



CITY COUNCIL AGENDA

CITY COUNCIL CHAMBERS . 11465 WEST CIVIC CENTER DRIVE . AVONDALE, AZ 85323

WORK SESSION
August 10, 2009
6:00 PM

CALL TO ORDER BY MAYOR ROGERS

1 ROLL CALL BY THE CITY CLERK

2 PROPOSED PRETREATMENT PROGRAM ORDINANCE

City Council will receive information regarding the proposed pretreatment program ordinance. For information, discussion and direction.

3 SINGLE FAMILY RENTAL PROPERTIES

City Council will discuss issues surrounding rental properties in single family subdivisions and alternatives to maintaining vibrant neighborhoods. For information, discussion and direction.

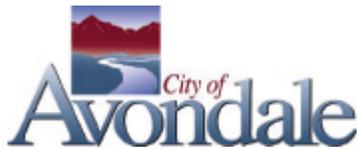
4 ADJOURNMENT

Respectfully submitted,

A handwritten signature in cursive script that reads "Carmen Martinez".

Carmen Martinez
City Clerk

Individuals with special accessibility needs, including sight or hearing impaired, large print, or interpreter, should contact the City Clerk at 623-333-1200 or TDD 623-333-0010 at least two business days prior to the Council Meeting.



CITY COUNCIL REPORT

SUBJECT:
Proposed Pretreatment Program Ordinance

MEETING DATE:
August 10, 2009

TO: Mayor and Council
FROM: Lynn Lichtenberger
THROUGH: Wayne Janis, Water Resources Director

PURPOSE:

Staff will brief the City Council regarding the implementation of the Pretreatment Program. The outline will present the components of the program to be implemented once approval has been granted by council such as legal authority, compliance procedures, funding, and outreach strategies.

BACKGROUND:

The Pretreatment Program is a federally mandated program stemming from the 1972 Federal Clean Water Act, and amended by the Clean Water Act of 1977. We are required to implement a Pretreatment Program as an AzPDES permit holder. Our permit is issued by The Arizona Department Environmental Quality, who is granted Approval Authority for the program by Environmental Protection Agency.

In addition to working with various departments within the city, such as development Services, Community Relations and Public Affairs, Collections, Planning, and Code Enforcement; staff has also reached out to Pretreatment departments in cities across the Valley.

DISCUSSION:

Staff will present program information and solicit feedback/comments from the Council regarding the proposed ordinance, program, public outreach strategies, public meeting dates and times, survey responses from businesses, pretreatment enforcement , and modifications to the existing City Code.

Staff will compile and incorporate comments and direction from Council into the final Ordinance and program implementation plan. The final ordinance will be presented to the Council for approval in the near future. The current schedule is to obtain City Council and Arizona Department of Environmental Quality approvals by September 2009.

Outreach ideas, public meeting dates and times, business responses from surveys thus far, pretreatment enforcement, and adjustments to the city ordinance based on council recommendations for the approval of the final draft by ADEQ will be discussed.

BUDGETARY IMPACT:

The funding for this program for fiscal year 2009-2010 will be from the Water Reclamation Facility operation and maintenance budget.

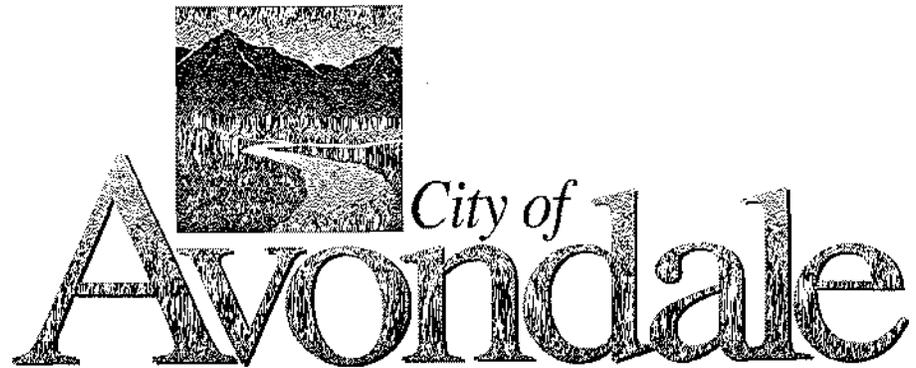
RECOMMENDATION:

This item is for information and discussion only. No formal action is required.

ATTACHMENTS:

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 [Pretreatment](#)

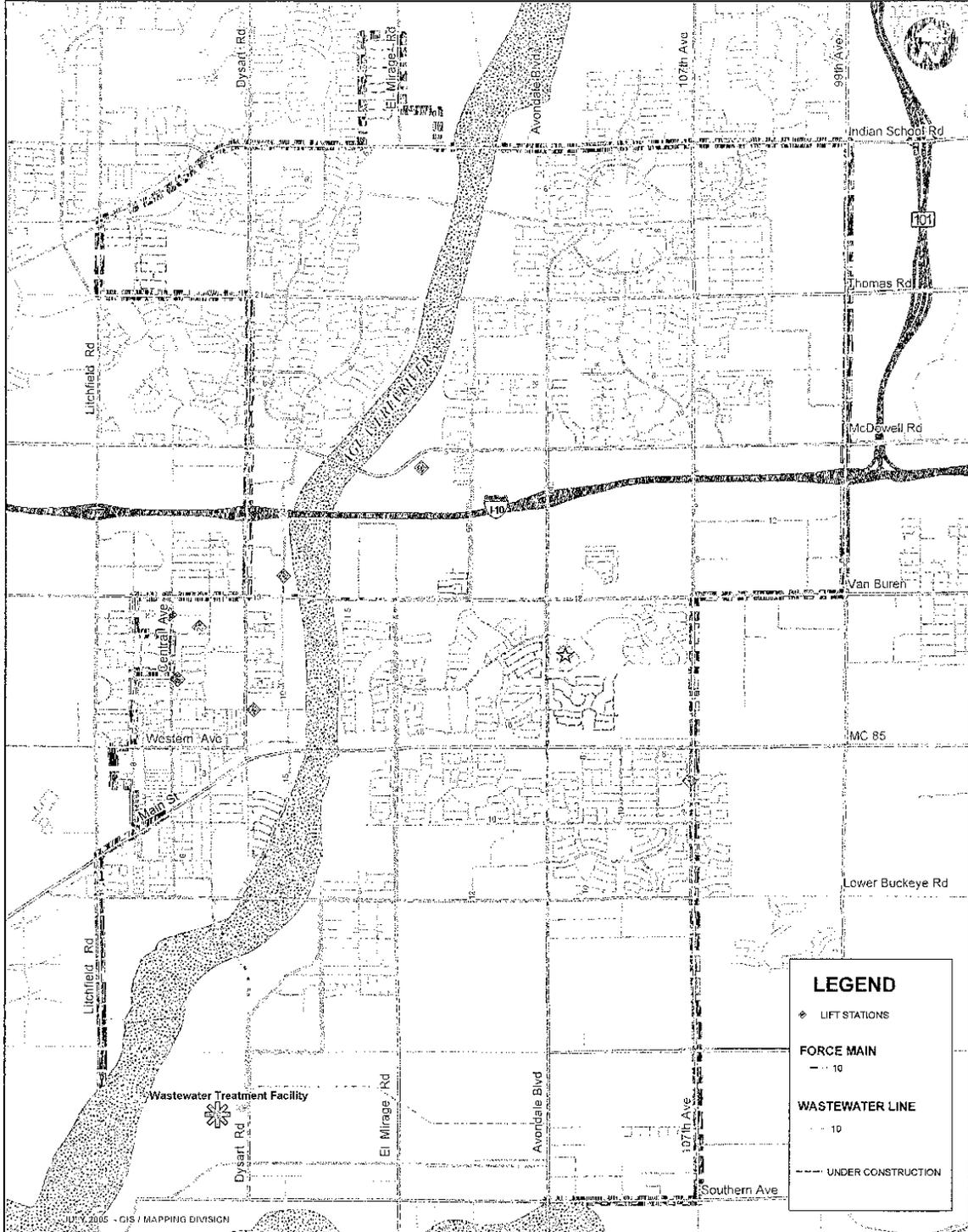


Pretreatment
Program Ordinance

Final Draft

June 2009

CITY of AVONDALE SEWER USE ORDINANCE



CITY of AVONDALE SEWER USE ORDINANCE

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CITY of AVONDALE SEWER USE RULES

Section 1 □ General Provisions

1.01 Purpose and Policy

The purpose of the City of Avondale Pretreatment Program is to set forth requirements for users and potential users, of the Publicly Owned Treatment Works (POTW) for the City of Avondale. The program enables the City to protect public health and the environment in conformity with all applicable local, State, and Federal laws, including but not limited to, the Clean Water Act (33 U.S.C. 1251 et. seq.) and the General Pretreatment Regulations (40 CFR Part 403). The objectives of this resolution are:

1. To prevent the introduction of pollutants into the City of Avondale's wastewater collection and treatment system, which will cause interference with the operation of the treatment facility or contaminate the collection system, and or cause worker health and safety problems.
2. To regulate the disposal of industrial wastewater into the sanitary wastewater collection system, thereby achieving compliance with pretreatment regulations as required under Federal General Pretreatment Regulations, Categorical Standards, State and local source control ordinances.
3. To improve the opportunity to reclaim and recycle wastewater and biosolids for both the industrial user side and the treatment facility of the City of Avondale.
4. For health and safety protection of both the environment and the public, and
5. To prevent industrial users from illegally discharging pollutants into the storm sewers.

For all Users who are connected to the City's wastewater system; or persons proposing to connect their property to the system: for industrial and domestic discharge of waste into the City's wastewater collection system. These rules authorize the issuance of Permits or Discharge Agreements; inspections, monitoring, compliance, and enforcement activities. Procedures have been established for administrative review, the setting of fees for the equitable distribution of costs resulting from the programs and rules defined herein.

CITY of AVONDALE SEWER USE RULES

1.02 Administration

Except as otherwise stated herein, the Director shall administer, implement, and enforce the provisions of this resolution. Any powers granted to or duties imposed upon the Director may be delegated by the Director to other City personnel.

1.03 Right of Revision

The Director reserves the right to amend these rules to provide for more stringent standards, limitations, or requirements for the use of the City's sewers where deemed necessary to comply with the objectives set forth in Section 1.01 of these rules.

1.04 Definitions

Unless a provision explicitly states otherwise, the following terms and phrases used in this manual shall have the following designated meaning.

Accidental Spill Prevention Plan (ASPP). A set of procedures that will minimize the chance of an accidental spill or discharge of material into the City's collection or treatment system, that will damage or cause interference to or pass through the City's system.

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

ADEQ. Arizona Department of Environmental Quality,

Approval Authority. The Arizona Department of Environmental Quality.

Avondale. The City of Avondale, located in Maricopa county, in the State of Arizona.

Authorized Representative of the User.

(1) If the user is a corporation:

- (a) The president, secretary, treasurer, or a vice-president of the corporation in charge of principal business function, or any other person who performs similar policy or decision-making functions for the corporation; or
- (b) The manager of one or more manufacturing, production, or operation facilities employing more than 250 persons of having gross annual sales or expenditures exceeding \$25 million (in second quarter 1980 dollars), if authority to sign documents has been assigned or delegated to the manager in accordance with corporation procedures;

(2) If the user is a partnership or sole proprietorship: a general partner or proprietor, respectively;

(3) If the user is a Federal, State, or local governmental facility: a Director or highest official appointed or designated to oversee the operation and performance of the activities of the government facility, or his/her designee;

(4) The individuals described in paragraphs (1) through (3) above may designate another

CITY of AVONDALE SEWER USE RULES

authorized representative if the designation is dated and in writing, the designation specifies the individual or position responsible for the overall operation of the facility from which the discharge originates or having overall responsibility for environmental matters for the company, and the written designation is submitted to the City.

AzPDES permit. Arizona Pollutant Discharge Elimination System Permit

Best Management Practices (BMP). Schedules of activities, prohibitions of practices, maintenance procedures, and other management practices to implement the prohibitions listed in 2.1 A and B {40 CFR 403.5(a) (1) and (b). BMPs' also include treatment requirements, operating procedures, and practices to control plant site runoff, spillage or leaks, sludge or waste disposal, or drainage from raw materials storage. NOTE: BMPs also include alternative means (i.e. management plans) of complying with, or in place of certain established categorical Pretreatment Standards and effluent limits.

Biochemical Oxygen Demand (BOD). The quantity of oxygen utilized in the biochemical oxidation of organic matter under standard laboratory procedures for five (5) days at 20 degrees centigrade as measured utilizing applicable analytical procedures defined in the most recent publication of "Standard Methods for the Examination of Water and Wastewater." Usually expressed as a concentration of milligrams per liter (mg/l) and/or parts per million (ppm).

Building Connection. A connection of the public sewer system and the extension from the sewer to the property line, in the alley, or the curb line, whichever is applicable, depending on the location of the public sewer.

Building Sewer A privately owned and maintained pipe system that is designed to carry sewage or wastewater leading from a building sewer or other approved facility to the public sewer system or other approved outlet.

Categorical Pretreatment Standard or Categorical Standard. Any regulation containing pollutant discharge limits promulgated by the U.S. EPA in accordance with Sections 307 (b) and (c) of the Act (33 U.S.C. 1317) which apply to a specific category of users and which appear in 40 CFR Chapter I, subchapter N, Parts 405-471.

Categorical User A user covered by one of EPA's Categorical Pretreatment Standards.

CFR. Code of Federal Regulations.

City The City of Avondale

Color. The optical density at the visual wave length of maximum absorption, relative to distilled water. One-hundred (100%) transmittance is equivalent to zero (0.0) optical density.

Compliance. For the purposes of these rules, "compliance" is mandatory.

Composite Sample. The sample resulting from the combination of individual wastewater samples taken from a discharge at selected intervals based on an increment of either flow or time.

Control Authority. The City of Avondale

Cooling Water/Non-contact Cooling Water. Water used for cooling which does not come into direct contact with any raw material, intermediate product, waste product, or finished product. Cooling water may be generated from any use, such as air conditioning, heat exchangers, cooling

CITY of AVONDALE SEWER USE RULES

or refrigeration to which the only pollutant added is heat.

Dangerous waste. Any solid, liquid, or mixed waste defined according to ARS code.....

Director. Person designated by the City of Avondale to supervise the operation of the POTW, and who is charged with certain duties and responsibilities by this ordinance.

Discharge or Indirect Discharge. The introduction of pollutants into the POTW from any non-domestic user including, but not limited to, any non-domestic source regulated under Section 307(b), (c), or (d) of the Act. The discharge into the POTW is normally by means of pipes, conduits, pumping stations, force mains, and all constructed devices and appliances appurtenant thereto.

Discharge Agreement. Explicit written terms and conditions for discharging to the POTW issued to a minor user. The agreement may contain appropriate pretreatment standards requirements, including the obligations of the minor user to own, operate, and maintain a pretreatment facility, as set forth in these rules. Discharge Agreements may be granted for a specific period of time up to five (5) years.

Domestic User (Residential Equivalent User). Any person who contributes, causes, or allows the contribution of wastewater into the POTW that is of a similar volume and/or chemical make-up as that of the sewage from a residential dwelling unit. Wastewater contributions from a residential dwelling unit include approximately one-hundred (100) gallons per capita per day, 0.2 pounds of BOD per capita per day, and 0.17 pounds of TSS per capita per day.

EPA. The United States Environmental Protection Agency, the Regional Water Management Division Director, or other duly authorized official of said agency.

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

Existing User. For non-categorical user, defined as any user, who is discharging wastewater prior to the effective date of these rules.

FIFRA. Federal Insecticide Fungicide Rodenticide Act.

FOG. Fats, Oil, and Grease

Grab sample. An individual wastewater sample taken from a discharge on a one-time basis, without regard to the flow of the discharge and without consideration of time.

Interference. A discharge, that alone or in conjunction with discharges from other sources, including sewage from domestic sources, either:

- (1) inhibits, disrupts, or damages the POTW, its treatment processes or operations;
- (2) inhibits, disrupts, or damages the POTW, its solids handling processes or use; or is a cause of a violation of the City's Arizona Pollutant Discharge Elimination Discharge System permit, or of the prevention of biosolids use by the City in Clean Water Act, the Solid Waste Disposal Act (SWDA), including Title II commonly referred to as the Resource Conservation and Recovery Act (RCRA); any State regulations contained in any State sludge or biosolids management plan prepared pursuant to subtitle D of the SWDA, the Clean Air Act, the Toxic

CITY of AVONDALE SEWER USE RULES

Substances Control Act, and the Marine Protection, Research and Sanctuaries Act.
Industrial User (IU). A source of indirect discharge, which can introduce pollutants into a POTW from any non-domestic source regulated under section 307(b).(c), or (d) of the Clean Water Act.

Lower Explosive Limit (LEL). The concentration of a particular gas, or mixture of gases, which will cause an explosion when the gas, or gases, is, or are mixed with air and then ignited.

Minor User. A user of the POTW identified by the City as having the potential to discharge wastewater into the POTW, either singly or in combination with other users, including sewage from domestic sources, that may have an undesirable impact on the POTW, but less impact on the POTW than a significant user.

Maximum Allowable Discharge Limit. The maximum concentration, or loading, of a pollutant allowed to be discharged into the POTW at any time, determined from the analysis of any grab or composite sample collected.

Medical Waste. Isolation wastes, sharps, body parts, contaminated bedding, surgical wastes, potentially contaminated laboratory wastes, and dialysis wastes.

New source. For a **category user**, defined as:

- (1) Any building, structure, facility, or installation from which there is or may be discharge of pollutants into the POTW, the construction of which commenced after the publication of proposed Pretreatment Standards under Section 307 of the Clean Water Act which will be applicable to such source if such standards are thereafter promulgated in accordance with that section, provided that:
 - (a) The building, structure, facility, or installation is constructed at a site at which no other source is located; or
 - (b) The building, structure, facility, or installation totally replaces the process or production equipment that causes the discharge of pollutants at an existing source; or
 - (c) The production or wastewater generating process of the building, structure, facility, or installation is substantially independent of an existing source at the same site. In determining whether these are substantially independent, factors such as the extent to which the new facility is integrated with the existing plant, and the extent to which the new facility engages in the same general type of activity as the existing source, should be considered.
- (2) Construction on a site at which an existing source is located results in a modification rather than a new source if the construction does not create a new building, structure, facility, or installation meeting the criteria of Section (1) (b) or (c) above but otherwise alters, replaces, or adds to existing process or production equipment.
- (3) Construction of a new source as defined under this paragraph has commenced if the owner or operator has:
 - (a) Begun, or caused to begin, as part of a continuous onsite construction program
 - (i) any placement, assembly, or installation of facilities or equipment; or
 - (ii) significant site preparation work including clearing, excavation, or removal of existing buildings, structures, or facilities which is necessary for the placement, assembly, or installation of new source facilities or equipment; or
 - (b) Entered into a binding contractual obligation for the purchase of facilities or equipment that is intended to be used in its operation within a reasonable time. Options to purchase or contracts that can be determined or modified without substantial loss and contracts for feasibility, engineering, and design studies do not constitute a contractual obligation under this paragraph.

CITY of AVONDALE SEWER USE RULES

New User For **non-categorical** users, a “new user” is not a “new source” and is defined as a user that applies to the City for a new, or supersede, Side Sewer Permit or any person who occupies an existing building and plans to discharge wastewater to the POTW after the effective date of these rules

Non-Compliance. For the purpose of these rules, not complying with, or otherwise violating, any requirements contained herein.

Pass Through. A discharge which exits the POTW into waters of the State of Arizona or the United States in quantities or concentrations which, alone or in conjunction with a discharge or discharges from other sources, including sewage from domestic sources, is a cause in whole or in part of a violation of a water quality standard or any requirement of the City’s AZPDES permits including an increase in the magnitude or duration of a violation.

pH. A measurement of the acidity or alkalinity of a substance as measured utilizing applicable analytical procedures defined in the most recent publications of “Standard Methods for the Examination of Water and Wastewater,” expressed in Standard units.

Plumbing outlet. The privately owned and maintained outlet of a pipe system from a building or structure, which terminates two (2) feet outside said building or structure, that carries sewage or wastewater from sanitary facilities and plumbing fixtures to the building sewer.

Pollutant. Any dredged spoil, solid waste, incinerator residue, sewage, garbage, sewage sludge, biosolids, munitions, medical wastes, chemical wastes, biological materials, radioactive materials, heat, wrecked or discharged equipment, rock, sand, cellar dirt, agricultural and industrial wastes, and the characteristics of the wastewater (e.g., pH, temperature, TSS, turbidity, color, BOD, toxicity, or odor).

Pretreatment. The reduction of the amount of pollutants, the elimination of pollutants, or the alteration of the nature of pollutant properties in wastewater prior to, or in lieu of, discharging or otherwise introducing such pollutants into the POTW.

Pretreatment Requirements. Any substantive or procedural requirement related to pretreatment composed on a user, other than a pretreatment standard.

Pretreatment Standard or Standards. Any prohibited discharge standards, categorical pretreatment standards, and local limits established by the City.

Prohibited Discharge Standards or Prohibited Discharge. Absolute prohibitions against the discharge of certain substances; these appear in section 2.01 of this ordinance.

Publicly Owned Treatment Works or POTW. A treatment works, as defined by section 212 of the Act (33 U.S.C. section 1292) which is owned by the Avondale. This definition includes any device or system used in the collection, storage, treatment, recycling, and reclamation of sewage or industrial wastes of a liquid nature and any conveyances, which convey wastewater to a treatment plant.

Septic Tank Waste (Septage). Any sewage from holding tanks such as: vessels, chemical toilets, campers, trailers, and septic tanks.

Sewage (Domestic Wastewater). Human excrement and gray water (household showers, household dishwashing/laundry operations, etc.)

CITY of AVONDALE SEWER USE RULES

Sewer, Sewer main or Sanitary Sewer. Any pipe, conduit, ditch, or other device constructed, owned, operated, or maintained by the City, which is used to collect and transport sewage and wastewater from a side sewer or other approved generating source, and is not designed to carry storm water or unpolluted water.

Shall. May. “Shall” is mandatory; “May” is permissive.

SIU, Significant Industrial User.

- (1) A user subject to, or potentially subject to, categorical pretreatment standards; or
- (2) A user that:
 - (a) Discharges an average of 25,000 gallons or more per average workday of process wastewater; or
 - (b) Contributes process wastewater which makes up five (5) percent or more of the average dry weather hydraulic or organic capacity of the receiving POTW treatment plant; or
 - (c) Is determined by Avondale to have a reasonable potential for adversely affecting, or impacting, either singly or in combination with other contributing users, including sewage from domestic sources, the POTW operation for violating any pretreatment standard or requirement; or
- (3) If a user who meets the criteria in subsection (2) above has no reasonable potential for adversely affecting the POTW operation or for violating any applicable pretreatment standard or requirement, Avondale may at any time, on its own initiative or in response to a petition received from an Industrial User, and in accordance with procedures defined in 40 CFR 403.8(f)(6), determine that such User should not be considered a significant user.
- (4) Avondale may determine that an Industrial User subject to categorical Pretreatment Standard is a Non-Significant Categorical Industrial User never discharges more than 100 gallons per day (gpd) of total categorical wastewater (excluding sanitary, non-contact cooling and boiler blow down wastewater, unless specifically included in the Pretreatment Standard) and the following conditions are met:
 - (a) The industrial User, prior to Avondale’s finding, has consistently complied with all applicable categorical Pretreatment Standards and Requirements;
 - (b) The Industrial User annually submits the certification statement required in Sections 6.14B {reference 40 CFR 403.12(q)}, together with any additional information necessary to support the certification statement; and
 - (c) The Industrial User never discharges any untreated concentrated wastewater.

Significant Non-compliance. A violation of applicable pretreatment standards by a user that meets one or more of the following criteria:

- (1) Chronic violation of wastewater discharge limits, defined as those in which sixty-six percent (66%) or more of all of the measurements taken during a six-month period exceed (by any magnitude) a numeric Pretreatment Standard or Requirement, including instantaneous limits, as defined in 40 CFR 403.3(1); or
- (2) Technical review criteria (TRC) violations, defined as those in which thirty-three percent (33%) or more of all of the measurements for each pollutant parameter taken during a six-month period equal or exceed, the product of a numeric Pretreatment Standard or Requirement, including instantaneous limits, as defined in 40CFR 403.3(1) multiplied by the applicable TRC (TRC=1.4 for BOD, TSS, & FOG and 1.2 for all other pollutants except pH); or
- (3) Any other violation of a pretreatment Standard or Requirement as defined by 40 CFR 403.3(1) (daily maximum, long-term average, instantaneous limit, or narrative standard) the City of Avondale determines has caused, alone or in combination with other discharges, including sewage from domestic sources, interferences or pass through (including endangering the health of Avondale’s personnel or the general public); or

CITY of AVONDALE SEWER USE RULES

- (4) Any discharge of a pollutant that has caused imminent endangerment to human health, welfare or to the environment or has resulted in the City of Avondale's exercise of its emergency authority under the provisions specified in 40 CFR Part 403.8(f)(1)(vi)(B), and amendments thereto, to halt or prevent such discharge; or
- (5) Failure to meet, within ninety (90) days after the scheduled date, a compliance schedule milestone contained in a Discharge Agreement or compliance order for starting construction, completing construction or attaining final compliance; or
- (6) Failure to provide, within thirty (30) days after the due date, required reports such as baseline monitoring reports, 90-day compliance reports, periodic self-monitoring reports and reports on conformity with compliance schedules; or
- (7) Failure to accurately report non-compliance; or
- (8) Any other violation, group of violations, or non-compliance, which may include a violation of Best Management Practices, that the City determines will adversely affect the operation or implementation of the City's Pretreatment Program.

Slug load. Any discharge at a flow rate or concentration that could cause non-compliance with the discharge standards in Section 2.01 through 2.04 of these rules or any discharge of a non-routine, episodic nature, including but not limited to, an accidental spill or a non-customary batch discharge.

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

Total Suspended Solids (TSS). The total suspended matter that floats on the surface of, or is suspended in, water, wastewater, or other liquid, and which is removable by laboratory filtering as measured utilizing applicable analytical procedures defined in the most recent publication of "Standard Methods for the Examination of Water and Wastewater".

Toxic Pollutant. Any one of the current 126 pollutants, or other pollutants as defined by the EPA and/or ADEQ, or combination of those pollutants, listed as toxic in regulations promulgated by EPA under Section 307 of the Act (33 U.S.C. 1317). Also, those pollutants, or combinations of pollutants, including disease-causing agents, which after discharge and upon exposure, ingestion, inhalation or assimilation into any organism either directly from the environment or indirectly by ingestion through food chains, will, on the basis of information available to City of Avondale, cause death, disease, behavioral abnormalities, cancer, genetic mutations, physiological malfunctions (including reproductive malfunctions) or physical deformations in such organisms or their offspring.

Upset. An exceptional incident in which a user unintentionally is in a state of non-compliance with the standards set forth in Section 3 hereto due to factors beyond the reasonable control of the user and excluding non-compliance to the extent caused by operational error, improperly designed treatment facilities, lack of preventive maintenance, or careless or improper operation thereof.

User. A person who is the source of a discharge to the POTW and shall include "domestic user" as defined herein.

CITY of AVONDALE SEWER USE RULES

Wastewater. Liquid and water-carried industrial wastes, not including storm water, and sewage from residential dwellings, commercial buildings, industrial and manufacturing facilities, and institutions, whether treated or untreated, which are contributed to the POTW.

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

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

1.05 Abbreviations

The following abbreviations shall have the designated meanings:

<u>AAC</u>	Arizona Administrative Code
<u>ADEQ</u>	Arizona Department of Environmental Quality
<u>ARS</u>	Arizona Revised Statutes
<u>ASPP</u>	Accidental Spill Prevention Plan
<u>AzPDES</u>	Arizona Pollutant Discharge Elimination System (permit)
<u>BMP</u>	Best Management Practices
<u>BOD</u>	Biochemical Oxygen Demand
<u>CFR</u>	Code of Federal Regulations
<u>EPA</u>	U.S. Environmental Protection Agency
<u>FOG</u>	Fats, Oils, and Greases
<u>GPM</u>	Gallons per day
<u>LEL</u>	Lower Explosive Limit
<u>mg/L</u>	Milligrams per Liter
<u>NPDES</u>	National Pollutant Discharge Elimination System
<u>O&M</u>	Operation and Maintenance
<u>Ppm</u>	Parts per million
<u>POTW</u>	Publicly Owned Treatment Works
<u>RCRA</u>	Resource Conservation and Recovery Act
<u>SWDA</u>	Solid Waste Disposal Act (42 U.S.C. 6901, <u>et seq.</u>)
<u>TSS</u>	Total Suspended Solids

SECTION 2 - GENERAL DISCHARGE REQUIREMENTS

2.01 Prohibited Discharge Standards

- A.** **General Prohibitions.** No user shall contribute discharge, or cause Pass Through into the POTW or, any pollutant or wastewater which will cause Interference to the treatment facility or its process. These general prohibitions apply to all users of the POTW whether or not they are subject to categorical pretreatment standards or any National, State, or other local pretreatment standards or requirements.
- B.** **Specific Prohibitions.** No user shall contribute, discharge, or cause pass through into the POTW either directly or indirectly. the following pollutants, substances, or wastewater:
- (1) Pollutants which create a explosive or fire hazard in the POTW, including, but not limited to, waste streams with a closed-cup flashpoint of less the 60°C (140°F) using the test methods specified in 40 CFR 261.21;
 - (2) Wastewater having a pH less than 5.0 or more than 10.5, nor wastewater which would cause the pH at the **headworks** of the POTW to exceed 9.0 or be less than 6.0, nor wastewater which would otherwise cause corrosive structural damage to the POTW or its equipment;
 - (3) Solid or viscous substances in amounts that will cause obstruction of the flow in the POTW resulting in interference with the operation of the POTW, but in no case solids greater than one-quarter (1/4) inch in any dimension. These substances would include, but are not be limited to, Fats, Oils & Greases (FOG), animal guts or tissues, paunch manure, bones, hair, hides or fleshing, entrails, whole blood, feathers, ashes, cinders, sand, earth, gravel, coal, rubbish, spent lime, stone or marble dust, metal, glass, straw, shavings, grass clippings, rags, spent grains, spent hops, waste paper, wood, plastics, gas, tar, asphalt residues, residues from refining or processing of fuel or lubricating oil, mud, or glass grinding or polishing wastes;
 - (4) Pollutants, including oxygen-demanding pollutants (BOD, etc.) released in a discharge at a flow rate and/or pollutant concentration which, either singly or by interaction with other pollutants, will cause interference with the POTW;
 - (5) Wastewater having a temperature which will inhibit biological activity in a POTW treatment plant resulting in interference; but in no case, wastewater with a temperature at the introduction into the City of Avondale's system which exceeds 60°C (140°F) nor wastewater which would cause the temperature at the headworks of a POTW treatment plant to exceed 40°C (104°F);
 - (6) Wastewater containing petroleum oil, non-biodegradable cutting oil, or products of mineral oil origin in amounts that will cause interference to, or pass through the POTW;

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- (7) Pollutants which result in the presence of toxic gases, vapors, or fumes within the POTW in a quantity which may cause, either singly or by interaction with other wastes, acute worker health and safety problems;
- (7) Any material from a cesspool, privy, septic tank, or other on-site disposal system, except at discharge points, and in a manner, prescribed by the City. Handlers of such wastes shall obtain authorization from the City of Avondale sixty (60) days prior to discharge to the POTW, and meet requirements and conditions set forth by the City. In no case shall wastes other than those of domestic household origin be accepted.
- (8) Noxious or malodorous liquids, gases, solids, or other wastewater which, either singly or by interaction with other wastes, are sufficient to create a public nuisance or a hazard to life, or to prevent entry into the sewers for maintenance and repair;
- (9) Wastewater that imparts color that cannot be removed by the treatment process, such as, but not limited to, paint wastes, dye wastes, and vegetable tanning solutions, which consequently imparts color to the treatment plant's effluent, thereby violating a City of Avondale AZPDES permit. Color, in combination with turbidity, shall not cause the treatment plant effluent to reduce the depth of the compensation point for photosynthetic activity by more than ten percent (10%) from the seasonably established norm for aquatic life;
- (10) Wastewater containing any radioactive wastes or isotopes, except in compliance with applicable State or Federal regulations;
- (11) Storm water, surface water, ground water, artesian well water, roof runoff, subsurface drainage, swimming pool drainage, condensate, deionized water, non-contact cooling water, and unpolluted wastewater, unless specifically authorized by the Director;
- (12) Any sludges, screenings, residues, or other solid wastes from the pretreatment of industrial wastes or from industrial processes;
- (13) Medical wastes, except as specifically authorized by the city Director.
- (14) Wastewater causing, alone or in conjunction with other sources, a treatment plant's effluent to fail a toxicity test;
- (15) Detergents, surface-active agents, or other substances which may cause excessive foaming in the POTW;
- (17) Any liquids, solids, or gases which by reason of their nature or quantity are, or may be, sufficient either alone or by interaction to cause fire or explosion or be injurious in any other way to the operation of the POTW. At no time shall two (2) successive readings on an explosion meter be in excess of five percent (5%) of their LEL, nor any single reading in excess of ten percent (10%) of their LEL, at any point in the system. Such materials include, but are not limited to, gasoline, kerosene, naphtha, benzene, toluene, xylene, ethers, alcohols, ketones, aldehydes, peroxides, chlorates, perchlorates,

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bromines, carbides, hydrides, sulfides, biphenyls, stoddard solvents, and any other substances which the City, County, State, or the EPA has determined are fire hazard or explosive hazard to the system;

- (18) Any substance which will cause the POTW to violate a AZPDES and/or other disposal system permits;
- (19) Any substance that may cause the POTW's effluent, treatment residues, or biosolids to be unsuitable for reclamation and reuse or to interfere with the reclamation process. Under no circumstances will a substance discharged to the POTW which will cause the biosolids to be rendered unusable for agricultural uses;
- (20) Any wastewater, which in the opinion of the Director can cause harm either to the personnel, sewers, sewage treatment processes or other equipment of the City; have an adverse effect on the receiving stream; or can otherwise endanger life, limb, public property, or constitute a nuisance, unless allowed under special agreement or waiver by the Director, except that no special waiver shall be given from categorical pretreatment standards;
- (21) The contents of any tank or other vessel owned or used by any person in the business of collecting or pumping sewage, effluent, septage, or other wastewater unless said person has first obtained approval as may be generally required by the Director and paid all fees assessed for the privilege of said discharge;
- (22) Any hazardous wastes as defined in AAC Title 18- 8-261.11, or in EPA rules 40 CFR 261;
- (23) Persistent pesticides and/or pesticides regulated by FIFRA.

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

2.02 Federal Categorical Pretreatment Standards

The National categorical pretreatment standards found at 40 CFR I, Subchapter N, Parts 405-47 1 are hereby incorporated.

2.03 State Requirements

State requirements and limitations on discharges to the POTW shall be met by all users that are subject to such standards in any instance in which they are more stringent than federal requirements and limitations, or those in this or any other applicable rule. State regulations require the use of all known, available, and reasonable methods of prevention, control, and treatment; and prohibit the discharge of dangerous wastes to the POTW.

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2.04 Local Limits *RESERVED FOR FUTURE.*

Pursuant to 40 CFR 403.5(c) (d) and 403.8(f) (4), Local Limits will be determined based on pollutants of concern entering the plant. The local limits are enforceable by periodic sampling and testing discharged waste by Industrial Users, at points of entry into the sewer collection system. City Council will adopt these limits into the ordinance.

2.05 Special Agreement

The Avondale Water Resource Director reserves the right to enter into special agreements with users setting out special terms under which they may discharge to the POTW. In no case will a special agreement waive compliance requirements with a categorical pretreatment standard, or a federal or state pretreatment requirement.

2.06 Dilution

No user shall ever increase the use of potable or process water, or in any way attempt to dilute a discharge, as a partial or complete substitute for adequate treatment to achieve compliance with an applicable pretreatment standard or requirement. The Director may impose mass limitations on users that he believes may be using dilution to meet applicable pretreatment standards or requirements, or in other cases when the imposition of mass limitations is appropriate.

2.07 Pretreatment Facilities and Equipment

Users shall provide necessary wastewater pretreatment as required to comply with the terms of these rules and shall achieve a state of compliance with all applicable pretreatment standards and requirements set out in these rules within the time limitations specified by the EPA, the ADEQ, or the City, whichever is more stringent. Any facilities or equipment required to pre-treat wastewater to a level acceptable to the City shall be provided, properly operated, and maintained at the user's expense. Detailed plans showing the pretreatment facilities and equipment shall be submitted to the City for review, and shall be acceptable to the City before construction of the facility or installation of the equipment. The review or approval of such plans shall in no way relieve the user from the responsibility of modifying the facility or equipment as necessary to produce an acceptable discharge to the POTW under the provisions of these rules. The user shall obtain all necessary construction/operating permits from the City and any other permits necessary and administered by other agencies. Any subsequent significant changes in the pretreatment facilities or equipment, or method of operation shall be reported to and be accepted by the City prior to the user's initiation of the changes. The user shall control production and/or discharges upon reduction, loss, failure, or by-pass of the treatment facility or equipment until the facility is restored or an alternative method of treatment is provided. This requirement applies in the situation where, among other things, the primary source of power of the treatment facility is reduced, lost, or fails.

2.08 Deadline for Compliance with Applicable Pretreatment Requirements & Standards

Compliance by all existing users with pretreatment requirements and standards shall be within one (1) year of the date the requirement or standard is effective, unless otherwise specified herein.

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Compliance by existing categorical users covered by Categorical Pretreatment Standards shall be within three (3) years of the date the standard is effective, unless a shorter compliance time is specified in the appropriate standard.

"New source" users and "new users" are required to comply with applicable pretreatment standards within the shortest feasible time, not to exceed ninety (90) days from the beginning of discharge. "New sources" and "new users" shall install and have in operating condition, and shall start-up all pollution control equipment required to meet applicable pretreatment standards before beginning to discharge.

Any existing user or categorical user that must comply with a more stringent local limit, which is in a state of non-compliance with any local limit, shall be provided with a compliance schedule placed in a Discharge Agreement to insure compliance within the shortest time feasible.

2.09 Additional Pretreatment Measures

- A. Flow Control.** Whenever deemed necessary, the Director may require users to restrict their discharge during peak flow periods, designate that certain wastewater be discharged only into specific sewers, relocate and/or consolidate points of discharge, separate sewage waste streams from industrial waste streams, and such other conditions as may be necessary to protect the POTW and determine the user's compliance with the requirements of these rules.
- B. Grease, Oil, Hair, and Sand Interceptors.** Grease, oil, hair, and sand interceptors shall be provided when, in the opinion of the Director, they are necessary for the proper handling of wastewater containing excessive amounts of FOG, or sand; except that such interceptors shall not be required for residential users. All interception units shall be of type and capacity approved by the Director and shall be so located to be easily accessible for cleaning and inspection. Such interceptors shall be inspected, cleaned and repaired regularly, as needed, by the user at the user's expense.
- C. Flammable Substance Detection.** Users with the potential to discharge flammable substances may be required to install and maintain an approved combustible gas detection meter.

2.10 Accidental Discharge/Slug Load Control Plans

The Director may require a user to develop and implement an accidental discharge/slug control plan. Where deemed necessary by the City, facilities to prevent accidental discharge or slug loads of pollutants shall be provided and maintained at the user's cost and expense. An Accidental Spill Prevention Plan (ASPP) showing facilities and operating procedures to provide this protection shall be submitted to the City for review and approval before implementation. The City shall determine which user is required to develop a plan and require said plan to be submitted within ninety (90) days after notification by the City. Each user shall implement its ASPP as submitted or as modified after such plan has been reviewed and approved by City of Avondale. Review and approval of such plans and operating procedures by the City shall not relieve the user from the responsibility to modify its facility as necessary to meet the requirements of Section 2.01 through 2.04 of this

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ordinance.

- A. Any user required to develop and implement an ASPP shall submit a plan that addresses, at a minimum, the following:
 - (1) Description of discharge practices, including non-routine batch discharges;
 - (2) Description of stored chemicals;
 - (3) Procedures for immediately notifying the POTW of any accidental or slug load discharge. Such notification must also be given for any discharge which would cause non-compliance with any of the standards in Sections 2.01 through 2.04 of these rules; and
 - (4) Procedures to prevent adverse impact from any accidental or slug load discharge. Such processes include, but are not limited to, inspection and maintenance of storage areas, handling and transfer of materials, loading and unloading operations, control of plant site runoff, worker training, building of containment structures or equipment, measures for containing toxic organic pollutants (including solvents), and/or measures and equipment for emergency response.
- B. User shall notify the City immediately upon the occurrence of a "slug load" or "accidental discharge" of substances regulated by these rules. The notification shall include location of discharge, date and time thereof, type of waste, concentration and volume, and corrective actions. Any affected user shall be liable for any expense, loss, or damage to the POTW, in addition to the amount of any fines or costs incurred by the City on account thereof under local, state or federal law.
- C. Within five (5) calendar days following an accidental discharge, the user shall submit to the City a detailed written report describing the cause of the discharge and the measures to be taken by the user to prevent similar future occurrences. Such notification shall not relieve the user of any expense, loss, damage, or other liability which may be incurred as a result of damage to the POTW, fish kills, or any other damage to person or property; nor shall such notification relieve the user of any fines, civil penalties, or other liability that may be imposed by these rules or other applicable law.
- D. Signs shall be permanently posted in conspicuous places on the user's premises advising employees who to call in the event of a slug load or accidental discharge. Employers shall instruct all employees who may cause or discover such a discharge with respect to emergency notification procedures.

2.11 Hauled Septic Tank and Industrial Waste

The City of Avondale Treatment Facility does not accept hauled industrial or domestic wastewater at this time. For Liquid waste haulers for industries within the City of Avondale the following is required.

A.) Industrial waste Haulers must provide a waste-tracking manifest for every load . The manifest must include, at a minimum, the name and address of the industrial waste hauler, permit number,

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truck identification, names and addresses of sources of waste, and volume and characteristics of waste. The form shall identify the type of industry, known or suspected waste constituents, and whether any wastes are RCRA, (Resource Conservation and Recovery Act) hazardous wastes.

B) These manifests must be kept on file for three years by the owners and provided to the pretreatment inspection department when requested.

SECTION 3 - WASTEWATER REQUIRED DISCHARGE PERMIT

No significant user shall discharge wastewater into the POTW without first obtaining a Discharge Permit from the City of Avondale. Obtaining a wastewater discharge permit does not relieve a user of its obligation to comply with all Federal and State pretreatment standards or requirements, or with any other requirements of Federal, State, and local law. This includes discharge limits contained in Section 2.01 and 2.04 of this Ordinance.

All businesses will fill out an Industrial Pretreatment Survey from Developing Services Department as part of the application process.

SECTION 4 - DISCHARGE PERMIT REQUIREMENTS

No user required by the City to execute a Discharge Permit shall commence, or continue, to discharge wastewater into the POTW without first obtaining a Discharge Permit from the City, unless authorized by the City in writing. Any infraction of the terms and conditions of a Discharge Permit shall be deemed non-compliance with these rules and subjects the holder of the Discharge Permit to the sanctions set out in these rules. Obtaining a Discharge Permit does not relieve a user of its obligation to comply with all Federal and State pretreatment standards or requirements or with any other requirements of Federal, State, and local law.

4.01 Existing Minor User

Any existing minor user that has been discharging process wastewater into the POTW prior to the effective date of these rules, and is required by the City to obtain a Discharge Permit, shall within thirty (30) days after notification by the City submit a completed Discharge Permit application to the City of Avondale in accordance with Section 4.03 of these rules.

4.02 New Minor User

All new minor users proposing to connect to, or discharge process wastewater and/or other wastes to, the POTW shall obtain a Discharge Permit prior to connecting to, or discharging to, the POTW.

4.03 Discharge Permit Application

All users required to obtain a Discharge Permit shall submit a completed Industrial Pretreatment Survey form obtained by Development Services Department.

4.04 Discharge Permit Decisions

The City shall evaluate the data furnished by the user and may require additional information. Within sixty (60) days of receipt of a completed Discharge Permit application, the City shall determine whether or not to execute a Discharge Permit. Upon a determination to execute, the Discharge Permit shall be executed within thirty (30) days of full evaluation and acceptance of the data furnished. The City may deny any application for a Discharge Permit.

4.05 Discharge Permit Contents

Discharge Permits shall include such conditions as are reasonably deemed necessary by the City to prevent pass through or interference, protect the quality of the water body receiving the treatment plant's effluent, protect worker health and safety, facilitate biosolids management and recycling, and protect against damage to the POTW.

- A. Discharge Permit may contain the following conditions:
- (1) A statement that indicates Discharge Permit duration, which shall not exceed five (5) years;
 - (2) A statement that the Discharge Permit is non-transferable without prior notification to and approval from the City;
 - (3) Applicable pretreatment standards and requirements, including any special requirements;
 - (4) Any self-monitoring, sampling, reporting, notification, and record-keeping requirements;
 - (5) A statement of applicable administrative and judicial remedies for non-compliance with Discharge Permit requirements, and pretreatment standards and requirements;
 - (6) Limits on the average and/or maximum rate of discharge, and time of discharge;
 - (7) Development and implementation of waste minimization plans to reduce the amount of pollutants discharged to the POTW;
 - (8) The unit charge or schedule of user charges and fees for the management of the wastewater discharged to the POTW;
 - (9) Requirements for installation and maintenance of inspection and sampling facilities and equipment;
 - (10) Any special agreements the City chooses to continue or develop between the City of Avondale and the user; and
 - (11) Other conditions as deemed appropriate by the City to insure compliance with these rules.

4.06 Discharge Agreement Appeals

Any user may petition the City to reconsider the terms of its Discharge Permit within thirty (30) days of its execution.

- A. Failure to submit a petition for review within the designated time frame shall be deemed to be a waiver of the administrative appeal.
- B. In its petition, the appealing user must indicate the Discharge Permit provisions objected to, the reasons for this objection, and the alternative condition, if any, it seeks to place in the Discharge Permit.

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- C. The effectiveness of the Discharge Agreement shall stay in effect pending the appeal.
- D. Decisions not to reconsider a Discharge Permit, not to execute a Discharge Permit, or not to modify a Discharge Permit, shall be considered final administrative actions.

4.07 Discharge Permit Duration

Discharge Permits shall be executed for a specified time period, not to exceed five (5) years. A Discharge Permit may be executed for a period less than five (5) years, at the discretion of the City. Each Discharge Permit shall indicate a specific date upon which it will expire.

4.08 Discharge Permit Modification

The City may revise the Discharge Permit for good cause including, but not limited to, the following:

- A. To incorporate any new or revised Federal, State, or local pretreatment standards or requirements;
- B. To address significant alterations or additions to the user's operation, processes, or wastewater volume or character since the time of Discharge Permit execution;
- C. A change in the POTW that requires either a temporary or permanent reduction or elimination of the authorized discharge;
- D. Information indicating that the authorized discharge poses a threat to the POTW, City personnel, or the receiving waters;
- E. Non-compliance with any terms or conditions of the Discharge Permit;
- F. Misrepresentations or failure to fully and accurately disclose all relevant facts in the Discharge Permit application or in any required reporting;
- G. To correct typographical or other errors in the Discharge Permit;
- H. To reflect a transfer of the facility ownership and/or operation to a new owner/operator;
- I. Upon request by the Permittee, provided such request does not create a violation of any existing applicable requirements, standards, laws, rules and/or regulations.

Any permit modification that results in a revision of the existing Discharge Permit limitations or requirements shall include a reasonable time schedule for compliance, as determined by the City of Avondale.

4.09 Discharge Permit Transfer

Discharge Permits may be reassigned or transferred to a new owner and/or operator only if the user gives at least thirty (30) days notice to the City and the City approves the Discharge Permit transfer. The notice to the City of Avondale shall include a written certification by the new owner and/or operator which:

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

The City will notify the existing user holding the Discharge Permit of the need to modify the permit, if it cannot be transferred, to incorporate such other requirements as determined necessary by the City. **(There is an option to put in that there is no transferring of permits and it is considered a violation of non-compliance).**

Failure to provide advance notice of transfer renders the Discharge Permit voidable as of the date of facility transfer and will be considered a non-compliance violation.

Provided that the above occurs and that there were no significant changes to the operations and processes, or wastewater discharge, the new owner and/or operator will be considered an existing user and be covered by the existing limits and requirements in the previous owner's Discharge Permit.

4.10 Discharge Permit Revocation

Discharge Permit may be revoked for, but not limited to, the following reasons:

- A. Failure to notify the City of significant changes to the wastewater prior to the changed discharge;
- B. Failure to provide prior notification to the City of changed conditions;
- C. Misrepresentation or failure to fully and accurately disclose all relevant facts in the Discharge Permit application;
- D. Refusing to allow the City timely access to the facility premises and records;
- E. Failure to meet discharge limitations;
- F. Failure to pay fines and penalties;
- G. Failure to pay sewer charges;
- H. Failure to meet a compliance schedule;
- I. Failure to complete and submit a sewer use survey or a Discharge Permit application;

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- J. Failure to provide advance notice of the transfer of a facility current with a Discharge Permit
- K. If the City has to invoke its emergency provision as cited in Section 10.07 of these rules; or
- L. Non-compliance with any pretreatment standard or requirement, or any terms of the Discharge Permit or these rules.

Discharge Permits shall be void upon cessation of operations or transfer of business ownership. All Discharge Permits executed to a particular user shall be void upon the execution of a new Discharge Permit to that user for the same discharge from the same source.

4.11 Discharge Permit Renewal

A user with an existing Discharge Permit will be notified by the City of Discharge Permit expiration 90 days prior to the expiration date. A user who is required to have a Discharge Permit shall apply for renewal of same by submitting, at a minimum, a complete Sewer Use survey in a form prescribed by the City, in accordance with Section 4.03 of these rules, a minimum of 30 days prior to the expiration of the user's Discharge Permit. A user, whose existing Discharge Permit has expired and has submitted its re-application in the time period specified herein, shall be deemed to have an effective Discharge Permit until the City of Avondale executes or denies the new Discharge Permit. A user, whose existing Discharge Permit has expired and who failed to submit its re-application in the time period specified herein, will be deemed to be discharging without a Discharge Permit.

SECTION 5 - REPORTING REQUIREMENTS

5.01 Periodic Compliance Report for Continued Compliance

The City may require a reporting frequency for any user if information or data is needed to establish a sewer charge, determine the treatability of the facility effluent, or determine any other factor that is related to the operation and maintenance of the POTW.

- 1). All Significant Industrial Users are required to submit reports even if they have been designated a Non-Significant Categorical Industrial User.
- 2). It is required for any Industrial User subject to Categorical Pretreatment Standard, to submit to the POTW during the months of June and December, unless required more often, and give the nature and concentration of pollutants in the effluent which are limited by such Pretreatment Standards.
- 3). The report should include a record of measured or estimated average and maximum daily flows for the reporting period.
- 4). The reports must be signed by an authorized representative of the Industrial User.

5.02 Notification of Significant Production/Process Changes

Any user operating under a Discharge Permit incorporating equivalent mass or concentration limits shall notify the City within two (2) business days after the user has a reasonable basis to know that the production/process level will significantly change within the next calendar month. Any user not providing a notice of such anticipated change will be required to comply with the existing limits contained in its Discharge Permit.

5.03 Hazardous Waste Notification

Any user that is discharging fifteen (15) kilograms of hazardous wastes as defined in 40 CFR Part 261 (listed as characteristic wastes) in a calendar month or any facility discharging any amount of acutely hazardous wastes as specified in 40 CFR Parts 261.30(d) and 261.33(e) is required to provide a one-time notification in writing to the City, EPA Regional Waste Management Division Director, and the Arizona Department of Environmental Quality. Any existing user exempt from this notification shall comply with the requirements contained herein within thirty (30) days of becoming aware of a discharge of fifteen (15) kilograms of hazardous wastes in a calendar month or the discharge of acutely hazardous wastes to the POTW. Such notification shall include:

- A. The name of the hazardous waste as set forth in 40 CFR Part 261;
- B. The EPA Hazardous Waste Number;
- C. The type of discharge (continuous, batch, or other); and
- D. If a user discharges more than one-hundred (100) kilograms of such waste per calendar month to the POTW, the notification shall also contain the following information to the extent it is known or readily available to the user:
 - (1) an identification of the hazardous constituents contained in the wastes,
 - (2) an estimation of the mass and concentration of such constituents in the waste streams discharged during that calendar month, and
 - (3) An estimation of the mass of constituents in the waste streams expected to be discharged during the following twelve (12) months.

These notification requirements do not apply to pollutants already reported under any self monitoring requirements in a State Waste Discharge Permit.

Whenever the EPA publishes final rules identifying additional hazardous wastes or new characteristics of hazardous waste, a user shall notify the City of the discharge of such a substance within ninety (90) days of the effective date of such regulations.

In the case of any notification made under this section, a user shall certify that it has a program in place to reduce the volume and toxicity of hazardous wastes generated to the degree it has determined to be economically practical.

5.04 Notice of Potential Problems, including accidental spills, slug loadings

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Any user shall notify the City of Avondale immediately of all discharges that could cause problems to the POTW, including any slug loadings, as defined in Section 1.04 of these rules. The notification shall include the concentration and volume and corrective action. Steps being taken to reduce any adverse impact should also be noted during the notification. Any user who discharges a "slug load" of pollutants shall be liable for any expense, loss, or damage to the POTW, in addition to the amount of any fines or penalties imposed on the City under State or Federal law.

5.05 Non-Compliance Reporting

If sampling performed by a user indicates non-compliance with a discharge requirement, the user shall notify the City within twenty-four (24) hours of becoming aware of the noncompliance, by calling the Pretreatment Coordinator. The user shall also repeat the sampling within five (5) calendar days and submit the results of the repeat analysis to the City within thirty (30) calendar days after becoming aware of the non-compliance, except the user is not required to re-sample if:

- A. The City performs sampling of the user's discharge at a frequency of at least once per month; or
- B. The City performs sampling of the user's discharge between the time when the user performs its initial sampling and the time when the user receives the results said sampling.

5.06 Notification of New or Changed Discharge

All users shall promptly notify the City in advance of any new discharge or any substantial change in the volume or character of pollutants in their discharge, including significant manufacturing process changes, pretreatment modifications, and the listed or characteristic hazardous wastes for which the user has submitted initial notification under 40 CFR Part 403.12(p).

5.07 Reports from Other Users Not Requiring a Discharge Permit

All users not required to obtain a Discharge Permit shall provide appropriate reports to the City as the City may require.

5.08 Record Keeping

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

SECTION 6 - SAMPLING AND ANALYTICAL REQUIREMENTS

6.01 Sampling Requirements for Users

- A. A minimum of four (4) grab samples shall be used for pH, cyanide, total phenols, FOG, sulfide, and volatile organics. The City shall determine on a case-by-case basis whether the user will be able to composite the individual grab samples. For all other pollutants, 24-hour composite samples shall be obtained through flow-proportional composite sampling techniques, where feasible. The City may waive flow-proportional composite sampling for any user that demonstrates, to the satisfaction of the City, that flow-proportional sampling is infeasible. In such cases, samples may be obtained through time-proportional composite sampling techniques or through a minimum of four (4) grab samples where the user demonstrates that this will provide a representative sample of the effluent being discharged.
- B. For non-significant users, samples should be taken immediately downstream from a point where any, and all, waste streams from the facility are combined, or at a point determined by the City and contained in the user's Discharge Agreement.
- C. All sample results shall indicate the time, date and place, of sampling, and methods of analyses, and shall certify that such sampling and analyses are representative of normal work cycles and expected pollutant discharges from the user.

6.02 Analytical Requirements

All pollutant analyses, including sampling techniques, shall be performed in accordance with the techniques prescribed in 40 CFR Part 136. If 40 CFR Part 136 does not contain sampling or analytical techniques for the pollutant in question, sampling and analyses shall be performed in accordance with procedures approved by the EPA.

6.03 City Sampling of User's Wastewater

The City shall perform the same procedures as outlined in Sections 6.01 and 6.02 of these rules.

SECTION 7 - INSPECTION AND COMPLIANCE MONITORING

7.01 Inspection and Compliance Monitoring

The City shall have the right to enter the facilities of any user to ascertain whether the provisions

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of these rules, and any Discharge Permit or order issued hereunder, are being met and whether the user is complying with all requirements thereof. Users shall allow the City ready access to all parts of the premises for the purposes of inspection, sampling, records examination and copying, and the performance of any additional duties.

- A. Where a user has security measures in force which require proper identification and clearance before entry into its premises, the user shall make necessary arrangements with its security personnel so that, upon presentation of suitable identification, the City will be permitted to enter without delay for the purposes of performing specific responsibilities.
- B. The City shall have the right to set up on the user's property, or require installation of, such devices as are necessary to conduct sampling and/or metering of the user's discharge.
- C. Any temporary or permanent obstruction to safe and easy access to the facility to be inspected and/or sampled shall be promptly removed by the user at the written or verbal request of the City and shall not be replaced. The costs of clearing such access shall be borne by the user.
- D. Unreasonable delays in allowing the City access to the user's premises shall be non-compliance with these rules.

7.02 Monitoring Facilities

When required by the City, each user shall provide and operate at its own expense a monitoring facility to allow inspection, sampling, and flow measurements of the sewer discharge to the City. Each monitoring facility shall be situated on the user's premises, except where such a location would be impractical or cause undue hardship on the user. Subject to approval by the jurisdictional road authority, the City may concur with the facility being constructed in the public street or rights-of-way, providing that the facility is located so that it will not be obstructed by landscaping or parked vehicles. The City, whenever applicable, may require the construction and maintenance of sampling facilities at other locations where appropriate.

There shall be ample room in or near such monitoring facility to allow accurate sampling and preparation of samples for analysis. The facility, sampling, and monitoring equipment shall be maintained at all times in a safe and proper operating condition at the expense of the user.

All monitoring facilities shall be constructed and maintained in accordance with all applicable local construction standards and specifications.

The City may require the user to install monitoring equipment as necessary. All devices used to measure wastewater flow and quality shall be calibrated to ensure their accuracy.

7.03 Search Warrants

If the City has been refused access to a building, structure or property, or any part thereof, and is able to demonstrate probable cause to believe that there may be non-compliance with these rules, or that there is a need to inspect as part of a routine inspection program of the City designed to verify compliance with these rules or any Discharge Agreement or order issued hereunder, or to protect the overall public health, safety and welfare of the community, then the City shall seek

City of Avondale SEWER USE RULES

issuance of a search and/or seizure warrant from the Superior Court of Maricopa County. Such warrant shall be served at reasonable hours by the City of Avondale in the company of a uniformed police officer of the jurisdictional law enforcement agency. All costs associated with obtaining the search warrant incurred by the City shall be borne by the property owner.

7.04 Vandalism

No person shall willfully or negligently damage, destroy, uncover, deface, tamper with, or prevent access to any structure, appurtenance or equipment, or other part of the POTW. Any person found in non-compliance with this requirement shall be subject to the sanctions set out in these rules.

SECTION 8 - CONFIDENTIAL INFORMATION

Information and data on a user obtained from reports, surveys, Discharge Permit applications, Discharge Permit, and monitoring programs, and from City inspection and sampling activities, shall be available to the public without restriction, unless the user specifically requests, and is able to demonstrate to the satisfaction of the City, that the release of such information would divulge information, processes or methods of production entitled to protection as trade secrets under applicable Federal and State law. When requested and demonstrated by the user furnishing a report that such information should be held confidential, the portions of a report which might disclose trade secrets or secret processes shall not be made available for inspection by the public, but shall be made available immediately upon request to governmental agencies for uses related to the AZPDES program or pretreatment program, and in enforcement proceedings involving the person furnishing the report. Wastewater constituents and characteristics and other "effluent data" as defined by 40 CFR Part 2.3 02 will not be recognized as confidential information and will be available to the public without restriction.

SECTION 9 - PUBLICATION OF USERS IN SIGNIFICANT NON-COMPLIANCE

A list of all users who were in Significant Non-compliance (SNC) with Pretreatment Standards or Requirements in any of the previous four quarters or by upsetting the POTW shall be published, by the City in the largest circulated newspaper in the POTW service area. This will be done on an annual basis.

{Reserved for examples of non-compliance will be added}

SECTION 10 - ADMINISTRATIVE ENFORCEMENT REMEDIES

10.01 Notification of Non-compliance

When the City finds that a user has not complied, or continues to be in a state of noncompliance, with any provision of these rules, a Discharge Permit, or order issued hereunder, or any other Pretreatment Standard or Requirement, the City may serve upon that user a written Letter of Violation, via certified letter as appropriate. Within seven (7) days of the receipt of this notice, an explanation of the non-compliance and a plan for the satisfactory correction and prevention thereof, to include specific required actions, shall be submitted by the user to the City's pretreatment coordinator. Submission of this plan in no way relieves the user of liability for any non-compliance occurring before or after receipt of the Letter of Violation. Nothing in this section shall limit the authority of the City to take any action, other enforcement action or emergency action, without first issuing a Letter of Violation.

10.02 Consent Orders

The City may enter into Consent Orders, assurances of voluntary compliance, or other similar documents establishing an agreement with any user responsible for non-compliance. Such documents will include specific action to be taken by the user to correct the non-compliance within a time period specified in the document. Such documents shall have the same force and effect as the administrative orders issued pursuant to Sections 10.04 and 10.05 of these rules and shall be judicially enforceable. Use of a Consent Order shall not be a bar against, or prerequisite for, taking any other action against the user.

10.03 Show Cause Hearing

The City may order, via a certified letter where appropriate, a user which has not complied, or continues to be in a state of non-compliance, with any provision of these rules, a Discharge Agreement or order issued hereunder, or any other pretreatment standard or requirement, to appear before the Director and/or the City Council and show cause why the proposed enforcement action should not be taken. Notice shall be served on the user specifying the time and place for the hearing, the proposed enforcement action, the reasons for such action, and a request that the user show cause why the proposed enforcement action should not be taken. The notice of the hearing shall be served personally or by registered or certified mail (return receipt requested) at least ten (10) days prior to the hearing. Such notice may be served on any authorized representative of the user. A Show Cause Hearing shall not be a bar against, or prerequisite for, taking any other action against the user.

10.04 Compliance Orders

When the City finds that a user has not complied, or continues to be in a state of noncompliance, with any provision of these rules, a Discharge Permit or order issued hereunder, or any other pretreatment standard or requirement, the City may issue an order to the user responsible for the discharge directing that the user achieve compliance within a time specified in the order. If the user does not achieve compliance within the time specified in the order, sewer service may be discontinued unless adequate treatment facilities, devices, or other related appurtenances are installed and properly operated. Compliance Orders may also contain other requirements to address the non-compliance, including additional self-monitoring, and management practices designed to minimize the amount of pollutants discharged to the POTW. Issuance of a Compliance Order shall not be a bar against, or a prerequisite for, taking any other action against the user.

10.05 Cease and Desist Orders

When the City finds that a user has not complied, or continues to be in a state of noncompliance, with any provision of these rules, a Discharge Permit or order issued hereunder, or any other pretreatment standard or requirement, or that the user's past incidents of non-compliance are likely to recur, the City may issue an order to the user directing it to cease and desist all such incidents of non-compliance and directing the user to:

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

Issuance of a Cease and Desist Order shall not be a bar against, or a prerequisite for, taking any other action against the user.

10.06 Administrative Fines

- A. When the City finds that a user has not complied, or continues to be in a state of non-compliance, with any provision of these rules, a Discharge Permit or order issued hereunder, or any other pretreatment standard or requirement, the City may fine such user in an amount not to exceed \$25,000 per incidence of noncompliance. Such fines shall be assessed per incident, per day basis. In the case of monthly or other long term average discharge limits, fines shall be assessed for each day during the period of non-compliance.
- B. Unpaid charges, fines, and penalties shall, after thirty (30) calendar days, be assessed an additional penalty of one percent (1.0%) of the unpaid balance, and interest shall accrue thereafter at a rate of one percent (1%) per month. A lien against the user's property may be sought for unpaid charges, fines, and penalties.
- C. Users desiring to dispute such fines must file a written request for the City to

City of Avondale SEWER USE RULES

reconsider the fine along with full payment of the fine amount within seven (7) calendar days of being notified of the fine. Where a request has merit, the City shall convene a hearing on the matter within thirty (30) days of receiving the request from the user. In the event the user's appeal is successful, the payment, together with any interest accruing thereto, shall be returned to the user. The City may add the costs of preparing administrative enforcement actions, such as notices and orders, to the fine.

- D. Issuance of an administrative fine shall not be a bar against, or a prerequisite for, taking any other action against the user.

10.07 Emergency Suspensions

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

- A. Any user notified of a suspension of its discharge shall immediately stop or eliminate its contribution. In the event of a user's failure to immediately comply voluntarily with the suspension order, the City shall take such steps as deemed necessary, including immediate severance of the sewer connection, to prevent or minimize damage to the POTW, its receiving water, or endangerment to any individuals. The City shall allow the user to recommence its discharge when the user has demonstrated to the satisfaction of the City that the period of endangerment has passed, unless the termination proceedings in Section 10.08 of these rules are initiated against the user.
- B. A user that is responsible, in whole or in part, for any discharge presenting imminent endangerment shall submit a detailed written statement, describing the causes of the harmful contribution and the measures taken to prevent any future occurrence, to the City prior to the date of any show cause or termination hearing under Sections 10.03 and 10.08 of these rules.

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

10.08 Termination of Discharge (Non-Emergency)

In addition to the provisions in Section 4.10 of these rules, any user that does not comply with the following conditions is subject to discharge termination:

- A. Non-compliance with Discharge Permit conditions;
- B. Failure to accurately report the wastewater constituents and characteristics of its discharge;

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- C. Failure to report significant changes in operations or wastewater volume, constituents and characteristics prior to discharge;
- D. Refusal of reasonable access to the user's premises for the purpose of inspecting, monitoring, or sampling; or
- E. Non-compliance with the pretreatment standards in Section 3 of these rules.

Such user shall be notified of the proposed termination of its discharge and be offered an opportunity to show cause under Section 10.03 of these rules why the proposed action should not be taken. Exercise of this option by the City shall not be a bar to, or prerequisite for, taking any other action against the user.

10.09 Cost Recovery Assessment

When the City finds that a user has not complied, or continues to be in a state of noncompliance, with any provision of these rules, a Discharge Permit or order issued hereunder, or any other pretreatment standard or requirement, and the City incurs costs associated with said non-compliance, the City may assess such user an amount not to exceed said costs. City costs may include, but not be limited to operations and maintenance costs, including labor and overhead, equipment cost, and penalties and fines, plus the expense, loss, damage, cost of inspection or cost of correction incurred by the City by reason of such non-compliance, including any expenses or reasonable attorney fee's incurred by the City in collecting from such user any penalty, fine, loss, damage, expense, cost of inspection or cost of correction.

SECTION 11 - JUDICIAL ENFORCEMENT REMEDIES

11.01 Injunctive Relief

When the City finds that a user has not complied, or continues to be in a state of noncompliance, with any provision of these rules, a Discharge Permit or order issued hereunder, or any other pretreatment standard or requirement, the City may petition the Superior Court of Arizona through the City's Counsel for the issuance of a temporary or permanent injunction, as appropriate, which restrains or compels the specific performance of the Discharge Permit, order, or other requirement imposed by these rules on activities of the user. The City may also seek such other action as is appropriate for legal and/or equitable relief, including a requirement for the user to conduct environmental remediation. A petition for injunctive relief shall not be a bar against, or a prerequisite for, taking any other action against a user.

11.02 Civil Penalties

- A. A user which has not complied, or continues to be non-compliant, with any provision of these rules, a Discharge Permit or order issued hereunder, or any other pretreatment standard or requirement shall be liable to the City for a civil penalty of not less than \$1,000 or more than \$25,000 **per incidence** of noncompliance, per day. In the case of a monthly or other long-term average discharge limit, penalties shall accrue for each day during the period of non-compliance.
- B. The City may recover reasonable attorneys' fees, court costs, and other expenses associated with enforcement activities, including sampling and monitoring expenses, and the cost of any actual damages incurred by the City.
- C. In determining the amount of civil liability, the Court shall take into account all relevant circumstances, including, but not limited to, the extent of harm caused by the non-compliance, the magnitude and duration, any economic benefit gained through the user's non-compliance, corrective actions by the user, the compliance history of the user, and any other factor as justice requires.
- D. Filing a suit for civil penalties shall not be a bar against, or a prerequisite for, taking any other action against a user.

11.03 Criminal Prosecution /Reserved/

11.04 Remedies Non-exclusive

The provisions in Sections 11 through 13 of these rules are not exclusive remedies. The City reserves the right to take any, all, or any combination of these actions against a noncompliant user. Enforcement of non-compliance incidents will generally be in accordance with the City's enforcement response plan. However, the City reserves the right to take other action against any user when the circumstances warrant. Further, the City is empowered to take more than one enforcement action against any non-compliant user. These actions may be taken concurrently.

SECTION 12 - SUPPLEMENTAL ENFORCEMENT ACTION

12.01 Performance Bonds

The City may decline to issue or reissue a Discharge Permit to any user which has failed to comply with any provision of these rules, a previous Discharge Permit or order issued hereunder, or any other pretreatment standard or requirement, unless such user first files a satisfactory bond, payable to the City, in a sum not to exceed a value determined by the City to be necessary to achieve consistent compliance. The City shall have the sole discretion to accept or deny the filing of a performance bond to achieve compliance.

12.02 Liability Insurance

The City may decline to issue or reissue a Discharge Permit to any user which has failed to comply with any provision of these rules, a previous Discharge Permit or order issued hereunder, or any other pretreatment standard or requirement, unless the user first submits proof that it has obtained financial assurances sufficient to restore or repair damage to the POTW caused by its discharge.

12.03 Water Supply Severance

Whenever a user has not complied, or continues to be in a state of non-compliance, with any provision of these rules, a Discharge Permit or order issued hereunder, or any other pretreatment standard or requirement, water service to the user may be severed. Only after the user satisfactorily demonstrated, at the user's expense, its ability to comply will service be restored.

12.04 Public Nuisance

Non-compliance with any provision of these rules, a Discharge Permit or order issued hereunder, or a pretreatment standard or requirement, is hereby declared a public nuisance and shall be corrected or abated as directed by the City. Any person(s) creating a public nuisance shall be subject to the provisions of this section of these rules governing such nuisances, including reimbursing the City for any costs incurred in removing, abating, or remedying said nuisance.

12.05 Contractor Listing

Users that have not achieved a state of compliance with applicable pretreatment standards and requirements are not eligible to receive a contractual award for the sale of goods or services to the City. Existing contracts for the sale of goods and services to the City held by a user found to be in significant non-compliance with pretreatment standards or requirements may be terminated at the discretion of the City.

SECTION 13 - AFFIRMATIVE DEFENSES TO DISCHARGE VIOLATIONS

13.01 Upset

- A. For the purpose of this section, "upset" means an exceptional incident in which there is unintentional non-compliance with applicable pretreatment standards

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because of factors beyond the reasonable control of the user. An upset does not include non-compliance to the extent caused by operational error, improperly designed treatment facilities, inadequate treatment facilities, lack of preventive maintenance, or careless or improper operation.

- B. An upset shall constitute an affirmative defense to an action brought for non-compliance with applicable pretreatment standards if the requirements of paragraph (C) below are met.
- C. A user who wishes to establish the affirmative defense of upset shall demonstrate, through properly signed, contemporaneous operating logs, or other relevant evidence that:
 - (1) An upset occurred and the user can identify the cause(s) of the upset;
 - (2) The facility was at the time being operated in a prudent and workman-like manner and in accordance with applicable operation and maintenance procedures; and
 - (3) The user has submitted the following information to the City within twenty-four (24) hours of becoming aware of the upset (if this information is provided orally, a written submission must be provided within five (5) calendar days):
 - (a) A description of the indirect discharge and cause of non-compliance;
 - (b) The period of non-compliance, including exact dates and times or, if not corrected, the anticipated time the non-compliance is expected to continue; and
 - (c) Steps being taken and/or planned to reduce, eliminate, and prevent recurrence of the non-compliance.
- D. In any enforcement proceeding, the user seeking to establish the occurrence of an upset shall have the burden of proof.
- E. Users shall have the opportunity for a judicial determination on any claim of upset only in an enforcement action brought for non-compliance with applicable pretreatment standards.
- F. Users shall control production of all discharges to the extent necessary to maintain compliance with applicable pretreatment standards upon reduction, loss, or failure of its treatment facility until the facility is restored or an alternative method of treatment is provided. This requirement applies in the situation where, among other things, the primary source of power of the treatment facility is reduced, lost, or fails.

13.02 Prohibited Discharge Standards

A user shall have an affirmative defense to an enforcement action brought against it for non-compliance with the prohibitions in Section 2.01 A and B (3) through B (7) of these rules if the

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User can prove that it did not know, or have reason to know, that its discharge, alone or in conjunction with discharges from other sources, would cause pass through or interference and that either:

- A. a local limit exists for each pollutant discharged and the user was in compliance with each limit directly prior to, and during, the pass through or interference; or
- B. no local limits exists, but the discharge did not change substantially in nature or constituents from the user's prior discharge when the City was regularly in compliance with its AZPDES permits, and in the case of interference, was in compliance with applicable biosolids use or disposal requirements.

13.03 Bypass

- A. For the purposes of this section,
"Bypass" means the intentional diversion of waste streams from any portion of a user's treatment facility.
"Severe property damage" means substantial physical damage to property, damage to the treatment facilities that causes them to become inoperable, or substantial and permanent loss of natural resources that can reasonably be expected to occur in the absence of a bypass. Severe property damage does not mean economic loss caused by delays in production.
- B. A user may allow any bypass to occur which does not cause non-compliance with any applicable pretreatment standards or requirements, but only if it also is for essential maintenance to assure efficient operation. These bypasses are not subject to the provision of paragraphs (C) and (D) of this section.
- C.
 - (1) If a user knows in advance of the need for a bypass, it shall submit prior notice to the City, at least ten (10) days before the date of the bypass, if possible.
 - (2) A user shall submit oral notice to the City of an unanticipated bypass that exceeds applicable pretreatment standards within twenty-four (24) hours from the time it becomes aware of the bypass. A written submission shall also be provided within five (5) calendar days of the time the user becomes aware of the bypass. The written submission shall contain a description of the bypass and its cause; the duration of the bypass, including exact dates and times, and, if the bypass has not been corrected, the anticipated duration of time it is expected to continue; and steps taken or planned to reduce, eliminate, and prevent reoccurrence of the bypass. The City may waive the written report on a case-by-case basis if the oral report has been received within twenty-four (24) hours.
- D.
 - (1) Bypass is prohibited, and the City may take an enforcement action against a user for a bypass, unless:
 - (a) The bypass was unavoidable to prevent loss of life, personal injury, or severe property damage;

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

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

SECTION 14 - MISCELLANEOUS PROVISIONS

14.01 Sewer Use Charges and Fees

The City may adopt fees for reimbursement of costs of set up, operation, and administration of the City's Sewer Pretreatment Program that may include, but not be limited to, the following:

- A. Fees and charges for Discharge Permit applications including the cost of processing such applications;
- B. Fees and charges for monitoring, inspection, and surveillance procedures including, but not limited to, the cost of collecting and analyzing a user's discharge, reviewing monitoring reports submitted by users, and general Discharge Permit administration;
- C. Fees and charges for reviewing and responding to accidental discharge procedures and construction review;
- D. Fees and charges for filing appeals; and
- E. Other fees and charges as the City may deem necessary to carry out the requirements contained in these rules. These fees and charges relate solely to the matters covered by these rules and are separate from all other fees, charges, fines, and penalties adopted by, and due to, the City.

14.02 Severability

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

City of Avondale SEWER USE RULES

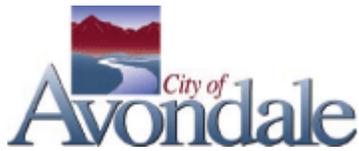
14.03 Conflicts

All other City resolutions and rules, and parts of other City resolutions and rules inconsistent or conflicting with any part of these rules, are hereby repealed to the extent of the inconsistency or conflict.

SECTION 15 - EFFECTIVE DATE

These rules shall be in full force and effect immediately following their adoption, approval and publication, as provided by law.

Adopted by the City of Avondale, _____ day of (month), 2009.



CITY COUNCIL REPORT

SUBJECT:
Single Family Rental Properties

MEETING DATE:
August 10, 2009

TO: Mayor and Council
FROM: Gina Montes, Neighborhood and Family Services Director (623)333-2727
THROUGH: Charlie McClendon, City Manager

PURPOSE:

The purpose of this item is to discuss options to address property maintenance issues surrounding rental properties in single family subdivisions.

BACKGROUND:

As a result of the rapid construction of single family residences and investor purchases between 2000 and 2007, there are 23 Avondale single family subdivisions that are made up of 20% or more rental properties. In built-out subdivisions, Rio Crossing has the highest rate at 46%, and Glenarm Farms has the lowest rate at less than 1%. Citywide there are 3,643 rental properties which represents 16% of single family homes. This data is graphically depicted on the attached map.

All inclusive communities require a range of housing opportunities including homeownership and rental in both multi-family and single family housing. Rental housing is a very important housing option available to residents. However, some Avondale homeowners have expressed concern over the number of rental properties. There are concerns that rental properties are not as well maintained as owner-occupied and that absentee landlords have very little incentive to monitor tenants.

Although there is anecdotal information regarding less than optimum maintenance of rental properties, only 2% of all complaints to Code Enforcement in Fiscal Year 2008-09 and 3.5% in 2007-08 were specifically related to rental properties. This does not factor for complaints about properties in which the complainant was not aware that the property was a rental. The current case management database does not provide the ability to generate reports by property type. However, a new system will be in place this year which will allow staff to track whether there are more violations reported at rental properties.

DISCUSSION:

Landlord/Tenant Issues

With a high percentage of housing as rentals, the City often receives questions regarding landlord/tenant disputes. The Neighborhood and Family Services Department provides regular Landlord/Tenant training opportunities that educate rental property owners on their responsibilities. The training also provides information to tenants on their rights. A recent phenomenon is tenants who must vacate due to their residence being foreclosed. On May 20, 2009, the President signed into law the Protecting Tenants in Foreclosure Act. The law became effective immediately and requires that the immediate new owner (bank): 1) provide tenants with 90 days notice prior to eviction, and 2) allow tenants with leases to occupy the property until the end of the lease term, except the lease can be terminated on 90 days notice if the unit is sold to a purchaser who will occupy the property. Staff provide referrals to both rental property owners and tenants concerning these types of issues.

Rental Registration

In 2006, the City Council adopted the current residential rental registration requirements under Chapter 15 of the Avondale Municipal Code. This required rental property owners to register with the Maricopa County Residential Rental Registry and to provide a local agent who could receive legal service. It also instituted civil penalties for failure to register. At that time, the City began a concerted effort to identify rental properties and increase the accuracy of the registry for Avondale properties. This would provide information which would assist the City in determining resource requirements for a future rental property inspection program.

Since then, the Finance Department has communicated with rental property owners the registry requirement when an assessment letter is sent for unpaid taxes. This has measurably increased the number of registered rentals and the revenue brought in from sales taxes. A total of \$909,150 in ongoing taxes and \$381,853 in one-time back taxes were collected toward the General Fund between July 2008 and June 2009. However, the rental registry civil penalties have not been enforced due to limited staff capacity. The Finance Department has the ability to process 120 properties per month, and there is a backlog of reported rental properties waiting to be reviewed and assessed. With a tax assessment letter, the Finance Department notifies the owner of the requirement to register their rental property.

Rental Inspection Program

An interior rental inspection program has been under consideration for several years as an enhancement of the services of the Code Enforcement Division. This would involve inspections of all rental properties at regular intervals, such as biannually or when a lessee were to vacate. Although staff intensive, it was thought that such an activity could be funded through inspection fees. However, State law (A.R.S. 9-1301 - 9-1305) restricts the ability of cities to conduct interior inspections of rental properties and prohibits inspection fees for initial inspections, both interior and exterior. State law only allows an interior inspection program when there is evidence that there are health and safety problems or certain other prescribed criteria are met. Interior inspections cannot be conducted as a regular and routine requirement. In addition, cities must have either consent to enter the property or an administrative warrant. Cities cannot require owners to allow inspections absent owner/lessee consent or a warrant.

The Code Enforcement Division already conducts interior inspections up to the limit of Arizona law. Code also conducts periodic exterior and proactive inspections of whole subdivisions. These Neighborhood Enhancement Projects are completed based on need and balancing geography so that different areas in Avondale are included. When property maintenance complaints begin to increase in a particular neighborhood, Code Enforcement will investigate whether an Enhancement Project might be timely. Input from other departments, City Council and management is taken in determining which neighborhoods to address in this manner. Workload, staffing levels and other special projects affect how many Enhancement Projects can be undertaken in a year.

Alternatives

Although a proactive interior rental inspection program is not allowed by Arizona statute, staff have assessed other possible options to enhance our ability to monitor rental properties:

A. Implement a proactive exterior rental inspection program. This option would allow Code Enforcement to inspect and enforce on property maintenance violations of rental properties throughout the community. Since initial inspection fees are prohibited, a new program would have to be taken on with existing staffing levels. Staff would not be able to inspect all properties annually, as it would increase each Code officer's caseload by 46%. The minimum cycle time would be 4 years to inspect all rental properties, which would increase each Code officer's caseload by approximately 11%. Although possible, this additional workload would make it difficult for Code Enforcement to address spikes in demand as they arise and to complete other special projects.

B. Code Enforcement Division enforce rental registry requirement. This option would allow the Code Enforcement Division to begin enforcing the rental registry requirements. Currently, the Finance Department is informing rental property owners of their responsibility to register, but there is not staff capacity to enforce. Enforcement would work well with the current work of the Code Enforcement Division and would provide another tool to the Code officers. There are adequate staff levels to incorporate this duty into Code Enforcement. The new database and Citizen Response Management system will enable Finance to automate a notice to Code Enforcement for follow-up. If City Council is in favor of this option, staff will work with the City Attorney to determine whether changes to Chapter 15 are necessary.

C. Increase the number of Neighborhood Enhancement Projects in subdivisions with a high percentage of rentals. This option provides flexibility for the Code Enforcement Division to address neighborhoods with a high percentage of rentals while also inspecting a subdivision as a whole. The objective would be to conduct proactive inspections in the subdivisions most in need while leaving the Code Enforcement Division the flexibility to address other priorities as they arise. It would be an efficient use of staff time because our efforts would be targeted. Examples of recent efforts that have arisen are education and enforcement of graffiti implements storage requirements, Western Avenue Enhancement Project, proactive foreclosure inspections. This option in combination with Alternative B would provide additional tools to the Code Enforcement Division to continue to address property maintenance issues of rentals and to document whether there is a significant difference in the number of violations that rentals have compared to owner-occupied properties.

BUDGETARY IMPACT:

There is no impact. All activities would be accomplished within existing staff and budget levels.

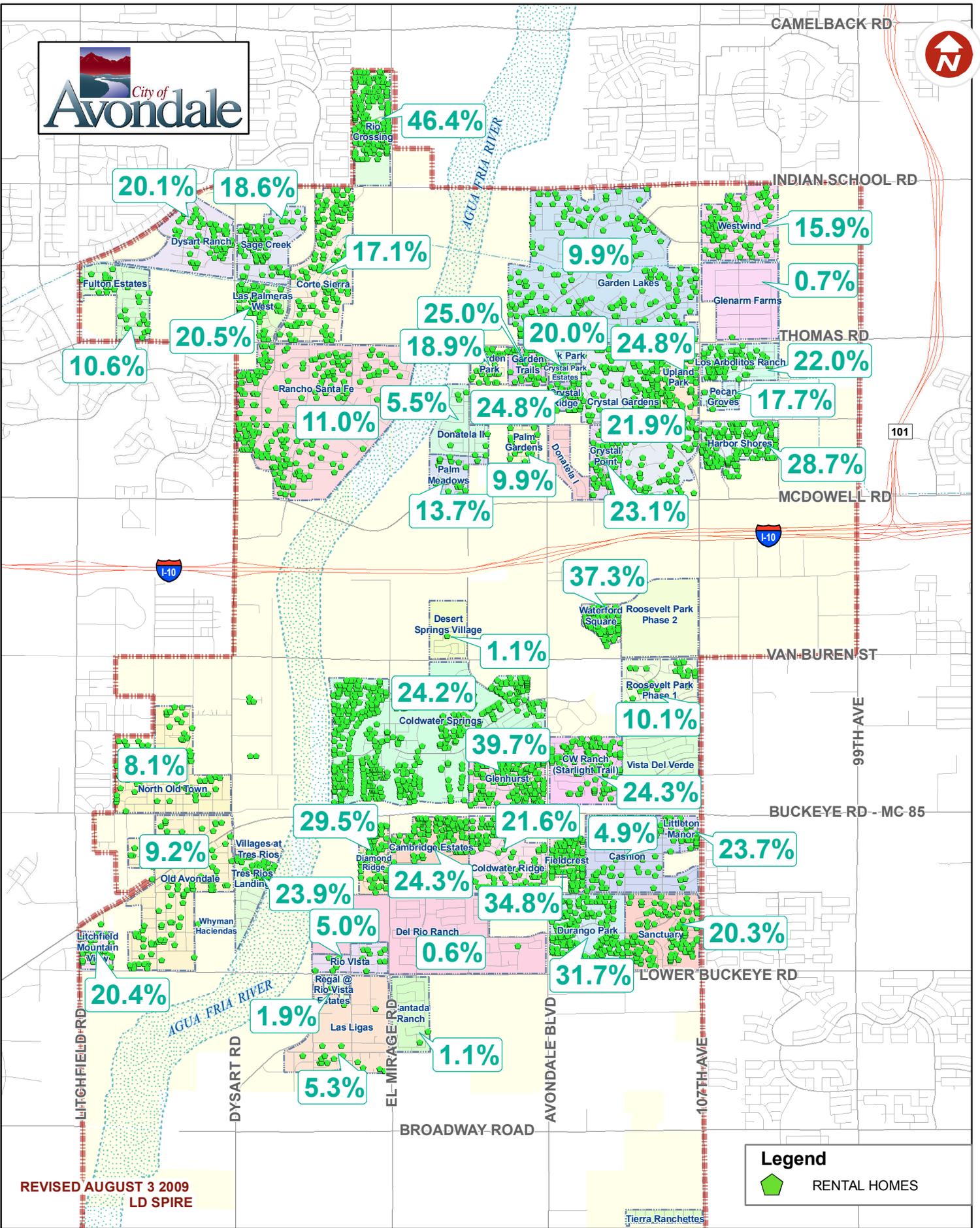
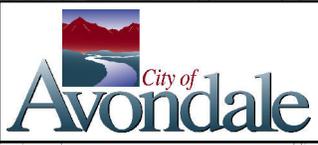
RECOMMENDATION:

This item is for information and discussion.

ATTACHMENTS:

Click to download

 [Percentage of Rental Homes in Avondale Neighborhoods](#)



REVISED AUGUST 3 2009
LD SPIRE

Legend
 RENTAL HOMES



**PERCENTAGE OF RENTAL HOMES
AVONDALE NEIGHBORHOODS - JULY 2009**