CHAPTER 9. HEALTH AND SANITATION

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Article 9-01 GARBAGE AND TRASH COLLECTION

9-01-010 Definitions.
9-01-020 Collection Agency.
9-01-030 Rules.
9-01-040 Collection Days and Hours.

9-01-010 Definitions.

In this Chapter, unless the context otherwise requires:

A. "Garbage" means all putrescible wastes, except sewage and body wastes, including all organic wastes that have been prepared for, or intended to be used as food or have resulted from the preparation of food, including all such substances from all public and private establishments and residences.

B. "Refuse" means all garbage and trash.

C. "Trash" means all nonputrescible wastes.

(Ord. No. 8, Enacted, 06/28/79; Ord. No. 117, Rep&ReEn, 09/05/85; Ord. No. 178, Renumbered, 05/26/88, 5-01-010)

9-01-020 Collection Agency.

The Town, or other collectors authorized by the Town, shall collect all refuse within the Town. No person, except as provided in this Chapter, shall collect or gather refuse within the Town.

(Ord. No. 8, Enacted, 06/28/79; Ord. No. 117, Ren&Amd, 09/05/85, 5-02-010; Ord. No. 178, Renumbered, 05/26/88, 5-01-020)

9-01-030 Rules.

The Council shall, from time to time, fix the classifications for garbage and trash collection within the Town and shall make such other rules and regulations as may be necessary to properly administer and enforce this Chapter.

(Ord. No. 117, Enacted, 09/05/85; Ord. No. 178, Ren&Amd, 05/26/88, 5-01-030, 5-01-040)

9-01-040 Collection Days and Hours.

The days and hours of collection of residential refuse shall be established, and may be amended from time to time, by resolution of the Council.

(Ord. No. 583, Enacted, 03/11/04)

Article 9-02 PREPARATION OF REFUSE FOR COLLECTION

9-02-010 Preparation of Refuse.
9-02-020 Location for Pick Up.
9-02-030 Lids and Covers.
9-02-040 Use of Containers.

9-02-010 Preparation of Refuse.

All refuse shall be prepared for collection or disposed of as follows:

A. Garbage. The customer shall furnish containers for the accumulation, storage and collection of all garbage. Such containers shall be tightly sealed and be of rust-resistant metal or plastic and shall have handles on the outside. Plastic garbage bags are acceptable containers provided said bags are tightly sealed and undamaged at the time of collection. The maximum capacity of each container shall not exceed sixteen (16) gallons and loaded for collection shall not exceed fifty (50) pounds in weight. Such containers shall be maintained in good repair and in a sanitary condition.

B. Trash. Trash shall be placed in containers or tied in bundles by the customer and set out for collection. Containers may be garbage containers, described above, or boxes not exceeding three (3) square feet by four (4) feet deep. In any event, the weight of a loaded container or bundle shall not exceed fifty (50) pounds.

C. Brush. Brush shall be cut and tied into such a size that one (1) person can readily load the individual pieces into a truck or chipper, and shall be piled in neat order with all long branches parallel to one another and shall have all metal or foreign materials removed to facilitate chipping.

D. Appliances and Vehicles. The Town will collect discarded appliances from dwelling premises that two (2) persons can readily lift into a truck.

E. Building Materials. All owners, contractors and builders of structures shall, upon the completion of any structure, gather up and haul away, at their sole cost and expense, all refuse of every nature, description or kind, which has resulted from the building of such structure, including all lumber scraps, shingles, plaster, brick, stone, concrete and other building material, and shall place the lot and all nearby premises utilized in such construction in a sightly condition. Residential customers may dispose of small amounts of building materials from time to time, providing it is placed in a container as described above and contains no concrete, masonry or soil.

F. By-products. Any commercial or manufacturing establishment which by the nature of its operations creates an unusual amount of by-product refuse may be required by the Town to dispose of its own wastes as opposed to having the Town provide the service.

G. Dangerous Waste. See Article 9-05.

H. Soil and Concrete. Waste soil, concrete, masonry blocks, sod and rocks shall be disposed of by the owner, tenant or occupant of the premises.

(Ord. No. 8, Enacted, 06/28/79; Ord. No. 117, Ren&Amd, 09/05/85, 5-02-040,,5-02-060; Ord. No. 178, Ren&Amd, 05/26/88, 5-02-010)

9-02-020 Location for Pick Up.

A. All refuse prepared for collection shall be placed at the rear of the lot, at the edge of the alley and in an easily accessible manner, providing such alley exists and is used as a refuse collection route. Where alleys do not exist or are not open for refuse service, refuse shall be set at the back of the roadside ditch. All containers and piles of refuse shall be so located as to not block the alley, sidewalk or gutter, or otherwise be a hazard to pedestrian or vehicular traffic.

B. When necessary to set containers at the front curb, they may be set out after 6:00 p.m. of the day preceding regular collection, and shall be removed from the curb by 6:00 a.m. of the day after collection.

(Ord. No. 8, Enacted, 06/28/79; Ord. No. 117, Ren&Amd, 09/05/85, 5-02-010; Ord. No. 178, Renumbered, 05/26/88, 5-02-020)

9-02-030 Lids and Covers.

The lids or covers of all containers shall at all times be kept secure so that flies and other insects may not have access to the contents and shall only be removed while the containers and receptacles are being filled, emptied or cleaned.

(Ord. No. 117, Enacted, 09/05/85; Ord. No. 178, Renumbered, 05/26/88, 5-02-030)

9-02-040 Use of Containers.

It is unlawful for any person to deposit, or cause to be deposited, any refuse in any container that he does not own or is not entitled to use as a tenant.

(Ord. No. 8, Enacted, 06/28/79; Ord. No. 117, Ren&Amd, 09/05/85, 5-02-030; Ord. No. 178, Renumbered, 05/26/88, 5-02-040)

Article 9-03 OTHER METHODS OF GARBAGE AND TRASH REMOVAL

9-03-010 Hauling Refuse.
9-03-020 Vehicles and Receptacles to be Spillproof.
9-03-030 Hauling Trash, Litter.
9-03-040 Dumping Refuse.

9-03-010 Hauling Refuse.

It is unlawful for any person to haul or cause to be hauled any refuse on or along any public street, avenue or alley in the Town, in violation of any of the provisions of this Chapter.

(Ord. No. 8, Enacted, 06/28/79; Ord. No. 117, Rep&ReEn, 09/05/85; Ord. No. 178, Ren&Amd, 05/26/88, 5-03-010)

9-03-020 Vehicles and Receptacles to be Spillproof.

It is unlawful for any person to haul or cause to be hauled on or along any public street in the Town any garbage, unless such garbage is contained in strong watertight vehicles or vehicles with watertight receptacles, constructed to prevent any such garbage from falling, leaking or spilling and any odor from escaping.

(Ord. No. 8, Enacted, 06/28/79; Ord. No. 117, Repealed, 09/05/85; Ord. No. 178, Enacted, 05/26/88)

9-03-030 Hauling Trash, Litter.

It is unlawful for any person to haul trash along the streets of the Town unless such trash is securely covered to prevent the trash from being blown or spilled on the street or roadway. Should accidental spillage occur, it shall be the responsibility of the driver of the vehicle to remove such spilled trash from the roadway and to replace it in the vehicle.

(Ord. No. 8, Enacted, 06/28/79; Ord. No. 117, Rep&ReEn, 09/05/85; Ord. No. 158, Enacted, 08/27/87; Ord. No. 178, Ren&Amd, 05/26/88, 5-03-030, 9-09-090)

9-03-040 Dumping Refuse.

It is unlawful for any person to place or cause to be placed any refuse upon any public or private property within the Town, except as specifically permitted in this Chapter.

(Ord. No. 8, Enacted, 06/28/79; Ord. No. 117, Rep&ReEn, 09/05/85; Ord. No. 178, Renumbered, 05/26/88, 5-03-040)

Article 9-04 PROPERTY MAINTENANCE

9-04-005 Purpose and Scope.
9-04-010 Definitions.
9-04-020 Owner, Lessee or Occupant to Maintain Property.
9-04-030 Prohibition Against Placing Rubbish on Other Property.
9-04-035 Criminal and Civil Liability.
9-04-040 Notice to Comply.
9-04-050 Service of Notice.
9-04-060 Appeal.
9-04-070 Abatement by Town.
9-04-080 Assessment for Abatement.

9-04-005 Purpose and Scope.

The purpose of the Article is to promote the health, safety, economic, aesthetic, and general welfare of the citizens of Prescott Valley, and to protect neighborhoods against nuisances, blight and deterioration by establishing requirements for the maintenance of all land, whether improved or vacant.

(Ord. No. 559, Enacted, 07/10/03)

9-04-010 Definitions.

In this Article, unless the context requires otherwise:

A. "Debris" means rubbish created or deposited by collisions, explosions, wind and other weathering, and similar causes.

B. “Dilapidated Building” means any structure likely to burn or collapse whose condition endangers the life, health, safety or property of the public.

C. "Nuisance" means any condition or use of property–(including areas adjacent thereto) that by its nature is a hazard to public health and safety, damaging to the property of others, or causes or tends to cause substantial diminution in the value of other property in the neighborhood. This includes, but is not limited to, placing, keeping, depositing, or allowing to remain on, property or areas adjacent thereto any of the following:

1. Rubbish (including trash, garbage, related debris, and dilapidated buildings).

2. Appliances and vehicles, building material, soil & concrete, brush and other yard waste, sewage, any other dangerous byproduct or waste, and snow or ice.

Nothing herein shall classify as a nuisance the conducting (or the allowing to be conducted) on property one (1) yard sale subject to the requirements set forth in Town

Code Section 9-04-020(B)(5) during the period from January 1st to April 30th, another during the period from May 1st to August 31st, and another during the period from September 1st to December 31st, in a calendar year.

D. "Person" means any natural person, firm, partnership, association, corporation, company or organization of any kind, but not the Federal government, State, County, City or political subdivision of the State of Arizona.

E. "Premises" means any dwelling, house, building, or other structure, designed or used either wholly or in part for residential, commercial or industrial purposes, whether inhabited or temporarily or continuously uninhabited or vacant, and shall include any yard, grounds, walk, driveway, porch, steps or vestibules belonging or appurtenant to such dwelling, house, building or other structures.

F. "Public place" means any and all streets, sidewalks, boulevards, alleys or other public ways, and any and all public parks, squares, spaces, grounds and buildings.

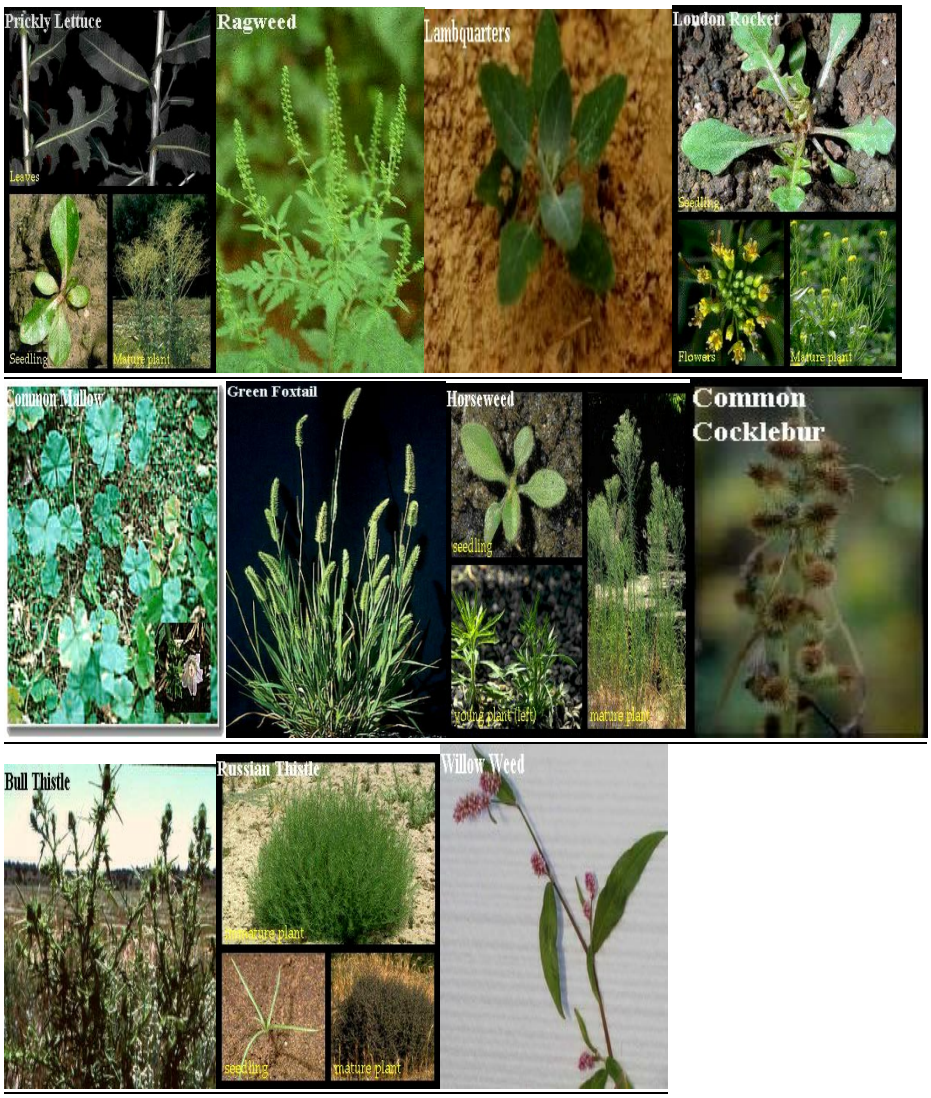
G. "Property" includes grounds, lots and tracts of land on which premises are located.

H. “Rubbish” is the same as “Refuse” and includes garbage, trash, weeds, yard waste, other accumulations of filth, related debris, and dilapidated buildings that constitute a hazard to public health and safety.

I. "Structures" includes buildings, improvements and other structures that are constructed or placed on property.

J. “Weeds” mean any vegetation that is (or is liable to be) detrimental, destructive or unsightly and difficult to control or eradicate. Without limiting the foregoing, the term “weeds” shall include (but not be limited to) bull thistle, cocklebur, foxtail, horseweed, lambsquarters, London rocket, mallow, milkweed, pigweed, mustards, prickly lettuce, ragweed, russian thistle, shephardspurse, sowthistle, willow weed, and those types of plant growth defined as noxious weeds in A.R.S. 3-201 (as amended) regardless of whether a particular property owner or occupant who is the subject of enforcement action under this Code regards the growth as desirable.





K. "Yard Waste" means brush, grass and vegetation clippings, weeds, twigs, leaves, limbs, branches and trunks from trees, and general yard, garden and tree waste materials.

(Ord. No. 117, Enacted, 09/05/85; Ord. No. 158, Enacted, 08/27/87; Ord. No. 178, Ren&Amd, 05/26/88, 5-04-010, 9-09-030; Ord. No. 396, Amended, 08/08/96; Ord. No. 559, Amended, 07/10/03; Ord. No. 785, Amended, 01/23/14; Ord. No. 810, Amended, 01/14/16: Ord. No. 839, Amended, 02/22/18)

9-04-020 Owner, Lessee or Occupant to Maintain Property.

A. The owner, lessee or occupant of any property shall at all times remove rubbish (including other accumulations of filth, related debris, and dilapidated buildings) that constitute a hazard to public health and safety from said property, maintain said property in a clean and safe condition, and otherwise avoid keeping or maintaining any nuisance thereon. These requirements also apply to appurtenant, adjacent or contiguous sidewalks, alleys and portions of streets that are not hard-surfaced for vehicular traffic.

B. Without limiting the generality of the foregoing, the owner, lessee or occupant of any property shall have the following specific obligations and responsibilities on the property and appurtenant, adjacent or contiguous sidewalks, alleys and portions of streets that are not hard-surfaced for vehicular traffic:

1. To control weeds and yard waste thereon and otherwise maintain said areas free of dry bushes, trees, tumbleweeds, weeds or other dry vegetation that create a visual blight upon the neighborhood, harbor insect or rodent infestations, become a fire hazard, or otherwise threaten the health, safety or economic welfare of adjacent property owners or occupants. In so doing, the owner, lessee or occupant shall not allow grass or weeds to exceed twelve (12) inches in height and shall otherwise maintain the property in a manner that prevents weeds or yard waste from being carried or deposited by the elements upon any public place.

2. To keep ditches or similar watercourses that are part of the storm drainage system clean and free of rubbish (expressly including vegetation, yard waste, and debris) that would obstruct the easy and natural flow of water therein.

3. To maintain all installed landscaping and irrigation systems in accordance with Site Development Standards set forth in Article 13-26 of this Code.

4. To keep the portion of any sidewalk immediately adjacent to the property clean and free of snow and ice (including any that accumulates from passing snow plows and other traffic).

5. To refrain from keeping or maintaining any other nuisance thereon in a manner that causes substantial diminution to the value of other property in the neighborhood. In this regard, accumulations of personal property on property as part of a yard sale are not a nuisance as defined herein if, and only if:

   a. The personal property consists of surplus household property (regardless of ownership).

   b. The personal property is publicly offered for sale.

   c. The personal property is neatly displayed for sale (either within or without any premises).

   d. The personal property is neatly secured within premises during those periods when it is not offered for sale.

   e. The personal property is offered for sale over a period not longer than three (3) consecutive calendar days.

   For the purposes of this yard sale exception, personal property is offered for sale through any method of informing or soliciting buyers of goods, including (but not limited to) use of signs, handbills, newspaper advertisements, and direct personal contacts. However, nothing in this Subsection shall permit placement

of rubbish or posting of signs on public property (including utility poles), or improper disposal of hazardous materials otherwise prohibited in this Code.

C. Beyond the access to property and removal of storm water provided by adjacent sidewalks, alleys, and portions of streets that are not hard-surfaced for vehicular traffic, nothing herein shall give the owner, lessee or occupant of any property abutting any such area any special or exclusive right of use of or control over such area. Moreover, nothing herein shall exclude the Town from conducting in its sole discretion activities to maintain, repair, replace, or build drainage structures in or hard-surface for vehicular travel any portion of said sidewalks, alleys, and portions of streets that are not yet hard-surfaced for vehicular traffic (expressly including removal of any lining placed in ditches by property owners, lessees or occupants to suppress vegetation). Nor shall anything herein impose on the Town any liability for such activities.

(Ord. No. 8, Enacted, 06/28/79; Ord. No. 117, Enacted, 09/05/85; Ord. No. 158, Enacted, 08/27/87; Ord. No. 178, Ren&Amd, 05/26/88, 11-01-090; 5-04-020&090; Ord. No. 9-09-040,100,110&130; Ord. No. 396, Amended, 08/08/96; Ord. No. 559, Amended, 07/10/03; Ord. No. 810, Rep&ReEn, 01/14/16)

9-04-030 Prohibition Against Placing Rubbish on Other Property.

No person shall (with or without permission) place rubbish (including trash, garbage or related debris), appliances and vehicles, building material, soil & concrete, brush and other yard waste, sewage, or any other dangerous byproduct or waste, snow or ice on property not owned, leased or otherwise controlled by that person (including, but not limited to, any public place). The sole exception to this prohibition is placement (with permission) of such rubbish and other materials on property that has been zoned and otherwise permitted for disposal and storage of such items. Owners, lessees or occupants of property shall use and maintain authorized private receptacles for collection in such a manner that rubbish (including related debris) shall not be carried or deposited by the elements upon any adjacent property (including, but not limited to, any public place).

(Ord. No. 117, Enacted, 09/05/85; Ord. No. 158, Enacted, 08/27/87; Ord. No. 178, Ren&Amd, 05/26/88, 5-04-030,9-09-120; Ord. No. 559, Amended, 07/10/03; Ord. No. 810, Rep&ReEn, 01/14/16)

9-04-035 Criminal and Civil Liability.

A. Violation of this Article shall constitute a class 1 misdemeanor or a civil offense as set forth in Article 1-08 of this Code.

B. Nothing herein shall preclude the exercise of discretion by authorized personnel at any stage of the enforcement process to address circumstances of indigency or physical or mental incapacity through (as examples and not by way of limitation) coordination with service groups, diversion programs, and community service programs.

(Ord. No. 810, Enacted, 01/14/16)

9-04-040 Notice to Comply.

Notwithstanding any criminal or civil action that may be brought under Section 9-04-035 above against any owner, lessee or occupant of property who fails, neglects or refuses to comply with the requirements of Sections 9-04-020 and 9-04-030 above, the Neighborhood Services Director, or designee, may give written notice to the owner and to the lessee or occupant, if any, to comply with the applicable provisions thereof prior to the date for compliance on the notice. Such notice shall be given not less than thirty (30) days before the date set thereon for compliance and shall include the legal description of the property, an estimate of the cost of abatement by the Town, and a statement that unless the responsible person complies therewith by the date shown in the notice, the Town will, at the expense of such person, abate said violation. In such case, said notice shall include an explanation of the right to appeal said determination to the Town Council in accordance with Section 9-04-060 hereinafter.

(Ord. No. 117, Enacted, 09/05/85; Ord. No. 178, Ren&Amd, 05/26/88, 5-04-040; Ord. No. 283, Amended, 09/24/92; Ord. No. 396, Amended, 08/08/96; Ord. No. 559, Amended, 07/10/03; Ord. No. 810, Amended, 01/14/16; Ord. No. 894, Amended, 01/13/22; Ord. No. 2024-945, Amended, 10/24/24)

9-04-050 Service of Notice.

A. The Neighborhood Services Director, or designee, shall serve the notice to remove to the owner, the owner's authorized agent or the owner's statutory agent and to the occupant or lessee. The notice shall be served either by personal service or by certified mail. If notice is served by certified mail, it shall be mailed to the last known address of the owner, the owner's authorized agent or the owner's statutory agent and to the address to which the tax bill for the property was last mailed. For purposes of this Article, the notice shall be considered given either upon delivery of the notice by personal service, or upon mailing.

B. Town staff may cause said notice to be recorded in the County Recorder's Office. If the notice has been recorded and there is subsequent compliance, Town staff shall record a release of the notice in the same Office.

(Ord. No. 117, Enacted, 09/05/85; Ord. No. 178, Ren&Amd, 05/26/88, 5-04-050; Ord. No. 283, Amended, 09/24/92; Ord. No. 396, Amended, 08/08/96; Ord. No. 559, Amended, 07/10/03; Ord. No. 894, Amended, 01/13/22; Ord. No. 2024-945, Amended, 10/24/24)

9-04-060 Appeal.

A. Prior to the date set for compliance on the notice, the owner, occupant or lessee may file a written request for appeal to an independent Hearing Officer designated by the Town from the demand of the Neighborhood Services Director or designee. The Hearing Officer shall hear and determine the appeal within 20 days of receipt of the application to appeal. The decision of the Hearing Officer shall be final and may affirm, reverse or modify the requirements of the notice.

B. The Council may, at its option, appoint a Board of Citizens to hear such appeals. Said Board shall establish its procedures for hearing such appeals, subject to Council approval.

C. Notwithstanding Town Code Subsections 9-04-060(A) and 9-04-060(B), appeal to the

Town Council (or to a Board of Citizens appointed for the purpose of hearing such appeals) is not available where the challenged removal or abatement is ordered by a court of competent jurisdiction.

(Ord. No. 117, Enacted, 09/05/85; Ord. No. 178, Renumbered, 05/26/88, 5-04-060; Ord. No. 283, Amended, 09/24/92; Ord. No. 396, Amended, 08/08/96; Ord. No. 894, Amended, 01/13/22; Ord. No. 2024-945, Amended, 10/24/24)

9-04-070 Abatement by Town.

If any person having an interest in property, including an owner, lienholder, lessee or occupant, after notice as required by Section 9-04-040 of this Article, does not comply with the requirements of this Article as set forth in said notice, the Town may remove, abate, enjoin or cause the removal of the violation set forth therein.

(Ord. No. 117, Enacted, 09/05/85; Ord. No. 158, Enacted, 08/27/87; Ord. No. 178, Ren&Amd, 05/26/88, 5-04-070, 9-09-140; Ord. No. 396, Amended, 08/08/96; Ord. No. 559, Amended, 07/10/03; Ord. No. 810, Amended, 01/14/16)

9-04-080 Assessment for Abatement.

A. Upon completion of the work, the Town Manager shall prepare a verified statement of account of the actual cost of the removal, abatement, or injunction (including the legal costs associated therewith and the actual cost of additional inspections and incidental connected costs), the name and address of the Town as the party imposing the assessment, the date the work was completed, and the street address and the legal description of the property on which said work was done, and shall serve a duplicate copy of such verified statement upon the owner and upon the lessee or occupant in the manner prescribed in Section 9-04-050.

B. The owner and the lessee or occupant shall have thirty (30) days from the date the verified statement is served or mailed to pay the assessment or to appeal in writing to the Town Council about the amount of the assessment. If an appeal is not filed with the Town Council within such thirty (30) day period, then the amount of the assessment as determined by the Manager shall become final. If an appeal is taken, the Town Council shall, at its next regular meeting, hear and determine the appeal and may affirm the amount of the assessment, modify the amount thereof or determine that no assessment at all shall be made. Upon affirmation or modification of the amount by the Council, the owner and the lessee or occupant shall have five (5) days to pay the assessment to the Town.

C. If no appeal is taken from the amount of the assessment or if an appeal is taken and the Council has affirmed or modified the amount of the assessment, and the assessment is not paid within the time specified:

1. Owner-occupied property or residential property of more than four (4) units - the original assessment or the assessment as so modified shall be recorded in the office of the County Recorder. Any assessment recorded after July 15, 1996, is prior and superior to all other liens, obligations, mortgages, or other

encumbrances, except liens for general taxes.

2. Tenant-occupied Property - for residential properties of 4 or fewer units, if a property is serving as a rental and is occupied by a tenant during the time of the abatement, the Neighborhood Services Director, or designee, will petition a court of competent jurisdiction for an order of judgment against the tenant in the amount of the assessment.

D. A sale of the property to satisfy an assessment obtained under the provisions of this Section shall be made upon judgment of foreclosure or order of sale. The Town shall have the right to bring an action to enforce the assessment in the Superior Court at any time after the recording of the assessment, but failure to enforce the assessment by such action shall not affect its validity. The recorded assessment shall be prima facie evidence of the truth of all matters recited therein and of the regularity of all proceedings prior to the recording thereof.

E. Assessments that are imposed under this Section 9-04-080 run against the property until paid and are due and payable in equal annual installments as follows:

1. Assessments of less than five hundred dollars ($500.00) shall be paid within one (1) year after the assessment is recorded.

2. Assessments of five hundred dollars ($500.00) or more but less than one thousand dollars ($1,000.00) shall be paid within two (2) years after the assessment is recorded.

3. Assessments of one thousand dollars ($1,000.00) or more but less than five thousand dollars ($5,000.00) shall be paid within three (3) years after the assessment is recorded.

4. Assessments of five thousand dollars ($5,000.00) or more but less than ten thousand dollars ($10,000.00) shall be paid within six (6) years after the assessment is recorded.

5. Assessments of ten thousand dollars ($10,000.00) or more shall be paid within ten (10) years after the assessment is recorded.

F. An assessment that is past due accrues interest at the rate prescribed by ARS §44-1201.

G. A prior assessment for the purposes provided in this Section shall not be a bar to subsequent assessment or assessments for these purposes, and any number of assessments on the same tract of land may be enforced in the same action.

(Ord. No. 117, Enacted, 09/05/85; Ord. No. 178, Ren&Amd, 05/26/88, 5-04-080; Ord. No. 283, Amended, 09/24/92; Ord. No. 396, Amended, 08/08/96; Ord. No. 810, Amended, 01/14/16; Ord. No. 894, Amended, 01/13/22; Ord. No. 2024-945, Amended, 10/24/24)

Article 9-04a JUNKED MOTOR VEHICLES

9-04a-010 Purpose.
9-04a-020 Definitions.
9-04a-030 Storage Declared Nuisance.
9-04a-040 Prohibited Storage.
9-04a-050 Permitted Storage.
9-04a-060 Right of Entry.
9-04a-070 Notice to Abate.
9-04a-080 Service of Notice.
9-04a-090 Duty of Owner after Notice.
9-04a-100 Review.
9-04a-110 Abatement; Criminal and Civil Enforcement.
9-04a-120 Assessment of Costs.
9-04a-130 Prosecution.
9-04a-140 Criminal Penalty.
9-04a-150 Non-exclusive Remedies.

9-04a-010 Purpose.

The purpose of this Article is to protect the health, safety and welfare of the citizens and promote the safety and value of property within the Town by providing for the removal and elimination of nuisance junked motor vehicles.

(Ord. No. 559, Enacted, 07/10/03)

9-04a-020 Definitions.

In this Article, unless the context otherwise requires:

A. "Junked Motor Vehicle" means any motor vehicle which is, at a minimum, of a type subject to registration under Title 28 of the Arizona Revised Statutes but does not have lawfully affixed thereto unexpired number or license plates assigned to the vehicle by any state and, in addition, which exhibits one (1) or more of the following conditions:

1. Wrecked, partially or fully dismantled, abandoned, stripped, substantially damaged, inoperative, inoperable, unused, scrapped, having the status of a hulk or shell, discarded or unable to be safely operated.

2. Has been placed on private property without the consent of the owner or person in control of the property for more than twenty-four (24) hours.

3. Lacks an engine or two (2) or more wheels or other structural parts which renders the vehicle totally inoperable.

4. Has a broken or cracked windshield, window, headlight or taillight, or any other cracked or broken glass.

5. Has a broken or loose fender, door, bumper, hood, door handle, window handle, running board, steering wheel, trunk top, trunk handle, tail pipe or other structural or decorative piece.

6. Has become the habitat of rats, mice, snakes or any other vermin or insects, or is used for the storage of garbage or litter.

7. Which contains gasoline or any other flammable fuel.

8. Which, because of its defective or obsolete condition, in any other way constitutes a threat to the public health and safety.

B. "Motor Vehicle" means any self-propelled land vehicle which can be used for transporting persons or property.

C. "Person" means any natural person, firm, partnership, association, corporation, company or organization of any kind, but not the Federal government, State, County, City or political subdivision of the State.

D. "Private Property" means any real property not owned by the Federal government, State, County, City or political subdivision of the state.

E. "Store" means parking, storing, leaving, locating, keeping, maintaining, depositing, remaining or physical presence.

F. "Structure," for purposes of this Article, means:

1. Any enclosed garage or other permanent building lawfully constructed of opaque materials without openings, holes or gaps other than doors and windows; and

2. Any carport, if an opaque car cover completely covers the body of the vehicle within the carport.

(Ord. No. 559, Enacted, 07/10/03)

9-04a-030 Storage Declared Nuisance.

To store or to permit the storage of any junked motor vehicle on any private property within the Town in violation of this Article is hereby declared dangerous to the public safety and a public nuisance. It is further declared that such storage interferes with the enjoyment of property; reduces the value of private property; invites plundering; creates fire hazards; extends and aggravates urban blight and deterioration; represents a hazard to the health and safety of minors; attracts rodents and insects; and poses a serious danger to the public health, safety, comfort, convenience, welfare and happiness. Any junked motor vehicle located upon private property in violation hereof, wherein the owner of the vehicle is also the owner or person in control of the property upon which it is located, shall be considered a prima facie case of such a nuisance.

(Ord. No. 559, Enacted, 07/10/03)

9-04a-040 Prohibited Storage.

It is unlawful:

A. For any person owning or having custody of any junked motor vehicle to store such vehicle or to permit such vehicle to remain on private property within the Town, except as permitted by Section 9-04a-050 of this Article.

B. For any person owning or occupying any private property within the Town to store any junked motor vehicle or to permit such vehicle to remain on the owned or occupied property, except as permitted by Section 9-04a-050 of this Article.

(Ord. No. 559, Enacted, 07/10/03)

9-04a-050 Permitted Storage.

This Article shall not apply to any junked motor vehicle stored on private property within the Town, if the vehicle is:

A. So stored as part of a lawful and properly licensed business enterprise, operated in a proper zoning district and in compliance with the applicable zoning standards, either as a primary or an accessory use; or

B. So stored for future restoration, completely within a "structure" as defined in this Article.

(Ord. No. 559, Enacted, 07/10/03)

9-04a-060 Right of Entry.

The Chief of Police or any police officer, a Town authorized certified stormwater inspector, or employees of the Development Services Department and Neighborhood Services Department of the Town are hereby authorized access to any property upon which a junk vehicle is located for the purpose of carrying out any and all actions required by this Article.

(Ord. No. 559, Enacted, 07/10/03; Ord. No. 2024-945, Amended, 10/24/24)

9-04a-070 Notice to Abate.

Upon discovery of any junked motor vehicle located on private property in violation of this Article, the authorized Town official shall write to the owner or occupant of the property upon which the vehicle is located, and the owner of the vehicle if known, that:

A. The junked motor vehicle constitutes a public nuisance under the provisions of this

Article; and

B. The public nuisance must be abated in accordance with the provisions of Section 9-04a-090 herein within ten (10) calendar days;

C. The recipient may appeal the notice by delivering the same in writing to the Town Manager and request a public hearing thereon before the Board of Adjustment within the ten (10) calendar days provided for abatement.

(Ord. No. 559, Enacted, 07/10/03)

9-04a-080 Service of Notice.

Any such notice shall be deemed to be properly served when a copy thereof is delivered to the owner pursuant to Rules 4, 4.1, and 4.2 of the Arizona Rules of Civil Procedure, by certified mail with return-receipt requested to the owner's last known address, or, if the certified letter is returned with the receipt showing that it has not been delivered, by posting a copy thereof upon the junked motor vehicle. If the registered owner of a vehicle cannot be determined in that there is not a license plate, registration or vehicle identification number or other method to determine ownership of the vehicle, service of notice to the vehicle owner is considered waived, and the Town may immediately proceed without notice to the vehicle owner.

(Ord. No. 559, Enacted, 07/10/03)

9-04a-090 Duty of Owner after Notice.

The owner of a junked motor vehicle or the owner or occupant of the property upon which it is located shall (unless said owner or occupant appeals the notice pursuant to Section 9-04a-100 herein), within ten (10) days after receipt of written notice as provided in Sections 9-04a-070 and 9-04a-080 herein:

A. Lawfully register the vehicle and affix thereto unexpired number or license plates assigned to the vehicle by any state and repair any and all conditions set forth in Subsection 9-04a-020(A) which cause such vehicle to be a public nuisance;

B. Remove the vehicle or cause to have the vehicle removed to an authorized salvage yard or to any other location, provided the same complies with all applicable provisions of the Town Code; or

C. Lawfully store the vehicle pursuant to Section 9-04a-050 herein.

(Ord. No. 559, Enacted, 07/10/03)

9-04a-100 Review.

A. Request for Public Hearing.

1. Upon receipt of a notice of public nuisance from the authorized Town official,

the owner of the vehicle or the owner or the lawful controller of the real property upon which the vehicle is located may file a written request with the Town Manager for a public hearing before the Board of Adjustment. Said request must be filed with the Manager within ten (10) calendar days after the mailing or service of the notice of public nuisance. The Board shall hold such a hearing within a reasonable period thereafter and shall there determine whether a nuisance exists and the appropriate manner of eliminating any nuisance. No abatement or other enforcement action shall be taken during the pendency of the appeal unless the nuisance constitutes a significant hazard to life or property.

2. Notice of the hearing shall be mailed via certified mail in accordance with Section 13-29-060 of this Code to the owner of the vehicle and/or the owner or lawful controller of the real property on which the vehicle is located, unless the vehicle is in such condition that identification numbers are not available to determine ownership (in which case notice to the vehicle owner is considered waived).

3. If such a request for a public hearing is not received within the ten (10) days after serving the notice of public nuisance, the Town shall have authority to abate the nuisance by removing the vehicle(s) giving rise to the public nuisance without such a hearing being held.

B. Hearing Procedure. The Board of Adjustment shall hold any such public hearing pursuant to the requirements of Section 13-29-060. In so doing, it shall hear all facts and testimony related to the appeal that it deems necessary. Facts and testimony may include testimony on the actual condition of the vehicle and the circumstances surrounding the vehicle's present location and condition. The Board shall not be limited by the technical rules of evidence. The owner of the vehicle and/or the owner or occupant of the real property on which the junked motor vehicle is located may appear in person and present relevant evidence or testimony on these issues. Other interested third parties may also present relevant evidence or testimony, at the discretion of the Board.

C. Board Decision.

1. The Board may impose such conditions and take such actions as it deems appropriate under the circumstances to carry out the purposes of this Article. For example, it may find that a particular vehicle is a public nuisance and order the vehicle removed from the property on which it is located, and disposed of as provided in this Article. The Board may also determine that other remedies should be pursued by the Town, either in concert with abatement or separately. On the other hand, the Board may determine that removal of the vehicle or pursuit of other remedies is presently unjustified.

2. The owner of the vehicle and/or the owner or lawful occupant of the real property, or any other interested party who makes a presentation to the Board at such a hearing, shall be notified in writing of the Board's decision. Any such decision shall be final.

D. Order of Removal. In the event that the Board determines, after hearing, that a junked motor vehicle must be removed from the property, said vehicle may be removed ten (10) calendar days after mailing of the written decision to the appropriate parties, and disposed of pursuant to Article 3, Chapter 11, Title 28 of the Arizona Revised Statutes.

(Ord. No. 559, Enacted, 07/10/03)

9-04a-110 Abatement; Criminal and Civil Enforcement.

A. Failure of the owner of a junked motor vehicle and/or the owner or occupant of the real property on which the junked motor vehicle is located to abate the nuisance as set forth herein, shall empower the authorized Town enforcement officials to remove such vehicles or cause them to be removed according to Subsection 9-04a-090(B) of this Code and disposed of pursuant to ARS §28-4801 et seq., at the expense of the owner of the vehicle and/or the owner or occupant of the real property.

B. Failure of the owner of a junked motor vehicle and/or the owner or occupant of the real property on which the junked motor vehicle is located to abate the nuisance as set forth herein, shall also empower the authorized Town enforcement officials to (a) issue a criminal complaint against the owner of the vehicle, the owner or occupant of the real property on which the vehicle is located, or both, (b) issue an appropriate civil complaint seeking to enjoin continuation of the public nuisance and, where possible, to collect damages, and (c) issue a civil citation in accordance with Article 1-08 of this Code.

(Ord. No. 559, Enacted, 07/10/03)

9-04a-120 Assessment of Costs.

A. In addition to any procedures for obtaining reimbursement for the costs of abating the public nuisance found in Article 2, Chapter 11, Title 28 of the Arizona Revised Statutes, the Town may receive reimbursement of abatement costs from the owner or occupant of the real property on which the vehicle was located. In pursuit thereof, the Town Manager or his designated representative may prepare a verified statement of account of the actual costs of such removal and abatement (including storage), the date the work was completed, and the street address and the legal description of the real property on which said work was done [including ten percent (10%) for administrative costs], and shall serve a duplicate copy of such verified statement upon the owner or occupant of said real property in the manner prescribed in Section 9-04a-080.

B. The owner or occupant of the real property shall have thirty (30) calendar days from the date of service upon him to pay the assessment as contained in the verified statement or appeal in writing to the Town Council (through the Town Manager) from the amount of the assessment. If an appeal is not so filed with the Town Council within such thirty (30) day period, then the amount of the assessment as determined by the Town Manager shall become final and binding. If an appeal is taken, the Town Council shall, at its next regular meeting, hear and determine the appeal and may affirm the amount of the assessment, modify the amount thereof, or determine that no assessment at all shall be made.

C. If the assessment is not paid and no appeal is taken from the amount of the assessment, or if an appeal is taken and the Town Council affirms or modifies the amount of the assessment [and said amount is not paid within five (5) calendar days of the Council decision], the original assessment or the assessment as so modified shall be recorded in the Office of the Yavapai County Recorder, and from the date of its recording it shall become a lien on the lot or tract of adjacent land where the nuisance occurred until paid. Such liens shall be subject and inferior to the lien for general taxes and to all prior recorded mortgages and encumbrances of record.

D. If it is determined (either at the public hearing before the Board of Adjustment or at a Council hearing on the assessment) that the junked motor vehicle was placed on the real property without the consent of the owner or person in lawful control of the property, and that said owner or person in lawful control has not subsequently acquiesced in the presence of the vehicle, the Council shall not assess the costs of administration or removal of the vehicle against the property upon which the vehicle was located, or otherwise attempt to collect such costs from the owner or controller of the property.

E. A sale of the property to satisfy a lien obtained under the provisions of this Section shall be made upon judgment of foreclosure and order of sale. The Town shall have the right to bring action to enforce the lien in the Superior Court of Yavapai County at any time after the recording of the assessment, but failure to enforce the lien by such action shall not affect its validity. The recorded assessment shall be prime facie evidence of the truth of all matters recited therein, and of the regularity of all proceedings prior to the recording thereof. Failure to record a lien against the real property does not in any way prohibit the Town from utilizing any and all other remedies it may have against the person adjudged responsible for the nuisance, and the Town may pursue any remedies in law or equity to recover its costs, including administrative costs, involved in abating the nuisance, along with reasonable attorney fees and investigative costs incurred.

(Ord. No. 559, Enacted, 07/10/03)

9-04a-130 Prosecution.

In any criminal complaint proceeding for any violation of this Article:

A. Within ten (10) calendar days from the issuance of the complaint or at the arraignment, whichever date comes first, the prosecution shall move to dismiss the complaint if the defendant produces competent evidence of abatement as set forth in Section 9-04a-090 herein. If necessary, the arraignment date may be continued to permit Town verification of the abatement.

B. Photographic evidence showing that the vehicle did not have unexpired number or license plates affixed thereto on the date the photographic evidence was taken shall constitute prima facie evidence that the vehicle was not then currently registered and licensed.

(Ord. No. 559, Enacted, 07/10/03)

9-04a-140 Criminal Penalty.

Violation of this Article shall constitute a class 3 misdemeanor, and the violator shall be subject to a fine of no more than five hundred dollars ($500.00) and no more than thirty (30) days imprisonment, or both. No judge shall grant probation or suspend any fine established by this Section to a payment lower than fifty dollars ($50.00) per violation.

(Ord. No. 559, Enacted, 07/10/03)

9-04a-150 Non-exclusive Remedies.

Nothing herein shall be construed to require selection of an exclusive remedy to eliminate a public nuisance under this Article, and all available remedies, including (but not limited to) abatement by the Town at the expense of the vehicle owner and/or the property owner or occupant, criminal complaints, civil citations, or civil actions for injunction, damages, etc., may be pursued separately or concurrently.

(Ord. No. 559, Enacted, 07/10/03)

Article 9-04b GRAFFITI

9-04b-010 Purpose.
9-04b-020 Definitions.
9-04b-030 Prohibiting Application of Graffiti to Private or Public Property and Possession of Graffiti Implements.
9-04b-040 Prohibiting Sale to or Purchase by Minors of Graffiti Implements.
9-04b-050 Regulating Storage and Display of Graffiti Implements.
9-04b-060 Graffiti Removal.

9-04b-010 Purpose.

The purpose of this article is to provide a procedure for prevention, prohibition and removal of Graffiti from walls, signs and other surfaces on structures located on public and private property in order to reduce blight and deterioration within the Town and to protect public health and safety.

(Ord. No. 684, Enacted, 06/21/08)

9-04b-020 Definitions.

In this Article, unless the context otherwise requires

A. "Aerosol Paint Container" means any aerosol container which is adapted or made for the purpose of spraying paint.

B. "Broad-Tipped Indelible Marker" means any felt-tip marker or similar implement which has a writing surface which is one-half (1/2) of an inch or greater and containing a fluid which is not water soluble.

C. "Etch" means to permanently alter a surface by use of an etching solution or implement.

D. "Etching Implement" means a tool, instrument, product, solution or substance capable of being used to etch a surface.

E. "Etching Solution" means any product or compound manufactured for the purpose of permanently altering a glass or other surface.

F. "Graffiti" means initials, designs, drawings, messages, slogans, signs, symbols or similar marks of any type that are written, spray-painted, etched, sketched or otherwise applied on any sidewalk, wall, building, fence, sign or other structure located on public or private property without consent of the owner and visible from a public right-of-way.

G. "Graffiti Implement" means an Aerosol Paint Container, Broad-Tipped Indelible Marker, Etching Implement or Paint Stick, Graffiti Stick or Bleeder.

H. "Paint Stick, Graffiti Stick or Bleeder" means an implement containing paint, wax, epoxy or other similar substance.

I. "Responsible Party" means an owner, occupant, lessor, lessee, manager, licensee or other person having the right to control such property.

(Ord. No. 684, Enacted, 06/21/08)

9-04b-030 Prohibiting Application of Graffiti to Private or Public Property and Possession of Graffiti Implements.

A. No person may write, paint, draw, etch or otherwise apply any inscription, figure, or mark of any type on any public or private building or other real or personal property, owned, operated, or maintained by any person, firm, corporation, or governmental entity or agency or instrumentality thereof unless the express permission of the owner or operator of the property has been obtained.

B. No person may possess any Graffiti Implement with the intent to violate the requirements of Subsection 9-04b-030(A) above.

C. No person may possess any Graffiti Implement on any private property unless the owner, agent, manager, or other person having control of the property consented to the presence of the Graffiti Implement.

D. No person under the age of eighteen years may possess any Graffiti Implement on any public property unless accompanied by a parent, guardian, employer, teacher or other adult in any similar relationship and such possession is for a lawful purpose.

E. A person convicted of a violation of Subsections 9-04b-030(A), (B) and (C) above is guilty of a class 1 misdemeanor punishable by a term of not less than forty-eight hours in jail and not less than eighty hours community service involving participation in the removal of Graffiti. In addition to any other punishment, the court shall order restitution to the victim for damage or loss caused directly or indirectly by the defendant's offense, or to any person or entity (including a political subdivision) that has incurred expense to repair or abate such damage or loss to the victim's property, in an amount to be determined by the court. A person guilty of a violation of Subsection 9-04b-030(D) above is guilty of a class 1 misdemeanor punishable as provided in ARS §8-201 et seq. (as amended).

(Ord. No. 684, Enacted, 06/21/08: Ord. No. 839, Amended, 02/22/18)

9-04b-040 Prohibiting Sale to or Purchase by Minors of Graffiti Implements.

A. No person or firm may sell, deliver or give or cause to be sold, delivered or given, any Graffiti Implement to any person under the age of eighteen (18) years, and no person under the age of eighteen may buy any Graffiti Implement.

B. Evidence that a person, his or her employee, or agent demanded and was shown acceptable evidence of majority and acted upon such evidence in a transaction or sale shall be a defense to any prosecution under this Section. Acceptable evidence of majority shall include, but is not limited to, a driver's license, state-issued identification

or military identification.

C. This section does not apply to the transfer of Graffiti Implements from parent to child, guardian to ward, employer to employee, teacher to student or between persons of similar relationship when such transfer is for a lawful purpose.

D. Violation of this Section is a class 1 misdemeanor.

(Ord. No. 684, Enacted, 06/21/08)

9-04b-050 Regulating Storage and Display of Graffiti Implements.

A. No person who owns, conducts, operates or manages a business where Graffiti Implements are sold, nor any person who sells or offers for sale Graffiti Implements, may store or display, or cause to be stored or displayed, such Graffiti Implements in an area that is accessible to the public unless:

1. The Graffiti Implements are in view of employees at all times pending legal sale or other disposition; or

2. The Graffiti Implements are continuously under electronic surveillance at all times pending legal sale or other disposition; or

3. The legal sale or other disposition of Graffiti Implements is secured by a voluntary plan submitted by the business establishment and approved by the Town to include (but not be limited to) employee education, posting signs, and improving the store's security.

B. Storage or display of Graffiti Implements shall in all cases be conducted so as to avoid sale or delivery of Graffiti Implements to persons under the age of 18 years.

C. Violation of this section is a civil offense, subject to a civil sanction of not less than five hundred dollars ($500).

(Ord. No. 684, Enacted, 06/21/08)

9-04b-060 Graffiti Removal.

A. All sidewalks, walls, buildings, fences, signs, and other structures or surfaces shall be kept free from Graffiti when the Graffiti is visible from the street or other public or private property.

B. If it is determined by the Town that Graffiti exists on property in violation of this Article, the Town shall notify the Responsible Party of the violation as follows:

1. The Town shall seek voluntary compliance with the provisions of this Section before issuing a civil citation or criminal complaint, as applicable. This shall include a written notice of violation issued to the Responsible Party.

2. The notice of violation shall set forth the nature of the violation, the action required to bring the property into compliance, the compliance deadline, and the contact information of Town staff for additional information.

3. The minimum time period provided for voluntary compliance shall be forty-eight (48) hours.

4. The time period for compliance may be extended if the code compliance officer issuing the notice of violation determines the Responsible Party is making reasonable progress toward compliance. All extensions of time shall be in writing.

5. Failure of the Responsible Party to receive a notice of violation shall not preclude the subsequent issuance of a civil citation or criminal complaint, as applicable.

6. Nothing in this Section shall prevent the Town from taking immediate action to protect the public from imminent hazard to health or safety or as otherwise provided by law.

C. If a violation continues past the compliance time set forth in the notice of violation, a civil citation may be issued to the Responsible Party in accordance with Town Code Section 1-08-020. A person found to be responsible for three (3) or more civil violations of this Section within any twenty-four-month period shall be deemed to be a habitual offender. A habitual offender who violates the provisions of this Section shall be guilty of a class 1 misdemeanor for each violation in excess of three civil violations within a twenty-four-month period.

D. If the Responsible Party fails to abate the Graffiti after notice, the Town or its authorized private contractor is expressly authorized to enter private property and abate Graffiti.

(Ord. No. 684, Enacted, 06/21/07; Ord. No. 2024-943, Amended, 10/10/24)

Article 9-05 WASTEWATER TREATMENT SERVICE

9-05-010 Intent and Scope.
9-05-020 Abbreviations and Definitions.
9-05-030 Wastewater Treatment Fund Administration.
9-05-035 Establishing Wastewater Service.
9-05-040 Wastewater Treatment Rates, Fees, Charges, and Penalties.
9-05-050 Wastewater Treatment System Extensions.
9-05-060 Connections.
9-05-065 Wastewater System Maintenance.
9-05-070 Restrictions on Discharges.
9-05-080 Discharge Prohibitions.
9-05-090 Pretreatment of Wastewater.
9-05-100 Industrial Wastewater Pretreatment Permit.
9-05-110 Regulation of Waste Received from Other Jurisdictions.
9-05-120 Reporting Requirements.
9-05-130 Compliance Monitoring.
9-05-140 Confidential Information.
9-05-150 Publication of Users in Significant Noncompliance.
9-05-160 Penalties and Remedies.
9-05-170 Affirmative Defenses to Discharge Violations.
9-05-180 Supplementary Provisions.

9-05-010 Intent and Scope.

A. Intent. It is the intent of this Article, in connection with other provisions of this Code, to regulate the discharge of wastewater into the Town's wastewater treatment system; to provide for the construction and extension of the system; and to regulate connection thereto. It is also the intent of this Article to provide for the setting, collecting, and refunding of reasonable wastewater treatment rates, fees, charges and penalties.

B. Scope and Objectives. This Article sets forth uniform requirements for Customers and Users of the wastewater system, and enables the Town to comply with all applicable federal and State laws, including the Clean Water Act (33 USC 1251 et seq.) and the General Pretreatment Regulations (40 CFR Part 403). The objectives of this Article are:

1. To prevent the introduction of pollutants into the wastewater system that will interfere with its operation;

2. To prevent the introduction of pollutants into the wastewater system which will pass through the wastewater system, inadequately treated, into receiving waters or otherwise be incompatible with the wastewater system;

3. To protect both wastewater system personnel who may be affected by wastewater and sludge in the course of their employment and the general public;

4. To improve opportunities for reuse and recycling of wastewater and sludge from

the wastewater system;

5. To provide for rates, fees, charges, and penalties for the equitable distribution of the cost of operation, maintenance, and improvement of the wastewater system; and

6. To enable the Town to comply with conditions of its National Pollutant Discharge Elimination System and Arizona Aquifer Protection permits, sludge use and disposal requirements, and any other federal or State laws to which the wastewater system is subject.

This Article authorizes the issuance of industrial wastewater discharge permits; provides for monitoring, compliance, and enforcement activities; establishes administrative review procedures; requires user reporting; and provides for the setting of rates, fees, charges, and penalties for the equitable distribution of costs resulting from the procedures established herein.

C. Applicability. This Article shall apply to all Customers and Users of the wastewater system.

D. Administration. Except as otherwise provided herein, the Town shall administer, implement, and enforce the provisions of this Article, including (but not limited to) the adoption of regulations from time to time by resolution. Any powers granted to or duties imposed upon the Town may be delegated by the Town to its authorized representative.

(Ord. No. 268, Enacted, 12/12/91; Ord. No. 284, Amended, 10/08/92; Ord. No. 391, Amended, 06/27/96; Ord. No. 510, Amended, 08/23/01)

9-05-020 Abbreviations and Definitions.

A. Abbreviations. The following abbreviations shall have the designated meanings:

- BOD - Biochemical Oxygen Demand
- CFR - Code of Federal Regulations
- EPA - U.S. Environmental Protection Agency
- gpd - gallons per day
- mg/l - milligrams per liter
- NPDES - National Pollutant Discharge Elimination System
- RCRA - Resource Conservation and Recovery Act
- TSS - Total Suspended Solids
- USC - United States Code

B. Definitions. In this Article, unless the context otherwise requires:

1. "Act or 'the Act'" means the Federal Water Pollution Control Act, also known as the Clean Water Act, as amended, 33 USC 1251 et seq.

2. "Authorized Signatory of the User" means:

a. If the User is a corporation:

(1) The president, secretary, treasurer, or a vice-president of the corporation in charge of a principal business function, or any other person who performs similar policy or decision-making functions for the corporation; or

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

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

c. If the User is a federal, State, or local governmental facility: a director or highest official appointed or designated to oversee the operation and performance of the activities of the government facility (or his/her designee);

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

3. "Biochemical Oxygen Demand (BOD)" means the quantity of oxygen utilized in the biochemical oxidation of organic matter under standard laboratory conditions for five (5) days at twenty (20) degrees centigrade, usually expressed as a concentration of milligrams per liter (mg/l).

4. "Categorical Pretreatment Standard or Categorical Standard" means any regulation containing pollutant discharge limits promulgated by EPA in accordance with Sections 307(b) and (c) of the Act (33 USC 1317) which apply to a specific category of Users and which appear in 40 CFR Chapter I, Subchapter N, Parts 405-471.

5. "Composite Sample" means the sample resulting from the combination of individual wastewater samples taken at selected intervals based on an increment of either flow or time, as specified by the Town.

6. "Customer" means (a) the record owner(s) of real property to which wastewater treatment services are supplied and/or, (b) any Tenant of real property to which any of said services are supplied. Customers are the persons or entities responsible for the payment of wastewater treatment rates, fees, charges, and penalties for such services. While a Customer may also be a "User" as defined

herein, the terms are not necessarily the same.

7. "Department" means any combination of Town officers and third-party contractors (and their respective personnel) assigned to manage, operate and maintain the wastewater treatment system for the Town.

8. “Developed Properties” means lots, parcels or properties upon which a building, unit, or structure has been built and an occupancy permit (temporary or permanent) has been issued by the Town, or which has actually been occupied (whether or not occupancy continues thereafter).

9. “Director” means the director of the department in which the Customer Accounts division of the Town is included, as appointed from time to time by the Town Manager, and/or related staff designees.

10. "Discharge", used in the context of either a verb or a noun, means the disposal of water, wastewater, or any other liquid or substance from any User into the wastewater treatment system.

11. "Domestic Waste" means a typical, residential-type waste which requires no pretreatment under the provisions of this Article before discharging into the wastewater system, excluding industrial waste.

12. "Environmental Protection Agency (EPA)" means the U.S. Environmental Protection Agency or its authorized representative.

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

14. "Grab Sample" means an individual sample collected over a period of time not to exceed (15) minutes.

15. "Indirect Discharge or Discharge" means the introduction of pollutants into the wastewater system from any nondomestic source regulated under Section 307(b), (c), or (d) of the Act.

16. "Industrial User" means a discharger into the wastewater system of nondomestic wastewater.

17. "Industrial Waste" means any and all liquid or water borne waste from industrial or commercial processes, excluding domestic waste.

18. "Interference" means a discharge which alone or in conjunction with a discharge or discharges from other sources inhibits or disrupts the wastewater system, its treatment processes or operations, or its sludge or effluent processes, use or disposal.

19. "May" means discretionary or permissive.

20. "Medical Waste" means isolation wastes, infectious agents, human blood and blood products, pathological wastes, sharps, body parts, contaminated bedding, surgical wastes, potentially contaminated laboratory wastes, and dialysis wastes.

21. "National Pollutant Discharge Elimination System (NPDES) Permit" means a permit issued to a wastewater system or other discharger pursuant to Section 402 of the Act.

22. "New Source" means:

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

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

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

        (3) The production or wastewater generating processes of the building, unit, structure, facility, or installation are substantially independent of an existing source at the same site. In determining whether these are substantially independent, factors such as the extent to which the new facility is integrated with the existing plant, and the extent to which the new facility is engaged in the same general type of activity as the existing source, should be considered.

    b. Construction on a site at which an existing source is located results in a modification rather than a new source if the construction does not create a new building, unit, structure, facility, or installation meeting the criteria of subparagraph (22)(a)(2) or (22)(a)(3) above, but otherwise alters, replaces, or adds to existing process or production equipment.

    c. Construction of a new source as defined under this subparagraph 22 has commenced if the owner or operator has:

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

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

            (b) significant site preparation work, including clearing,

excavation, or removal of existing buildings, units, structures, or facilities which is necessary for the placement, assembly, or installation of new source facilities or equipment; or

(2) Entered into a binding contractual obligation for the purchase of facilities or equipment which are intended to be used in its operation within a reasonable time. Options to purchase or contracts which can be terminated or modified without substantial loss, and contracts for feasibility, engineering, and design studies do not constitute a contractual obligation under this subparagraph 22(c).

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

24. "Pass Through" means a discharge which exits the wastewater system into waters of the United States in quantities or concentrations which, alone or in conjunction with a discharge or discharges from other sources, is a cause of a violation of any requirement of the Town's NPDES permit (including an increase in the magnitude or duration of a violation).

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

26. "pH" means the logarithm of the reciprocal of the weight of hydrogen ions in grams per liter of solution, commonly referred to as a measure of the acidity or alkalinity of a substance, expressed in standard units.

27. "Pollutant" means any dredged spoil, solid waste, incinerator residue, sewage, garbage, sewage sludge, munitions, medical wastes, chemical wastes, biological materials, radioactive materials, heat, wrecked or discharged equipment, rock, sand, cellar dirt, agricultural and industrial wastes, and the characteristics of the wastewater, i.e., pH, temperature, TSS, turbidity, color, BOD, Chemical Oxygen Demand (COD), toxicity, or odor.

28. “Premises,” “Real Property” or “Property” means the building, unit, structure, designated turf area, or water storage area (including adjacent areas and appurtenances) to which domestic water service, wastewater service, and/or reclaimed water service is provided.

29. "Pretreatment" means the reduction of the amount of pollutants, the elimination of pollutants, or the alteration of the nature of pollutant properties in wastewater prior to (or in lieu of) introducing such pollutants into the wastewater system. 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).

30. "Pretreatment Requirements" means any substantive or procedural requirement, other than a pretreatment standard, related to pretreatment and imposed on a User.

31. "Pretreatment Standard or Standards" means prohibited discharge standards, categorical pretreatment standards, and local limits.

32. "Prohibited Discharge Standards or Prohibited Discharges" means prohibitions against the discharge of certain substances in this Article.

33. "Reclaimed Water" means all effluent discharged from the wastewater treatment facility after treatment, and stored, transported, or recharged into the underground aquifer by the reclaimed water system of the Town.

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

35. "Shall" means mandatory.

36. "Significant Industrial User" means"

    a. A User subject to categorical pretreatment standards; or

    b. A User that:

        (1) Discharges an average of 25,000 gpd or more of process wastewater to the wastewater system (excluding sanitary, noncontact cooling, and boiler blowdown wastewater); or

        (2) Contributes a process waste stream which makes up five percent (5%) or more of the average dry weather hydraulic or organic capacity of the wastewater system treatment plant; or

        (3) Is designated as such by the Town on the basis that it has a reasonable potential for adversely affecting the wastewater system's operation or for violating any pretreatment standard or requirement.

    c. Upon a finding that a User meeting the criteria in subparagraph 36(b) has no reasonable potential for adversely affecting the wastewater system'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 a User [and in accordance with procedures in 40 CFR 403.8(f)(6)] determine that such User should not be considered a Significant Industrial User.

37. "Slug Load" means any discharge at a flow rate or concentration which could

cause a violation of the prohibited discharge standards in this Article or any discharge of a nonroutine, episodic nature, including (but not limited to) an accidental spill or a noncustomary batch discharge.

38. "Standard Methods" means the procedure as described in the most current edition of Standards Methods for the Examination of Water and Wastewater, published by the American Health Association, or the most current edition of Manual of Methods for Chemical Analysis of Water and Wastes, published by the U.S. Environmental Protection Agency.

39. "Tenant" means a person entitled under all agreements, written, oral or implied by law, and valid rules and regulations adopted under Arizona Revised Statutes, embodying the terms and conditions concerning the use and occupancy of a dwelling unit and/or other premises to occupy the same to the exclusion of others.

40. "Total Suspended Solids (TSS)" means the total suspended matter that floats on the surface of, or is suspended in, water, wastewater, or other liquid, and which is removable by laboratory filtering.

41. "Town" means the Town of Prescott Valley and, for purposes of authority, includes any of its officers, employees, contractors, and other agents unless express reference is made to the Mayor, the Council, the Manager, or a department head.

42. "Town Council" or "Council" means the governing body of the Town, comprised of its duly elected or appointed members.

43. "Town Manager" or "Manager" means the manager of the Town as appointed from time to time by the Town Council, and/or related staff designees.

44. "Unit" means any room or group of rooms designed for one (1) or more persons to reside, work, or carry on any organized activity as a homogeneous group, and containing or having direct access to at least one (1) accommodation for cooking, domestic water use, reclaimed water use, and/or wastewater disposal.

45. "User" means any person, partnership, corporation, municipality, political subdivision, or other entity or other organization that occupies any building, unit, structure, designated turf area, or water storage area and receives wastewater service or discharges, causes, or permits any discharge, as defined herein, into the wastewater system.

46. “Utilities Director” means the director of the Utilities Department, as appointed from time to time by the Town Manager, and/or related staff designees.

47. “Utility System” means the domestic water system, wastewater treatment system and the reclaimed water system of the Town, or any portion thereof.

48. "Wastewater" means all domestic waste, industrial waste, and any other liquid discharged into the wastewater treatment system.

49. "Wastewater Treatment System" or "Wastewater System" means all components of the wastewater treatment system owned or leased by the Town, including (but not limited to) public sanitary sewer lines, lift stations, treatment facilities, and effluent disposal and recharge facilities.

Note that the use of the singular shall be construed to include the plural and the plural shall include the singular, as indicated by the context of its use.

(Ord. No. 284, Enacted, 10/08/92; Ord. No. 391, Amended, 06/27/96; Ord. No. 510, Amended, 08/23/01; Ord. No. 815, Amended, 04/28/16; Ord. No. 839, Amended, 02/22/18)

9-05-030 Wastewater Treatment Fund Administration.

A. Establishment. A Wastewater Treatment Fund is hereby established to account for all revenues and expenditures of the wastewater treatment system. Nothing herein limits the authority of the Town, in conformance with standard accounting and good financial management practices, to establish other funds, subfunds, or accounts (i.e., debt service, replacement, etc.) and to transfer monies between them and the Wastewater Treatment Fund for wastewater treatment purposes and system administration purposes, or to make interfund loans as allowed by law and approved by the Town Council.

B. Additional Regulations. The Town Council shall adopt additional regulations for Fund administration from time to time by resolution.

(Ord. No. 284, Enacted, 10/08/92; Ord. No. 510, Amended, 08/23/01; Ord. No. 584, Amended, 03/25/04)

9-05-035 Establishing Wastewater Service.

A. Application. New wastewater treatment service to any building, Unit or structure on real property, or any increase in the size of a wastewater service connection to any building, Unit, or structure shall be initiated by applications from Customers [or, in the case of the record owner(s) of real property, their agent(s)] on forms established from time to time by the Director. The information required at application and the consequences of providing false information may be set from time to time by regulations adopted by resolution.

B. Tenant Accounts. Applications by Customers who are Tenants must include a copy of the lease or rental agreement for the property to be served. Tenants applying for service to the leased/rental property shall be responsible to pay all wastewater treatment rates, fees, charges, and penalties applicable to the property. Where residential property consisting of five or more units is occupied by multiple Tenants, Tenants may apply for utility service and place their name on accounts only if each Tenant of the property is individually metered for wastewater treatment services.

C. Deposit. Applications for wastewater treatment service shall be accompanied by a deposit established from time to time by resolution, and administered in accordance with

regulations adopted from time to time by resolution. An additional deposit may also be established by regulation from time to time in cases of bankruptcy, as permitted under federal law.

D. Unauthorized Turn-On, Turn-Off, or Other Tampering. Except in emergency circumstances, it shall be unlawful for any person to physically turn-on or turn-off wastewater treatment service to any building, Unit, or structure, to otherwise tamper with or damage the wastewater system, or to direct, aid, or abet another in so doing without the approval of the Director after compliance with established application requirements. In lieu of criminal prosecution for such a misdemeanor violation, the Director may, at his/her sole discretion, impose a civil penalty for such violation, which penalty shall be set from time to time by resolution. The Director may also waive any per-day aspect of such civil penalty in appropriate circumstances, and provide for set-off of such penalties in return for payment of the actual costs of any damages.

(Ord. No. 510, Enacted, 08/23/01; Ord. No. 815, Amended, 04/28/16)

9-05-040 Wastewater Treatment Rates, Fees, Charges, and Penalties.

A. Classification of Users. For the purpose of establishing reasonable wastewater treatment rates, fees, charges, and penalties, Users of the wastewater system shall be classified into three (3) categories, as follows:

1. Residential. The residential classification shall include single family homes and individual dwelling Units within multi-family residential structures. A residential classification is not lost by reason of a "home occupation" if the activity in no manner contributes to discharges to the wastewater system. Each dwelling Unit in a multi-family dwelling is considered a separate residential User.

2. Commercial. Unless required to have an Industrial Wastewater Pretreatment Permit, the commercial classification shall include institutional Users such as government entities, schools, churches, and nonprofit organizations, as well as transient and group quarters (i.e., hotels/ motels, rooming houses, nursing homes, etc.). [A residential Unit located within a structure utilized for commercial purposes or located on property used for commercial purposes (i.e., mini-storage manager/caretaker residences, etc.) shall be considered a separate commercial User for purposes of establishing Base User Rates.] Each separate or separately-metered commercial unit in a structure or unified complex utilized for commercial purposes shall be considered a separate commercial User.

3. Industrial. An industrial User shall be any entity required to have an industrial wastewater pretreatment permit under this Article; otherwise it shall be classified as commercial. Each separate or separately-metered industrial Unit in a structure or unified complex utilized for industrial purposes shall be considered a separate industrial User.

B. Wastewater Rates, Fees, Charges, and Penalties. Wastewater rates, fees, charges, and penalties shall be set by resolution from time to time, in accordance with the Intent and Scope of this Article and with applicable Arizona and federal statutes.

1. Coordination with Other Fees and Assessments. Nothing herein shall limit the authority of the Town to impose development fees in accordance with ARS §9-463.05 and Article 7-11 of the Town Code (all as amended from time to time), or to establish improvement district assessments per ARS §48-571 et seq. and fees in-lieu of such assessments in order to upgrade and expand the wastewater treatment system. However, any Wastewater System Connection Charges paid hereunder shall be offset, in whole or in part, against any such fees and assessments in accordance with law.

C. Billing. Billing of residential, commercial and industrial Customers for wastewater treatment services shall be accomplished as set forth from time to time by regulations adopted by resolution.

1. Taxes. In addition to the wastewater treatment rates, fees, charges, and penalties established from time to time by resolution, wastewater treatment billings shall include any applicable taxes on the business of wastewater treatment service.

2. Time Covered by Rates. With regard to wastewater rates, fees, charges, penalties, and taxes, any Base User Rates are applied to the current billing period while any Volume Rates and all other wastewater rates, fees, charges, penalties, and taxes are applied to the prior billing period.

3. Delinquency Dates. Wastewater rates, fees, charges, penalties, and taxes are due on different dates for different Customers based on billing cycles. Such dates shall be specified for each Customer when service begins and shall be set forth in the billings received. Payment is due twenty (20) days after the billing date. Wastewater rates, fees, charges, penalties, and taxes are delinquent on the twenty-eighth (28th) day after the billing date. Nothing herein shall preclude the Director from changing a Customer's billing period, so long as adjustments are made in billings to reflect actual usage.

4. Consequences of Account Delinquencies. Account delinquencies in relation to wastewater rates, fees, charges, penalties, or taxes shall result in an "Active Account Processing Charge", set from time to time by resolution, being applied to the account on the twenty-eighth (28th) day after the billing date. Furthermore, wastewater treatment service will be subject to turn-off on and after the fiftieth (50th) day after the billing date (unless emergency circumstances justify immediate turn-off of wastewater treatment service).

5. Application of Partial Payments. The application of partial payments to delinquent accounts shall be established from time to time by regulations adopted by resolution. Partial payments shall not avoid wastewater treatment service turn-off nor shall they renew wastewater treatment service (except as specified in any payment agreements).

6. Prepayments. Nothing herein shall preclude the Town from limiting prepayments by regulations adopted from time to time by resolution.

7. Customer Inquiry Required. Failure of a Customer to receive any monthly wastewater treatment service billing or other communication from the Director with regard to applicable wastewater rates, fees, charges, penalties, or taxes, shall expressly not excuse the Customer from paying wastewater rates, fees, charges, penalties, or taxes due.

D. Delinquency Procedures. Procedures to be followed in the event of account delinquencies shall be established from time to time by regulations adopted by resolution. Such procedures shall include such enforcement measures as are available to the Town in law and in equity (including, but expressly not limited to, domestic water service turn-off), and shall provided for such notice to Customers and opportunities for administrative hearings prior to application of enforcement procedures (including, but not limited to, turn-off of domestic water service) as is deemed appropriate under the circumstances and complies with requirements of due process.

1. Payment Agreements. Nothing herein shall preclude the Director from offering to enter into Payment Agreements with Customers who have delinquent utility accounts at any stage of the enforcement process, as set forth from time to time by regulations adopted by resolution.

E. Procedure When Retrofitting Wastewater System to Already-Developed Properties. With regard to wastewater treatment service, during the initial start-up period for any phase or portion of the wastewater system (whether or not constructed by the Town through an improvement district), Customers on already-developed lots, parcels or properties included within such phase or portion shall be responsible for payment of applicable rates, fees, charges, penalties, and taxes from the time the system becomes "operational" in the area. The wastewater system is operational in an area (with regard to individual lots, parcels or properties) on 1) the date said lots, parcels, or properties are connected to the phase or portion of the system by the construction contractor, 2) the date said lots, parcels or properties would have been connected to the phase or portion of the system had Customers reasonably cooperated with the construction contractor in order to be connected (i.e. had provided necessary construction easements, assisted and permitted construction crews to construct necessary service lines, permitted construction crews to actually connect appropriate structures on the lot, parcel, or property to the system, etc.) or 3) the date Customers were told in writing was the date appropriate structures on the lots, parcels or properties should be connected by them to the system.

1. Later Responsibility Date Set in Writing. Nothing herein precludes Department personnel, upon approval of the Town Council, from setting a later date for Customers to be responsible for wastewater rates, fees, charges, penalties, and taxes when those Customers' lots, parcels or properties have not actually been connected to the system, but only in conjunction with a final written notice to said Customers requiring that appropriate structures on their lots, parcels or properties be connected by them to the wastewater system by a date certain.

2. Coordination with Improvement District Assessments or Other Development Charges. Furthermore, nothing herein shall preclude the Town from applying wastewater rates, fees, charges, penalties, and taxes to Customers and their particular lots, parcels or properties, simply because an improvement district assessment or other development charge has been applied to the property for

purposes of financing initial construction of a phase or portion of the wastewater system.

F. Industrial Wastewater Pretreatment Permit Fees. In addition to any other rates, fees, charges, and penalties authorized by this Article, the Council may adopt reasonable Industrial Wastewater Pretreatment Permit Fees for reimbursement of various costs related to pretreatment programs, including (but not limited to):

1. The cost of processing applications;

2. The cost of collecting and analyzing a User's discharge, and reviewing monitoring reports submitted by Users;

3. Costs of reviewing and responding to accidental discharge procedures and construction;

4. Costs of filing appeals; and

5. Other costs to carry out the requirements contained herein.

These Industrial Wastewater Pretreatment Permit Fees relate solely to the matters covered by this Article and are separate from all other rates, fees, charges, and penalties chargeable by the Town.

(Ord. No. 284, Enacted, 10/08/92; Ord. No. 389, Amended, 07/11/96; Ord. No. 391, Amended, 06/27/96; Ord. No. 466, Amended, 07/08/99; Ord. No. 510, Amended, 08/23/01; Ord. No. 516, Amended, 12/06/01; Ord. No. 667, Amended, 09/28/06; Ord. No. 815, Amended, 04/28/16)

9-05-050 Wastewater Treatment System Extensions.

A. Approval. The Town shall approve the design of, issue permits for, and conduct inspections of all extensions of public sanitary sewer lines and related wastewater treatment facilities that are to be attached to the wastewater system.

B. Design and Construction. The design and construction of all sanitary sewer lines and related facilities under the jurisdiction of the Town must conform to such design and construction specifications as are adopted by the Town from time to time, as well as Arizona State Health Services Bulletin #11. As to size, the Town may require sanitary sewer lines and related facilities to be sized for future extensions.

C. Inspection. All sanitary sewer lines and related facilities to be attached directly or indirectly to the wastewater system shall be subject to inspection by the Town. Engineering plan review and inspection fees shall be charged as provided for in Chapter 16 of this Code. No physical alteration of or attachment to the Town's wastewater system shall commence without a Town inspector being present or without the inspector's express permission. There shall be no discharge into the wastewater system prior to obtaining necessary Town inspections and approval of the completed construction.

D. Subdivisions. Extension of the wastewater system into subdivisions shall be according to Subsections 14-04-040(G) and 14-04-070 of this Code.

E. Other Developments. All other developments requiring separate approval by the Town shall construct extensions of the wastewater system, including sanitary sewer lines and related facilities such as lift stations, provided they are within a reasonable distance to the system. The determination of what is a reasonable distance shall be made by the Town, based on (1) the nature and size of uses proposed for the development, (2) whether service can be provided by gravity flow or requires lift stations, (3) the capacity of existing public sanitary sewer lines and related facilities to which an extension would be attached, and (4) other considerations deemed appropriate by the Town.

New developments which are determined by the Town to not be within a reasonable distance to an operational existing sewer service area may be required, where deemed appropriate, to construct sanitary sewer lines and related facilities (including temporary treatment facilities) according to standards and specifications approved by the Town, in preparation for future connection to the wastewater system when it comes within a reasonable distance.

F. Coordination With Fees, Assessments and Charges. Nothing herein shall limit the authority of the Town to impose development fees in accordance with ARS §9-463.05 and Town Code Article 7-11 (all as amended from time to time), to establish improvement district assessments per ARS §48-571 et seq. and fees in-lieu of such assessments, or to apply Wastewater System Connection Charges calculated to recover the Town's costs to upgrade and extend the wastewater system to provide wastewater treatment services to new development. However, such fees, assessments and charges may be mutually offset, in whole or in part, or may be offset in whole or in part by the value of the construction undertaken by developers to extend the system, in accordance with law.

G. Replacement or Repair. Persons or entities that build or cause to be built any extensions of the wastewater system shall pay for any repairs or replacements made necessary as a direct or indirect result of such construction, including (for example) repair or replacement of curbs, gutters, sidewalks, road surfaces, drainage structures, and utilities damaged or disturbed during the building of wastewater line extensions.

(Ord. No. 284, Enacted, 10/08/92; Ord. No. 357, Amended, 03/23/95; Ord. No. 389, Amended, 07/11/96; Ord. No. 510, Amended, 08/23/01; Ord. No. 815, Amended, 04/28/16)

9-05-060 Connections.

A. Wastewater Service Connections Required. Every separate building, Unit, or structure to which wastewater treatment service is supplied shall have its own service connection. Unless otherwise expressly permitted by the Department, it is unlawful for any Customer having a wastewater treatment service connection to supply or permit utility service to be supplied through said connection to any other User, whether gratuitously or for consideration.

In the event that a stub-out has been included in the main line for a particular adjacent lot, parcel or property, then connection to the main line from any building, unit, structure, designated turf area, or water storage area on that lot, parcel or property shall be at that stub-out. If a stub-out has not been constructed in the mainline for a particular adjacent lot, parcel or property, then connection from any building, unit, structure, designated turf area, or water storage area on the property must be at a location specified by the Town and the necessary stub-out must be constructed at the Customer's expense.

B. Existing Developed Properties. All existing developed properties within the appropriate distances established from time to time in the Town Code shall connect to the wastewater treatment system at the record owner(s) expense within ninety (90) days after the system is operational. If, as part of a specific initial service plan for an area, the Town has assumed the responsibility of providing connections to existing developed properties, this time for connection may be extended until the Town makes (or would have made if the property owner had given his or her timely written consent in a form acceptable to the Town) the connection in conformance with the plan. All connections shall be in accordance with the Town's Engineering Standards as adopted from time to time.

1. When Wastewater System is "Operational". A phase or portion of the wastewater treatment system is operational in an area (with regard to individual lots, parcels, or properties) on either a) the date said lots, parcels or properties would have been connected to the phase or portion of the wastewater treatment system had customers reasonably cooperated with the construction contractor in order to be connected (i.e. had provided necessary construction easements, assisted and permitted construction crews to construct necessary service lines, permitted construction crews to actually connect appropriate structures on the lot, parcel, or property to the wastewater system, etc.), or b) the date customers were told in writing was the date appropriate buildings, Units, or structures on the lots, parcels or properties should be connected to the wastewater system.

2. Option for Contractor to Make Connections. If, as part of a specific initial service plan for an area, the construction contractor assumes responsibility for connecting existing developed properties to a phase or portion of the wastewater treatment system during construction [without cost to the Customers], then the time for connection may be extended until the contractor either makes the connection or would have made the connection if a) the Customers had consented and cooperated as set forth hereinabove, or b) the connection had not been outside the scope of the contractor's contract because of physical barriers (however caused).

3. Default Connection by Customers. If Customers have not so consented and cooperated, or if the connection is outside of the construction contractor's contract (however caused), then said Customers must connect the property at their own expense within the original ninety (90) days of wastewater treatment system availability.

4. Option to Set Later Connection Date. Nothing herein shall preclude Department personnel, upon approval of the Town Council, from setting a later date in writing for Customers to connect to the wastewater treatment system.

5. Abandonment of Private Septic Systems. In the event buildings, Units, or structures on lots, parcels or properties with private sewage disposal systems are connected to a phase or portion of the wastewater treatment system, the private sewage disposal systems must be abandoned within sixty (60) days after such connection, in accordance with rules and regulations promulgated by the Yavapai County Board of Health, the Arizona Department of Health Services, and/or the Arizona Department of Environmental Quality. Failure of Customers to properly abandon private sewage disposal systems within the time specified shall be reported to appropriate State or County agencies, and Department personnel shall cooperate fully with such agencies to abate the nuisance created by such failure.

   a. Contractor Responsibility. If, as part of a specific initial service plan for an area, the construction contractor assumes responsibility for connecting existing developed properties to the wastewater treatment system during construction (without cost to the Customers), and such plan includes abandoning private sewage disposal systems, then enforcement of this requirement may be "tolled" until the contractor either abandons the private sewage disposal systems in the course of his contract or would have done so if i) the Customers had consented and cooperated by providing necessary construction easements, permitting entry onto property, etc., or ii) the abandonment were not outside the scope of the contractor's contract because of physical barriers (however caused).

   b. Customer Non-Cooperation. If i) Customers do not so consent and cooperate by the time that a construction contractor is released from an area by the Town (after having abandoned the other private sewage disposal systems on lots, parcels or properties in the area where permission had been granted and which could reasonably be abandoned pursuant to contract), or ii) the abandonment is outside of the construction contractor's contract (however caused) and Customers do not themselves arrange to abandon their private sewage disposal system in accordance with the regulations within sixty (60) days of connection to the wastewater treatment system, then enforcement shall be sought by the Town as set forth above.

      i. Nothing herein shall preclude Department personnel, upon approval of the Town Council, from setting a later date in writing for Customers to abandon private sewage disposal systems on their lots, parcels or properties, prior to seeking enforcement as set forth above.

6. Nothing herein shall preclude the Town from refunding wastewater rates, fees, charges, penalties and taxes to Customers in the event it is discovered that their particular lots, parcels or properties had not, in fact, been connected to the

wastewater treatment system through no failure on the part of said Customers to comply with this Article.

C. After-Developed Properties. All developments (including single family dwellings) within the appropriate distance as set from time to time in the Town Code from the wastewater treatment system which are to be approved for occupancy after the wastewater system is operational, shall be required to connect to the system at the expense of the record owner(s) before occupancy is approved by the Town. All connections shall be in accordance with the Town's Engineering Standards as adopted from time to time.

D. Other Assessments, Fees, and Charges. In addition to any Wastewater System Connection Charges which may be applied from time to time by resolution, in areas previously included within improvement districts created by the Town to extend the wastewater treatment system to such areas, if an assessment has not been previously paid to the Town to make the system available to a property (or if the assessment paid for that property was not in proportion to payments made for other similar properties, e.g. because of a property split, increased intensity of development, etc.), a separate in-lieu of assessment fee, calculated to be equivalent to the original assessment, may be imposed by the Town at the time development permits are issued as a condition of developing the property. Such in-lieu of assessment fee may be established from time to time by resolution. Furthermore, development fees pursuant to ARS §9-463.05 and Article 7-11 of the Town Code (all as amended from time to time) and Wastewater System Connection Charges may be imposed as a condition of developing the property. However, any such assessments, fees and charges shall be subject to mutual offset, in whole or in part, in accordance with law.

E. Permits and Inspections. No physical connection shall be made to the wastewater system until a permit for the same has been acquired from the Building Official in accordance with Chapter 7 of the Town Code (as amended from time to time), after payment of all required fees and charges, unless the connection is made by the Department. All connections shall conform to the International Plumbing Code, as adopted and amended by the Town from time to time. In addition to any other inspections, tests, and right-of-way permits that may be required, inspection and approval of wastewater system connections shall be required before any trench or hole is backfilled. Any plan review and inspection fee adopted from time to time by resolution may be waived under an initial service plan where the connection is made by the Town or a contractor that assumes responsibility for connecting existing developed properties during construction without cost to the Customer.

F. Damage. In accordance with Town Code 7-10-030, any damage done to the wastewater system or to the public right-of-way as a result of construction of a connection or any related construction or excavation activity shall be repaired to the Town's satisfaction at the constructing party's expense. The Town may require a bond of the party doing such construction or excavation prior to the activity being undertaken.

G. Inspection Manhole. All industrial Users must install an inspection manhole at the location and to the specifications of the Town. This manhole shall be available to Town personnel at all times for use in flow measurement and testing.

H. Criminal Violation. The requirement that buildings, Units and structures on lots, parcels or properties be connected to the wastewater treatment system (as set forth herein) is subject to vigorous enforcement by all equitable and legal means available, including civil and criminal actions against Customers. In this regard, failure to connect to the wastewater treatment system as set forth herein constitutes a class 1 misdemeanor (with each separate day being a separate offense).

1. Deferred Enforcement. Deferred enforcement or non-enforcement of this requirement by the Town should not be construed as a waiver of future enforcement with regard to the particular Customers and lots, parcels or properties involved.

I. Customer Agreements to Maintain Non-Gravity-Flow Facilities. In the event individual Customers, the record owner(s), contractors, or developers either cannot or choose not to develop particular lots, parcels or properties so as to connect to the wastewater treatment system by gravity flow, a building permit will only issue if said Customers, record owners, contractors, or developers enter into a binding agreement with the Town to construct and maintain at their sole expense any non-gravity flow facilities, including lengthy service lines, needed to connect to the wastewater treatment system.

(Ord. No. 284, Enacted, 10/08/92; Ord. No. 357, Amended, 03/23/95; Ord. No. 389, Amended, 07/11/96; Ord. No. 510, Amended, 08/23/01; Ord. No. 572, Amended, 10/23/03; Ord. No. 815, Amended, 04/28/16; Ord. No. 2023-927, Amended, 09/28/23)

9-05-065 Wastewater System Maintenance.

A. Facilities Included in Wastewater Treatment System. The wastewater treatment system includes the "trunk system" and the "collector system". The "trunk system" includes all pipe larger than eight inches (8") in diameter. The "collector system" includes all pipe 8" or less in diameter, including the "service tap" between the main line and the property line. However, the collector system does not include service lines from the building sewer or private sewer out to the property line.

B. Responsibility for Maintenance of Wastewater Treatment System. The Department is generally responsible for the care and maintenance of the wastewater treatment system from manhole to manhole, including any emergency responses. Unless otherwise expressly provided for by written contract, Customers are responsible for the care and maintenance of service lines and service taps serving their lots, parcels or properties. Procedures for the handling of stoppages shall be set from time to time by regulations adopted by resolution.

C. Requirements Prior to Excavations. No Customer, User, or person shall make or begin any excavation in any public street, alley, right-of-way dedicated to public use, utility easement, or express or implied private property utility easement included in the wastewater treatment system without first (1) determining whether utility system facilities (above-ground or underground) will be encountered (and, if so, where they are located), and 2) taking measures for control of the facilities in a careful and prudent manner. No person shall begin excavating before the location of said facilities is marked or he or she is notified that marking is unnecessary. Additional provisions relating to

excavation of public property shall be established from time to time by regulations adopted by resolution.

D. Prohibition Against Damaging Wastewater Treatment System. No Customer, User, or person shall knowingly or negligently damage the wastewater treatment system (including, but expressly not limited to, damage caused by unlawful discharge to the wastewater system, improper connection to the wastewater system, and negligent excavation or other construction in, on, or around the wastewater system).

1. Enforcement Options. Knowing or negligent damage to the wastewater treatment system is subject to vigorous pursuit of any and all remedies available to the Town, including (but expressly not limited to) injunction, abatement, discontinuation of service, actions for damages, civil penalties, and criminal penalties. [Note: exemption from civil penalty or liability for gardening or tilling with hand tools on own property; ARS §40-360.28(F)(3)] Procedures for discontinuing wastewater service in the event of damage to the wastewater system shall be established from time to time by regulations adopted by resolution.

(Ord. No. 510, Enacted, 08/23/01; Ord No. 839, Amended, 02/22/18)

9-05-070 Restrictions on Discharges.

A. Required Approval. Discharge into the wastewater treatment system of any wastewater having one or more of the following attributes requires the written approval of the Town:

1. A five (5) day BOD greater than three hundred (300) milligrams per liter by weight;

2. TSS of more than three hundred fifty (350) milligrams per liter of weight; or

3. An average monthly flow of greater than fifty thousand (50,000) gallons.

B. Surcharge Factor. The Town shall impose a surcharge factor on wastewater Volume Rates as provided from time to time by resolution, on designated Users who discharge wastes having strength of BOD or TSS greater than twice normal domestic waste. The surcharge factors shall only be applied if the average of BOD and TSS together is greater than 500, and shall only be applied in each case to the parts per million (ppm) above 500.

In determining whether to add the surcharge factors to Volume Rates in particular billings, staff may refer to the typical strengths of BOD and TSS shown in Table A below, in lieu of laboratory analyses. However, Users who so desire may supply analyses from certified laboratories at their own expense as often as may be required in writing by the Utilities Director.

TABLE A

STANDARD CLASSIFICATIONS	CHARACTERISTIC	STRENGTH
	BOD (ppm)	TSS (ppm)
Average Residential (Normal Domestic)	250	250
Auto Steam Cleaning	1,150	1,250
Bakery, Wholesale	1,000	600
Grocery Store	800	800
Hotel/Motel With Dining Facilities	700	360
Industrial Laundry	670	680
Market With Garbage Disposal	800	800
Mortuary	800	800
Restaurants, Food Preparation	1100	600
RV/Houseboat Wastes	4,000	10,000
Schools & Colleges With Cafeteria	1000	500
Septage Haulers	5,400	12,000

Failure by a Customer to pay the surcharge factor imposed and to provide corrective measures as may be required to prevent unauthorized discharges, after due notice by the Town and after being given a reasonable time to comply, shall be sufficient cause to discontinue wastewater services without further notice.

C. Septage. Septage shall only be discharged at the wastewater treatment facility in accordance with rules established by the Town, unless permission is granted in writing to discharge at another location. This restriction shall not apply to residential Users discharging (through adequate plumbing facilities on their own property) the wastewater tank of a normal recreational vehicle owned and operated solely by said Users.

(Ord. No. 284, Enacted, 10/08/92; Ord. No. 466, Amended, 07/08/99; Ord. No. 510, Amended, 08/23/01; Ord. No. 815, Amended, 04/28/16)

9-05-080 Discharge Prohibitions.

A. Prohibited Discharge Standards.

1. General Prohibitions. No User shall introduce or cause to be introduced into the wastewater system any pollutant or wastewater which causes pass through or interference. These general prohibitions apply to all Users of the wastewater system whether or not they are subject to categorical pretreatment standards or any other federal, State, or local pretreatment standards or requirements.

2. Specific Prohibitions. In connection with Article 7-03 of this Code (and except as provided in this Article), no User or other person shall discharge or permit to be discharged any of the following described waters or wastes into the wastewater system:

a. Wastewater having a temperature greater than one hundred twenty (120) degrees Fahrenheit, or which will inhibit biological activity in the treatment plant resulting in interference, but in no case wastewater

which causes the temperature at the introduction into the treatment plant to exceed one hundred four (104) degrees Fahrenheit [forty (40) degrees Celsius];

b. Any water or waste which contains fats, oil, or grease in amounts that cause obstruction or interference of the wastewater treatment system, and at no time in amounts greater than one hundred (100) parts per million;

c. Pollutants which create a fire or explosive hazard in the wastewater system, including, but not limited to, wastestreams with a closed-cup flashpoint of less than one hundred four (104) degrees Fahrenheit [forty (40) degrees Celsius] using the test methods specified in 40 CFR 261.21, and any gasoline, benzene, naphtha, fuel or other flammable or explosive liquid, solid, or gas;

d. Solid or viscous substances in amounts which will cause obstruction of the flow in the wastewater system resulting in obstruction or interference with the wastewater treatment system, but in no case solids greater than 1/2 inch in any dimension; any garbage that has not been properly shredded; or any ashes, cinders, sand, mud, straw, shavings, metal, glass, rags, feathers, tar, plastics, wood, paunch manure, abrasives such as brick, cement onyx, or carbide;

e. Any waters or wastes having a pH lower than six (6) or higher than eleven (11), or having any other corrosive property capable of causing damage to the structures, equipment, and personnel of the wastewater system;

f. Any waters or wastes which contain or result in the presence of toxic, radioactive, or poisonous gases, vapors, or fumes within the wastewater

system in a quantity that may injure or interfere with any wastewater treatment process, cause acute worker health and safety problems, or otherwise constitute a hazard to humans, or create any hazard in the utilization of the reclaimed water from the wastewater system;

g. Any waters or wastes containing dissolved or suspended solids of such character and quantity that unusual attention or expense is required to handle such materials in the wastewater treatment system;

h. Noxious or malodorous liquids, gases, solids, or other wastewater which, either singly or by interaction with other wastes, are sufficient to create a public nuisance or a hazard to life, or to prevent entry into the sewers for maintenance or repair;

i. Any pollutant, including oxygen demanding pollutants (BOD, etc.), released in a discharge at a flow rate and/or pollutant concentration which, either singly or by interactions with other pollutants, will cause interference with the wastewater system;

j. Petroleum oil, nonbiodegradable cutting oil, or products of mineral oil origin, in amounts that will cause interference or pass through;

k. Trucked or hauled pollutants, except at discharge points approved by the Town;

l. In connection with Article 7-03 of this Code, any drainage waters, including (but not limited to) storm water, surface water, groundwater, roof runoff, or cellar or other subsurface drainage, swimming pool drainage, condensate, or de-ionized water, without the express permission of the Town;

m. Any noncontact cooling or unpolluted process water, without the express permission of the Town;

n. Sludges, screenings, or other residues from the pretreatment of industrial wastes;

o. Medical wastes, except as specifically authorized by the Town in an industrial wastewater pretreatment permit; or

p. Any material into a manhole through its top, unless specifically authorized by the Town.

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

B. Categorical Pretreatment Standards. The categorical pretreatment standards found at 40 CFR Chapter I, Subchapter N, Parts 405-471 are hereby incorporated and:

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

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

3. Obtaining Variance. A User may obtain a variance from a categorical pretreatment standard if the User can prove, pursuant to the procedural and substantive provisions in 40 CFR 403.13, that factors relating to its discharge are fundamentally different from the factors considered by EPA when developing the categorical pretreatment standard; and

4. Net Gross Adjustment. A User may obtain a net gross adjustment to a categorical standard in accordance with 40 CFR 403.15.

C. State Pretreatment Standards. State pretreatment standards and any other applicable State standards or requirements are hereby incorporated.

D. Local Limits. The following pollutant limits are established to protect against pass through and interference. No person shall discharge wastewater containing in excess of the following (in milligrams per liter):

Total grease, oil, etc.	100.0	Copper	1.6
Dissolved Sulfides	0.5		
Cyanide	1.3	Fluoride	Reserved
Arsenic	0.5	Lead	0.3
Antimony	Reserved	Mercury	0.001
Barium	Reserved	Molybdenum	Reserved
Beryllium	Reserved	Nickel	Reserved
Cadmium	0.1	Selenium	0.2
Chromium (total)	3.0	Silver	0.5
Chromium VI	Reserved	Thallium	2.2
		Zinc	2.9

The above limits apply at the point where the wastewater is discharged to the wastewater system. All concentrations for metallic substances are for "total" metal unless indicated otherwise. The Town may impose mass limitations in addition to, or in place of, the concentration-based limitations above.

No non-residential User shall discharge wastewater containing restricted substances into the wastewater system in excess of limitations specified in its industrial wastewater pretreatment permit, or adopted by resolution by the Town. The Town shall publish and revise from time to time standards (local limits) for specific restricted substances. These standards shall be developed in accordance with 40 CFR 403.5 and shall implement the objectives of this Article. Standards published in accordance with this Subsection will be deemed pretreatment standards for the purposes of Section 307(d) of the Act.

The Town may impose mass limitations in addition to or in place of concentration based limitations. The Town may also revise or modify the standards (local limits) as required, or if deemed necessary to comply with the objectives or the general and specific prohibitions in this Article, or to ensure compliance with federal, State, or local law.

E. Right of Revision. The Town reserves the right to establish, by ordinance or in industrial wastewater pretreatment permits, more stringent standards or requirements on discharges to the wastewater system.

F. 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 Town may impose mass limitations on Users which are using dilution to meet applicable pretreatment standards or requirements, or in other cases when the imposition of mass limitations is appropriate.

G. Application of Most Stringent Limitations. For a discharge regulated by Categorical Pretreatment Standards or other federal, State, or local discharge limitations or requirements, the most stringent limitations and requirements will apply.

H. Deadline for Compliance with Categorical Standards.

1. Compliance Time. Compliance by existing sources with categorical pretreatment standards shall be within three (3) years of the date the standard is effective, unless a shorter compliance time is specified in the appropriate subpart of 40 CFR Chapter I, Subchapter N.

2. New Sources. New sources shall install, have in operating condition, and start up all pollution control equipment required to meet applicable pretreatment standards before beginning to discharge. Within the shortest feasible time (not to exceed 90 days), new sources must meet all applicable pretreatment standards.

(Ord. No. 284, Enacted, 10/08/92; Ord. No. 391, Amended, 06/27/96; Ord. No. 510, Amended, 08/23/01; Ord. No. 815, Amended, 04/28/16; Ord. No. 839, Amended, 02/22/18)

9-05-090 Pretreatment of Wastewater.

A. Pretreatment Facilities. Users shall provide wastewater treatment as necessary to comply with this Article and shall achieve compliance with all federal pretreatment standards, local limits, and the prohibitions set out in this Article within the time limitations specified by EPA, the State, or the Town (whichever is more stringent). Any facilities necessary to meet the requirements of this Article shall be provided, operated, and maintained at the User's expense. Detailed plans describing such facilities and operating procedures shall be submitted to the Town for review, and shall be approved by the Town before such facilities are constructed. The review and/or approval of such plans and operating procedures will 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 Article.

B. Additional Pretreatment Measures.

1. Town Authority to Restrict Discharge. Whenever deemed necessary, the Town 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 apply such other conditions as may be necessary to protect the wastewater system and determine the User's compliance with the requirements of this Article.

2. Town Authority to Require Flow-Control Facility. The Town may require any person discharging into the wastewater system to install and maintain, on that person's property and at that person's expense, a suitable storage and flow-control facility to ensure equalization of flow. An industrial wastewater

pretreatment permit may be issued solely for flow equalization.

3. Town Authority to Require Grease Interceptors. Grease, oil, and sand interceptors or traps shall be provided by user when, in the opinion of the Town, they are necessary for the proper handling of wastes containing grease in excessive amounts, or any flammable wastes, sand, or other harmful ingredients; except that such interceptors shall not normally be required for a building used for residential purposes. All interceptors shall be of a type and capacity approved by the Town and shall be so located as to be easily accessible for cleaning and inspection. Such interceptors shall regularly be inspected, cleaned, and repaired by the User at the User's expense in order to maintain the same in a continuously operational condition.

4. Town Authority to Require Gas Detection Meter. Users with the potential to discharge flammable substances may be required to install and maintain an approved combustible gas detection meter.

C. Accidental Discharge/Slug Control Plans. At least once every two (2) years the Town shall evaluate whether each Significant Industrial User needs an accidental discharge/slug control plan. The Town may require any User to develop, submit for approval, and implement such a plan. An accidental discharge/slug control plan shall address, at a minimum, the following:

1. Description of discharge practices, including nonroutine batch discharges;

2. Description of stored chemicals;

3. Procedures for immediately notifying the Town of any accidental or slug discharge, as required by this Article. Such notification must also be given for any discharge which would violate any of the prohibited discharges in this Article; and

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

The review and/or approval of such plans will in no way relieve the User from the responsibility of modifying such plans or facilities as necessary to comply with the provisions of this Article.

D. Hauled Wastewater.

1. Septic Tank Waste. Septic tank waste may be introduced into the wastewater system only by certain dischargers at such locations and at such times as are established by the Town. If such discharges comply with the established requirements, the wastes discharged shall not violate this Article, or any other requirements established by the Town. The Town may require commercial septic

tank waste haulers to obtain industrial wastewater pretreatment permits.

2. Industrial Waste Haulers. The Town shall require haulers of industrial waste to obtain industrial wastewater pretreatment permits. The Town may require generators of hauled industrial waste to obtain industrial wastewater pretreatment permits. The Town also may prohibit the discharge of hauled industrial waste. The discharge of hauled industrial waste is subject to all other requirements of this Article.

3. Limits on Locations to Discharge Industrial Waste. Industrial waste haulers may only discharge loads at locations designated by the Town. No load may be discharged without prior consent of the Town. The Town may collect samples of each hauled load to ensure compliance with applicable standards. The Town may also require the hauler to provide a waste analysis of any load prior to discharge.

4. Tracking Form for Industrial Waste Haulers. Industrial waste haulers must provide a waste-tracking form for every load. This form shall include, at a minimum, name and address of the 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.

(Ord. No. 391, Enacted, 06/27/96; Ord. No. 510, Amended, 08/23/01; Ord. No. 815, Amended, 04/28/16)

9-05-100 Industrial Wastewater Pretreatment Permit.

A. Introduction.

1. Discharge Subject to Terms of Permit. Any permit granted by the Town to an industrial User granting the right to discharge to the wastewater system shall be subject to the terms and conditions (including, but not limited to, monitoring requirements and fees) set forth in the permit.

2. Application of Industrial Wastewater Pretreatment Permits. Industrial wastewater pretreatment permits shall be required of:

   a. Any User needing written approval under this Article;

   b. Any User who has a discharge which is permissible only if pretreatment of the wastewater by the User is performed prior to its entry into the wastewater system;

   c. Any User whose discharge requires special handling or extraordinary monitoring by wastewater treatment system personnel and equipment, including (but expressly not limited to) grease traps, oil - water separators, sand traps, silver recovery systems, lint traps or any similar devices;

d. Any Significant Industrial User, except a Significant Industrial User that has filed a timely application pursuant to this Article may continue to discharge for the time period specified therein;

e. Any User whose discharge has or may have reasonable potential for adversely affecting the wastewater treatment system's operation or for violating any pretreatment standard or requirement; and

f. Other Users as necessary to carry out the purposes of this Article.

3. Additional Compliance With Applicable Law. Any violation of the terms and conditions of an industrial wastewater pretreatment permit shall be deemed a violation of this Article and subjects the industrial wastewater pretreatment permittee to the sanctions set out in this Article. Obtaining an industrial wastewater pretreatment 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.

B. Application.

1. Wastewater Analysis. When requested by the Town, a User must submit information on the nature and characteristics of the User's wastewater. The Town is authorized to prepare a form for this purpose and may periodically require Users to update the information. Failure to provide the information shall be reasonable grounds for denying or terminating service to the User and shall be considered a violation of this Article.

2. Existing Connections. Any User required to obtain an industrial wastewater pretreatment permit who was discharging wastewater into the wastewater system prior to the effective date of this Article and who wishes to continue such discharges in the future, shall, within ninety (90) days after said date, apply to the Town for an industrial wastewater pretreatment permit in accordance with this Article, and shall not cause or allow discharges to the wastewater system to continue after one hundred fifty (150) days of the effective date of this Article, except in accordance with an industrial wastewater pretreatment permit issued by the Town.

3. New Connections. Any User required to obtain an industrial wastewater pretreatment permit that proposes to begin or recommence discharging into the wastewater system must obtain such permit at the same time it obtains any building permit or other development permit under the technical building codes of the Town Code. In no event shall an application for an industrial wastewater pretreatment permit be filed any later than sixty (60) days prior to the date upon which any discharge will begin or recommence.

4. Contents. All Users required to obtain an industrial wastewater pretreatment permit must submit a permit application. The Town may require a User to submit as part of an application the following information:

a. The information required by this Article;

b. Description of activities, facilities, and plant processes on the premises, including a list of all raw materials and chemicals used or stored at the facility which are, or could accidentally or intentionally be, discharged to the wastewater system;

c. Number of employees, hours of operation, and proposed or actual hours of operation;

d. Each product produced by type, amount, process or processes, and rate of production;

e. Type and amount of raw materials processed (average and maximum per day);

f. Site plans, floor plans, mechanical and plumbing plans, and details to show all sewers, floor drains, chemical storage areas, and appurtenances by size, location, and elevation, and all points of discharge;

g. Time and duration of discharges; and

h. Any other information as may be deemed necessary by the Town to evaluate the industrial wastewater discharge permit application.

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

5. Signatories and Certification. All industrial wastewater pretreatment permit applications and User reports must be signed by an authorized signatory of the User and contain the following certification statement:

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

6. Decisions. The Town will evaluate the data furnished by the User and may require additional information. Within sixty (60) days of receipt of a complete industrial wastewater pretreatment permit application, the Town will determine whether or not to issue an industrial wastewater pretreatment permit. The Town may deny any application for an industrial wastewater pretreatment permit.

C. Issuance.

1. Duration. Industrial wastewater pretreatment permits shall be issued for a specified time period, not to exceed five (5) years from the effective date of the permit. An industrial wastewater pretreatment permit may be issued for a period less than five (5) years, at the discretion of the Town. Each industrial wastewater pretreatment permit will indicate a specific date upon which it will expire.

2. Contents. Industrial wastewater pretreatment permits shall include such conditions as are deemed reasonably necessary by the Town to prevent pass through or interference, protect the quality of the water body receiving the treatment plant's reclaimed water, protect worker health and safety, protect the public, facilitate sludge management and disposal, and protect against damage to the wastewater system.

   a. Industrial wastewater pretreatment permits must contain:

      (1) A statement that indicates industrial wastewater pretreatment permit duration, which in no event shall exceed five (5) years;

      (2) A statement that the industrial wastewater pretreatment permit is nontransferable;

      (3) Effluent limits based on applicable pretreatment standards;

      (4) Self-monitoring, sampling, reporting, notification, and record-keeping 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) 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.

   b. Industrial wastewater pretreatment permits may contain, but need not be limited to, the following conditions:

      (1) Limits on the average and/or maximum rate of discharge and time of discharge, and/or requirements for flow regulation and equalization;

      (2) Requirements for the installation and maintenance 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

accidental discharge/slug control plans or other special conditions, including management practices necessary to adequately prevent accidental, unanticipated, or nonroutine discharges;

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

(5) Requirements for installation and maintenance of inspection and sampling facilities and equipment;

(6) A statement that compliance with the industrial wastewater pretreatment 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 industrial wastewater pretreatment permit; and

(7) Other conditions as deemed appropriate by the Town to ensure compliance with this Article, and federal and State laws, rules, and regulations.

3. Appeals. The Town shall provide public notice of the issuance of an industrial wastewater pretreatment permit. Any person, including the User, may petition the Town to reconsider the terms of an industrial wastewater pretreatment permit within thirty (30) days of notice of issuance of the permit.

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

b. In its petition, the appealing party must indicate the industrial wastewater pretreatment permit provisions objected to, the reasons for the objection(s), and the alternative condition(s), if any, it seeks to place in the industrial wastewater pretreatment permit.

c. The effectiveness of the industrial wastewater pretreatment permit shall not be stayed pending the appeal.

d. If the Town fails to act within thirty (30) days of receipt of the request, the request for reconsideration shall be deemed to be denied. Decisions not to reconsider an industrial wastewater pretreatment permit, not to issue an industrial wastewater pretreatment permit, or not to modify an industrial wastewater pretreatment permit, shall be considered final administrative actions for purposes of judicial review.

e. Aggrieved parties seeking judicial review of the final administrative industrial wastewater pretreatment permit decision must do so by filing a complaint with the Yavapai County Superior Court within the appropriate Arizona statute(s) of limitations.

4. Reissuance. A User with an expiring industrial wastewater pretreatment permit shall apply for industrial wastewater pretreatment permit reissuance by submitting a complete permit application, in accordance with this Article, a minimum of sixty (60) days prior to the expiration of the User's existing industrial wastewater pretreatment permit.

D. Modification, Transfer, and Revocation.

1. Modification. The Town may modify the industrial wastewater pretreatment permit for good cause including, but not limited to, the following reasons:

   a. To incorporate any new or revised federal, State, or local pretreatment standards or requirements;

   b. To address significant alterations or additions to the User's operation, processes, or wastewater volume or character since the time of industrial wastewater pretreatment permit issuance;

   c. A change in the wastewater system that requires either a temporary or permanent reduction or elimination of the authorized discharge;

   d. Information indicating the permitted discharge poses a threat to the wastewater system, wastewater system personnel, the public, or the receiving waters;

   e. Violation of any terms or conditions of the industrial wastewater pretreatment permit;

   f. Misrepresentations or failure to fully disclose all relevant facts in the industrial wastewater pretreatment permit application or in any required reporting;

   g. Revision of or a grant of variance from categorical pretreatment standards pursuant to 40 CFR 403.13;

   h. To correct typographical or other errors in the industrial wastewater pretreatment permit.

2. Transfer. Industrial wastewater pretreatment permits may not be assigned or transferred to a new owner and/or operator.

3. Revocation. The Town may revoke an industrial wastewater pretreatment permit for good cause, including, but not limited to, the following reasons:

   a. Failure to notify the Town of significant changes to the wastewater prior to the changed discharge;

   b. Failure to provide prior notification to the Town of changed conditions pursuant to this Article;

c. Misrepresentation or failure to fully disclose all relevant facts in the industrial wastewater pretreatment permit application;

d. Falsifying self-monitoring or other reports;

e. Tampering with monitoring equipment;

f. Refusing to allow the Town timely access to the facility premises and records;

g. Failure to meet effluent limitations;

h. Failure to pay fines;

i. Failure to pay sewer fees and charges;

j. Failure to meet compliance schedules;

k. Failure to complete a wastewater survey or the industrial wastewater pretreatment permit application;

l. Violation of any pretreatment standard or requirement, or any terms of the industrial wastewater pretreatment permit or this Article.

Industrial wastewater pretreatment permits shall be voidable upon cessation of operations. All industrial wastewater pretreatment permits issued to a particular User are void upon the issuance of a new industrial wastewater pretreatment permit to that User.

(Ord. No. 284, Enacted, 10/08/92; Ord. No. 391, Ren&Amd, 06/27/96, 9-05-090; Ord. No. 466, Amended, 07/08/99; Ord. No. 510, Amended, 08/23/01)

9-05-110 Regulation of Waste Received from Other Jurisdictions.

A. If another jurisdiction, or User located within another jurisdiction, contributes wastewater to the wastewater system, the Town shall enter into an intergovernmental agreement (IGA) pursuant to ARS 11-951 et seq. with the contributing jurisdiction.

B. Prior to entering into such an IGA, the Town shall request the following information from the contributing jurisdiction:

1. A description of the quality and volume of wastewater discharged to the wastewater system by the contributing jurisdiction;

2. An inventory of all Users located within the contributing jurisdiction and discharging to the wastewater system; and

3. Such other information as the Town may deem necessary.

C. Any such IGA, shall contain, at a minimum, the following conditions:

1. A requirement for the contributing jurisdiction to adopt a sewer use ordinance which is at least as stringent as this Article and discharge prohibitions and local limits which are at least as stringent as those set out in this Article. The requirement shall specify that such ordinance and limits must be revised as necessary to reflect changes made to the applicable provisions of the Prescott Valley Town Code and/or local limits;

2. A requirement for the contributing jurisdiction to submit a revised User inventory on at least an annual basis;

3. A provision specifying which pretreatment implementation activities, including industrial wastewater pretreatment permit issuance, inspection and sampling, and enforcement, will be conducted by the contributing jurisdiction; which of these activities will be conducted by the Town; and which of these activities will be conducted jointly by the contributing jurisdiction and the Town;

4. A requirement for the contributing jurisdiction to provide the Town with access to all information the contributing jurisdiction obtains as part of its pretreatment activities;

5. Limits on the nature, quality, and volume of the contributing jurisdiction's wastewater at the point where it discharges to the wastewater system;

6. Requirements for monitoring the contributing jurisdiction's discharge;

7. A provision ensuring the Town access to the facilities of Users located within the contributing jurisdiction's boundaries for the purpose of inspection, sampling, and any other duties deemed necessary by the Town; and

8. A provision specifying remedies available for breach of the terms of the IGA.

(Ord. No. 391, Enacted, 06/27/96; Ord. No. 510, Amended, 08/23/01)

9-05-120 Reporting Requirements.

A. Baseline Monitoring Reports.

1. After Effective Date of Categorical Pretreatment Standard. Within one hundred eighty (180) days after either the effective date of a categorical pretreatment standard, or the final administrative decision on a category determination under 40 CFR 403.6(a)(4) (whichever is later), existing categorical users currently discharging to or scheduled to discharge to the wastewater system shall submit to the Town a report which contains the information listed in Subparagraph A(2) below. At least ninety (90) days prior to commencement of their discharge, new sources and sources that become categorical users subsequent to the promulgation of an applicable categorical standard, shall be required to submit

to the Town a report which contains the information listed in Subparagraph A(2) 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.

2. Information Required. Users described above shall submit the following information:

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

b. Environmental Permits. A list of any environmental control permits held by or for the facility.

c. Description of Operations. A brief description of the nature, average rate of production, and standard industrial classifications of the operation(s) carried out by the User. This description should include a schematic process diagram which indicates points of discharge to the wastewater system from the regulated processes.

d. Flow Measurement. Information showing the measured average daily and maximum daily flow, in gallons per day, to the wastewater system from regulated process streams and other streams (as necessary) to allow use of the combined wastestream formula set out in 40 CFR 403.6(e).

e. Measurement of Pollutants.

(1) The categorical pretreatment standards applicable to each regulated process.

(2) The results of sampling and analysis identifying the nature and concentration (and/or mass, where required by the standard or by the Town) of regulated pollutants in the discharge from each regulated process. Instantaneous, daily maximum, and long-term average concentrations (or mass, where required) shall be reported. The sample shall be representative of daily operations and shall be analyzed in accordance with procedures set out in this Article.

(3) Sampling must be performed in accordance with procedures set out in this Article.

f. Certification. A statement, reviewed by the User's authorized signatory 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.

g. 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 Subsection must meet the requirements set out in this Article.

h. Signature and Certification. All baseline monitoring reports must be signed and certified in accordance with this Article.

B. Compliance Schedule and Progress Report. The following conditions shall apply to any schedule required by this Article or the Town:

1. The schedule shall contain progress increments in the form of dates for the commencement and completion of major events leading to the construction and operation of additional pretreatment required for the User to meet the applicable pretreatment standards (such events include, but are not limited to, hiring an engineer, completing preliminary and final plans, executing contracts for major components, commencing and completing construction, and beginning and conducting routine operation);

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

3. The User shall submit a progress report to the Town 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;

4. In no event shall more than nine (9) months elapse between such progress reports to the Town; and

5. No compliance schedule shall exceed eighteen (18) months.

C. Report 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 wastewater system, any User subject to such pretreatment standards and requirements shall submit to the Town a report containing the information described in this Article. For Users subject to equivalent mass or concentration limits established in accordance with the procedures in 40 CFR 403.6(c), this report shall contain a reasonable measure of the User's long-term production rate. For all other Users subject to categorical pretreatment standards expressed in terms of allowable pollutant discharge per unit of production (or other measure of operation), this report shall include the User's actual production during the appropriate sampling period. All compliance reports must be signed and certified in accordance with this Article.

D. Periodic Compliance Reports.

1. Report on Nature of Pollutants. All Significant Industrial Users shall, at a frequency determined by the Town but in no case less than every six (6) months, 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 this Article.

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

3. More Frequent Monitoring. If a User subject to the reporting requirement in this Subsection monitors any pollutant more frequently than required by the Town, using the procedures prescribed in this Article, the results of this monitoring shall be included in the report.

E. Report of Changed Conditions. Each User must notify the Town 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 thirty (30) days before the change. In addition:

1. Application for Industrial Wastewater Pretreatment Permit May Be Required. The Town may require the User to submit such information as may be deemed necessary to evaluate the changed condition, including the submission of an industrial wastewater pretreatment permit application under this Article.

2. Town Issuance of Industrial Wastewater Pretreatment Permit May Be Required. The Town may issue an industrial wastewater pretreatment permit under this Article or modify an existing industrial wastewater discharge permit under Subparagraph 9-05-100(D)(1) of this Article in response to changed conditions or anticipated changed conditions.

3. Town Response A Prerequisite. No User shall implement the planned changed conditions until and unless the Town has responded to the User's notice.

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

F. Reports of Potential Problems.

1. Town Notification. In the case of any discharge, including, but not limited to, accidental discharges, discharges of a nonroutine, episodic nature, a noncustomary batch discharge, or a slug load, that may cause potential problems for the wastewater system (including a violation of the prohibited discharge standards in this Article), the User shall immediately telephone and notify the Town 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.

2. Subsequent Written Report. Within five (5) days following such discharge, the User shall, unless waived by the Town, 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 wastewater system, natural resources, or any other damage to persons or property; nor shall such notification relieve the User of any fines, civil penalties, or other liability which may be imposed pursuant to this Article.

3. Failure to Provide Notice. Failure to notify the Town of potential problem discharges shall be deemed a violation of this Article.

4. Information to Employees. A notice shall be permanently posted on the User's bulletin board or other prominent place advising employees whom to call in the event of a discharge described in Subparagraph F(1) above. Employers shall ensure that all employees are advised of the emergency notification procedure.

G. Reports from Unpermitted Users. All Users not required to obtain an industrial wastewater pretreatment permit shall provide appropriate reports as may be required by the Town.

H. Notice of Violation/Repeat Sampling and Reporting. If sampling performed by a User indicates a violation, the User must notify the Town as soon as possible but no later than twenty four (24) hours of becoming aware of the violation. The User shall also immediately repeat the sampling and analysis and submit the results of the repeat analysis to the Town within the time period specified by the Town, but at no time greater than thirty (30) days after becoming aware of the violation. The User may not be required to resample if the Town monitors at the User's facility at least once a month, or if the Town samples between the User's initial sampling and when the User receives the results of this sampling.

I. Notification of the Discharge of Hazardous Waste.

1. Notice of Discharge. Any User who commences the discharge of hazardous waste shall notify the Town, the EPA Regional Waste Management Division Director, and State hazardous waste authorities (in writing) of any discharge into the wastewater system 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 wastewater system, the notification shall also contain the following information to the extent such information is known and readily available to the User: an identification of the hazardous constituents contained in the wastes, an estimation of the mass and concentration of such constituents in the wastestream discharged during that calendar month, and an estimation of the

mass of constituents in the wastestream expected to be discharged during the following twelve (12) months. All notifications must take place no later than one hundred eighty (180) days after the discharge commences. Any notification under this Subparagraph 9-05-120(I)(1) need be submitted only once for each hazardous waste discharged. However, notifications of changed discharges must be submitted under this Article. The notification requirement in this Subsection 9-05-120(I) does not apply to pollutants already reported under the self-monitoring requirements of this Article.

2. Exemption From Notice Requirement. Dischargers are exempt from the requirements of Subparagraph 9-05-120(I)(1) above during a calendar month in which they discharge no more than fifteen (15) kilograms of hazardous wastes, unless the wastes are acute hazardous wastes as specified in 40 CFR 261.30(d) and 261.33(e). Discharge of more than fifteen (15) kilograms of nonacute hazardous wastes in a calendar month, or of any quantity of acute hazardous wastes as specified in 40 CFR 261.30(d) and 261.33(e), requires a one-time notification. Subsequent months during which the User discharges more than such quantities of any hazardous waste do not require additional notification.

3. In Case of New Federal Regulations. 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 Town, 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.

4. Certification of Reduction Program. In the case of any notification made under this Subsection 9-05-120(I), 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.

5. No Authorization of Prohibited Discharge. This reporting provision does not create a right to discharge any substance not otherwise permitted to be discharged by this Article, a permit issued thereunder, or any applicable federal or State law.

J. Analytical Requirements. All pollutant analyses (including sampling techniques) to be submitted as part of an industrial wastewater pretreatment 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 the EPA.

K. Sample Collection.

1. Appropriate Technique. Except as indicated in Subparagraph 9-05-120(K)(2) below, the User must collect wastewater samples using flow proportional composite collection techniques. In the event flow proportional sampling is infeasible, the Town may authorize the use of time proportional sampling or a

minimum of four (4) grab samples where the User demonstrates that this will provide a representative sample of the effluent being discharged. In addition, grab samples may be required to show compliance with instantaneous discharge limits.

2. Specific Techniques. Samples for oil and grease, temperature, pH, cyanide, phenols, sulfides, and volatile organic chemicals must be obtained using grab collection techniques.

L. Timing. Written reports will be deemed to have been submitted on the date post-marked. 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.

M. Record Keeping. Users subject to the reporting requirements of this Article shall retain, and make available for inspection and copying, all records of information obtained pursuant to any monitoring activities required by this Article and any additional records of information obtained pursuant to monitoring activities undertaken by the User independent of such requirements. Records shall include the date, exact place, method, and time of sampling, and the name of the person(s) taking the samples; the dates analyses were performed; who performed the analyses; the analytical techniques or methods used; and the results of such analyses. These records shall remain available for a period of at least three (3) years. This period shall be automatically extended for the duration of any litigation concerning the User or the Town, or where the User has been specifically notified of a longer retention period by the U.S. EPA, the State, or the Town.

(Ord. No. 391, Enacted, 06/27/96; Ord. No. 510, Amended, 08/23/01)

9-05-130 Compliance Monitoring.

A. Right of Entry: Inspection and Sampling. The Town shall have the right upon presentation of proper credentials to enter the premises of any User to determine whether the User is complying with all requirements of this Article and any industrial wastewater pretreatment permit or order issued hereunder. Users shall allow the Town ready access to all parts of the premises for the purposes of inspection, sampling, records examination and copying, and the performance of any additional duties.

1. Arrangement for Town Entry. Where a User has security measures in force which require proper identification and clearance before entry onto its premises, the User shall make necessary arrangements with its security guards so that, upon presentation of suitable identification, the Town will be permitted to enter without delay for the purposes of performing specific responsibilities.

2. Town Right to Install Devices. The Town shall have the right to set up on the User's property, or require installation of, such devices as are necessary to conduct sampling and/or metering of the User's operations.

3. User Monitoring Equipment. The Town may require the User to install monitoring equipment as necessary. The facility's sampling and monitoring equipment shall

be maintained at all times in a safe and proper operating condition by the User at its own expense. All devices used to measure wastewater flow and quality shall be calibrated at least annually by a certified technician to ensure their accuracy. Calibration records shall be made available to the Town upon request.

4. Removal of Obstructions. 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 Town and shall not be replaced. The costs of clearing such access shall be borne by the User.

5. Unreasonable Delays. Unreasonable delays in allowing the Town access to the User's premises shall be a violation of this Article.

B. Search Warrants. If the Town has been refused access to a building, structure or property, or any part thereof, and is able to demonstrate probable cause to believe that there may be a violation of this Article, or that there is a need to inspect and/or sample as part of a routine inspection and sampling program of the Town designed to verify compliance with this Article or any permit or order issued hereunder, or to protect the overall public health, safety and welfare of the community, then the Town may seek issuance of a search warrant from the Prescott Valley Magistrate Court.

(Ord. No. 391, Enacted, 06/27/96; Ord. No. 510, Amended, 08/23/01)

9-05-140 Confidential Information.

Information and data on a User obtained from reports, surveys, industrial wastewater pretreatment permit applications, industrial wastewater pretreatment permits, and monitoring programs, and from the Town's inspection and sampling activities, shall be available to the public without restriction unless the User specifically requests, and is able to demonstrate to the satisfaction of the Town, that the release of such information would be a misuse of public records because it would divulge information, processes or methods of production entitled to protection as trade secrets under the Arizona Open Records law. Any such request must be asserted by the User at the time of submission of the information or data. When requested and demonstrated by the User furnishing a report that some or all of the information therein should be held confidential, those portions of the report shall not be made available for public inspection but the Town shall, instead, take reasonable steps in accordance with State law to obtain an order closing those portions of the record to inspection. However, nothing herein shall preclude the Town from making such records available upon request to governmental agencies for uses related to the APP or NPDES programs, the pretreatment program, or in enforcement proceedings involving the person furnishing the report. Note that wastewater constituents and characteristics and other "effluent data" as defined by 40 CFR 2.302 will not be recognized as confidential information and will be available to the public without restriction.

(Ord. No. 391, Enacted, 06/27/96; Ord. No. 510, Amended, 08/23/01)

9-05-150 Publication of Users in Significant Noncompliance.

The Town shall publish annually in the Daily Courier a list of the Users which, during the

previous twelve (12) months, were in significant noncompliance with applicable pretreatment standards and requirements. The term "significant noncompliance" shall mean:

A. Chronic violations of wastewater discharge limits, defined here as those in which sixty-six percent (66%) or more of wastewater measurements taken during a six-month period exceed the daily maximum limit or average limit for the same pollutant parameter by any amount;

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--month period equals or exceeds the product of the daily maximum limit or the average limit 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 discharge violation that the Town believes has caused, alone or in combination with other discharges, interference or pass through (including endangering the health of Town personnel or the general public);

D. Any discharge of pollutants that has caused imminent endangerment to the public or to the environment, or has resulted in the Town's exercise of its emergency authority to halt or prevent such a discharge;

E. Failure to meet, within ninety (90) days of the scheduled date, a compliance schedule milestone contained in an industrial wastewater pretreatment 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 baseline monitoring reports, reports on compliance with categorical pretreatment standard deadlines, periodic self-monitoring reports, and reports on compliance with compliance schedules;

G. Failure to accurately report noncompliance; or

H. Any other violation(s) which the Town determines will adversely affect the operation or implementation of this Article.

(Ord. No. 391, Enacted, 06/27/96; Ord. No. 510, Amended, 08/23/01)

9-05-160 Penalties and Remedies.

A. Types of Violation. Violations of this Article include, but are not limited to, the following:

1. Exceeding Quantity Discharge Limitations. A User exceeding the quantity discharge limitations as set forth herein or as made part of any industrial wastewater pretreatment permit.

2. Discharging Excessive Concentrations. A User discharging or permitting the discharge of excessive concentrations of substances limited by this Article or any

industrial wastewater pretreatment permit issued pursuant to this Article.

3. Discharging Prohibited Substances. A User or other person discharging or permitting the discharge of any substance prohibited by this Article or by a permit issued pursuant to this Article.

4. Failure to Pay Charges. A Customer failing to pay any applicable wastewater treatment charge established pursuant to this Article.

5. Knowing Misrepresentations. A Customer or User knowingly misrepresenting or omitting any pertinent information from application permits or reports required by this Article or by an industrial wastewater pretreatment permit.

B. Responses to Noncompliance.

1. Construction of an Inspection Manhole. If evidence of discharges of prohibited substances or other violations of this Article is found, the Town may require the construction of an inspection manhole at the expense of the Customer and per the provisions of this Article.

2. Class 1 Misdemeanor. Except for failure to pay User fees and charges, any violation of this Article shall constitute a Class 1 Misdemeanor, and any such violation shall constitute a separate offense on each successive day continued.

3. Discontinuance of Service. In addition to other remedies (civil and criminal) available to it, the Town may discontinue wastewater treatment services to any Customer or User who fails to comply with any provision of this Article as otherwise provided in this Article for account delinquencies. Discontinuance of services does not excuse payment of rates, fees, charges, or penalties due under this Article.

4. Administrative Enforcement Remedies.

a. Notification of Violation. When the Town finds that a User has violated (or continues to violate) any provision of this Article, an industrial wastewater pretreatment permit or order issued hereunder, or any other pretreatment standard or requirement, the Town shall serve upon a representative of the User (such representative meeting the criteria of authorized signatory) a written Notice of Violation. Within five (5) 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 Town. Note that submission of such a plan in no way relieves the User of liability for any violations occurring before or after receipt of the Notice of Violation. Also, nothing in this subparagraph B(4) shall limit the authority of the Town to take any action, including emergency actions or any other enforcement action, without first issuing a Notice of Violation.

b. Consent Orders. The Town 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 orders issued pursuant to this Article and shall be judicially enforceable.

c. Show Cause Hearing. The Town may order a User which has violated or continues to violate, any provision of this Article, an industrial wastewater pretreatment permit or order issued hereunder, or any other pretreatment standard or requirement, to appear before the Town 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 fourteen (14) days prior to the hearing. Such notice shall be served on a representative of the User who meets the criteria of an authorized signatory. A show cause hearing shall not be a bar against, or prerequisite for, taking any other action against the User.

d. Compliance Orders. When the Town finds that a User has violated or continues to violate any provision of this Article, an industrial wastewater pretreatment permit or order issued hereunder, or any other pretreatment standard or requirement, the Town 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, wastewater service may be discontinued unless adequate treatment facilities, devices, or other related appurtenances are installed and properly operated. Compliance orders may also contain other requirements to address the noncompliance, including additional self-monitoring, and management practices designed to minimize the amount of pollutants discharged to the wastewater treatment system. A compliance order may not extend the deadline for compliance established for a national pretreatment standard or requirement, nor does a compliance order relieve the User of liability for any violation, including any continuing violation. Issuance of a compliance order shall not be a bar against, or a prerequisite for, taking any other action against the User.

e. Cease and Desist Orders. When the Town finds that a User has violated (or continues to violate) any provision of this Article, an industrial wastewater pretreatment permit or order issued hereunder, or any other pretreatment standard or requirement, or that the User's past violations are likely to recur, the Town may issue an order to the User directing it to cease and desist all such violations and directing the User to:

(1) Immediately comply with all requirements; and

(2) Take such appropriate remedial or preventive action as may be

needed to properly address a continuing or threatened violation, including halting operations and/or terminating the discharge.

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

f. Administrative Fines.

(1) When the Town finds that a User has violated or continues to violate any provision of this Article, an industrial wastewater pretreatment permit or order issued hereunder, or any other pretreatment standard or requirement, the Town may fine such User in an amount not to exceed one thousand dollars ($1,000.00). Such fines shall be assessed on a per violation, per day basis. The Town may add the costs of preparing administrative enforcement actions, such as notices and orders, to the fine.

(2) Unpaid fines shall, after thirty (30) calendar days, be assessed an additional penalty of five percent (5%) of the unpaid balance, and interest shall accrue thereafter at a rate of ten percent (10%) per annum. A lien against the User's property (including but not limited to a judgment lien) may be sought for unpaid fines.

(3) Users desiring to dispute such fines must file a written request for the Town to reconsider the fine along with full payment of the fine amount within thirty (30) days of being notified of the fine. Upon receipt of such request, the Town Manager (or his/her designee) shall convene an Administrative Review hearing on the matter as otherwise provided in this Article. In the event the User's appeal is successful, the payment shall be returned to the User.

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

g. Emergency Suspensions. The Town 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 or welfare of persons or property. The Town may also immediately suspend a User's discharge, after notice and opportunity to respond, that threatens to interfere with the operation of the wastewater system, or which presents or may present an endangerment to the environment.

(1) Any User notified of a suspension of its discharge shall immediately stop or eliminate its contribution. In the event of a User's failure to immediately comply voluntarily with the suspension order, the Town shall take such steps as deemed necessary (including immediate severance of the wastewater

service connection) to prevent or minimize damage to the wastewater system or its receiving stream, or endangerment to any individuals. The Town shall allow the User to recommence its discharge when the User has demonstrated to the satisfaction of the Town that the period of endangerment has passed, unless the termination proceedings in Subparagraph (B)(4)(h) herein are initiated against the User.

(2) A User that is responsible, in whole or in part, for any discharge presenting imminent endangerment shall submit a detailed written statement to the Town within five (5) calendar days, describing the causes of the harmful contribution and the measures taken to prevent any future occurrence.

Nothing in Subsection 9-05-160(B) shall be interpreted as requiring a hearing prior to any emergency suspension under this subparagraph (B)(4)(g).

h. Termination of Discharge. Any User that violates the requirements of this Article is subject to discharge termination. Such User will be notified of the proposed termination of its discharge and be offered an opportunity to show cause under this Article why the proposed action should not be taken. Exercise of this option by the Town shall not be a bar to, or a prerequisite for, taking any other action against the User.

i. Administrative Review. In the event of a dispute as to liability for wastewater system rates, fees, charges, penalties or taxes (or the amount of same), or the validity of proposed enforcement actions, a User may request an administrative review.

(1) Request for Administrative Review. Requests must be received by the Director at least five (5) business days prior to any deadline set for (i) application of rates, fees, charges, penalties or taxes, or (ii) enforcement actions. Requests may be made in writing, by facsimile transmission, by telephone, by e-mail or in person, directed to the Office of the Director at 7501 E. Civic Circle, Prescott Valley, Arizona 86314, (928) 759-3011 (ph.), (928) 759-5533 (fax), www.pvaz.net (website).

(2) Nature of Hearing. Within five (5) business days of receipt of a request for administrative review, the Director shall arrange to meet with the User or its representative. At the hearing, the User or its representative may present their objection to the proposed rates, fees, charges, penalties, taxes or enforcement action. The Director may schedule additional meetings, if necessary.

(3) Decision. Within five (5) business days after the final meeting with the User or its representative, the Director shall render a decision in the matter, explaining the basis for the decision and the actions that will be taken by the Director. A copy of the

decision will be mailed first-class, postage prepaid, to the User at the address provided by the User on its account application.

(4) Appeal. Within five (5) business days from the date of the Director's decision, the User may appeal the Director's decision to the Town Manager. The Town Manager shall arrange to meet with the User or its representative and the Director. At the hearing, the User or its representative may present their objection to the proposed rates, fees, charges, penalties, taxes or enforcement action. The Town Manager may schedule additional meetings, if necessary. Within five (5) business days after the final meeting with the User or its representative, the Town Manager shall issue a written determination, which shall be final. The application of any rates, fees, charges, penalties, taxes or enforcement action shall be tolled pending the final determination of the Town Manager.

5. Judicial Enforcement Remedies.

a. Injunctive Relief. When the Town finds that a User has violated (or continues to violate) any provision of this Article, an industrial wastewater pretreatment permit or order issued hereunder, or any other pretreatment standard or requirement, the Town may petition the Yavapai County Superior Court (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 industrial wastewater pretreatment permit, order, or other requirement imposed by this Article on activities of the User. The Town 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 which has violated or continues to violate any provision of this Article, an industrial wastewater pretreatment permit or order issued hereunder, or any other pretreatment standard or requirement, shall be liable to the Town for a maximum civil penalty of two thousand five hundred dollars $2,500.00 per violation, per day.

(2) In addition to the above civil penalty, the Town 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 or fines incurred by the Town.

(3) In determining the amount of civil liability, the Court shall take into account all relevant circumstances, including, but not limited

to, the extent of harm caused by the violation, the magnitude and duration, any economic benefit gained through the User's violation, corrective actions taken by the User, 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) Except for failing to pay user fees and charges, Users that willfully or negligently violate any provision of this Article, an industrial wastewater pretreatment permit or order issued hereunder, or any other pretreatment standard or requirement shall, upon conviction, be guilty of a Class 1 Misdemeanor, punishable by a fine of not more than two thousand five hundred dollars ($2,500.00) per violation, per day, or imprisonment for not more than six (6) months, or both.

(2) A User which has willfully or negligently introduced any substance into the wastewater system which causes personal injury or property damage shall, upon conviction, be guilty of a Class 1 Misdemeanor, punishable by a fine of not more than two thousand five hundred dollars ($2,500.00) and/or imprisonment for six (6) months. This penalty shall be in addition to any other cause of action for personal injury or property damage available under State law. Furthermore, nothing herein shall preclude the Town from submitting such violations to the County Attorney or other legal officer for prosecution of other State or federal violations.

(3) A User that knowingly makes any false statements, representations, or certifications in any application, record, report, plan, or other documentation filed, or required to be maintained, pursuant to this Article, an industrial wastewater pretreatment permit or order issued hereunder, or any other pretreatment standard or requirement, or who falsifies, tampers with, or knowingly renders inaccurate any monitoring device or method required under this Article shall, upon conviction, be punished by a fine of not more than two thousand five hundred dollars ($2,500.00) per violation per day, or imprisonment for not more than six (6) months, or both.

d. Remedies Nonexclusive. The remedies provided for in this Article are not exclusive. The Town 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 Town may take other action against any User when the circumstances warrant.

(Ord. No. 284, Enacted, 10/08/92; Ord. No. 391, Ren&Amd, 06/27/96, 9-05-100; Ord. No. 510, Amended, 08/23/01; Ord. No. 815, Amended, 04/28/16)

9-05-170 Affirmative Defenses to Discharge Violations.

A. Upset.

1. Definition. For the purposes of this Subsection, "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. Upset is Affirmative Defense in Specified Case. An upset shall constitute an affirmative defense to an action brought for noncompliance with categorical pretreatment standards if the requirements of Subparagraph A(3) are met.

3. Basis For Affirmative Defense. 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 operation and maintenance procedures; and

c. The User has submitted the following information to the Town as soon as possible but no later than 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:

(1) A description of the indirect discharge and cause of noncompliance;

(2) The period of noncompliance, including exact dates and times or, if not corrected, the anticipated time the noncompliance is expected to continue; and

(3) Steps being taken and/or planned to reduce, eliminate, and prevent recurrence of the noncompliance.

4. Burden of Proof. In any enforcement proceeding, the User seeking to establish the occurrence of an upset shall have the burden of proof.

5. Limitation on Judicial Determination. 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. Ability to Control Discharges in Event of Facility Failure. 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.

B. Prohibited Discharge Standards. A User shall have an affirmative defense to an enforcement action brought against it for noncompliance with the prohibitions in this Article if it can prove that it did not know, or have reason to know, that its discharge, alone or in conjunction with discharges from other sources, would cause pass through or interference, and that either: (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 its NPDES permit, and in the case of interference, was in compliance with applicable sludge use or disposal requirements.

C. Bypass.

1. Definitions. For the purposes of this Subsection,

a. "Bypass" means the intentional diversion of wastestreams from any portion of a User's treatment facility.

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

2. Authorized Bypasses. 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 subparagraphs (3) and (4) of this Subsection.

3. a. Notice of Anticipated Bypass. If a User knows in advance of the need for a bypass, it shall submit prior notice to the Town at least ten (10) days before the date of the bypass, if possible.

b. Notice of Unanticipated Bypass. A User shall submit oral notice to the Town of an unanticipated bypass that exceeds applicable pretreatment standards as soon as possible, but no later than 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; if the bypass has not been corrected, the anticipated time it

is expected to continue; and steps taken or planned to reduce, eliminate, and prevent reoccurrence of the bypass. The Town may waive the written report on a case-by-case basis if the oral report has been received within twenty four (24) hours.

4. a. Exceptions to Enforcement Action. Bypasses are prohibited, and the Town may take an enforcement action against a User for a bypass, unless

(1) The bypass was unavoidable to prevent loss of life, personal injury, or severe property damage;

(2) 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

(3) The User submitted notices as required under Subparagraph (3) of this Subsection.

b. Authorization of Certain Anticipated Bypasses. The Town may approve an anticipated bypass, after considering its adverse effects, if the Town determines that it will meet the three conditions listed in Subparagraph (4)(a) of this Subsection.

(Ord. No. 391, Enacted, 06/27/96; Ord. No. 510, Amended, 08/23/01)

9-05-180 Supplementary Provisions.

The provisions of this Article are intended to be supplementary to other applicable Code provisions. Where in conflict or where additional requirements are cited, the stricter provision shall apply.

(Ord. No. 284, Enacted, 10/08/92; Ord. No. 391, Renumbered, 06/27/96, 9-05-110)

Article 9-05a DOMESTIC WATER SERVICE.

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9-05a-010 Intent and Scope.

It is the intent of this Article, in connection with the other provisions of the Town Code, to regulate the financing, operation, and expansion of the Town's domestic water system (including regulation of connections thereto). In so doing, this Article provides for the setting, collecting, and refunding of reasonable domestic water rates, fees, charges, and penalties.

(Ord. No. 386, Enacted, 07/11/96; Ord. No. 510, Amended, 08/23/01)

9-05a-020 Definitions.

In this Article, unless the context otherwise requires:

A. "Customer" means (a) the record owner(s) of real property to which domestic water services are supplied, and/or (b) any Tenant of real property to which any of said services are supplied. Customers are the person(s) or entity(ies) responsible for the payment of water charges for such services. While a Customer may also be a User as defined hereinafter, the terms are not necessarily the same.

B. "Department" means any combination of Town officers and third-party contractors (and their respective personnel) assigned to manage, operate and maintain the domestic water system for the Town.

C. “Developed Properties” means lots, parcels or properties upon which a building, unit, or structure has been built and an occupancy permit (temporary or permanent) has been issued by the Town, or which has actually been occupied (whether or not occupancy continues thereafter).

D. “Director” means the director of the department in which the Customer Accounts

division of the Town is included, as appointed from time to time by the Town Manager, and/or related staff designees.

E. "Domestic Water" or "Water" means all groundwater (including reclaimed water recharged into the underground aquifer) and surface water acquired, treated, stored, or transported by the domestic water system.

F. "Domestic Water Service", "Water Service" or "Service" means the acquisition, treatment, storage, transportation and delivery of domestic water by the Town to residential, commercial, or industrial water Users.

G. "Domestic Water System", "Water System" or "System" means any or all components of the domestic water system managed, operated and maintained by the Town or through contracts with one (1) or more third-party contractors, including, but not limited to, wells, treatment facilities, pumps, booster stations, storage tanks, storage ponds, water mains, water lines, hydrants, valves, and meters, as well as any public rights-of-way, easements (express or implied) or licenses within which such are located (but expressly not including water service lines and connections thereto located on the Customer side of meters).

H. "Person" means any individual, partnership, co-partnership, firm, company, corporation, association, joint stock company, trust, estate, governmental entity, or any other legal entity; or their legal representatives, agents, or assigns. This definition includes all federal, State, or local governmental entities.

I. “Premises,” “Real Property” or “Property” means the building, unit, structure, designated turf area, or water storage area (including adjacent areas and appurtenances) to which domestic water service, wastewater service, and/or reclaimed water service is provided.

J. "Reclaimed Water" means all effluent discharged from the wastewater treatment facility after treatment, and stored, transported, or recharged into the underground aquifer by the reclaimed water system of the Town.

K. "Reclaimed Water System" means any or all components of the reclaimed water system managed, operated and maintained by the Town or through contracts with one (1) or more third-party contractors, including (but not limited to) recharge wells, treatment facilities, pumps, booster stations, storage tanks, storage ponds, reclaimed water mains, reclaimed water lines, hydrants, valves, and meters, as well as any public rights-of-way, easements (express or implied) or licenses within which such are located (but expressly not including reclaimed water service lines and connections thereto located on the Customer side of meters).

L. "Tenant" means a person entitled under all agreements, written, oral or implied by law, and valid rules and regulations adopted under Arizona Revised Statutes, embodying the terms and conditions concerning the use and occupancy of a dwelling unit and/or other premises to occupy the same to the exclusion of others.

M. "Town" means the Town of Prescott Valley and, for purposes of authority, includes any of its officers, employees, contractors, and other agents unless express reference is

made to the Mayor, the Council, the Manager, or a department head.

N. "Town Council" or "Council" means the governing body of the Town, comprised of its duly elected or appointed members.

O. "Town Manager" or "Manager" means the manager of the Town as appointed from time to time by the Town Council, and/or related staff designees.

P. "Unit" means any room or group of rooms designed for one (1) or more persons to reside, work, or carry on any organized activity as a homogeneous group, and containing or having direct access to at least one (1) accommodation for cooking, domestic water use, reclaimed water use, and/or wastewater disposal.

Q. "Utilities Director" means the director of the Utilities Department, as appointed from time to time by the Town Manager, and/or related staff designees.

R. "Utility System" means the domestic water system, wastewater treatment system and the reclaimed water system of the Town, or any portion thereof.

S. "User" means any person, partnership, corporation, municipality, political subdivision or other entity or organization that occupies any building, Unit, structure, designated turf area, or water storage area and receives water service from the domestic water system.

(Ord. No. 386, Enacted, 07/11/96; Ord. No. 510, Amended, 08/23/01; Ord. No. 815, Amended, 04/28/16)

9-05a-030 Domestic Water Fund Administration.

A. Establishment. A Domestic Water Fund is hereby established to account for all revenues and expenditures of the Department in the operation of the domestic water system. Nothing herein limits the authority of the Town, in conformance with standard accounting and good financial management practices, to establish other funds, subfunds, or accounts (i.e., debt service, replacement, etc.) and to transfer monies between them and the water fund for water service purposes and system administration purposes, or to make interfund loans as allowed by law and approved by the Town Council.

B. Reserve Account. In the event debt financing is used to construct or extend any portion of the domestic water system, a separate reserve account shall be established and maintained in accordance with the terms of said financing. The monies within said account may be used for emergency purposes in accordance with the terms of said financing.

C. Additional Regulations. The Town Council shall adopt additional regulations for Fund administration from time to time by resolution.

(Ord. No. 386, Enacted, 07/11/96; Ord. No. 510, Amended, 08/23/01; Ord. No. 815, Amended, 04/28/16)

9-05a-040 Establishing Water Service.

A. Application. New domestic water service to any building, Unit, structure, designated turf area, or water storage area on real property, or any increase in the size of a water service connection to any building, Unit, structure, designated turf area, or water storage area shall be initiated by applications from Customers [or, in the case of the record owner(s) of real property, their agent(s)] on forms established from time to time by the Director. The information required at application and the consequences of providing false information may be set from time to time by regulations adopted by resolution.

B. Tenant Accounts. Applications by Customers who are Tenants must include a copy of the lease or rental agreement for the property to be served. Tenants applying for domestic water service to the leased/rental property shall be responsible to pay all domestic water rates, fees, charges, and penalties applicable to the property. Where residential property consisting of five or more units is occupied by multiple Tenants, Tenants may apply for utility service and place their name on accounts only if each Tenant of the property is individually metered for domestic water.

C. Deposit. Applications for domestic water service shall be accompanied by a deposit established from time to time by resolution, and administered in accordance with regulations adopted from time to time by resolution. An additional deposit may also be established by regulation from time to time in cases of bankruptcy, as permitted under federal law.

D. Unauthorized Turn-On, Turn-Off, or Other Tampering. Except in emergency circumstances, it shall be unlawful for any person to physically turn-on or turn-off domestic water service to any building, Unit, structure, designated turf area, or water storage area, to otherwise tamper with or damage the domestic water system, or to direct, aid, or abet another in so doing without the approval of the Director after compliance with established application requirements. In lieu of criminal prosecution for such a misdemeanor violation, the Director may (at his/her sole discretion) apply a civil penalty for such violation, which penalty shall be set from time to time by resolution. The Director may also waive any per-day aspect of such civil penalty in appropriate circumstances, and provide for set-off of such penalties in return for payment of the actual costs of any damages.

(Ord. No. 386, Enacted, 07/11/96; Ord. No. 456, Amended, 03/25/99; Ord. No. 510, Amended, 08/23/01; Ord. No. 815, Amended, 04/28/16)

9-05a-045 Water Conservation.

A. The Mayor and the Town Manager are hereby authorized to declare Water Conservation Levels, as set forth hereinafter, which shall have the effect of restricting usage of water produced by the Town's domestic and reclaimed water systems. Such Water Conservation Levels shall be based upon the Water Resource Status Levels determined by the Utilities Director (or his designee) which, in turn, are based upon the Utilities Director's assessment of the relationship between water demand and safe water production capability. Safe water production capability is defined as ninety percent (90%) of the total water resources that can reasonably be produced through either the

domestic water system or the reclaimed water system, based upon distribution components, storage reserves, weather conditions, and historic data.

B. Water Resource Status Levels are established as follows:

1. Status Level I: water demand is less than or equal to safe water production capability.

2. Status Level II: water demand is greater than safe water production capability for more than three (3) but less than fourteen (14) consecutive days.

3. Status Level III: water demand is greater than safe water production capability for fourteen (14) consecutive days or more.

4. Status Level IV: water demand is greater than the total water resources that can reasonably be produced through either the domestic water system or the reclaimed water system, based upon distribution components, storage reserves, weather conditions, and historic data.

C. Water Conservation Levels are established as follows:

1. Conservation Level I (Water Awareness): water users are encouraged to minimize waste when water is used for irrigation, vehicle and pavement washing, construction, and similarly intensive water uses. Water Conservation Level I may be declared by either the Town Manager or the Mayor.

2. Conservation Level II (Water Restrictions): water use is prohibited or restricted as follows -

a. Irrigation, washing of vehicles, filling and refilling of swimming pools, spas, and wading pools is restricted to Monday, Wednesday, Friday, and Sunday for even-numbered addresses, and to Tuesday, Thursday, Saturday, and Sunday for odd-numbered addresses.

b. Washing of vehicles is restricted to use of buckets and hoses with positive cut-off nozzles, except that no restrictions apply to commercial car washes, to washing of public safety vehicles, or to washing of vehicles for specified public health, safety, or welfare reasons.

c. Washing of paved areas (e.g. drives, sidewalks and tennis courts) is prohibited except for specified health, safety or welfare reasons.

d. Irrigation of golf courses is restricted to before Noon and after 7 P.M. No restrictions apply if golf courses are irrigated with reclaimed water.

e. Irrigation of landscaped areas is restricted to between 6 P.M. and 10 P.M., and between 4 A.M. and 8 A.M. Monday, Wednesday, Friday and Sunday for even-numbered addresses, and Tuesday, Thursday, Saturday and Sunday for odd-numbered addresses.

f. Operation of ornamental fountains is prohibited unless they are equipped with recycling pumps.

Water Conservation Level II may be declared by either the Town Manager or the Mayor.

3. Conservation Level III (Water Emergency): water use is prohibited or restricted as follows -

a. Filling and refilling of swimming pools, spas, and wading pools is prohibited.

b. Irrigation of golf courses is prohibited, except that no restrictions apply if golf courses are irrigated with reclaimed water.

c. Washing of vehicles and paved areas (e.g. drives, sidewalks and tennis courts) is prohibited, except that no restrictions apply to commercial car washes, to washing of public safety vehicles, or to washing of vehicles for specified public health, safety, or welfare reasons.

d. Non-emergency use of hydrants is prohibited unless written approval is first given by the Utilities Director for essential commercial purposes.

e. Irrigation of landscaped areas is prohibited.

f. Operation of ornamental fountains is prohibited.

Water Conservation Level III may only be declared by the Mayor.

4. Conservation Level IV (Water Crisis): water use is prohibited or restricted as follows -

a. Filling or refilling of swimming pools, spas, and wading pools is prohibited.

b. Irrigation of golf courses is prohibited.

c. Washing of vehicles and paved areas (e.g. drives, sidewalks and tennis courts) is prohibited, except that no restrictions apply to washing of public safety vehicles or to washing of vehicles for specified public health, safety, or welfare reasons.

d. Non-emergency use of hydrants is prohibited.

e. Irrigation of landscaped areas is prohibited.

f. Operation of ornamental fountains is prohibited.

g. Compaction and dust control on construction projects is prohibited, except that no restrictions apply to compaction and dust control using reclaimed water.

h. Other water uses declared in writing by the Mayor to be unduly consumptive are prohibited.

Water Conservation Level IV may only be declared by the Mayor.

D. Water Conservation Levels are considered effective for all purposes twenty-four (24) hours after posting of a writing declaring the same and signed by the Town Manager or the Mayor (as the case may be) at the locations established in accordance with ARS §38-431.02(A)(4), and after said writing has been faxed, e-mailed or hand-delivered to a newspaper of general circulation within the Town limits and to a radio station whose signal is generally received within the Town limits.

E. Upon the effectiveness of a Water Conservation Level, water users shall comply with the water use restrictions and prohibitions related thereto, subject to the penalties set forth in Town Code §9-05a-100 hereinafter.

(Ord. No. 523, Enacted, 05/09/02; Ord. No. 815, Amended, 04/28/16; Ord. No. 839, Amended, 02/22/18; Ord. No. 2023-926, Amended, 11/09/23)

9-05a-050 Domestic Water Rates, Fees, Charges, and Penalties.

A. Classification of Users. For the purpose of applying domestic water rates, fees, charges, and penalties, domestic water system Users shall be classified into three (3) categories, as follows:

1. Residential. The residential classification shall include single family homes and individual dwelling Units within multi-family residential structures. A residential classification is not lost by reason of a "home occupation" if water consumption is not significantly increased because of said home occupation. Each dwelling Unit in a multi-family dwelling is considered a separate residential User.

2. Commercial. The commercial classification shall include institutional Users such as government entities, schools, churches, and nonprofit organizations, as well as transient and group quarters (i.e., hotels/ motels, rooming houses, nursing homes, etc.). A residential unit located within a structure utilized for commercial purposes or located on property used for commercial purposes (i.e., mini-storage manager/caretaker residences, etc.) shall be considered a separate commercial User for purposes of establishing Base User Rates. Each separate or separately-metered commercial unit in a structure or unified complex utilized for commercial purposes shall also be considered a separate commercial User.

3. Industrial. The industrial User shall be any entity required to have an industrial wastewater pretreatment permit under Article 9-05 of the Town Code; otherwise it shall be classified as commercial. Each separate or separately-metered industrial Unit in a structure or unified complex utilized for industrial purposes

shall be considered a separate industrial User.

B. Water Rates, Fees, Charges, and Penalties. Water rates, fees, charges, and penalties shall be set by resolution from time to time, in accordance with the Intent and Scope of this Article and with applicable Arizona and federal statutes.

1. Coordination with Other Fees and Assessments. Nothing herein shall limit the authority of the Town to impose development fees in accordance with ARS 9-463.05 and Article 7-11 of the Town Code (all as amended from time to time), or to establish improvement district assessments per ARS 48-517 et seq. and fees in-lieu of such assessments in order to upgrade or expand the domestic water system. However, any Water System Connection Charges paid hereunder shall be offset, in whole or in part, against any such fees and assessments in accordance with law.

C. Billing. Billing of residential, commercial and industrial Customers for domestic water services shall be accomplished as set forth from time to time by regulations adopted by resolution.

1. Taxes. In addition to the domestic water rates, fees, charges, and penalties established from time to time by resolution, domestic water billings shall include any applicable taxes on the business of domestic water service.

2. Time Covered by Rates. With regard to domestic water rates, fees, charges, penalties, and taxes, any Base User Rates are applied to the current billing period while any Volume Rates and all other water rates, fees, charges, penalties, and taxes are applied to the prior billing period.

3. Delinquency Dates. Water rates, fees, charges, penalties, and taxes are due on different dates for different Customers based on billing cycles. Such dates shall be specified for each Customer when service begins and shall be set forth in the billings received. Payment is due twenty (20) days after the billing date. Water rates, fees, charges, penalties, and taxes are delinquent on the twenty-eighth (28th) day after the billing date. Nothing herein shall preclude the Director from changing a Customer's billing period, so long as adjustments are made in billings to reflect actual usage.

4. Consequences of Account Delinquencies. Account delinquencies in relation to water rates, fees, charges, penalties, or taxes shall result in an "Active Account Processing Charge", set from time to time by resolution, being applied to the account on the twenty-eighth (28th) day after the billing date. Furthermore, domestic water service will be subject to turn-off on and after the fiftieth (50th) day after the billing date (unless emergency circumstances justify immediate turn-off of domestic water service).

5. Application of Partial Payments. The application of partial payments to delinquent accounts shall be established from time to time by regulations adopted by resolution. Partial payments shall not avoid domestic water service turn-off nor shall they renew domestic water service (except as specified in any

payment agreements).

6. Prepayments. Nothing herein shall preclude the Town from limiting prepayments by regulations adopted from time to time by resolution.

7. Customer Inquiry Required. Failure of a Customer to receive any monthly domestic water service billing or other communication from the Director with regard to applicable water rates, fees, charges, penalties, or taxes shall expressly not excuse the Customer from paying water rates, fees, charges, penalties, or taxes due.

D. Delinquency Procedures. Procedures to be followed in the event of account delinquencies shall be established from time to time by regulations adopted by resolution. Such procedures shall include such enforcement measures as are available to the Town in law and in equity (including, but expressly not limited to, domestic water service turn-off), and shall provide for such notice to Customers and opportunities for administrative hearings prior to application of enforcement procedures (including, but not limited to, turn-off of domestic water service) as is deemed appropriate under the circumstances and complies with requirements of due process.

1. Payment Agreements. Nothing herein shall preclude the Director from offering to enter into Payment Agreements with Customers who have delinquent utility accounts at any stage of the enforcement process, as set forth from time to time by regulations adopted by resolution.

(Ord. No. 386, Enacted, 07/11/96; Ord. No. 455, Amended, 03/11/99; Ord. No. 487, Amended, 08/24/00; Ord. No. 510, Amended, 08/23/01; Ord. No. 516, Amended, 12/06/01; Ord. No. 667, Amended, 09/28/06; Ord. No. 815, Amended, 04/28/16)

9-05a-060 Domestic Water System Extensions.

A. Approval. The Town shall approve the design of, issue permits for, and conduct inspections of all construction of water mains, water lines, and other water system components that are to be attached to the Town's domestic water system.

B. Design and Construction. The design and construction of all water mains, water lines, and other water system components to be attached to the Town's domestic water system must conform with good engineering practice, including such standards as have been adopted from time to time by the Town (i.e. the latest adopted technical building codes, the latest adopted engineering standards, the current subdivision code, and the latest general plan). As to size, in no case shall any water main be of a size less than six inches (6") for residential areas and eight inches (8") for commercial and industrial areas.

The Town reserves the right to require an increase in size of water mains, water lines, and other water system components constructed to be attached to the Town's water system, in accordance with Article 14-04 of the Town Code (as amended from time to time).

C. Inspection. In accordance with Article 14-04 of the Town Code, all water mains, water

lines, and other water system components to be attached to the Town's domestic water system shall be subject to inspection by the Town. Engineering plan review and inspection fees may be charged as provided for in Chapter 16 of the Town Code.

D. Subdivisions. Extensions of the domestic water system into subdivisions shall be regulated by Article 14-04 of the Town Code.

E. Other Developments. All other developments requiring separate approval by the Town shall construct extensions of the domestic water system, including water mains, water lines, and related facilities, in accordance with the Towns engineering standards, provided they are a reasonable distance from the water system. The determination of what is a reasonable distance shall be made by the Town, based on (1) the nature and size of uses proposed for the development, (2)the capacity of existing domestic water mains and related facilities to which any extension would be attached, and (3) other considerations deemed appropriate by the Town.

New developments which are determined by the Town to not be a reasonable distance from the domestic water system may still be required, where appropriate, to construct water mains, water lines, and related facilities according to standards and specifications approved by the Town, in preparation for future connection to the water system when it comes within a reasonable distance.

F. Replacement or Repair. Persons or entities that build or cause to be built any extensions of the domestic water system shall pay for any repairs or replacements made necessary as a direct or indirect result of such construction, including (for example) repair or replacement of curbs, gutters, sidewalks, road surfaces, drainage structures, and utilities damaged or disturbed during the building of water line extensions.

G. Coordination with Fees and Assessments. Nothing herein shall limit the authority of the Town to impose development fees in accordance with ARS §9-463.05 and Article 7-11 of the Town Code (all as amended from time to time), or to establish improvement district assessments per ARS §48-571 et seq. and fees in-lieu of such assessments in order to upgrade the Town's domestic water system. However, such fees and assessments may be offset in whole or in part by the value of construction to extend the system, in accordance with law.

(Ord. No. 386, Enacted, 07/11/96; Ord. No. 510, Amended, 08/23/01)

9-05a-070 Connections.

A. Water Service Connections Required. Every separate building, Unit, structure, designated turf area, and water storage area to which domestic water service is supplied shall have its own service connection. Unless otherwise expressly permitted by the Department, it is unlawful for any Customer having a domestic water service connection to supply or permit utility service to be supplied through said connection to any other User, whether gratuitously or for consideration. Domestic water supplied as part of utility service shall only be delivered through meters supplied by the Town or by and through its third-party contractors.

For commercial properties, if a service connection has been included in the main line for a particular adjacent lot, parcel or property, then connection to the main line from any building, unit, structure, designated turf area, or water storage area on that lot, parcel or property shall be at that service connection. If a service connection has not been constructed in the mainline for a particular adjacent lot, parcel or property, then connection from any building, unit, structure, designated turf area, or water storage area on the property must be at a location specified by the Town and the necessary service connection must be constructed at the Customer's expense.

1. Incidental Entry on Private Property. Department personnel are expressly authorized at all reasonable times to incidentally enter upon private property for the purpose of installing, reading, maintaining, and disconnecting meters, and for the purpose of repairing and maintaining all components of the domestic water system and for turning-on and turning-off domestic water service.

B. Existing Developed Properties. All existing developed properties within the appropriate distances established from time to time in the Town Code shall connect to the Town's domestic water system at the record owner(s) expense within ninety (90) days after the system is operational. If, as part of a specific initial service plan for an area, the Town has assumed the responsibility of providing connections to existing developed properties, this time for connection may be extended until the Town makes (or would have made if the property owner had given his or her timely written consent in a form acceptable to the Town) the connection in conformance with the plan. All connections shall be in accordance with the Town's Engineering Standards as adopted from time to time.

1. When Water System is "Operational". A phase or portion of the domestic water system is operational in an area (with regard to individual lots, parcels, or properties) on either a) the date said lots, parcels or properties would have been connected to the phase or portion of the domestic water system had customers reasonably cooperated with the construction contractor in order to be connected (i.e. had provided necessary construction easements, assisted and permitted construction crews to construct necessary service lines, permitted construction crews to actually connect appropriate structures on the lot, parcel, or property to the water system, etc.), or b) the date customers were told in writing was the date appropriate buildings, Units, or structures on the lots, parcels or properties should be connected to the water system.

2. Option for Contractor to Make Connections. If, as part of a specific initial service plan for an area, the construction contractor assumes responsibility for connecting existing developed properties to a phase or portion of the domestic water system during construction [without cost to the Customers], then the time for connection may be extended until the contractor either makes the connection or would have made the connection if a) the Customers had consented and cooperated as set forth hereinabove, or b) the connection had not been outside the scope of the contractor's contract because of physical barriers (however caused).

3. Default Connection by Customers. If Customers have not so consented and cooperated, or if the connection is outside of the construction contractor's

contract (however caused), then said Customers must connect the property at their own expense within the original ninety (90) days of domestic water system availability.

4. Option to Set Later Connection Date. Nothing herein shall preclude Department personnel, upon approval of the Town Council, from setting a later date in writing for Customers to connect to the domestic water system.

5. Abandonment of Private Water Systems. In the event buildings, Units, or structures on lots, parcels or properties with private water systems are connected to a phase or portion of the domestic water system, the private water systems must be abandoned within sixty (60) days after such connection, in accordance with rules and regulations promulgated by the Yavapai County Board of Health, the Arizona Department of Health Services, and/or the Arizona Department of Water Resources. Failure of Customers to properly abandon private water systems within the time specified shall be reported to appropriate State or County agencies, and Department personnel shall cooperate fully with such agencies to abate the nuisance created by such failure.

   a. Contractor Responsibility. If, as part of a specific initial service plan for an area, the construction contractor assumes responsibility for connecting existing developed properties to the domestic water system during construction (without cost to the Customers), and such plan includes abandoning private water systems, then enforcement of this requirement may be "tolled" until the contractor either abandons the private water systems in the course of his contract or would have done so if i) the Customers had consented and cooperated by providing necessary construction easements, permitting entry onto property, etc., or ii) the abandonment were not outside the scope of the contractor's contract because of physical barriers (however caused).

   b. Customer Non-Cooperation. If i) Customers do not so consent and cooperate by the time that a construction contractor is released from an area by the Town (after having abandoned the other private water systems on lots, parcels or properties in the area where permission had been granted and which could reasonably be abandoned pursuant to contract), or ii) the abandonment is outside of the construction contractor's contract (however caused) and Customers do not themselves arrange to abandon their private water system in accordance with the regulations within sixty (60) days of connection to the domestic water system, then enforcement shall be sought by the Town as set forth above.

      i. Nothing herein shall preclude Department personnel, upon approval of the Town Council, from setting a later date in writing for Customers to abandon private water systems on their lots, parcels or properties, prior to seeking enforcement as set forth above.

C. After-Developed Properties. All developments (including single family dwellings) within the appropriate distance as set from time to time in the Town Code from the Town's

domestic water system which are to be approved for occupancy after the water system is operational, shall be required to connect to the water system at the expense of the record owner(s) before occupancy is approved by the Town. All connections shall be in accordance with the Town's Engineering Standards as adopted from time to time.

D. Permits and Inspections. No physical connection shall be made to the domestic water system until a permit for the same has been acquired from the Building Official in accordance with Chapter 7 of the Town Code (as amended from time to time), after payment of all required fees and charges, unless the connection is made by the Department. All connections shall conform to the International Plumbing Code, as adopted and amended by the Town from time to time. In addition to any other inspections, tests, and right-of-way permits that may be required, inspection and approval of water system connections shall be required before any trench or hole is backfilled. Any plan review and inspection fee adopted from time to time by resolution may be waived under an initial service plan where the connection is made by the Town or a contractor that assumes responsibility for connecting existing developed properties during construction without cost to the Customer.

As part of any connection, an approved water meter must be installed by the Department. The meters supplied may be changed from time to time as technological advances provide for greater efficiency in domestic water delivery and meter reading. Unless otherwise expressly permitted by the Department, all such meters shall be located within an adjacent public right-of-way, easement or license, and installed in accordance with the Engineering Standards adopted from time to time by the Town. Such meters and meter boxes shall not be obstructed in such a way as to prevent them from being accessed by Department personnel for reading, maintenance and other purposes. Such water meters are and remain part of the water system and are therefore property of the Town.

E. Damage. In accordance with Town Code 7-10-030, any damage done to the domestic water system or to the public right-of-way as a result of construction of a connection or any related construction or excavation activity shall be repaired to the Town's satisfaction at the constructing party's expense. The Town may require a bond of the party doing such construction or excavation prior to the activity being undertaken.

It is unlawful for any person to intentionally break, deface, tamper with or damage any meter, hydrant, valve, line, pipe or other water system appliance or fixture, or in any other manner to interfere with the operation of any part of the domestic water system. Furthermore, it is unlawful for any person, with intent to injure or defraud, to connect any pipe, line, tube or other instrument with any water main, water line, or service line, whether or not part of the water system, for conducting water supplied by the Town for the purpose of taking such water without permission and/or payment.

F. Criminal Violation. The requirement that buildings, Units, structures, designated turf areas, and water storage areas on lots, parcels or properties be connected to the domestic water system (as set forth herein) is subject to vigorous enforcement by all equitable and legal means available, including civil and criminal actions against Customers. In this regard, failure to connect to the domestic water system as set forth herein constitutes a class 1 misdemeanor (with each separate day being a separate offense).

1. Deferred Enforcement. Deferred enforcement or non-enforcement of this requirement by the Town should not be construed as a waiver of future enforcement with regard to the particular Customers and lots, parcels or properties involved.

G. Related Assessments, Fees and Charges. In addition to any Water System Connection Charges which may be applied from time to time by resolution, in areas previously included within improvement districts created to extend the domestic water system to such areas, if an assessment has not been previously paid to the Town to make the water system available to a property (or if the assessment paid for that property was not in proportion to payments made for other similar properties, e.g. because of a property split, increased intensity of development, etc.), a separate in-lieu of assessment fee, calculated to be equivalent to the original assessment, may be imposed by the Town as a condition of developing the property. Such in-lieu of assessment fee may be established from time to time by resolution. Furthermore, development fees pursuant to ARS §9-463.05 and Article 7-11 of the Town Code (all as amended from time to time) and Water System Connection Charges may be imposed as a condition of developing the property. However, any such assessments, fees and charges shall be subject to mutual offset, in whole or in part, in accordance with law.

(Ord. No. 386, Enacted, 07/11/96; Ord. No. 510, Amended, 08/23/01; Ord. No. 590, Amended, 03/25/04; Ord. No. 815, Amended, 04/28/16; Ord. No. 2023-927, Amended, 09-28-23)

9-05a-075 Domestic Water System Maintenance.

A. Facilities Included in Domestic Water System. The domestic water system includes (but is expressly not limited to) wells, treatment facilities, pumps, booster stations, storage tanks, storage ponds, water mains, water lines, hydrants, valves, and meters, as well as any public rights-of-way, easements (express or implied), or licenses within which they are located (but expressly not including water service lines and connections thereto located on the Customer side of meters). "Water mains" include all pipe larger than six inches (6") in diameter and "service taps" between such pipes and meters. The domestic water system expressly does not include water service lines and connections thereto from buildings, Units, structures, designated turf areas, or water storage areas out to water meters, or any private easements or rights-of-way in which they may be located.

B. Responsibility for Maintenance of Domestic Water System. The Department is generally responsible for the care and maintenance of the domestic water system, including meters and all pipes, lines and other facilities on the street side or right-of-way side of the meters. However, Customers are responsible for the care and maintenance of their service lines (and connections thereto), any private easements or rights-of-way in which they may be located, and any internal water lines serving their properties.

C. Requirements Prior to Excavations. No Customer, User, or person shall make or begin any excavation in any public street, alley, right-of-way dedicated to public use, utility easement, or express or implied private property utility easement included in the domestic water system without first (1) determining whether utility system facilities (above-ground or underground) will be encountered (and, if so, where they are located),

and 2) taking measures for control of the facilities in a careful and prudent manner. No person shall begin excavating before the location of said facilities is marked or he or she is notified that marking is unnecessary. Additional provisions relating to excavation of public property shall be established from time to time by regulations adopted by resolution.

D. Prohibition Against Damaging Domestic Water System. No Customer, User, or person shall knowingly or negligently damage the domestic water system (including, but expressly not limited to, damage caused by improper connection to the water system and negligent excavation or other construction in, on, or around the water system).

1. Enforcement Options. Knowing or negligent damage to the domestic water system is subject to vigorous pursuit of any and all remedies available to the Town, including (but expressly not limited to) injunction, abatement, turn-off of service, actions for damages, civil penalties, and criminal penalties. [Note: exemption from civil penalty or liability for gardening or tilling with hand tools on own property; ARS §40-360.28(F)(3)] Procedures for turning-off water service in the event of damage to the water system shall be established from time to time by regulations adopted by resolution.

(Ord. No. 510, Enacted, 08/23/01; Ord No. 839, Amended, 02/22/18; Ord. No. 2023-926, Amended, 11/09/23)

9-05a-080 Hydrants.

A. Hydrants for Domestic Water Supply. Customers [or, in the case of the record owner(s) of real property, their agent(s)] may apply for limited domestic water service through a hydrant (as described in Subsection D below) by separate application on forms established from time to time by the Utilities Director. Upon approval by the Department and payment of a deposit set from time to time by resolution, a meter shall be installed on the hydrant from which the water is to be supplied. Such deposit shall only be returned upon return of the meter in operational condition. Customers shall thereafter be responsible for paying all applicable Water Service Rates. No domestic water service shall be obtained through a hydrants without use of backflow preventers approved by applicable state or county agencies, and as set forth hereinafter in Chapter VIII, Section 8.

B. Hydrant Locks. Hydrant meters are assigned to specific hydrants and may not be moved to other hydrants without the permission of the Utilities Director. Therefore, locks are placed upon hydrant meters for security purposes and breaking of the same except by emergency services personnel in times of emergency constitutes unauthorized tampering and is prohibited.

C. Unauthorized Tampering. Except in emergency circumstances, it shall be unlawful to tamper with or damage a hydrant or hydrant meter, or to direct, aid, or abet another in so doing, without the approval of the Utilities Director after compliance with the above application requirements. In lieu of criminal prosecution for such a misdemeanor violation, the Utilities Director may (at his/her sole discretion) impose a civil penalty for such violation, which penalty shall be set from time to time by resolution. The Utilities Director may also waive any per-day aspect of such civil penalty in appropriate

circumstances and provide for set-off of such penalties in return for payment of the actual costs of any damages.

D. Limited Use. Domestic water supply through a hydrant may only be used for temporary construction activities occurring within the Town limits. Any use of domestic water supply through a hydrant for other purposes on the date this restriction became effective may continue for up to three (3) years to the extent said usage otherwise complies with this Chapter and related regulations. In the event no domestic water supply is used through a particular hydrant for any sixty- (60) day period, the hydrant meter shall be subject to removal by the Town and the service account closed. Thereafter, an account for domestic water supply through that hydrant may only be reopened for purposes consistent with this Subsection. Nothing herein shall prevent water being supplied through a hydrant for temporary special events sponsored or permitted by the Town, use by the Town or its contractors for such things as street cleaning, dust control, and sewer system cleaning, or for emergencies.

(Ord. No. 386, Enacted, 07/11/96; Ord. No. 510, Amended, 08/23/01; Ord. No. 815, Amended, 04/28/16; Ord. No. 2023-926, Amended, 11/09/23)

9-05a-085 Water Fill Stations.

A. Water Fill Stations for Domestic Water Supply. Persons may use water fill stations constructed and operated by the Town for domestic water supply without formal application or separate service account (but on a first-come first-served basis during such times and by such means as may be established from time to time by the Department, and upon payment of fees established by the Town Council).

B. Unauthorized Tampering. Except in emergency circumstances, it shall be unlawful to tamper with or damage a water fill station, or to direct, aid, or abet another in so doing, without the approval of the Utilities Director. In lieu of criminal prosecution for such a misdemeanor violation, the Utilities Director may (at his/her sole discretion) impose a civil penalty for such violation, which penalty shall be set from time to time by resolution. The Utilities Director may also waive any per-day aspect of such civil penalty in appropriate circumstances and provide for set-off of such penalties in return for payment of the actual costs of any damages.

(Ord. No. 2023-926, Enacted, 11/09/23)

9-05a-090 Cross-Connection Control Program.

A. Coordination with International Plumbing Code and the Arizona Administrative Code. In addition to the applicable provisions of the International Plumbing Code (as adopted and amended from time to time in Chapter 7 "BUILDING" of the Town Code) and Title 18, Chapter 4 of the Arizona Administrative Code, the provisions of this Section shall constitute a Cross-Connection Control Program for the Town. In the event of a conflict between the provisions of this Section and those of the International Plumbing Code and/or the Arizona Administrative Code, the provisions of this Section shall apply.

B. Program Goal. The goal of the cross-connection control program is to protect the Town's

domestic water supply from the possibility of contamination or pollution by isolating within users' systems such contaminants or pollutants as might backflow into the domestic water supply. The program shall provide for the monitoring and enforcement of a continuing program of backflow prevention designed to prevent the contamination or pollution of the domestic water supply.

C. Program Implementation. This cross-connection control program shall be implemented as follows:

1. New Construction. With the adoption of this cross-connection control program, all commercial/industrial new construction, additions, remodeling, or tenant improvements on any property shall be evaluated to determine if a backflow prevention assembly (BFPA) or air gap is required. If it is determined that the property requires a BFPA or air gap, construction thereof shall be in accordance with the engineering standards adopted from time to time in Article 16-01 of the Town Code.

2. Retrofit of Existing Construction. If the Town is alerted, by any means, to potential backflow hazards involving existing properties, the Customer shall install a BFPA or air gap in accordance with the cross-connection control program. Retrofits shall be completed by a certified and licensed contractor approved by the Town within 3 months from the date the Town notifies the Customer. Customers are responsible to pay all costs for labor and materials incurred to complete a retrofit.

3. Secondary Source of Water. If a secondary water supply is connected to a customer system that is also served by the Town's domestic water system, the secondary connection shall be mechanically disconnected or, in the alternative, a BFPA shall be installed. In the event the Customer fails to disconnect the secondary water supply or install a BFPA, the Town shall discontinue the domestic water service to the customer until such time as the secondary water supply has been disconnected or a BFPA has been installed. The Customer shall pay any and all charges associated with disconnecting and/or reconnecting to the domestic water system.

4. Branching. Assemblies on a metered service shall be located downstream of the meter before branching. On non-metered service, assembly shall be located downstream of any branching.

5. Submergence. Assemblies shall be located above ground in an area free from submergence or flood potential.

6. Concrete Enclosure Pad. The concrete pad shall be constructed above final grade to help prevent eroded soil from obstructing enclosure drains.

7. Costs. All costs to purchase, install, operate, maintain, replace and test BFPAs and air gaps are the responsibility of the customer.

8. Water Pressure and Volume. Any water pressure drop or loss of volume caused by the installation of a BFPA or air gap is not the responsibility of the Department.

9. Permits. Building permits will not be issued until all BFPAs and/or air gaps have been specified and located on a plan approved by the Water Department.

10. Prohibited Locations. Assemblies must not be located in traffic visibility triangles or where utility devices are prohibited by Town Code.

D. Responsibilities. The following responsibilities are involved in the program:

1. Water Department ("The Department"). The Department is vested with authority and responsibility for implementing and administering this cross-connection control program. No domestic water service connection to premises of a type specified in this program shall be installed or maintained unless the domestic water supply is protected as required herein.

2. Cross-Connection Control Program Administration. The Department may enforce, monitor, maintain and/or modify this program.

3. Users. Users shall not allow any pollutants or contaminants to enter into the domestic water system or premise/in-premise systems from the point of delivery. Users shall, at their own expense, install, operate, test, replace, and maintain approved BFPAs or air gaps as required by the Department.

E. Definitions. The following definitions shall apply to this cross-connection control program:

1. "Air Gap" means the unobstructed vertical distance through the free atmosphere between the lowest opening from any pipe or faucet supplying water to a tank, plumbing fixture, or other device, and the flood level rim of said vessel. An approved air-gap shall be at least double the diameter of the supply pipe, measured vertically, above the overflow rim of the vessel, and in no case less than one (1) inch.

2. "Backflow" means a reverse flow condition that causes water or mixtures of water and other liquids, gases, or substances to flow back into the distribution system. Backflow can be created by a difference in water pressure (backpressure), a vacuum or partial vacuum (backsiphonage), or a combination of both.

3. "Backflow Prevention Assembly (BFPA)" means an assembly or means designed to prevent the reversal of the normal flow caused by either backpressure or backsiphonage.

4. "BFPA Tester" means any person who has proven his/her competency to the satisfaction of the Department, is certified to install, make competent tests or repair, overhaul and make reports on backflow prevention assemblies, and who is conversant with applicable laws, rules and regulations, has had experience in plumbing or pipe fitting, or has other qualifications which are equivalent in the

opinion of the Department.

5. "Double Check Valve Assembly" means an assembly of two (2) independently operating, approved check valves with tightly closing shut-off valves on each end of the check valves, plus properly located test cocks for the testing of each check valve. The entire assembly must meet the design and performance specifications of the Foundation for Cross-Connection Control and Hydraulic Research of the University of Southern California and the American Water Works Association (A.W.W.A.).

6. "Pollution" means the presence of any foreign substance (organic, inorganic, or biological) in the water which tends to degrade its quality so as to constitute a hazard or impair its usefulness or quality to a degree which does not create an actual hazard to the public health but does adversely and unreasonably affect it for domestic use.

7. "Pressure Breaker Assembly" means an assembly containing an independently operating loaded check valve and an independently operating loaded air inlet valve located on the discharge side of the check valve. The assembly must be equipped with properly located test cocks and tightly closing shut-off valves located at each end of the assembly. The entire assembly must meet the specifications and standards of the University of Southern California Foundation for Cross-Connection Control and Hydraulic Research.

8. "Reduced Pressure Principle Backflow Assembly" means an assembly of two (2) independently acting, approved check valves together with a hydraulically operating, mechanically independent differential pressure relief valve located between the check valves and below the first check valve. The unit shall include properly located test cocks and tightly closing shut-off valves at each end of the assembly. The entire device must meet the design and performance specifications determined by the Foundation for Cross-Connection Control and Hydraulic Research of the University of Southern California and the American Water Works Association (A.W.W.A.).

9. "Water (Potable)" means any water which, according to standards recognized by the Town of Prescott Valley, is safe for human consumption.

10. "Water Service Connection" means the terminal end of the service connection from the domestic water system at its point of delivery to the User's plumbing fixtures. Inasmuch as one (1) or more meters are installed at the end of the service connection, then the service connection means the downstream end of the meter. Service connections include water service connections from hydrants and all other temporary or emergency service connections from the domestic water system. [Note that unprotected takeoffs from service lines will not be permitted upstream of any meter or any BFPA located at the point of delivery to the User's plumbing fixtures.]

F. Approval. Each backflow preventive assembly required hereunder shall be approved by the Water Department prior to installation, and shall be installed by and at the expense of the User. Approved backflow assemblies must have received approval from the

Foundation for Cross-Connection Control and Hydraulic Research of the University of Southern California, American Water Works Association (A.W.W.A.). Assemblies must be specified and located on construction plans for all new buildings, all additions with new services, and all changes of use of existing buildings as required hereinafter. Approval of such assemblies must be obtained prior to issuance of building permits.

G. Installation of BFPAs. With regard to installation of BFPAs and air gaps:

1. Types of Backflow Prevention Allowed. The Town has approved the following four (4) types of backflow prevention:

   a. Double Check Valve Assembly (DCVA)

   b. Reduced Pressure Principle Backflow (RPBA)

   c. Pressure Vacuum Breaker Assembly (PVBA)

   d. Air Gap (AG)

   Backflow assemblies or air gaps may not be installed in pits, vaults or underground.

   All firelines, whether commercial or residential, shall conform to the BFPA requirements under this cross-connection control program.

2. USC Approved BFPAs. Approved assemblies shall include those manufactured in conformance with the standards established by the American Water Works Association (AWWA) and the Foundation for Cross-Connection Control and Hydraulic Research of the University of Southern California.

3. Testing Frequency. BFPA and air gaps must be inspected for proper installation and tested for proper operation:

   a. At the time of installation;

   b. Annually after installation (minimum frequency);

   c. After a backflow incident;

   d. After a BFPA or air gap is repaired, reinstalled, relocated, re-plumbed (for air gaps); and

   e. At the request of the Utilities Director.

4. Backflow Assemblies – Outside Installation (RPBA and DCVA). Backflow assemblies installed outside shall:

   a. Be placed in an ASSE 1060 Class I enclosure that is electrically heated and situated on a concrete base slab. Upon approval by the Department, where electric heating is not possible, freeze protection may be accomplished by using an insulated blanket with a minimum R30

insulation rating inside an ASSE 1060 Class I enclosure.

b. Be placed on private property and before the first branch line leading off of the service line.

c. Be located in an accessible location approved by the Department.

d. Be placed as close as practically possible to the water meter or the adjacent public private point of separation.

e. Provide test cocks located at such points in the assembly to enable testing equipment to be connected and detect the pressure in each pressure zone.

f. Be installed above ground.

g. Be installed and oriented as approved by the manufacturer.

h. Provide adequate drainage for RPBAs discharge water. The drainage system shall be of adequate capacity to accommodate intermittent discharge, a full port discharge or a full catastrophic failure of the relief valve.

i. Have at least the same cross-sectional area as the service and/or meter.

j. Have sufficient clearance provided to permit testing in place, maintenance, repair or replacement and be installed no less than twelve (12) inches or more than twenty-four (24) inches above grade level.

k. Provide two (2) sets of BFPAs installed in parallel if the water supply cannot be temporarily interrupted for the testing of assemblies.

l. Not include a bypass installed around BFPAs.

m. For all commercial irrigation uses, provide an RPBA separate from the domestic water system.

5. Backflow Assemblies – Inside Installation for Fire Sprinkler Systems (RPBA and DCVA). Inside installation of backflow assemblies shall be allowed for fire sprinkler systems only. The assemblies shall:

a. Be located in a NFPA freeze protected environment.

b. Be placed in a fire riser room unless otherwise approved by the Town. Fire riser rooms shall have an access door to the exterior of the building and signage on the door designating Fire Riser Room.

c. Not be further away than 150 feet from the property line adjacent to the public main.

d. Be installed and oriented as approved by the manufacturer.

e. Provide adequate drainage for discharge water. The drainage system

shall be of adequate capacity to accommodate intermittent discharge, a full port discharge or a full catastrophic failure of the relief valve.

f. Provide test cocks located at such points in the assembly to enable testing equipment to be connected and detect the pressure in each pressure zone.

g. Have sufficient clearance provided to permit testing in place, maintenance, repair or replacement and be installed no less than twelve (12) inches or more than twenty-four (24) inches above grade level.

h. Not be bypassed.

i. Be installed with a tamper switch that detects a closed valve or with valves that can be locked in the open position. The method shall be approved by the Central Yavapai Fire District (CYFD).

j. Include an alarm system if required by CYFD.

6. Backflow Pressure Vacuum Backflow Assemblies (PVBA). Use of PVBAs is only allowed under the following conditions.

a. Use is restricted to low hazard backflow protection of single family residential and irrigation systems.

b. No additives, fertilizers, etc. may be used utilized in the system.

c. No external or internal pumps may be connected to the system.

d. Assemblies shall be equipped with gate valves on both the upstream and the downstream side of the assembly.

e. Test cocks shall be provided and located so that test equipment may be connected to the assembly at such points that the pressure in each pressure zone may be detected.

f. One of the test cocks shall be located upstream of the upstream gate valve, as close as possible to said assembly.

g. Assemblies shall be placed on private property.

h. The location of the assemblies shall be accessible as approved by the Department.

i. All assemblies shall be installed and oriented per manufacturer specifications.

j. Assemblies must have sufficient clearance provided to permit testing in place, maintenance, repair or replacement and must be installed at least twelve (12) inches above all downstream piping and outlets.

k. No bypass may be installed around a PVBA.

7. Air Gaps. An “approved air gap” (AG) shall be at least twice the diameter of the

supply pipe measured vertically above the overflow rim of the receiving vessel; in no case less than 1 inch (2.54 cm). For AG installation, all piping between the user's connection and tank shall be entirely visible unless otherwise approved in writing by the Utilities Director.

8. Civil / Utility / Construction Plans. All constructions plans for new structures, additions with new service and the change of use for existing structures must contain specifications and illustrations for all BFPAs or air gaps to be installed and shall include the information set forth below. Construction plans will not be approved unless they comply with this subsection.

   a. Vicinity and Location. Show and illustrate vicinity and location.

   b. Size. Specify the size in inches.

   c. Type. Specify the type of assembly required, i.e., RPBA, DCVA, or air gap.

   d. Orientation. Specify and illustrate BFPA mounting orientation per USC code, i.e. vertical or horizontal.

   e. Special Conditions. Identify all special conditions, i.e., use of additives or antifreeze or, in the alternative, a dry system.

   f. Manufacturer. Provide identity of manufacturer.

   g. Model. Provide full name of model of BFPA, as listed or specified on USC list.

   h. Code. For fire sprinkler applications, provide the citation to the fire code applicable to the type of option approved by CYFD (i.e., tamper switch or locking). If the code citation is not available, specify the option being used (tamper switch or locking).

   i. Freeze Protection Outdoors. If located outdoors, specify the type of freeze protection being utilized (i.e., BFPA shall be electrically heated in an enclosure per ASSE 1060 Class I).

   j. Freeze Protection Indoors. If located indoors, state that the BFPA shall be freeze protected per NFPA regulations.

   k. Drainage. If a RPBA is installed indoors, illustrate the drainage plan and state that the drainage capacity is sized properly to safely handle any and all discharge. If RPBA is installed outdoors, state that the drainage has been designed properly to safely handle any and all discharge.

   l. Plan must state build in accordance with applicable Prescott Valley standard detail.

H. Premises or Systems Requiring Approved Backflow Preventive Devices. An approved backflow preventive assembly of the type specified in this Subsection shall be the minimum installation of each service connection (whether from a hydrant, temporary,

regular or other water service connection) to the following type of premises or systems:

1. Minimum type of backflow prevention:

Table 1 - Minimum Type of Backflow Prevention Based on Hazard

Premises Requiring Backflow Prevention	Type of Backflow Prevention Required			
	DCVA	RPBA	PVBA	Air Gap
Any Very High Risk Hazard*				X
Any High Risk Hazard*		X		
Any Low Risk Hazard*	X			
Auxiliary Water Systems, Infrastructure, Pumps or Reservoirs on Property		X		
Buildings Greater than Three (3) stories or Thirty-Four Feet (34') in Height	X			
Commercial / Government / Institutional / Industrial Facilities		X		
Fire Lines With Antifreeze or Additives		X		
Fire Lines With no Antifreeze or Additives	X			
Fire Lines With Compressors / Dry Systems		X		
Commercial Class 1 and 2 Fire Systems	X			
Commercial Class 3-6 Fire Systems		X		
Commercial or Industrial Irrigation		X		
Multifamily Larger than Fourplex		X		
Radioactive Materials Processing				X
Intricate Internal Plumbing Arrangements		X		
Any Premise with Access to Reclaimed Water		X		
Wastewater - Plants, Lift Stations, Pumping Stations, Dump Stations		X		
Mobile Homes, Storage Yards or RV Parks Served with Master Meter(s)		X		
Water Trucks. Sewer, Reclaimed Water or Storm Cleaning Equipment				X
Temporary Construction Use (hydrant or auxiliary connection)		X		X

*Hazards not defined elsewhere in this Table. The Town has sole discretion to determine what constitutes a hazard.

2. Single family residential units (used solely for residential purposes) requiring a fire sprinkler system shall not be required to install a backflow assembly, provided:

   a. The system is constructed using approved potable water piping and materials.

   b. The system does not contain anti-freeze or other chemicals.

   c. The system is connected to the customer's side of the water meter.

I. Approved Backflow Preventive Assemblies. Approved assemblies shall be limited to those manufactured in conformance with the standards established by the American Water Works Association (AWWA) and approved by the University of Southern California Foundation for Cross-Connection Control and Hydraulic Research (USC-FCCCHR).

J. Maintenance, Testing and Records. Users must maintain accurate records of BFPA tests, repairs and/or replacements and must provide the Department with copies of such records within thirty (30) days of the tests, repairs and/or replacements. The records shall be on forms approved by the Department and shall include the list of materials or replacement parts used. Testing, maintenance, replacements, and repairs to such assemblies shall be made at Users' expense by a "General Tester" certified by the Arizona State Environmental Technical Training Center (ASETT) and included on the Town's list for certified backflow prevention assembly testers. Users must arrange for tests to be completed at the time of the initial installation and at least once a year thereafter on the anniversary date of the initial inspection. Following the installation of any assembly, Users must have the assembly inspected by the Department before a certificate of occupancy is issued.

Within ten (10) days following completion of any retrofits, repairs, repiping, overhauls, replacements, or relocations of any assembly, Users must have the assembly inspected as set forth herein.

K. Inspections. Users' systems must be open for inspection at all reasonable times (including during all emergencies) by authorized representatives of the Department in order to determine whether cross-connections or other structural or sanitary hazards exist (including violations of this program). If such hazards are found, the Department may deny or immediately discontinue service to the premises by providing a physical break in the service line until the User has corrected the condition in conformance with this program.

L. Discontinuation of Service. Water service to any premises may be turned-off by the Department if a backflow preventive assembly required by this program is not installed, tested and maintained; if it is found that a backflow preventive assembly has been removed or bypassed; or if a cross-connection exists on the premises. Service shall not be restored until such conditions or defects are corrected.

M. Existing Devices and Users. If the Department determines that a User's backflow preventive assembly does not meet applicable Engineering Standards, the User shall retrofit, replace or repair the assembly so that it meets the standards. Whenever it is determined by the Department that a water service poses an actual or potential threat to the physical properties of the domestic water system or to the potability of the water system, an assembly complying with this program must be installed. The cost of installation, testing and maintenance shall be borne by the User.

N. Disclaimer of Liability. This cross-connection control program shall not create any duty or liability on the part of the Town of Prescott Valley, its officers, employees, agents or successors.

(Ord. No. 386, Enacted, 07/11/96; Ord. No. 510, Amended, 08/23/01; Ord. No. 590, Amended, 03/25/04; Ord. No. 654, Amended, 03/09/06; Ord. No. 815, Amended, 04/28/16; Ord. No. 2023-926, Amended, 11/09/23)

9-05a-100 Penalties and Remedies.

A. Violations a Class 1 Misdemeanor. Except for failure to pay domestic water rates, fees,

charges, and penalties, any violation of this Article shall constitute a class 1 misdemeanor, and any such violation shall constitute a separate offense on each successive day it is continued.

B. Turning-Off Domestic Water Services. In addition to other remedies (civil or criminal) available to it, the Town of Prescott Valley may turn-off domestic water services to any Customer or User who fails to comply with any provision of this Article (including non-payment of rates, fees, charges, penalties, and taxes) as provided in this Article. Turning-off of domestic water services does not excuse failure to pay applicable rates, fees, charges, penalties, and taxes due under this Article.

C. Administrative Review. In the event of a dispute as to liability for domestic water system rates, fees, charges, penalties or taxes (or the amount of same), or the validity of proposed enforcement actions, a User may request an administrative review.

1. Request for Administrative Review. Requests must be received by the Director at least five (5) business days prior to any deadline set for (i) application of rates, fees, charges, penalties or taxes, or (ii) enforcement actions. Requests may be made in writing, by facsimile transmission, by telephone, by e-mail or in person, directed to the Office of the Director at 7501 E. Civic Circle, Prescott Valley, Arizona 86314, (928) 759-3011 (ph.), (928) 759-5533 (fax), www.pvaz.net (website).

2. Nature of Hearing. Within five (5) business days of receipt of a request for administrative review, the Director shall arrange to meet with the User or its representative. At the hearing, the User or its representative may present their objection to the proposed rates, fees, charges, penalties, taxes or enforcement action. The Director may schedule additional meetings, if necessary.

3. Decision. Within five (5) business days after the final meeting with the User or its representative, the Director shall render a decision in the matter, explaining the basis for the decision and the actions that will be taken by the Director. A copy of the decision will be mailed first-class, postage prepaid, to the User at the address provided by the User on its account application.

4. Appeal. Within five (5) business days from the date of the Director's decision, the User may appeal the Director's decision to the Town Manager. The Town Manager shall arrange to meet with the User or its representative and the Director. At the hearing, the User or its representative may present their objection to the proposed rates, fees, charges, penalties, taxes or enforcement action. The Town Manager may schedule additional meetings, if necessary. Within five (5) business days after the final meeting with the User or its representative, the Town Manager shall issue a written determination, which shall be final. The application of any rates, fees, charges, penalties, taxes or enforcement action shall be tolled pending the final determination of the Town Manager.

(Ord. No. 386, Enacted, 07/11/96; Ord. No. 510, Amended, 08/23/01; Ord. No. 815, Amended, 04/28/16)

9-05a-110 Supplementary Provisions.

The provisions of this Article are intended to be supplementary to other applicable Town Code provisions. Where in conflict or where additional requirements are cited, the stricter provision shall apply.

(Ord. No. 386, Enacted, 07/11/96)

Article 9-05b RECLAIMED WATER SERVICE

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9-05b-010 Intent and Scope.

It is the intent of this Article, in connection with the other provisions of the Town Code, to regulate the financing, operation, and expansion of the Town's reclaimed water system (including regulation of connections thereto). In so doing, this Article provides for the setting, collecting, and refunding of reasonable reclaimed water rates, fees, charges, and penalties.

(Ord. No. 510, Enacted, 08/23/01)

9-05b-020 Definitions.

In this Article, unless the context otherwise requires:

A. "Customer" means (a) the record owner(s) of real property to which reclaimed water services are supplied, and/or (b) any Tenant of real property to which any of said services are supplied. Customers are the person(s) or entity(ies) responsible for the payment of water charges for such services. While a Customer may also be a User as defined hereinafter, the terms are not necessarily the same.

B. "Department" means any combination of Town officers and third-party contractors (and their respective personnel) assigned to manage, operate and maintain the reclaimed water system for the Town.

C. "Director" means the director of the department in which the Customer Accounts division of the Town is included, as appointed from time to time by the Town Manager, and/or related staff designees.

D. "Person" means any individual, partnership, copartnership, firm, company, corporation, association, joint stock company, trust, estate, governmental entity, or any other legal

entity; or their legal representatives, agents, or assigns. This definition includes all federal, State, or local governmental entities.

E. “Premises,” “Real Property” or “Property” means the building, unit, structure, designated turf area, or water storage area (including adjacent areas and appurtenances) to which domestic water service, wastewater service, and/or reclaimed water service is provided.

F. "Reclaimed Water" means all effluent discharged from the wastewater treatment facility after treatment, and stored, transported, or recharged into the underground aquifer by the reclaimed water system of the Town.

G. "Reclaimed Water Service" means the treatment, storage, transportation and delivery of reclaimed water by the Town to commercial and industrial water Users.

H. "Reclaimed Water System" means any or all components of the reclaimed water system managed, operated and maintained by the Town or through contracts with one (1) or more third-party contractors, including (but not limited to) recharge wells, treatment facilities, pumps, booster stations, storage tanks, storage ponds, reclaimed water mains, reclaimed water lines, hydrants, valves, and meters, as well as any public rights-of-way, easements (express or implied) or licenses within which such are located (but expressly not including reclaimed water service lines and connections thereto located on the Customer side of meters).

I. "Tenant" means a person entitled under all agreements, written, oral or implied by law, and valid rules and regulations adopted under Arizona Revised Statutes, embodying the terms and conditions concerning the use and occupancy of a dwelling unit and/or other premises to occupy the same to the exclusion of others.

J. "Town" means the Town of Prescott Valley and, for purposes of authority, includes any of its officers, employees, contractors, and other agents unless express reference is made to the Mayor, the Council, the Manager, or a department head.

K. "Town Council" or "Council" means the governing body of the Town, comprised of its duly elected or appointed members.

L. "Town Manager" or "Manager" means the manager of the Town as appointed from time to time by the Town Council, and/or related staff designees.

M. "Unit" means any room or group of rooms designed for one (1) or more persons to reside, work, or carry on any organized activity as a homogeneous group, and containing or having direct access to at least one (1) accommodation for cooking, domestic water use, reclaimed water use, and/or wastewater disposal.

N. "User" means any person, partnership, corporation, municipality, political subdivision or other entity or organization that occupies any building, Unit, structure, designated turf area, or water storage area and receives water service from the domestic water system.

O. “Utilities Director” means the director of the Utilities Department, as appointed from time to time by the Town Manager, and/or related staff designees.

P. "Utility System" means the domestic water system, wastewater treatment system and the reclaimed water system of the Town, or any portion thereof.

(Ord. No. 510, Enacted, 08/23/01; Ord. No. 815, Amended, 04/28/16)

9-05b-030 Reclaimed Water Fund Administration.

A. Establishment. A Reclaimed Water Fund is hereby established to account for all revenues and expenditures of the Department in the operation of the reclaimed water system. Nothing herein limits the authority of the Town, in conformance with standard accounting and good financial management practices, to establish other funds, subfunds, or accounts (i.e., debt service, replacement, etc.) and to transfer monies between them and the reclaimed water fund for reclaimed water service purposes and system administration purposes, or to make interfund loans as allowed by law and approved by the Town Council.

B. Reserve Account. In the event debt financing is used to construct or extend any portion of the reclaimed water system, a separate reserve account shall be established and maintained in accordance with the terms of said financing. The monies within said account may be used for emergency purposes in accordance with the terms of said financing.

C. Additional Regulations. The Town Council shall adopt additional regulations for Fund administration from time to time by resolution.

(Ord. No. 510, Enacted, 08/23/01)

9-05b-040 Establishing Reclaimed Water Service.

A. Application. New reclaimed water service to any building, Unit, structure, designated turf area, or water storage area on real property, or any increase in the size of a reclaimed water service connection to any building, Unit, designated turf area, or water storage area shall be initiated by applications from Customers [or, in the case of the record owner(s) of real property, their agent(s)] on forms established from time to time by the Director. The information required at application and the consequences of providing false information may be set from time to time by regulations adopted by resolution.

B. Tenant Accounts. Applications by Customers who are Tenants must include a copy of the lease or rental agreement for the property to be served. Tenants applying for service to the leased/rental property shall be responsible to pay all reclaimed water service rates, fees, charges, and penalties applicable to the property. Where residential property consisting of five or more units is occupied by multiple Tenants, Tenants may apply for utility service and place their name on accounts only if each Tenant of the property is individually metered for reclaimed water service.

C. Deposit. Applications for reclaimed water service shall be accompanied by a deposit

established from time to time by resolution, and administered in accordance with regulations adopted from time to time by resolution. An additional deposit may also be established by regulation from time to time in cases of bankruptcy, as permitted under federal law.

D. Unauthorized Turn-On, Turn-Off, or Other Tampering. Except in emergency circumstances, it shall be unlawful for any person to physically turn-on or turn-off reclaimed water service to any building, Unit, structure, designated turf area, or water storage area, to otherwise tamper with or damage the reclaimed water system, or to direct, aid, or abet another in so doing without the approval of the Utilities Director after compliance with established application requirements. In lieu of criminal prosecution for such a misdemeanor violation, the Director may (at his/her sole discretion) apply a civil penalty for such violation, which penalty shall be set from time to time by resolution. The Director may also waive any per-day aspect of such civil penalty in appropriate circumstances, and provide for set-off of such penalties in return for payment of the actual costs of any damages.

(Ord. No. 510, Enacted, 08/23/01; Ord. No. 815, Amended, 04/28/16)

9-05b-045 Water Conservation.

A. The Mayor and the Town Manager are hereby authorized to declare Water Conservation Levels, as set forth hereinafter, which shall have the effect of restricting usage of water produced by the Town's reclaimed and domestic water systems. Such Water Conservation Levels shall be based upon the Water Resource Status Levels determined by the Utilities Director (or his designee) which, in turn, are based upon the Utilities Director's assessment of the relationship between water demand and safe water production capability. Safe water production capability is defined as ninety percent (90%) of the total water resources that can reasonably be produced through either the reclaimed water system or the domestic water system, based upon distribution components, storage reserves, weather conditions, and historic data.

B. Water Resource Status Levels are established as follows:

1. Status Level I: water demand is less than or equal to safe water production capability.

2. Status Level II: water demand is greater than safe water production capability for more than three (3) but less than fourteen (14) consecutive days.

3. Status Level III: water demand is greater than safe water production capability for fourteen (14) consecutive days or more.

4. Status Level IV: water demand is greater than the total water resources that can reasonably be produced through either the reclaimed water system or the domestic water system, based upon distribution components, storage reserves, weather conditions, and historic data.

C. Water Conservation Levels are established as follows:

1. Conservation Level I (Water Awareness): water users are encouraged to minimize waste when water is used for irrigation, vehicle and pavement washing, construction, and similarly intensive water uses. Water Conservation Level I may be declared by either the Town Manager or the Mayor.

2. Conservation Level II (Water Restrictions): water use is prohibited or restricted as follows -

    a. Irrigation, washing of vehicles, filling and refilling of swimming pools, spas, and wading pools is restricted to Monday, Wednesday, Friday, and Sunday for even-numbered addresses, and to Tuesday, Thursday, Saturday, and Sunday for odd-numbered addresses.

    b. Washing of vehicles is restricted to use of buckets and hoses with positive cut-off nozzles, except that no restrictions apply to commercial car washes, to washing of public safety vehicles, or to washing of vehicles for specified public health, safety, or welfare reasons.

    c. Washing of paved areas (e.g. drives, sidewalks and tennis courts) is prohibited except for specified health, safety or welfare reasons.

    d. Irrigation of golf courses is restricted to before Noon and after 7 P.M. No restrictions apply if golf courses are irrigated with reclaimed water.

    e. Irrigation of landscaped areas is restricted to between 6 P.M. and 10 P.M., and between 4 A.M. and 8 A.M. Monday, Wednesday, Friday and Sunday for even-numbered addresses, and Tuesday, Thursday, Saturday and Sunday for odd-numbered addresses.

    f. Operation of ornamental fountains is prohibited unless they are equipped with recycling pumps.

    Water Conservation Level II may be declared by either the Town Manager or the Mayor.

3. Conservation Level III (Water Emergency): water use is prohibited or restricted as follows -

    a. Filling and refilling of swimming pools, spas, and wading pools is prohibited.

    b. Irrigation of golf courses is prohibited, except that no restrictions apply if golf courses are irrigated with reclaimed water.

    c. Washing of vehicles and paved areas (e.g. drives, sidewalks and tennis courts) is prohibited, except that no restrictions apply to commercial car washes, to washing of public safety vehicles, or to washing of vehicles for specified public health, safety, or welfare reasons.

d. Non-emergency use of hydrants is prohibited unless written approval is first given by the Utilities Director for essential commercial purposes.

e. Irrigation of landscaped areas is prohibited.

f. Operation of ornamental fountains is prohibited.

Water Conservation Level III may only be declared by the Mayor.

4. Conservation Level IV (Water Crisis): water use is prohibited or restricted as follows -

a. Filling or refilling of swimming pools, spas, and wading pools is prohibited.

b. Irrigation of golf courses is prohibited.

c. Washing of vehicles and paved areas (e.g. drives, sidewalks and tennis courts) is prohibited, except that no restrictions apply to washing of public safety vehicles or to washing of vehicles for specified public health, safety, or welfare reasons.

d. Non-emergency use of hydrants is prohibited.

e. Irrigation of landscaped areas is prohibited.

f. Operation of ornamental fountains is prohibited.

g. Compaction and dust control on construction projects is prohibited, except that no restrictions apply to compaction and dust control using reclaimed water.

h. Other water uses declared in writing by the Mayor to be unduly consumptive are prohibited.

Water Conservation Level IV may only be declared by the Mayor.

D. Water Conservation Levels are considered effective for all purposes twenty-four (24) hours after posting of a writing declaring the same and signed by the Town Manager or the Mayor (as the case may be) at the locations established in accordance with ARS §38-431.02(A)(4), and after said writing has been faxed, e-mailed or hand-delivered to a newspaper of general circulation within the Town limits and to a radio station whose signal is generally received within the Town limits.

E. Upon the effectiveness of a Water Conservation Level, water users shall comply with the water use restrictions and prohibitions related thereto, subject to the penalties set forth in Town Code §9-05b-100 hereinafter.

(Ord. No. 523, Enacted, 05/09/02; Ord. No. 815, Amended, 04/28/16; Ord. No. 839, Amended, 02/22/18; Ord. No. 2023-926, Amended, 11/09/23)

9-05b-050 Reclaimed Water Rates, Fees, Charges, and Penalties.

A. Classification of Users. For the purpose of applying reclaimed water rates, fees, charges, and penalties, reclaimed water system Users shall be classified into three (3) categories, as follows:

1. Residential. The residential classification shall include single family homes and individual dwelling Units within multi-family residential structures. A residential classification is not lost by reason of a "home occupation" if water consumption is not significantly increased because of said home occupation. Each dwelling Unit in a multi-family dwelling is considered a separate residential User.

2. Commercial. The commercial classification shall include institutional Users such as government entities, schools, churches, and nonprofit organizations, as well as transient and group quarters (i.e., hotels/ motels, rooming houses, nursing homes, etc.). A residential unit located within a structure utilized for commercial purposes or located on property used for commercial purposes (i.e., mini-storage manager/caretaker residences, etc.) shall be considered a separate commercial User. Each separate or separately-metered commercial unit in a structure or unified complex utilized for commercial purposes shall also be considered a separate commercial User.

3. Industrial. The industrial User shall be any entity required to have an industrial wastewater pretreatment permit under Article 9-05 of the Town Code; otherwise it shall be classified as commercial. Each separate or separately-metered industrial Unit in a structure or unified complex utilized for industrial purposes shall be considered a separate industrial User.

B. Reclaimed Water Rates, Fees, Charges, and Penalties. Reclaimed water rates, fees, charges, and penalties shall be set by resolution from time to time, in accordance with the Intent and Scope of this Article and with applicable Arizona and federal statutes.

1. Coordination with Other Fees and Assessments. Nothing herein shall limit the authority of the Town to impose development fees in accordance with ARS 9-463.05 and Article 7-11 of the Town Code (all as amended from time to time), or to establish improvement district assessments per ARS 48-517 et seq. and fees in-lieu of such assessments in order to upgrade or expand the reclaimed water system.

C. Billing. Billing of residential, commercial and industrial Customers for reclaimed water services shall be accomplished as set forth from time to time by regulations adopted by resolution.

1. Taxes. In addition to the reclaimed water rates, fees, charges, and penalties established from time to time by resolution, reclaimed water billings shall include any applicable taxes on the business of reclaimed water service.

2. Time Covered by Rates. With regard to reclaimed water rates, fees, charges, penalties, and taxes, Volume Rates and all other reclaimed water rates, fees,

charges, penalties, and taxes are applied to the prior billing period.

3. Delinquency Dates. Reclaimed water rates, fees, charges, penalties, and taxes are due on different dates for different Customers based on billing cycles. Such dates shall be specified for each Customer when service begins and shall be set forth in the billings received. Payment is due twenty (20) days after the billing date. Reclaimed water rates, fees, charges, penalties, and taxes are delinquent on the twenty-eight (28th) day after the billing date. Nothing herein shall preclude the Director from changing a Customer's billing period, so long as adjustments are made in billings to reflect actual usage.

4. Consequences of Account Delinquencies. Account delinquencies in relation to reclaimed water rates, fees, charges, penalties, or taxes shall result in an "Active Account Processing Charge", set from time to time by resolution, being applied to the account on the twenty-eighth (28th) day after the billing date. Furthermore, reclaimed water service will be subject to turn-off on and after the fiftieth (50th) day after the billing date (unless emergency circumstances justify immediate turn-off of reclaimed water service).

5. Application of Partial Payments. The application of partial payments to delinquent accounts shall be established from time to time by regulations adopted by resolution. Partial payments shall not avoid reclaimed water service turn-off nor shall they renew reclaimed water service (except as specified in any payment agreements).

6. Prepayments. Nothing herein shall preclude the Town from limiting prepayments by regulations adopted from time to time by resolution.

7. Customer Inquiry Required. Failure of a Customer to receive any monthly reclaimed water service billing or other communication from the Director with regard to applicable reclaimed water rates, fees, charges, penalties, or taxes shall expressly not excuse the Customer from paying reclaimed water rates, fees, charges, penalties, or taxes due.

D. Delinquency Procedures. Procedures to be followed in the event of account delinquencies shall be established from time to time by regulations adopted by resolution. Such procedures shall include such enforcement measures as are available to the Town in law and in equity (including, but expressly not limited to, reclaimed water service turn-off), and shall provide for such notice to Customers and opportunities for administrative hearings prior to application of enforcement procedures (including, but not limited to, turn-off of reclaimed water service) as is deemed appropriate under the circumstances and complies with requirements of due process.

1. Payment Agreements. Nothing herein shall preclude the Director from offering to enter into Payment Agreements with Customers who have delinquent utility accounts at any stage of the enforcement process, as set forth from time to time by regulations adopted by resolution.

(Ord. No. 510, Enacted, 08/23/01; Ord. No. 516, Amended, 12/06/01; Ord. No. 667, Amended, 09/28/06; Ord. No. 815, Amended, 04/28/16)

9-05b-060 Reclaimed Water System Extensions.

A. Approval. The Town shall approve the design of, issue permits for, and conduct inspections of all construction of reclaimed water mains, reclaimed water lines, and other reclaimed water system components that are to be attached to the Town's reclaimed water system.

B. Design and Construction. The design and construction of all reclaimed water mains, reclaimed water lines, and other reclaimed water system components to be attached to the Town's reclaimed water system must conform with good engineering practice, including such standards as have been adopted from time to time by the Town (i.e. the latest adopted technical building codes, the latest adopted engineering standards, the current subdivision code, and the latest general plan).

The Town reserves the right to require an increase in size of reclaimed water mains, reclaimed water lines, and other reclaimed water system components constructed to be attached to the Town's reclaimed water system, in accordance with Article 14-04 of the Town Code (as amended from time to time).

C. Inspection. In accordance with Article 14-04 of the Town Code, all reclaimed water mains, reclaimed water lines, and other reclaimed water system components to be attached to the Town's reclaimed water system shall be subject to inspection by the Town. Engineering plan review and inspection fees may be charged as provided for in Chapter 16 of the Town Code.

D. Subdivisions. Extensions of the reclaimed water system into subdivisions shall be regulated by Article 14-04 of the Town Code.

E. Other Developments. All other developments requiring separate approval by the Town shall construct extensions of the reclaimed water system, including reclaimed water mains, reclaimed water lines, and related facilities, in accordance with the Towns engineering standards, provided they are a reasonable distance from the reclaimed water system. The determination of what is a reasonable distance shall be made by the Town, based on (1) the nature and size of uses proposed for the development, (2) whether service can be provided by gravity flow or requires pump stations, (3) the capacity of existing reclaimed water mains and related facilities to which any extension would be attached, and (4) other considerations deemed appropriate by the Town.

New developments which are determined by the Town to not be a reasonable distance from the reclaimed water system may still be required, where appropriate, to construct reclaimed water mains, reclaimed water lines, and related facilities according to standards and specifications approved by the Town, in preparation for future connection to the reclaimed water system when it comes within a reasonable distance.

F. Replacement or Repair. Persons or entities that build or cause to be built any extensions of the reclaimed water system shall pay for any repairs or replacements made necessary as a direct or indirect result of such construction, including (for example) repair or replacement of curbs, gutters, sidewalks, road surfaces, drainage structures, and utilities damaged or disturbed during the building of reclaimed water line extensions.

G. Coordination with Fees and Assessments. Nothing herein shall limit the authority of the Town to impose development fees in accordance with ARS §9-463.05 and Article 7-11 of the Town Code (all as amended from time to time), or to establish improvement district assessments per ARS §48-571 et seq. and fees in-lieu of such assessments in order to upgrade the Town's reclaimed water system. However, such fees and assessments may be offset in whole or in part by the value of construction to extend the system, in accordance with law.

(Ord. No. 510, Enacted, 08/23/01)

9-05b-070 Connections.

A. Reclaimed Water Service Connections Required. Every separate building, Unit, structure, designated turf area, and water storage area to which reclaimed water service is supplied shall have its own service connection. Unless otherwise expressly permitted by the Department, it is unlawful for any Customer having a reclaimed water service connection to supply or permit utility service to be supplied through said connection to any other User, whether gratuitously or for consideration. Reclaimed water supplied as part of utility service shall only be delivered through meters supplied by the Town (by and through its third-party contractors).

1. Incidental Entry on Private Property. Department personnel are expressly authorized at all reasonable times to incidentally enter upon private property for the purpose of installing, reading, maintaining, and disconnecting meters, and for the purpose of repairing and maintaining all components of the reclaimed water system and for turning-on and turning-off reclaimed water service.

B. Permits and Inspections. No physical connection shall be made to the reclaimed water system until a permit for the same has been acquired from the Building Official in accordance with Chapter 7 of the Town Code (as amended from time to time), after payment of all required fees and charges, unless the connection is made by the Department. All connections shall conform to the International Plumbing Code, as adopted and amended by the Town from time to time. In addition to any other inspections, tests, and right-of-way permits that may be required, inspection and approval of reclaimed water system connections shall be required before any trench or hole is backfilled.

As part of any connection, an approved reclaimed water meter must be installed by the Department. The meters supplied may be changed from time to time as technological advances provide for greater efficiency in domestic water delivery and meter reading. Unless otherwise expressly permitted by the Department, all such meters shall be located within an adjacent public right-of-way, easement or license, and installed in accordance with the Engineering Standards adopted from time to time by the Town. Such meters and meter boxes shall not be obstructed in such a way as to prevent them from being accessed by Department personnel for reading, maintenance and other purposes. Such reclaimed water meters are and remain part of the reclaimed water system and are therefore property of the Town.

C. Damage. In accordance with Town Code 7-10-030, any damage done to the reclaimed water system or to the public right-of-way as a result of construction of a connection or any related construction or excavation activity shall be repaired to the Town's satisfaction at the constructing party's expense. The Town may require a bond of the party doing such construction or excavation prior to the activity being undertaken.

It is unlawful for any person to intentionally break, deface, tamper with or damage any meter, hydrant, valve, line, pipe or other reclaimed water system appliance or fixture, or in any other manner to interfere with the operation of any part of the reclaimed water system. Furthermore, it is unlawful for any person, with intent to injure or defraud, to connect any pipe, line, tube or other instrument with any reclaimed water main, reclaimed water line, or service line, whether or not part of the reclaimed water system, for conducting reclaimed water supplied by the Town for the purpose of taking such reclaimed water without permission and/or payment.

D. Related Assessments, Fees and Charges. In areas previously included within improvement districts created to extend the reclaimed water system to such areas, if an assessment has not been previously paid to the Town to make the reclaimed water system available to a property (or if the assessment paid for that property was not in proportion to payments made for other similar properties, e.g. because of a property split, increased intensity of development, etc.), a separate in-lieu of assessment fee, calculated to be equivalent to the original assessment, may be imposed by the Town as a condition of developing the property. Such in-lieu of assessment fee may be established from time to time by resolution. Furthermore, development fees pursuant to ARS §9-463.05 and Article 7-11 of the Town Code (all as amended from time to time) and reclaimed water system connection charges may be imposed as a condition of developing the property. However, any such assessments, fees and charges shall be subject to mutual offset, in whole or in part, in accordance with law.

((Ord. No. 510, Enacted, 08/23/01; Ord. No. 590, Amended, 03/25/04; Ord. No. 815, Amended, 04/28/16; Ord. No. 2023-927, Amended, 09/28/23)

9-05b-080 Reclaimed Water System Maintenance.

A. Facilities Included in Reclaimed Water System. The reclaimed water system includes (but is expressly not limited to) recharge wells, treatment facilities, pumps, booster stations, storage tanks, storage ponds, mains, lines, hydrants, valves, and meters, as well as any public rights-of-way, easements (express or implied), or licenses within which they are located (but expressly not including service lines and connections thereto located on the Customer side of meters). "Mains" include all pipe larger than six inches (6") in diameter and "service taps" between such pipes and meters. The reclaimed water system expressly does not include service lines and connections thereto from buildings, Units, structures, designated turf areas, or water storage areas out to meters, or any private easements or rights-of-way in which they may be located.

B. Responsibility for Maintenance of Reclaimed Water System. The Department is generally responsible for the care and maintenance of the reclaimed water system, including meters and all pipes, lines and other facilities on the street side or right-of-way side of the meters. However, Customers are responsible for the care and maintenance of their

service lines (and connections thereto), any private easements or rights-of-way in which they may be located, and any internal lines serving their properties.

C. Requirements Prior to Excavations. No Customer, User, or person shall make or begin any excavation in any public street, alley, right-of-way dedicated to public use, utility easement, or express or implied private property utility easement included in the reclaimed water system without first (1) determining whether utility system facilities (above-ground or underground) will be encountered (and, if so, where they are located), and 2) taking measures for control of the facilities in a careful and prudent manner. No person shall begin excavating before the location of said facilities is marked or he or she is notified that marking is unnecessary. Additional provisions relating to excavation of public property shall be established from time to time by regulations adopted by resolution.

D. Prohibition Against Damaging Reclaimed Water System. No Customer, User, or person shall knowingly or negligently damage the reclaimed water system (including, but expressly not limited to, damage caused by improper connection to the reclaimed water system and negligent excavation or other construction in, on, or around the reclaimed water system).

1. Enforcement Options. Knowing or negligent damage to the reclaimed water system is subject to vigorous pursuit of any and all remedies available to the Town, including (but expressly not limited to) injunction, abatement, turn-off of service, actions for damages, civil penalties, and criminal penalties. [Note: exemption from civil penalty or liability for gardening or tilling with hand tools on own property; ARS §40-360.28(F)(3)] Procedures for turning-off reclaimed water service in the event of damage to the reclaimed water system shall be established from time to time by regulations adopted by resolution.

(Ord. No. 510, Enacted, 08/23/01; Ord No. 839, Amended, 02/22/18; Ord. No. 2023-926, Amended, 11/09/23)

9-05b-090 Hydrants.

A. Hydrants for Reclaimed Water Supply. Customers [or, in the case of the record owner(s) of real property, their agent(s)] may apply for limited reclaimed water service through a hydrant (where applicable, as described in Subsection D below) by separate application on forms established from time to time by the Utilities Director. Upon approval by the Department and payment of a deposit set from time to time by resolution, a meter shall be installed on the hydrant from which the reclaimed water is to be supplied. Such deposit shall only be returned upon return of the meter in operational condition. Customers shall thereafter be responsible for paying all applicable Reclaimed Water Rates.

B. Hydrant Locks. Hydrant meters are assigned to specific hydrants and may not be moved to other hydrants without the permission of the Utilities Director. Therefore, locks are placed upon hydrant meters for security purposes and breaking of the same except by emergency services personnel in times of emergency constitutes unauthorized tampering and is prohibited.

C. Unauthorized Tampering. Except in emergency circumstances, it shall be unlawful to tamper with or damage a hydrant or hydrant meter, or to direct, aid, or abet another in so doing without the approval of the Utilities Director after compliance with the above application requirements. In lieu of criminal prosecution for such a misdemeanor violation, the Utilities Director may (at his/her sole discretion) impose a civil penalty for such violation, which penalty shall be set from time to time by resolution. The Utilities Director may also waive any per-day aspect of such civil penalty in appropriate circumstances and provide for set-off of such penalties in return for payment of the actual costs of any damages.

D. Limited Use. Reclaimed water supply through a hydrant may only be used for temporary construction activities occurring within the Town limits. Any use of reclaimed water supply through a hydrant for other purposes on the date this restriction became effective may continue for up to three (3) years to the extent said usage otherwise complies with this Chapter and related regulations. In the event no reclaimed water supply is used through a particular hydrant for any sixty- (60) day period, the hydrant meter shall be subject to removal by the Town and the service account closed. Thereafter, an account for reclaimed water supply through that hydrant may only be reopened for purposes consistent with this Subsection. Nothing herein shall prevent reclaimed water being supplied through a hydrant for temporary special events sponsored or permitted by the Town, use by the Town or its contractors for such things as street cleaning, dust control, and sewer system cleaning, or for emergencies.

(Ord. No. 510, Enacted, 08/23/01; Ord. No. 815, Amended, 04/28/16; Ord. No. 2023-926, Amended, 11/09/23)

9-05b-095 Water Fill Stations.

A. Water Fill Stations for Reclaimed Water Supply. Persons may use water fill stations constructed and operated by the Town for reclaimed water supply without formal application or separate service account (but on a first-come first-served basis during such times and by such means as may be established from time to time by the Department, and upon payment of fees established by the Town Council).

B. Unauthorized Tampering. Except in emergency circumstances, it shall be unlawful to tamper with or damage a water fill station, or to direct, aid, or abet another in so doing, without the approval of the Utilities Director. In lieu of criminal prosecution for such a misdemeanor violation, the Utilities Director may (at his/her sole discretion) impose a civil penalty for such violation, which penalty shall be set from time to time by resolution. The Utilities Director may also waive any per-day aspect of such civil penalty in appropriate circumstances and provide for set-off of such penalties in return for payment of the actual costs of any damages.

(Ord. No. 2023-926, Enacted, 11/09/23)

9-05b-100 Penalties and Remedies.

A. Violations a Class 1 Misdemeanor. Except for failure to pay reclaimed water rates, fees,

charges, and penalties, any violation of this Article shall constitute a class 1 misdemeanor, and any such violation shall constitute a separate offense on each successive day it is continued.

B. Turning-Off Reclaimed Water Service. In addition to other remedies (civil or criminal) available to it, the Town of Prescott Valley may turn-off reclaimed water services to any Customer or User who fails to comply with any provision of this Article (including non-payment of rates, fees, charges, penalties, and taxes) as provided in this Article. Turning-off of reclaimed water services does not excuse failure to pay applicable rates, fees, charges, penalties, and taxes due under this Article.

(Ord. No. 510, Enacted, 08/23/01)

9-05b-110 Supplementary Provisions.

A. This Article Supplementary. The provisions of this Article are intended to be supplementary to other applicable Town Code provisions. Where in conflict or where additional requirements are cited, the stricter provisions shall apply.

B. Effect of Reclaimed Water Agreements. Nothing herein shall preclude the Town from entering into agreements with developers with regard to reclaimed water rates, fees, charges, penalties, and taxes, or with regard to other aspects of reclaimed water service. Where they conflict, the provisions in such agreements shall supersede the provisions of this Article.

C. Administrative Review. In the event of a dispute as to liability for reclaimed water system rates, fees, charges, penalties or taxes (or the amount of same), or the validity of proposed enforcement actions, a User may request an administrative review.

1. Request for Administrative Review. Requests must be received by the Director at least five (5) business days prior to any deadline set for (i) application of rates, fees, charges, penalties or taxes, or (ii) enforcement actions. Requests may be made in writing, by facsimile transmission, by telephone, by e-mail or in person, directed to the Office of the Director at 7501 E. Civic Circle, Prescott Valley, Arizona 86314, (928) 759-3011 (ph.), (928) 759-5533 (fax), www.pvaz.net (website).

2. Nature of Hearing. Within five (5) business days of receipt of a request for administrative review, the Director shall arrange to meet with the User or its representative. At the hearing, the User or its representative may present their objection to the proposed rates, fees, charges, penalties, taxes or enforcement action. The Director may schedule additional meetings, if necessary.

3. Decision. Within five (5) business days after the final meeting with the User or its representative, the Director shall render a decision in the matter, explaining the basis for the decision and the actions that will be taken by the Director. A copy of the decision will be mailed first-class, postage prepaid, to the User at the address provided by the User on its account application.

4. Appeal. Within five (5) business days from the date of the Director's decision, the User may appeal the Director's decision to the Town Manager. The Town Manager shall arrange to meet with the User or its representative and the Director. At the hearing, the User or its representative may present their objection to the proposed rates, fees, charges, penalties, taxes or enforcement action. The Town Manager may schedule additional meetings, if necessary. Within five (5) business days after the final meeting with the User or its representative, the Town Manager shall issue a written determination, which shall be final. The application of any rates, fees, charges, penalties, taxes or enforcement action shall be tolled pending the final determination of the Town Manager.

(Ord. No. 510, Enacted, 08/23/01; Ord. No. 815, Amended, 04/28/16)

Article 9-05c STORMWATER SERVICE

9-05c-010 Intent and Scope.
9-05c-020 Definitions.
9-05c-030 Stormwater Fund Administration.
9-05c-040 Establishing Stormwater Service.
9-05c-050 Stormwater Rates, Fees, Charges, and Penalties.
9-05c-060 Stormwater System Extensions.
9-05c-070 Stormwater System Maintenance.
9-05c-080 Penalties and Remedies.
9-05c-090 Disclaimer.
9-05c-100 Supplementary Provisions.

9-05c-010 Intent and Scope.

A. Intent. It is the intent of this Article, in connection with the other provisions of the Town Code, to regulate the financing, construction, operation, and expansion of the Town's stormwater system (including regulation of connections thereto). In so doing, this Article provides for setting, collecting, and refunding reasonable stormwater rates, fees, charges and penalties.

B. Scope and Objectives. The purpose of this Article is to provide requirements for Customers and Users of the stormwater system in conjunction with the requirements in Town Code Article 7-02, Chapter 12, and Chapter 12a to comply with all applicable federal and state laws regarding stormwater management (including, but not limited to, the Clean Water Act (33 U.S.C. §1151 et seq.) and floodplain management provisions (ARS Title 48, Chapter 21, Article 1).

C. Administration. Except as may otherwise be provided herein, the Town shall administer, implement, and enforce the provisions of this Article by adoption of regulations from time to time by Town Council resolution. Any powers granted to (or duties imposed upon) the Town herein may be delegated by the Town to its authorized representatives.

(Ord. No. 2024-935, Enacted, 02/22/24)

9-05c-020 Definitions.

Definitions. In this Article, unless the context otherwise requires:

"Customer" means (a) the record owner(s) of real property to which stormwater services are supplied and/or, (b) any Tenant of real property to which any of said services are supplied. Customers are the person(s) or entity(ies) responsible for the payment of stormwater rates, fees, charges, and penalties for such services. While a Customer may also be a User as defined hereinafter, the terms are not necessarily the same.

"Department" means the Public Works Department, or any other department or division assigned to manage, operate, and maintain the stormwater system for the Town.

“Director” means the director of the department in which the Customer Accounts division of the Town is included (as appointed from time to time by the Town Manager, and/or related staff designees).

“Discharge”, used in the context of either a verb or a noun, refers to disposal of stormwater from the property of any User into the stormwater system.

“Impervious Surface Area” means the number of square feet of horizontal surface covered by buildings and other impervious surfaces compacted or covered with material that is resistant to infiltration by water (including, but not limited to, most conventionally surfaced streets, roofs, sidewalks, patios, driveways, parking lots, and any other oiled, graveled, graded, or compacted surface that impedes natural infiltration of surface water).

“May” is used in the context of being discretionary or permissive.

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

“Premises,” “Real Property” or “Property” means the building, unit, structure, designated turf area, or water storage area (including adjacent areas and appurtenances) to which domestic water service, wastewater treatment service, reclaimed water service, and/or stormwater service is provided.

“Shall” is used in the context of being mandatory.

“Stormwater” means all precipitation from storms and other meteorological events that falls onto property and may cause flooding if not properly collected, detained, recharged on-site, or discharged off-site.

“Stormwater Service” means providing a system of inlets, conduits, manholes, channels, ditches, drainage easements, retention and detention basins, infiltration and recharge facilities, and other components (including natural waterways and washes) in accordance with federal, State and local law into which property may discharge stormwater that falls onto it.

"Stormwater System” means all components of the system owned or maintained by the Town to receive stormwater discharged from property, including (but not limited to) inlets, conduits, manholes, channels, ditches, drainage easements, retention and detention basins, infiltration and recharge facilities, and other components (as well as all natural waterways, including washes).

“Tenant” means a person entitled under all agreements (written, oral or implied by law), and valid rules and regulations adopted under Arizona Revised Statutes, embodying the terms and conditions concerning the use and occupancy of a dwelling unit and/or other premises to occupy the same to the exclusion of others.

“Town” means the Town of Prescott Valley and, for purposes of authority, includes any of its officers, employees, contractors, and other agents unless express reference is made to the

Mayor, the Council, the Manager, or a department head.

"Town Council" or "Council" means the governing body of the Town, comprised of its duly elected or appointed members.

"Town Manager" or "Manager" means the manager of the Town as appointed from time to time by the Town Council, and/or related staff designees.

"Unit" means any room or group of rooms designed for one (1) or more persons to reside, work, or carry on any organized activity as a homogeneous group, and containing or having direct access to at least 1 accommodation for cooking, domestic water use, reclaimed water use, and/or wastewater disposal.

"User" means any person, partnership, corporation, municipality, political subdivision, or other entity or other organization that occupies any building, Unit, structure, designated turf area, or water storage area and receives wastewater treatment service, domestic water service, reclaimed water service, and/or stormwater service.

"Utilities Director" means the director of the Utilities Department, as appointed from time to time by the Town Manager, and/or related staff designees.

"Utility System" means the domestic water system, wastewater treatment system, reclaimed water system, and stormwater system of the Town (or any portion thereof).

* Note that the use of the singular shall be construed to include the plural and the plural shall include the singular, as indicated by the context of its use.

(Ord. No. 2024-935, Enacted, 02/22/24)

9-05c-030 Stormwater Fund Administration.

A. Establishment. A Stormwater Fund is hereby established to account for all revenues and expenditures of the Department in the operation of the stormwater system. Nothing herein limits the authority of the Town, in conformance with standard accounting and good financial management practices, to establish other funds, subfunds, or accounts (i.e., debt service, replacement, etc.) and to transfer monies between them and the stormwater fund for stormwater service purposes, or to make interfund loans as allowed by law and approved by the Town Council.

B. Reserve Account: In the event debt financing is used to construct or extend any portion of the stormwater system, a separate reserve account shall be established and maintained in accordance with the terms of said financing. The monies within said account may be used for emergency purposes in accordance with the terms of said financing.

C. Additional Regulations. The Town Council may adopt additional regulations for Fund administration from time to time by resolution.

(Ord. No. 2024-935, Enacted, 02/22/24)

9-05c-040 Establishing Stormwater Service.

A. Application. New stormwater service from or for any building, Unit or structure, designated turf area, or water storage area on real property (or any increase in the impervious surface area that may affect the stormwater rate paid) shall be initiated by applications from Customers [or, in the case of the record owner(s) of real property, their agent(s)] on forms established from time to time by the Director. The information required at application and the consequences of providing false information may be set from time to time by regulations adopted by resolution.

B. Tenant Accounts. Applications by Customers who are Tenants must include a copy of the lease or rental agreement for the property to be served. Tenants applying for service to the leased/rental property shall be responsible to pay all stormwater rates, fees, charges, penalties, and taxes applicable to the property. Where residential property consisting of five (5) or more units is occupied by multiple Tenants, Tenants may apply for stormwater service and place their name on accounts only if each Tenant of the property is individually metered for domestic water service.

C. Deposit. Applications for stormwater service shall be accompanied by a deposit established from time to time by resolution and administered in accordance with regulations adopted from time to time by resolution. An additional deposit may also be established by regulation from time to time in cases of bankruptcy, as permitted under federal law.

D. Unauthorized Interference or Other Tampering. Except in emergency circumstances, it shall be unlawful for any person to physically interfere with stormwater service from any building, Unit, structure, designated turf area, or water storage area, to otherwise tamper with or damage the stormwater system, or to direct, aid, or abet another in so doing without the approval of the appropriate Town officer (after compliance with established application requirements). In lieu of criminal prosecution for such a misdemeanor violation, the appropriate officer may (at his/her sole discretion) apply a civil penalty for such violation, which penalty shall be set from time to time by resolution. The appropriate officer may also waive any per-day aspect of such civil penalty in appropriate circumstances and provide for set-off of such penalties in return for payment of the actual costs of any damages.

(Ord. No. 2024-935, Enacted, 02/22/24)

9-05c-050 Stormwater Rates, Fees, Charges, and Penalties.

A. Classification of Users. For the purpose of establishing reasonable stormwater rates, fees, charges, and penalties, Users of the stormwater system shall be classified as follows:

1. Residential. Customers with Single-Family Residential and Multi-Family

Residential Utility Accounts involving multi-family residential structures with four (4) or fewer dwelling Units shall be considered "Residential" for purposes of paying stormwater rates.

2. Non-Residential. Customers with Multi-Family Residential Utility Accounts involving multi-family residential structures with five (5) or more dwelling Units (as well as Customers with Commercial and/or Industrial Utility Accounts) shall be considered "Non-Residential" for purposes of paying stormwater rates.

3. Other. Customers with Construction, Hydrant, or "Water Only" Meter for Irrigation Utility Accounts shall not pay stormwater rates.

B. Stormwater Rates, Fees, Charges, and Penalties. Stormwater rates, fees, charges, and penalties shall be set by resolution from time to time, in accordance with the Intent and Scope of this Article and with applicable Arizona and federal statutes.

1. Coordination with Other Fees and Assessments. Nothing herein shall limit the authority of the Town to impose development fees in accordance with ARS §9-463.05 and Article 7-11 of the Town Code (all as amended from time to time), or to establish improvement district assessments per ARS §48-571 et seq. and fees in-lieu of such assessments in order to upgrade and expand the stormwater system.

C. Billing. Billing of residential and non-residential Customers for stormwater services shall be accomplished as set forth from time to time by regulations adopted by resolution.

1. Taxes. In addition to the stormwater rates, fees, charges, and penalties established from time to time by resolution, billings shall include any applicable taxes on the business of stormwater service.

2. Time Covered by Rates. Stormwater rates, fees, charges, penalties, and taxes are applied to the prior billing period.

3. Delinquency Dates. Stormwater rates, fees, charges, penalties, and taxes are due on different dates for different Customers based on billing cycles. Such dates shall be specified for each Customer when service begins and shall be set forth in the billings received. Payment is due twenty (20) days after the billing date. Stormwater rates, fees, charges, penalties, and taxes are delinquent on the twenty-eighth (28th) day after the billing date. Nothing herein shall preclude the Director from changing a Customer's billing period.

4. Consequences of Account Delinquencies. Account delinquencies in relation to stormwater rates, fees, charges, penalties, or taxes shall result in an "Active Account Processing Charge", set from time to time by resolution, being applied to the account on the twenty-eighth (28th) day after the billing date. Related domestic water service will be subject to turn-off on and after the fiftieth (50th) day after the billing date (unless emergency circumstances justify immediate turn-off).

5. Application of Partial Payments. The application of partial payments to delinquent accounts shall be established from time to time by regulations adopted by resolution. Partial payments shall not avoid domestic water service turn-off nor shall they renew domestic water service (except as specified in any payment agreements).

6. Prepayments. Nothing herein shall preclude the Town from limiting prepayments by regulations adopted from time to time by resolution.

7. Customer Inquiry Required. Failure of a Customer to receive any monthly stormwater service billing or other communication from the Director with regard to applicable stormwater rates, fees, charges, penalties, or taxes, shall expressly not excuse the Customer from paying stormwater rates, fees, charges, penalties, or taxes due.

D. Delinquency Procedures. Procedures to be followed in the event of account delinquencies shall be established from time to time by regulations adopted by resolution. Such procedures shall include such enforcement measures as are available to the Town in law and in equity (including, but expressly not limited to, domestic water service turn-off), and shall provide for such notice to Customers and opportunities for administrative hearings prior to application of enforcement procedures (including, but not limited to, turn-off of domestic water service) as is deemed appropriate under the circumstances and complies with requirements of due process.

1. Payment Agreements. Nothing herein shall preclude the Director from offering to enter into Payment Agreements with Customers who have delinquent utility accounts at any stage of the enforcement process, as set forth from time to time by regulations adopted by resolution.

(Ord. No. 2024-935, Enacted, 02/22/24)

9-05c-060 Stormwater System Extensions.

A. Approval. The Town shall approve the design of, issue permits for, and conduct inspections of the components by which property is incorporated into the stormwater system.

B. Design and Construction. The design and construction of any and all property drainage facilities to be incorporated into the Town's stormwater system must conform with good engineering practice, including such standards as have been adopted from time to time by the Town (i.e. the latest adopted technical building codes, the latest adopted engineering standards, the current subdivision code, and the latest general plan).

The Town reserves the right to require an increase in size of property drainage facilities constructed to be attached to the Town's stormwater system, in accordance with Article 14-04 of the Town Code (as amended from time to time).

C. Inspection. In accordance with Town Code Chapter 14, all property drainage facilities to be incorporated into the stormwater system shall be subject to inspection by the

Town. Engineering plan review and inspection fees shall be charged as provided for in this Code.

D. Subdivisions. Extension of the stormwater system into subdivisions shall be according to Town Code Subsections 14-04-040(E) & (F), and Section 14-04-060.

E. Other Developments. All other developments requiring separate approval by the Town shall construct extensions of the stormwater system, including all necessary components, provided they are within a reasonable distance to the system. The determination of what is a reasonable distance shall be made by the Town, based on (1) the nature and size of uses proposed for the development, (2) the capacity of existing stormwater system components to which an extension would be attached, and (3) other considerations deemed appropriate by the Town.

F. Replacement or Repair. Persons or entities that build or cause to be built any extensions of the stormwater system shall pay for any repairs or replacements made necessary as a direct or indirect result of such construction, including (for example) repair or replacement of curbs, gutters, sidewalks, road surfaces, drainage structures, and utilities damaged or disturbed during the building of stormwater system components.

G. Coordination With Fees, Assessments, and Charges. Nothing herein shall limit the authority of the Town to impose development fees in accordance with ARS §9-463.05 and Town Code Article 7-11 (all as amended from time to time), to establish improvement district assessments per ARS §48-571 et seq. and fees in-lieu of such assessments in order to upgrade the Town's stormwater system. However, such fees, assessments, and charges may be mutually offset, in whole or in part, by the value of construction to extend the system, in accordance with law.

(Ord. No. 2024-935, Enacted, 02/22/24)

9-05c-070 Stormwater System Maintenance.

A. Responsibility for Maintenance of Stormwater System. The Department is generally responsible for the care and maintenance of the stormwater system, including any emergency responses. Unless otherwise expressly provided for by written contract, Customers are responsible for the care and maintenance of property drainage structures incorporated into the stormwater system.

B. Requirements Prior to Excavations. No Customer, User, or person shall make or begin any excavation in any public street, alley, right-of-way dedicated to public use, or utility easement included in the stormwater system without first (1) determining whether utility system facilities (above-ground or underground) will be encountered (and, if so, where they are located), and 2) taking measures for control of the facilities in a careful and prudent manner. No person shall begin excavating before the location of said facilities is marked or he or she is notified that marking is unnecessary. Additional provisions relating to excavation of public property shall be established from time to time by regulations adopted by resolution.

D. Prohibition Against Damaging Stormwater System. No Customer, User, or person shall knowingly or negligently damage the stormwater system (including, but expressly not limited to, damage caused by unlawful discharge to the stormwater system, improper connection to the stormwater system, and negligent excavation or other construction in, on, or around the stormwater system).

1. Enforcement Options. Knowing or negligent damage to the stormwater system is subject to vigorous pursuit of any and all remedies available to the Town, including (but expressly not limited to) injunction, abatement, turn-off of service, actions for damages, civil penalties, and criminal penalties. [Note: exemption from civil penalty or liability for gardening or tilling with hand tools on own property; ARS §40-360.28(F)(3)] Procedures for turning-off domestic water service in the event of damage to the stormwater system shall be established from time to time by regulations adopted by resolution.

(Ord. No. 2024-935, Enacted, 02/22/24)

9-05c-080 Penalties and Remedies.

A. Violations a Class 1 Misdemeanor. Except for failure to pay stormwater rates, fees, charges, penalties, and taxes, any violation of this Article shall constitute a class 1 misdemeanor, and any such violation shall constitute a separate offense on each successive day it is continued.

B. Turning-Off Related Domestic Water Service. In addition to other remedies (civil or criminal) available to it, the Town may turn-off domestic water services to any Customer or User who fails to comply with any provision of this Article (including non-payment of rates, fees, charges, penalties, and taxes) as provided in this Article. Turning-off of domestic water services does not excuse failure to pay applicable rates, fees, charges, penalties, and taxes due under this Article.

(Ord. No. 2024-935, Enacted, 02/22/24)

9-05c-090 Disclaimer.

Floods from stormwater may occasionally exceed the capacity of the stormwater system constructed, operated and maintained pursuant to this Article. This Article does not denote that property for which stormwater rates, fees, charges, and penalties are paid shall always be free from stormwater flooding or flood damage. This Article does not purport to reduce the need or the necessity for property owners to obtain flood insurance. This Article does not create any liability on the part of the Town or any officer or employee thereof for any damages that may result from reliance on this Article. And this Article does not relieve any person from liability for actions taken, or not taken, or for damage to persons or property.

(Ord. No. 2024-935, Enacted, 02/22/24)

9-05c-100 Supplementary Provisions.

A. This Article Supplementary. The provisions of this Article are intended to be supplementary to other applicable Town Code provisions. Where in conflict or where additional requirements are cited, the stricter provisions shall apply.

B. Effect of Agreements. Nothing herein shall preclude the Town from entering into agreements with developers with regard to stormwater rates, fees, charges, penalties, and taxes, or with regard to other aspects of stormwater service. Where they conflict, the provisions in such agreements shall supersede the provisions of this Article.

C. Administrative Review. In the event of a dispute as to liability for stormwater system rates, fees, charges, penalties or taxes (or the amount of same), or the validity of proposed enforcement actions, a User may request an administrative review.

1. Request for Administrative Review. Requests must be received by the Director at least five (5) business days prior to any deadline set for (i) application of rates, fees, charges, penalties or taxes, or (ii) enforcement actions. Requests may be made in writing, by facsimile transmission, by telephone, by e-mail or in person, directed to the Office of the Director at 7501 E. Skoog Boulevard, Prescott Valley, Arizona 86314, (928) 759-3011 (ph.), (928) 759-5533 (fax), www.prescottvalley-az.gov (website).

2. Nature of Hearing. Within 5 business days of receipt of a request for administrative review, the Director shall arrange to meet with the User or its representative. At the hearing, the User or its representative may present their objection to the proposed rates, fees, charges, penalties, taxes or enforcement action. The Director may schedule additional meetings, if necessary.

3. Decision. Within 5 business days after the final meeting with the User or its representative, the Director shall render a decision in the matter, explaining the basis for the decision and the actions that will be taken by the Director. A copy of the decision will be mailed first-class, postage prepaid, to the User at the address provided by the User on its account application.

4. Appeal. Within 5 business days from the date of the Director's decision, the User may appeal the Director's decision to the Town Manager. The Town Manager shall arrange to meet with the User or its representative and the Director. At the hearing, the User or its representative may present their objection to the proposed rates, fees, charges, penalties, taxes or enforcement action. The Town Manager may schedule additional meetings, if necessary. Within 5 business days after the final meeting with the User or its representative, the Town Manager shall issue a written determination, which shall be final. The application of any rates, fees, charges, penalties, taxes or enforcement action shall be tolled pending the final determination of the Town Manager.

(Ord. No. 2024-935, Enacted, 02/22/24)

Article 9-06 STORAGE, TRANSPORTATION AND DISPOSAL OF HAZARDOUS MATERIALS

9-06-010 Intent and Scope.
9-06-020 Definitions.
9-06-030 Standards for Storage, Transportation and Disposal.
9-06-040 Exemptions.
9-06-050 Violations.

9-06-010 Intent and Scope.

A. It is the intention of this Article to create a system of procedures and guidelines which will operate to minimize or eliminate the danger of storing, transporting or disposing of hazardous materials within the Town.

B. The scope of this Article shall include any and all hazardous, noxious, radioactive, explosive, poisonous and destructive materials which are stored within or transported within the Town.

(Ord. No. 50, Enacted, 05/14/81; Ord. No. 178, Ren&Amd, 05/26/88, 5-05-010; Ord. No. 268, Renumbered, 12/12/91, 9-05-010)

9-06-020 Definitions.

In this Article, unless the context otherwise requires:

A. "Biological Solid Waste" means waste produced by health care facilities, medical laboratories, veterinary hospitals, sewage disposal and treatment facilities or domestic animals disposed of in a sanitary landfill.

B. "Destructive Materials" means materials capable of destroying property in such a manner as to cause harm or danger.

C. "Disposal" means to permanently store, eliminate, terminate, discard, throw away or abandon.

D. "Explosive Materials" means materials capable of flying into pieces with violence and sudden noise under the influence of suddenly developed internal energy, whether exploding or imploding.

E. "Fuel" means any combustible material which is readily available to the general public.

F. "Hazardous Materials" means materials having a potential for exploding or exposing persons or property to danger or injury.

G. "Noxious Materials" means materials, including gases, having a potential for causing

injury or harm to persons or property.

H. "Poisonous Materials" means materials that, when introduced into or absorbed by a living organism, destroy life or injure health.

I. "Radioactive Materials" means materials capable of spontaneously emitting rays consisting of materials or particles traveling at high velocities.

J. "Storage" means the keeping, maintaining, warehousing, storing, using, holding, manufacturing, generating, producing, burning, cooking or dumping of any materials within the scope of this article.

K. "Transportation" means the act of transporting or conveying materials from one location to another.

(Ord. No. 50, Enacted, 05/14/81; Ord. No. 178, Ren&Amd, 05/26/88, 5-05-020; Ord. No. 268, Renumbered, 12/12/91, 9-05-020)

9-06-030 Standards for Storage, Transportation and Disposal.

A. Procedure for storage or transportation of any hazardous material.

1. A permit will be required from the Fire Department and the Development Services Department of the Town prior to the storing or transporting of any hazardous material or other material within the scope of this Article. Each such permit shall list the restrictions and requirements necessary in relation to the storage or transportation of such materials. Any application for the storage or transportation of such materials must be made in writing to the Development Services Department of the Town at least three (3) days prior to the issuance of any such permit and shall require an application fee as may be set from time to time by resolution.

2. Any permit issued for the transportation of hazardous or other materials within the scope of this Article shall expire within ten (10) days of its issuance unless otherwise indicated on the permit specifically and in writing.

3. Any permit for the storage of any hazardous or other materials falling within the scope of this Article shall terminate within one (1) year of such permit's issuance and shall be renewable at the option of the Development Services Department for a similar period of time upon the tendering of a renewal fee as may be set from time to time by resolution.

4. The requirements and restrictions necessary in relation to the issuance of a permit for the storage or transportation of such materials shall be set from time to time by the Development Services Department unless a specific instruction of the Town Council shall specify specific requirements and restrictions herein.

B. Appeals. Whenever the Development Services Department shall disapprove an application or refuse to grant a permit applied for, or when it is claimed that the provisions of the Code do not apply or that the true intent and meaning of the Code have been misconstrued or wrongly interpreted, the applicant may appeal from the decision of the Development Services Department within thirty (30) days from the date of the decision appealed. Such appeal shall be directed to the Planning and Zoning Commission.

C. New materials, processes or occupancies which may require permits. The Development Services Director, the Town Manager (or his designee), and the Chief of the Bureau of Fire Prevention shall act as a committee to determine and specify, after giving affected persons an opportunity to be heard, any new materials, processes or occupancies, which shall require permits, in addition to those now enumerated in this Code. The Chief of the Bureau of Fire Prevention shall post such list in a conspicuous place in his office and distribute copies thereof to interested persons.

(Ord. No. 8, Enacted, 06/28/79; Ord. No. 50, Enacted, 05/14/81; Ord. No. 178, Ren&Amd, 05/26/88, 5-02-050,5-05-030; Ord. No. 268, Renumbered, 12/12/91, 9-05-030; Ord. No. 2024-945, Amended, 10/24/24)

9-06-040 Exemptions.

The following substances and materials shall be exempt from the operation and prohibition of this Article:

A. Biological solid waste.

B. Combustible fuels necessary for the operation of vehicles and the heating of residential and commercial structures.

C. All consumer products customarily available in a supermarket, paint store, hardware store or similar retail outlet for sale to the general public without restriction (including legal ammunition for firearms).

(Ord. No. 50, Enacted, 05/14/81; Ord. No. 178, Renumbered, 05/26/88, 5-05-040; Ord. No. 268, Renumbered, 12/12/91, 9-05-040)

9-06-050 Violations.

A. Any violation of this Article will subject the violator and any co-conspirator to a fine of up to three hundred dollars ($300) and imprisonment up to six (6) months, or both; in addition, each day in which the violation shall continue to occur after notice has been given to the violator by the Town of the violation will constitute a new and separate offense punishable as stated above.

B. At the owner's expense, the Town through its authorized officials, shall confiscate and/or safeguard or otherwise dispose of any and all hazardous or other materials within the scope of this Article as soon as possible after the discovery of the same in an appropriate manner so as to protect persons and property within the Town from the

threat of harm.

(Ord. No. 50, Enacted, 05/14/81; Ord. No. 178, Renumbered, 05/26/88, 5-05-050; Ord. No. 268, Renumbered, 12/12/91, 9-05-050)

Article 9-07 SEXUALLY-ORIENTED BUSINESS STANDARDS

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9-07-005 Purpose and Findings.

Based on information, studies and court decisions from other jurisdictions, the Prescott Valley Town Council makes the following legislative findings and statement of purpose:

The Council recognizes that some activities which occur in connection with sexually-oriented businesses are protected as expression under the First Amendment to the United States Constitution. The Council further recognizes that First Amendment rights are among the most precious and highly protected rights, and wishes to act consistently with full protection of those rights. The Council is aware, however, that sexually-oriented businesses may and do generate secondary effects which are detrimental to the public health, safety, and welfare. Among these secondary effects are (a) prostitution and other sex related offenses (b) drug use and dealing (c) health risks through the spread of AIDS and other sexually-transmitted diseases and (d) infiltration by organized crime for the purpose of drug and sex related business activities, laundering of money, and other illicit conduct. This Article is not intended to interfere with legitimate expression but to avoid and mitigate the secondary effects enumerated above. Specifically, the Council finds that licensing of persons who operate and manage sexually-oriented businesses and persons who provide adult services will further the goals of this Article by enabling the Town to ascertain if an applicant is underage or has engaged in criminal or other behavior of the sort that this Article is design to limit. This information will enable the Town to allocate law enforcement resources effectively and otherwise protect the community. The Council finds that limiting proximity and contact between adult service providers and patrons promotes the goal of reducing prostitution and other casual sexual conduct and the attendant risk of sexually-transmitted diseases. The Council finds the foregoing to be true with respect to places where alcohol is served and where it is not. The Council finds that individual and interactive sexual activities in adult video facilities pose a risk of sexually-transmitted disease, especially AIDS, and that the booth configuration options of this Article will reduce that risk. The Council finds that the harmful secondary effects of sexually-oriented businesses are more pronounced when conducted continuously or during late night hours. The fees established for licenses and permits in this Article are based on the estimated cost of

implementation, administration, and enforcement of the licensing program.

(Ord. No. 552, Enacted, 03/13/03)

9-07-007 Definitions.

In this Article unless the context otherwise requires:

A. Adult Services: Dancing, service of food or beverages, modeling, posing, wrestling, singing, reading, talking or listening, or other performances or activities conducted for any consideration in a sexually-oriented business by a person who is nude or semi-nude during all or part of the time that the person is providing the service.

B. Employee: A person who performs any service on the premises of a sexually-oriented business on a full-time, part-time or contract basis, whether or not the person is denominated an employee, independent contractor, agent or otherwise and whether or not said person is paid a salary, wage or other compensation by the operator of the business. Employee does not include a person exclusively on the premises for repair or maintenance of the premises or equipment on the premises, or for the delivery of goods to the premises.

C. Licensee: A person in whose name a license to operate a sexually-oriented business has been issued, as well as each individual listed as an applicant on the application for a license; and in the case of an employee, a person in whose name a license has been issued authorizing employment in a sexually-oriented business.

D. Specified Criminal Activity: Any of the following offenses:

1. Prostitution or promotion of prostitution; dissemination of obscenity; sale, distribution or display of harmful material to a minor; sexual performance by a child; possession or distribution of child pornography; public lewdness; indecent exposure; indecency with a child; engaging in organized criminal activity; sexual assault; molestation of a child; racketeering, extortion, money laundering; gambling; distribution of a controlled substance; facilitation, attempt, conspiracy or solicitation to commit any of the foregoing offenses; or any similar offenses to those described above under the criminal or penal code of other states or countries;

   For which:

   a. Less than two (2) years have elapsed since the date of conviction or the date of release from confinement imposed for the conviction, whichever is the later date, if the conviction is of a misdemeanor offense;

   b. Less than five (5) years have elapsed since the date of conviction or the date of release from confinement for the conviction, whichever is the later date, if the conviction is of a felony offense; or

   c. Less than five (5) years have elapsed since the date of the last conviction

or the date of release from confinement for the last conviction, whichever is the later date, if the convictions are of two (2) or more misdemeanor offenses or combination of misdemeanor offenses occurring within any twenty-four (24) month period.

2. The fact that a conviction is being appealed shall have no effect on the disqualification of the applicant or a person residing with the applicant.

E. Sexual Encounter Center (or Sex Club): A non-medical business, commercial enterprise, person or entity which:

1. offers (for consideration) activities between male and female persons and/or persons of the same sex when one or more of the persons is in a “state of nudity” or seminude;

2. offers (for consideration) matching and/or exchanging of persons for “specified sexual activities”; or

3. charges persons an admission fee or membership fee for the purposes of entry into a building or structure to view or participate in those activities set forth in Subparagraphs 1 and 2 of this Subsection.

(Ord. No. 552, Enacted, 03/13/03; Ord. No. 708, Amended, 01/24/08)

9-07-010 Sexually-Oriented Business Standards.

A. In an effort to prevent sexually transmitted disease, no partitions between booths, stalls, subdivisions of a room, rooms, portions or parts of a building, structures or premises in which a sexually-oriented business is operated or maintained may have an aperture which is designed or otherwise constructed to permit "specified sexual acts" between persons on either side of the partition.

B. In an effort to prevent sexually transmitted disease, no more than one (1) person at a time may enter any booth, stall, subdivision of a room, or individual room used for the purpose of viewing motion pictures or other forms of entertainment. Any such booths, stalls, subdivisions of a room, or individual rooms shall be configured in such a manner that there is an unobstructed view from a manager's station of every area of the premises to which any patron is permitted access for any purpose, excluding restrooms. Each booth shall be lighted with at least one (1) artificial light of not less than forty (40) watts, which is not shaded to significantly decrease luminosity. Light in the premises outside the viewing booth shall be at least as bright as the light inside the booth. Restrooms may not contain video reproduction equipment. If the premises has two (2) or more manager's stations designated, then the interior of the premises shall be configured in such a manner that there is an unobstructed view of each area of the premises to which any patron is permitted access for any purpose from at least one of the manager's stations. The view required in this subsection must be by direct line of sight from the manager's station. Furthermore, no patron shall perform any act of sexual intercourse, oral sexual contact, or sexual contact (including masturbation) as defined in ARS §13-1401, in such booth, stall, subdivision of a room, or individual room. For

purposes of this Article, "booths, stalls, subdivisions of a room, or rooms" mean such partial enclosures as are specifically offered to the public for hire or for a fee, including where the entertainment is dispensed for a fee but the fee is not charged for mere access to the enclosure. "Booths, stalls, subdivisions of a room, or rooms" do not include offices of the owners, managers or employees not held out to the public for viewing entertainment for a fee.

C. No person in a sexually-oriented business featuring persons who appear in a “state of nudity” or seminude or live performances which are characterized by the exposure of "specified anatomical areas" or by "specified sexual activities" may appear in a “state of nudity” or seminude or engage in a live performance which is characterized by the exposure of "specified anatomical areas" or by "specified sexual activities" except upon a stage elevated at least eighteen (18) inches above floor level. All parts of the stage, or a clearly designated area thereof within which the person appears in a “state of nudity” or seminude or performs, shall be a distance of at least three (3) feet from all parts of a clearly designated area in which patrons may be present. The stage or designated area thereof shall be separated from the area in which patrons may be located by a barrier or railing the top of which is at least three (3) feet above floor level. No person appearing in a “state of nudity” or seminude or engaging in such live performances or patron may extend any part of his or her body over or beyond the barrier or railing.

D. No employee of a sexually-oriented business featuring persons who appear in a “state of nudity” or seminude or live performances which are characterized by the exposure of "specified anatomical areas" or by "specified sexual activities" may touch the anus, buttocks, genitals, pubic region, or female breast, whether clothed or unclothed, of a patron, and no patron may touch the anus, buttocks, genitals, pubic region, or female breast, whether clothed or unclothed, of an employee.

E. No patron of a sexually-oriented business featuring (1) persons who appear in a “state of nudity” or seminude, or (2) live performances which are characterized by the exposure of "specified anatomical areas" or by real or simulated "specified sexual activities", may place money or any other object on the person or in or on the costume of an employee while said employee is in such a “state of nudity” or seminude or is so performing.

F. No patron of a sexually-oriented business featuring (1) persons who appear in a “state of nudity” or seminude, or (2) live performances which are characterized by the exposure of "specified anatomical areas" or by "specified sexual activities", may be under the age of eighteen (18) years, nor may an employee under the age of eighteen (18) years appear in such a “state of nudity” or seminude or participate in such live performances.

G. No sexually-oriented business shall be operated or maintained in Prescott Valley without fully complying with the business license requirements of Town Code Article 8-02 and the sexually-oriented business license requirements pursuant to this Article.

H. A sign, summarizing the provisions of Subsections (C), (D), (E), (F) of this Section shall be posted near the entrance of a sexually-oriented business in such a manner as to be clearly visible to patrons upon entry.

I. A sexually-oriented business shall maintain a daily log of all persons providing Adult Services on the premises. The log shall cover the proceeding twelve (12) month period and shall be available for inspection upon request of a law enforcement officer or other authorized Town official.

J. All sexually-oriented businesses shall comply with all requirements of Chapter 13 of this Code, including Section 13-17-050 “Performance Standards”.

K. With respect to an Adult Cabaret, the requirements of this Section shall apply to the extent that they are not in conflict with specific statutory or valid regulatory requirements applicable to persons licensed to dispense alcoholic beverages.

L. Nothing herein shall be construed as permitting any use or act which is otherwise prohibited or made punishable by law.

M. Unless otherwise specified herein, for the purposes of this Article the definition provided in Subsection 13-17-020(A) of this Code shall apply.

(Ord. No. 341, Enacted, 11/03/94; Ord. No. 375, Amended, 12/28/95; Ord. No. 552, Amended, 03/13/03; Ord. No. 708, Amended, 01/24/08)

9-07-020 Classification.

A. Sexually-oriented businesses are classified as follows:

1. Adult Arcades;

2. Adult bookstores;

3. Adult cabarets;

4. Adult motels;

5. Adult motion picture theaters;

6. Adult novelty stores;

7. Adult theaters;

8. Adult video stores;

9. Escort agencies;

10. Nude model studios;

11. Sexual encounter centers/sex clubs.

B. Sexually-oriented businesses shall also include any business not specifically described in this Section, which provides Adult Services or features male or female dancers, entertainers or contestants which emphasize and seek to arouse or excite the patrons'

sexual desires.

(Ord. No. 552, Enacted, 03/13/03; Ord. No. 708, Amended, 01/24/08)

9-07-030 Licenses Required.

A. It shall be unlawful for any person to operate a sexually-oriented business without first obtaining and maintaining a business license pursuant to Article 8-02 of the Town Code and otherwise complying with the requirements of this Article.

B It shall be unlawful for any person to operate a sexually-oriented business without first obtaining a valid sexually-oriented business license issued by the Town Clerk pursuant to this Article.

C. It shall be unlawful for any person who operates a sexually-oriented business to employ a person to work for the sexually-oriented business who is not licensed as a sexually-oriented business employee by the Town Clerk pursuant to this Article.

D. It shall be unlawful for any person to obtain employment with a sexually-oriented business without having secured a sexually-oriented business employee license pursuant to this Article.

E. It shall be unlawful for any person, association, firm or corporation licensed as provided in this Article to operate under any name or conduct business under any designation not specified in such license. Each additional premises sought to be operated as a sexually-oriented business shall require a separate license.

F. All licenses issued pursuant to this Article shall be nontransferable.

G. The license required by this Section shall be in addition to any other licenses or permits required in order to engage in the business or occupation, as applicable, by either the Town, Yavapai County or the State of Arizona, and persons engaging in activities described by this Article shall comply with all other ordinances and laws.

(Ord. No. 552, Enacted, 03/13/03; Ord. No. 708, Amended, 01/24/08)

9-07-040 License Application.

A. An application for a license must be made on a form provided by the Town Clerk.

B. All applicants must be qualified according to the provisions of this Article. Each applicant for a license pursuant to this Article shall submit a full set of fingerprints to the Prescott Valley Police Department for the purpose of obtaining a state and Federal criminal records check pursuant to A.R.S. §41-1750 and 42 U.S.C. 40311 *et seq*. The Department of Public Safety is authorized to exchange this fingerprint data with the Federal Bureau of Investigation to determine whether the applicant meets the qualifications established in this Article.

C. The following information provided pursuant to this Article shall not be deemed to be a public record:

1. Criminal history information obtained pursuant to A.R.S. §41-1750 and/or 42 U.S.C. 40311 *et seq*.

2. Information required and provided pursuant to Subparagraphs (E) (8) and (10), and (F) (4), (6), and (7) of this Section.

D. Sexually-Oriented Business License: If a person who wishes to operate a sexually-oriented business is an individual, the person must sign the application for a license as applicant. If a person who wishes to operate a sexually-oriented business is other than an individual, each individual who has a twenty percent (20%) or greater interest in the business must sign the application for a license as applicant. Each applicant must be qualified under Section 9-07-050 of this Article and each applicant shall be considered a licensee if a license is granted.

E. The completed application for a sexually-oriented business license shall contain the following information and shall be accompanied by the following documents:

1. If the applicant is:

a. An individual, the individual shall state his/her legal name and any aliases and submit proof that he/she is eighteen (18) years of age or more.

b. A partnership, the partnership shall state its complete name, and the names of all partners, whether the partnership is general or limited, and a copy of the partnership agreement, if any.

c. A corporation, the corporation shall state its complete name, the date of its incorporation, evidence that the corporation is in good standing under the laws of its state of incorporation, the names and capacity of all officers, directors and principal stockholders, and the name of the registered corporate agent and the address of the registered office for service of process.

2. If the applicant intends to operate the sexually-oriented business under a name other than that of the applicant, he or she must state the sexually-oriented business's fictitious name and submit the required registration documents.

3. Whether the applicant, or a person residing with the applicant, has been convicted of or plead guilty or no contest to, a "specified criminal activity" as defined in this Article, and, if so, the specified criminal activity involved, the date, place, and jurisdiction of each.

4. Whether the applicant, or a person residing with the applicant, has had a previous license under this Article or other similar sexually-oriented business ordinances from another city, county, or state, denied, suspended or revoked, including the name and location of the sexually-oriented business for which the

permit was denied, suspended or revoked, as well as the date of the denial, suspension or revocation, and whether the applicant or a person residing with the applicant has been a partner in a partnership or an officer, director or principal stockholder of a corporation that is licensed under this Article whose license has previously been denied, suspended or revoked, including the name and location of the sexually-oriented business for which the permit was denied, suspended or revoked as well as the date of denial, suspension or revocation.

5. Whether the applicant or a person residing with the applicant currently holds any other license under this Article or other similar sexually-oriented business ordinances from another city, county, or state, and, if so, the names and locations of such other licensed businesses.

6. The single classification of license for which the applicant is filing.

7. The location of the proposed sexually-oriented business, including a legal description of the property, street address, and telephone number(s), if any.

8. The applicant's phone number, mailing address and residential address. This information shall be supplemented in writing no later than ten (10) days after any change.

9. A recent photograph of the applicant(s).

10. The applicant's driver's license number, social security number, and/or his/her state or federally issued tax identification number.

11. A sketch or diagram showing the configuration of the premises, including a statement of total floor space occupied by the business. The sketch or diagram need not be professionally prepared, but it must be drawn to a designated scale or drawn with marked dimensions of the interior of the premises to an accuracy of plus or minus six inches (±6").

12. A current certificate and straight-line drawing prepared within thirty (30) days prior to application by a registered land surveyor depicting the property lines and the structures containing any of the existing uses delineated in Section 13-17-050(B) within one thousand feet (1000') of the property to be certified. For purposes of this Section, a use shall be considered existing or established if it is legally in existence at the time an application is submitted.

13. If an applicant wishes to operate a sexually-oriented business, other than an adult motel, which shall exhibit on the premises, in a viewing room or booth of less than one hundred fifty (150) square feet of floor space, films, videocassettes, other video reproductions, or live entertainment which depict specified sexual activities or specified anatomical areas, then the applicant shall comply with the application requirements set forth in Section 9-07-010(B).

14. The name(s) of the sexually-oriented business manager(s) who will have actual supervisory authority over the operation of the business. This information shall be supplemented in writing no later than ten (10) days after any change in this

information.

15. Any additional information or documentation as may be requested to process the application.

F. Sexually-Oriented Business Employee License: Before any applicant may be issued a sexually-oriented business employee license, the applicant shall submit on a form to be provided by the Town Clerk the following information:

1. The applicant's name or any other name (including "stage" names) or aliases used by the individual;

2. Age, date, and place of birth;

3. Height, weight, hair and eye color;

4. Present residence address and telephone number;

5. Present business address and telephone number;

6. Date, issuing state and number of driver's permit or other identification card information;

7. Social security number; and

8. Proof that the individual is at least eighteen (18) years of age.

G. Attached to the application form for a sexually-oriented business employee license as provided above, shall be the following:

1. A color photograph of the applicant clearly showing the applicant's face, and the applicant's fingerprints on a form provided by the Police Department. Any fees for the photographs and fingerprints shall be paid by the applicant.

2. A statement detailing the license history of the applicant for the five (5) years immediately preceding the date of the filing of the application, including whether such applicant previously operated or is seeking to operate, in this or any other county, city, state, or country has ever had a license, permit, or authorization to do business denied, revoked, or suspended, or had any professional or vocational license or permit denied, revoked, or suspended. In the event of any such denial, revocation, or suspension, state the name, the name of the issuing or denying jurisdiction, and describe in full the reason for the denial, revocation, or suspension. A copy of any order of denial, revocation, or suspension shall be attached to the application.

3. A statement of all criminal charges, complaints, or indictments in which the applicant has been convicted, pled guilty or no contest to a "specified criminal activity" as defined in this Article and, if so, the specified criminal activity involved, the date, place and jurisdiction of each.

(Ord. No. 552, Enacted, 03/13/03; Ord. No. 614, Amended, 02/10/05; Ord. No. 708, Amended, 01/24/08; Ord. No. 839, Amended, 02/22/18)

9-07-050 License Issuance.

A. Upon the filing of an application for a sexually-oriented business or an employee license, the Town Clerk shall issue a temporary license to said applicant. The application shall then be referred to the appropriate Town departments for an investigation to be made on such information as is contained on the application. The Health Department, Fire Department, and the Building Official shall complete their certification that the proposed sexually-oriented business premises is in compliance or not in compliance within twenty (20) days of receipt of the application by the Town Clerk. The application process shall be completed within thirty (30) days from the date the completed application is filed. After the investigation, the Town Clerk shall issue a license if all requirements for the application have been completed, unless it is determined by a preponderance of the evidence that one or more of the following findings is true:

1. Sexually-Oriented Business Employee License:

   a. The applicant has failed to provide information reasonably necessary for issuance of the license or has falsely answered a question or request for information on the application form;

   b. The applicant is under the age of eighteen (18) years;

   c. The applicant has been convicted of a "specified criminal activity" as defined in Subsection 9-07-007(D) of this Article;

   d. The sexually-oriented business employee license is to be used for employment in a business prohibited by local or state law, statute, rule or regulation, or prohibited by a particular provision of this Article; or

   e. The applicant has had a sexually-oriented business employee license denied or revoked by the Town Clerk within two (2) years of the date of the current application.

2. Sexually-Oriented Business License:

   a. An applicant is under eighteen (18) years of age.

   b. An applicant or a person with whom applicant is residing is overdue in payment to the Town of taxes, fees, fines, or penalties assessed against or imposed upon him/her in relation to any business.

   c. An applicant has failed to provide information reasonably necessary for issuance of the license, has failed to provide all information required by this Article, or has falsely answered a question or request for information on the application form.

   d. An applicant or a person with whom the applicant is residing has had a

sexually-oriented business license denied or revoked by the Town Clerk within the preceding twelve (12) months.

e. An applicant or a person with whom the applicant is residing has been convicted, pled guilty or no contest to an act in violation of 18 U.S.C. 2257 within the last two (2) years; or of a "specified criminal activity" as defined in Subsection 9-07-007(D) of this Article.

f. The premises to be used for the sexually-oriented business has not been approved by the Health Department, Fire Department, and the Building Official as being in compliance with applicable laws and ordinances.

g. The license fee required by this Article has not been paid.

h. The applicant is a corporation which is not qualified to transact business in this state.

i. An applicant of the proposed establishment is in violation of or is not in compliance with any of the provisions of this Article.

B. The license, if granted, shall state on its face the name of the person or persons to whom it is granted, the expiration date, the address of the sexually-oriented business and the classification for which the license is issued pursuant to Section 9-07-020. All licenses shall be posted in a conspicuous place at or near the entrance to the sexually-oriented business so that they may be easily read at any time.

C. A sexually-oriented business license shall issue for only one classification as found in Section 9-07-020.

D. If the sexually-oriented business or employee license is denied, the temporary license previously issued is immediately deemed null and void. Denial, suspension, or revocation of a license issued pursuant to this subsection shall be subject to appeal as set forth in Subsection 9-07-090(D) of this Article.

E. A license granted pursuant to this Section shall be subject to annual renewal upon the written application of the applicant and a finding by the Town Clerk that the applicant has not been convicted of any "specified criminal activity" as defined in this Article or committed any act during the existence of the previous license, which would be grounds to deny the initial license application. The renewal of the license shall be subject to the payment of the fee as set forth in Section 9-07-060 of this Article.

F. Licenses issued under this Article are not transferable. A licensee shall not conduct a different classification of a sexually-oriented business other than that designated on the license nor conduct a sexually-oriented business at any place other than the address designated on the licenses. No sexually-oriented business or employee shall act under any other name, designation or classification not specified on the license.

(Ord. No. 552, Enacted, 03/13/03; Ord. No. 708, Amended, 01/24/08)

9-07-060 Fees.

A. Every application for a sexually-oriented business license or for a sexually-oriented business employee license (whether for a new license or for renewal of an existing license) shall be accompanied by a five hundred dollar ($500.00) nonrefundable application and investigation fee.

B. In addition to the application and investigation fee required above, every sexually-oriented business and every employee of a sexually-oriented business that is granted a license (new or renewal) shall pay to the Town Clerk an annual nonrefundable license fee of five hundred dollars ($500.00) within thirty (30) days of license issuance or renewal.

C. All license applications and fees shall be submitted to the Town Clerk.

(Ord. No. 552, Enacted, 03/13/03)

9-07-070 Inspection; Police Powers.

A. An applicant or licensee shall permit representatives of the Prescott Valley Police Department, County Health Department, Fire Department, Development Services Department, Neighborhood Services Department, or other Town departments or agencies to inspect the premises of a sexually-oriented business for the purpose of ensuring compliance with the law, at any time it is occupied or open for business.

B. A person who operates a sexually-oriented business or his agent or employee commits a misdemeanor if he refuses to permit such lawful inspection of the premises at any time it is open for business.

C. The police powers set forth in Section 8-02-080 shall apply to this Article.

(Ord. No. 552, Enacted, 03/13/03; Ord. No. 894, Amended, 01/13/22; Ord. No. 2024-945, Amended, 10/24/24)

9-07-080 Expiration of License.

A. Each license shall expire one year from the date of issuance and may be renewed only by making application as provided in Section 9-07-040. Application for renewal shall be made at least thirty (30) days before the expiration date, and when made less than thirty (30) days before the expiration date, the expiration of the license will not be affected.

B. When the Town Clerk denies renewal of a license, the applicant shall not be issued a license for one year from the date of denial. If, subsequent to denial, the Town Clerk finds that the basis for denial of the renewal license has been corrected or abated, the applicant may be granted a license if at least ninety (90) days have elapsed since the date denial became final.

(Ord. No. 552, Enacted, 03/13/03)

9-07-090 Suspension; Revocation.

A. Suspension. The Town Clerk shall suspend a license for a period not to exceed thirty (30) days if it determines that a licensee or an employee of a licensee has:

1. Violated or is not in compliance with any section of this Article;

2. Refused to allow an inspection of the sexually-oriented business premises as authorized by this Article.

B. Revocation. The Town Clerk shall revoke a license if a finding is made of any of the following:

1. The license has been suspended within the preceding twelve (12) months and the Town Clerk finds that the basis for suspension of license has not been corrected or abated;

2. A licensee gave false or misleading information in the material submitted during the application process;

3. A licensee has knowingly allowed possession, use, or sale of controlled substances on the premises;

4. A licensee has knowingly allowed prostitution on the premises;

5. A licensee knowingly operated the sexually-oriented business, or acted as an employee of a sexually-oriented business, during a period of time when the licensee's license was suspended;

6. A licensee is convicted of any crime or crimes on the basis of which a license may be denied under this Article;

7. Except in the case of an adult motel, a licensee has knowingly allowed any act of sexual intercourse, sodomy, oral copulation, masturbation, or other sex act to occur in or on the licensed premises; or

8. A licensee is delinquent in payment to the Town, County, or State for any taxes or fees past due.

9. Has committed an act in violation of 18 U.S.C. § 2257.

C. When the Town Clerk revokes a license, the revocation shall continue for one year, and the licensee shall not be issued a sexually-oriented business license for one year from the date the revocation became effective. If, subsequent to revocation, the Town Clerk finds that the basis for the revocation has been corrected or abated, the applicant may be granted a license if at least ninety (90) days have elapsed since the date the revocation became effective.

D. When the decision to deny, suspend or revoke a license or permit becomes final, the applicant or licensee shall have the right to seek judicial review of the decision by way of special action or other available procedure in the Superior Court. The Town Clerk shall consent to an expedited hearing to be held no later than twenty (20) days after the filing of the action, and to an expedited disposition. The decision to suspend, revoke or refuse to renew a license or permit shall be stayed until a decision on the merits by the Superior Court, provided that the applicant or licensee files the action within thirty (30) calendar days after final administrative action by the Town Clerk.

(Ord. No. 552, Enacted, 03/13/03; Ord. No. 708, Amended, 01/24/08)

9-07-100 Hours of Operation.

No sexually-oriented business, except for an adult motel, may remain open at any time between the hours of one o'clock (1:00) A.M. and eight o'clock (8:00) A.M. on weekdays and Saturdays, and one o'clock (1:00) A.M. and twelve o'clock (12:00) noon on Sundays.

(Ord. No. 552, Enacted, 03/13/03)

9-07-110 Sexually-Oriented Business; Loitering and Exterior Lighting and Monitoring Requirements.

A. It shall be the duty of the licensee of a sexually-oriented business to:

1. Initiate and enforce a no loitering policy within the external boundaries of real property upon with the sexually oriented business is located;

2. Post conspicuous signs stating that no loitering is permitted on the property;

3. Designate one or more employees to monitor the activities of persons on property by visually inspecting such property at least once every thirty (30) minutes or inspecting such property and each room capable of being occupied by one or more persons therein by the use of video cameras and monitors; and

4. Provide adequate lighting of the exterior premises to provide for video inspection or video monitoring to prohibit loitering. The video cameras and monitors shall operate continuously at all times that the premises is open for business. All such video camera recordings shall be preserved for a period of not less than ninety (90) days and shall be made available for inspection upon request of a law enforcement officer or other authorized Town official. The monitors shall be installed within a manager’s station.

B. It shall be unlawful for a person having a duty under this section to knowingly fail to fulfill that duty.

(Ord. No. 708, Enacted, 01/24/08)

9-07-120 Sexual Encounter Center (or Sex Club) Prohibition.

A. The operation of a Sexual Encounter Center (or Sex Club) is prohibited within the boundaries of the Town of Prescott Valley.

B. Operation of a Sexual Encounter Center (or Sex Club) is a public nuisance per se which may be abated by all means authorized by law.

C. Maintenance of Private Property. Any person owning, leasing, occupying or having charge of any premises or property that maintains or keeps a Sexual Encounter Center (or Sex Club) thereon is guilty of a class 1 misdemeanor (or a civil violation as set forth in this Code).

(Ord. No. 708, Enacted, 01/24/08)

ARTICLE 9-08 SALE OF PSEUDOEPHEDRINE

9-08-010 Definitions.
9-08-020 Duty to Keep Pseudoephedrine Products Inaccessible.
9-08-030 Duty to Require Identification From Purchasers.
9-08-040 Duty to Make Information Available to Police.
9-08-050 Penalty.

9-08-010 Definitions.

In this Article, unless the context otherwise requires:

A. "Pseudoephedrine Product" means any product containing Ephedrine or Pseudoephedrine and includes any compound, mixture or preparation that contains any detectable quantity of Ephedrine, Pseudoephedrine, Norpseudoephedrine, or Phenylpropanolamine or their salts, optical isomers or salts of optical isomers. Product packaging that lists Ephedrine, Pseudoephedrine, Norpseudoephedrine, or Phenylpropanolamine as an active ingredient shall constitute prima facie evidence that the product is a Pseudoephedrine Product.

B. "Retail Establishment" means any place of business that offers any Pseudoephedrine Product for sale at retail.

(Ord. No. 642, Enacted, 12/15/05)

9-08-020 Duty to Keep Pseudoephedrine Products Inaccessible.

The operator of a Retail Establishment shall keep all Pseudoephedrine Products behind a counter or otherwise in a manner that is inaccessible to customers without the assistance of the operator or an employee of the Retail Establishment.

(Ord. No. 642, Enacted, 12/15/05)

9-08-030 Duty to Require Identification From Purchasers.

A person making a Retail Sale of a Pseudoephedrine Product shall require a government-issued, photo identification from any purchaser and shall record the purchaser's name, date of birth, quantity of Pseudoephedrine Product purchased, transaction date, and the initials of the seller.

(Ord. No. 642, Enacted, 12/15/05)

9-08-040 Duty to Make Information Available to Police.

The information required to be obtained by Section 9-08-030 above shall be retained by the Retail Establishment for a period of ninety (90) days, and will be considered a confidential

document that will only be made available upon request to the operator of the Retail Establishment, authorized personnel of the Prescott Valley Police Department, Arizona Department of Public Safety Officers, Yavapai County Sheriff's Department Officers, and other law enforcement officers.

(Ord. No. 642, Enacted, 12/15/05)

9-08-050 Penalty.

A violation of this Article shall be a Class 1 Misdemeanor.

(Ord. No. 642, Enacted, 12/15/05)