certification by the new owner or operator which:

- A. States that the new owner and/or operator has no immediate intent to change the facility's operations and processes;
- B. Identifies the specific date on which the transfer is to occur; and
- C. Acknowledges full responsibility for complying with the existing wastewater discharge permit.

Failure to provide advance notice of a transfer renders the wastewater discharge permit void as of the date of facility transfer.

### **Section 16-4-29 Wastewater Discharge Permit Revocation**

The Utility Services Department Director may revoke a wastewater discharge permit for good cause, including, but not limited to, the following reasons:

- A. Failure to notify the Utility Services Department Director of significant changes to the wastewater prior to the changed Discharge;
- B. Failure to provide prior notification to the Director of Utilities Services of changed conditions pursuant to Section 16-4-36 of this ordinance;
- C. Misrepresentation or failure to fully disclose all relevant facts in the wastewater discharge permit application;
- D. Falsifying self-monitoring reports and certification statements;

- E. Tampering with monitoring equipment;
- F. Refusing to allow the Utility Services Department Director timely access to the facility premises and records;
- G. Failure to meet effluent limitations;
- H. Failure to pay fines;
- I. Failure to pay sewer charges;
- J. Failure to meet compliance schedules;
- K. Failure to complete a wastewater survey or the wastewater discharge permit application;
- L. Failure to provide advance notice of the transfer of business ownership of a permitted facility; or
- M. Violation of any Pretreatment Standard or requirement, or any terms of the wastewater discharge permit or this ordinance.

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.

**Section 16-4-30 Wastewater Discharge Permit Reissuance**

A User with an expiring wastewater discharge permit shall apply for wastewater discharge permit reissuance by submitting a complete permit application, in accordance with Section 16-4- 20 of this ordinance, a minimum of thirty (30) days prior to the expiration of the User's existing wastewater discharge permit.

**Section 16-4-31 [Reserved - Regulation of Waste Received from Other Jurisdictions]**  
**Section 16-4-32 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 CIUs currently discharging to or scheduled to discharge to the TCS and POTW shall submit to the Utility Services Department 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 CIUs subsequent to the promulgation of an applicable Categorical Standard, shall submit to the Utility Services Department Director a report which contains the information listed in paragraph B, below. A New Source shall report the method of Pretreatment it intends to use to meet applicable Categorical Standards. A New Source also shall give estimates of its anticipated flow and quantity of Pollutants to be discharged. The Utility Services Department Director may designate in permits issued to other Users that they must file the reports required by this Section.
- B. Users described above shall submit the information set forth below.

1. All information required in Section 16-4-20 A(1)(a), Section 16-4-20 A(2), Section 16-4-20 A(3)(a), and Section 16-4-20.A(6).
2. Measurement of Pollutants.
  - a. The User shall provide the information required in Section 16-4-20 A(7)(a) through (d).
  - b. The User shall take a minimum of one Representative Sample to compile that data necessary to comply with the requirements of this paragraph.
  - c. Samples should be taken immediately downstream from Pretreatment facilities if such exist or immediately downstream from the regulated process if no Pretreatment exists. If other wastewaters are mixed with the regulated wastewater prior to Pretreatment the User should measure the flows and concentrations necessary to allow use of the combined waste stream formula in 40 CFR 403.6(e) to evaluate compliance with the Pretreatment Standards. Where an alternate concentration or mass limit has been calculated in accordance with 40 CFR 403.6(e) this adjusted limit along with supporting data shall be submitted to the Control Authority.
  - d. Sampling and analysis shall be performed in accordance with Sections 16-4-41 and 16-4-42.
  - e. The Utility Services Department Director may allow the submission of a baseline report which utilizes only historical data so long as the data provides information sufficient to determine the need for industrial Pretreatment measures.
  - f. The baseline report shall indicate the time, date and place of sampling and methods of analysis, and shall certify that such sampling and analysis is representative of normal work cycles and expected Pollutant Discharges to the TCS and POTW.
3. Compliance 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.
4. Compliance Schedule. If additional Pretreatment and/or O&M will be required to meet the Pretreatment Standards, the shortest schedule by which the User will provide such additional Pretreatment and/or O&M. The completion date in this schedule shall not be later than the compliance date established for the applicable Pretreatment Standard. A compliance schedule pursuant to this Section must meet the requirements set out in Section 16-4-33 of this ordinance.
5. Signature and Report Certification. All baseline monitoring reports (BMRs) must be signed and certified in accordance with Section 16-4-22 of this ordinance.

### **Section 16-4-33 Compliance Schedule Progress Reports**

The following conditions shall apply to the compliance schedule required by Section 16-4-32 (B)(4) of this ordinance:

- A. The schedule shall contain progress increments in the form of dates for the commencement and completion of major events leading to the construction and operation of additional Pretreatment required for the User to meet the applicable Pretreatment Standards (such events include, but are not limited to, hiring an engineer, completing preliminary and final plans, executing contracts for major components, commencing and completing construction, and beginning and conducting routine operation);
- B. No increment referred to above shall exceed nine (9) months;
- C. The User shall submit a progress report to the Utility Services Department Director no later than fourteen (14) days following each date in the schedule and the final date of compliance including, as a minimum, whether or not it complied with the increment of progress, the reason for any delay, and, if appropriate, the steps being taken by the User to return to the established schedule; and
- D. In no event shall more than nine (9) months elapse between such progress reports to the Utility Services Department Director.

### **Section 16-4-34 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 TCS and POTW, any User subject to such Pretreatment Standards and requirements shall submit to the Utility Services Department Director a report containing the information described in Section 16-4-20 A(6) and (7) and 16-4-32.B(2) of this ordinance. 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 16-4- 45.A of this ordinance. **Section 16-4-35 Periodic Compliance Reports**

- A. SIUs and other Users as may be designated by the Utility Services Department Director shall provide, at their own expense, sampling and analyses at least twice each year, in June and December, according to 40 CFR 403.12. If any sample that is taken by the SIU or the Town is not within the limits of this chapter or the Federal Categorical Standards, then the User will be required to perform the sampling and analyses as often as is determined by the Utility Services Department Director to be necessary.
- B. All SIUs and other Users as may be designated by the Utility Services Department Director shall, at a frequency determined by the Utility Services Department Director but in no case less than twice per year (in June and December), submit a report indicating the

nature and concentration of Pollutants in the Discharge which are limited by Pretreatment Standards and the measured or estimated average and maximum daily flows for the reporting period. All periodic compliance reports must be signed and certified in accordance with Section 16-4-22 of this ordinance.

- C. All wastewater samples must be representative of the User's Discharge and analyzed in compliance with Sections 16-4-41, 16-4-42, and 16-4-43. 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.
- D. If a User subject to the reporting requirement in this Section monitors any Pollutant more frequently than required by the Utility Services Department Director, using the procedures prescribed in Section 16-4-42 of this ordinance, the results of this monitoring shall be included in the report.

### **Section 16-4-36      Reports of Changed Conditions**

Each User must notify the Utility Services Department 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.

- A. The Utility Services Department Director may require the User to submit such information as may be deemed necessary to evaluate the changed condition, including the submission of a wastewater discharge permit application under Section 16-4-20 of this ordinance.
- B. The Utility Services Department Director may issue a wastewater discharge permit under Section 16-4-30 of this ordinance or modify an existing wastewater discharge permit under Section 16-4-27 of this ordinance in response to changed conditions or anticipated changed conditions.
- C. For purposes of this requirement, significant changes include, but are not limited to, flow increases of twenty percent (20%) or greater, and the Discharge of any previously unreported Pollutants.

### **Section 16-4-37      Reports of Potential Problems**

- A. In the case of any Discharge, including, but not limited to, accidental Discharges, Discharges of a non-routine, episodic nature, a non-customary batch Discharge, Slug Discharge or a Slug Load, that may cause potential problems for the TCS and POTW, the User shall immediately telephone and notify the Utility Services Department 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 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 TCS and POTW, natural resources, or any other damage to person or property; nor shall such notification relieve the User of any fines, penalties, or other liability which may be imposed pursuant to this ordinance.

- C. A notice shall be permanently posted on the User's bulletin board or other prominent place advising employees who to call in the event of a Discharge described in paragraph A, above. Employers shall ensure that all employees, who may cause such a Discharge to occur, are advised of the emergency notification procedure.
- D. SIUs are required to notify the Utility Services Department Director immediately of any changes at its facility affecting the potential for a Slug Discharge.

**Section 16-4-38 Reports from Unpermitted Users**

All Users not required to obtain a wastewater discharge permit shall provide appropriate reports to the Utility Services Department Director the Utility Services Department Director may require.

**Section 16-4-39 Notice of Violation/Repeat Sampling and Reporting**

If sampling performed by a User indicates a violation, the User must notify the Utility Services Department 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 Utility Services Department Director within thirty (30) days after becoming aware of the violation. Re-sampling by the User is not required if the Utility Services Department Director performs sampling at the User's facility at least once a month, or if the Utility Services Department Director performs sampling at the User between the time when the initial sampling was conducted and the time when the User or the Utility Services Department Director receives the results of this sampling, or if the Director of Utilities Services has performed the sampling and analysis in lieu of the User.

**Section 16-4-40 Notification of the Discharge of Hazardous Waste**

- A. Any User who commences the Discharge of hazardous waste shall notify the Utility Services Department Director, 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 waste stream discharged during that calendar month, and an estimation of the mass of constituents in the waste stream expected to be discharged during the following twelve (12) months. All notifications must take place no later than one hundred and eighty (180) days after the Discharge commences. Any notification under this paragraph need be submitted only once for each hazardous waste discharged. However, notifications of changed conditions must be submitted under Section 16-4-36 of this ordinance. The notification requirement in this Section does not apply to Pollutants already reported by

Users subject to Categorical Pretreatment Standards under the self-monitoring requirements of Sections 16-4-32, 16-4-34, and 16-4-35 of this ordinance.

- B. Dischargers are exempt from the requirements of paragraph A, above, during a calendar month in which they discharge no more than fifteen (15) kilograms of hazardous wastes, unless the wastes are acute hazardous wastes as specified in 40 CFR 261.30(d) and 261.33(e). Discharge of more than fifteen (15) kilograms of non-acute hazardous wastes in a calendar month, or of any quantity of acute hazardous wastes as specified in 40 CFR 261.30(d) and 261.33(e), requires a one-time notification. Subsequent months during which the User discharges more than such quantities of any hazardous waste do not require additional notification.
- C. In the case of any new regulations under Section 3001 of RCRA identifying additional characteristics of hazardous waste or listing any additional substance as a hazardous waste, the User must notify the Utility Services Department Director, the EPA Regional Waste Management Waste Division Director, and State hazardous waste authorities of the Discharge of such substance within ninety (90) days of the effective date of such regulations.
- D. In the case of any notification made under this Section, the User shall certify that it has a program in place to reduce the volume and toxicity of hazardous wastes generated to the degree it has determined to be economically practical.
- E. This provision does not create a right to discharge any substance not otherwise permitted to be discharged by this ordinance, a permit issued thereunder, or any applicable Federal or State law.

#### **Section 16-4-41 Analytical Requirements**

- A. All Pollutant analyses, including sampling techniques, to be submitted as part of a wastewater discharge permit application or report shall be performed in accordance with the techniques prescribed in 40 CFR Part 136, unless otherwise specified in an applicable Categorical Pretreatment Standard. If 40 CFR Part 136 does not contain sampling or analytical techniques for the Pollutant in question, sampling and analyses must be performed in accordance with procedures approved by EPA.
- B. In order to be considered for compliance with the requirements of this article, analysis of all samples must be conducted by a laboratory licensed by the State of Arizona (A.R.S. 36-495, et seq).

#### **Section 16-4-42 Sample Collection**

Samples collected to satisfy reporting requirements must be based on data obtained through appropriate sampling and analysis performed during the period covered by the report, based on data that is representative of conditions occurring during the reporting period.

- A. Except as indicated below, the User must collect wastewater samples using 24-hour flow-proportional composite sampling techniques, unless time-proportional composite sampling

or grab sampling is authorized by the Utility Services Department Director. Where time-proportional composite sampling or grab sampling is authorized by the Utility Services Department Director, the samples must be representative of the Discharge. Using protocols (including appropriate preservation) specified in 40 CFR Part 136 and appropriate EPA guidance, multiple Grab Samples collected during a 24-hour period may be composited prior to the analysis as follows: for cyanide, total phenols, and sulfides the samples may be composited in the laboratory or in the field; for volatile organics and oil and grease, the samples may be composited in the laboratory. Composite Samples for other parameters unaffected by the compositing procedures as documented in approved EPA methodologies may be authorized by the Utility Services Department Director, as appropriate. In addition, Grab Samples may be required to show compliance with Instantaneous Limits.

- B. Samples for oil and grease, temperature, pH, cyanide, total phenols, sulfides, and volatile organic compounds must be obtained using grab collection techniques.
- C. For sampling required in support of baseline monitoring and 90-day compliance reports required in Section 16-4-32 and 16-4-34 [40 CFR 403.12(b) and (d)], a minimum of four (4) Grab Samples must be used for pH, cyanide, total phenols, oil and grease, sulfide and volatile organic compounds for facilities for which historical sampling data do not exist; for facilities for which historical sampling data are available, the Utility Services Department Director may authorize a lower minimum. For the reports required by paragraphs Section 16-4-35 (40 CFR 403.12(e) and 403.12(h)), the User is required to collect the number of Grab Samples necessary to assess and assure compliance by with applicable Pretreatment Standards and requirements.
- D. The flow must be measured by the User at the time that the sample is taken according to 40 CFR 403.12(d).

#### **Section 16-4-43      Date of Receipt of Reports**

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

#### **Section 16-4-44      Recordkeeping**

Users subject to the reporting requirements of this ordinance shall retain, and make available for inspection and copying, all records of information obtained pursuant to any monitoring activities required by this ordinance and any additional records of information obtained pursuant to monitoring activities undertaken by the User independent of such requirements, and documentation associated with BMPs established under Section 16-4-9. 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 Town, or where the User has been specifically notified of a longer retention period by the Utility Services Department Director.



## **Section 16-4-45 Certification Statements**

- A. Certification of Permit Applications and User Reports - The following certification statement is required to be signed and submitted by Users submitting permit applications in accordance with Section 16-4-22; Users submitting BMRs under Section 16-4-32 B(5) [Note: See 40 CFR 403.12 (l)]; Users submitting reports on compliance with the Categorical Pretreatment Standard deadlines under Section 16-4-34 [Note: See 40 CFR 403.12(d)]; Users submitting periodic compliance reports required by Section 16-4-35 A through D [Note: See 40 CFR 403.12(e) and (h)]. The following certification statement must be signed by an authorized representative as defined in Section 16-4-4:

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

B. [Reserved]

C. [Reserved]

## **Section 16-4-46 Right of Entry: Inspection and Sampling**

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

- A. Where a User has security measures in force which require proper identification and clearance before entry into its premises, the User shall make necessary arrangements with its security guards so that, upon presentation of suitable identification, the Director of Utilities Services will be permitted to enter without delay for the purposes of performing specific responsibilities.
- B. The Utility Services Department Director shall have the right to set up on the User's property, or require installation of, such devices as are necessary to conduct sampling and/or metering of the User's operations.
- C. The Utility Services Department Director may require the User to install monitoring equipment as necessary. The facility's sampling and monitoring equipment shall be maintained at all times in a safe and proper operating condition by the User at its own expense. All devices used to measure wastewater flow and quality shall be calibrated annually to ensure their accuracy.

- D. Any temporary or permanent obstruction to safe and easy access to the facility to be inspected and/or sampled shall be promptly removed by the User at the written or verbal request of the Utility Services Department Director and shall not be replaced. The costs of clearing such access shall be borne by the User.
- E. Unreasonable delays allowing the Utility Services Department Director access to the User's premises shall be a violation of this ordinance. Unreasonable delays are defined in the Town's Enforcement Response Plan, as described in Section 16-4-58.
- F. The Town will maintain records of monitoring that are necessary to enforce this Section.
- G. The Town may sample randomly and analyze for any Pollutants that would be anticipated in the effluent of a SIU or other User as may be designated by the Utility Services Department Director. The Town may designate an independent laboratory to conduct the sampling and analyses, and the staff of the designated laboratory shall be allowed to enter the premises of any User to sample any Discharge which may enter the wastewater collection system.
- H. The User will be financially responsible for any sampling and analysis done by the Town that is not routine as provided for in this Section.

**Section 16-4-47 Search Warrants**

If the Utility Services Department Director has been refused access to a building, structure, or property, or any part thereof, and is able to demonstrate probable cause to believe that there may be a violation of this ordinance, or that there is a need to inspect and/or sample as part of a routine inspection and sampling program of the Town designed to verify compliance with this ordinance or any permit or order issued hereunder, or to protect the overall public health, safety and welfare of the community, then the Utility Services Department Director may seek issuance of a search warrant from a court of competent jurisdiction.

**Section 16-4-48 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 Utility Services Department Director' inspection and sampling activities, shall be available to the public without restriction, unless the User specifically requests, and is able to demonstrate to the satisfaction of the Director of Utilities Services, 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 in writing 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 applicable APP or AZPDES 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.

**Section 16-4-49 Publication of Users in Significant Noncompliance**

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

- A. Chronic violations of wastewater discharge limits, defined here as those in which sixty- six percent (66%) or more of all the measurements taken for the same Pollutant parameter taken during a six- (6-) month period exceed (by any magnitude) a numeric Pretreatment Standard or requirement, including Instantaneous Limits as defined in Section 16-4-6;
- B. Technical Review Criteria (TRC) violations, defined here as those in which thirty-three percent (33%) or more of wastewater measurements taken for each Pollutant parameter during a six- (6-) month period equals or exceeds the product of the numeric Pretreatment Standard or requirement including Instantaneous Limits, as defined by Section 16-4-6, multiplied by the applicable criteria (1.4 for BOD, TSS, fats, oils and grease, and 1.2 for all other Pollutants except pH);
- C. Any other violation of a Pretreatment Standard or requirement as defined by Sections 16-4-6, 16-4-7, 16-4-8, and 16-4-9 (Daily Maximum, long-term average, Instantaneous Limit, or narrative Standard) that the Director of Utilities Services determines has caused, alone or in combination with other Discharges, Interference or Pass Through, including endangering the health of TCS and POTW personnel or the general public;
- D. Any Discharge of a Pollutant that has caused imminent endangerment to the public or to the environment, or has resulted in the Utility Services Department Director' exercise of its emergency authority to halt or prevent such a Discharge;
- E. Failure to meet, within ninety (90) days of the scheduled date, a compliance schedule milestone contained in a wastewater discharge permit or enforcement order for starting construction, completing construction, or attaining final compliance;
- F. Failure to provide within thirty (30) days after the due date, any required reports, including BMRs, reports on compliance with Categorical Pretreatment Standard deadlines, periodic self-monitoring reports, and reports on compliance with compliance schedules;
- G. Failure to accurately report noncompliance; or

Any other violation(s), which may include a violation of BMPs, which the Utility Services Department Director determines will adversely affect the operation or implementation of the local Pretreatment program.

#### **Section 16-4-50 Notification of Violation**

When the Utility Services Department Director finds that a User has violated, or continues to violate, any provision of this ordinance, a wastewater discharge permit or order issued hereunder,

or any other Pretreatment Standard or requirement, the Utility Services Department Director may serve upon that User a written Notice of Violation. Within fifteen (15) days of the receipt of this notice, an explanation of the violation and a plan for the satisfactory correction and prevention thereof, to include specific required actions, shall be submitted by the User to the Utility Services Department Director. Submission of this plan in no way relieves the User of liability for any violations occurring before or after receipt of the Notice of Violation. Nothing in this Section shall limit the authority of the Utility Services Department Director to take any action, including emergency actions or any other enforcement action, without first issuing a Notice of Violation.

#### **Section 16-4-51 Consent Orders**

The Utility Services Department Director may enter into Consent Orders, assurances of voluntary compliance, or other similar documents establishing an agreement with any User responsible for noncompliance. Such documents will include specific action to be taken by the User to correct the noncompliance within a time period specified by the document. Such documents shall have the same force and effect as the administrative orders issued pursuant to Sections 16-4-53 and 16-4-54 of this ordinance and shall be judicially enforceable.

#### **Section 16-4-52 Show Cause Hearing**

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

#### **Section 16-4-53 Compliance Orders**

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

#### **Section 16-4-54 Cease and Desist Orders**

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

- A. Immediately comply with all requirements; and
- B. Take such appropriate remedial or preventive action as may be needed to properly address a continuing or threatened violation, including halting operations and/or terminating the Discharge.

Issuance of a cease and desist order shall not be a bar against, or a prerequisite for, taking any other action against the User.

#### **Section 16-4-55      Administrative Fines**

- A. When the Utility Services Department Director finds that a User has violated, or continues to violate, any provision of this ordinance, a wastewater discharge permit or order issued hereunder, or any other Pretreatment Standard or requirement, the Utility Services Department Director may fine such User in an amount not to exceed twenty-five thousand dollars (\$25,000), in accordance with A.R.S. 49-391. Such fines shall be assessed on a per violation, per day basis. In the case of monthly or other long term average discharge limits, fines shall be assessed for each day during the period of violation.
- 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. A lien against the User's property will be sought for unpaid charges, fines, and penalties.
- C. Each and every day any violation continues shall be deemed and considered a separate offense. Any Person, firm or corporation violating any provisions of this chapter shall become liable to the Town for any expense, loss or damage occasioned by the Town by reason of such violation.
- D. The penalties set forth above shall be cumulative and nonexclusive. In addition to those penalties set forth herein, the Town may institute any other remedies available, including, but not limited to, a civil action to recover any and all monies due the Town.
- E. Users desiring to dispute such fines must file a written request for the Utility Services Department 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 Utility Services Department Director may convene a hearing on the matter. In the event the User's appeal is successful, the payment, together with any interest accruing thereto, shall be returned to the User. The Utility Services Department Director may add the costs of preparing administrative enforcement actions, such as notices and orders, to the fine.
- F. Issuance of an administrative fine shall not be a bar against, or a prerequisite for, taking any other action against the User.

## **Section 16-4-56      Emergency Suspensions**

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

- A. Any User notified of a suspension of its Discharge shall immediately stop or eliminate its wastewater Discharge. In the event of a User's failure to immediately comply voluntarily with the suspension order, the Utility Services Department Director may take such steps as deemed necessary including, but not limited to, immediate severance of the Sewer Connection, to prevent or minimize damage to the TCS and POTW, the aquifer or other receiving waters, or endangerment to any individuals. The Utility Services Department Director may allow the User to recommence its Discharge when the User has demonstrated to the satisfaction of the Utility Services Department Director that the period of endangerment has passed, unless the termination proceedings in Section 16-4-57 of this ordinance are initiated against the User.
- B. A User that is responsible, in whole or in part, for any Discharge presenting imminent endangerment shall submit a detailed written statement, describing the causes of the harmful contribution and the measures taken to prevent any future occurrence, to the Utility Services Department Director prior to the date of any show cause or termination hearing under Sections 16-4-52 or 16-4-57 of this ordinance.

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

## **Section 16-4-57      Termination of Discharge**

In addition to the provisions in Section 16-4-29 of this ordinance, any User who violates the following conditions is subject to discharge termination:

- A. Violation of wastewater discharge permit conditions;
- B. Failure to accurately report the wastewater constituents and characteristics of its Discharge;
- C. Failure to report significant changes in operations or wastewater volume, constituents, and characteristics prior to Discharge;
- D. Refusal of reasonable access to the User's premises for the purpose of inspection, monitoring, or sampling; or

- E. Violation of the Pretreatment Standards in Section 16-4-5 through 16-4-11 of this ordinance.

Such User will be notified of the proposed termination of its Discharge and be offered an opportunity to show cause under Section 16-4-52 of this ordinance why the proposed action should not be taken. Exercise of this option by the Utility Services Department Director shall not be a bar to, or a prerequisite for, taking any other action against the User.

**Section 16-4-58      Alternative Administrative Enforcement**

As an alternative to the administrative enforcement procedures and remedies delineated in Sections 16-4-50 through 16-4-57 of this ordinance, the Utility Services Department Director may elect to administratively prosecute violations of this chapter in accordance with the procedures delineated in the Town's Enforcement Response Plan promulgated and adopted by the Town pursuant to statutory requirements set forth in the Federal Water Pollution Control Act as amended by the Clean Water Act of 1977. A copy of the Enforcement Response Plan will be available through a public records request from the Town Clerk.

**Section 16-4-59      Judicial Enforcement Remedies**

A. Injunctive Relief

When the Utility Services Department Director finds that a User has violated, or continues to violate, any provision of this ordinance, a wastewater discharge permit, or order issued hereunder, or any other Pretreatment Standard or requirement, the Utility Services Department Director may petition the Superior Court of Arizona, Maricopa County, through the Town's 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 ordinance on activities of the User. The Utility Services Department Director may also seek such other action as is appropriate for legal and/or equitable relief, including a requirement for the User to conduct environmental remediation. A petition for injunctive relief shall not be a bar against, or a prerequisite for, taking any other action against a User.

B. Civil Penalties

1. A User who has violated, or continues to violate, any provision of this ordinance, a wastewater discharge permit, or any order issued hereunder, or any other Pretreatment Standard or requirement shall be liable to the Town for a maximum civil penalty of up to twenty-five thousand dollars (\$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 Town has provided a period of thirty (30) days for public comment.
2. The Utility Services Department 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 Town.

3. In determining the amount of civil liability, the Town or Court shall take into account all relevant circumstances, including, but not limited to, the extent of harm caused by the violation, the magnitude and duration of the violation, any economic benefit gained through the User's violation, corrective actions taken by the User to reduce, mitigate and/or eliminate the violation and any future potential violations of a similar nature, the compliance history of the User, and any other factor as justice requires.
4. Filing a suit for civil penalties shall not be a bar against, or a prerequisite for, taking any other action against a User.

#### C. Criminal Prosecution

1. A User who willfully or negligently violates any provision of this ordinance, a wastewater discharge permit, or order issued hereunder, or any other Pretreatment Standard or requirement shall, upon conviction, be guilty of a misdemeanor, punishable by a fine of not more than twenty-five thousand dollars (\$25,000) per violation, per day, or imprisonment for not more than six (6) months, or both.
2. A User who willfully or negligently introduces any substance into the TCS and POTW which causes personal injury or property damage shall, upon conviction, be guilty of a misdemeanor and be subject to a penalty of up to twenty-five thousand dollars (\$25,000) per violation, per day, or the cost of property repairs, whichever is greater, or be subject to imprisonment for not more than six (6) months, or both. This penalty shall be in addition to any other cause of action for personal injury or property damage available under State law.
3. A User who knowingly makes any false statements, representations, or certifications in any application, record, report, plan, or other documentation filed, or required to be maintained, pursuant to this ordinance, wastewater discharge permit, or order issued hereunder, or who falsifies, tampers with, or knowingly renders inaccurate any monitoring device or method required under this ordinance shall, upon conviction, be punished by a fine of not more than twenty-five thousand dollars (\$25,000) per violation, per day, or imprisonment for not more than six (6) months, or both.
4. In the event of a second conviction, a User shall be punished by a fine of not more than twenty-five thousand dollars (\$25,000) per violation, per day, or imprisonment for not more than two (2) years, or both.

#### D. Remedies Nonexclusive

The remedies provided for in this ordinance are not exclusive. The Utility Services Department Director may take any, all, or any combination of these actions against a noncompliant User. Enforcement of Pretreatment violations will generally be in accordance with the Town's enforcement response plan. However, the Utility Services Department Director may take other action against any User when the circumstances warrant. Further, the Utility Services Department Director is empowered to take more than one enforcement action against any noncompliant User.

### **Section 16-4-60 Supplemental Enforcement Action**

#### A. Penalties for Late Reports



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

#### B. Performance Bonds

The Utility Services Department Director may decline to issue or reissue a wastewater discharge permit to any User who has failed to comply with any provision of this ordinance, a previous wastewater discharge permit, or order issued hereunder, or any other Pretreatment Standard or requirement, unless such User first files a satisfactory bond, letter of credit, cash, or other security device payable to the Town, in a sum not to exceed a value determined by the Utility Services Department Director to be necessary to achieve consistent compliance.

#### C. Liability Insurance

The Utility Services Department Director may decline to issue or reissue a wastewater discharge permit to any User who has failed to comply with any provision of this ordinance, a previous wastewater discharge permit, or order issued hereunder, or any other Pretreatment Standard or requirement, unless the User first submits proof that it has obtained financial assurances sufficient to restore or repair damage to the TCS and POTW caused by its Discharge.

#### D. Payment of Outstanding Fees and Penalties

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

#### E. Water Supply Severance

Whenever a User has violated or continues to violate any provision of this ordinance, a wastewater discharge permit, or order issued hereunder, or any other Pretreatment Standard or requirement, water and/or sewer service to the User may be severed. Service will only recommence, at the User's expense, after it has demonstrated its ability to comply to the satisfaction of the Utility Services Department Director.

#### F. Public Nuisances

A violation of any provision of this ordinance, a wastewater discharge permit, or order issued hereunder, or any other Pretreatment Standard or requirement is hereby declared a public nuisance and shall be corrected or abated as directed by the Utility Services Department Director. Any Person(s) creating a public nuisance shall be subject to the provisions of the Town Code Title 3 and 4 governing such nuisances, including reimbursing the Town for any costs incurred in removing, abating, or remedying said nuisance. The remedy provided herein shall be in addition to any other remedy authorized by this Chapter.

## G. Informant Rewards

The Utility Services Department Director may pay up to five hundred dollars (\$500) for information leading to the discovery of noncompliance by a User.

## H. Contractor Listing

Users which have not achieved compliance with applicable Pretreatment Standards and requirements are not eligible to receive a contractual award for the sale of goods or services to the Town. Existing contracts for the sale of goods or services to the Town held by a User found to be in SNC with Pretreatment Standards or requirements may be terminated at the discretion of the Utility Services Department Director.

## **Section 16-4-61 Affirmative Defenses to Discharge Violations**

### A. Upset

1. 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.
2. An Upset shall constitute an affirmative defense to an action brought for noncompliance with Categorical Pretreatment Standards if the requirements of paragraph (C), below, are met.
3. A User who wishes to establish the affirmative defense of Upset shall demonstrate, through properly signed, contemporaneous operating logs, or other relevant evidence that:
  - a. An Upset occurred and the User can identify the cause(s) of the Upset;
  - b. The facility was at the time being operated in a prudent and workman-like manner and in compliance with applicable O&M procedures; and
  - c. The User has submitted the following information to the Utility Services Department Director Services 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]:
    - i. A description of the Discharge to the TCS and POTW and cause of noncompliance;
    - ii. The period of noncompliance, including exact dates and times or, if not

corrected, the anticipated time the noncompliance is expected to continue; and iii. Steps being taken and/or planned to reduce, eliminate, and prevent recurrence of the noncompliance.

4. In any enforcement proceeding, the User seeking to establish the occurrence of an Upset shall have the burden of proof.
5. 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.
6. Users shall control production of all Discharges to the extent necessary to maintain compliance with Categorical Pretreatment Standards upon reduction, loss, or failure of its treatment facility until the facility is restored or an alternative method of treatment is provided. This requirement applies in the situation where, among other things, the primary source of power of the treatment facility is reduced, lost, or fails.

#### **Section 16-4-62 Prohibited Discharge Standards**

A User shall have an affirmative defense to an enforcement action brought against it for noncompliance with the general prohibitions in Section 16-4-6(A) of this ordinance or the specific prohibitions in Sections 16-4-6(B) of this ordinance if it can prove that it did not know, or have reason to know, that its Discharge, alone or in conjunction with Discharges from other sources, would cause Pass Through or Interference and that either:

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

#### **Section 16-4-63 Bypass**

- A. For the purposes of this Section,
  1. "Bypass" means the intentional diversion of waste streams 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 or reduction of production, or the additional cost of treatment/Pretreatment facilities.
- B. A User may allow any bypass to occur which does not cause Pretreatment Standards or requirements to be violated, but only if it also is for essential maintenance to assure efficient operation. These bypasses are not subject to the provision of paragraphs (C) and (D) of this Section.

### C. Bypass Notifications

1. If a User knows in advance of the need for a bypass, it shall submit written prior request and notice to the Utility Services Department Director, at least ten (10) days before the date of the bypass.
2. A User shall submit oral notice to the Utility Services Department 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.

### D. Bypass

1. Bypass is prohibited, and the Utility Services Department 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 as defined in Section 16-4-63 A (2);
  - b. There were no feasible alternatives to the bypass, such as the use of auxiliary treatment facilities, retention of untreated wastes, or maintenance during normal periods of equipment downtime. This condition is not satisfied if adequate back-up equipment should have been installed in the exercise of reasonable engineering judgment to prevent a bypass which occurred during normal periods of equipment downtime or preventive maintenance; and
  - c. The User submitted notices as required under paragraph (C) of this Section.

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

## **Section 16-4-64 Wastewater Treatment Rates - [Reserved] Section 16-4-65 Miscellaneous Provisions**

### A. Pretreatment Charges and Fees

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

1. Fees for wastewater discharge permit applications;

2. Fees to recover legal costs resulting from enforcement response to any user noncompliance including, but not limited to, administrative expenses, investigation, sampling, testing, legal proceedings and filings, and continued compliance monitoring; and
3. Other fees as the Town may deem necessary to carry out the requirements contained herein. These fees relate solely to the matters covered by this ordinance and are separate from all other fees, fines, and penalties chargeable by the Town.

**B. Severability**

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

**Article 16-5 WATER REGULATIONS**

16-5-1 Definitions

- |        |   |
|--------|---|
| 16-5-2 | Utility Services department Director; rules and regulations; assignment of duties |
| 16-5-3 | Applicability; conditions for service   |

- 16-5-4 Application for domestic water service for a new unit of service; fees; design and construction standards
- 16-5-5 New water service connections; permit; approval; records
- 16-5-6 Application for water service for an existing unit of service; related fees
- 16-5-7 Requesting temporary service suspension; resuming service
- 16-5-8 Maintenance of meters and connections; right of entry for inspection
- 16-5-9 Changes or alterations
- 16-5-10 Testing of meters
- 16-5-11 Defective meters
- 16-5-12 Tampering with, damaging meters; unlawful possession of equipment or reinstatement of service
- 16-5-13 Schedule of rates
- 16-5-14 Customer Billing
- 16-5-15 Payment of bills; delinquent bills
- 16-5-16 Creation of lien for unpaid charges
- 16-5-17 Discontinuance of service
- 16-5-18 Town not liable for damages
- 16-5-19 Urban irrigation service; rules and regulations governing service; Applicable rates

**Section 16-5-1 Definitions**

**“Appropriate Fees”** means charges as specified in the Water Rate Schedule.

**“Application”** means a request to the utility for water service, as distinguished from an inquiry as to the availability or charges for such service.

**“Appurtenance”** means an item attached to a main structure which enables it to function, but is not considered an integral part of it.

**“AOC Application”** means an Application for Approval of Construction, which must be filed and approved by the Town in order to receive domestic water service for a new unit of service.

**“ATC Application”** means an Application for Approval to Construct, which must be filed and approved by the Town in order to start construction and installation of the approved facilities.

**“Billing Period”** means the time interval between two (2) consecutive meter readings that are taken for billing purposes.

**“Customer”** means the owner, official custodian or person in control of any premises supplied domestic water service by or in any manner connected to the water system of the Town.

**“Distribution system”** means the network of public waterlines which compose the basic grid and distribution system for municipal water service.

**“Domestic water”** means water supplied through the pipes of the water system of the Town.

**“Due Date”** means the date that customer payments are to be in the Town of Queen Creek’s office.

**“Irrigation Service”** means the service line between the irrigation main line and discharge port (also known as the red-head) and includes any valves that may be attached.

**“Manual”** means the Town of Queen Creek Design & Construction Standards Manual, which was adopted by resolution of the Town Council, and is available online at <http://www.queencreek.org/Index.aspx?page=557>.

**“Meter”** means the instrument for measuring and indicating or recording the volume of water that has passed through it.

**“Meter Tampering”** means a situation where a meter has been illegally altered. Common examples are meter bypassing, use of magnets to slow the meter recording and broken meter seals.

**“Normal Business Hours”** as defined on the Town of Queen Creek’s Web site.

**“Non-Potable Water”** means any water which is not safe for human consumption pursuant to the standards set by the Arizona Department of Environmental Quality.

**“Potable water”** means any water which is safe for human consumption pursuant to the standards set by the Arizona Department of Environmental Quality.

**“PWS System”** means the Town’s Public Water Supply System. “04-07-033”

**“Second Notice”** means the customer billing statement that is sent out fifteen (15) days after the first notice and allows ten (10) additional days before termination of service. This notice will be in red ink and contain Notice of Termination language.

**“Service Line”** means that pipeline between a water main and the meter.

**“Service Connection”** means the line after the meter that is the property of the customer. It is the customer’s responsibility for the maintenance of the plumbing after the meter.

**“Source facilities”** means all components and facilities utilized in the production, treatment, storage and delivery of potable water to the distribution system.

**“Town”** means the Town of Queen Creek.

**“TofQCWD”** means the water division of the Town of Queen Creek Utility Services Department, which is located in the Town’s Development Services Building, at 22358 S. Ellsworth Road, Queen Creek, AZ 85242.

**“Unit of service”** means each structure, group of structures, portion of a structure or real property which is served by a separate water meter.

**“Urban Irrigation”** means the delivery of non-potable water from Central Arizona Project or designated wells to certain properties through pipelines or ditches for the purpose of watering lawns in areas where this service is available.

**“Water Unit”** means any appurtenances used in the delivery of water in PWS.

**“Water Rate Schedule”** means the Town’s water rate schedule, which was adopted by resolution of the Town Council, and is available to the public at the TofQCWD or online at <http://www.queencreek.org/Index.aspx?page=481>.

**“Town Council”** means the duly elected Town Council of the Town of Queen Creek, Arizona.

**Section 16-5-2 Town Utility Services Department Director; rules and regulations; assignment of duties**

A. The Utility Services Department Director of the Town is designated as the Utility Services Department Director and shall have full charge over and direction of the PWS system and all improvements, extensions and equipment pertaining thereto, and shall have charge and supervision over all employees assigned to the work thereon. Any powers granted to or duties imposed upon the Utility Services Department Director may be delegated by the Utility Services Department Director to other Town Personnel.

B. The Town may make rules and regulations not in conflict with the provisions of any ordinance governing the use of the connections to the water distribution system of the Town. Such rules and regulations do not become effective until approved by the Town Council.

**Section 16-5-3 Applicability; conditions for service**

A. Domestic water may be supplied by the Town to customers upon the terms and conditions prescribed in this article, and not otherwise.

B. The determination of the Utility Services Department Director as to whether any



Unit of Service comes within the meaning of this article so as to require a separate service connection, meter box and turn-off valve shall be final; provided, that the owner or occupant of such premises shall have the right to appeal from such decision to the Town Council at its next regular meeting. In the event of any such appeal, the determination of the Town Council shall be final.

**Section 16-5-4 Application for domestic water service for a new unit of service; related fees; design and construction standards**

- A. Prior to starting Construction or installation of facilities an ATC, the approved application from the proper governing agency must be received by the Town.
- B. Prior to the furnishing of domestic water to a new unit of service, the contractor or owner-builder must provide an AOC Application and submit all necessary application materials and fees to the TofQCWD. AOC Application materials and related fees are contained in the Manual.
- C. The TofQCWD shall have the authority to approve the design, issue permits and conduct inspections of all water units and components that are to be connected to the PWS system.
- D. The design and construction of all water units and components under the jurisdiction of the TofQCWD must conform to the water design and construction specifications set forth in the Manual.
- E. All water units to be attached to the PWS system shall be inspected by personnel of the TofQCWD during construction. The TofQCWD shall be notified at least two (2) business days prior to attaching to the PWS system. In making a connection to the PWS system, no physical alteration shall commence until an authorized TofQCWD inspector is present. No domestic water service shall be turned on prior to obtaining TofQCWD final approval of the unit's construction.

**Section 16-5-5 New water service connections; permit, approval, records**

- A. No person shall make any connections with the PWS system or any appurtenance thereof without first obtaining written (and/ or verbal?) authority from the Utility Services Department Director. (valid authorization?)
- B. Each person making an application for a water service connection shall obtain a valid permit from the Town as a prerequisite for the approval of the required water service connections. All applications for water service connections shall be accompanied by the current fees for such work.
- C. The number, location, manner of connection and size of all water service connections shall be subject to the approval of the Utility Services Department Director.

- D. The Town shall keep a record of all building water connections made and the type of meter, together with the name of the owner of the property, the owner's agent or a representative.

**Section 16-5-6      Application for water service for an existing unit of service; related fees**

- A. Before turning on domestic water to an existing unit of service, the property owner or occupant thereof shall complete an application for water service with the TofQCWD or online at <https://www.queencreek.org>.
- B. The application must be accompanied by the appropriate fees as set forth in the Water Rate Schedule.
- C. Domestic water service shall not be furnished to any property unless the application is completed and all charges against the property of any nature whatsoever due and payable to the Town have been paid. This includes any deposits that may apply.
- D. Any delinquent amounts owing on an existing or prior accounts must be paid when a property owner or occupant applies to open another service account. Failure to pay the delinquent amount owing on a prior account or accounts constitutes grounds for the Town to refuse new service.
- E. Domestic water Customers shall be required to notify the TofQCWD of any change in mailing address, occupancy, or ownership within fifteen (15) days after such change occurs. Failure to contact the TofQCWD may result in penalties or late charges which would be the responsibility of the customer.
- F. Under normal conditions, domestic water service shall be provided no earlier than one (1) business day after an application is completed.
- G. If domestic water service is requested to be provided on the same day that the application is completed, that request must be made with the TofQCWD no later than 4:00 p.m. local time, and a same day service fee as set forth in the Water Rate Schedule will apply. All fees shall be due and payable at the time of the service request.

**Section 16-5-7      Requesting temporary service suspension; resuming service.**

- A. Customers with domestic water service may request that the TofQCWD suspend water service temporarily. Customers desiring to discontinue the use of water must give a one (1) business day notice thereof in person at the TofQCWD or by phone speak directly to a TofQCWD Customer Service Representative during the Town's normal business hours. If request is made online at <https://www.queencreek.org>, request to discontinue service must be made during normal Town business hours or charges for water service will be continued until such notice is given.
- B. As a condition of service suspension, the customer shall pay any outstanding charges to the TofQCWD before the water meter will be turned off.

C. To resume domestic water service, the owner or occupant shall pay any past-due fees. Owners or occupants shall allow the TofQCWD one (1) business day to reestablish service when requested during normal Town business hours. If a request to reestablish service is made after normal Town business hours, the request will be treated as having been made on the next business day.

D. If domestic water service is requested to be resumed on the same day that the request for resuming service is made, that request must be made in person with the TofQCWD or by phone speaking directly to a TofQCWD Customer Service Representative no later than 4:00 p.m. local time and same day service fee shall apply.

E. Due to extenuating circumstances, such as broken or leaking pipes or other causes that in the opinion of the TofQCWD constitute good cause, the TofQCWD may refuse to resume any unit of service until such time as it is appropriate and safe to do so.

F. Customers remain responsible for any water used, even if water service was turned off or locked. If the TofQCWD determines that water is used, the customer will be billed for it.

#### **Section 16-5-8 Maintenance of meters and connections; right of entry for inspection**

A. All water meters shall remain the property of the Town, and the Town shall be responsible for maintenance of meters, except in cases where they are willfully damaged by the customer.

B. The water customer shall maintain all water lines and connections within the property and after the meter.

C. It shall be the responsibility of the customer to ensure that access by employees of the Town to the water meter is not obstructed by landscape materials, vehicles or any other obstruction. In the event that any authorized employee is refused admittance to any premises or is hindered or prevented from inspecting the water system upon such premises, the TofQCWD reserves the right to disconnect services to such premises after giving twenty-four (24) hours' notice to the property owner or occupant of its intention to do so if the obstruction is not removed.

D. If the property owner or occupant, having received a notice of accessibility/obstruction, removes such obstruction and notifies the TofQCWD within twenty-four (24) hours of such removal, a service fee as set forth in the Water Rate Schedule will be assessed to cover expenses for returning to the property to gain access to the meter.

#### **Section 16-5-9 Changes or alterations**

Any person receiving domestic water service from the Town desiring to make any changes or alterations in the existing water connection shall be required to furnish the Utility Services Department Director a statement of the changes or alterations to be made, and receive the Utility Services Department Director's written permission before any such changes or alterations are made.

### **Section 16-5-10      Testing of meters**

It shall be the privilege of each customer of the TofQCWD to insist upon a meter test. After the meter has been field tested by the TofQCWD and if such meter is found incorrect, it shall be immediately replaced by the Town. If the field test indicates that the meter is registering correctly, the customer may insist that the meter be removed and subjected to a shop test. If the shop test indicates that the meter is registering correctly, a service fee as set forth in the Water Rate Schedule will be levied against the customer requesting such test.

### **Section 16-5-11      Defective meters**

When a meter in service less than thirteen (13) months is proven defective, the charge for any month affected shall be equal to an average based upon the charges for the three (3) preceding months or length of service, whichever is lesser. In instances where water service has been supplied for a period in excess of thirteen (13) months, the charge for any month affected shall be equal to an average based upon the charges for that month in the previous year together with one month next preceding and next following the previous year in question.

### **Section 16-5-12 Tampering with, damaging meters and appertenances; unlawful possession of equipment or reinstatement of service**

A. It shall be unlawful for any unauthorized person to knowingly have and keep in his possession or under his control any turn-off valve key or hydrant wrench to the PWS system and no person shall, without authority from the Utility Services Department Director, make, construct, buy, sell or in any way dispose of to any person any turn-off valve key or hydrant wrench for use on the PWS system.

B. It shall be unlawful to remove unmetered water from Town mains without express approval of the Utility Services Department Director.

C. Water meters shall be sealed by the proper Town representatives in such a manner as to prevent all tampering with or damage to the mechanism thereof, without breaking the securing device, and no person shall break or remove a securing device, or willfully damage or destroy a meter.

D. No person shall destroy, obstruct or damage any meter box; or remove such box except for the purpose of inspecting meter readings; or destroy the lid or cover belonging thereto; or place refuse or debris therein.

E. No person whose domestic water service has been discontinued and rendered inoperable by the Town placing a seal on the turn-off valve of the water meter shall break or remove such seal in an effort to reinstate domestic water service. Any person who breaks or removes such seal, in addition to other penalties provided by law, shall pay an administrative charge as set forth in the Water Rate Schedule prior to the Town reinstating domestic water service.

**Section 16-5-13      Schedule of rates**

- A. The Town Council may biennially by separate ordinance or resolution set the schedule of rates to be assessed for domestic water service.
- B. Water service rates shall be apportioned to include a user charge relating to the volume of water usage, applicable taxes and fees, and customer billing and administration.
- C. Water service rates shall be allocated in such a manner that is proportionate to the cost of providing water service to each customer insofar as those costs can reasonably be determined.
- D. In addition to the water service charges listed above, the Town Council may set other fees or charges as desired.

**Section 16-5-14      Customer Billing**

- A. Monthly statements shall be rendered by the TofQCWD to each customer, billing periods to normally consist of approximately thirty (30) days. Statements shall be rendered for each customer based upon the service rendered thereby. Second Notices shall also inform the customer of the consequences of nonpayment and the telephone numbers of appropriate personnel authorized to resolve billing disputes. Each statement shall contain the customer's account number; the reading date; the delinquent date; the present and previous meter reading; the consumption in thousand gallons; the amount of charges for water services; new account fee or service call fee, if applicable; previous balance, if any; applicable taxes; and total amount due.
- B. First and/or final statements rendered for periods of less or more than thirty (30) days shall have the minimum monthly water charges prorated daily. In addition to the prorated water charges, the statement shall include a charge for each thousand gallons of water metered during said period plus applicable taxes.
- C. Any property upon which domestic water services may have been furnished by the Town, and which may not for any reason have been assessed for such use on the books of the Town, shall be assessed for the use for which it is in arrears. Upon the failure of the payment of these charges, the supply of water shall be turned off in accordance with Section 16-5-15, pending settlement.

**Section 16-5-15      Payment of bills; delinquent bills**

- A. All bills rendered are due and payable upon presentation and are past due (delinquent) fifteen (15) calendar days after date rendered. If the total of such bill is not paid within ten (10) days after delinquency, domestic water service is subject to discontinuance in accordance with subsection B below.
- B. Before any discontinuance of water service shall be made, other than for such purposes as specified in Section 16-5-16 below, the customer shall receive a second notice

of the reason for the discontinuance from the TofQCWD and be advised, also in writing, of the opportunity to contact TofQCWD customer service personnel to present any objections within one (1) business day of the due date listed on the second notice. If, after the due date listed, the customer has not cured the delinquency and/or has not presented any reasonable objections regarding discontinuance of service, domestic water services shall be discontinued.

C. Water services shall not be resumed until such delinquent bill and the applicable service fee as set forth in the Water Rate Schedule has been collected in full from the delinquent customer. In addition, the delinquent customer may be required to place a new or additional security deposit with the TofQCWD prior to resumption of domestic water service.

D. If a customer's bill remains delinquent after discontinuance of water service in accordance with subsection B. above, the TofQCWD may assign the account to a collection agency for collection.

### **Section 16-5-16      Creation of lien for unpaid charges**

A. Delinquent water charges shall constitute a lien against the property upon which such lien may be imposed. In order to impress and secure such lien, which shall be at the discretion of the Town water director, the following procedure shall be utilized:

1. The Utility Services Department Director shall give written notice to the owner or occupant of the property within thirty (30) days after the statement is rendered by either personally serving or mailing to such owner or occupant, at his last-known address by certified or registered mail, or the address to which the water charges billing was sent. This written notice shall indicate that the Town may impress and secure a lien on the subject property unless the owner or occupant 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 16-5-15. The notice shall also contain a statement that the owner or occupant may appeal the delinquency to the Town Council by filing such appeal within the thirty (30) day time period after receipt of such notice.

2. If the owner or occupant of the property does not bring his delinquency current or successfully prosecute his appeal to the Town Council within the thirty (30) days from service or receipt of the registered or certified letter, the Utility Services Department Director may prepare duplicate copies of a notice and claim of lien and file one copy with the county recorder and within a reasonable time thereafter service or mail by registered or certified mail the remaining copy with the owner or occupant of the property. The notice and claim of lien shall be made under oath by the Utility Services Department 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 to whom service was rendered; and
- c. The amount of the delinquent bill.

B. 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 Town 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 matters recited therein and of the regularity of all proceedings prior to the recording therein.

C. 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 property may be enforced in the same action.

**Section 16-5-17      Discontinuance of service**

In the case of unnecessary waste, fraudulent representation on the part of any water customer, or in an emergency, the Town reserves the right to turn off water without notice until all charges have been paid in full and/or waste or emergency is corrected.

**Section 16-5-18      Town not liable for damages**

The Town shall not be held liable for any damages that may result from the shutting off or turning on of any potable or non-potable water unit supply piping or main for any purpose whatsoever, even should no notice have been given, nor for damages caused by any break or leak in any water pipe.

**Section 16-5-19 Urban irrigation service; rules and regulations governing service; applicable rates.**

- A. Urban irrigation service is available to customers in select areas of the Town.
- B. The rules and regulations governing the availability, character, and conditions of urban irrigation service are promulgated by the TofQCWD and adopted by resolution of the Town Council. Those rules are available to the public at the TofQCWD or online at <http://www.queencreek.org/>.
- C. Applicable rates for urban irrigation service within the Town are set forth in the Water Rate Schedule.
- D. No person shall destroy, obstruct, damage or alter any irrigation service without prior written permission from the Utility Services Department Director.

**ARTICLE 16-6            BACKFLOW PREVENTION AND CROSS-CONNECTION CONTROL**

- Section 16-6-1        Purpose; authorization
- Section 16-6-2        Administration
- Section 16-6-3        Definitions
- Section 16-6-4        Backflow prevention required
- Section 16-6-5        Criteria for determining degree of hazard
- Section 16-6-6        Prohibition of cross-connection
- Section 16-6-7        Responsibility for backflow prevention control
- Section 16-6-8        Backflow prevention assemblies required
- Section 16-6-9        Inspections
- Section 16-6-10       Notification of violation
- Section 16-6-11       Water supply severance; notice
- Section 16-6-12       Plan review
- Section 16-6-13       Retroactive application
- Section 16-6-14       Program fees
- Section 16-6-15       Appeals
- Section 16-6-16       Civil fines and other remedies
- Section 16-6-17       Violations deemed a public nuisance
- Section 16-6-18       Town not liable for damages



**Section 16-6-1 Purpose; authorization**

This ordinance sets forth uniform backflow prevention requirements for non-single-family residential customers of the Town’s Public Potable Water Supply, enables the Town to comply with Arizona Department of Environmental Quality regulations and creates a Cross-Connection Control Program (the “Program”) to control contamination from Backflow.

It is decided that danger to the public health, safety, and welfare resulting from contamination or pollutants of the Public Potable Water Supply System requires that measures be adopted to protect that system by authorizing Town officials to:

- A. Protect the public potable water supply from the possibility of contamination by preventing the Backflow of contaminants or pollutants into the Public Potable Water Supply System;
- B. Promote the awareness and elimination of Cross-Connection, actual or potential, of a customer’s Auxiliary Water Supply with the Public Potable Water Supply System;
- C. Provide for a continuing program of backflow prevention control, that will prevent the contamination or pollution of the Public Potable Water Supply System;
- D. Provide for the monitoring and enforcement of a continuing program of backflow prevention, that will prevent the contamination or pollution of the Public Potable Water Supply System; and
- E. Comply with the State requirements identified in Arizona Administrative Code, Title 18, Chapter 4, Article 215 (R18-4-215) entitled “Backflow Prevention” that was promulgated by the Arizona Department of Environmental Quality with an effective date of August 30, 2008, which is incorporated herein by this reference (hereinafter referred to as “State Rule R18-4-215”).
- F. Require non-single-family residential customers to install, test, and maintain approved backflow prevention assemblies on the plumbing system.
- G. Enforce penalties and remedies, including nuisance abatement, civil fines and termination of service, for violations of this Article by Customers.

**Section 16-6-2 Administration**

- A. Except as otherwise provided herein, the Utility Services Department Director (the “Director”) shall administer, implement, and enforce the provisions of this Article. Any powers granted to or duties imposed upon the Director may be delegated by the Director to other Town personnel, including but not limited to, Water Division personnel and the Town Civil Hearing Officer.
- B. The Town may make rules and regulations not in conflict with the provisions of this Article.

**Section 16-6-3 Definitions**

The following words and terms, when used in this Article, shall have the following definitions, unless the context clearly indicates otherwise:

“**Approved**” means approved in writing by the Director of Utility Services as meeting an applicable specification stated or cited in this Article, and as suitable for the proposed use.

The term “**Approved Backflow Prevention Assembly**” means an assembly that has been approved by the Director of Utility Services. An approved Backflow Prevention Assembly shall have

met the standards established by the American Water Works Association-AWWA C506-78 most recent revised publication “Standards for Reduced Pressure Principle and Double Checkvalve Backflow Prevention Assemblies”, and shall also have fully complied with the laboratory and field performance specifications of the Foundation for Cross-Connection Control and Hydraulic Research of the University of Southern California published in the Ninth edition of the “Manual of Cross-Connection Control” or another third party certifying entity approved by the Director of Utility Services.

The term “**Approval Form**” means the writing evidencing the Director’s approval of the type and location of a Customer’s Backflow Prevention Assembly.

“**Assembly**” means any item, equipment, device or practice.

“**Auxiliary Water Supply**” means any water supply on or available to the premises other than the public potable water supply, including, but not limited to, water from another purveyor’s public potable water supply, treated effluent, wastewaters or industrial fluids.

“**Backflow**” means the reversal of the normal flow of water caused by either Backpressure or Backsiphonage.

“**Backpressure**” means the flow of water or other liquids, mixtures or substances under pressure into the distribution pipes of the Public Potable Water Supply System from any source or sources other than the intended source.

“**Backsiphonage**” means the flow of water or other liquids, mixtures or substances into the distribution pipes of the Public Potable Water Supply System from any source other than its intended source caused by the reduction of pressure in the potable water supply system.

“**Cross-Connection**” means any physical connection or arrangement of piping or fixtures between two (2) otherwise separate piping systems, one of which contains Potable Water and the other Nonpotable Water or industrial fluids through which, or because of which, Backflow may occur into the Public Potable Water System. This would include, without limitation, any temporary connections such as swing connections, removable sections, four-way plug valves, spools, dummy section of pipe, swivel or change-over devices or sliding multiport tube.

“**Customer**” means any person in control of any non-single-family residential use of premises, facilities, or buildings supplied Potable Water by the Public Potable Water Supply System.

“**Director**” or “Utility Services Department Director” The person designated pursuant to Section 16-2-2 of this Ordinance.

“**Nonpotable Water**” means water that is not safe for human consumption.

“**Person**” means any individual, owner, official custodian, partnership, co-partnership, firm, company, corporation, association, joint stock company, trust, state, municipality, Indian tribe, political subdivision of the state, federal governmental agency, or any other legal entity, including their representatives, agents or assigns.

“**Potable Water**” means any water that, according to standards recognized by the Town of Queen Creek is safe for human consumption.

“**Public Potable Water Supply System**” means the system operated by the Town of Queen Creek that provides potable water to the public.

“TofQCWD” or “Water Division” means the water division of the Town of Queen Creek Utility Services Department subject to the supervision of the Director.

**Section 16-6-4 Backflow prevention required**

A. Backflow prevention shall be required at every service connection to a Customer’s system when the Water Division determines the potable water supplied by the Public Potable Water System may be subject to contamination, pollution or other deterioration of quality by conditions or potential conditions within the Customer’s water system.

B. Backflow prevention required by the Water Division shall be sufficient to protect against the potential degree of hazard to the Public Potable Water System from the Customer’s water system.

**Section 16-6-5 Criteria for determining potential degrees of hazard**

The potential degree of hazard to the Public Potable Water System from a Customer’s water supply system, and therefore requiring a Backflow Prevention Assembly, shall be determined using the following hazard factors:

A. *Health:* Any actual or potential condition, device or practice which, in the judgment of the Water Division, may create a threat of contamination to a potable water supply or may create a danger to the health and well-being of the potable water consumers.

B. *Plumbing:* An actual or potential plumbing cross-connection in a customer’s water supply system that has not been protected by an Approved Backflow Prevention Assembly. A plumbing hazard may be either a pollution or contamination hazard.

C. *Non-health:* Any actual or potential condition, device or practice which, in the judgment of the Water Division, may create a threat of pollution to a potable water supply system. The maximum degree of intensity of pollution to which a potable water supply system could be degraded under this definition would cause a nuisance or be aesthetically objectionable or could cause damage to the distribution system or its appurtenances.

D. *System:* Any actual or potential condition, device or practice which, in the judgment of the Water Division may create a threat or severe damage to the physical properties of a potable water supply system or that would have a protracted effect on the quality of the potable water in the system.

**Section 16-6-6 Prohibition of cross-connection**

It shall be unlawful for any Customer or any other person to cause a Cross-Connection to be made or allow one to exist for any purpose whatsoever between the Public Potable Water Supply System and any other source of water supply without previously obtaining the written approval of the Director. Any such Cross-Connection that has not been approved, as described above, shall be strictly prohibited.

**Section 16-6-7 Responsibility for backflow prevention control**

A. It shall be the responsibility of the Director to protect the Public Potable Water Supply System by applying the requirements, remedies, penalties and enforcement provisions set forth in this Article.

1. The TofQCWD shall have the following responsibilities:

(a) The Water Division shall administer and enforce all applicable CrossConnection control provisions of the Arizona Revised Statutes and the Ninth edition of the Manual of Cross-Connection Control (the "USC Manual") published by the University of Southern California Foundation for Cross-Connection Control and Hydraulic Research ("USC-FCCCHR" or the "Foundation"). The USC Manual is hereby incorporated by reference with one copy on file with the Water Division.

(b) The Water Division shall determine whether a facility or activity is a facility or an activity listed in Section 16-6-8 below and, therefore, requires backflow protection. The Water Division's responsibility includes inspection as necessary of all new and existing non-single-family residential buildings and facilities connected to the Public Potable Water Supply System.

(c) The Water Division shall require installation by Customer of appropriate backflow prevention as required by the Town's building codes.

(d) The Water Division shall approve the type and location of all backflow prevention assemblies in accordance with this Article 16-6 and all other codes and ordinances of the Town. Such approval shall be evidenced in a written Approval Form, a copy of which shall be provided to Customer.

(e) The Water Division shall keep adequate records of each test of an Approved Backflow Prevention Assembly and any subsequent maintenance or repair thereof for a minimum of three years.

(f) The Water Division may abate violations of this Article as public nuisances under Town Code, Chapter 10 Health and Sanitation.

2. The Customer shall have the following responsibilities:

It shall be the responsibility of the Customer, at Customer's sole cost and expense, to prevent pollutants or contaminants from entering the potable water system of the Customer's building and the Public Potable Water Supply System. A Customer's responsibility starts at the point of service delivery from the Public Potable Water Supply System, including all water piping systems. Customer is required to properly locate, install, test and maintain each Backflow Prevention Assembly in good working condition and shall provide the necessary inspections to assure that such assembly is operating properly. Customer's responsibilities include, but are not limited to, the following:

(a) Customer shall have all backflow prevention assemblies tested annually by a certified tester. Assembly testing shall be performed by a certified tester. Testing requirements shall be in accordance with the procedure outlined in the USC Manual. The Water Division may require more frequent testing if warranted. It is the responsibility of the Customer to obtain testing and submit all test results to the Water Division on a timely basis. If such test reveals the assembly to be defective or in unsatisfactory operating condition, the Customer shall have certified testers perform any and all necessary repairs to the assembly per the Water Division specification, at customer's sole cost and expense.

(b) If the Water Division or Customer becomes aware during the interim period between annual tests that an assembly is defective or in unsatisfactory operating condition, the Customer shall cause all repairs, replacement and any retesting so

that the assembly is in satisfactory operating condition, at Customer's sole cost and expense.

(c) Backflow prevention assemblies shall be installed by the Customer, at the customer's sole cost and expense, in compliance with the standards of the building department as set forth in Chapter 16 of the Town Code.

(d) In the event the Customer's internal potable water system or the Public Potable Water Supply System becomes contaminated or polluted due to a CrossConnection or other cause, and the Customer becomes aware of said contamination, the Director and the Maricopa County Health Authority shall be promptly notified by the Customer so that appropriate measures may be taken to cure the contamination.

(e) If the assembly is out of compliance and has not been tested, a Town official from the Water Division will schedule a Town-approved tester to test and make any and all repairs that are needed at the Customer's expense. This expense will be added to the customer's water bill.

(f) Any backflow prevention assembly shall be installed in an accessible location as close as possible to the service connection with proper clearances above the ground in accordance with the current set of standard details approved by the Water Division for backflow prevention assemblies. **Section 16-6-8 Backflow prevention assemblies required**

A. Unless otherwise specifically designated by the Director, an Approved Backflow Prevention Assembly shall be one of the following types:

1. **Air Gap:** An unobstructed vertical distance through the free atmosphere between the opening of any pipe or faucet supplying potable water to a tank plumbing fixture or other device and the flood level rim of said tank, plumbing diameter of the supply pipe or faucet and in no case shall be less than one inch.
2. **Reduced pressure principle assembly (hereafter "RP"):** An assembly containing two independently acting approved check valves together with a hydraulic operating, mechanically independent pressure differential relief valve located between the check valves and at the same time below the first check valve. The assembly shall be equipped with properly located test cocks equipped with brass plugs and tightly closing resilient seated shut-off valves at each end of the assembly.
3. **Pressure vacuum breaker assembly (hereafter "PVB"):** An assembly containing an independently operating, loaded check valve and an independent operating loaded air inlet valve located on the discharge side of the check valve. The assembly shall be equipped with properly located test cocks that are fitted with brass plugs and tightly closing resilient seated shut-off valves located at each end of the assembly.
4. **Double check valve assembly (hereafter "DC"):** An assembly composed of two independently acting, approved check valves, including tightly closing resilient seated shut-off valves at each end of the assembly that are fitted with properly located test cocks equipped with brass plugs.

B. When any of the following items or activities listed in this section are present or conducted on premises served by the Public Potable Water Supply System, a potential hazard to the Public

Potable Water Supply System shall be presumed and a backflow prevention assembly, of the type specified for that item or activity herein, must be placed at each service connection for that premises. The backflow prevention method shall be in accordance with that specified in Section 7 of the USC Manual and/or identified in the text of the subsection below. The location shall be as close as practicable to the point of service delivery except that the Customer may request that the Approved Backflow Prevention Assembly be located internally within the activity of facility. The Customer must demonstrate that the proposed location will adequately protect the Town's Public Potable Water Supply System as well as satisfy the applicable requirements of the Article. For purposes of this section, the listed facilities, equipment or conditions shall be as defined in Section 7 of the USC Manual, or if not listed in the USC Manual, shall be defined in the Town of Queen Creek Construction Code. An Approved Backflow Prevention Assembly is required for the activities and facilities listed below that are connected to the Town's Public Potable Water Supply System:

**Industrial facilities:**

1. Aircraft and missile plants (Air Gap or RP)
2. Beverage bottling plants (Air Gap, RP)
3. Bottling plant (RP)
4. Breweries (Air Gap or RP)
5. Canneries, packing houses, reduction plants and food processing plants (Air Gap or RP)
6. Chemical plant – manufacturing, processing, compounding or treatment (Air Gap or RP)
7. Dye works (RP)
8. Dairies and cold storage plants (Air Gap, RP or DC)
9. Film laboratories 9 (Air Gap or RP)
10. Laundry and dye works (Air Gap or RP)
11. Metal manufacturing, cleaning, processing and fabrication plants (Air Gap or RP)
12. Oil and gas production, storage or transmission properties (Air Gap or RP)
13. Paper and paper production plants (Air Gap or RP)
14. Power plants (Air Gap or RP)
15. Radioactive material or substance-plants or facilities handling (Air Gap or RP)
16. Rubber plants – natural or synthetic (Air Gap or RP)
17. Sand and gravel plants (Air Gap or RP)
18. Semiconductor manufacturing facilities (Air Gap or RP)
19. Manufacturing, processing and fabricating plants using toxic or non-toxic materials (RP)
20. Mortuaries (RPA)

21. Sewage and storm drain facilities, reclaimed water (Air Gap or RP) **Medical facilities:**
22. Research laboratories (Air Gap or RP)
23. Hospitals, medical buildings, sanitariums, morgues, mortuaries, autopsy facilities, nursing and convalescent homes and clinics (Air Gap or RP)
24. Veterinary hospital, animal research or animal grooming shops (Air Gap or RP)

**Commercial and educational facilities:**

25. Buildings: Any structure having a cross connection in violation of the Town of Queen Creek Plumbing Code or water – operated sewage pumping facilities, auxiliary water supplies or other like sources of contamination which would create a potential hazard to the Town's Public Potable Water Supply System (Air Gap, RP).
26. Carwash facilities (Air Gap or RP)
27. Motion picture studios (Air Gap or RP)
28. Storage buildings having booster pumps or above – ground storage tanks (Air Gap, RP)
29. Multiple services – interconnected (Air Gap, RP)
30. Mobile Home Park (RP). Exception: existing mobile home parks unless a specific hazard is identified
31. Recreational vehicle parks (RP)
32. Schools and colleges with laboratories (Air Gap or RP)
33. Retail shopping centers, strip malls; retail and industrial shell buildings (when one service supplies more than one tenant) (RP). Exception: existing retail shopping center and strip malls, retail and industrial shell buildings (when one service supplies more than one tenant) unless a specific hazard is identified
34. Any premises where a cross-connection is maintained (RP)
35. Automotive repair (RP)
36. Auxiliary water systems (interconnected) (RP)
37. Auxiliary water system not interconnected (DC)
38. Beauty shops
39. Buildings with sewage ejectors (RP)
40. Chemically treated potable or non-potable water systems
41. Any connection to a fire hydrant (except fire department equipment) (RP or Air Gap)

42. Irrigation system ((Premises having separate systems, such as parks, playgrounds, cemeteries, golf courses, schools, ranches, etc.) (RP)
43. Public swimming pools (PVB)
44. Sewage and storm-drainage facilities (RP) **Portable or temporary service or equipment:**
45. Construction sites or construction water services (Air Gap)
46. Mobile equipment utilizing public portable water (e.g., water trucks, street sweepers, hydro-vac, etc.) (Air gap)
47. Portable insecticides and herbicide spray tanks (Air Gap or RP) **Miscellaneous activities and equipment:**
48. Auxiliary water system (Air Gap or RP)
49. Chemically contaminated water systems (Air Gap or RP)
50. Fire System:
  - (a) Class 1 or 2 when a fire protection system is proposed, a double-check valve assembly, including two check valves, two OS&Y gate valves, and four test cocks shall be installed on the supply side of the sprinkler fire protection line. Occasionally, an FDC will also be required by the Queen Creek Fire Department. These backflow prevention devices must be UL listed and/or listed by Factory Mutual Research Corporation. A serviceable check valve is also required on the fire rise; this check valve must also be UL listed and/or listed by Factory Mutual Research Corporation. Check valve assemblies are required to be inspected, tested and maintained at least annually to verify the valves are properly functioning. An annual flow and valve confidence test is also required to be conducted by a qualified and certified person approved by the Town's Water Division. The flow test will be equal to the highest amount of gallons per minute that is required by the system. Test results shall be provided to the Town's Water Division and the Fire Marshal within 30 calendar days following the inspection. Any system that fails inspection must be reported to the Fire Marshal and the system needs repaired immediately.
  - (b) Class 3, 4, 5 or 6 (RP).
51. Industrial fluid systems. Any industrial fluid system interconnected with the public water supply and containing any fluid or solution which may be chemically, biologically or otherwise contaminated or polluted in a form or concentration that would constitute a health, system, pollution or plumbing hazard if introduced into an approved water supply (RP).
52. Irrigation systems:
  - (a) System using a chemical injection system (RP)
  - (b) System having elevated areas which are higher than six inches below the PVB or multiple services (RP)
  - (c) System not subjected to backpressure (PVB)
53. Restricted, classified or other closed facilities including civil works (Air Gap or RP)



54. Solar heating system—direct and auxiliary (RP). Exception: once-through solar heating systems

C. The Water Division shall determine on a case-by-case basis Backflow prevention requirements for any facilities, buildings, conditions or activities not listed in this section to prevent contamination or pollution of the Town's Public Potable Water Supply System.

D. All assemblies shall be above ground (design spec manual) accessible for testing and admittance. A pressure vacuum breaker assembly shall be installed properly above ground.

E. Unless a cross connection problem is specifically identified, or as otherwise provided in this ordinance, the requirements of this ordinance do not apply to single-family residences used solely for residential purposes.

F. Close as practicable is the point nearest to the service delivery where the assembly can be installed. The location shall be within 5 feet of service but, in no event, beyond the first tap.

G. An Air Gap separation shall be located as close as practicable to the Customer's point of service delivery. All piping between the Customer's connection and receiving tank shall be entirely visible unless otherwise approved by the Water Division.

When two or more of the items or activities listed above are present or conducted on the same premises and served by the same service connection, the most restrictive backflow preventer required for any of the items or activities present or conducted on the premises shall be required to be utilized or installed at the service connection.

#### **Section 16-6-9            Inspections**

A. An inspection shall be conducted to determine whether any Cross-Connections or other hazard potentials exist and to determine compliance with this Article. The Customer's water system shall be available at all times during normal business hours for inspection by authorized personnel of the Water Division.

B. Backflow prevention assemblies shall be tested at least once a year. A notice shall be issued by the Water Division to the Customer when a backflow prevention assembly is due for testing. If the testing reveals the assembly to be defective or in unsatisfactory operating condition, repairs shall be performed, including replacement of the assembly if necessary, which shall return the assembly to satisfactory operating condition within 30 calendar days after the date of the notice issued by the Water Division. The testing and maintenance of each assembly shall be performed at the sole expense of the Customer.

C. If the Water Division or Customer learns or discovers, during the period between tests, that an assembly is defective or in unsatisfactory operating condition, the Customer shall perform any necessary repairs, including replacement of the assembly, if necessary, which shall return the assembly to satisfactory operating condition.

D. The testing of backflow prevention assemblies shall be performed by an individual certified and approved by an agency recognized by the Water Division. A tester may be suspended from testing in Queen Creek for improper testing, maintenance, reporting or other improper practices as determined by the Water Division.

E. The Customer shall maintain records, on forms provided by the Water Division, of the results of all tests and all servicing, repairs, overhauls or replacements of the backflow prevention

assembly. A copy of the records shall be promptly submitted within 7 calendar days to the Water Division after completion of the activity for which the record is made.

F. The Water Division shall have the right to enter the premises of any Customer to determine whether the Customer is complying with all requirements of this article. Customers shall allow the Water Division personnel ready access to all parts of the premises for the purposes of inspection, testing, records examination and copying, and the performance of any additional duties. Refusing to allow access or entry for Water Division personnel and unreasonable delays in allowing the Water Division personnel access, to the Customer's premises shall be a violation of this article.

**Section 16-6-10 Notification of violation**

When the Water Division finds that a Customer has violated, or continues to violate, any provision of this article, the Water Division may serve (by certified mail) upon that Customer a written Notice of Violation. Within 15 calendar days of the mailing of this notice, an explanation of the violation and a plan for the satisfactory correction and prevention thereof, to include specific required actions, shall be submitted by the Customer to the Water Division. Submission of this plan in no way relieves the Customer of liability for any violations occurring before or after mailing of the Notice of Violation. Nothing in this section shall limit the authority of the Water Division to take any action, including emergency actions or any other enforcement action, without first issuing a Notice of Violation.

**Section 16-6-11 Water supply severance; notice**

A. Whenever a Customer has violated or continues to violate any provision of this Article 166, water service to the Customer may be severed.

B. The Water Division may discontinue water service to any Customer who refuses, or unreasonably delays, entry or access to Town inspectors for inspection pursuant to section 16-69, or to any Customer who fails to timely submit records of tests and repairs of a Backflow prevention assembly.

C. If the Water Division discovers that a Customer has not installed a required Backflow prevention assembly or that a Backflow prevention assembly has been improperly tested or maintained, bypassed or removed, or that an unprotected Cross-Connection exists in the Customer's water system, the service connection shall be discontinued if the situation is not remedied within the time specified in the notice sent to the Customer as described in subsection (E) below.

D. Service connection to a fire sprinkler system shall not be subject to disconnection under this section, but may be subject to penalties pursuant to this Article.

E. Prior to disconnecting any service connection because a condition set forth in subsection (A), (B), or (C) above exists, the Water Division shall send a notice of service termination, by certified mail, to the Customer describing the condition and notifying the Customer that the condition must be remedied within 30 calendar days after mailing of the notice by the Water Division. If such condition is not remedied within the 30-day period, the Water Division shall send a second notice of service termination, by certified mail, to the Customer notifying the Customer that the water service will be disconnected in 10 calendar days if the condition is not remedied within such time period. The service connection shall not be restored until the condition is remediated to the satisfaction of the Director.

F. Notwithstanding the above subsection (E), the Water Division may disconnect, without prior notice, water service to any Customer when the Water Division discovers that the Customer's water

system is contaminating the Public Potable Water Supply, or the Customer's water system may cause a health hazard to the public water supply. Water service may be restored when the condition forming the basis for the termination has been remedied to the satisfaction of the Director. All costs, fees, and expenses incurred, and all surcharges and penalties relating to the termination and restoration of water service shall be paid prior to the water service being restored. **Section 16-6-12 Plan review**

A. All backflow prevention assemblies which will be installed shall be shown and specified on all required building and engineering plans. Town approval of the intended installation is required prior to issuance of any building permits.

B. Installation permits for the installation of all backflow prevention assemblies required by the Town shall be obtained from the Town prior to installation. A separate permit shall be obtained for each required backflow prevention assembly to be installed, including replacement.

C. Backflow prevention assemblies must be installed as to meet the current set of standard details and specifications of the Water Division and be tested by a certified tester and shown to be operating correctly before a temporary, or permanent, certificate of occupancy is issued by the Town.

D. The Water Division may, in writing, suspend or revoke a permit issued under the provisions of this article, whenever the permit is issued in error, or on the basis of incorrect information supplied, or in violation of any ordinance or regulation of any provision of the Uniform Plumbing Code or this article.

#### **Section 16-6-13 Retroactive application**

A. The provisions of this Article shall apply to all new Customers and all Customers existing prior to the enactment date of the ordinance from which this article derives.

B. Customers' Backflow prevention assemblies installed prior to the enactment of the ordinance from which this article derives, and which do not comply with the requirements set forth in this article, shall be replaced with assemblies which comply with the standards set forth herein.

C. All water Customers existing prior to the enactment date of the ordinance from which this article derives shall comply with the standards set forth herein within a period of time as determined by the Water Division. The maximum time allowed for compliance shall be ten (10) days from the date of mailing of notification.

D. A change of ownership, name or type of use will require a new survey of water use. If the survey determines an assembly is required, installation needs to be completed before granting the change.

#### **Section 16-6-14 Program fees**

The Town may adopt reasonable fees for reimbursement of costs of setting up and operating the Town's Cross-Connection Control Program which may include:

A. Fees for permit applications;

B. Fees to recover legal costs resulting from enforcement to any Customer noncompliance including, but not limited to, administrative expenses, investigation, testing, legal proceedings and filings, and continued monitoring; and

- C. Other fees as the Town 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 Town. **Section 16-6-15 Appeals**

An action or decision of the Director under this Article shall be final, provided that the Customer shall have the right to appeal to the Civil Hearing Officer under the provisions of Article 5-6 and Article 5-7 of Chapter 5 Municipal Court of the Town Code; provided such appeal is in writing and received by the Civil Hearing Officer within 15 calendar days after appellant is notified of such decision.

#### **Section 16-6-16 Civil fines and other remedies**

A. Whenever a Customer has violated or continues to violate any provision of this Article, the Director may elect to commence an enforcement action as a civil code infraction as provided in Chapter 5 of the Town code, and to impose a civil penalty not to exceed \$2,500 for each day a violation exists beyond the initial notice constituting a separate offense in the discretion of the Town Civil Hearing Officer.

B. If a situation, which would otherwise result in discontinuation of water service, is not remedied within the time provided in the notice of service termination sent to the Customer, the Director of Utility Services, at his discretion, may install a backflow prevention assembly at the Customer's point of service delivery and bill the Customer for all costs, together with all applicable penalties.

C. The Director, at his discretion, may publish in the largest daily newspaper published in the Town, notice of customers who at least once during the preceding twelve-month period were in violation with any requirement of this article. The publication shall also summarize any enforcement action taken.

#### **Section 16-6-17 Violations deemed a public nuisance**

In addition to the enforcement process and penalties provided herein, any condition caused, or permitted to exist in violation of any provision of this article is a threat to public health, safety and welfare, and is declared and deemed a public nuisance under Town Code Section 10-3-2 and shall be corrected or abated as required by the Director. Any Person(s) creating a public nuisance shall be subject to the provisions of Town Code Chapter 10 Health and Sanitation governing such nuisances, including reimbursing the Town for any costs incurred in removing, abating, or remedying said nuisance. The remedy provided herein shall be in addition to any other remedy authorized by this article.

#### **Section 16-6-18 Town not liable for damages**

The Town shall not be held liable for any damages that may result from the shutting off or turning on of any potable or non-potable water supply piping or main for any purpose whatsoever, even should no notice have been given, nor for damages caused by any break or leak in any pipe or assembly.

**ARTICLE 16-7 CONSTRUCTION AND FINANCING OF UTILITIES FACILITIES**

Section 16-7-1	Policy
Section 16-7-2	Applicability
Section 16-7-3	Definitions
Section 16-7-4	Plans, specifications
Section 16-7-5	Extension reimbursement agreements authorized
Section 16-7-6	Agreement between town and developer-owner
Section 16-7-7	Agreement in writing; authority to execute
Section 16-7-8	Financing-Generally
Section 16-7-9	Reimbursement extension cost
Section 16-7-10	Bidding for installation of extension lines; approval of costs
Section 16-7-11	Allocation of reimbursable cost-water extension
Section 16-7-12	Allocation of reimbursable cost-sewer extension
Section 16-7-13	Collection of allocated reimbursement costs; payment
Section 16-7-14	Service from other source; unassessed parcels; limitation
Section 16-7-15	Dedication of extension line
Section 16-7-16	Expiration of agreement
Section 16-7-17	Administration fee
Section 16-7-18	Projected allocation
Section 16-7-19	Assignability of agreement

**Section 16-7-1 Policy**

There is hereby established as set forth in this article a policy and orderly program for extension of the services and facilities of the town water and sewer system to serve and provide for newly developed areas and subdivisions within the town and those areas and subdivisions outside of the town for which town water or sewer service is desired and available.

It is in the public's interest to maximize the use of its public rights-of-way. To this end the town has adopted master water and sewer plans that plan the size of lines and mains to service large areas. This eliminates the needs and extra expense of installing and maintaining several smaller lines and

mains within the same public right-of-way. The existing system and currently planned future system covered by the development fees does not include systems for all sections of the Town's adopted service areas.

The development community is required to construct water and sewer lines and mains, and other facilities, in accordance with the Town's subdivision ordinance and approved master plans. It is the intent of this article to establish a method of reimbursement to the initial developer for the additional cost of providing a water or sewer system in excess of that needed to serve their development.

#### **Section 16-7-2            Applicability**

The elements of the extension policy and program stated in this article shall apply to extension of the town water and sewer systems. **Section 16-7-3            Definitions**

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

*Cost* means the actual construction cost pursuant to a written construction contract for an extension which is acceptable and approved by the Utility Services Director, or designee.

*Developer-owner* means any person who is responsible for the development of land (the "project") creating a demand on the town's water and sewer system and engaged in the development of one or more parcels of land and contracting for a town water or sewer system extension.

*Extension* means a water or sewer line subject to repayment of certain costs and defined as any one or more of the following: (i) mains extended beyond the limits of the project, constructed through the project, or constructed along the frontage or boundary of the project; (ii) mains which serve other property owners other than the developer-owner who is developing the project; or (iii) mains which are constructed to contain additional capacity to provide adequate flow above and beyond that required by the project based on the volume of flow and type of waste generated by the project

*Participating charge* means the proportionate share of the cost (construction contract price) based on benefits derived in accordance with standards determined by the Utility Services Director and approved by the town for any existing main.

*Subsequent user* means any person who connects to, and is serviced by, an existing extension water or sewer line.

#### **Section 16-7-4            Plans, specifications**

Upon development of any property, area or subdivision within the town or of any property area or subdivision outside of the town that resides within the approved designated water and/ or sewer service areas for which town water or sewer service is desired and available, all plans and specifications for water and sewer systems shall be prepared by a professional engineer, registered in the state, and in accordance with the town's standards and specifications.

If it becomes necessary to extend the town's water or sewer system, the cost of the extension will be the responsibility of the developer-owner. The plans and specifications for the extension must be approved by the Utility Services Department Director of the town.

#### **Section 16-7-5            Extension reimbursement agreements authorized**

The town may enter into an extension reimbursement agreement with a developer-owner who proposes to install an extension to service his development. Such an agreement shall provide for the collection, by the town, of a pro rata share of the costs for the extension from subsequent users

of the extension and reimbursement to the developer-owner. The agreement shall comply with the provisions of this article.

An extension reimbursement agreement may only be entered into for those development projects which, in addition to complying with the provisions of this article, comply with the town's planning objectives.

#### **Section 16-7-6 Agreement between town and developer-owner**

Before the extension of any water or sewer main shall be made to serve a subdivision, platted or unplatted property, or any existing main tapped to provide service for any individual or unplatted property, the developer-owner desiring such service shall execute an agreement with the town which shall include the following:

- (1) A warranty of workmanship and material for mains and facilities installed which shall run to the benefit of the town for a period of at least one year from the date of acceptance by the town;
- (2) A diagram of all properties which are expected to be serviced by the proposed extension. The diagram shall be provided on approved standard quarter-section maps of the Town of Queen Creek or any other standardized atlas system designated by the town;
- (3) A statement that the town acquires ownership of any main and appurtenances upon completion and acceptance of the work by the town;
- (4) A statement that the town's cost for inspecting such work shall be paid by the developer-owner;
- (5) A statement of the developer-owner's proportionate share of the cost for previously installed mains; and
- (6) A statement of the maximum possible reimbursement that may accrue to the developer-owner for the cost of mains to be installed by him but from which others may be served. If others are served, a participating charge will be made at the time of their development.

#### **Section 16-7-7 Agreement in writing; authority to execute**

An extension reimbursement agreement shall be in writing and on a form provided by the town. The provisions of the written agreement shall comply with this article and shall contain the entire understanding and agreement between the town and the developer-owner. The Town will not approve and/or execute an agreement after construction or acceptance by the town of the extension. Such agreements shall be recorded in the Maricopa and Pinal County Recorders' offices.

The town manager or his designee is authorized to execute the agreement on behalf of the town. The developer-owner to whom the reimbursement is to be made must be stated on the agreement at the time of execution and it will be the duty of developer-owner (the individual to whom reimbursement is to be made) to keep the Utility Services Department Director advised as to the correct mailing address, etc. for reimbursement.

The town retains and reserves the right (and ability) to enter into separate special agreements to cover unique situations where a standard repayment agreement is not applicable.

## **Section 16-7-8            Financing-Generally**

The following provisions related to financing the extension of water and sewer system mains may be applicable to mains to serve individuals, unplatted areas and subdivisions:

- (1) When an existing main will serve the water or sewer system being created for the subdivision or platted area, any participating charges must be deposited with the town prior to start of construction for the proposed development.
- (2) Where an existing main is to be tapped, a participating charge based upon that portion of the property to be developed shall be placed on deposit with the town prior to tapping the existing main.
- (3) No person shall be permitted to extend service from his tap to adjacent property owned by someone else or to property for which a participating charge has not been advanced and deposited with the town without written approval of the town.
- (4) The town will establish a separate account for each reimbursement agreement for the collection of participating charges and reimbursements to the party who financed the installation of the main. In no event will the sums reimbursed exceed the contract price for the installation of the extension.
- (5) Should the property or any portion thereof not be served by the main or mains installed under the agreement, the developer-owner will not be reimbursed for the proportionate share of the main cost otherwise due from the property.

## **Section 16-7-9            Reimbursement extension cost**

The extension costs for which a developer-owner may seek an extension reimbursement agreement are the actual construction costs (only those costs that do not exceed the contract price approved by the town), less any oversizing participation paid by the town and the 10 percent administrative fee provided for in section 16-7-17, associated with installation of the extension. In the event that the agreed-upon construction costs increase, the repayment agreement may be amended, in the sole discretion of the town, upon the approval of the additional construction costs by the town.

The engineering costs for the preparation of plans, specifications, and staking of the extension incurred by the developer-owner may be included in the agreed construction costs. The developer-owner is not entitled to reimbursement for the costs of installing water and sewer lines within the boundary of the project.

## **Section 16-7-10        Bidding for installation of extension lines; approval of costs**

The selection of a contractor for the installation of the extension shall be made by competitive bidding. The bids shall be opened at a location designated by the town on a pre-determined date agreeable to the developer-owner and the town. The developer-owner shall submit to the town a notarized copy of all bids received, a copy of the bid tabulation and any information concerning the projected successful bidder. When awarding the construction work, the developer-owner shall obtain separate bid prices from their contractor for each item of work identified as eligible for reimbursement. The Utility Services Department Director and Town Engineer, or designee, has the authority to adjust any process determined not reasonably justified. Both the town and the developer-owner shall have the right to reject any and all bids. The construction costs shall be determined prior to the commencement of construction and shall be approved by the town. No



contract shall be awarded for installation of an extension prior to town approval of the successful bidder.

After the contractor has been selected to perform the extension installation work, the developerowner shall submit the total proposed construction costs for the installation plus the projected engineering costs to the town.

The developer-owner's engineer shall prepare and submit to the Utility Services Department Director and Town Engineer, or designee, for review and approval all construction items to be included in the cost. No construction may commence prior to the town's approval of these costs. The final detailed plans and specifications for the extension must be approved by the Town Engineer prior to construction.

**Section 16-7-11 Allocation of reimbursable cost-water extension**

The reimbursable costs for an extension of water line shall be allocated, on a footage basis, to all property, including the developer-owner's; adjacent to, and which may be served by, the water line extension.

The developer-owner's property shall be allocated its proportionate share of the installation costs of the extension water line. The developer-owner shall not be entitled to reimbursement for this portion of the reimbursable extension costs.

The front footage for each parcel of property shall be established by the town. The Utility Services Department Director shall have sole and exclusive control of the connections to any proposed extension.

**Section 16-7-12 Allocation of reimbursable cost-sewer extension**

The reimbursable costs for an extension of sewer line shall be allocated, on an acreage service basis, to all property, including the developer-owner's, which may be served by the sewer line extension.

The developer-owner's property shall be allocated its proportionate share of the installation costs of the extension sewer line. The developer-owner shall not be entitled to reimbursement for this portion of the reimbursable extension costs.

The acreage service area for each parcel of property shall be established by the town. The maximum service area to be serviced by the proposed extension and its ultimate branches and laterals shall be determined by the Utility Services Department Director, or designee, based on sewer capacity requirements. The Utility Services Department Director shall have sole and exclusive control of the connections to any proposed extension.

**Section 16-7-13 Collection of allocated reimbursement costs; payment**

The allocated reimbursement extension costs shall be collected by the town at the time the subsequent user of the property to which extension costs have been allocated applies to the town for a permit to connect to the existing extension. The allocated reimbursement extension costs must be paid prior to issuance of a connection permit or actual connection to the extension.

All funds collected pursuant to the extension reimbursement agreement, less the town's administrative fee as provided in this article, shall be placed into a separate account for the collection and payment of allocated reimbursement extension costs.

Payment of collected reimbursement extension costs shall be made to the developer-owner on an annual basis each thirtieth day of June.

**Section 16-7-14 Service from other source; unassessed parcels; limitation**

If any parcel or property to which reimbursement extension costs have been allocated receives water or sewer service by means other than the extension water or sewer line covered by the agreement, the reimbursement extension costs allocated to that parcel will not be collected and the town shall not be responsible to the developer-owner for that amount.

If any parcel of property, which has not previously been allocated a pro rata share of the reimbursement extension costs, applies to the town for a permit to connect to the extension, the town shall assess a portion of the reimbursement extension cost, on a front footage or acreage service basis, to that parcel and collect the amount prior to issuance of the connection permit or actual connection to the extension.

In no event shall the developer-owner receive an amount which exceeds the total reimbursement extension costs less the developer-owner's allocated share of those costs. **Section 16-7-15**

**Dedication of extension line**

The extension reimbursement agreement shall provide that the extension water or sewer lines covered by the agreement shall become the property of the town upon completion of installation and acceptance by the town.

**Section 16-7-16 Expiration of agreement**

Agreements must be executed prior to construction of the extension. The term of the extension reimbursement agreement shall be set in the agreement. At the expiration of the term, the agreements shall automatically terminate and developer-owner shall have no right to reimbursement for any connection to the extension after the expiration date. Any balances remaining unpaid upon termination shall be canceled, and the town shall be fully discharged from any further obligation under the agreement. No interest shall accrue on any costs advanced by a developer-owner. There will be no reimbursements for participating charges collected prior to receipt of the developer-owner's written request to enter an agreement. **Section 16-7-17**

**Administration fee**

The town fee for administration of the agreement and collection of the allocated reimbursement costs shall be 10 percent of the allocated reimbursement costs. The town will deduct a 10 percent administrative fee from each payment received from subsequent users prior to disbursing any funds to the initial developer-owner. The initial developer-owner pays the administration fee. **Section 16-7-18 Projected allocation**

The extension reimbursement agreement shall include a diagram approved by the town designating the properties which are expected to be served by the extension water or sewer line, the per front footage (water) and per acreage service (sewer) factors to be used for allocation of the reimbursement costs and the front footage (water) and acreage (sewer) assigned to each parcel for purposes of allocating the reimbursement costs. **Section 16-7-19 Assignability of agreement**

The agreement shall set forth the name of the person to whom payment of the reimbursement amount shall be made. The developer-owner may assign to one party only, with the consent of the town, the right to receive payments under the extension reimbursement agreement if the assignee purchases or acquires the entire interest of the original property owner who entered into the repayment agreement and the assignment is in accordance with the specific terms of the extension

reimbursement agreement. No other assignment of any portion of the extension reimbursement agreement may be made by the developer-owner or his assignee. Such an assignment shall not relieve the developer-owner from his duties and obligations under the reimbursement agreement.

## **ARTICLE 16-8 OFF-SITE IMPROVEMENTS**

Section 16-8-1 Definitions

Section 16-8-2 Approval of plans prerequisite to issuance of building permit Section

16-8-3 Bond or deposit

Section 16-8-4 Temporary waivers

### **Section 16-8-1 Definitions**

For the purposes of this article, the following words and phrases shall have the meanings respectively ascribed to them in this section, unless the text clearly indicates otherwise:

*Off-site improvements* means those required improvements in the public right-of-way and shall include, but not be limited to, asphaltic concrete surfacing, aggregate base, curb and gutter, valley gutters, concrete sidewalks, water mains, fire hydrants, sanitary sewers, storm drains and irrigation facilities when required.

*Redeveloped* means major additions or major alterations to existing structures, and shall include new structures on parcels of land having existing structures situated thereon.

### **Section 16-8-2 Approval of plans prerequisite to issuance of building permit**

No building permit shall be issued by the town until plans are submitted indicating that off-site improvements are planned for the project in conformance with town standards and requirements. These off-site improvement plans shall be submitted with all other building plans and applications. Building plans shall be approved in writing by the development department. Off-site improvement plans shall be approved in writing by the Utility Services Department and Development Services Department.

### **Section 16-8-3 Bond or deposit**

The Development Services Department shall deny final approval and certificate of occupancy of any building until the required off-site improvements are completed and have been inspected and approved by the appropriate town department, unless performance of off-site improvements is guaranteed by a performance bond, approved by the town attorney and the Utility Services Department Director, or a cash deposit with the finance and technology department for a sum which shall be in an amount fixed by the town.

The performance bond or cash deposit shall be returned to the depositor upon the approval of the town subsequent to the completion of the off-site improvements. It is further provided that the performance bond or cash deposit, or a portion thereof, the amount of such portion to be determined by the town, may be retained by the town as compensation for performing the work required in the approved off-site improvement plans; provided, that the permittee shall have failed, or refused, to install the work within 30 days after receipt of a notice in writing by the town.

### **Section 16-8-4 Temporary waivers**

If any of the off-site improvements cause a hardship on the town, or it is not practical to construct the improvements because of the pending formation of an improvement district, the town may temporarily suspend the off-site improvements upon the property owners entering a contract with

the town to accept an improvement district assessment or to construct the off-site improvements within 30 days after receipt of a notice to proceed issued by the town.

**ARTICLE 16-9 WATER AND WASTEWATER CAPACITY CHARGES OFF-SITE IMPROVEMENTS**

- Section 16-9-1 Setting and Amending Capacity Charges
- Section 16-9-2 Water Capacity and Charges
- Section 16-9-3 Wastewater Capacity Charges

**Section 16-9-1 Setting and Amending Capacity Charges**

The Council may by ordinance or resolution set and amend any capacity charge for water and or wastewater, subject to all applicable notice and hearing requirements. Applicants should consult with the Utility Services Department for current charges.

**Section 16-9-2 Water Capacity Charge**

All Development Types (per meter)

<u>Meter (inches) and Type</u>	<u>Capacity Ratio</u>	<u>Proposed Water Capacity Charges</u>
0.75 displacement	1.00	\$ 4,014
1.00 displacement	1.70	\$ 6,806
1.50 displacement	3.30	\$ 13,189
2.00 displacement	5.30	\$ 21,166
3.00 displacement	10.70	\$ 42,707
3.00 displacement	12.00	\$ 47,892
4.00 displacement	17.00	\$ 67,837
4.00 displacement	20.50	\$ 81,798

**Section 16-9-3 Wastewater Capacity Charge**

All Development Types (per meter)

<u>Meter (inches) and Type</u>	<u>Capacity Ratio</u>	<u>Proposed Water Capacity Charges</u>
0.75 displacement	1.00	\$ 5,082
1.00 displacement	1.70	\$ 8,629
1.50 displacement	3.30	\$ 16,738
2.00 displacement	5.30	\$ 26,875
3.00 displacement	10.70	\$ 54,243
3.00 displacement	12.00	\$ 60,831
4.00 displacement	17.00	\$ 86,172
4.00 displacement	20.50	\$ 103,910

## **ARTICLE 16-10      SMALL WIRELESS FACILITIES<sup>1</sup>**

### **Section 16-10-1      Purpose**

The intent and purpose of this article is to facilitate the development and installation of small wireless facilities in the Town of Queen Creek to supplement existing wireless communications networks and to increase capacity in high demand areas, while simultaneously promoting and preserving the health, safety, and general welfare of the residents of the Town and protecting and preserving the aesthetic qualities of the natural and built environment of the Town. Through this article, the Town seeks to balance the need for increased wireless communications capacity with the need for reasonable standards to preserve the aesthetic values of the Town and to ensure safe placement of small wireless facilities.

### **Section 16-10-2      Definitions**

The definitions contained in A.R.S. § 9-591 are incorporated by this reference and shall apply to this article as if fully set forth here.

### **Section 16-10-3      Small Wireless Facilities in the Public Right of Way**

This section permits the installation of small wireless facilities in the right of way subject to the following requirements:

A. No monopoles, utility poles associated with small wireless facilities, or small wireless facilities shall be collocated, installed, modified, or replaced in the public right of way unless the following requirements are met:

- 1) An Application is submitted to and approved by the Town pursuant to Section 16-10-4;
- 2) All Town requirements as set forth in this article are met;
- 3) All other applicable codes and requirements are met;
- 4) A Wireless Facility License Agreement is signed; and
- 5) A Wireless Facility Site Permit issued.

B. The installation and maintenance of monopoles in the public right of way and small wireless facilities on utility poles in the public right of way shall be subject to and comply with reasonable requirements, including the Wireless Facilities Standard Terms and Conditions, the Town's Design Standards and Guidelines, and any site-specific requirements developed based upon consultation with the Town through the site review and permitting process.

C. The installation and maintenance of monopoles in the public right of way and small wireless facilities on utility poles or monopoles in the public right of way shall be subject to rates and fees pursuant to Section 16-10-5 of this article.

D. In addition to the above requirements, the installation, replacement, and/or modification of monopoles in the public right of way shall be subject to the requirements of Section 6.9 of the Town's Zoning Ordinance.

E. In addition to the above requirements, the installation, replacement, and/or modification of utility poles that exceed the greater of either 1) ten (10) feet above the tallest existing utility pole (excluding utility poles supporting only wireless facilities), that is located within five hundred (500)

feet of the proposed site for the new, replacement or modified pole if that existing pole was in place prior to August 9, 2017, but the new pole cannot be more than fifty (50) feet above ground level; or 2) Forty (40) feet above ground level, shall be subject to the requirements of Section 6.9 of the Town's Zoning Ordinance.

G. In addition to the above requirements, collocations of new small wireless facilities that exceed ten (10) feet above the utility pole or wireless support structure (defined as including a monopole if there was an existing one in the ROW) and exceed fifty (50) feet above ground level shall be subject to the requirements of Section 6.9 of the Town's Zoning Ordinance.

#### **Section 16-10-4 Application**

A. Prior to the collocation, installation, modification, or replacement of any monopole, utility pole associated with wireless facilities, or small wireless facility in the public right of way, the wireless provider must complete and submit an Application to the Town's Department of Development Services.

B. The Department of Development Services shall prescribe and provide a regular form of application for use by Applicants for permits required by this section. The Application shall include such information and details as the department deems necessary to establish the exact location, nature, dimensions, duration and purpose of the proposed small wireless facility. If requested, the Applicant shall include maps, sketches, diagrams, or similar exhibits. The Applicant shall include proof of liability insurance.

C. The Department of Development Services shall determine if the Application establishes that the utility poles associated with wireless facilities, monopoles, and/or small wireless facilities that are the subject of the Application comply with the following:

- 1) Town Design Standards and Guidelines
- 2) Town codes, ordinances, regulations, requirements, policies, and guidelines, regarding undergrounding
- 3) Town codes, ordinances, regulations, requirements, policies, and guidelines, regarding public safety
- 4) Town codes, ordinances, regulations, requirements, policies, and guidelines regarding spacing new utility poles
- 5) All other applicable Town codes, ordinances, regulations, requirements, policies, and guidelines to which law to subject small wireless facilities authorizes the town.

D. If it is determined that the Application does not establish compliance with requirements of this section, then the Application must be denied.

#### **Section 16-10-5 Rates and Fees**

A. The Town Council shall, by ordinance or resolution, set and amend any rate, rate component, charge, or fee authorized by state law for the use of the public right of way and Town utility poles in connection with small wireless facilities including:

- 1) Fees for conditional use permit applications
- 2) Fees for collocation applications;
- 3) Fees for the use of the right of way;
- 4) Rates for the use of the Town's utility poles;
- 5) Fees to recover legal costs resulting from enforcement to any noncompliance including, but not limited to, administrative expenses, investigation, testing, legal proceedings and filings, and continued monitoring; and



- 6) Other fees as the Town may determine necessary to carry out the requirements contained herein.
- B. All rates and fees set or amended pursuant to this article shall be reasonable and shall not exceed the amounts permitted by state law.
- C. The Town shall publish and make available its schedule of rates and fees.
- D. These fees relate solely to the matters covered by this article and are separate from all other fees, fines and penalties chargeable by the Town.

<sup>1</sup> Ordinance 655-18