

## TITLE II DEPARTMENTS

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## CHAPTER 2-1: PUBLIC WORKS DEPARTMENT

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**2-1-1: DEPARTMENT CREATED:**

- (A) There is hereby created a public works department; said department to be under the supervision of the director of public works. The director will report to and be responsible for the operation of the department to the city manager. The department shall have the divisions provided for in section 2-1-2 of this chapter, and such other divisions as shall be established from time to time by the city manager. (Ord. 687, 11-9-1964)

- (B) Whenever reference is made to the public services department or the environmental services department in this chapter, that reference shall mean the public works department. (Ord. 4504, 10-25-2005)
- (C) Whenever reference is made to the public services director or the environmental services director in this chapter, that reference shall mean the public works director. (Ord. 4451, 1-25-2005; Ord. 4504, 10-25-2005)
- (D) Whenever reference is made to the city engineer in this chapter, that reference shall mean the city utilities engineer. (Ord. 4504, 10-25-2005)

**2-1-2: DIVISIONS CREATED:**

The Public Works Department shall have those duties and consist of those divisions, over and above those provided for in this Code, as may be established from time to time by the City Manager. (Ord. 4451, 1-25-2005; Ord. 4480, 6-28-2005)

**2-1-3: STREETS DIVISION; FUNCTION:**

- (A) Function: It shall be the responsibility of the streets division to effectively maintain a clean street system that is reasonably safe for motor vehicles, and to maintain street lighting where deemed appropriate.
- (B) Streetlight Assessment: A monthly fee in the amount of seventy five cents (\$0.75) per unit shall be assessed against every city customer utilizing city water, sewer or garbage collection service. The revenues from these fees shall be utilized by the city for the purpose of defraying the costs of operation, maintenance, installation and replacement of streetlights within the city limits. For the purposes of this section, "unit" shall be calculated as follows:
  - 1. A single-family residential customer shall constitute one unit.
  - 2. A commercial or industrial customer that services only one business or entity shall constitute one unit.
  - 3. Any customer which has multiservice connections through one master meter shall constitute one unit for each such connection.

The effective date of ordinance 3271, and the charges to be levied herein, shall be November 1, 1994. (Ord. 3271, 9-27-1994; amd. Ord. 3317, eff. 2-14-1995; Ord. 3473, 2-12-1996, eff. retroactive to 2-1-1996)

**2-1-4: ENGINEERING SERVICES DIVISION; FUNCTION:**

(Ord. 1360, 8-27-1979; Rep. by Ord. 4504, 10-25-2005)

**2-1-5: CONSTRUCTION SERVICES DIVISION; FUNCTION:**

(Ord. 4317, 5-27-2003, eff. 7-1-2003; Rep. by Ord. 4504, 10-25-2005)

**2-1-6: GENERAL SERVICES DIVISION; FUNCTION:**

(Rep. by Ord. 4451, 1-25-2005)

**2-1-7: UTILITIES DIVISION; FUNCTION:**

The utilities division shall have charge of the water system and sanitary sewer system of the city, including the enforcement of all related provisions contained herein. (Ord. 4317, 5-27-2003, eff. 7-1-2003)

**2-1-8: UTILITIES DIVISION; PROVISION OF WATER TO AREAS OUTSIDE OF THE CITY LIMITS; RULES AND REGULATIONS:**

- (A) Water Service To Areas Outside The City Limits: No property outside of the city limits shall be served water, nor shall any main extensions outside of the city limits be allowed. (Ord. 3527, eff. 9-12-1996; amd. Ord. 4317, 5-27-2003, eff. 7-1-2003)

Notwithstanding the foregoing, the following are exempt from the provisions of this subsection:

1. Where the city has previously entered into a valid contractual agreement to provide water service to a specific property, in which event water service or a main extension shall only be allowed to the extent necessary to allow the city to comply with its contractual obligations. (Ord. 2133, 11-28-1989; amd. Ord. 4317, 5-27-2003, eff. 7-1-2003)
2. Where there is a city water main fronting residential property desiring to be served on or before October 4, 2005, and there is sufficient capacity in the existing main to allow service to the property, and the service connection does not exceed one hundred feet (100'), and the environmental services director determines that there will be no adverse impact upon the city's water system nor upon the city's ability to deliver sufficient water at sufficient pressure to existing water customers and expected future customers within the city limits; provided, however, that as a condition to obtaining water service pursuant to this subsection, any

such property must also connect onto the city's sanitary sewer main at the property owner's cost. (Ord. 4305, 4-8-2003; amd. Ord. 4317, 5-27-2003, eff. 7-1-2003; Ord. 4503, 10-25-2005, eff. imm.)

3. If water service is provided for pursuant to an intergovernmental agreement.
- (B) Rules and Regulations: Water will be furnished subject to rules and regulations of the city, which rules and regulations are made a part of every application, contract, agreement or license entered into between the property owner or consumer and the city. (Ord. 2133, 11-28-1989; amd. Ord. 4317, 5-27-2003, eff. 7-1-2003)
- (C) Unless otherwise required pursuant to Subsections 2-1-8(A)(1), (2) or (3), if potable water is provided to property outside of the City limits in accordance with this Section 2-1-8, then and in that event no more than one residential dwelling unit per parcel of property shall be provided potable water. The phrase "parcel of property", as used herein, shall mean all of that real property which was contiguous and under common ownership at any time on or after October 4, 2005. (Ord. 4503, 10-25-2005, eff. imm.)

#### **2-1-9: UTILITIES DIVISION; DEFINITIONS:**

Where used throughout this chapter, the following words and/or phrases shall be taken to have meanings as indicated below:

**AIRPORT SYSTEM:** All sewer service connections to any sewer main, interceptor, or force main that flows to the north wastewater treatment plant facility.

**BOD:** Denoting biochemical oxygen demand, means the quantity of oxygen utilized in the biochemical oxidation of organic matter under standard laboratory procedure in five (5) days at twenty degrees centigrade (20°C) expressed in parts per million (ppm) in weight.

**BYPRODUCTS:** A treatment related byproduct such as land lease, crops, gas, effluent, etc.

**CONSUMER:** A person, firm or corporation contracting with the city for the furnishing of water or sewer services to property subject to the following classifications:

Apartment Consumer: Any apartment, house or complex which has multi-service connection through one master meter. This classification shall be considered a Residential Multi-Family consumer.

**Commercial Consumer:** Any premises located within the service area on which a commercial business is operated, other than a home occupation business. This classification shall be considered a Non-Residential consumer.

**Industrial Consumer:** Any commercial or industrial consumer whose water usage exceeds two hundred thousand (200,000) gallons per month.

**Multi-Family Consumer:** Any permanent housing unit having one or more common walls within another housing unit located in a multi-family residential structure serviced by a common master meter, including a unit in a duplex, triplex, four-plex, condominium development, townhouse development or apartment complex. It also includes mobile homes located in a mobile home park, and other residential developments sharing a common master meter.

**Residential Consumer:** Any permanent housing unit located within the service area used as a residence, including but not limited to mobile home parks, apartment houses, single family and multi family residences.

**Trailer And Mobile Home Park Consumer:** A trailer park and mobile home consumer is any property, park or complex containing trailers or mobile homes which has multiservice connection through one master meter. This classification shall be considered a residential consumer.

**GARBAGE:** Solid wastes from the preparation, cooking and dispensing of food and from the handling, storage and sale of produce.

**INDUSTRIAL WASTES:** All wastewaters of the community excluding sanitary sewage and uncontaminated water.

**INFILTRATION/INFLOW:** The total quantity of water (other than wastewater) from both infiltration and inflow without distinguishing the source.

**MAINS:** The city owned water lines laid in or along the public streets or highways or on city acquired easements, but shall not include service connections.

**NATURAL OUTLET:** Any outlet into a watercourse, ditch, or other body of surface or ground water.

**O&M COST:** All costs (including personnel, material, energy and administration) needed to assure the dependable and economical operation of treatment works. O&M includes replacement.

PERMIT: Any written authorization required pursuant to this or any other regulations of the city for the installation of any sewage works.

pH: The logarithm of the reciprocal of the weight of hydrogen ions in grams per liter or solution.

PRIVATE LINE:

- (A) A water line owned by a party other than the city and extending from the meter at the service connection onto private or other public property or properties;
- (B) Any service line which does not furnish water to any water outlet located within two hundred feet (200') from the property line on the abutting street, highway or city right of way on which such property is located; and for which application is made for a private line.

PRIVATE SEWER: A sewer line owned by a party other than the city of Prescott, and extending from the service connection at the public sewer onto private or other public property or properties.

PROPERLY SHREDDED GARBAGE: Garbage that has been shredded to such a degree that all particles will be carried freely under the flow conditions normally prevailing in public sewers with no particle greater than one-half inch (1/2") in any dimension.

PUBLIC SEWER: A sewer controlled by public authority.

REPLACEMENT: Expenditures for obtaining and installing equipment, accessories, or appurtenances which are necessary during the design or useful life, whichever is longer, of the treatment works to maintain the capacity and performance for which such works were designed and constructed. The term "operation and maintenance" includes replacement. Replacement does not include the replacement of treatment works.

SANITARY SEWER: A sewer which carries sewage and to which storm, surface and ground waters are not intentionally admitted.

SEWAGE OR SANITARY SEWAGE: Any and all waste substances, liquids or solids associated with human habitation, but excluding storm, surface and ground water, and industrial waste.

SEWAGE TREATMENT PLANT: Any arrangement of devices and structures used for treating sewage.

**SEWAGE WORKS:** All facilities for collecting, pumping, treating and disposing of sewage.

**SEWER CONNECTION:** The connection to the public sewer and the extension therefrom of the sewer to the property line at the alley or the curb line of the street, whichever is applicable, depending on the location of the public sewer.

**SEWER CONNECTION FEE:** The initial sewer connection charge as set forth in section 2-1-22 of this chapter and shall apply to all sewer connections to the public sewer after the effective date of this chapter.

**SEWER DIVISION:** Those officers and agents of the city supervising sewer operation for the city.

**SHALL:** Mandatory.

**STORM SEWER OR STORM DRAIN:** A sewer which carries storm and surface waters and drainage but excludes sewage and polluted industrial wastes.

**STREET:** Any public highway, road, street, avenue, alleyway, place, easement or right of way.

**SUSPENDED SOLIDS:** Solids that either float on the surface of, or are in suspension in, water, sewage, or other liquids and which are removed by laboratory filtering.

**USER CHARGE:** A charge levied on users of a treatment works, or that portion of the ad valorem taxes paid by a user, for the user's proportionate share of the cost of operation and maintenance (including replacement) of such works.

**WATER SERVICE CONNECTION:** The tap of the main and that portion of the line extending from the tap to where the meter is set at or near the property line on the street, highway or right of way on which the main is located. Where the meter is not set at or near the property line of the street, highway or right of way on which the main is located, only that portion of the line extending from the tap to such property line shall be included as a part of the "service connection".

**WATER SERVICE LINE:** The water lines extending from the service connection to and within the improvements on such property.

**WATERCOURSE:** A channel in which a flow of water occurs either continuously or intermittently. (Ord. 4317, 5-27-2003, eff. 7-1-2003)

(Ord. 4523, 2-7-2006, eff. 7-1-2006)

## **2-1-10: UTILITIES DIVISION; EXTENSION OF WATER MAINS:**

The city may extend or cause to be extended or permit to be extended water mains. Extensions at the request of private parties will be made on application of one or more property owners to be benefited by said extension and only after the applicant or applicants have made a deposit equal to the estimated cost of the extension if it is not to be built through an improvement district. In those cases where an improvement district is to be formed, these procedures would be followed. The extensions shall be at the expense of the initial applicant or applicants in accordance with the following criteria: (Amended Ord. 3651, eff. 8-21-1997; amd. Ord. 4317, 5-27-2003, eff. 7-1-2003)

- (A) **Cost Paid By Applicant:** The applicant or applicants shall pay the total cost of said extension. The applicant or applicants shall have the right to establish reimbursement districts for connection thereto to compensate them for portions of the cost of the extension.

No applicant shall be entitled to the formation of a reimbursement district unless the design engineer for that project first certifies, in writing, to the environmental services director that the solicitation for bids for the construction for said project was publicly advertised, with proof of said advertisement, and that the contract was awarded to the lowest and most responsible bidder. Prior to awarding any bids on a project for which a reimbursement district is to be formed, the applicant shall provide the city with copies of all such bids for review by the environmental services director or his designee, who shall approve the bid to be awarded prior to the start of construction. Additionally, the applicant shall require that payment and performance bonds be posted in accordance with Arizona Revised Statutes section 34-222.

- (B) **Application For Reimbursement District:** In order for the applicant or applicants to establish a reimbursement district, written notice of intent to form a reimbursement district must be given to the environmental services director prior to the applicant receiving approval of the submitted plans. A written notice to the environmental services director shall be made within sixty (60) days after the completion and acceptance of said main extension for which the reimbursement district is being requested, which notice shall include the costs associated therewith; the applicant shall enter into an agreement with the city setting forth the conditions of reimbursement within one calendar year after the completion and acceptance of said main extension for which the reimbursement district is being established.

[Any reimbursement districts which have been formed and approved by the city council prior to May 13, 1993, and which comply with the time provisions of this section, are hereby ratified and approved.]

The plat map (reimbursement map) shall be drawn at a scale of not less than two hundred feet (200') to the inch, and the plat shall be eight and one-half inches by fourteen inches (8 1/2"x 14") in size, or seventeen inches by twenty eight inches (17" x 28"). The plat map shall specifically identify the terminus of the existing main, the exact location, route and distance of the main extension, the nonreimbursable area to be benefited by the extension, and the reimbursable area to be benefited by the extension and subject to the reimbursement district.

Contemporaneous with the application for a reimbursement district pursuant to the provisions of this section, the applicant for said district shall tender to the city environmental services department an application fee equal to 0.5 percent of the estimate project cost, provided, however, that the application fee shall be not less than five hundred dollars (\$500.00). Upon the completion of the project, and prior to acceptance by the city of the project and approval by the city of the formation of the reimbursement district, if the final construction cost results in the fee deposited pursuant to this section being less than 0.5 percent of the final construction cost, the applicant for said district shall pay additional monies to the environmental services department to equal 0.5 percent of the final construction cost of the project.

For a period of fifteen (15) years from the date upon which a new line has been put into service, each new applicant for service shall be required to pay a pro rata share in the initial cost of the line, which share shall be calculated by the environmental services director, subject to the approval of the city council. In determining the pro rata share attributable to each property within the reimbursement area, the city shall determine the respective benefit to be received by each area, together with the distance of the property from the main to be extended, the proposed or contemplated uses and density of the property, and such other factors as may be relevant in arriving at said pro rata share. The determination of the pro rata share for each property within the reimbursement district shall be determined at the time of formation of the district by the city council, which determination shall be considered final thirty (30) days after the recordation of the reimbursement district agreement. Notwithstanding the foregoing, the environmental services director shall be empowered to equitably divide the obligation of a property within a reimbursement district upon the sale or partition of a portion of a property within a designated reimbursement district. In the foregoing event, the environmental services director will record an amended, and updated, reimbursement map with the Yavapai County recorder. The total initial cost shall be adjusted by the rate of inflation in the construction industry since the date of final acceptance of the extension by the city, to be calculated in accordance with the engineering news record construction cost index. The base index

shall be the index reported in the engineering news record publication closest to the date of acceptance of the project. In no event shall the pro rata share be less than the pro rata share would have been at the time of construction. Each new applicant for a service connection will be required to pay to the city, for disbursement to the person, group, association, corporation or city that made the extension, for their pro rata share before they are permitted to connect to the extension. After fifteen (15) years from the date the new extension has been put into service, an applicant desiring to connect to the line may do so without having to pay for the service units as specified in this section. Subsequent extensions located outside of the established reimbursement district shall be treated as new extensions and shall not affect the calculating of service units of the original extension nor will such extensions be required to share in the cost of the original extension. [This section shall apply to any reimbursement district which has been formed and approved by the city council between May 13, 1983, and May 13, 1993.]

Notwithstanding any of the conditions hereinbefore specified pertaining to the fifteen (15) year limit to collect from new applicants a pro rata share of the cost of new lines, the city is hereby exempt from said fifteen (15) year limitation and the city will collect from all new applicants their pro rata share for such service connections until the city's total initial installation cost is reimbursed.

The size and specifications of the material used in the main to be installed shall be designated by the city. Sterilization of the main upon completion will be performed by the city.

At the discretion of the city, the necessary engineering and construction of said water mains may be performed or contracted by the city. In either case, the total actual cost of installation shall be borne by the initial applicant or applicants and funds estimated to cover the cost of the installation shall be deposited with the city prior to construction unless improvement district procedures are being followed.

In the event the applicant is directed to construct or contract for construction of said main or mains, with person or persons other than the city, complete plans and specifications shall be submitted for approval by the city. After approving the plans, the city will furnish necessary inspection of the installation of said main or mains. Upon satisfactory completion and final inspection, the city will give written notice of acceptance, at which time said main or mains will become the property of the city subject to the rules and regulations set forth herein.

Should the extension of mains require easements or rights of ingress and egress, said agreements or easements shall be provided by the applicant for use by the city.

Temporary connections to said extension will not be considered as consumers or applicants in connection with this regulation.

- (C) Design And Construction: Prior to an extension or construction of a water line, a civil engineer registered in Arizona must perform the necessary field engineering and prepare detailed plans and specifications for the line extension or construction. The final detailed plans and specifications for the line construction or extension must be approved by the Arizona department of environmental quality (ADEQ) and by the city before construction begins. The design and engineering will be in accordance with the specifications of ADEQ and the city prior to construction. The construction shall meet the city's specifications, requirements and approval, and will be subject to inspection by the city's agent during construction.
- (D) Plans And Specifications: All construction under this chapter shall conform to the specifications of the city entitled "Uniform Standard Specifications For Public Works Construction Sponsored And Distributed By The Maricopa Association Of Governments" (most recent edition), with all supplements thereto and all construction shall also conform to that certain document entitled "City Of Prescott Department Of Public Services Standard Specifications And Drawings" (the most recent edition), together with all applicable federal, state, county and city laws, rules and regulations.
- (E) Construction; Upgrades: The provisions of this section shall also apply to the construction and/or upgrades of any and all facilities associated with the provision of water service. (Ord. 687, 11-9-1964; amd. Ord. 4317, 5-27-2003, eff. 7-1-2003)
- (F) Economic Hardship: Unless the city council finds that compliance with this section would result in an economic hardship to the applicant which would not be outweighed by the public benefit to be received, as a condition to extending any water mains, if an applicant is within the sewer service area of a city wastewater treatment facility, the applicant must also agree to and upsize or extend sewer mains and construct or install such related facilities, at the applicant's cost <sup>1</sup>, and connect the applicant's property to the city sanitary sewer system. Any applicant failing to comply with this section shall entitle the city to install or upgrade such sewer mains and facilities as are necessary to provide adequate sewer services to the applicant's property, and to make labor and material charges therefor in an amount equal to the going or customary rate or price for such labor and

materials; and the city shall have the further right to file a lien against the affected property for the amount of the foregoing charges, in addition to any other relief to which the city may be entitled. (Ord. 3824, 12-15-1998; amd. Ord. 4317, 5-27-2003, eff. 7-1-2003)

- (G) Compliance: The city council may approve the formation of a reimbursement district pursuant to this section where there is substantial compliance with this section, where the intent of this section has been met, and where the failure to strictly follow the requirements of this section did not result in any additional costs to the project. (Ord. 4239, 7-23-2002; amd. Ord. 4317, 5-27-2003, eff. 7-1-2003)

### **2-1-11: UTILITIES DIVISION; EXTENSION OF SEWER MAINS:**

The city may extend or cause to be extended or permit to be extended sewer mains. Extensions at the request of private parties will be made on application of one or more property owners to be benefited by said extension and only after the applicant or applicants have made a deposit equal to the estimated cost of the extension if it is not to be built through an improvement district. In those cases where an improvement district is to be formed, those procedures would be followed. The extensions shall be at the expense of the initial applicant or applicants in accordance with the following criteria:

- (A) The applicant or applicants shall pay the total cost of said extension. The applicant or applicants shall have the right to establish reimbursement districts for connection thereto to compensate them for portions of the cost of the extension.

No applicant shall be entitled to the formation of a reimbursement district unless the design engineer for that project first certifies, in writing, to the environmental services director that the solicitation for bids for the construction for said project was publicly advertised, with proof of said advertisement, and that the contract was awarded to the lowest and most responsible bidder. Prior to awarding any bids on a project for which a reimbursement district is to be formed, the applicant shall provide the city with copies of all such bids for review by the environmental services director or his designee, who shall approve the bid to be awarded prior to the start of construction. Additionally, the applicant shall require that payment and performance bonds be posted in accordance with Arizona Revised Statutes section 34-222.

- (B) In order for the applicant or applicants to establish a reimbursement district, written notice of intent to form a reimbursement district must be given to the environmental services director prior to the applicant receiving approval of the submitted plans. A written notice to the environmental services director shall be made within sixty (60) days after the completion

and acceptance of said main extension for which the reimbursement district is being requested, which notice shall include the costs associated therewith; the applicant shall enter into an agreement with the city setting forth the conditions of reimbursement within one calendar year after the completion and acceptance of said main extension for which the reimbursement district is being established. The agreement shall also contain a plat map indicating thereon the applicant's or applicants' area of development, the location of the proposed or constructed extension from the development, to the point of connection with the city sewer main providing sewer service to the development, and the map shall also indicate the area that will benefit from the extension, which area shall constitute the total area outside of the applicant's or applicants' development, but shall be subject to reimbursement under the agreement.

The plat map shall be drawn at a scale of not less than two hundred feet (200') to the inch, and the plat shall be eight and one-half inches by fourteen inches (8 1/2" x 14") in size, or seventeen inches by twenty eight inches (17" x 28") in size. The plat map shall specifically identify the terminus of the existing main, the exact location, route and distance of the main extension, the nonreimbursable area to be benefited by the extension and the reimbursable area to be benefited by the extension and subject to the reimbursement district.

Contemporaneous with the application for a reimbursement district pursuant to the provisions of this section, the applicant for said district shall tender to the city environmental services department an application fee equal to 0.5 percent of the estimate project cost, provided, however, that the application fee shall be not less than five hundred dollars (\$500.00). Upon the completion of the project, and prior to acceptance by the city of the project and approval by the city of the formation of the reimbursement district, if the final construction cost results in the fee deposited pursuant to this section being less than 0.5 percent of the final construction cost, the applicant for said district shall pay additional monies to the environmental services department to equal 0.5 percent of the final construction cost of the project.

For a period of fifteen (15) years from the date upon which a new line has been put into service, each new applicant for service shall be required to pay a pro rata share in the initial cost of the line, which share shall be calculated by the environmental services director, subject to the approval of the city council. In determining the pro rata share attributable to each property within the reimbursement area, the city shall determine the respective benefit to be received by each area, together with the distance of the property from the main to be extended, the proposed or contemplated uses and density of the property, and such other factors as may be relevant in arriving at said pro rata share. The determination of the

pro rata share for each property within the reimbursement district shall be determined at the time of formation of the district by the city council, which determination shall be considered final thirty (30) days after the recordation of the reimbursement district agreement. Notwithstanding the foregoing, the environmental services director shall be empowered to equitably divide the obligation of a property within a reimbursement district upon the sale or partition of a portion of a property within a designated reimbursement district. In the foregoing event, the environmental services director will record an amended (and updated) reimbursement map with the Yavapai County recorder. The total initial cost shall be adjusted by the rate of inflation in the construction industry since the date of final acceptance of the extension by the city, to be calculated in accordance with the engineering news record construction cost index. The base index shall be the index reported in the engineering news record publication closest to the date of acceptance of the project. In no event shall the pro rata share be less than the pro rata share would have been at the time of construction. Each new applicant for a service connection will be required to pay to the city of Prescott, for disbursement to the person, group, association, corporation or city that made the extension, for their pro rata share before they are permitted to connect to the extension. After fifteen (15) years from the date the new extension has been put into service, an applicant desiring to connect to the line may do so without having to pay for the service units as specified in this section. Subsequent extensions located outside of the established reimbursement district shall be treated as new extensions and shall not affect the calculating of service units of the original extension nor will such extensions be required to share in the cost of the original extension. [This section shall apply to any reimbursement district which has been formed and approved by the city council between May 13, 1983 and May 13, 1993.]

Notwithstanding any of the conditions herein before specified pertaining to the fifteen (15) year limit to collect from new applicants a pro rata share of the cost of new lines, the city is hereby exempt from said fifteen (15) year limitation and the city will collect from all new applicants their pro rata share for such service connections until the city's total initial installation cost is reimbursed.

The size and specifications of the material used in the main to be installed shall be designated by the city.

At the discretion of the city, the necessary engineering and construction of said sewer mains may be performed or contracted by the city. In either case, the total actual cost of installation shall be borne by the initial applicant or applicants and funds estimated to cover the cost of the installation shall be deposited with the city prior to construction unless improvement district procedures are being followed.

In the event the applicant is directed to construct or contract for construction of said main or mains, with person or persons other than the city, complete plans and specifications shall be submitted for approval by the city. After approving the plans, the city will furnish necessary inspection of the installation of said main or mains. Upon satisfactory completion and final inspection, the city will give written notice of acceptance, at which time said main or mains will become the property of the city subject to the rules and regulations set forth herein.

Should the extension of mains require easements or rights of ingress and egress, said agreements or easements shall be provided by the applicant for use by the city.

- (C) The provisions of this section shall also apply to the construction and/or upgrades of any and all facilities associated with the provision of sewer service. (Ord. 1329, 6-11-1979; amd. Ord. 1458, 7-14-1980; Ord. 1522, 4-27-1981; Ord. 4317, 5-27-2003, eff. 7-1-2003)
- (D) The city council may approve the formation of a reimbursement district pursuant to this section where there is substantial compliance with this section, where the intent of this section has been met, and where the failure to strictly follow the requirements of this section did not result in any additional costs to the project. (Ord. 4239, 7-23-2002; amd. Ord. 4317, 5-27-2003, eff. 7-1-2003)

**2-1-12: UTILITIES DIVISION; WATER SERVICE CONNECTION AND METER INSTALLATION CHARGES:**

- (A) All meter installations shall be made by the city upon written application. Meters shall be placed at suitable locations approved by the city. The consumer or property owner at the time of making application shall pay to the city the following installation charges:

Meter Size	Installation Charge
5/8" x 3/4"	Cost plus 10%, but not less than \$420.00
3/4"	Cost plus 10%, but not less than \$440.00
1"	Cost plus 10%, but not less than \$600.00
1 1/2"	Cost plus 10%, but not less than \$1,000.00
2"	Cost plus 10%, but not less than \$1,200.00
All others	Cost plus 10%, but not less than \$1,500.00

- (B) Property must be abutting a water main for a service connection to be made, unless otherwise allowed pursuant to this section. In cases where the main is not abutting, the main must be extended at the expense of the property owner before a connection is made. Private lines will not be allowed to be extended over areas that could be provided water by public mains; provided, however, that notwithstanding anything to the contrary herein, if it is determined by the Public Works Director that no benefit to the water system would be realized from a main extension, the city manager or his designee may grant permission for a private line extension to service not more than one customer.
- (C) A contractor shall have the right to install individual stub-in service connections provided that the stub-in service connections are constructed in conjunction with a development, and the costs for said service connections are included as a part of the financial assurances of an approved subdivision, planned area development or other development.
- (D) All service connections installed by contractors shall be according to city standards and specifications. In the event a contractor makes such installation, which installation includes the stub-in service line, meter yokes and boxes, there shall be a credit allowance in the amount of two hundred dollars (\$200.00) towards the purchase of the water meter for such stub-in service connection.
- (E) In the event a service connection must cross an Arizona Department of Transportation highway right-of-way, the consumer or property owner shall obtain the necessary permits directly from the Arizona Department of Transportation to make said service connection and the consumer or property owner shall obtain their own contractor to make said service connection. Said service connection shall include the meter yoke and box and the service line from the meter box to the water main. The city will install the water main tap and the water meter after the contractor exposes the water main and the service connection in the right of way is in place and has been inspected and approved by the Arizona Department of Transportation. There shall be a credit allowance in the amount of two hundred dollars (\$200.00) toward the purchase of the water meter for such installation.
- (F) All service connections installed prior to the effective date of this section that do not include the meter box and yoke shall only receive a credit of fifty dollars (\$50.00) toward the purchase of the water meter for such service connection.
- (G) All applications for a meter installation shall be processed upon the receipt of a five dollar (\$5.00) permit fee for each meter.

(H) Service Connections: Service connections for: 1) residential lots in a plat which had not received preliminary plat approval and a designation of assured water supply by August 21, 1998, based upon water being provided by the city; 2) new construction on vacant unplatted residential lots; 3) multi-family residential units; 4) mobile home parks and manufactured home parks; 5) timeshares; 6) apartment houses; 7) RV parks; and 8) similar high intensity uses, shall only be provided pursuant to an agreement with the property owner or applicant and the city council for the provision of water. No such agreement may be entered into unless the council finds that:

1. The project or development is consistent with and conforms to, furthers the implementation of, and is not contrary to the adopted water management policy.
2. The project or development is consistent with and conforms to, furthers the implementation of, and is not contrary to the adopted general plan.
3. The project or development is consistent with and conforms to, furthers the implementation of, and is not contrary to any applicable adopted plans, including, but not limited to, specific area plans, circulation plans, capital improvement plans, open space and trail plans, neighborhood plans, local historic district plans, growth planning or growth management plans, and redevelopment plans.
4. Is in accord with the duly adopted Prescott water budget.
5. In determining compliance with the foregoing, the council shall consider the overall intent and goals of the applicable plan or policy.
6. That notwithstanding the foregoing, a variance or exception may be granted by the city council, in accordance with the council's duly adopted policy providing for same.

(I) Additional fees:

1. That in the event that an irrigation meter is installed, or a meter placed upon vacant property without the issuance of a building permit, or a meter upsized without the issuance of a building permit, then and in that event the applicant must pay to the City, in addition to all other fees required by this Section, a fee equivalent to those fees which would have been levied pursuant to PCC Section 3-14-13 and 3-14-14.

2. In the event of a charge pursuant to this subsection for an upsized meter, the applicant shall be assessed the difference between the fees which would have been levied pursuant to PCC Sections 3-14-13 and 3-14-14 for the upsized meter versus the fees which would have been assessed for the existing meter according to the fee schedule in effect at the time of the application for the upside meter.”

(Ord. 3824, 12-15-1998; amd. Ord. 4317, 5-27-2003, eff. 7-1-2003; Ord. 4523, 2-7-2006, eff. 7-1-2006)

(J) Irrigation Meters:

1. A water service meter shall only be issued and installed by the City when accompanied by an approved City building permit for development of the property to be served by such meter.
2. A water service meter shall not be issued or installed by the City for any property for which the land use is single family residential when and where such meter would be used solely for irrigation and not for domestic supply purposes.
3. A water service meter may be approved, issued, and installed by the City for irrigation of lands within master planned developments, common areas managed by homeowner associations, improved areas of multiple family developments, and landscaped areas within other commercial, industrial, and institutional developments upon approval of a site development plan conforming to the requirements of the Land Development Code of the City and payment of all applicable development and water service fees.

(Ord. 4535, 4-11-2006)

**2-1-13: UTILITIES DIVISION; WATER SERVICE LINES:**

Service lines shall be installed by the consumers at their own expense. Temporary lines must be buried two feet (2') and backfilled ten feet (10') from the meter. All service lines shall be installed at least two feet (2') deep and not less than two feet (2') from an open area or vault. (Ord. 3733, 3-10-1998; amd. Ord. 4317, 5-27-2003, eff. 7-1-2003)

**2-1-14: UTILITIES DIVISION; PRIVATE WATER LINES:**

- (A) Future Private Lines: From and after the effective date of these rules and regulations, the city will make only one service connection and meter installation for each private line. This connection and installation will be made after receiving a written application from a responsible person, firm

or corporation which is eligible for "private line" service as defined in section 2-1-9 of this chapter.

Each applicant shall assume full liability for all water metered to his private line.

At the time of making such application, the applicant shall pay to the city the standard installation charge as set forth in section 2-1-12 of this chapter.

All charges for water metered to a private line and for damage to the meter settings and/or meter as provided for in this chapter will be billed to the person, firm or corporation who applies for the line and who will be responsible for all amounts billed.

The private line shall be installed and maintained at the expense of the person, firm or corporation making the application and the line shall be and remain the property of this person, firm or corporation.

The city reserves the right to extend at any time, at its discretion, its mains. If by the construction and extension of any city main, such main is placed in or along a street, highway or city right of way contiguous to the property of any user of water furnished by a private line, or which private line application has been made after the effective date of these rules, and which main is within two hundred feet (200') of any water outlet of such user, the city may, after the completion of construction of extension, refuse to furnish water to the private line until the user is disconnected therefrom. Such user, if water is desired by him from any of the city's mains, shall obtain water through a service connection from the main. A service line shall be constructed from such service connection in accordance with section 2-1-13 of this chapter.

Service connection and meter installation for this service line shall be made and paid for in accordance with section 2-1-12 of this chapter. After connections have been made water will be supplied to the consumer in accordance with section 2-1-17 of this chapter.

In all applications made from and after the effective date of these regulations for service connection for a private line, the applicant shall expressly agree that the foregoing provisions of this section shall be binding upon him and upon any and every other party served by or through such private line and the application for the private line shall expressly authorize the city to discontinue furnishing water to the private line until any service line connection required by this section has been made.

- (B) Existing Private Lines: Whenever, at any date subsequent to the initial effective date of these rules and regulations, a main is placed in or along a street, highway or city right of way contiguous to the property of any user, or water furnished by a private line which is in use on the initial effective date of these rules (including any hereafter constructed addition to or extension of such private line) and which main is within two hundred feet (200') of any water outlet of such user, the city may refuse to furnish water to the user through the private line and if the user desires to obtain water from the city or from its mains, it will only be furnished through a service connection and a service line constructed in accordance with section 2-1-13 of this chapter. The service line shall be made in accordance with section 2-1-12 of this chapter, and water will then be supplied to the consumer in accordance with section 2-1-17 of this chapter.

The city will not make or permit to be made, any additional connections to any private line which is in use on the initial effective date of these rules and regulations unless the city has in its possession a written contract executed by all individuals, firms and corporations to whom water is metered and billed from the line, and by written agreement there is an acceptance of full responsibility for maintenance of the private line, including any loss of water therefrom.

Where the city has in its possession a written contract, the private line may be extended or additions made thereto, provided all persons, firms and corporations responsible for the maintenance and water loss on such line agree in writing to such extension or addition, and provided written application for connection to such private line is filed with the city. One meter must be set for each additional consumer hereafter made to the private line and all water furnished through each addition will be metered through the individual meters, and all charges for water and damages, if any, to the meter as provided in section 2-1-24 of this chapter will be billed to the applicant, who is responsible for the payment thereof.

Any extension or addition to an existing private line (including the connection with the existing private line) shall be installed and maintained at the expense of the person making application, and the addition shall remain the property of each applicant. Any meter installation shall be provided and installed by the city in accordance with section 2-1-12 of this chapter, upon written application. Before any meter is installed and before water is furnished to an extension or addition, a deposit shall be made if necessary with the city in accordance with the provisions of section 2-1-17 of this chapter. (Ord. 4317, 5-27-2003, eff. 7-1-2003)

- (C) Private Fire Lines: Private fire lines may be installed at the expense of the consumer, in accordance with specifications of the city. These lines shall

be owned and maintained by the consumer. (Ord. 3473, eff. 2-1-1996; amd. Ord. 4317, 5-27-2003, eff. 7-1-2003)

**2-1-15: UTILITIES DIVISION; SEWER CONNECTIONS:**

All connections to the city's main sewer lines shall require the issuance of a permit by the engineering services division. Said permit will be issued upon the payment of the sewer service fees and all other charges herein required by this chapter. A separate sewer connection to the main sewer line shall be constructed for every separate building except as provided in the plumbing code adopted by the city and any exception requires the written permission of the building official and the city engineer. No person having a sewer service connection shall otherwise permit a connection to that sewer service connection by another person or user whether gratuitously or for charges.

All sewer connections shall be approved by the city and the actual tap into the main sewer shall be accomplished by city personnel, unless otherwise approved in writing by the superintendent of utilities, in which event the sewer tap connection fee shall be waived. (Ord. 1329, 6-11-1979; amd. Ord. 1458, 7-14-1980; Ord. 1522, 4-27-1981; Ord. 4317, 5-27-2003, eff. 7-1-2003)

**2-1-16: RESERVED**

(Ord. 4650-0852, 5/27/2008, eff. 6/28/2008)

## **2-1-17: UTILITIES DIVISION; WATER SERVICE DEPOSITS:**

Water deposits in the following amounts will be required of all persons making application for water service unless they have a good payment record or they are users whose credit ratings in the community are representative of persons who promptly pay their creditors.

(Ord. 1552, 9-28-1981; amd. Ord. 2232, 11-27-1990; Ord. 4317, 5-27-2003, eff. 7-1-2003; Ord. 4523, 2-7-2006, eff. 7-1-2006)

Residential consumer	\$ 125.00
Multi-service (2 through 5 units)	\$ 150.00
Multi-service (over 5 units)	\$ 200.00
Commercial and industrial	Minimum of \$125.00 (calculated on an individual basis to cover at least two (2) months' estimated bills)

(Ord. 4174, 11-27-2001, eff. 3-1-2002; amd. Ord. 4317, 5-27-2003, eff. 7-1-2003; Ord. 4523, 2-7-2006, eff. 7-1-2006)

For the purpose of this Chapter, a present user with a good credit rating will be defined as a consumer who has not received more than one (1) delinquency letter in the last twelve (12) months and has not had his water service discontinued for nonpayment during the same period. Unless the city has had experience with the persons applying for water service or knows of their credit ratings, they will be required to leave the deposit for one year or until such time the city's good credit definition is satisfied. (Ord. 4523, 2-7-2006, eff. 7-1-2006)

The finance director is given the power of discretion for considering special cases involving the requirement of water deposits. His judgment in these cases may be appealed to the city manager whose decision shall be considered final. If the finance director requires a larger deposit than those specified above, it shall not exceed three (3) times the average monthly billing. (Ord. 1552, 9-28-1981; amd. Ord. 4317, 5-27-2003, eff. 7-1-2003)

After the effective date hereof, deposits presently held will not be refunded for a period of twelve (12) months. This twelve (12) month period will be used to determine which present users will be entitled to refunds according to the criteria established in paragraph one of this section. (Ord. 1166, 9-20-1976; amd. Ord. 4317, 5-27-2003, eff. 7-1-2003)

After deposits have been held for the time specified in this section, a customer may, upon written request, have the deposit applied in payment of current monthly bills. The deposit shall in no way affect the city's right to discontinue

service arising from nonpayment of bills as provided for in these rules and regulations. (Ord. 1329, 6-11-1979; amd. Ord. 4317, 5-27-2003, eff. 7-1-2003)

The city will refund deposits upon written application to discontinue its service and upon receipt of payment in full for water metered to such consumer and for any meter damage, or other damage to the city system, for which such consumer may be liable under these rules and regulations.

The consumer or property owner shall notify the city at the time each property becomes vacant. Otherwise, the consumer or property owner shall be responsible for any damage to the property until the city receives a vacancy notice.

The city will presume service is being rendered from the time water is turned on by application of the consumer until the consumer or property owner gives written notice to discontinue service. When the discontinue service notice has been given to the city, the city may at that time apply a consumer's deposit to his final bill and send the consumer a bill or check for the difference. (Ord. 1166, 9-20-1976; amd. Ord. 4317, 5-27-2003, eff. 7-1-2003)

Residential or multiservice consumers in incorporated municipalities other than the city of Prescott shall be required to make a deposit of one hundred thirty percent (130%) of the deposit listed in this section. Additionally, residential or multiservice consumers in all areas other than incorporated municipalities shall be required to make a deposit that is double the amount of the deposit listed in this section. (Ord. 2232, 11-27-1990; amd. Ord. 4317, 5-27-2003, eff. 7-1-2003)

**2-1-18: UTILITIES DIVISION; WATER RATES:**

- (A) Residential (including but not limited to mobile home parks and apartment houses): A monthly water charge shall be assessed against all residential consumers having a service connection with the city water mains in accordance with the following table:

<b>Single Family</b>		<b>Multi-Family</b>	
<b>Block</b>	<b>Rate</b>	<b>Block</b>	<b>Rate</b>
<b>Thresholds</b>	<b>(\$/kgal)</b>	<b>Thresholds</b>	<b>(\$/kgal)</b>
<b>(gallons)</b>		<b>(gals per unit)</b>	
First 3,000	2.86	First 1,700	2.30
Next 7,000	4.30	Next 3,300	3.46
Next 10,000	6.45	Next 5,000	5.19
Over 20,000	12.90	Over 10,000	10.39

(Ord. 4523, 02-07-06, Sec. 5 eff. 07-01-07)

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(B) Non-residential rates: A monthly water charge shall be assessed against all non-residential consumers having a service connection with the city water mains in accordance with the following tables.

1. Non-residential properties will be assessed according to meter size, based upon the following table:

<b>Nonresidential Monthly Usage in Blocks (1,000 gallons)</b>				
<b>Meter Size</b>	<b>1</b>	<b>2</b>	<b>3</b>	<b>4</b>
5/8"				
3/4"	6	22	32	> 60
1"	15	55	80	> 150
1 1/2"	30	110	160	> 300
2"	48	176	256	> 480
3"	96	352	512	> 960
4"	150	550	800	> 1,500
6"	300	1,100	1,600	> 3,000
8"	480	1,760	2,560	> 4,800

2. Non-residential rates will be in accordance with the following table:

<b>Block</b>	<b>Rate (\$/kgal)</b>
1	2.61
2	3.92
3	5.88
4	11.76

(Ord. 4523, 02-07-06, Sec. 5 eff. 07-01-07)

(C) In addition to the charges provided for herein, there shall be assessed an alternative water sources fee per one thousand gallons of water consumed per month on each monthly bill for all City of Prescott water customers. The revenues from this fee are restricted to defray expenses of the city associated with obtaining alternative water sources in order to comply with the groundwater laws of the State. The amount of the alternative water sources fee shall be as follows:

<u>Effective Period</u>	<u>Volume Rate Per 1,000 Gallons</u>
Through June 30, 2008	\$0.36
July 1, 2008 – December 31, 2008	\$0.40
January 1, 2009 – December 31, 2009	\$0.45
Beginning January 1, 2010	\$0.65

(Ord. 4650-0852, 5/27/2008, eff. 6/28/2008)

- (D) In addition to the charges provided for herein, there shall be a monthly fixed charge based upon meter size, as set forth in the following table:

<u>Meter Size</u>	
5/8"	\$ 6.60
3/4"	7.05
1"	7.95
1 1/2"	10.20
2"	12.90
3"	19.20
4"	28.20
6"	50.70
8"	77.70

(Ord. 4523, 02-07-06, Sec. 5 eff. 07-01-07)

(E) OTHER INCORPORATED MUNICIPALITIES

Water furnished to consumers in incorporated municipalities other than the city of Prescott shall be charged at the same rate as water furnished similar consumers within the city of Prescott (inside Prescott city limits rates) plus a surcharge equal to thirty percent (30%) of the inside Prescott city limits rates. The surcharge shall also apply to the monthly fixed charge and to the alternative water sources fee.

(F) ALL OTHER AREAS

Water furnished to consumers in all areas other than incorporated municipalities shall be charged at the same rate as water furnished to similar consumers within the city of Prescott (inside Prescott city limits rates) plus a surcharge equal to thirty nine percent (39%) of the inside Prescott city limits rates. The surcharge shall also apply to the monthly fixed charge and to the alternative water sources fee.

- (G) Rates For Private Fire Protection Connections: When fire service connections are required by applicable city code or state law provisions they shall include a detector check of a type to be approved by the city. The indicating meter to be used with the check shall be furnished by the city. If unmetered water available under this subsection is used for other than fire protection purposes, the quantity so used shall be estimated and the same shall be charged according to applicable rates. If such use is continued for more than twenty (20) days a recording meter will be

installed at the consumer's expense and water furnished thereafter will be charged for in accordance with applicable rates.

(H) Private Fire and Drainage Service (Payable Yearly In Advance):

Each fire hydrant, yearly	\$60.00
Water for public sewer flush tanks, per 1,000 gallons	0.59

(I) Test Charge: A charge of fifty dollars (\$50.00) shall be assessed whenever city personnel are requested to perform pressure tests or flow tests upon fire hydrants. A separate assessment shall be levied for each test performed on each fire hydrant, and shall be payable at the time such request is made.

(J) Fees And Assessments Due: All fees and assessments are due and payable on the date billed. Water may be discontinued for the nonpayment of any of the fees, penalties or assessments set forth in this section. Late charges of one and one-half percent (1.5%) per month of the unpaid balance due will be imposed on bills not paid within thirty (30) days after the billing date.

(K) Governmental Entities: That notwithstanding any provision to the contrary in this section, charges and rates to other governmental entities and customers within other governmental entities may be determined as set forth in an intergovernmental agreement between the city and that governmental entity.

(L) Industrial User: That notwithstanding the rates as set forth in subsection (B) of this section, in order to foster conservation of water resources, any water used by an industrial user in excess of an average of four thousand (4,000) gallons per day per acre within a calendar year shall result in a surcharge of five thousand dollars (\$5,000.00) per acre foot for each acre foot of excess water used, unless a variance or exception is granted by the city council, in accordance with the council's duly adopted policy providing for same. Calculations shall be made by the city annually, for the period January 1 through December 31. In order to determine the maximum allowable amount of water prior to the foregoing surcharge becoming effective, the calculation per acre shall be based upon the total acreage owned, leased or otherwise controlled by the consumer within the city's water service area, which is not otherwise provided potable water.

(M) Turf Or Irrigation Purposes: That notwithstanding the rates as set forth in this Section, in order to foster conservation of water resources, any water used for turf or irrigation purposes in excess of an average of one acre

foot per irrigated acre per year within a calendar year shall result in a surcharge of five thousand dollars (\$5,000.00) per acre foot for each acre foot of excess water used, unless a variance or exception is granted by the city council, in accordance with the council's duly adopted policy providing for same. Calculations shall be made by the city annually, for the period January 1 through December 31. In order to determine the maximum allowable amount of water prior to the foregoing surcharge becoming effective, the calculation per acre shall be based upon the total acreage owned, leased or otherwise controlled by the consumer within the city's water service area which is not otherwise irrigated."

(Ord. 3824, 12-15-1998; amd. Ord. 4317, 5-27-2003, eff. 7-1-2003; Ord. 4523, 2-7-2006, eff. 7-1-2006)

### **2-1-19: UTILITIES DIVISION; WATER METER READING AND BILLING:**

Beginning June 1, 1990, water meters will be read and billed monthly. All bills shall be payable at the city's office or at places designated by the city for the convenience of the consumers. All bills to consumers shall be due and immediately payable upon receipt of notice. If a bill remains unpaid longer than thirty (30) days after the original written notice, the city may discontinue water service. In the event a customer disputes the amount due, said customer may request a review of their account by the utility billing supervisor. Such review shall take place within seven (7) days of the request. If the billing dispute is not resolved as a result of this review, the customer may then request a hearing before the finance director. Such hearing shall be informal and shall be held within seven (7) days of receipt by the finance director of a written request for the hearing, unless otherwise agreed between both parties. Said hearings shall not prevent the discontinuance of water service for nonpayment. In order to maintain water service, the customer must pay the disputed amount within the time period stated in the original bill. If a meter is found stopped during a meter reading period, the bill will be estimated from similar periods, but consideration shall be given for any excessive use of water or water wasted during such period. (Ord. 2154, 2-27-1990; amd. Ord. 4317, 5-27-2003, eff. 7-1-2003)

### **2-1-20: UTILITIES DIVISION; WASTEWATER TREATMENT CHARGES:**

- (A) All Users: The basic wastewater treatment bill to be paid monthly by all users shall consist of the user charges for operation, maintenance and replacement, and the fixed charge as shown in subsection 2-1-16(A)2 of this chapter. The sewer charge calculated in accordance with subsection 2-1-16(A) of this chapter shall be applied to each user's total metered water flow.

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- (B) Additional Charges: Additional charges as described in subsection 2-1-16(G) of this chapter shall, if required, be listed on the wastewater treatment bill. (Ord. 4317, 5-27-2003, eff. 7-1-2003)

**2-1-21: UTILITIES DIVISION; SEWER RATES:**

- (A) There is hereby established a sewer user charge system designed to recover operation, maintenance and replacement costs of the sewer system. This charge system shall be applied to, and a monthly sewer charge shall be assessed against, all users and all premises connected to and served by the city sanitary sewer collection system and all properties required to connect to the city sanitary sewer system pursuant to section 2-1-37 of this chapter, whether or not said property is connected to a sewer main. A monthly user charge shall be assessed to all users by the city in accordance with the provisions of this chapter.
- (B) The methodology used to determine user charges shall consider the sewage strength, suspended solids and flow volume. The basis for charges shall be a combination of a fixed monthly base charge allocated equally among all users and a volume charge related to metered water usage. The formula for calculating the volume charge shall use the average monthly water consumption for each individual user for either: 1) the winter months of October through March (billings of November through April), or 2) the annual consumption based on the months of April through March, whichever is less. Those consumers with no water consumption during the months listed shall, for the purposes of calculating a volume charge, be assigned a water volume amount equal to the average for their classification. The fixed base charge and volume charge shall be as follows:

(Please see next page)

	EFFECTIVE DATE			
	Through June 30, 2008	July 1, 2008 through December 31, 2008	January 1, 2009 through December 31, 2009	Beginning January 1, 2010
<b>WASTEWATER RATE</b>				
<b><u>Residential</u></b>				
Base Charge	\$7.00	\$9.50	\$10.45	\$12.54
Volume Charge Per 1,000 Gallons	\$1.73	\$2.05	\$2.26	\$2.71
<b><u>Non-Residential</u></b>				
Base Charge	\$7.00	\$11.50	\$12.65	\$15.18
<b><u>Volume Charge Per 1,000 Gallons</u></b>				
Uniform Non-Residential <sup>1</sup>	na	\$2.95	\$3.25	\$3.89
Bar w/o Dining Facilities	\$1.89	\$2.95	\$3.25	\$3.89
Car Wash	\$1.12	\$2.95	\$3.25	\$3.89
Dept/Retail Stores	\$1.58	\$2.95	\$3.25	\$3.89
Hospital/Convalescent	\$1.77	\$2.95	\$3.25	\$3.89
Hotel w/ Dining Facilities	\$4.18	\$4.18	\$4.18	\$4.18
Hotel w/o Dining Facilities	\$2.04	\$2.95	\$3.25	\$3.89
Laundry, Industrial	\$5.01	\$5.01	\$5.01	\$5.01
Laundromat	\$1.45	\$2.95	\$3.25	\$3.89
Laundry, Commercial	\$2.90	\$2.95	\$3.25	\$3.89
Markets w/ Garbage Disposal	\$5.84	\$5.84	\$5.84	\$5.84
Mortuaries	\$5.84	\$5.84	\$5.84	\$5.84
Professional Offices	\$1.29	\$2.95	\$3.25	\$3.89
Repair Shops/Service Stations	\$2.07	\$2.95	\$3.25	\$3.89
Restaurants	\$6.28	\$6.28	\$6.28	\$6.28
Schools and Colleges	\$1.35	\$2.95	\$3.25	\$3.89
Septage Haulers	\$100.00	\$100.00	\$100.00	\$100.00
Grease Disposal	\$270.00	\$270.00	\$270.00	\$270.00

<sup>1</sup> The Uniform Non-Residential rate applies to all non-residential uses not otherwise specifically listed in the table, including the former categories of Wholesale Bakeries, Auto Steam Cleaners and Soft Water Service.

(C) Industrial Users: All industrial users will be required to comply with the federal industrial costs recovery requirements, which are hereby incorporated by reference as if fully set forth herein.

- (D) **Recreational Vehicles:** Recreational vehicles are exempt from the above fees; provided, however, their use of the city's septage receiving facility is restricted to the hours when the wastewater treatment plant personnel are on duty.
- (E) All septage must be unloaded at the septage receiving facility located at the main wastewater treatment plant on Sundog Ranch Road, and in conformance with all requirements and procedures established by the city, including pretreatment.
- (F) **Financial Management System:** The city will establish and maintain an adequate financial management system which will accurately account for operation and maintenance plus replacement (O&M+R) revenues and expenditures.

The accounting system will segregate O&M+R revenues and expenditures from other wastewater revenues and expenditures to assure adequate revenues to properly operate and maintain the treatment works. The sewer utility fund will have two (2) accounts, one for O&M and one for replacement costs. The user charge rates will be revised as needed to generate sufficient revenue to pay the total O&M+R.

- (G) **Notification Of Users:** Each user shall be notified, at least annually, in conjunction with a regular bill, of the rate and that portion of the user charges which are attributable to wastewater treatment services.
- (H) **Inconsistent Agreements:** The user charge system shall take precedence over any terms or conditions of agreements or contracts between the grantee and users (including industrial users, special districts, other municipalities, or federal agencies or installations) which are inconsistent with the requirements of section 204(b)(1)(A) of the federal clean water act.
- (I) **Wastewater Treatment Byproducts:** Revenue from the sale of treatment related byproducts shall be used to offset the costs of operation and maintenance. User charges shall be proportionally reduced for all users. Annual revenues from contracts for sale of byproducts will be credited to the treatment works operation and maintenance costs no later than the fiscal year immediately following their receipt.
- (J) **Right Of Review:** All users shall have the right to request that their rate and estimated contributions be reviewed. If a user can demonstrate to the finance director that a significant portion of the water as measured by the water meter does not and cannot enter the sewer system, their rate shall be adjusted accordingly. In considering the request, the finance director may make an equitable rate adjustment which may more accurately reflect

the amount of metered water being returned to the sewer system. The decision of the finance director pursuant to the user's request under this section shall be final.

(K) Additional Charges: Additional charges shall be billed, as required, for the following:

1. Actual costs incurred for user requested samplings and analyses.
2. Actual costs incurred for water meter inspection requested by the user or as required because of damage.
3. Actual costs incurred for special handling not provided for elsewhere in this chapter.
4. Actual costs incurred for handling a user's check returned because of insufficient funds.
5. Actual costs of capital outlay and debt service.

(L) Irrigation Meters: Water service meters for irrigation use shall only be permitted as set forth in Section 2-1-12(J) of this Code. The City shall maintain approved irrigation meters and shall charge all maintenance costs, in addition to usage charges, to the user; provided, however, that sewer fees shall not be charged for the water supplied through such irrigation meters.

(Ord. 4650-0852, 5/27/2008, eff. 6/28/2008)

**2-1-22: UTILITIES DIVISION; SEWER BUY IN FEES:**

There shall be a mandatory charge for connections being served by any of the city's wastewater treatment plant systems that are owned, operated and maintained by the city. This charge shall be the equivalent of the customer's share of the costs to the city for the wastewater treatment plant systems, lift stations, and certain interceptor lines.

(A) Residential: The charge shall be fifty-six dollars (\$56.00) per fixture unit for a residential connection to the sewer system. Single-family residences, mobile homes, condominiums, apartments, and hotel/motels shall be classified as residential.

1. Number: The following shall be the number of fixture units per plumbing fixture:

Fixture Residential Use	Number of Fixture Units—
Bar Sink	1
Bathtub (with or without shower)	2
Floor drains	2
Laundry tub or clothes washer (each pair of faucets)	2
Lavatory	1
Shower (each head)	2
Sink or dishwasher	2
Water Closet	3

2. Permit Fee: A fee of five dollars (\$5.00) per residential permit shall be charged in addition to the fees charged in subsection (A)1 of this section.

(B) Commercial: The charge shall be fifty-six dollars (\$56.00) per fixture unit for a commercial connection to the sewer system. "Commercial connection" is hereby defined as any connection other than residential. (Ord. 3288, eff. 2-20-1995; amd. Ord. 4317, 5-27-2003, eff. 7-1-2003).

1. Commercial Number: the following shall be the number of fixture units per plumbing fixture:

Fixture Commercial Use	Number of Fixture Units—
Bar Sink	2
Bathtub (with or without shower)	4
Dental unit or cuspidor	1
Drinking fountain (each head)	1
Laundry tub or clothes washer (each pair of faucets)	4
Lavatory	2
Lavatory (dental)	1
Shower (each head)	4
Sink (flushing rim, clinic)	10
Sink (washup, circular spray)	4
Sink (washup, each set of faucets)	2
Sink or dishwasher	4
Urinal (flush tank)	3
Urinal (pedestal or similar type)	10
Urinal (stall)	5
Urinal (wall)	5
Water closet (flush tank)	5
Water closet (flushometer valve)	10
2 inch floor drains	4

3 inch floor drains	4
4 inch floor drains	4
All other traps of fixtures based upon trap size	

2. Permit fee: A fee of five dollars (\$5.00) per commercial permit shall be charged in addition to the fees charged in subsection (B)1 of this section.

- (C) Addition or Remodeling: Fees for connection made to the sewer system under any of the above classifications contained in subsection (A) or (B) of this section where connection is for the purpose of addition or remodeling, shall be in accordance with the sewer buy in fees stated in subsection (A) or (B) of this section, except that charges shall be made only for the number of fixture units in the addition or remodeling construction.
- (D) Charges Due and Payable: Charges and/or fees imposed under this section shall be due and payable when construction permits for units are issued (Ord. 2164, 4-10-1990; amd. Ord. 4317, 5-27-2003, eff. 7-1-2003).
- (E) Connection to City Main Line Sewer: For each sewer tap connection to a city main line sewer, there shall be a connection charge in the amount of two hundred dollars (\$200.00) to cover the labor and material costs incurred by the city for making the actual main line sewer tap connection. (Ord. 4174, 11-27-2001, eff. 3-1-2002; amd. Ord. 4317, 5-27-2003, eff. 7-1-2003).
- (F) Change of Use: In the event of a change of use of a structure from residential to commercial purposes, there shall be paid to the city additional connection fees required in subsection (B) of this section, with a credit to be given for any connection fees which would have been assessed for that structure pursuant to subsection (A) of this section.
- (G) Fees Nontransferable: All fees paid pursuant to this section shall apply to the real property upon which the structure containing the fixture units is located. Connection fees are not transferable between properties. Structures moved from one location to another location must pay new connection fees for the new location, with a credit to be given for any connection fees previously paid for that location.
- (H) Connection Fees Waived: The city manager is hereby authorized to waive the provisions of subsection (G) of this section regarding transfer of connection fees between properties in the event that the city manager determines that compliance with subsection (G) of this

section would result in gross inequity in a particular situation. (Ord. 3670, eff. 11-27-1997; amd. Ord. 4317, 5-27-2003, eff. 7-1-2003).

(Ord. 3670, eff. 11-27-1997; amd. Ord. 4317, 5-27-2003, eff. 7-1-2003; deleted Ord. 4665, 10-28-2008, eff. 7-11-2009; Ord. 4665 suspended by Ord. 4721-1018, eff. 03-23-2010)

### **2-1-23: UTILITIES DIVISION; PAYMENT OF SEWER FEES:**

All fees and assessments are due and payable on the date billed. Late charges of one and one-half percent (1.5%) per month of the unpaid balance due will be imposed on bills not paid within thirty (30) days after the billing date. (Ord. 2363, 4-14-1992; amd. Ord. 4317, 5-27-2003, eff. 7-1-2003)

### **2-1-24: UTILITIES DIVISION; WATER METERS:**

All water furnished or sold by the city shall be delivered or supplied through meter only, and every separate building supplied with the city water must have its own separate service connection and meter, except that two (2) or more buildings located on the same lot or on contiguous lots under the same ownership, or property known as a court, apartment house or block covering more than one lot, may, upon written permission granted by the city manager, be supplied through the same connection and meter as long as the single ownership continues. Upon change from such single ownership, a new and separate connection shall be immediately made for the building or premises for the indirect connection. No person having a water service connection shall otherwise furnish or deliver water to any other water user, whether gratuitously or for a charge.

All meter settings shall be furnished, owned and maintained by the city unless otherwise provided in these regulations or by agreement. (Ord. 1166, 9-20-1976; amd. Ord. 4317, 5-27-2003, eff. 7-1-2003)

Meters and meter settings must be accessible at all times and not covered with rubbish or material of any kind. No one other than an authorized agent of the city shall be permitted to repair, adjust, remove or replace any meter or any part thereof. In the event a meter is determined not to be accessible, notice will be given to the customer of record. If the meter is not accessible within ten (10) days of notice, a twenty five dollar (\$25.00) penalty will be assessed for each thirty (30) day period the violation remains in effect. In general, all meters must be located in an accessible location and at a slope to prevent drainage from coming into their setting. (Ord. 1552, 9-28-1981; amd. Ord. 4317, 5-27-2003, eff. 7-1-2003)

The consumer shall be responsible for damage to meters and/or meter settings where such damage is caused by a change in grade of the lot or by carelessness or negligence of the consumer or his agent, employee or any member of his

family. Such consumer will be billed for the actual cost of repair or replacement and amount is payable within ten (10) days of mailing thereof.

Temporary hydrant water meters for construction purposes and other temporary purposes may be issued by the public services department pursuant to any rules or regulations which may be adopted by the public services director, upon making proper application and tendering a deposit in an amount of one thousand dollars (\$1,000.00). (Ord. 3099, eff. 7-22-1993; amd. Ord. 4317, 5-27-2003, eff. 7-1-2003)

#### **2-1-25: UTILITIES DIVISION; WATER METER TESTS:**

Should any consumer doubt the correctness of his/her water meter or water bill, the consumer may have his/her meter retested and/or reread by making written application to the city and paying a fee of thirty five dollars (\$35.00).

If during a meter test an error is found exceeding four percent (4%), allowance shall be made covering a period not to exceed the prior billing and the current consumption to date of removal of the meter. Should an error be found exceeding four percent (4%), all of the expenses incurred in the meter removal and replacement shall be borne by the city, and the thirty five dollar (\$35.00) deposit refunded to the consumer. If the error of the meter does not exceed four percent (4%) in either direction, the deposit shall be retained by the city, and the consumer shall bear all of the expenses incurred in the meter removal and replacement, provided however that in no event shall the charge for said removal and replacement be less than one hundred dollars (\$100.00). The amount of such bill shall be paid by the consumer within ten (10) days from the date of billing or be subject to discontinuance of service. (Ord. 4174, 11-27-2001, eff. 3-1-2002; amd. Ord. 4317, 5-27-2003, eff. 7-1-2003)

#### **2-1-26: UTILITIES DIVISION; RELOCATION OF WATER METERS:**

All meters which, as of the effective date of these rules and regulations, are located inside of buildings or in meter settings which the city deems to be unsatisfactory may be moved to more suitable locations at the discretion of, and at the expense of the city.

The city may discontinue water service to any consumer who refuses permission to remove a meter in accordance with this regulation.

If any meter is relocated on application of, and to suit the convenience of the consumer, or where relocation of meter is required because of change in grade of a lot, such relocation and setting shall be made by the city at the expense of the consumer. A bill rendered to the consumer for the expense thereof shall be paid within ten (10) days from the date of its mailing or service shall be discontinued. (Ord. 1166, 9-20-1976; amd. Ord. 4317, 5-27-2003, eff. 7-1-2003)

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**2-1-27: UTILITIES DIVISION; WATER CONSUMERS NOT TO SUPPLY WATER TO OTHERS:**

Consumers (other than a private line system) shall not supply water or allow water to be carried or run through a hose or pipe to any premises other than that described in the application, agreement or contract without first having received written permission from the city. (Ord. 1166, 9-20-1976; amd. Ord. 4317, 5-27-2003, eff. 7-1-2003)

**2-1-28: UTILITIES DIVISION; DISCONTINUANCE OF WATER SERVICE FOR NONPAYMENT:**

- (A) If service has been discontinued for nonpayment of bills, or for violation of the rules of the city, service to such consumer will not be resumed by the city until the unpaid bill, including penalties, has been paid in full and/or the violation of any of the city's rules and regulations has ceased or been eliminated.

In the event the water service discontinued be that of a private line (either "existing" or "future" as such lines are designated in these rules), service to such private line will not be resumed until the full amount of such unpaid bill, including penalties, has been paid. (Ord. 1166, 9-20-1976; amd. Ord. 4317, 5-27-2003, eff. 7-1-2003)

(B)

1. In leased or rental residential properties where multiple apartments, units or dwellings are serviced by a single water meter, for water provided by the city, including apartment consumers and trailer and mobile home park consumers, the service contract with the city water department shall be in the name of the owner or lessor thereof. The owner or lessor shall be the consumer or customer of the city water department and the party responsible for payment for water service.
2. Based upon then current city records, prior to discontinuing water service to properties defined in subsection (B)1 of this section, for nonpayment of the water bill, the city shall cause at least one notice of intent to discontinue service to be posted on each individual residential rental apartment, unit or dwelling at least thirty (30) days prior to actual discontinuance of service. After diligent effort to gain entry, in the event that entry to the properties defined in subsection (B)1 of this section is denied, then notice by United States mail shall be sufficient. The notice period shall begin upon deposit in the United States mail addressed to the last known tenant address. An affidavit by a city employee with knowledge shall be prima facie and

conclusive proof of compliance with the notice requirements set forth herein. The notice shall also inform the tenant or lessee of the amount of the outstanding bill and that they may pay the outstanding bill directly to the city and deduct the amount paid from their next rental or lease payment. A copy of said notice shall also be provided the owner of lessor thirty (30) days before water service is discontinued. Mailing the notice to the last known address of the owner-lessor shall be sufficient.

3. No water service which is the subject of this section shall be discontinued until the notice provisions of subsection (B)2 of this section shall have been complied with. (Ord. 2126, 10-24-1989; amd. Ord. 4317, 5-27-2003, eff. 7-1-2003)

### **2-1-29: UTILITIES DIVISION; WATER TURN ON:**

Water shall not be turned into any water line and fire hydrants shall not be turned on for any purpose by anyone except an authorized employee of the city. Unauthorized turn ons and turn offs will be subject to punitive action by the city. In addition to such punitive action, a consumer whose water was turned on or off by unauthorized personnel shall be subject to a fifty dollar (\$50.00) surcharge, which amount shall be added to their billing for water service.

Whenever water service has been discontinued for nonpayment of any bill rendered, or because of violation of any rules or regulations of the city, a fee of fifty dollars (\$50.00) shall be assessed to cover the cost of turning the water on again. Said fee shall be paid prior to turning on the water.

In the event the consumer requests that the water be turned on at any time other than during the city's scheduled working hours, the consumer shall be charged an additional fifty dollar (\$50.00) fee. Said fee shall be paid prior to turning on the water.

A fee of twenty five dollars (\$25.00) shall be charged for a turn on request for water which has been voluntarily discontinued by the consumer, and not for nonpayment of any bill rendered, or because of violation of any rules or regulations of the city. (Ord. 4174, 11-27-2001, eff. 3-1-2002; amd. Ord. 4317, 5-27-2003, eff. 7-1-2003)

### **2-1-30: UTILITIES DIVISION; WATER CROSS CONNECTIONS:**

In no event will cross connections between the city's water and other source of water be allowed. Violations will result in loss of service until the cross connection is corrected. (Ord. 1166, 9-20-1976; amd. Ord. 2363, 4-14-1992; Ord. 3193, eff. 5-26-1994; Ord. 4317, 5-27-2003, eff. 7-1-2003)

**2-1-31: UTILITIES DIVISION; SPECIAL SERVICE FOR WATER CUSTOMERS:**

Persons desiring small amounts of water for a short time or service which will require the special attention of an employee of the city will be required to make a deposit, the amount of which will be set by the finance director. For water used by such person a charge will be made at rates fixed by the finance director in keeping with the service rendered and the deposit made may be applied against this charge. Any difference between the deposit and charge shall be paid by the party owing the difference. (Ord. 1166, 9-20-1976; amd. Ord. 2363, 4-14-1992; Ord. 3193, eff. 5-26-1994; Ord. 4317, 5-27-2003, eff. 7-1-2003)

**2-1-32: UTILITIES DIVISION; WATER CUT OFF FOR REPAIRS:**

The city reserves the right to shut off the water in the mains at any time for the purpose of making repairs or extensions or for other necessary purposes. It will endeavor to give notice of such shutoff except in cases of accident or emergency. All owners and consumers having boilers on their premises are hereby cautioned against dangers arising from interrupted service. (Ord. 1166, 9-20-1976; amd. Ord. 2363, 4-14-1992; Ord. 3193, eff. 5-26-1994; Ord. 4317, 5-27-2003, eff. 7-1-2003)

**2-1-33: UTILITIES DIVISION; INTERRUPTIONS OF WATER SERVICE:**

All contracts for furnishing water shall be made subject to interruptions or inability to fulfill same from any and all causes whatsoever beyond the control of the city and the city will not be liable for damages for such failure to furnish water or to carry out its contracts to furnish water from any cause or causes beyond its control. (Ord. 1166, 9-20-1976; amd. Ord. 2363, 4-14-1992; Ord. 3193, eff. 5-26-1994; Ord. 4317, 5-27-2003, eff. 7-1-2003)

**2-1-34: UTILITIES DIVISION; TESTING FIRE HYDRANTS:**

The city reserves the right to use or test fire hydrants without liability for any damage claims resulting from water discoloration or chemical or other change that might be caused by such practice. (Ord. 1166, 9-20-1976; amd. Ord. 2363, 4-14-1992; Ord. 3193, eff. 5-26-1994; Ord. 4317, 5-27-2003, eff. 7-1-2003)

**2-1-35: UTILITIES DIVISION; FAILURE OF CONSUMER TO COMPLY WITH REGULATIONS:**

The city may refuse to furnish water or sewer services to the premises of any applicant who fails to meet all the applicable conditions and terms of the regulations or requirements set forth in this code relating to water or sewer service. (Ord. 4317, 5-27-2003, eff. 7-1-2003)

**2-1-36: UTILITIES DIVISION; TAMPERING WITH THE WATER SYSTEM:**

- (A) It shall be unlawful for any person to break, deface, tamper with or damage any hydrant, pipe or other water system appliance or fixture, or in any other manner interfere with the operation of any part of the water system of the city.
- (B) It shall be unlawful for any person to connect any pipe, tube or other instrument with any main or service pipe for conducting water belonging to the city, for the purpose of taking water from such main or service pipe without first obtaining a written permit from the environmental services department.
- (C) No unauthorized person shall uncover, make any connections with or open into, use, alter or disturb any mains, appurtenances or service connections, without first obtaining a written permit from the environmental services department. (Ord. 4201, 2-26-2002; amd. Ord. 4317, 5-27-2003, eff. 7-1-2003)

**2-1-37: UTILITIES DIVISION; SEWER COLLECTION SYSTEMS CONSTRUCTED:**

- (A) Construction Within The City:
  - 1. In the event the city/county health department shall determine that there exists on any property having access to a sanitary main belonging to the city a condition which is a menace to health arising from improper sewer disposal, said property owner shall connect his property to such sanitary sewer main within sixty (60) days after receiving written notification from the city/county health department to do so.
  - 2. If the city shall determine that any property owner refuses after notice to connect, or does not have the financial ability necessary to make connection to a sanitary sewer main belonging to the city as herein required, the city shall have the right to install such sewer mains and facilities as are necessary to provide adequate sewer services to the affected property and to make labor and material charges therefor in an amount equal to the going or customary rate or price for such labor and materials within the city at the time of such work, and the city shall have the further right to file a lien against the affected property for the amount of the foregoing charges in the manner and form provided by the statutes of the state of Arizona.

1. The owner of any property, having access to a sanitary sewer main belonging to the city but not included within any sewer improvement district, who may request to connect to such sanitary sewer main or who may have been ordered to make such connection pursuant to subsection (A)2 of this section, shall pay as a connection charge an amount equal to that charge the owner of property of equal or equivalent size within the sewer improvement district closest to the location of the affected property and such connection shall be and become a lien against the affected property until fully paid. (Ord. 1166, 9-20-1976; amd. Ord. 1320, 3-26-1979; Ord. 4317, 5-27-2003, eff. 7-1-2003)
2. The term "access" as used in this subsection shall be defined as meaning any possible method or means of obtaining a service line connection to a sanitary sewer main belonging to the city. For the purpose of this subsection, the term "access" shall include any mechanical or artificial method of improving the subject property to the extent that a sanitary sewer main may be physically utilized by the owner. (Ord. 1320, 3-26-1979; amd. Ord. 4317, 5-27-2003, eff. 7-1-2003)

(B) Construction Outside Of City:

1. Complete sanitary sewer collection systems which have been constructed and installed as part of subdivision or land development projects in accordance with plans and specifications previously approved by the city utilities engineer and under his supervision and inspection, by private contract at the sole cost and expense of other than the city, on land situated outside the city limits, may be served by, and become a part of, the city sanitary sewer collection system, upon approval of the mayor and city council and satisfaction of all liens and encumbrances and payment to the city of costs incurred by the city in connecting said system to the city sanitary system. (Ord. 4504, 10-25-2005)
2. Premises situated within a subdivision or land development project within which a complete sanitary sewer system has been constructed and installed, as provided in subsection (B)1 of this section and which are situated outside the city limits, may be served by the city sanitary sewer collection system, subject to the rates provided in this chapter as they may be amended by the council, in its discretion. (Ord. 1166, 9-20-1976; amd. Ord. 4317, 5-27-2003, eff. 7-1-2003)
3. Before any permit for sewer service may be issued as provided in subsection (B)2 of this section, the owner of property to be served

shall deliver, in duplicate, an executed sewer service agreement complying in all respects to all the provisions of this chapter. It shall be the duty of the director of the environmental services department to examine the agreement submitted and if the director determines that said agreement conforms in all respects with the provisions of this chapter, he may approve the same and accept said service agreement for and on behalf of the city and issue permits as herein provided. Upon approval and acceptance of said agreement, the director of the environmental services department shall cause the original thereof to be recorded in the office of the county recorder of Yavapai County, Arizona, the recording fee thereof to be paid by said owner of the property to be served. (Ord. 1166, 9-20-1976; amd. Ord. 1432, 4-10-1980; Ord. 3473, eff. retroactive to 2-1-1996; Ord. 4317, 5-27-2003, eff. 7-1-2003)

- (C) Sewer Design And Construction: Prior to the construction or extension of sewer facilities, a civil engineer registered in Arizona must perform the necessary field engineering and prepare detailed plans and specifications for the sewer extension or construction. The final detailed plans and specifications for the sewer extension or construction must be approved by the Arizona department of environmental quality (ADEQ) and by the city before construction begins. The design and engineering will be in accordance with the specifications of ADEQ and the city prior to construction. The construction shall meet the city's specifications, requirements and approval, and will be subject to inspection by the city's agent during construction. (Ord. 3651, eff. 8-21-1997; amd. Ord. 4317, 5-27-2003, eff. 7-1-2003)
- (D) Plans And Specifications: All construction under this chapter shall conform to the specifications of the city entitled "Uniform Standard Specifications For Public Works Construction Sponsored And Distributed By The Maricopa Association Of Governments" (most recent edition), with all supplements thereto, and all construction shall also conform to that certain document entitled "City Of Prescott Department Of Public Services Standard Specifications And Drawings" (the most recent edition), together with all supplements thereto, together with all applicable federal, state, county and city laws, rules and regulations. (Ord. 2279, 6-25-1991; amd. Ord. 4317, 5-27-2003, eff. 7-1-2003)
- (E) Deposits Into Sewer System: All wastes and inflow deposited into the city sanitary sewer system, as well as any effluent and byproducts produced as a result thereof, are the property of the city. (Ord. 3824, 12-15-1998; amd. Ord. 4317, 5-27-2003, eff. 7-1-2003)

**2-1-38: UTILITIES DIVISION; PROHIBITED SUBSTANCES IN THE SEWER SYSTEM; GENERALLY:**

No person shall discharge or cause to be discharged any storm water, surface water, ground water, roof runoff, subsurface drainage, cooling water or unpolluted industrial process water to any sanitary sewer. Storm water and all other unpolluted drainage shall be discharged to such sewers or drains as are specifically designated as such, or to a natural outlet approved by the city. (Ord. 1360, 8-27-1979; amd. Ord. 4317, 5-27-2003, eff. 7-1-2003)

**2-1-39: UTILITIES DIVISION; PROHIBITED SUBSTANCES IN THE SEWER SYSTEM; ENUMERATED:**

Except as provided in this section, no person shall discharge or cause to be discharged any of the following described water or wastes to any public sewer:

- (A) Any liquid or vapor which causes the temperature entering the POTW to exceed one hundred four degrees Fahrenheit (104°F), forty degrees centigrade (40°C).
- (B) Any water or waste which may contain more than fifty (50) parts per million by weight of fat, oil or grease.
- (C) Any gasoline, benzene, naphtha, fuel oil or other flammable or explosive liquids, solids or gases which, by reason of their nature or quantity could be sufficient, either alone or by interaction with other substances, to cause injury to the POTW from fire or explosion.
- (D) Any garbage that has not been properly shredded.
- (E) Any ashes, cinders, sand, mud, straw, shavings, metal, glass, rags, feathers, tar, plastics, wood, paunch, manure, grit, such as brick, cement, onyx, carbide or any other solid or viscous substance capable of obstruction of the flow of the sewers or other interference with the proper operation of the sewerage works.
- (F) Any water or waste having a pH lower than five and one-half (5 1/2) or higher than nine (9) or having any other corrosive property capable of causing damage or hazard to structures, equipment or personnel to the sewerage works.
- (G) Any water or waste containing a toxic, poisonous or radioactive substance in sufficient quantities to injure or interfere with sewage treatment process, constitute a hazard to humans or animals or create any hazard in the receiving waters of the sewage treatment plant.

- (H) Any waters or wastes containing suspended solids of such character or quantity that unusual attention or expense is required to handle such materials at the sewage treatment plant unless specifically authorized. Compensation will be determined by the city to be paid by the user who contributes any such authorized substance.
- (I) Any noxious or malodorous gas or substance capable of creating a public nuisance.
- (J) Any water containing a five (5) day biological oxygen demand greater than three hundred (300) parts per million by weight.
- (K) Any water containing more than three hundred fifty (350) parts per million by weight of suspended solids.
- (L) Any water having an average daily flow of greater than two and one-half percent (2.5%) of the average daily flow of the city. (Ord. 1615, 2-28-1983; amd. Ord. 4317, 5-27-2003, eff. 7-1-2003)

**2-1-40: UTILITIES DIVISION; INTERCEPTORS REQUIRED:**

Grease, oil and sand interceptors shall be provided when, in the opinion of the building inspector, they are necessary for the proper handling of liquid waste containing grease in excessive amounts or any flammable waste, sand or other harmful ingredients except that such interceptors shall not be required for private living quarters or dwelling units. Grease traps shall be required at all public premises where food is served, such as restaurants, cafeterias, and boarding houses. (Ord. 687, 11-9-1964; amd. Ord. 4317, 5-27-2003, eff. 7-1-2003)

**2-1-41: UTILITIES DIVISION; INTERCEPTORS; TYPE, CAPACITY AND LOCATION:**

All interceptors shall be of a type and capacity approved by the building inspector, and shall be located as to be readily and easily accessible for cleaning and inspection. (Ord. 687, 11-9-1964; amd. Ord. 4317, 5-27-2003, eff. 7-1-2003)

**2-1-42: UTILITIES DIVISION; INTERCEPTORS, CONSTRUCTION OF GREASE AND OIL INTERCEPTORS:**

Grease and oil interceptors shall be constructed of impervious materials capable of withstanding abrupt and extreme changes in temperature. They shall be of a substantial construction, watertight, and equipped with easily removable covers which, when bolted in place, shall be gastight and watertight. (Ord. 687, 11-9-1964; amd. Ord. 4317, 5-27-2003, eff. 7-1-2003)

**2-1-43: UTILITIES DIVISION; INTERCEPTORS; MAINTENANCE:**

Where installed, all grease, oil and sand interceptors shall be maintained by the owner, at his expense, in continuous, efficient operation at all times. (Ord. 1360, 8-27-1979; amd. Ord. 4317, 5-27-2003, eff. 7-1-2003)

**2-1-44: UTILITIES DIVISION; AUTHORITY OF CITY ENGINEER:**

- (A) The city engineer shall have the authority to regulate significant industrial users with respect to the volume and flow rate of discharge to the POTW and to establish permissible limits of concentration for various specific substances, materials, waters or wastes that are prohibited from entering the POTW. (Ord. 687, 11-9-1964; amd. Ord. 4317, 5-27-2003, eff. 7-1-2003)
  
- (B) In addition to the prohibitions enumerated under section 2-1-39 of this chapter, table A of this section lists the maximum allowable values for certain materials in, or characteristics of, wastewater entering the POTW. The city reserves the right to establish standards for substances not contained in this list. In setting additional standards, the city will generally follow the standards of the Arizona department of health services and/or the U.S. environmental protection agency. The following limitations are intended to apply to all individual users. If state or federal regulations require a specific pretreatment concentration for a specific industry, whichever is the more stringent concentration level between such regulations shall apply. (Ord. 4317, 5-27-2003, eff. 7-1-2003)

TABLE A

<u>Material Or Characteristic</u>	<u>Maximum Allowable Value</u>
Arsenic	0.1 mg/l
Cadmium	1.2 mg/l
Copper	2.7 mg/l
Cyanide	1.0 mg/l
Lead	0.4 mg/l
Mercury	0.001 mg/l
Nickel	2.6 mg/l
Silver	0.7 mg/l
Total chromium	4.0 mg/l
Zinc	2.6 mg/l
Total identifiable chlorinated hydrocarbons	3.5 mg/l

Phenolic compounds	3.5 mg/l
Total metals	0.5 mg/l

(Ord. 687, 11-9-1964; amd. Ord. 4317, 5-27-2003, eff. 7-1-2003)

**2-1-45: UTILITIES DIVISION; PRELIMINARY TREATMENT; REQUIRED APPROVAL:**

Where necessary in the opinion of the city engineer, the owner shall provide, at his expense, such preliminary treatment as may be necessary to: (Ord. 1615, 2-28-1983; amd. Ord. 4317, 5-27-2003, eff. 7-1-2003)

- (A) Reduce objectionable characteristics or constituents to within maximum limits provided for in sections 2-1-39 and 2-1-44 of this chapter. (Ord. 4317, 5-27-2003, eff. 7-1-2003)
- (B) Control the quantities and the rate of discharge of such waters, or wastes. Plans, specifications and any other pertinent information relating to proposed preliminary treatment facilities shall be submitted for the approval of the city manager and the city engineer as well as the engineering division of the state and county boards of health. No such construction of such facilities shall be commenced until such approvals are obtained in writing.

Federal pretreatment regulations shall be enforced as applicable. No discharge may exceed any federal categorical standard or cause the POTW to exceed its NPDES permit. The city may request approval to modify a federal categorized standard, according to 40 CFR 403. (Ord. 1615, 2-28-1983; amd. Ord. 4317, 5-27-2003, eff. 7-1-2003)

**2-1-46: UTILITIES DIVISION; PRELIMINARY TREATMENT; MAINTENANCE OF FACILITIES:**

Where preliminary treatment facilities are provided for any water or wastes, they shall be maintained continuously in satisfactory and effective operation by the owner at his own expense. (Ord. 687, 11-9-1964; amd. Ord. 4317, 5-27-2003, eff. 7-1-2003)

**2-1-47: UTILITIES DIVISION; MANHOLES:**

When required by the city, the owner of any property served by a building sewer carrying industrial waste shall install a suitable control manhole in the building sewer to facilitate observation and sampling of the waste. Such manholes, when required, shall be accessible and safely located and shall be constructed in accordance with the plans approved by the city engineer. The manholes shall be installed by the owner at his expense and shall be maintained by him, so as to be

safe and accessible at all times. (Ord. 1360, 8-27-1979; amd. Ord. 4317, 5-27-2003, eff. 7-1-2003)

**2-1-48: UTILITIES DIVISION; TESTS AND ANALYSES; SANITARY SEWER SYSTEM:**

- (A) All significant industrial users shall provide, at their own expense, sampling and analyses at least twice each year, in June and December, according to 40 CFR 403.12. If any sample that is taken by the significant industrial user or the city is not within the limits of this chapter or the federal categorical standards, then the user will be required to perform the sampling and analyses as often as is determined by the city to be necessary.
- (B) The flow must be measured by the industrial user at the time that the sample is taken according to 40 CFR 403.12(d). The methods of sampling and analyses must be in accordance with the latest edition of standard methods and/or the applicable EPA categorical standards. The laboratory must be EPA approved. An authorized representative of the industrial user must sign a statement verifying the validity of the methods and stating that the sample is representative of the discharge according to 40 CFR 403.12(k).
- (C) All records of sampling, analysis and flows must be kept by the industrial user for at least three (3) years. Information and data obtained from reports, questionnaires, permit applications, permits and monitoring programs and from inspections shall be available to the public or other governmental agencies without restriction unless the user specifically requests and is able to demonstrate to the satisfaction of the city that the release of such information would divulge information, processes or methods of production entitled to protection as trade secrets of the user, except that the city cannot restrict information on effluent data. Information accepted by the city as confidential shall not be transmitted to any governmental agency or to the general public by the city unless a ten (10) day notification is given to the user.
- (D) The city will maintain records of monitoring, inspections and correspondence relating to this chapter for a minimum of three (3) years. These records will be available to the EPA.
- (E) The city will maintain records of monitoring that are necessary to enforce this chapter. The city will sample randomly and analyze for any pollutants that would be anticipated for that particular user whose effluent was sampled. In accordance with 40 CFR 403.8(f), the city will maintain adequate funding and personnel to operate a pretreatment program as prescribed in this chapter. The city may designate an independent

laboratory to do the sampling and testing, and this laboratory will be allowed to enter the premises of any industrial user to sample any discharge which may enter the wastewater collection system.

- (F) The user will be financially responsible for any sampling and analysis done by the city that is not routine as provided for in this chapter. (Ord. 687, 11-9-1964; amd. Ord. 4317, 5-27-2003, eff. 7-1-2003)

**2-1-49: UTILITIES DIVISION; SPECIAL AGREEMENT WITH INDUSTRIAL CONCERNS; SANITARY SEWER SYSTEM:**

No statement contained in this division shall be construed to prevent any special arrangement between the city and any industrial concern whereby an industrial waste of unusual strength or character may be accepted by the city for treatment, subject to payment thereof by the industrial concern, except that any special agreement must be at least as stringent as applicable state and federal requirements. (Ord. 687, 11-9-1964; amd. Ord. 4317, 5-27-2003, eff. 7-1-2003)

**2-1-50: UTILITIES DIVISION; PROCEDURES FOR ENFORCEMENT:**

- (A) A compliance schedule, as required by 40 CFR 403.12(b)7, will be established for significant industrial users that do not meet applicable standards. The dates of the compliance schedule will be determined by the city.
- (B) Procedures for enforcement of hazardous discharge violations will be administered as follows:
  - 1. The city will give written notice to the user regarding the violation and explain the enforcement action to be taken in the event of continued noncompliance.
  - 2. If the user does not immediately stop such discharge, the city may discontinue water and/or sewer service, and may undertake any legal proceedings as may be necessary to halt, enjoin or punish the illegal discharge.
  - 3. The user will be responsible for any expenses to the city for handling or stopping an illegal discharge, for reasonable cost and attorney fees, and for any damage resulting from the discharge.
- (C) Procedures for other violations which do not involve hazardous materials or present an imminent danger to the POTW or the environment will be handled as follows:

1. Verbal and written notification will be given to the user regarding the nature and severity of the violation.
2. A compliance schedule for eliminating the violation will be established. The specific schedule will be determined by the nature and severity of the violation.
3. In the event of continued noncompliance, measures listed under subsection (B) of this section may be implemented. (Ord. 1615, 2-28-1983; amd. Ord. 4317, 5-27-2003, eff. 7-1-2003)

**2-1-51 UTILITIES DIVISION; PROHIBITED ACTS; SANITARY SEWER SYSTEM:**

- (A) It is unlawful for any person to deposit, or permit to be deposited, in any unsanitary manner upon public or private property within the city or in any area under the jurisdiction of the city any human or animal excrement or other objectional waste.
- (B) It shall be unlawful and designated a class 1 misdemeanor for any person to dump or deposit sewage or septic tank effluent upon public or private property within the city at a location not then under valid permit by the county of Yavapai for such purpose. (Ord. 2279, 6-25-1991; amd. Ord. 4317, 5-27-2003, eff. 7-1-2003)
- (C) No person shall maliciously, wilfully or negligently break, damage, destroy, uncover, deface, or tamper with any structure, appurtenances or equipment which is a part of the municipal sewage works. (Ord. 2037, 11-22-1988, eff. 1-1-1989; amd. Ord. 4317, 5-27-2003, eff. 7-1-2003)

**2-1-52: UTILITIES DIVISION; PERMIT REQUIRED:**

No unauthorized person shall uncover, make any connections with or opening into, use, alter, or disturb any public sewer or appurtenance thereof without first obtaining a written permit from the engineering division of the public services department. (Ord. 1360, 8-27-1979; amd. Ord. 1432, 3-10-1980; Ord. 1458, 7-14-1980; Ord. 4317, 5-27-2003, eff. 7-1-2003)

**2-1-53: UTILITIES DIVISION; INDUSTRIAL COST RECOVERY (ICR) SYSTEM:**

At such time as industrial wastes, as defined under section 35.905.8 of the construction grants regulations 40 CFR part 35, are discharged to the facilities constructed under EPA grant no. CO40143, the city shall develop and adopt an ICR system acceptable to the USEPA. The cost recovery system shall comply with the requirements of PL 92-500 and all regulations and guidelines pertaining thereto. (Ord. 1360, 8-27-1979; amd. Ord. 4317, 5-27-2003, eff. 7-1-2003)

**2-1-54: USE OF WATER FOR ARTIFICIAL LAKES:**

The use of treated, metered, potable water for the purpose of filling or refilling artificial lakes shall be regulated as set forth in title III, chapter 10 of this code, incorporated herein by this reference as if set forth in full. (Ord. 1884, 5-12-1987; amd. Ord. 4317, 5-27-2003, eff. 7-1-2003)

**2-1-55: CROSS CONNECTION CONTROL PROGRAM:**

- (A) Adoption Of Program: That certain code entitled "Cross Connection Control Program", as adopted by the Prescott city council pursuant to resolution 2471, and as the same may be amended from time to time, is hereby adopted and made a part of this chapter, the same as though said program were specifically set forth in full herein.
- (B) Civil Violation: A violation of any provision of the cross connection control program shall be a civil violation, and shall be subject to the provisions of section 1-3-2 of this code for each day that the violation continues. (Ord. 687, 11-9-1964; amd. Ord. 4317, 5-27-2003, eff. 7-1-2003)

**2-1-56: EXTENSION OR CONSTRUCTION OF EFFLUENT LINES:**

The city may extend or cause to be extended or permit to be extended or constructed effluent lines. Extensions or construction at the request of private parties will be made on application of one or more property owners to be benefited by said extension or construction and only after the applicant or applicants have made a deposit equal to the estimated cost of the extension or construction if it is not to be built through an improvement district. In those cases where an improvement district is to be formed, those procedures would be followed. The extensions and/or construction shall be at the expense of the initial applicant or applicants in accordance with the following criteria:

- (A) Payment: The applicant or applicants shall pay the total cost of said extension or construction. The applicant or applicants shall have the right to establish reimbursement districts for connection thereto to compensate them for portions of the cost of the extension or construction.

No applicant shall be entitled to the formation of a reimbursement district unless the design engineer for that project first certifies, in writing, to the environmental services director that the solicitation for bids for the construction for said project was publicly advertised, with proof of said advertisement, and that the contract was awarded to the lowest and most responsible bidder. Prior to awarding any bids on a project for which a reimbursement district is to be formed, the applicant shall provide the city with copies of all such bids for review by the environmental services

director or his designee, who shall approve the bid to be awarded prior to the start of construction. Additionally, the applicant shall require that payment and performance bonds be posted in accordance with Arizona Revised Statutes section 34-222.

- (B) Establishment Of Reimbursement District: In order for the applicant or applicants to establish a reimbursement district, written notice of intent to form a reimbursement district must be given to the environmental services director prior to the applicant receiving approval of the submitted plans. A written notice to the environmental services director shall be made within sixty (60) days after the completion and acceptance of said line extension or construction for which the reimbursement district is being requested, which notice shall include the costs associated therewith; the applicant shall enter into an agreement with the city setting forth the conditions of reimbursement within one calendar year after the completion and acceptance of said line extension or construction for which the reimbursement district is being established. The agreement shall also contain a plat map indicating thereon the applicant's or applicants' area of development, the location of the proposed or constructed extension from the development, to the point of connection with the existing city effluent line, and the map shall also indicate the area that will benefit from the extension or construction, which area shall constitute the total area outside of the applicant's or applicants' development, but shall be subject to reimbursement under the agreement.

The plat map shall be drawn at a scale of not less than two hundred feet (200') to the inch, and the plat shall be eight and one-half inches by fourteen inches (8 1/2" x 14") in size, or seventeen inches by twenty eight inches (17" x 28") in size. The plat map shall specifically identify the terminus of the existing effluent line, the exact location, route and distance of the line extension, the nonreimbursable area to be benefited by the extension and the reimbursable area to be benefited by the extension or construction and subject to the reimbursement district.

Contemporaneous with the application for a reimbursement district pursuant to the provisions of this section, the applicant for said district shall tender to the city environmental services department an application fee equal to 0.5 percent of the estimate project cost, provided, however, that the application fee shall be not less than five hundred dollars (\$500.00). Upon the completion of the project, and prior to acceptance by the city of the project and approval by the city of the formation of the reimbursement district, if the final construction cost results in the fee deposited pursuant to this section being less than 0.5 percent of the final construction cost, the applicant for said district shall pay additional monies to the environmental services department to equal 0.5 percent of the final construction cost of the project.

For a period of fifteen (15) years from the date upon which a new line has been put into service, each new applicant for service shall be required to pay a pro rata share in the initial cost of the line, which share shall be calculated by the environmental services director, subject to the approval of the city council. In determining the pro rata share attributable to each property within the reimbursement area, the city shall determine the respective benefit to be received by each area, together with the distance of the property from the line to be extended, the proposed or contemplated uses and density of the property, and such other factors as may be relevant in arriving at said pro rata share. The determination of the pro rata share for each property within the reimbursement district shall be determined at the time of formation of the district by the city council, which determination shall be considered final thirty (30) days after the recordation of the reimbursement district agreement.

Notwithstanding the foregoing, the environmental services director shall be empowered to equitably divide the obligation of a property within a reimbursement district upon the sale or partition of a portion of a property within a designated reimbursement district. In the foregoing event, the environmental services director will record an amended (and updated) reimbursement map with the Yavapai County recorder. The total initial cost shall be adjusted by the rate of inflation in the construction industry since the date of final acceptance of the extension by the city, to be calculated in accordance with the engineering news record construction cost index. The base index shall be the index reported in the engineering news record publication closest to the date of acceptance of the project. In no event shall the pro rata share be less than the pro rata share would have been at the time of construction. Each new applicant for a connection to the effluent line will be required to pay to the city of Prescott, for disbursement to the person, group, association, corporation or city that made the extension, for their pro rata share before they are permitted to connect to the extension. After fifteen (15) years from the date the new extension has been put into service, an applicant desiring to connect to the line may do so without having to pay for the service units as specified in this section. Subsequent extensions located outside of the established reimbursement district shall be treated as new extensions and shall not affect the calculating of service units of the original extension nor will such extensions be required to share in the cost of the original extension.

Notwithstanding any of the conditions herein before specified pertaining to the fifteen (15) year limit to collect from new applicants a pro rata share of the cost of new lines, the city is hereby exempt from said fifteen (15) year limitation and the city will collect from all new applicants their pro rata share for such service connections until the city's total initial installation cost is reimbursed.

The size and specifications of the material used in the main to be installed shall be designated by the city.

At the discretion of the city, the necessary engineering and construction of said effluent lines may be performed or contracted by the city. In either case, the total actual cost of installation shall be borne by the initial applicant or applicants and funds estimated to cover the cost of the installation shall be deposited with the city prior to construction unless improvement district procedures are being followed.

In the event the applicant is directed to construct or contract for construction of said line or lines, with person or persons other than the city, complete plans and specifications shall be submitted for approval by the city. After approving the plans, the city will furnish necessary inspection of the installation of said line or lines. Upon satisfactory completion and final inspection, the city will give written notice of acceptance, at which time said line or lines will become the property of the city subject to the rules and regulations set forth herein.

Should the extension or construction of effluent lines require easements or rights of ingress and egress, said agreements or easements shall be provided by the applicant for use by the city.

- (C) Effluent Line Design And Construction: Prior to an extension or construction of an effluent line, a civil engineer registered in Arizona must perform the necessary field engineering and prepare detailed plans and specifications for the line extension or construction. The final detailed plans and specifications for the effluent construction or extension must be approved by the Arizona department of environmental quality (ADEQ) and by the city before construction begins. The design and engineering will be in accordance with the specifications of ADEQ and the city prior to construction. The construction shall meet the city's specifications, requirements and approval, and will be subject to inspection by the city's agent during construction.
- (D) Plans And Specifications: All construction under this chapter shall conform to the specifications of the city entitled "Uniform Standard Specifications For Public Works Construction Sponsored And Distributed By The Maricopa Association Of Governments" (most recent edition), with all supplements thereto and all construction shall also conform to that certain document entitled "City Of Prescott Department Of Public Services Standard Specifications And Drawings" (the most recent edition), together with all applicable federal, state, county and city laws, rules and regulations.

- (E) Reimbursement: Notwithstanding anything to the contrary contained herein, reimbursement to an applicant from an approved reimbursement may also include partial reimbursement for any and all associated effluent facilities and systems constructed by the applicant, under the same terms, conditions and provisions as set forth in this section.
- (F) Construction; Upgrades: The provisions of this section shall also apply to the construction and/or upgrades of any and all facilities associated with the provision of effluent services. (Ord. 687, 11-9-1964; amd. Ord. 4317, 5-27-2003, eff. 7-1-2003)
- (G) Compliance: The city council may approve the formation of a reimbursement district pursuant to this section where there is substantial compliance with this section, where the intent of this section has been met, and where the failure to strictly follow the requirements of this section did not result in any additional costs to the project. (Ord. 4239, 7-23-2002; amd. Ord. 4317, 5-27-2003, eff. 7-1-2003)

#### **2-1-57: EFFLUENT LINES; CONNECTIONS:**

All connections to the city's effluent lines shall require the issuance of a permit by the environmental services division. Said permit will only be issued upon the approval by the city council and all applicable regulatory agencies of an agreement between the consumer/user and the city relating to the use of effluent, together with the payment of any and all fees and charges agreed upon in said contract. The failure of the consumer/user to comply with any and all provisions of its agreement with the city for use of city effluent shall entitle the city, at its sole option, to immediately discontinue said service.

All effluent line connections shall be approved by the city and the actual tap into the effluent line shall be accomplished by city personnel, unless otherwise approved in writing by the environmental services director. (Ord. 687, 11-9-1964; amd. Ord. 4317, 5-27-2003, eff. 7-1-2003)

The approval of any agreement to connect to the city's effluent lines, and the permission to utilize city effluent, shall be at the sole discretion of the city, taking into consideration the then current effluent management policy. (Ord. 3824, 12-15-1998; amd. Ord. 4317, 5-27-2003, eff. 7-1-2003)

#### **2-1-58: INSPECTIONS; ADMINISTRATIVE WARRANTS:**

- (A) The environmental services director or his designee is hereby authorized to carry out periodic inspections or reinspections of facilities, equipment, property, records, and such other and further locations and/or items as may be deemed desirable, to determine compliance with this chapter.

- (B) The environmental services director or his designee is hereby authorized to investigate the cause, origin and circumstances of water, sewer or solid waste contamination. (Ord. 3689, eff. 12-12-1997; amd. Ord. 4317, 5-27-2003, eff. 7-1-2003)

**2-1-59: NONPAYMENT OF FEES; PENALTY:**

- (A) All fees specified to be paid under this chapter shall be paid prior to the final inspection and/or issuance of a certificate of occupancy by the building division. Failure to pay the specified fees under this chapter shall result in discontinuance of water service.
- (B) The final inspection and/or issuance of a certificate of occupancy will not be made unless all fees specified by this chapter have been fully paid.
- (C) Occupancy of any building prior to the payment of any fees specified to be paid in this chapter shall be deemed a violation of this code, and the violator shall be subject to the penalty provisions of title I, chapter 3 of this code. (Ord. 4317, 5-27-2003, eff. 7-1-2003)

**2-1-60: ENFORCEMENT PROVISIONS:**

- (A) Any person, firm or corporation violating any provision of this chapter, except those provisions covered in section 2-1-59, "Nonpayment Of Fees; Penalty", of this chapter shall be deemed guilty of a misdemeanor, and upon conviction thereof shall be punished as provided in section 1-3-1 of this code. Each and every day any such violation continues shall be deemed and considered a separate offense. Any person, firm or corporation violating any provisions of this chapter shall become liable to the city for any expense, loss or damage occasioned by the city by reason of such violation.
- (B) The penalties set forth above shall be cumulative and nonexclusive. In addition to those penalties set forth herein, the city may institute any other remedies available, including, but not limited to, a civil action to recover any and all monies due the city. (Ord. 4317, 5-27-2003, eff. 7-1-2003)

## CHAPTER 2-2: FIRE DEPARTMENT

### SECTIONS:

- 2-2-1: DEPARTMENT CREATED:
- 2-2-2: APPOINTMENTS:
- 2-2-3: DUTIES OF THE CHIEF:
- 2-2-4: (Reserved):
- 2-2-5: EQUIPMENT:
- 2-2-6: GENERAL:
- 2-2-7: ENFORCEMENT:
- 2-2-8: CALLS BEYOND CORPORATE LIMITS:

#### **2-2-1: DEPARTMENT CREATED:**

A Department to be hereinafter known as the Prescott Fire Department, the purpose of which shall be the prevention of fire and the protection of life and property within the Limits of the City, is hereby created in accordance with the provisions of this Chapter.

The Department shall consist of a Fire Chief and assistant chief or chiefs and as many other officers and firemen as may be deemed necessary for the effective operation of the Department.

#### **2-2-2: APPOINTMENTS:**

- (A) The Chief shall be appointed by the Manager for an indefinite period of time. The Chief shall be technically qualified by training and experience and shall have the ability to command personnel and hold their respect and confidence. (amd.Ord. 3079, eff. 6-10-93)

The Chief shall be held accountable to the Manager and shall make written and verbal reports as he may require. All other department and company officers shall be accountable to the Chief only.

- (B) The assistant chief or chiefs and all other department and company officers shall be appointed by the Chief. Such officers shall be accountable to the Chief. (Ord. 2287, 8-13-91)

### **2-2-3: DUTIES OF THE CHIEF:**

- (A) The Chief shall formulate a set of rules and regulations to govern the Department, and shall be responsible to the Manager for the personnel, morale and general efficiency of the Department.
- (B) The Chief shall determine the number and kind of companies of which the Department is to be composed and shall determine the response of such companies to alarms.
- (C) The Chief shall, at least twice a month, conduct suitable drills or instruction in the operation and handling of equipment, first aid and rescue work, salvage, a study of buildings in the City, fire prevention, water supplies, and all other matters generally considered essential to good firemanship and safety of life and property from fire.
- (D) The Chief is hereby required to assist the proper authorities in suppressing the crime of arson by investigating or causing to be investigated the cause, origin and circumstances of all fires.
- (E) The Chief and Fire Prevention Inspectors are hereby empowered to enter any and all buildings and premises at any reasonable hour for the purpose of making inspections and to serve written notice upon the owner or occupant to abate, within a specified time, any and all fire and life hazards that may be found.
- (F) Any person so served with a notice to abate any fire hazard shall comply therewith and promptly notify the Chief.
- (G) The Chief shall see that complete records are kept of all fires, inspections, apparatus and minor equipment, personnel and other information about the work of the Department.
- (H) The Chief shall make a complete annual report to the Mayor and Council of the condition of the apparatus and equipment; the number of fires during the year, their cause, the number and type of all other runs made; and any changes in departmental staffing, summaries of activity in each of the divisions of the Department, together with comparative data for previous years and recommendations for improving the effectiveness of the department. (Ord. 2287, 8-13-91)

### **2-2-4: (Reserved):**

(Ord. 2287, 8-13-91)

**2-2-5: EQUIPMENT:**

- (A) The Department shall be equipped with such apparatus and other equipment as may be required from time to time to maintain its efficiency and properly protect life and property from fire.
- (B) Recommendations of apparatus and equipment needed shall be made by the Chief, and after approval by the Mayor and Council shall be purchased in such manner as may be designated by the Mayor and Council.
- (C) All equipment of the Department shall be safely and conventionally housed in such places as may be designated by the Mayor and Council. Such places shall be heated during the winter season.
- (D) No person shall handle any apparatus or equipment for any private purpose, nor shall any person willfully and without proper authority take away or conceal any article used in any way by the Department. (Ord. 2287, 8-13-91)
- (E) No person shall handle any apparatus or equipment belonging to the Department unless accompanied by, or having the special permission of, an officer or authorized member of the Department. (Ord. 2287, 8-13-91)
- (F) No apparatus shall be hired out or permitted to leave the City without the consent of the Chief. The officer in charge of the Department shall have power to assign equipment for response to calls or outside aid only when the absence of such equipment will not jeopardize protection in the City. (Ord. 2287, 8-13-91)

**2-2-6: GENERAL:**

- (A) Each member of the Department shall be issued a badge designating his rank.
- (B) All motor equipment and all personal cars of the Department members shall have right-of-way over all traffic when responding to an alarm.

**2-2-7: ENFORCEMENT:**

- (A) Any person violating the provisions of Section 2-2-3(F); Section 2-2-5(E) and (F); and Section 2-2-6(B) and (D) shall be guilty of a misdemeanor and shall be punished as provided in Section 1-3-1 of the Prescott City Code. (Ord. 437, 11-5-53; amd. Ord. 1834, 9-23-86)
- (B) It is hereby made the special duty of the Chief of Police and/or other peace officers who may be on duty and available for fire duty, to respond to all fire alarms and assist the Department in the protection of life and

property, in regulating traffic, maintaining order and in enforcing observance of all Sections of this Chapter. (Ord. 2287, 8-13-91)

**2-2-8: CALLS BEYOND CORPORATE LIMITS:**

The Fire Department of the City is hereby authorized to answer fire alarms and fires beyond the corporate limits, whenever the Fire Chief of said Fire Department, in his discretion, shall deem it necessary to protect lives and property, and only when the services of the responding units can be spared by the Prescott Fire Department with a margin of safety to protect the persons and property within the City of Prescott. Unless otherwise precluded or prohibited pursuant to a mutual aid agreement or intergovernmental agreement, the City shall be entitled to charge the property owner or other individual or entity requiring a response by the Fire Department for the reasonable value of services rendered for calls beyond the corporate limits of the City of Prescott. (Ord. 2287, 8-13-91)

## CHAPTER 2-3: POLICE DEPARTMENT

### SECTIONS:

- 2-3-1: DEPARTMENT CREATED:
- 2-3-2: DUTIES:
- 2-3-3: WITNESS FEE:
- 2-3-4: RULES AND REGULATIONS:
- 2-3-5: APPOINTMENTS:
- 2-3-6: REWARDS:
- 2-3-7: CALLS BEYOND CORPORATE LIMITS:
- 2-3-8: RESPONSIBILITIES OF THE CHIEF:
- 2-3-9: HEARING OFFICERS:

#### **2-3-1: DEPARTMENT CREATED:**

There is hereby created a Police Department which shall consist of the Chief of Police and such other personnel as may be provided by the Governing Body of the Municipality.

#### **2-3-2: DUTIES:**

It shall be the duty of the members of the Police Department to see to the enforcement of all of the laws of the Municipality and all statutes applicable therein; and to preserve order and prevent infractions of the law and arrest violators thereof.

#### **2-3-3: WITNESS FEE:**

Every member of the Police Department shall appear as witness whenever necessary in a prosecution for a violation of any law or of any State or Federal law. No such member shall retain any witness fee for service as witness in any action or suit to which the Municipality is a party; any fees paid for such services shall be turned over to the Chief of Police, who shall deposit the same with the Treasurer.

#### **2-3-4: RULES AND REGULATIONS:**

The Chief shall formulate a set of rules and regulations to govern the department, and shall be responsible to the City Manager for the department personnel, morale and general efficiency of the department. (amd. Ord. 3079, eff. 6-10-93)

### **2-3-5: APPOINTMENTS:**

(Ord. 3079, eff. 6-10-93)

- (A) The Chief shall be appointed by the City Manager for an indefinite period of time. The Chief shall be technically qualified by training and experience and shall have the ability to command personnel and hold their respect and confidence.
- (B) The Chief shall be accountable to the City Manager and make written and verbal reports as he/she may require.
- (C) The Department commanders/managers and all other department personnel shall be appointed by the Chief in accordance with applicable city personnel rules and regulations. Such personnel shall be accountable to the Chief.

### **2-3-6: REWARDS:**

The Chief of Police, for meritorious service rendered by any member of the Police Force in the due discharge of his duty, may permit such member to retain for his own benefit, so far as he may be permitted by law, any reward or present tendered him therefor, and it shall be cause of removal for any member of the Force to receive any such reward or present without notice thereof to the Chief of Police and without his permission. (1964 Code)

### **2-3-7: CALLS BEYOND CORPORATE LIMITS:**

(amd. Ord. 3079, eff. 6-10-93)

- (A) The Police Department of the City is hereby authorized to respond to calls for assistance beyond the corporate limits, whenever the Police Chief shall deem it necessary to protect lives and property, and only when the services of the responding units can be spared by the Prescott Police Department with a margin of safety to protect the persons and property within the City of Prescott.
- (B) Unless otherwise precluded or prohibited pursuant to a mutual aid agreement or intergovernmental agreement, the city shall be entitled to charge an individual or entity requiring a response by the Prescott Police Department for the reasonable value of services rendered for calls beyond the corporate limits of the City of Prescott.

### **2-3-8: RESPONSIBILITIES OF THE CHIEF:**

(Ord. 3079, eff. 6-10-93)

- (A) The Chief, with the assistance of the personnel officer, shall be responsible for recruiting, evaluating, selecting and referring of personnel for appointment to the Police Department.
- (B) The Chief shall be responsible for training and the professional standards of department personnel as required by department policy and operations procedures, A.L.E.O.A.C. and other state and national certification standards.
- (C) The Chief shall also be responsible for the safety of police personnel in accordance with established department policy and operations procedures, city code, city personnel rules, and state and federal requirements.

### **2-3-9: HEARING OFFICERS**

Immobilization and Poststorage Hearings - All immobilization and poststorage hearings required by A.R.S. §§ 28-3511 through 3515, as it presently exists or as it may hereafter be amended or renumbered, shall be held by hearing officers who shall be independently contracted to provide such hearing services with the City and shall conduct such hearings pursuant to applicable law and pursuant to applicable legal procedures and such procedures adopted by the Chief of the Prescott Police Department consistent with applicable laws and regulations. Hearing officers shall be independent contractors and shall not be otherwise employed by the City of Prescott. (Ord. 4576, eff. 03-15-07)

## CHAPTER 2-4: PARKS, RECREATION AND LIBRARY DEPARTMENT

### SECTIONS:

2-4-1: DEPARTMENT CREATED:

2-4-2: DUTIES:

#### **2-4-1: DEPARTMENT CREATED:**

(amd. Ord. 3136, 10-26-93; amd. Ord. 3195, eff. 5-26-94)

- (A) There is hereby created a Parks, Recreation and Library Department; said Department to be under the supervision of the Recreation Services Director. The Director will report to and be responsible for the operation of the Department to the City Manager. The Department shall have such divisions as shall be established from time to time by the City Manager.
- (B) That whenever reference is made to the Recreation Services Department in this City Code or elsewhere, that reference shall mean the Parks, Recreation and Library Department.

#### **2-4-2: DUTIES:**

The Recreation Services Director shall be responsible for promulgating rules and regulations to govern the Department, the Park System and the Library System. (Ord. 3533, eff. 10-10-96)

## CHAPTER 2-5: ADMINISTRATIVE SERVICES DEPARTMENT

### SECTIONS:

**2-5-1: DEPARTMENT CREATED:**

**2-5-2: DUTIES:**

**2-5-3: DESIGNATION AS ASSISTANT CITY MANAGER:**

#### **2-5-1: DEPARTMENT CREATED:**

There is hereby created an administrative services department, said department to be under the supervision of the administrative services director. The director will report to and be responsible for the operation of the department of the city manager. The department shall have such divisions as shall be established from time to time by the city manager. (Ord. 2229, 10-23-1990; amd. Ord. 3186, eff. 5-12-1994)

#### **2-5-2: DUTIES:**

The administrative services department shall have those duties and consist of those divisions as shall be established from time to time by the city manager. (Ord. 4374, 2-10-2004)

#### **2-5-3: DESIGNATION AS ASSISTANT CITY MANAGER:**

The administrative services director is hereby designated to be the assistant city manager, to have such powers and responsibilities as may be designated by the city manager, and to act in the place and stead of the city manager in his absence; provided, however, that in the event of an extended absence of the city manager, the council shall retain the authority to appoint an acting city manager. (Ord. 2229, 10-23-1990; amd. Ord. 3186, eff. 5-12-1994)

## CHAPTER 2-6: COMMUNITY DEVELOPMENT DEPARTMENT

### SECTIONS:

2-6-1: DEPARTMENT CREATED:

2-6-2: COMMUNITY DEVELOPMENT DEPARTMENT DIRECTOR:

2-6-3: DIVISIONS OF THE DEPARTMENT:

2-6-4: NUMBERS OF EMPLOYEES:

### **2-6-1: DEPARTMENT CREATED:**

- (A) There is hereby created a community development department, said department to be under the supervision of the director of community development. The director will report to and be responsible for the operation of the department to the city manager.
- (B) That whenever reference is made to the community services department in this code or elsewhere, that reference shall mean the community development department.
- (C) That whenever reference is made to the community services director in this code or elsewhere, that reference shall mean the community development director. (Ord. 3161, eff. 1-25-1994)
- (D) The community development department shall be the "planning agency" for the purposes of Arizona Revised Statutes sections 9-461.07B and C. (Ord. 4185, 12-18-2001)

### **2-6-2: COMMUNITY DEVELOPMENT DEPARTMENT DIRECTOR:**

There is hereby established the position of director of community development, an administrative office of the city. The director of community development shall be the supervisor of the department of community development and shall be directly responsible to the city manager. The city manager shall appoint the director. The director shall appoint all other employees and officers in the department, with the advice and consent of the city manager. The director shall perform the following duties and shall have the following powers:

- (A) The director shall provide research, make recommendations and prepare proposals on grant programs, and all federal and state programs relating to community development.
- (B) The director shall supervise all officers and employees in the department. The director may delegate some of the director's duties to officers and employees within the department, but the director shall be responsible for

the quality of work of the department, and no recommendation, grant application or report shall be submitted on behalf of the department without the approval of the director, except as specifically otherwise provided in subsection (D) of this section.

- (C) The director shall advise the city manager and the city council on all questions when a question is asked by the city manager or any member of the city council.
- (D) The director, or any officer or employee in the department designated by the director, shall issue notifications, orders, certificates and permits applicable to ordinances administered by the community development department.
- (E) The director shall establish close working relationships and communication with all administrative offices of the city, with all local government agencies in the metropolitan area, with a view to providing the taxpayers with more service for less cost.
- (F) The director shall contact all nonprofit agencies, community agencies and neighborhood organizations, dealing with any of the matters assigned to the community development department. The purpose of this communication shall be to obtain ideas, arrange for cooperative effort where that may be done consistent with the policies of the city, and to provide more service to the city, and to provide more service to the public without increasing taxes. City policy is set by city council members who have been elected by other voters to establish policy for the city, and these policies shall be followed even if other organizations with other constituencies may have contrary opinions or differing opinions as to policy matters.
- (G) The director shall provide public information on the community development programs and problems. The director shall develop a plan and take steps to implement the plan for citizen participation.
- (H) The director shall perform such other duties as shall from time to time be assigned by the city manager or by ordinance. (Ord. 3161, eff. 1-25-1994)

### **2-6-3: DIVISIONS OF THE DEPARTMENT:**

The community development department shall consist of such divisions as shall be established from time to time by the city manager. (Ord. 3161, eff. 1-25-1994)

**2-6-4: NUMBERS OF EMPLOYEES:**

The community development department shall have, in addition to the director, such additional employees as shall be authorized from time to time by action of the city council. The city manager may from time to time temporarily assign employees from other departments to the community development department. (Ord. 2101, 8-8-1989)

## CHAPTER 2-7: CITY COURT

### SECTIONS:

- 2-7-1: JURISDICTION OF CITY COURT:
- 2-7-2: APPOINTMENT OF CITY JUDGE:
- 2-7-3: FILING OF COMPLAINTS:
- 2-7-4: RESERVED:
- 2-7-5: RESERVED:
- 2-7-6: APPEARANCE, CIVIL VIOLATIONS:
- 2-7-7: DEFAULT JUDGMENT, CIVIL VIOLATIONS:
- 2-7-8: PREHEARING CONFERENCE, CIVIL VIOLATIONS:
- 2-7-9: SANCTIONS, CIVIL VIOLATIONS:
- 2-7-10: PROOF UPON HEARING; BURDEN OF PROOF, CIVIL VIOLATIONS:
- 2-7-11: JUDGMENT, CIVIL VIOLATIONS:
- 2-7-12: PENALTIES, CIVIL VIOLATIONS:
- 2-7-13: CIVIL SANCTIONS; COLLECTION, ABATEMENT:
- 2-7-14: APPEALS, CIVIL VIOLATIONS:
- 2-7-15: SEVERABILITY:
- 2-7-16: COLLECTION FEES:

### **2-7-1: JURISDICTION OF CITY COURT:**

There shall be a city court which shall be known and designated as the "city court of the city of Prescott, Yavapai County, state of Arizona". The city court shall have and exercise jurisdiction as set forth in article XI, section 3 of the charter of the city of Prescott. (Ord. 2121, eff. 9-12-1989)

### **2-7-2: APPOINTMENT OF CITY JUDGE:**

There shall be appointed a city judge by the city council in the manner and for such term as provided in the charter of the city of Prescott. The city judge shall be responsible for the administration of the city court. The city judge shall exercise such powers and duties as provided by the charter and code of the city and the constitution and laws of the state of Arizona, including, but not limited to, the appointment of pro tem city judges. (Ord. 4464, 3-22-2005)

**2-7-3: FILING OF COMPLAINTS:**

The city attorney, or his designee, city of Prescott police, animal control officers and department of public safety officers, state registrar of contractor officers and state game and fish department officers shall have exclusive authority to file criminal complaints in the city court. Criminal complaints filed by any other law enforcement agencies or entities must first be filed with the legal department. Complaints filed other than as provided herein may be dismissed without prejudice at the discretion of the city attorney. (Ord. 2279, 6-25-1991)

**2-7-4: RESERVED:**

(Ord. 2121, eff. 9-12-1989)

**2-7-5: RESERVED:**

(Ord. 2121, eff. 9-12-1989)

**2-7-6: APPEARANCE, CIVIL VIOLATIONS:**

The defendant shall appear in person or by counsel before the city judge at the time, date and place designated on the citation or summons and shall either admit or deny the allegations of the citation or complaint. If the defendant admits the allegations, the judge shall immediately enter judgment against the defendant. If the defendant denies the allegations, the judge shall set a hearing not less than thirty (30) nor more than sixty (60) days from the date of appearance. The judge may, in his discretion, or shall at the request of either party, set a prehearing conference not less than thirty (30) nor more than sixty (60) days from the date of appearance. (Ord. 687, 11-9-1964)

**2-7-7: DEFAULT JUDGMENT, CIVIL VIOLATIONS:**

- (A) If the defendant fails to appear as directed on the citation or summons, the city judge shall enter a default judgment against the defendant.
- (B) If the party fails to appear at the prehearing conference, the judge shall set a hearing.
- (C) If a party fails to appear at a hearing, the city judge shall enter judgment against the nonappearing party. (Ord. 687, 11-9-1964)

**2-7-8: PREHEARING CONFERENCE, CIVIL VIOLATIONS:**

At a prehearing conference, the parties shall appear before the city judge to discuss any matter which may aid in the disposition of the case. At the conclusion of the prehearing conference, the judge may continue the matter for

not less than thirty (30) nor more than sixty (60) days upon good cause shown; accept an admission of the violation or a dismissal of the complaint; set the matter for hearing; or make any other order necessary in the interests of justice. (Ord. 687, 11-9-1964)

**2-7-9: SANCTIONS, CIVIL VIOLATIONS:**

When a party, prior to judgment, fails to obey an order of the city judge, the judge may hold the party in contempt, prevent that party from presenting certain evidence; strike part or all of a pleading; enter judgment in whole or in part against that party; or make any other order necessary in the interests of justice. (Ord. 687, 11-9-1964)

**2-7-10: PROOF UPON HEARING; BURDEN OF PROOF, CIVIL VIOLATIONS:**

A hearing on a civil violation may only be held before the City Judge. The hearing shall be conducted pursuant to the rules of evidence and a record thereof shall be made by stenographic transcription or by electronic tape recording. Each party shall be responsible for subpoenaing the attendance of their respective witnesses. Burden of proof at the hearing shall be by a preponderance of the evidence. The Judge shall, upon request by either party, make written findings of fact and conclusions of law and may request proposed findings of fact and conclusions of law from either party.

**2-7-11: JUDGMENT, CIVIL VIOLATIONS:**

If the City Judge determines the existence of a civil violation, the Judge shall enter judgment in favor of the plaintiff. Otherwise, judgment shall be entered in favor of the defendant. Written judgment shall be rendered not later than twenty (20) working days after the conclusion of the hearing.

**2-7-12: PENALTIES, CIVIL VIOLATIONS:**

- (A) Unless otherwise provided in the City Code, when a violation is determined, the following penalties shall be imposed.
  - 1. A civil sanction not less than fifty dollars (\$50.00) nor more than two thousand five hundred dollars (\$2,500.00) for each civil violation. The imposition of a fine under this Section shall not be suspended.
  - 2. Any other order deemed necessary in the discretion of the City Judge, including correction or abatement of the violation.
- (B) Failure of a defendant to comply with any order contained in a judgment under this Section shall result in civil contempt and an additional civil sanction of not less than fifty dollars (\$50.00) nor more than two thousand

five hundred dollars (\$2,500.00) for each day the defendant fails to comply.

**2-7-13: CIVIL SANCTIONS; COLLECTION, ABATEMENT:**

Any civil sanction not paid within the thirty (30) days after judgment shall constitute a lien against the real property of the defendant and may be filed with the County Recorder's office. The City Attorney may commence legal action in a court of competent jurisdiction to collect the fine or exercise any other procedure available for the execution and collection of a civil judgment. When the City Judge orders correction or abatement of a violation, and there is no compliance within thirty (30) days or within such time as ordered, such violation may be deemed a public nuisance and the City Attorney may seek injunctive relief in a court of competent jurisdiction. The City may employ a collection services firm for the collection of fines.

**2-7-14: APPEALS, CIVIL VIOLATIONS:**

Appeal of any judgment rendered for a civil violation shall be by way of special action to the Superior Court on the record of the hearing. If either party claims in writing, specifying reasons and particulars why, the record to be incomplete or lost, and the Judge who conducted the hearing so certifies, a new hearing shall be conducted before that Judge. The appealing party shall bear the cost of preparing the record of the hearing on appeal. No appeal shall be taken later than thirty (30) days after the entry of judgment. (Ord. 2102, 8-8-89)

**2-7-15: SEVERABILITY:**

If any section, subsection, sentence, clause, phrase or portion of this Chapter is for any reason held to be invalid or unconstitutional by the decision of any court of competent jurisdiction, it is the declared legislative intent that such decision shall not affect the validity of the remaining portions hereof. (Ord. 2121, eff. 9-12-89)

**2-7-16: COLLECTION FEES:**

(Ord. No. 3559, eff. 12-26-96)

- (A) A defendant who defaults in his or her obligation for the payment of monies owed or due to the City Court, including but not limited to restitution, fines, sanctions, surcharges, assessments, penalties, bonds, costs and/or fees, is liable for any and all fees and charges assessed by a collection agency that is licensed pursuant to Title 32, Chapter 9, Article 2, Arizona Revised Statutes, and that is engaged by the City Court to collect and enforce such payment. The collection fees and charges assessed by

the collection agency shall be added to the sum or sums due from and chargeable against the defendant.

- (B) A defendant who defaults in his or her obligation for the payment of monies owed or due to the City Court, including but not limited to restitution, fines, sanctions, surcharges, assessments, penalties, bonds, costs and/or fees, is liable for any and all fees and charges assessed by a duly licensed attorney, and who is engaged by the City Court to collect and enforce such payment. The collection fees and charges assessed by the attorney shall be added to the sum or sums due from and chargeable against the defendant.

## CHAPTER 2-8: BUDGET AND FINANCE DEPARTMENT

### SECTIONS:

2-8-1: DEPARTMENT CREATED:

2-8-2: DUTIES:

#### **2-8-1: DEPARTMENT CREATED:**

(Ord. 2229, 10-90; amd. Ord. 3186 eff. 5-12-94)

- (A) There is hereby created a Budget and Finance Department to be under the supervision of the Budget and Finance Director who will report to and be responsible for the operation of the Department to the City Manager. The Department shall have such divisions as shall be established from time to time by the City Manager.
- (B) That whenever reference is made to the Finance Director in this City Code or elsewhere, that reference shall mean the Budget and Finance Director.

#### **2-8-2: DUTIES:**

The Budget and Finance Department shall be responsible for overall financial management of the City, including budget preparation, budget management, accounting, sales tax, utility billing, project accounting, grants accounting, treasury, payroll, and such other duties as may be determined by the City Manager.

## CHAPTER 2-9: LEGAL DEPARTMENT

### SECTIONS:

- 2-9-1: DEPARTMENT CREATED:
- 2-9-2: DIVISIONS CREATED:
- 2-9-3: CRIMINAL DIVISION; FUNCTION:
- 2-9-4: CIVIL DIVISION; FUNCTION:
- 2-9-5: PROHIBITION AGAINST OUTSIDE EMPLOYMENT:
- 2-9-6: ABILITY TO RETAIN OUTSIDE COUNSEL:

#### **2-9-1: DEPARTMENT CREATED:**

There is hereby created a Legal Department, said Department to be under the supervision of the City Attorney. The City Attorney will report to and be responsible for the operation of the Legal Department to the City Council.

#### **2-9-2: DIVISIONS CREATED:**

The Legal Department will consist of the Criminal Division and the Civil Division, both of which shall be under the supervision of the City Attorney.

#### **2-9-3: CRIMINAL DIVISION; FUNCTION:**

The Criminal Division shall have the responsibility of prosecuting all criminal misdemeanor and petty offenses and traffic offenses which occur within the corporate limits of the City, and may also prosecute felonies whenever granted such authorization from the Yavapai County Attorney. The Criminal Division shall also act as the legal advisor to the Police Department and other City departments charged with enforcing the penal statutes of the State of Arizona and City of Prescott.

#### **2-9-4: CIVIL DIVISION; FUNCTION:**

The Civil Division shall have the responsibility of advising the City Council, City Manager, and all departments, committees and commissions within the City; of preparing and/or reviewing all documents, contracts, resolutions, ordinances and policies; shall lobby for or against legislation on behalf of the City; will review all claims filed against the City as more particularly set forth in Title I, Chapter 10 of the City Code; will defend the City against all lawsuits filed against the City; and will prosecute on behalf of the City all civil violations of the City Code and other City Codes and ordinances.

**2-9-5: PROHIBITION AGAINST OUTSIDE EMPLOYMENT:**

Attorneys in the Legal Department are expected to devote their full time and duties on behalf of the City. Assistant City Attorneys shall not accept any outside employment without the express permission of the City Attorney and City Manager; the City Attorney shall not accept any outside employment without the express permission of the City Manager and City Council.

**2-9-6: ABILITY TO RETAIN OUTSIDE COUNSEL:**

The provisions herein shall not operate to prohibit the City Attorney from retaining outside counsel to represent the City in a particular matter, if in the determination of the City Attorney, said outside representation would be in the best interests of the City, provided, however, that such outside counsel shall not be retained by the City Attorney without the consent of the City Council. (Ord. 2279, 6-25-91)

## CHAPTER 2-10: GOLF COURSE DEPARTMENT

### SECTIONS:

2-10-1: DEPARTMENT CREATED:

2-10-2: FUNCTION:

#### **2-10-1: DEPARTMENT CREATED:**

There is hereby created a Golf Course Department. The Golf Course Department shall be under the supervision of the Golf Course General Manager, who shall be responsible to the City Manager. (Ord. 3136, eff. 10-26-93)

#### **2-10-2: FUNCTION:**

The Golf Course Department shall be responsible for providing citizens of Prescott and visitors a municipal golf facility compatible with the services expected by golfers; to achieve financial self-sufficiency; to manage and market the municipal golf facilities; and to insure the continued availability of quality golf facilities available to the general public.

## CHAPTER 2-11: ENGINEERING SERVICES DEPARTMENT

### SECTIONS:

2-11-1: DEPARTMENT CREATED

2-11-2: DIVISIONS CREATED

2-11-3: ENGINEERING SERVICES DIVISION; FUNCTION

2-11-4: CONSTRUCTION SERVICES DIVISIONS; FUNCTION

#### **2-11-1: DEPARTMENT CREATED:**

There is hereby created an Engineering Services Department, to be under the supervision of the engineering services director. The engineering services director is also assigned the responsibility of executing all duties relating to public street improvements, and to do and perform or cause to be performed all duties as may devolve upon the superintendent of streets by virtue of any law. The director will report to and be responsible for the operation of the department to the city manager.

#### **2-11-2: DIVISIONS CREATED:**

In addition to those divisions provided for in this chapter, the engineering services department shall consist of such divisions as shall be established from time to time by the city manager.

#### **2-11-3: ENGINEERING SERVICES DIVISION; FUNCTION**

The engineering services division shall be responsible for providing engineering studies, data and materials as may be required by the city including the enforcement of all related provisions contained in this title. The engineering services manager shall supervise the services of the engineering division and will report to the engineering services director.

#### **2-11-4: CONSTRUCTION SERVICES DIVISION; FUNCTION**

The construction services division shall be responsible for management of the public works streets construction program and provision of inspection services for utilities and subdivision projects, directing and accomplishing a wide variety of necessary, associated technical, contractual and community coordination activities. The construction services manager shall supervise the services of the construction services division and will report to the engineering services director.

(Rep. by Ord. 4374, 2-10-2004; Ord. 4504, 10-25-2005)

## CHAPTER 2-12: AIRPORT DEPARTMENT

### SECTIONS:

- 2-12-1: DEPARTMENT CREATED; MANAGER:
- 2-12-2: GENERAL DEFINITIONS:
- 2-12-3: LICENSE AGREEMENTS:
- 2-12-4: LEASE AND RENTAL AGREEMENTS:
- 2-12-5: AIRPORT USE LIMITED TO AVIATION RELATED ACTIVITIES:
- 2-12-6: INTERPRETATIONS:
- 2-12-7: DAMAGE TO AIRPORT PROPERTY:
- 2-12-8: SALE OF PETROLEUM PRODUCTS:
- 2-12-9: COIN OPERATED DEVICES:

### **2-12-1: DEPARTMENT CREATED; MANAGER:**

There is hereby created an airport department. The airport department shall be under the supervision of the airport manager, who shall be responsible to the city manager. The airport manager shall be responsible for meeting the air transportation needs of the public through the continuous operation, development and maintenance of airport facilities, and shall be responsible for promulgating rules and regulations to govern and administer Ernest A. Love Field, including, but not limited to, rules and regulations relating to air and ground traffic control. (Ord. 4210, 3-26-2002)

### **2-12-2: GENERAL DEFINITIONS:**

**ACTION:** Includes recoupment, counterclaim, set off, suit in equity and any other proceeding in which rights are determined, including an action for possession.

**AIRCRAFT STORAGE PREMISES:** Areas designated by the airport manager for rent for noncommercial aircraft in accordance with city of Prescott resolution 2127, and as designated on the airport premises map and legend adopted by reference, three (3) copies of which are available for review at the office of the airport manager.

### **BEST QUALIFIED PROPOSERS:**

- (A) With reference to bids for leases of commercial premises, that person bidding the highest compensation to the city of Prescott for the lease of commercial premises, when all other bid requirements are met or are substantially equal. Compensation may include, but only when specified in applicable requests for proposals, capital improvements to airport facilities or grounds; and

- (B) With reference to hangars, tie downs and other facilities for the noncommercial storage of aircraft, that person next on the list maintained in the order of first come, first served, for such facilities and willing to pay the standard rent therefor.

**CITY FACILITIES COMMERCIAL PREMISES:** Those facilities constructed by, or now owned or controlled by, the city of Prescott and made available for occupancy and as commercial premises for a business purpose. City facilities commercial premises shall not refer to lands available for lessee constructed facilities for occupancy and use by lessee. City facilities commercial premises shall be as designated on the airport premises map and legend adopted by reference, three (3) copies of which are available in the city clerk's office for public review and inspection.

**COMMERCIAL PREMISES:** Areas designated by the airport manager for lease in accordance with city of Prescott resolution 2127, and as designated on the airport premises map and legend adopted by reference, three (3) copies of which are available in the city clerk's office for public review and inspection. Said map is also available for review at the office of the airport manager.

**LEASE:** A written agreement which gives rise to a relationship of lessor and lessee for a definite term concerning commercial premises.

**LESSEE:** A person entitled under a lease to occupy commercial premises to the exclusion of others.

**LESSOR:** The city of Prescott.

**LICENSE:** A privilege to go on premises for a certain purpose, but does not operate to confer on, or vest in licensee any title, interest or estate in such property.

**LICENSEE:** A person who has a privilege to enter upon airport property to do a particular, specified act, or series of acts.

**LICENSOR:** The city of Prescott.

**OFFICE RENTALS:** Areas or space as designated by the airport manager within the airport terminal building and/or airport administration building(s) which are or will be available for lease on a per square foot basis.

**PERSON:** An individual, organization, corporation or entity.

**PREMISES:** A structure and the appurtenances therein, including furniture and utilities where applicable, and grounds, areas and existing facilities.

RENT: Fixed periodic payments to be made to the city in full consideration of rented premises under a rental agreement for private aircraft storage premises.

RENTAL AGREEMENT: A written agreement, the form of which has been approved by the city council, embodying terms and conditions concerning the use and occupancy of city owned airport property for the storage of aircraft on a noncommercial basis.

REQUEST FOR PROPOSAL: A formal request, published once a week for two (2) consecutive weeks in a local newspaper which may also be circulated to interested persons, which invites proposals from interested persons regarding the lease of commercial premises and office rentals. The request for proposal may specify the use of the premises which the city deems best serves the interests of the public. Any proposal received must contain, at a minimum, the following information

- (A) Minimum unit revenue or compensation to be paid to the city;
- (B) Requirements for proposer's operations as they regard benefits to the: 1) city and 2) airport;
- (C) Data and/or resource information necessary for the city to establish proposer's financial responsibility; and
- (D) The duration of the lease term.

TENANT: An occupant under a rental agreement. (Ord. 2069, 5-9-1989; amd. Ord. 2258, 5-14-1991; Ord. 4210, 3-26-2002)

**2-12-3: LICENSE AGREEMENTS:**

The city council may grant nonexclusive license agreements to regularly scheduled commuter airlines carrying passengers for use of facilities at the airport terminal on such terms and conditions as best serve the public interest, and for incidental services convenient for passengers such as hotel reservation and rental car phone lines. (Ord. 2069, 5-9-1989; amd. Ord. 4210, 3-26-2002)

**2-12-4: LEASE AND RENTAL AGREEMENTS:**

- (A) Commercial Premises:
  - 1. If commercial premises at the airport shall become available for lease, the airport manager, in consultation with the city manager, shall cause to be published a request for proposal.

2. The airport manager shall consult with the appointed airport advisory committee to review responses to the request for proposal, and solicit recommendations and comments therefrom. After consultation with the airport advisory committee, the airport manager shall review responses to the request for proposal, as well as recommendations and comments received, with the city manager. After consulting with the airport advisory committee and city manager, the airport manager shall submit the best qualified proposal to the city attorney for the drafting of a lease.

(B) Aircraft Storage Premises:

1. The airport manager shall establish first come, first served lists for all airport property designated as aircraft storage premises. Positions on the lists shall not be traded, sold, assigned or transferred in any manner.
2. Aircraft storage premises shall not be used as commercial premises, for any commercial purpose, and will not violate any federal aviation administration (FAA) regulation, Arizona Revised Statute or this code. Aircraft engines shall not be run in hangars at any time. No refueling, or other fire inducing actions are permitted in the hangar.

(C) Office Rentals:

1. If office rentals at the airport shall become available for lease, the airport manager, in consultation with the city manager, shall cause to be published a request for proposal.
2. The airport manager shall consult with the appointed airport advisory committee to review responses to the request for proposal, and solicit recommendations and comments therefrom. After consultation with the airport advisory committee, the airport manager shall review responses to the request for proposal, as well as recommendations and comments received, with the city manager. After consulting with the airport advisory committee and city manager, the airport manager shall submit the best qualified proposal to the city attorney for the drafting of a lease. (Ord. 2258, 5-14-1991; amd. Ord. 4210, 3-26-2002)

(D) General Conditions Applicable To All Lessees And Tenants:

1. The removal or intentional and material alteration or damage of any part of airport property, by or at the instance of a lessee or tenant without permission of the airport manager is expressly prohibited.

2. Lessees and tenants shall exercise diligence to maintain the premises in as good condition as when they took possession, ordinary wear and tear excepted.
3. Lessor shall have the authority to subject the lessee and tenants to such restrictions in the use and occupancy of airport property as deemed necessary in the public interest by the city council. Applicable rules, regulations, codes and statutes shall be deemed to be incorporated into all leases and rental agreements.
4. Lessees and tenants shall not sublet or assign their rights under a lease, list or rental agreement unless otherwise agreed to in writing by the airport manager. Any violation of this rule may result in the cancellation of the rental agreement, lease, or list position. (Ord. 3679, eff. 11-13-1997; amd. Ord. 4210, 3-26-2002)
5. The airport manager shall have those rights and remedies of a landlord as are set forth by law, and is hereby authorized to pursue such actions and remedies if necessary, after consultation with the city manager and city attorney. (Ord. 2069, 5-9-1989; amd. Ord. 4210, 3-26-2002)
6. All fees and charges for the lease, rental, occupancy and/or use of any and all city property at the airport shall be as determined by the city council, after having reviewed the recommendations of the airport advisory committee, pursuant to a resolution to be duly adopted by the city council, as said resolution may be amended by the city council from time to time. (Ord. 2252, 4-23-1991; amd. Ord. 4210, 3-26-2002)
7. In all leases, license and rental agreements, the city shall retain the absolute right to have, at no cost or charge to the city, utility easements, over, under and through the property which is the subject of the license, lease or rental agreement.

(E) Approval Of Agreements:

1. In the event that a rental agreement, lease agreement or license is accepted by the tenant, licensee or lessee in substantially the form as approved by the city council, and in accordance with rates as approved by the council policy, then and in that event the city manager and staff are hereby authorized to execute said agreements on behalf of the city, and shall thereby bind the city to the terms contained therein without any further action of the city council. Copies of all agreements shall be maintained in the office

of the airport manager and separate copies shall be forwarded to the city clerk and finance director. (Ord. 3100, eff. 7-22-1993; amd. Ord. 4210, 3-26-2002)

2. The standard form of license, lease or rental agreement referred to in subsection (E)1 of this section shall be approved by the city council pursuant to resolution.
3. In the event that there is any deviation in the rental agreement, license or lease agreement from which has been approved by the city council, then in that event, such agreement must be submitted to the city council for approval or rejection.
4. In all instances, the city council shall have the authority to reject or adopt any and all proposals, leases or agreements prior to their execution by the city. (Ord. 2258, 5-14-1991; amd. Ord. 4210, 3-26-2002)

#### **2-12-5: AIRPORT USE LIMITED TO AVIATION RELATED ACTIVITIES:**

Airport premises shall be used for aviation and affiliated and related industries, pursuits and businesses except where specifically authorized for other use by the city council. Whenever a question arises, the council shall finally determine whether an industry, pursuit or business may be regarded as being affiliated or related to aviation. (Ord. 2069, 5-9-1989; amd. Ord. 4210, 3-26-2002)

#### **2-12-6: INTERPRETATIONS:**

When an interpretation of any part or section hereof is required, the airport manager will present it to the airport committee for recommendation, subject to a final decision of the mayor and council. (Ord. 2069, 5-9-1989; amd. Ord. 4210, 3-26-2002)

#### **2-12-7: DAMAGE TO AIRPORT PROPERTY:**

Any person causing, or liable for, any damage to airport property shall be required to pay to the city on demand the full cost of repairs. Any person failing to comply with these rules may be refused the use of Ernest A. Love Field until the city has been fully reimbursed for damage done. (Ord. 2069, 5-9-1989; amd. Ord. 4210, 3-26-2002)

#### **2-12-8: SALE OF PETROLEUM PRODUCTS:**

The city reserves the right to retail and wholesale all petroleum products, excluding retail aviation lubricating oil products, used or sold on the airport. This reservation also applies to any other fuels used for the propulsion of aircraft or

surface vehicles which are available on the open market. These rights may be waived when so stipulated in writing signed by the city manager. (Ord. 2069, 5-9-1989; amd. Ord. 4210, 3-26-2002)

**2-12-9: COIN OPERATED DEVICES:**

The city reserves the right to own, install, maintain, lease, operate and derive revenue from all coin operated devices in public areas on the airport except as waived in writing. (Ord. 2069, 5-9-1989; amd. Ord. 4210, 3-26-2002)

**CHAPTER 2-13: FIELD OPERATIONS DEPARTMENT; SOLID WASTE  
DIVISION**

**SECTIONS:**

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- 2-13-1. PURPOSE
- 2-13-2. POWERS OF THE CITY
- 2-13-3. HOURS OF COLLECTION
- 2-13-4. DEFINITIONS
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CURE; TERMINATION; APPEAL

**2-13-35. INTERIM SOLID WASTE LICENSE**  
**2-13-36. SEVERABILITY**  
**2-13-37. VIOLATIONS AND PENALTIES**

(This chapter, adopted as a Public Record by Resolution No. 4036-1106, and adopted by reference by Ordinance No. 4755-1106 on July 27, 2010, is shown in its entirety as a courtesy to users. Prior chapter was by Ordinances 4451, 4538, and 4641-0843.)

**2-13-0. DEPARTMENT AND DIVISIONS CREATED**

There is hereby created a Field Operations Department, to be under the supervision of the Field Operations Director. The director will report to and be responsible for the operation of the department to the City Manager. The Field Operations Department shall consist of the Solid Waste Division and the Street Maintenance Division, in addition to such divisions as shall be established from time to time by the City manager.

**2-13-1. PURPOSE**

The purpose of this chapter is to (i) protect the health and safety of the citizens of the City, (ii) protect the environment by establishing minimum standards for the safe and sanitary collection, storage, treatment, transportation, processing, and disposal of solid waste and recyclables generated within the City of Prescott.

**2-13-2. POWERS OF THE CITY**

Garbage, refuse and recyclable materials within the City shall be collected, removed and disposed of by officers or employees of the City. Commercial or industrial solid waste management services and recycling services may also be provided by private enterprises registered and licensed with the City of Prescott to provide such services to commercial accounts. The City manager or designee, in order to protect the health and safety of the citizens and the environment of the City, is authorized and directed to implement and enforce the provisions of this chapter to control the storage, collection, treatment, transportation, processing, and disposal of solid waste and recyclables. Nothing in this chapter is intended or shall be construed to infringe or supplant the authority of the Yavapai County Health Department, Arizona Department of Health Services, Arizona Department of Environmental Quality or the United States Environmental Protection Agency in this area pursuant to federal and state laws.

The powers of the City shall include:

- (A) Rules and regulations.

The City manager or his designee shall prescribe rules, requirements and regulations for private collection of commercial and industrial solid waste

within its area of-jurisdiction, including standards for equipment, hours of operation, license fees and insurance requirements as necessary and appropriate to operate a solid waste collection-program. The City manager or his designee shall make such schedules, rules and regulations concerning the collection, disposal and hauling of solid waste, recyclable materials and other wastes by any party, including standards for equipment, hours of operation, license fees and insurance requirements as necessary and appropriate to operate a solid waste collection program. or other similar activities or facilities or relating to the operation of any transfer station, disposal site, recycling or waste reduction program, that are not inconsistent with this Chapter.

(B) Inspection.

There may be inspections by the City to secure compliance with this chapter. A code inspector or solid waste inspector shall have the right to enter residential, commercial, industrial, and institutional establishments for inspection purposes.

### **2-13-3. HOURS OF COLLECTION**

Hours of collection of solid waste or recyclables by private and municipal collectors shall be regulated by the City. In order to prohibit the disturbance of the public peace and welfare, no person shall collect or remove or to cause, permit, facilitate, aid or abet the collection or removal of solid waste or recyclables between the hours of 10:00 p.m. and 6:00 a.m. if the collection point or container location is within 300 feet of any residential dwelling unit unless reasonable accommodations are approved by the City.

### **2-13-4. DEFINITIONS**

For the purposes of this chapter, the following words, terms and phrases shall have the meanings defined by this section, except where the context clearly indicates a different meaning:

*"Alley"* means a public passageway affording a secondary means of access to abutting property for private, utility and emergency vehicles.

*"Animal waste"* means all waste from household pets, stables, kennels, pet pens, chicken coops, veterinary establishments and other waste of a similar nature.

*"Ashes"* means any residue other than salvage from the burning of any combustible material, specifically excluding ashes from medical waste or hazardous waste.

*"Automated contained solid waste collection system"* means a contained solid waste collection system that utilizes City-specified solid waste containers and a solid waste collection vehicle equipped with a lifting device.

*"Automotive parts"* means any part or combination of parts of any kind of motor vehicle, including but not limited to tires, batteries, seats, engines, fuel tanks, doors, auto glass and upholstery.

*"Authorized solid waste collector"* means the City or any contractor operating within the City under a valid solid waste service license.

*"Brush"* means tree limbs and shrubbery clippings exceeding three feet in length.

*"Bulk waste"* means wooden and cardboard boxes, crates (except as used to contain clippings, cactus or matter which, according to the provisions of this chapter, will be collected by the City), appliances, furniture, machinery, automobile parts and all other nonvegetative matter, which by reason of size and/or shape are not readily containable. Bulk waste also includes tree trunks, branches or limbs, regardless of length, which are ten or more inches in diameter.

*"Construction and demolition waste"* means all debris, rubble, soil and excess materials from any construction, demolition, repair or remodeling operations, whether on private, public, residential or commercial premises, whether to the primary structure or any other structure, and whether produced by the work or at the direction of the property owner, contractor, subcontractor, agent, or any other party.

*"Business establishment"* means any public or private place, building or enterprise utilized for the conduct of business or industry, including non-profit organizations, and schools specifically excluding residential units.

*"City"* means the City of Prescott, Arizona.

*"City manager"* means City manager or his designee.

*"Collection begins date"* means the first day of the scheduled collection period, as established and published by the City manager.

*"Commercial solid waste"* means any solid waste produced by the operation of or as a by-product of any business, without regard to whether the business is licensed in the City, or whether the business activity is conducted in a public business, private residence, within the City, or any other location.

*"Collection employee"* means any individual employed by the City for the purpose of effectuating the provisions of this chapter.

*"Commercial solid waste generator"* means any person in charge of, owning, leasing, renting or occupying any business, industrial or commercial building other than a private residence, including, but not limited to a store, office, factory, hotel, tourist court, motel, motor court, motor hotel, trailer court, apartment hotel or residential building ordinarily leased for a period of less than three months.

*"Containable solid waste"* means all putrescible and nonputrescible solid wastes, including but not limited to, wrapped garbage, wrapped small dead animals, wrapped or boxed ashes, wastepaper, excelsior, rags, bottles, crockery, bedding, clothing, carpets, leather, tin cans, metal scraps, small mechanical parts, shavings, floor sweepings, grass and weed clippings, twigs, tree limbs not exceeding four feet in length, and other similar waste and debris.

*"Contained solid waste"* means all solid waste placed in containers for disposal.

*"Contaminated materials"* means any materials which, when prepared for one of the acceptable forms of collection described in this chapter, contain materials which are not acceptable under that particular form of collection.

*"Contractor"* means any person or entity other than the City, who removes, collects, hauls, or transports within the City any solid waste of another person or entity, including recyclable materials, hazardous materials, or medical waste, or any other types of waste, for disposal, salvage, recycling or any other purpose.

*"Dwelling unit"* means a unit providing independent living facilities for one or more persons including provisions for living, sleeping, eating, cooking, and sanitation or one or more rooms within a building arranged, designed or used for residential purposes for one or more persons and containing independent sanitary and cooking facilities.

*"Filth"* means manure, excrement, or similar substance.

*"Fly-tight"* means the lid of the container must fit flush around all contact points and prevent entry of flies or rodents.

*"Garbage"* is putrescible and vegetable wastes resulting from the handling, preparation, cooking and consumption of food.

*"Hazardous material"* means any chemical, compound, mixture, substance or chapter which is designated by the U.S. Environmental Protection Agency or appropriate agency of the state to be hazardous, as that term is defined by or pursuant to federal or state law. Hazardous material includes but is not limited to medical wastes, herbicides, pesticides, explosives, and radioactive, toxic, flammable or corrosive materials.

*"Household hazardous waste"* means any waste that would otherwise be a hazardous waste pursuant to Arizona Revised Statutes, Title 49, and 40 Code of Federal Regulations, Part 261 but is excluded as a hazardous waste because it is generated by the normal day-to-day activities of households.

*"Imminent health or safety hazard"* means condition of real property, solid waste or recycling container that places a person's life, health, safety or property in high risk of peril when such condition is immediate, impending on the point of happening and menacing.

*"Incipient hazard"* means condition of real property that can become an imminent or health hazard if further deterioration occurs that can cause unreasonable risk of death or severe personal injury.

*"Licensee"* means a private *"Authorized solid waste collector"*

*"Litter"* means all garbage, waste and debris not properly prepared for collection under this Code.

*"Medical waste"* means materials defined as medical waste by Arizona Revised Statutes.

*"Metal goods"* means appliances acceptable for collection under the City's metal goods collection program, if any. "Metal goods" shall include refrigerators, freezers, ovens, stoves, air conditioners, washers, dryers and water heaters, and shall specifically exclude smaller household appliances and electronic equipment.

"*Open area*" means any park, street, gutter, sidewalk, sewer, boulevard, alley, greenbelt, square, vacant lot, space, ground or other area where solid waste material may accumulate.

"*Person*" means any individual, firm, partnership, corporation, Institution or other entity acting as principal, agent, officer, servant or employee for himself or itself, or for any other individual, firm, partnership, corporation, institution or other entity, who owns, leases, rents or occupies any real property within the City limits.

"*Private*" means any entity other than the City, whether commercial, non-profit or otherwise, collecting solid waste or recyclables.

"*Private premises*" means any land and/or structure owned by any person(s) other than the United States, a state, a county, the City, or any political subdivision of the United States.

"*Prohibited substance*" means any liquid, solid, or gas with an ignition temperature or flashpoint of less than 200 degrees Fahrenheit, including but not limited to, gasoline, benzene, naphtha, or other flammable or explosive substance; any material having a pH lower than five and one-half or higher than nine or having any other corrosive property that could be injurious or hazardous to City collection employees or which could cause damage to equipment; any noxious or malodorous substance offensive to the senses and depriving other properties or a considerable number of persons of the comfortable enjoyment of life or property; or any hypodermic needle or syringe.

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

"*Putrescible materials*" means solid waste which is capable of being decomposed by microorganisms with sufficient rapidity as to cause nuisances from odors or gases and capable of providing food for or attracting birds, insects, snakes, rodents or animals capable of transferring a diseased bacterium or virus from one organism to another.

"*Recycling container*" means a container owned by the City for use as part of the City's recycling program, if any.

"*Recyclable materials*" means solid waste that has been set aside or separated from other solid waste for the purpose of being collected and recycled, and which is, at the City manager's discretion, acceptable recyclable material. "Acceptable recyclable material" may include the following materials if clean and dry: paper, cardboard, chipboard, plastic containers made from polyethylene terephthalate ("PETE") or high density polyethylene ("HDPE"), steel food cans, aluminum cans, disposable aluminum bakeware and aluminum foil and other materials determined by the City manager as being marketable.

"*Residence*" means any structure or premises used as a domicile, dwelling, or habitation including single family dwellings, multi-family units, duplexes patio homes, mobile home parks, trailer courts, rooming houses, boardinghouses, assisted living facilities, apartments, condominiums, town homes, or any complex of the foregoing.

"*Residential*" means any structure or premises used as a residence.

*"Residential solid waste"* means household garbage and rubbish produced by City residents on or in their residential premises within the City, specifically excluding:

- (1) Construction and demolition waste, whether on or off the residential premises, and whether to the primary residential structure or any other structures.
- (2) Commercial or industrial solid waste, whether produced at the residence or at any other location.
- (3) Hazardous materials.
- (4) Body waste.
- (5) Manure.
- (6) Large animals exceeding 75 pounds.

*"Residential solid waste generator"* means any person in charge of, owning, leasing, renting or occupying any building or buildings used solely for a family or private residential domicile, including but not limited to single family dwellings, multi-family units, duplexes patio homes, mobile home parks, trailer courts, rooming houses, boardinghouses, assisted living facilities, apartments, condominiums, town homes, or any complex of the foregoing.

*"Responsible party"* means an occupant, lessor, lessee, manager, licensee, owner or other person having control over a structure or parcel of land; and in the case where remediation is proposed as a means of abatement, any lien holder whose lien interest is recorded in the official records of the Yavapai County Recorder's Office.

*"Solid waste"* means all wastes (except body wastes), including garbage, rubbish, ashes, street cleanings, dead animals, abandoned, wrecked or junked vehicles or parts thereof, brush, and containable rubbish, filth, construction and demolition waste, brush, bulk waste, metal goods and prohibited substances when these terms are not specifically noted in this chapter.

*"Solid waste container"* means a container owned by the City and made available for use as part of the City's automated solid waste and recycling collection program.

*"Solid waste inspector"* means any police officer, code enforcement officer, or other City employee with written authorization from the City manager to inspect public and private properties, to issue citations and to enforce the provisions of this chapter.

*"Vicious animal"* means any animal of a vicious species or an animal of a domesticated species, including, but not limited to, cats and dogs, which without provocation is prone to attack persons.

## **2-13-5. AUTHORITY TO COLLECT--UNAUTHORIZED COLLECTION**

The City, its duly authorized agents, servants or employees, have the ultimate responsibility to collect solid waste within the City without limitation to the City's authorization of private collectors by license, franchise, permit or contract. No person shall collect solid waste within the City contrary to the provisions of this Chapter.

## **2-13-6. USE OF SERVICE REQUIRED - CANCELLATION OF SERVICE**

No person or business establishment within the City shall be permitted to avoid or refuse to accept solid waste collection service, and the failure of any party to accept such service shall not exempt that party from the payment of the charges for such service. Temporary discontinuance of residential solid waste service will be allowed. Service charges for temporary residential service discontinuation will be \$25 to initiate discontinuation, and \$25 to resume service. The container will be removed from the service location during the time period of service interruption.

At such time as a commercial or industrial solid waste generator contracts for services with a commercial solid waste hauler, other than the City of Prescott, authorized to provide such services as described in Section 2-13-25, the commercial solid waste producer shall notify the Field Operations Department of intent to cancel service. The name of the alternate commercial solid waste hauling company must be provided to the Field Operations Department. The City of Prescott container shall be scheduled for removal in a timely manner, within 30 days of notification received by Field Operations. Charges for service will cease on the date of container removal, prorated at the monthly rate per day.

In the event that the City manager determines that the City is unable to reasonably, efficiently, or safely provide collection services to certain residents, establishments or communities such as, but not limited to, proximity of other serviced areas, size or density of development, or terrain, the City may substitute another means of collection or require the person to seek service from another licensed source until the situation is resolved. At any time, the City may require any resident to receive City residential solid waste collection if the City manager deems the service appropriate. Any person providing such service shall comply with all applicable provisions of this chapter.

## **2-13-7. RESPONSIBILITY FOR SOLID WASTE AND RECYCLABLES**

The responsible party of any premises or business establishment shall be responsible for their solid waste or recyclables until the solid waste or recyclables are collected by the City, agents of the City or licensed solid waste haulers.

The responsible party of any premises, business establishment, or industry shall be responsible for the sanitary condition of said premises, business establishment, or industry, and for the proper storage, containment, and placement for collection of all solid waste and recyclables. Except as provided in this chapter, no person shall bury, dump, dispose or release upon any street, alley, right-of-way or public land, any solid waste or recyclables, including construction and demolition solid waste and tires.

## **2-13-8. TYPES OF SERVICE**

- (A) Residences. Subject to the provisions of 2-13-6, the City shall function as sole provider of weekly-automated residential solid waste collection service and weekly automated residential recycling service. Each residence receiving service under this subsection shall be provided containers for individual use and curbside collection. Additionally, residents may request additional containers for a fee, subject to the discretion of the City manager, or may elect not to participate in the recycling collection program subject to any applicable conditions and fees.
- (B) Business establishments. The City or an authorized solid waste collector licensed by the City under this chapter shall provide commercial solid waste collection service to business establishments as required by state, county and City regulations. If the business establishment is serviced by an authorized solid waste collector other than the City, the service schedule shall be set by the contractor and customer subject to approval by the City manager or his designee, and subject to the provisions of 2-13-3.

## **2-13-9. ENCLOSURES – RIGHT OF WAY PERMITS AND LICENSES**

- (A) Generally.

The City reserves the right to require commercial solid waste generators and business establishments to utilize City or commercial collection sufficient to properly manage the volume of solid waste generated by this business. Containers may be required to be in enclosures that shall be designed in accordance with City Code and shall be properly accessible and sufficiently sized to accommodate the number of containers for the volumes of solid waste generated. All enclosures shall have proper drainage to prevent accumulation and stagnation of any liquid.

- (B) Right of Way Permits

Except as provided either by this subsection or subsection (c) of this section, no person shall place, maintain or cause to be placed or maintained any encroachment or obstruction in public right of way, including any solid waste collection container, unless a permit has been issued by the city of Prescott pursuant to procedures contained in section 8-2-6 of Prescott City Code. The owner of each container shall obtain a permit prior to container placement. Location of each container is subject to approval by the City.

(C) Commercial Solid Waste Right of Way Encroachment Licenses

Except as provided either by this subsection or subsection (b) of this section, no private commercial solid waste collector or recycler, or person contracting with a private commercial solid waste collector shall place, maintain or cause to be placed or maintained any solid waste collection container in public right of way, unless the commercial solid waste collector has obtained a license issued by the City of Prescott pursuant to procedures contained in this chapter. The private commercial solid waste collector shall obtain a license prior to container placement. Location of each container is subject to approval by the City.

**2-13-10. FEES**

(A) Determination of Fees

All fees shall be determined by the City Council. Except for the initial adoption of fees, the fees for collection of solid waste and recyclables shall be approved annually by City Council as part of the annual budget process. Fee schedules as approved by Council shall be published and included as part of the City's budget document, and shall remain in effect for the duration of each fiscal year, and shall remain in effect for each subsequent year until the City Council approves other fees. Review and adjustment of fees shall be conducted and approved by Council annually as part of the budget process.

(B) Reporting and Payment of Fees

A licensed and authorized commercial solid waste collector or recycler shall report and pay to the City a monthly license fee equal to 5% of all cash receipts collected for all commercial solid waste services provided by the authorized solid waste collector in the City. Reports of the monthly cash receipts collected shall be made upon forms prescribed or approved by the City Tax Collector and shall be considered filed only when the accuracy of the report has been attested to by signature upon the form, by an authorized agent of the authorized solid waste collector. Reports shall be made and the fees shall be due and payable monthly on or before the twentieth day of the month next succeeding the month in which the fee accrues. Each month a solid waste collector fails to file a timely report shall be a separate violation of this Chapter.

(C) All authorized commercial solid waste collectors shall make available, at the request of the City, their books, records or other documents for examination and verification of reported cash receipts. The City may review these records and assess any additional fees due at any time

within four (4) years after the date on which the report is required to be filed, or the date on which it is actually filed whichever is latest.

## **2-13-11. UNOBSTRUCTED PASSAGE IN STREETS AND ALLEYS**

No person shall permit trees, shrubs or brush growing upon their property to encroach on or over any public right-of-way so as to interfere with the movement of persons or vehicles. It is the responsibility of the responsible party to trim trees or shrubbery on their property and in the adjacent right-of-way back to their property line and allow 18-foot height clearance.

No person shall allow any obstruction, including but not limited to, parked vehicles, within 15 feet of a solid waste or recycling container placed out for collection service, or to obstruct the solid waste and/or recycling collection operations in any other manner.

## **2-13-12. RECEPTACLES--GENERAL REQUIREMENTS**

- (A) Every person or commercial or residential solid waste generator shall place or cause to be placed all solid waste accumulating on the premises in suitable receptacles or containers provided by the City, or an authorized solid waste collector.
- (B) All materials prepared for collection shall be stored in a City-approved container until removed by the City or an authorized solid waste collector, unless those materials are properly prepared for the City's bulk waste collection service, if any.
- (C) Solid waste and recyclables shall be stored, collected and hauled for disposal in accordance with the Yavapai County Health Code, Arizona Department of Health Services and Arizona Department of Environmental Quality Regulations.
- (D) Any user of a City-provided container shall be required to use and maintain the container as follows:
  - 1. *Cleaning.* All solid waste and recycling containers shall be maintained and stored in a sanitary condition. The user shall maintain the container free of intense odors, evidence of flies in any stage of development, and any other nuisance or threat to public health or safety. The City may assist in cleaning containers if requested by the user, subject to staff availability and subject to an additional fee for such service.
  - 2. *Reporting damage or loss.* The user shall be responsible for reporting any container damage or loss to the City.

3. *Proper and safe use.* The user shall not damage the container intentionally, or use the container for any purpose other than those specified in this chapter. The user shall not use the container in any manner which is unsafe, or which a reasonably prudent person would believe is unsafe.
  4. *Lids or covers.* The lids or covers of any solid waste and recycling containers shall at all times be kept secure in such a manner to prevent intrusion of moisture, infestation of insects, and scattering of solid waste or recyclables. Covers shall be kept closed except when containers are being loaded or emptied.
- (E) No person not authorized by the City shall remove, collect or disturb the solid waste and recyclables stored in such containers or remove from a solid waste or recycling container any solid waste or recyclables set out for collection and disposal by the City or agents of the City or licensed solid waste haulers. This prohibition does not apply to law enforcement officers acting within the scope of their official duties.
- (F) No person shall utilize the solid waste or recycling containers or receptacles assigned to other persons for the disposal of solid waste or recyclables without their permission. This does not apply to the automated solid waste or recycling collection system where residents share the use of common containers.
- (G) All boxes, cartons and crates shall be collapsed before being placed in solid waste or recycling containers. Ashes shall be soaked with water to extinguish any live embers and contained in tied bags before placement in solid waste containers.
- (H) Explosives or flammable materials of any kind shall not be placed in any solid waste or recycling container.
- (I) Corrosives, reactives, oxidizers, lead acid batteries or any hazardous waste shall not be disposed of in solid waste or recycling containers.
- (J) Pool chemical containers shall be emptied, rinsed, drained and moisture free prior to being placed in a solid waste or recycling container.
- (K) All solid waste and recyclables shall be stored in a manner that does not present a health or safety hazard or public nuisance, including but not limited to, the breeding of insects. No person shall place, deposit or allow to be placed or deposited on his or her premises or private property or any public street, alley or right-of-way any solid waste or recyclables except in a manner prescribed in this chapter. In the event that the violation is not

corrected, the violation is also considered a public nuisance that may be abated.

- (L) It is the container users' and responsible parties' responsibility to properly contain solid waste or recyclables generated on their premises and to keep the area around the container continuously clear and free of all debris. If the property has alley solid waste service, the term "area" includes the alley.
- (M) It shall be a violation of this Code to place material in any solid waste or recycling container of a volume or weight which prevents the collection vehicle from emptying the container or which damages the collection vehicle or container. Maximum weight of material placed in any residential container shall not exceed 100 pounds.

### **2-13-13. CITY OWNERSHIP OF CITY-PROVIDED CONTAINERS**

- (A) The City may place a receptacle, or receptacles approved by the City at each residence or establishment that is authorized or required to receive residential collection service from the City.
- (B) Each person or entity which shall contract with, or accept garbage service from the City, using a City-owned receptacle, shall, by acceptance of such service, recognize the right of the City to enter upon the premises of such person or entity to retake possession of the garbage receptacle(s) upon termination of service, and shall be deemed to have extended to the City an express license to so enter the premises for that purpose.
- (C) The City will furnish one solid waste and one recyclable container for the accumulation, storage, and collection of solid waste. Additionally, such residents may request additional containers for a fee, subject to the discretion of the City manager. Residents may request two solid waste containers in addition to or in lieu of a recycling container and shall be subject to solid waste collection one day per week and shall be subject to an additional charge at the discretion of the City manager. All such containers are owned by the City, and the City may remove or replace the container without notice to the user.
- (D) If a solid waste or recycling container is in violation of this chapter and presents a health or safety hazard, the solid waste inspector shall issue a notice of violation to the responsible party. In the event that the violation is not corrected within a reasonable number of days as required by such notice, the violation is considered a public nuisance that may be abated.

## **2-13-14. CONSTRUCTION AND DEMOLITION MATERIALS**

Construction and demolition solid waste shall not be placed in a solid waste or recycling container. If such construction and demolition solid waste is generated, the responsible party is responsible for the removal and disposal of such solid waste. All construction and demolition solid waste shall be removed promptly and shall not be stored in any location where it may be blown or otherwise dispersed beyond the construction site. In the event that the violation is not corrected, the violation is considered a public nuisance that may be abated.

## **2-13-15. RESIDENTIAL COLLECTION REQUIREMENTS**

- (A) All residential solid waste generators for whom City supplied solid waste service is available shall subscribe to the municipal solid waste service, and shall pay the fee assessed.
- (B) The City manager may require any residential solid waste generator regularly generating solid waste that exceeds 65 gallons or 100 pounds of solid waste within a collection period, to acquire an additional container or containers subject to the appropriate fee per container, or any resident regularly generating solid waste that requires special handling, to schedule a special bulk waste collection subject to the appropriate collection fee.
- (C) Only properly prepared materials shall be acceptable for collection under this chapter.
- (D) The frequency of contained solid waste collections shall be in accordance with the Yavapai County Health Code and the Arizona Department of Environmental Quality Regulations.
- (E) Collection days shall be as designated by rules prescribed by the City manager.
- (F) Rules prescribed by the City manager determine the service level required and method of collection.
- (G) Only the City shall be authorized to remove any City-owned solid waste or recycling container from its assigned location. It shall be a violation of this Code for any other person to remove a container from the address to which it is assigned.
- (H) Carryout service may be provided at no additional charge to individuals living alone who are elderly, ill or disabled and are incapable of conveying their solid waste or recycling container to the designated collection

location. This does not include entering the dwelling unit. The resident may be required to produce a medical statement of present physical condition. No carryout service shall be performed if, in the opinion of the City manager, the terrain presents a safety hazard for equipment operators or collection vehicles. The City manager shall have the right to limit the number of containers.

- (l) Residences receiving collection under any of the City's collection programs are limited to one empty of the container being serviced, per collection day.

## **2-13-16. AUTOMATED RESIDENTIAL SOLID WASTE AND RECYCLING COLLECTION**

- (A) Proper preparation for collection. All residential solid waste prepared for collection by the City's automated residential solid waste collection program shall be prepared for collection as follows:
  1. Placement. Containers set out for collection must be placed in the street in front of the house to which they are assigned, with the wheels adjacent to the curb of the sidewalk, and the lid opening toward the street. Where there is no sidewalk, the container must be placed at the edge of the street, within two feet of the pavement or improved road, as applicable. Containers will not be collected from private property, or when placed within 15 feet of a vehicle, mailbox or other obstruction to safe collection as determined by the City manager. At no time may containers be left on the sidewalk.
  2. To ensure containers are placed out on time, containers may be placed at the curb after 6:00 p.m. on the day preceding collection. Containers for street collection shall be placed at the curb for service no later than 6:00 a.m. on the day of collection. Containers must be removed prior to 11:00 p.m. of the day of collection. It shall be a violation of this Code to place or permit containers to remain adjacent to the curb except upon regular collection days. Containers shall be stored, between collection days, on the user's property so as not to interfere with pedestrian or vehicular traffic.
  3. Lid must be closed. The lids of containers set out for residential solid waste collection must be entirely closed.
  4. Solid waste must be bagged. All solid waste prepared for residential solid waste collection including grass clippings must be bagged and securely tied to exclude flies and other pests. Loose branches and brush may not be bagged under the condition that

the unbagged material empties readily during normal collection conditions.

5. Container contents. The contents of the container must be arranged so that they fall out easily when serviced by authorized collection vehicles. The City shall not be required to remove any materials, which remain in the container after the container has been serviced by the collection vehicle.
6. Household medical and infectious waste. All household medical and infectious solid waste, including lancets, syringes and hypodermic needles, must be properly contained before disposing of in the solid waste container. Household and infectious waste must be placed in plastic bags and securely tied before placing in the solid waste container. Lancets, syringes and hypodermic needles must be placed in a rigid, leak-proof and puncture resistant container with a secured and taped lid and must be clearly labeled identifying the contents before placing in the solid waste container. Depositing or disposing of household medical and infectious waste or lancets, syringes and hypodermic needles in any recycling container is prohibited.
7. Prescription drugs and medicines. All prescription drugs and medicines shall be disposed of according to the guidelines in this chapter unless there are specific disposal instructions on the drug label or patient information form, or unless a pharmacy or other licensed agency can provide disposal for such items. Prescription drugs and medication shall not be flushed down the toilet unless instructed by its documentation. If no disposal instructions are provided, prescription drugs and medicine shall be disposed in the household trash. Medications shall be removed out of their original containers and mixed with an undesirable substance. A small amount of water or other liquid shall be added to solid medications to cause the pills or capsules to dissolve. Coffee grounds or kitty litter shall be added to liquid medication to absorb the medication. Blister packs shall be wrapped in multiple layers of duct tape or opaque tape. Unused ampules, vials and IV bags should not be opened and shall be wrapped with duct or other opaque tape to minimize breakage and then placed in an opaque plastic container, such as an empty yogurt or margarine tub. Medication that has been combined with the undesirable substance shall be placed in a sealable bag, empty can or other container to prevent leaking into the garbage. The top of the container can be duct taped to the bottom of the container for additional security.

8. Recyclable materials must be bagged in paper bags (bags must not be tied or taped closed) and must be placed in the container in such a manner that they separate under the normal operating procedures of the applicable materials recovery facility.
9. No contamination. Only recyclable materials shall be collected by the City's residential recycling collection program.

## **2-13-17. RESIDENTIAL BULK WASTE COLLECTION**

- (A) All materials prepared for the City's residential bulk waste collection program, if such a program exists, shall be prepared for collection and disposed of in accordance with this section.
- (B) It shall be a violation of this Code to place bulk waste out for collection more than one week before collection is scheduled through the City of Prescott Solid Waste Division.
- (C) Bulk waste shall be placed out for collection no later than 6:00 a.m. on the first day of the scheduled week of collection.
- (D) Bulk waste placed out for collection shall be in neat stacks.
- (E) Bulk waste placed out for curbside collection shall be placed on the resident's property, parallel to the street or curb. The City manager may designate alternative placement and collection points. Bulk waste shall not be placed on the sidewalk or in the street, behind a fence or any obstruction or barrier.
- (F) Bulk waste shall not be placed within five feet of any fixed object, solid waste or recycling container or in any manner, which would interfere with or be hazardous to pedestrians, bicyclists, equestrians or motorists.
- (G) No more than ten loose yards of brush or bulk shall be collected from a single residence on a scheduled brush or bulk collection date.
- (H) The amount of bulk waste placed out for collection at no charge shall not exceed a total un-compacted volume of 20 cubic yards per fiscal year. The responsible party shall arrange for the commercial transportation and licensed disposal for additional bulk waste over 20 cubic yards per fiscal year.
- (I) Century plants, thorned plants, cacti, and similar plants which are difficult to handle, or may present a danger to collection employees, shall be contained in boxes or containers after having been cut to lengths of no more than three feet. Any such container or box shall enable municipal

collection workers to pick up the container or box without risk of exposure to the contents, and shall weigh, when loaded, no more than 75 pounds per container.

(J) Items of bulk waste which are acceptable for normal residential collection are:

1. Tree limbs and branches less than four feet in length and palm fronds.
2. Metal or automobile parts and material less than 75 pounds.
3. Pipe less than four feet in length and less than 75 pounds.
4. Household items, furniture, appliances, bicycles, and other durable goods.
5. Bagged or boxed leaves, weeds, grass, small vegetation clippings and hedge clippings.
6. Construction and demolition waste generated by a resident less than 25 pounds.
7. Cardboard boxes.

(K) Items of bulk waste, which are not acceptable for normal residential collection, include:

1. Tree limbs and branches more than four feet in length.
2. Metal material in excess of 75 pounds.
3. Pipe more than four feet in length or over 75 pounds.
4. Unbagged leaves, weeds, grass and small vegetation and hedge clippings.
5. More than 25 pounds of construction and demolition solid waste generated by a resident or any amount generated by a contractor.
6. Cement, cement blocks, brick, asphalt, stones and dirt.
7. Lead acid batteries or any hazardous, infectious or medical solid waste.
8. Metal or automobile parts and material more than 75 pounds.

9. Automotive tires or tires of any other type.
- (L) No person shall place unacceptable bulk waste items or improperly placed bulk waste items out for collection. The responsible party shall remove and dispose of all bulk waste improperly placed and any unacceptable items of bulk waste at their own expense. The City manager may require that yard waste be separated from other bulk waste for collection in an alternative manner.
- (M) In the event a violation is not corrected, the violation is considered a public nuisance that may be abated.

### **2-13-18. ROLL OFF CONTAINER COLLECTION SERVICE**

The City manager may provide roll off container collection service to residential, commercial, or municipal solid waste generators. The fee for such services shall be established by and periodically reviewed or revised by rules prescribed by the City manager. All roll off placements shall occur at the mutual agreement of the division staff and the solid waste generator and shall not interfere with sidewalk or street traffic. A release of liability may be required before containers will be placed or collected from private property, or when placed within 15 feet of a vehicle, mailbox or other obstruction to safe collection as determined by the City manager.

### **2-13-19. COMMERCIAL COLLECTION REQUIREMENTS**

- (A) All commercial solid waste generators shall maintain their alleys and the area surrounding the solid waste containers free from solid waste and other potential hazards to the public health, safety, or welfare. Where unusual or inordinate waste material is generated, special collections shall be arranged with the City or other authorized commercial solid waste hauler licensed by this section of City Code.
- (B) Commercial establishments may, by contract, receive City solid waste collection services and City-owned containers. Collection employees shall at all times have convenient accessibility to said containers.

### **2-13-20. PROHIBITED SUBSTANCES, UNACCEPTABLE MATERIALS OR PROHIBITED MATERIALS**

- (A) No person shall deposit or cause to be deposited in any solid waste container that is serviced by the City any prohibited substance, unacceptable materials or prohibited materials as defined in this chapter. The City manager may, by special agreement, contract to haul prohibited substances when placed in special containers and clearly labeled. Unless

the City manager has contracted by special agreement to haul the prohibited substances, it is the responsibility of the generator of such substances to ensure their removal.

- (B) Construction and demolition waste, defined in this chapter, may be placed in solid waste containers subject to weight restrictions listed in Sec. 2-13-19. Removal of construction waste shall be the responsibility of the owner of the real property upon which such waste is generated. Small quantities of construction and demolition waste may be collected through the bulk waste program as per the conditions of that program.
- (C) Unacceptable materials will not be collected under this chapter, may subject the producer to a penalty under this chapter, and will be the generator's responsibility to ensure their removal. Unacceptable material may be removed by the City at the generator's expense as set forth in this chapter. Unacceptable material may be collected through special collection events that are periodically scheduled by the City manager.
- (D) Prohibited materials. The following materials are unacceptable for collection under any collection program described in this chapter:
  - 1. Improperly prepared materials. Any acceptable material that is not properly prepared for collection. "Improperly prepared for collection" shall include otherwise acceptable materials which are set out for collection at the wrong time or in the wrong place.
  - 2. Tires and other automotive parts. No tires or other auto parts shall be acceptable. "Automotive parts" includes any part or combination of parts of any kind of motor vehicle, including but not limited to tires, batteries, seats, engines, fuel tanks, doors, auto glass, and upholstery.
  - 3. Waste materials collected by any sidewalk or street sweeper.
  - 4. Gardening and landscape business waste. No landscapers, tree trimmers, lawn maintenance businesses or similar operators may dispose of yard-waste or any other solid waste in solid waste containers unless the waste is generated solely from the grounds of the property and the property owner or manager has approved such disposal.
  - 5. Fire hazards. No hot ashes, hot cinders, burning matter, loose sawdust, flammable or volatile liquids, or any other material, which presents a fire hazard, shall be acceptable.
  - 6. Hazardous material.

7. Medical waste.
8. Contaminated materials.

## **2-13-21. PROHIBITED ACTS**

Violations of this chapter include, but are not limited to:

- (A) Place or cause to be placed any solid waste upon any public or private property not owned or under his control;
- (B) Place or cause to be placed in a solid waste container any garbage, waste, rubbish, containable rubbish, filth or dead animal which is not contained within a securely fastened leak-proof plastic bag, unless otherwise exempted by this chapter;
- (C) Place or cause to be placed more than a limited amount of filth in a solid waste container; as established by the City manager;
- (D) Place or cause to be placed any solid waste in a container not owned or maintained by said property owner;
- (E) Fail to restrain any vicious animal and prevent interference with collection employees acting in the course of their duties;
- (F) Any responsible party who causes, permits, facilitates, or aids or abets any violation of this chapter or who fails to perform any act or duty required by this chapter.
- (G) Each day, any violation of this chapter that exists shall constitute a separate violation or offense.
- (H) The owner of record, as recorded in the Yavapai County Recorder's Office records of the property at which a violation of this chapter exists, may be presumed to be a person having lawful control over any building, structure or parcel of land. If more than one person shall be recorded as the owner of the property, said persons may be jointly and severally presumed to be persons having lawful control over the building, structure or parcel of land.
- (I) If a responsible party served with a notice of violation or citation by the City fails to correct the violation within the period specified, the City may correct or abate the condition as described in the notice and, in addition to any penalty which may be imposed for a violation of this chapter, the responsible party shall be liable for all costs which may be assessed pursuant to this chapter for the correction or abatement of the condition.

- (J) If in the opinion of the City manager the condition constitutes an imminent health or safety hazard, the City manager may immediately abate the hazard without notice. Such abatement of an imminent health or safety hazard shall be limited to the minimum work necessary to remove the hazard.
- (K) Failing to remove construction and demolition waste. It shall be a violation of this Code for a generator of construction and demolition waste to fail to remove the construction and demolition waste from the premises within 30 days from the date on which it was placed upon the premises, or not later than the final building inspection, the clearance of public utilities, or the issuance of a certificate of occupancy, whichever comes first.
- (L) Burning solid waste. No person shall burn solid waste except in incinerators as may be permitted by the county and the City. Any burning of solid waste must comply with the rules and regulations established by the Arizona Department of Health Services and the U.S. Environmental Protection Agency.
- (M) Interfering with collection. It shall be a violation of this Code for any person to interfere with authorized collection of solid waste in any way.
- (N) Mishandling hazardous waste. No person, business, contractor or licensee shall knowingly collect, place or cause to be placed or collected any hazardous waste or similar materials from any container or any public or private property, except as specifically permitted by the Arizona Department of Environmental Quality or the U.S. Environmental Protection Agency.
- (O) Failing to contain solid waste in transit. No person shall collect, transport or receive any solid waste or other wastes within or upon any public or private streets in the City, or anywhere in the City, except in leak proof containers or vehicles so constructed that no solid waste or other wastes leak or sift through, fall out or be blown from such container or vehicle. Any person collecting or transporting any solid waste or other wastes shall immediately pick up all solid waste or waste which drops, spills, leaks or is blown from the collecting or transporting container or vehicle, and shall otherwise clean the place onto which any such solid waste or wastes were dropped, spilled, blown or leaked.
- (P) Contaminating recyclable materials. No person shall deposit or cause to be deposited, in any recycling container, anything other than acceptable recyclable materials.

- (Q) Scavenging. No person, unless authorized by the owner of the solid waste, may remove, collect, or disturb solid waste in a container that is set out for collection for the purposes of recycling or disposal by the City, its agents. No person, unless authorized by the City, may remove, collect, or disturb recyclable materials deposited for collection at any of the City's designated recycling drop-off and collection centers. City employees acting within the scope of their employment are not subject to the prohibitions described in this section.

#### **2-13-22. ENFORCEMENT AUTHORITY**

- (A) The City manager shall enforce the provisions of this chapter. In addition, the City manager is authorized to abate conditions which in the opinion of the City manager are incipient or are an imminent threat to the health or safety of any person or persons.
- (B) The authority of the City to enforce provisions of this chapter is independent of and in addition to the authority of other City officials to enforce the provisions of any other City Code provisions.
- (C) Upon request from the City manager, the police department and any other department of the City has authority to assist and cooperate and enforce this chapter.

#### **2-13-23. SOLID WASTE LICENSE REQUIRED FOR USE OF PUBLIC ROADS AND ALLEYS BY SOLID WASTE COLLECTION VEHICLES COMMERCIAL SOLID WASTE LICENSES – DURATION**

No person or entity shall collect and transport, or cause to be collected and transported, any solid waste, on or along any public street or alley in the City without such person or entity obtaining and maintaining a solid waste license from the City for the period during which such solid waste is to be collected and hauled on or along any such public street or alley unless excepted from the provisions by law. For the purposes of this section, solid waste shall also include recyclable materials, clothing, shoes, newspaper, cardboard, aluminum, steel and other recyclable or reusable materials. The City may issue operating licenses for industrial or commercial solid waste collection, disposal, and recycling services. Such licenses shall be effective for 12 months after they are issued or approved unless otherwise provided in the license.

#### **2-13-24. LICENSE EXCEPTIONS**

The provisions of this chapter shall not be applicable to any person or entity collecting and transporting solid waste on or along a public street or alley in the City when:

- (A) Persons who collect, transport or dispose of medical waste, infectious waste, hazardous waste, toxic waste or any other similar category of solid waste for which the person has obtained a required state, county or federal permit to engage in such activities.
- (B) This exemption shall not extend to collection, transportation or disposition of materials not enumerated herein.
- (C) Such person is an owner or occupant of property from which solid waste is taken to a designated recycling point within the City to the extent such trash is eligible for deposit at such recycling point;
- (D) Such person is an owner or occupant of property wherein such person has or has caused to be generated small amount of solid waste from time to time and transports such materials in his or her own vehicle to a proper point of disposal.
- (E) Persons who engage in the activities described in this chapter only secondarily or incidentally to other services or activities, for example, but not limited to, lawn services, tree trimming services, contracting, etc.

#### **2-13-25. LICENSE APPLICATION**

Applicants for a solid waste license, or for annual renewal thereof, shall file a City application form to include the following:

- (A) The name(s), local address, permanent home and business address and local telephone number of the individual(s) applying for the license and the organization or persons on whose behalf the application is completed;
- (B) The name(s), business address and telephone number of all owners, partners, general managers and principal officers;
- (C) Evidence that the applicant possesses the adequate equipment and necessary qualifications to collect, transport and dispose of the solid waste in a manner satisfactory to the City manager and in conformity with all applicable federal, state, county and City laws, rules and regulations;
- (D) Other information as the City manager may require to verify the applicant's qualifications and information submitted in the application. Such information may include an audited financial statement and other indicators of financial stability of the applicant;
- (E) A nonrefundable license application fee or other required fee;

- (F) Required performance bonds and insurance verification, certificates of insurance and applicable endorsements.
- (G) A statement that the licensee agrees that all of its vehicles and containers used for collection may be inspected by the field operations department, code enforcement department, or the police department at any time on a random basis during the term of the license.

## **2-13-26. ISSUANCE OF LICENSE**

The City manager shall issue a solid waste license to each applicant upon satisfactory submittal of a license application, performance bond, insurance and payment of fees. Application for renewal shall be submitted to the City at least 30 days prior to the expiration of the current license. Licenses are nontransferable.

## **2-13-27. VEHICLE REQUIREMENTS**

All vehicles used for solid waste collection and transportation within the City must have all required vehicle licenses or certificates in place at the time of initial license application and each license renewal. Vehicles may be inspected by the field operations department or the police department at any time on a random basis during the term of the license. All vehicles must meet the following requirements throughout the term of the license:

- (A) Vehicles must be in good condition and repair and comply with current Arizona Department of Transportation standards. The bodies shall be of readily cleanable construction and watertight. A current garbage hauler permit issued by the Yavapai County Health Department must be maintained for all vehicles.
- (B) Vehicles shall be maintained and operated in a clean and neat manner, in compliance with manufacturer's specifications for liquid retention capacities, to prevent solid waste from spilling, leaking and blowing from the container onto the roadway;
- (C) All open top roll-off containers must be covered or tarped when in transit to prevent solid waste or contents from spilling or blowing from the container onto the roadway;
- (D) Vehicles shall be equipped with an approved backup protection device;
- (E) Vehicles shall be maintained and operated in such a manner so as the noise levels do not exceed 75 decibels at a distance of 25 feet during stationary operation;

- (F) The outside of each vehicle must be clearly identified with the name and phone number of the licensee operating the vehicle. All letters and numbers shall be no less than three inches in height and shall be displayed on both sides and rear of the vehicle. Each vehicle shall additionally display one City-provided decal, affixed permanently and clearly visible on the driver's side window. Only vehicles with a City decal may be used in the performance of the license.

The failure to meet any of one of these requirements shall be a violation punishable by a penalty as provided in this chapter.

## **2-13-28. CONTAINER REQUIREMENTS**

- (A) Licensee shall have joint responsibility with the solid waste customer to keep and maintain sufficient standard commercial containers as to accommodate the disposal needs of the establishment.
- (B) Licensee shall at all times maintain their containers, roll-offs bodies and solid waste compactors in sanitary conditions and good repair as may be determined by the City manager. All license-owned containers, roll-off bodies and solid waste compactors shall be painted and have the licensee's name and telephone number legibly identified thereon. All letters and numbers on containers shall be no less than three inches in height and shall be clearly visible at all times.
- (C) Licensee shall service only commercial units, containers, roll-off bodies and/or solid waste compactors consistent with the license issued under this chapter. The commercial containers, roll-off bodies and solid waste compactors shall be located so as not to interfere with vehicular or pedestrian traffic and shall be in conformance with all license and City code requirements.

The failure to meet any of one of these requirements shall be a violation punishable by a penalty as provided in this chapter.

## **2-13-29. SEIZURE AND IMPOUNDMENT OF CONTAINERS**

- (A) In addition to any other penalties set forth in this chapter, any solid waste container which is placed or maintained at a residential, commercial, industrial, or multi-family establishment in violation of any City or state law may be seized and impounded by the City, at the owner's expense. Prior to the seizure and impoundment of any solid waste container, the City shall conspicuously post upon said container a notice of violation which sets forth the specific violation and the date in which the container will be seized if the violation has not been corrected. The notice of violations shall be posted at least ten days prior to the seizure of the container.

- (B) The owner of any container which is impounded pursuant to the provisions of this section shall have 30 days to pay the City cost of seizure and storage and to retrieve the container. If the owner of a container has failed to pay the applicable cost or failed to retrieve the container within 30 days of its seizure, the City is authorized to dispose of the container upon such condition and terms as determined by City.

### **2-13-30. ANNUAL REPORTS**

- (A) All licensees under this division shall provide the field operations department with the following information, in writing, each calendar year, or portion thereof, that the license is in effect;
  - 1. The number of commercial/industrial customers being serviced within the City limits.
  - 2. The total number of containers being serviced.
  - 3. The total number of commercial/industrial tons collected.
  - 4. The total number of tons recycled, itemized by type of materials and sites at which deposited.
  - 5. The total number of trips and tonnages of transfer trailers or packer trucks that passed through the City in route for solid waste collected outside the City.
- (B) The reports shall be submitted not later than January 31 of that reporting year. All reports submitted pursuant to this section shall remain confidential to the extent allowed under federal and state law.
- (C) Upon the written request of the City manager shall provide all other information or documents as may become necessary to conform or assist in conforming to all applicable federal, state, county, or City laws, articles resolutions, rules and regulations concerning solid waste, recycling, source reduction or similar activities.

### **2-13-31. PROHIBITED PRACTICES**

- (A) It shall be a violation of this Code and a violation of a license for any licensee to engage in any of the following practices:
  - 1. Failure to comply with any provision of this chapter or of a license between the City and licensee.

2. Provision of solid waste collection services to commercial waste generators in the City without a license provided under the provisions of this chapter, and unless such license is in full force and effect.
  3. Failure to comply with any of the provisions of Title 49, Arizona Revised Statutes or Arizona Administrative Code, Title 18, Article 8 or any applicable county regulation.
  4. To contract, combine or conspire with one or more other licensees under this chapter or persons for the purpose of restraining competition or limiting competition for the provision of solid waste collection services to commercial generators.
  5. To engage in predatory pricing practices in violation of the Arizona Uniform Antitrust Act.
  6. To provide solid waste collection services to any single family or multi-family dwelling units or accounts without a written agreement executed by the City.
- (B) Any person violating any part of this section shall be guilty of a misdemeanor and subject to a penalty as provided in this chapter.

## **2-13-32. CAUSE FOR DENIAL, MODIFICATION, OR REVOCATION**

- (A) Licenses may be denied, modified, or revoked by the City after notice and hearing for any of the following causes:
1. Fraud, misrepresentation, or false statement contained in the application, monthly fee report, annual report, or any information or documents provided to the City.
  2. Any material violation of this chapter including payment of fees, or failure to meet any other licensing requirements after notice and opportunity to cure within the reasonable time specified by the City.
  3. Conducting a business in violation of any federal, state, county or local law, including Title 49 Arizona Revised Statutes.
  4. The licensee is convicted of untrue, fraudulent, misleading or deceptive advertising.
  5. The licensee is a corporation and is no longer qualified to transact business in the state.

6. Willful, grossly negligent, or repeated violations of this chapter, the license, or any other applicable law or regulation relating to the provision of solid waste collection services.
- (B) A license shall not be revoked, if the licensee's violation of the license is the result of force majeure.

**2-13-33. DENIAL OF LICENSE--APPEAL**

- (A) Any decision by the City manager to deny an application shall be in writing and set forth the findings and reasons for the decision. The decision shall be mailed to the applicant.
- (B) Any aggrieved person may appeal a decision by the City manager to deny a license application.
- (C) The appeal shall be filed with the City clerk no later than 15 days after receipt of the City manager's decision, and shall consist of a written statement fully describing the grounds for appeal.
- (D) The City clerk shall schedule a hearing within 30 days of receipt of the appeal, and notice shall be mailed to the appellant.
- (E) Council shall preside over a hearing on the appeal.
- (F) Following a hearing on the appeal, the council shall render a written decision on the appeal, setting forth the findings and reasons for the decision.
- (G) Any aggrieved person may appeal the council's decision to superior court.

**2-13-34. NOTICE OF LICENSE VIOLATIONS--OPPORTUNITIES FOR CURE; TERMINATION; APPEAL**

- (A) In addition to any other penalties provided herein, if the City manager determines that a licensee is in violation of this chapter or the license, the City manager may:
1. Find that the licensee is in violation of the terms of the license and order corrective action; or
  2. In the case of a material violation, terminate the license, following a hearing.
- (B) Notice of the violations shall be served by certified mail to the licensee and shall set forth the nature of the violation. The licensee shall:

1. Cure any such violation within the time specified by the City or, take reasonable steps to cure said violation and diligently continue such efforts until said violation is cured. Licensee shall report to the City, in writing, at ten-day intervals as to its efforts, indicating the steps taken to cure said violation and reporting the licensee's progress until such violation is cured.
  2. Within 20 days of receipt of such notice, respond to the City in writing, if the licensee contests the City's determination that a violation has occurred. The response should include such information or documentation as necessary to support the licensee's positions.
- (C) If the licensee in its response contests the City's determination that a violation has occurred within 15 days of the notice, the City manager shall schedule a hearing within a reasonable time. Following a hearing, if the City manager determines that the licensee has committed a violation, the determination shall be in writing, including findings of facts and reasons for its decision. The decision of the City manager shall become final unless a licensee requests a hearing before the City council within 15 days of its receipt of the City manager's decision. If licensee requests a public hearing before council, it shall be de novo and it shall convene within 30 days of the request. All witnesses shall be sworn and shall be subject to cross-examination; however, formal rules of evidence shall not apply. Council's decision, which shall include findings of fact, shall be made not later than 30 calendar days after the conclusion of the hearing. In that decision, council may:
1. Find that licensee is not in violation of the license;
  2. Find that licensee is in violation but that such violation was with just cause and waive any penalty that may otherwise be imposed;
  3. Find that licensee is in violation of the terms of the license and requires corrective action;
  4. Declare the licensee in violation and revoke the license.
- (D) In addition to all other rights and powers retained by the council under this chapter or otherwise, council shall have the right to revoke the license and all rights and privileges of the licensee for any of the reasons set forth in this chapter.

## **2-13-35. INTERIM SOLID WASTE LICENSE**

An applicant for a solid waste license whose application is being processed for approval, or a solid waste contractor whose solid waste license has been denied or revoked, may obtain an interim solid waste license to conduct operations pending its appeal to the council or to court. An application for an interim solid waste license may be submitted and issued in the same manner as for an interim business license.

## **2-13-36. SEVERABILITY**

If any section, subsection, paragraph, sentence, clause, or phrase of this chapter should be declared invalid for any reason whatsoever, such decision shall not affect the remaining portions of this chapter, which shall remain in full force and effect; and to this end the provisions of this chapter are hereby declared to be severable.

## **2-13-37. VIOLATIONS AND PENALTIES**

- (A) The penalties set forth above shall be cumulative and nonexclusive. In addition to those penalties set forth above, the City may institute any other remedies available, including but not limited to a civil action to seek injunctive relief for a violation of this Chapter, and the recovery of attorney's fees for such violation.
- (B) Any person who violates any provision of this Chapter shall be guilty of a misdemeanor, and upon conviction thereof shall be punished as provided in Section 1-3-1 of the Prescott City Code. Each and every day any such violation continues shall be deemed and considered a separate offense.

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**State law references:** Solid waste management, A.R.S. § 49-701 et seq.; local regulation of solid waste, A.R.S. §§ 49-704, 49-765; criminal littering, A.R.S. § 13-1603.