

ORDINANCE O-17-08

**AN ORDINANCE OF THE MAYOR AND COUNCIL OF THE CITY OF BISBEE,
COUNTY OF COCHISE, STATE OF ARIZONA, AMENDING CHAPTER 13 – SEWER –
OF THE BISBEE CITY CODE**

WHEREAS, the City provides sewer services to its citizens as a public service; and

WHEREAS, the City is currently owed \$1,038,855.70, not including delinquent sewer fees, penalties, and interest ; and

WHEREAS, this Ordinance is aimed at recouping what is owed to the City and providing an opportunity for citizens to bring their accounts current.

NOW, THEREFORE, BE IT ORDAINED BY THE MAYOR AND COUNCIL OF THE CITY OF BISBEE, COUNTY OF COCHISE, STATE OF ARIZONA, AS FOLLOWS:

Section 1. Chapter 13 SEWER is amended pursuant to Exhibit A, attached, as follows:

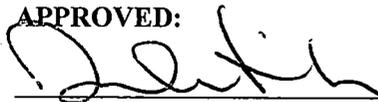
[] = Deleted Language
___ = New Language

Section 2. All Ordinances, parts of Ordinances, Resolutions or parts of Resolutions in conflict with the provisions of this Ordinance, or any part hereof, are hereby repealed.

Section 3. If any section, subsection or portion of this Ordinance is for any reason held to be invalid or unenforceable by the decision of any court or competent jurisdiction, such decision shall not affect the validity or enforceability of the remaining portions hereof.

PASSED, APPROVED AND ADOPTED by the Mayor and Council of the City of Bisbee, Arizona this 1st day of August, 2017.

APPROVED:



Dave Smith, Mayor

ATTEST:



Ashlee Coronado, City Clerk

APPROVED AS TO FORM:



Elda Orduño, City Attorney

EXHIBIT A

CHAPTER 13 SEWER

ARTICLE 13.1 DEFINITIONS

In this Chapter unless the context otherwise requires:

- A. "Account Holder" means a property owner, a property owner's duly authorized agent, a tenant leasing property from an owner, or any other person or entity who has entered into a written service agreement with the City for sanitary sewer service.
- A.B. "B.O.D.", biochemical oxygen demand, means the quantity of oxygen utilized in the biochemical oxidation of organic matter under standard laboratory procedure in five days at twenty degrees centigrade expressed in parts per million (p.p.m.) in weight.
- B.C. "Building connection" or "house connection" means the connection to the public sewer and the extension therefrom of the sewer to the property line at the alley or the curb line of the street, whichever is applicable, depending on the location of the public sewer.
- C.D. "Building sewer" or "house sewer" means the extension from the building drain to the building connection or other place of disposal.
- D.E. "Garbage" means solid wastes from the preparation, cooking and dispensing of food and from the handling, storage and sale of produce.
- E.F. "Industrial wastes" means the liquid wastes from industrial processes as distinct from sanitary sewage.
- F.G. "Natural outlet" means any outlet into a watercourse, ditch or other body of surface or ground water.
- G.H. "Ph" means the logarithm of the reciprocal of the weight of hydrogen ions in grams per liter of solution.
- H.I. "Properly shredded garbage" means garbage that has been shredded to such a degree that all particles will be carried freely under the flow conditions normally prevailing in public sewers with no particle greater than one-fourth inch in any dimension.
- I.J. "Public sewer" means a sewer controlled by public authority.
- J.K. "Resides" means that a person is physically present in a habitation, at least periodically, but does not require that this be the person's permanent legal residence.
- K.L. "Sanitary sewer" means a sewer which carries sewage and to which storm, surface and ground waters are not intentionally admitted.
- L.M. "Sewage" means a combination of the water-carried wastes from residences, business buildings, institutions and industrial establishments together with such ground, surface and storm waters as may be present.
- M.N. "Sewage treatment plant" means any arrangement of devices and structures used for treating sewage.
- N.O. "Sewage works" means all facilities for collecting, pumping, treating and disposing of sewage.
- O.P. "Sewer" means a pipe or conduit for carrying sewage.
- P.Q. "Sewer connection" means the connection to the public sewer and the extension therefrom of the sewer to the property line at the alley or the curb line of the street, whichever is applicable, depending on the location of the public sewer.
- Q.R. "Suspended solids" means solids that either float on the surface of, or are in suspension in, water, sewage or other liquids and which are removable by laboratory filtering.

ARTICLE 13.2 CONNECTION FEES; RATE; RESPONSIBLE PARTY; EXEMPTION & APPEALS

13.2.1 Application for Service

(O-10-18; O-11-08)

No new sewer connection connecting the City sanitary sewer system to any premises shall be made by any person or the City except upon a written service agreement between the City and the owner of the premises to which sanitary sewer service is to be furnished or the duly authorized agent of such owner and an approved sewer connection permit.

13.2.2 Rates, Fees and Service Charges.

(O-98-20; O-97-28; O-97-24; O-91-33; O-91-15; O-91-04; O-90-36; O-90-35; O-89-17; O-88-19; O-00-18; O-01-09; O-02-15; O-03-17; O-04-14; O-06-21; O-07-12; O-08-14; O-09-18; O-11-08; O-11-09; O-12-13; O-13-17)

A. Formula, Units of Contribution, Rates per Unit (O-07-12)

1. Except as otherwise provided in this Article, each ~~property owner~~Account Holder who maintains a connection to the City's sanitary sewer system shall pay the monthly fees to the City to off-set the City's costs of providing this service. Except as otherwise specified below, the fees for these services are based on the costs of making adequate wastewater service available for each connected property and not on the amount of usage by that property for any particular month. For those uses for which a specific fee is not specified below, the following formula shall be used to calculate the user charges for wastewater systems for the City of Bisbee and its service area:

$$C_u = (C_t/V_t) V_u$$

Where:

C_t = Total operation and maintenance (O&M) costs per unit of time.

C_u = A user's charge for O&M per unit of time.

V_u = Volume contribution from a user per unit of time.

V_t = Total volume contribution from all users per unit of time.

In the event biochemical oxygen demand (BOD), suspended solids, or other pollutant concentrations from a user exceed the range of concentration of these pollutants in normal domestic sewage, a surcharge added to the base charge (above) will be levied. The surcharge will be computed by the formula below:

$$C_s = (B_c (B) + S_c(S) + P_c (P)) V_u$$

Where:

C_s = A surcharge for wastewater of excessive strength.

B_s = O&M cost for treatment of a unit of BOD.

B = Concentration of BOD from a user above a base level.

S_c = O&M cost for treatment of a unit of suspended solids (SS).

S = Concentration of SS from a user above a base level.

P_c = O&M cost for treatment of a unit of any pollutant

P = Concentration of any pollutant from a user above a base level.

V_u = Volume contribution from a user per unit of time.

2. Units of Contribution (O-07-12)

Based on an analysis of the users who are connected to the wastewater facilities, users shall be classified into:

a. Residences, including apartments, for which the rate shall be based on an average monthly presumptive use of 5,900 gallons per residence; and

b. Small non-residential uses including commercial, governmental and public facilities converted to an equivalent number of residential units by the following formula:

Units = Non-Residential User Average Monthly Water Use, 5,900 gallons

c. Large commercial and industrial users rates shall be calculated based upon the formula in Section 13.2.2(A.1) and 13.2.2(A.2.(b)), as applies.

3. Rates, Fees and Service Charges

Rates for the following classes and types of property uses shall be assessed monthly and collected monthly, as of the date of the billing, in accordance with the following schedule stated below. Fees and charges for the additional designated services shall be charged as indicated.

a. Residential 1.000 unit = \$ 47.60

b. Commercial (No residential occupancy) Classes:

- 1) Small retail, professional and office business
1.1294 units = \$ 53.79
- 2) Small restaurants, cafes, snack bars, etc. (less than 4 employees)
1.9362 units = \$ 92.07
- 3) All bars, restaurants (more than 4 employees)
3.2252 units = \$153.59
- 4) Hotels, motels, bed & breakfast, and all other transient lodging, including RV parks (based upon estimated average occupancy)
.5999 units per room or space = \$ 28.58
- 5) Large retail (5 or more employees)
5.000 units = \$238.12

Mixed business and residential occupancy shall pay the sum of the applicable business rate plus the number of residential units. Mixed business occupancy shall pay the sum of applicable uses, except where all plumbing units are jointly used, where no separation of uses is applicable, and no other and separate plumbing is available on the premises, in which case the greater rate shall solely apply.

c. A policy providing for discounts for low-income households, ~~residing in an owner-occupied residential property~~, is hereby established:

- 1) ~~Property owners~~ Account Holders shall pay a discounted sewer rate of \$14.28 per month, upon application, provided income for the household is at or below fifty percent (50%) of the federal poverty guideline for a two-person household and the householder provides proof of income.
- 2) ~~Property owners~~ Account Holders shall pay a discounted sewer rate of \$28.57 per month, upon application, provided income for the household is no more than one hundred percent (100%) of the federal poverty guideline for a two-person household and the ~~householder~~ Account Holder provides proof of income.
- 3) Proof of income shall consist of the ~~householder~~ Account Holder's last federal income tax return or such other proof as may be satisfactory to the City. Proof of income shall be presented yearly.
- 4) Notwithstanding the provisions of Section 13.2(c)(1) and (2) above, the City Manager, Finance Director, and Public Works Director are hereby jointly authorized to waive or reduce sewer rates for any designated, low-income residential ~~household~~ Account Holder for any period of time up to six months where exigent circumstances would cause higher rates to cause an undue hardship to the household. "Exigent circumstances" shall mean any one time or temporary emergency event or circumstance that

severely limits or prevents the payment of existing sewer rates. Adequate proof or documentation shall be presented in support of a request made under this section.

- 5) A ~~designated~~ low income ~~property owner~~ residential Account Holder shall not be eligible for more than one discounted sewer rate, which shall be applicable to only one ~~owner-occupied~~ residential property.

d. Fees and Service Charges

- 1) A new account and start-up fee of \$25.00 ~~per customer~~ will be charged to all ~~customers~~ new Account Holders who establish a ~~new~~ account with the City for property not owned by the customer.

- 2) A two-month refundable deposit shall be charged for setting up a new account. The deposit will be refundable if all payments are made on time and after full payment of the final bill for services. The Account Holder is responsible for notifying the City when a service agreement should be terminated.

- 23) An inspection fee of \$100.00 will be charged to the Account Holder for the inspection of each prior service connection that is physically disconnected from the City's sewer system, as necessary to confirm that this disconnection has been completed in an appropriate manner. If any subsequent, additional inspection is required at the same site, the ~~property owner~~ Account Holder shall be required to pay for all of the labor and equipment charges incurred by the City that are required for any such additional work, ~~at the City's costs.~~

- 34) An inspection fee of \$100 will be charged for the inspection of the installation of each shut-off valve that is installed by the ~~owner~~ Account Holder of the property, as necessary to confirm that any such valve has been properly installed. If any subsequent, additional inspection is required at the same site, the ~~property owner~~ Account Holder shall be required to pay for all of the labor and equipment charges incurred by the City that are required for any such additional work, ~~at the City's costs.~~

- 45) An activation or de-activation fee of \$25.00 shall be charged to the Account Holder for each time that a City employee is required to turn on or turn off a shut-off valve at a particular location in connection with either re-establishing service or terminating service at that location.

- 6) ~~A fee of \$500~~ An Account Holder shall be charged ~~to the property owner~~ the labor and equipment costs incurred by the City, not to exceed \$500.00, at each location where the City employees physically disconnect the property from the City's sewer system, as may be authorized under these regulations. The ~~property owner~~ Account Holder shall also be responsible for the actual costs of all parts and equipment that may be installed at ~~this~~ each location. ~~For any such disconnection work which requires more than three (3) hours of labor by two (2) City employees, the property owner shall also be required to pay the costs incurred, both direct and indirect, for all labor and equipment used after the initial three (3) hour period.~~

- e. The City Manager, Public Works Director, and Finance Director will jointly consider and determine, at their discretion, whether exceptional circumstances, including but not limited to

those circumstances described in Section C(4) above, require complete waiver or a reduction in service fees for a reasonable amount of time. They may also consider a change in an Account Holder's bill, including a complete waiver of the balance owed, if reasonable grounds exist. An Account Holder may request such consideration and determination by filling out an Application provided by the City. Adequate proof or documentation shall be presented in support of a request made under this section if requested by the City. A decision shall be made within 30 business days from the date the Account Holder submits an Application to the City, unless the City is waiting for proof or documentation to be supplied by the Account Holder. Should an Account Holder fail to provide requested documentation or proof within 10 business days of the City's request, the Application may be denied. A decision shall be made concerning an Application no later than 60 days from the date the Application is submitted to the City. Any decision made pursuant to this section shall be final and non-appealable.

e. ~~For properties located outside of the corporate limits of the City of Bisbee which are served by the City's sanitary sewer system, the monthly service fee shall be two times the amount of the monthly fee designated above for that class and level of service.~~

4. Discharge into Sewer System other than by Permanent Connection, Septic Tank Wastes, Permits Required.
 - a. It shall be unlawful for any person to discharge any waste of any kind into the Bisbee City Sewer System other than through a permanent connection approved by the City for residential, commercial or industrial use, without obtaining a permit for such discharge from the Public Works Director.
 - b. It shall be unlawful for any person to discharge any waste material pumped from any septic tank into the Bisbee City Sewer System without obtaining a permit for such discharge from the Public Works Director.
 - c. Permits for the discharge of approved waste materials shall be issued upon the payment of \$15.00 per each thousand gallons of such material.
 - d. The Public Works Director is authorized to issue such other regulations for the issuance of permits as are necessary for the safe and lawful operation of the City's Sewer System.

4.B. Management of Revenue, Notification of Users, Prohibition of Inconsistent Agreements and Appeals Financial Management System - The City of Bisbee will maintain a Financial Management System that will accurately account for revenues generated by the system and expenditures for operation and maintenance (including replacement) of the collection and treatment system. The City will establish a separate account in its existing computer accounting system to monitor, on a quarterly basis, both revenues generated and expenditures for the system.

21. Notification of Property Owners/Account Holders (O-07-12) - Each ~~property owner or customer~~ Account Holder who is connected to the City's sewer system will be notified, at least annually, in conjunction with a regular bill, of the rate and that portion of the charges which are attributable to wastewater collection and treatment services.

32. Inconsistent Agreements (O-07-12) - These fees shall take precedence over any terms or conditions of agreements or contracts between the City of Bisbee and ~~users~~ Account Holders (including industrial users, special districts, other municipalities or Federal agencies or installations) which are inconsistent with the requirements of 204(b)(1)(A) of the Clean Water Act or these regulations. No special rate may be applied to any ~~user~~ Account Holder.

43. Wastewater Treatment By-Products (O-07-12) - All revenue from the sale of treatment-related by-products shall be used to offset the cost of operation and maintenance.

Fees shall be proportionally reduced for all users Account Holders. Total annual revenues received for the sale of a by-product shall be credited to the treatment works ~~O&M~~ operations and maintenance cost no later than the fiscal year immediately following their receipt.

54. Appeal (O-07-12) - In the event a property owner connected to the City's sewer system, in any class, wishes to appeal his or her classification, the property owner may, at the property owner's sole expense and option, install and maintain a sewer line meter to record the flow of effluent. The City of Bisbee must be notified, in writing, of the property owner's intent to install a linemeter for this purpose. One year after both, 1) written notification to the City and 2) installation of the sewer line meter, the property owner may appeal to the City Council, in writing, for an adjustment to the fee. Any appeal must be accompanied by certification of inspection of this meter, by the City for the full year. No adjustment may be made for any time period prior to initiation of this procedure and installation of the sewer line meter. Any adjustment must be based upon effluent flow as documented by the sewer line meter and inspected by the City and the average cost of making these services available to that property, less the demonstrated marginal costs saved by the City as a result of not having to treat an average amount of discharged waste from that property.
- C. The Council shall regulate and change the rates, fees and service charges by ordinance and pursuant to state law as it becomes necessary to meet the obligations of the City for the municipal sewer system.
- D. The ~~Sewer~~ user Account Holder's fee shall be billed on a monthly basis. All fees shall be due and payable as of the date of billing. A service charge shall be added to all accounts for which full payment (including prior penalties) is not received on or before the 25th day of the month. The Service Charge shall be Three Dollars (\$3.00) for each month in which full payment is not received by the 25th day of that month. Interest at the rate of ten percent per annum, or at such other rate as may be prescribed by A.R.S. § 44-1201 shall be charged on a monthly basis on all delinquent amounts. The City may elect to refer an Account Holder to the Arizona debt setoff program pursuant to state law, in which case the Account Holder's state income tax refund or property tax credit or rental credit may be used to offset the debt owed to the City by the Account Holder. The City may also elect to refer the Account Holder to a debt collection agency.
- E. ~~Except as otherwise provided in this Article, all property owners Account Holders as recorded in the official Cochise County Records, of premises with a sewer connection to the City's Wastewater Collection System are legally responsible for the fees imposed under this Code, notwithstanding any private lease or rental agreements that may create any third party obligations for payment. It shall be the responsibility of both the prior owner and the new owners to notify the City Finance Director in writing, within 30 days of the sale, transfer or purchase of any property subject to these fees and to provide the information necessary to change the City's records, including the name and address of new owners and sufficient identification of the property. Both the prior owner and any new owner shall be jointly and severably liable for the payment of any accrued or accruing fees, to the full extent permitted by law, until the City is provided with information regarding any change in ownership. Upon receipt by the City Finance Director of such information, the prior owners shall no longer be responsible for fees accruing from the date of such receipt. Except as may otherwise be prohibited by law, a new owner shall assume a contractual obligation for sewer service, transferred with the property from the prior owner, as a condition associated with the ownership of that property and its continued connection to the City's wastewater system.~~

- F. The Finance Director, or his or her designee, shall monitor the status of the payments on all suchtenant accounts. For any property that becomes 30 days delinquent in paying sewer service fees, the Finance Director, or his or her designee, will send out a notice to the Account Holder in writing that advises of the delinquency. The notice will provide the Account Holder with 45 days to bring the account current. If the account is not paid in full within 45 days from the date of the notice, the City will disconnect the property from the sewer system. Upon notification from the City, the water company will also disconnect the property from water service. Disconnection fromsewer services will occur on the 46th day from the date of notice or as soon as reasonably possible thereafter. The Account Holder is solely responsible for any disconnection and reconnection fees and costs associated with the sewer and water services. The Account Holder will be required to make a two month deposit before sewer reconnection will occur. Acceptable forms of payment to bring an account current, as well as associated fees and costs, shall be in the form of a money order or cashier's check only.

ARTICLE 13.2.3 Special Regulations For Residential Properties Of Four Or Fewer Units Not Occupied By The Owner.

- A. Pursuant to A.R.S. § 9-511.01 state law, for residential property of four or fewer units, the City is prohibited from requiring payment of unpaid wastewater service rates and charges by anyone other than the person who the municipality has contracted with to provide the service, who physically resides or resided at the property and who receives or received the service. Any such property owner or other person, at his or her sole discretion, may contract for wastewater service with the City and provide payment.
- ~~B. In compliance with this law, the City will terminate any existing agreement for wastewater services to any unoccupied residential property, of four or fewer units, and otherwise meeting the requirements of the statutory exemption, at the election of the property owner. The City will install a shut-off valve at the property if the property does not have one in order to disconnect the property from the sewer system. The existing contract for services will be terminated as soon as the property owner physically disconnects any such property from the City's sewer system and ceases to use or take access to this system. This physical disconnection shall be completed, at the expense of the property owner, by a properly licensed and authorized professional, subject to the review and inspection by the Public Works Director, or his designee, and in a manner that is consistent with all applicable building and safety code provisions. These review and inspection services shall be subject to a reasonable fee for the costs of these services. Any subsequent reconnection and reuse of the City's sewer system at this property shall require a Sewer Connection Permit and the payment of all associated hook-up fees, as required in Articles 13.2 and 13.3.~~
- ~~C.B. For rental residential properties or four or fewer units for which the property owner elects to terminate any existing agreement for wastewater services under the applicable state law, the following provisions shall apply:~~
- ~~1. The existing agreement between the City and the owner of a residential rental property subject to this section for wastewater services may be terminated by the owner, at his or her sole discretion, as soon as the owner, property manager or landlord, or his legally authorized designee installs or arranges for the installation of an approved sewer shut-off valve, at it's the owner's own expense, for the regulation of wastewater use at each such unit. This sewer shut-off valve shall be installed by a properly licensed and authorized professional and subject to the review and inspection by the Public Works Director, or his designee, and in a manner that is consistent with all applicable building and safety code~~

provisions. The Public Works Director shall provide a list of the acceptable equipment for these purposes. These review and inspection services shall be subject to a reasonable fee for the costs of these services.

- ~~2. The existing agreement between the City and the owner of a residential rental property subject to this section for wastewater services may be terminated by the owner, at his or her sole discretion, as soon as the owner, property manager or landlord, or his legally authorized designee installs or arranges for the installation of an approved sewer shut off valve, at it's the owner's own expense, for the regulation of wastewater use at each such unit. This sewer shut off valve shall be installed by a properly licensed and authorized professional and subject to the review and inspection by the Public Works Director, or his designee, and in a manner that is consistent with all applicable building and safety code provisions. The Public Works Director shall provide a list of the acceptable equipment for these purposes. These review and inspection services shall be subject to a reasonable fee for the costs of these services.~~
- ~~3. Prior to entering into any residential rental agreement with a prospective tenant, the property owner or property manager shall require that the tenant enter into a service agreement with the City of Bisbee for the use and payment of the City's wastewater services. From the effective date of this section, it shall be a condition of residential occupancy that the owner, landlord or property manager obtain a Residential Certificate of Service Agreement issued by the Finance Director of the City of Bisbee to the prospective or continuing tenant prior to entering in any lease agreement or continuing any lease agreement, if the property owner has not contracted directly for sewer services to the subject tenancy. The owner, landlord or property manager is prohibited from allowing any third party to make use of the City's wastewater services without this confirmation that an appropriate agreement has been entered into for the payment of these services provided by the City.~~
 - ~~3.1. The Finance Director, or his or her designee, shall charge any prospective tenant Account Holder a refundable deposit of two (2) times the applicable monthly sewer fee rate and shall require the payment of the first full month's sewer fee and all applicable new account and start-up fees as a condition for the issuance of a service agreement and the Residential Certificate of Service Agreement. This deposit shall be refunded at the conclusion of the tenant's occupancy, subject to any deductions for unpaid services and other applicable fees and expenses. It is the responsibility of the tenant to notify the City when the tenant wishes to terminate the service agreement.~~
- ~~4. The Finance Director, or his or her designee, shall monitor the status of the payments on all such tenant accounts and shall direct the Public Works Director to close the sewer shut off valve and terminate service to any property for which the payment of sewer fees is more than thirty (30) days delinquent.~~
- ~~5. In the event that a property owner, his agents or property managers, may fail to obtain a Residential Certificate of Service Agreement, or otherwise fail to comply with the requirements of this Article, the property owner shall be liable to the City for any damages or losses sustained by the City as a result of this violation. These damages or losses shall include, but not be limited to, any unpaid fees for City services which the property owner or his agents allowed a tenant to use without entering into any contract with the City for the payment of such services. In addition the property owner shall be subject to a civil penalty, as provided for in this City Code for a Code violation.~~
- ~~6. For vacant rental properties of four or fewer units, the owner may elect to maintain the connection with and use of the City's sewer system by paying for the accruing fees for~~

~~services during any period in which there is no lessee who is responsible for the payment of such fees. In the alternative, the owner may terminate any existing agreement for additional services provided to this rental property by disconnecting this property from the City's system, in the manner provided by Paragraph B, above. Until such time as the property may be physically disconnected, fees for the services that are provided to rental properties will continue to accrue and any such delinquent fees may give rise to a lien on the property, in the manner authorized by law~~

2. Pursuant to state law, owners of residential rental properties are required to notify the Cochise County Assessor that their properties are being rented. The City will therefore determine which residential properties are being leased by periodically obtaining records from the Cochise County Assessor's Office.
 3. Upon the City's determination that a residential property is being leased and the City is providing sewer service to the property, but payments are not being made for such service, the City will provide notice to the tenant and the property owner that the tenant must enter into a service agreement with the City within 15 days for sewer services. Should the tenant fail to enter into a service agreement with the City within 15 days, the City will disconnect the property from the sewer service and the water company will terminate the water service to the property. The property owner, an immediate family member of the tenant that does not reside at the property or any other entity, at their sole discretion, may enter into a service agreement with the City and shall be responsible for payment pursuant to state law.
 4. The rates, fees, and service charges set forth in Chapter 13 shall apply to re-connect a residential rental property to sewer service should the tenant, property owner, or other person fail to enter into a service agreement with the City after the City has provided notice pursuant to this Article.
- ~~D. The Public Works Director, or his or her designee, is authorized to install shut-off valves at the connection with the City's sewer system in any circumstance where the owner of the subject property has failed to install these shut-off valves, has failed to accept the obligation for payment of these services, and has failed to make the payments that are owed for these services. The property owner shall be responsible for paying the cost of all such materials, equipment and labor that may be required for this work, in addition to any civil penalties and damages that may also be applicable.~~

ARTICLE 13.3 SEWER CONNECTION PERMITS AND FEES **(R-87-396; O-89-14; O-93-13; O-06-13; O-11-08)**

A sewer hook-up fee, as provided by resolution of the Council, shall be made for each hook-up.

- A. Each person or entity ~~whethat~~desires to connect a building or house sewer to the City's public sewer shall first obtain a Sewer Connection Permit from the Bisbee Director of Public Works. As a condition for issuing this permit, the applicant shall provide all of the information required by the Director of Public Works as necessary to properly identify the owner, fully describe the intended occupancy to be connected and identify the nature and location of all work to be performed to complete this connection, including the size and type of the materials to be used. The Director of Public Works is authorized to develop a permit form for this purpose and to issue a Sewer Connection Permit provided that the applicant has provided all of the required information, paid the required connection fee and entered into a service agreement on a form provided by the Director of Finance.
- B. Upon the issuance of a Sewer Connection Permit, the owner or agent of the owner of the property to be connected to the Bisbee sewer shall, at his or her own expense, bring the building or house sewer line to the point of connection to the City sewer main and shall complete all such construction in the manner required by all applicable regulations. A sewer shut-off valve, as

approved by the Public Works Director, shall be installed at the connection with the City's sewer line.

- C. The City of Bisbee shall charge a Sewer Connection Permit fee as necessary to recover the costs associated with providing this sewer service and the costs of maintaining and operating the sewage treatment plant. The fee for the Sewer Connection Permit will be determined as follows:
1. For each single family residential unit, based upon an estimated sewerage demand of two hundred (200) gallons per day, a fee of two thousand dollars (\$2,000) per connection.
 2. For each connection for all other types of uses at a single family residential unit, a fee of ten dollars (\$10.00) for each gallon of daily sewerage demand associated with that particular occupancy. For purposes of determining the sewerage demand associated with any particular occupancy, the Director of Public Works will use Table 1, Unit Daily Design Flows, as included in the Arizona Administrative Code, R18-9-E301, etseq., as adopted effective January 1, 2001, to make this determination.
- D. The Mayor and Council may waive this connection fee, upon the recommendation of the City Manager and the Public Works Director, in those situations in which this is a necessary condition for the award of grant funding or other financial support for related improvements to the City's wastewater collection or treatment facilities and any such waiver would be in the best interests of the City of Bisbee.

ARTICLE 13.4 DEPARTMENT CITY AND CONSUMER RESPONSIBILITIES (O-11-08)

13.4.1 City Responsibilities and Liabilities

- A. The City shall not be responsible for the installation, maintenance or inspection of the consumer's service line, piping and apparatus or for any defects therein.
- B. The City shall have the right to refuse service, unless the consumer's lines or piping are installed in such manner as to prevent cross connections or backflow.
- C. Under normal conditions, the consumer shall be notified of any anticipated interruption of service.
- D. The City shall not be responsible for the negligence of third persons or forces beyond the control of the City resulting in any interruption of service or damage to the property of the consumer.
- E. The City may refuse service to any prospective consumer when the capacity of the sewer system will not permit additional loads being placed thereon.

13.4.2 Consumer Responsibilities and Obligations

- A. Building or house sewer connections on the consumer's premises shall be so arranged as to provide service to one lot. If additional service is required, it will be considered as a separate and individual account.
- B. The consumer's house or building service line, sewer connection and apparatus shall be installed and maintained by the consumer, at the consumer's expense, in a safe and efficient manner and in accordance with the City's rules and regulations and in full compliance with the regulations of the State Department of Health Services. Failure to comply with such regulations relieves the City of any and all liability from injury or damage proximately caused therefrom.
- C. The consumer shall safeguard the City's property placed on the consumer's premises and shall permit access to it only by the authorized representatives of the City.
- D. In the event that any loss or damage to the property of the City or any accident or injury to persons or property is caused by or results from the negligence or wrongful act of the consumer, his agents or employees, the cost of necessary repairs or replacements shall be paid by the consumer to the

City and any liability otherwise resulting shall be assumed by the consumer. The amount of such loss or damage or the cost of repairs may be added to the consumer's bill.

- E. The City may discontinue sewer service for the following additional reasons:
 - 1. To prevent fraud or abuse.
 - 2. The consumer's willful disregard of or refusal to comply with this article or other rules as may be adopted by the Council, including the obligation to pay for these services.
 - 3. To terminate service to a residential property that is not occupied by the owner and for which neither the owner nor the tenant has entered into a contract for sewer services.
- F. When service to a consumer shall require the laying of any City sewer lines or the installation of any other City property on, under, across or over the consumer's property, the consumer will grant to the City an easement, right-of-way or license for such installation.
- G. With the exception of residential rental properties of four or fewer units, ~~Where~~ when a property owner maintains a connection to the City sewer network and ultimately to the City's wastewater treatment facility for the disposal of wastewater, and the City continues to provide maintenance of its sewer mains and associated network and continues to operate its wastewater treatment facility, this exchange of benefits shall constitute a contract between the parties whereby the City agrees to continue to provide such services, subject to the continuing availability of its resources to do so, and the property owner agrees to pay the required fees for such services and to abide by the rules and regulations that are applicable to such services. This agreement may only be terminated as may be required by applicable state law, pursuant to the procedures specified in this Article.

13.4.3 Interference with ~~Officers~~ Employees of the City

It is unlawful for any person:

- A. To interfere in any way with the ~~officers~~ employees of the City in the discharge of any of their duties, either in the tapping of any sewer pipe, main or lateral belonging to the City or in the laying or connecting of such pipe, main or lateral.
- B. To dig up or cause to be dug up any street or alley in the City for the purpose of connection with the sewer system of the City without first obtaining a permit from the City.
- C. Who, having a permit, to dig up any portion of any street or alley of the City for the purpose of connecting with the sewer system of the City to fail or neglect to place the street or alley in its original condition under the supervision of the authorized ~~officers~~ employees of the City and as required by the City.

13.4.4 Unsanitary Disposal of Excrement Prohibited

- A. It is unlawful for any person to deposit or permit to be deposited in an unsanitary manner upon public or private property within the City, or in any area under the jurisdiction of the City, any human or animal excrement or other objectionable waste.
- B. It is unlawful to discharge to any natural outlet within the City or in any area under the jurisdiction of the City any sanitary sewage, industrial wastes or other polluted waters, except where suitable treatment has been provided in accordance with provisions of this chapter.

13.4.5 Private Sewage Systems

- A. Compliance with Article. Except as provided in this ~~a~~Article, it is unlawful to construct or maintain within the City any privy, privy vault, septic tank, cesspool or other facility intended or used for the disposal of sewage.
- B. When Permitted; Sanitation. Where a public sanitary sewer is not adjacent to the premises, the building sewer shall be connected to a private sewage disposal system, which complies with the

regulations of the State Department of Health Services. Such private sewage disposal system shall be constructed, maintained and operated at all times in a sanitary manner. Where circumstances of grade, terrain or similar condition prevent the ordinary hook-up to a public sanitary sewer adjacent to the premises, the Public Works Director and the Mayor may, in writing, waive the requirement to connect. In this event, all regulations regarding connection to a private sewage disposal system shall apply. (O-88-04)

- C. Discontinuance. Within one year after a public sewer becomes available to a property served by a private sewage disposal system, a direct connection shall be made to the public sewer in accordance with the provisions of this chapter, and any septic tanks, cesspools and similar private sewage facilities shall be abandoned and filled with suitable material. The City shall notify all owners when service is available, and the one year time limit specified in this subsection shall run from the date of said notice.

13.4.6 Tampering with Equipment Prohibited

No person shall maliciously, willfully or negligently break, damage, destroy, uncover, deface or tamper with any structure, appurtenance or equipment which is a part of the municipal sewage system.

13.4.7 Permit Required

- A. No unauthorized person shall uncover, make any connections with or opening into, use, alter or disturb any public sewer or appurtenance thereof without first obtaining a written permit from the City.
- B. Upon issuance of a required permit to any person, each and every permit issued shall be presented by the person to the City and application made for the building connection.

13.4.8 Building Connections

- A. No building sewer will be connected to the building connection until it has been inspected and approved by the City.
- B. The City eClerk shall keep a record of all building connections made, the purpose for which they are to be used, together with the name of the owner of the property, his agent or representative.

ARTICLE 13.5 USE OF PUBLIC SEWERS

3.5.1 Prohibited Substances

- A. No person shall discharge or cause to be discharged any storm water, swimming pool water, surface water, ground water, roof runoff, subsurface drainage, cooling water or unpolluted industrial process waters into any sanitary sewer.
- B. Except as provided in this chapter, no person shall discharge or cause to be discharged any of the following described waters or wastes into any public sewer:
 1. Any liquid or vapor having a temperature higher than one hundred fifty degrees Fahrenheit.
 2. Any water or waste which may contain more than fifty parts per million by weight of fat, oil or grease.
 3. Any gasoline, benzene, naphtha, fuel oil or other flammable or explosive liquid, solid or gas.
 4. Any garbage that has not been properly shredded.
 5. Any ashes, cinders, sand, mud, straw, shavings, metal, glass, rags, feathers, tar, plastics, wood, paunch manure, grits such as brick, cement, onyx, carbide or any other solid or

viscous substance capable of causing obstruction to the flow in sewers or other interference with the proper operation of the sewer works.

6. Any waters or wastes having a Ph lower than five and one half or higher than nine or having any other corrosive property capable of causing damage or hazard to structures, equipment and personnel of the sewage works.
7. Any waters or wastes containing a toxic or poisonous substance in sufficient quantity to injure or interfere with any sewage treatment process, constitute a hazard to humans or animals or create any hazard in the receiving waters of the sewage treatment plant.
8. Any waters or wastes containing suspended solids of such character and quantity that unusual attention or expense is required to handle such materials at the sewage treatment plant.
9. Any noxious or malodorous gas or substance capable of creating a public nuisance.

13.5.2 Grease Interceptors Required (O-09-01)

- A. Each user of the City's sanitary sewer system other than typical single family residential users and those other users expressly exempted below, shall install and properly maintain a grease interceptor, or interceptors, as specified in the Uniform Plumbing Code, 2006 edition, in connection with any new construction or remodeling of any kitchen facility that is intended, in whole or in part, for the preparation of food in any manner and that will result in the delivery of fats, oils or grease (FOG), either directly or indirectly, into the City's sanitary sewer system.
- B. Those food preparation establishments which can demonstrate that a hydro mechanical grease interceptor (grease trap) will satisfactorily reduce the amount of fats, oils and grease to be discharged into the City's sewer system, due to the limited amounts of these materials that will be produced on site, may be permitted to install a hydro mechanical grease interceptor, as specified in the Uniform Plumbing Code, 2006 edition. These types of food preparation establishments will typically include delicatessens, sandwich shops, coffee shops, ice cream parlors and other similar types of facilities which do not fry, broil, or grill the food that is produced on the premises.
- C. All other food preparation establishments will be required to install a gravity grease interceptor, as specified in the Uniform Plumbing Code, 2006 edition, in connection with any new construction or remodeling of the food preparation facilities. These establishments will typically include restaurants, cafeterias, fast food outlets, and cafes. Schools, fraternal organizations, churches, hospitals, community centers, care facilities, and places of public assembly which include kitchens for the production of food will also be required to install appropriate grease interceptors in connection with any new construction or remodeling of the kitchen or food preparation facilities associated with those operations.
- D. Existing food preparation establishments are not required to install grease interceptors unless or until any remodeling or reconstruction is initiated in the kitchen area. All existing food preparation establishments shall adopt "best management practices" for their operating procedures that will limit, to the greatest extent possible, the discharge of fats, oils and grease into the City's sanitary sewer system. In the event that these operating procedures do not adequately limit the amount of fats, oils and grease that are discharged into the City's system, the City may adopt an ordinance requiring all food preparation establishments to install appropriate grease interceptors.
- E. If any existing food preparation facility that is required to install a grease interceptor lacks the physical space for the type of device required by these regulations, the owner or operator of the property may request a variance, to be approved by the Public Works Director and the City Manager, to allow for the installation of an alternative form of grease interceptor. Any such

alternative device or devices shall meet as closely as possible all of the applicable standards of the Uniform Plumbing Code, 2006 edition.

- F. The following types of uses are exempt from the requirements for installing any type of grease interceptors:
1. All single family residential occupancies except for those that are used as a home occupation involving the preparation of food.
 2. All other residential occupancies which do not include a common kitchen facility for the residents.
 3. Businesses or institutions that serve or provide only pre-cooked foodstuffs or uncooked foodstuffs or which only reheat any such foodstuffs on the premises.

An exempt business or institution which obtains a building permit on or after March 1, 2009, for any construction or re-modeling in its kitchen and which subsequently alters its menu to include non-exempt foodstuffs shall be required to install an appropriate grease interceptor if the menu subsequently includes the preparation of non-exempt foodstuffs at that location.

- G. When a grease interceptor is required by this Article, the proposed make, model, and design, and installation specifications shall be fully described in the accompanying building permit application. The Building Inspector will obtain the review and approval of the Public Works Director, or his or her designee, for any such interceptor prior to issuing a permit. The Building Inspector shall require that all such interceptors are installed in a manner that is consistent with the requirements of Chapter 10 of the 2006 Uniform Plumbing Code, as incorporated herein by reference, and the requirements of this Article as a condition for the building permit.
- H. Each grease interceptor shall be maintained in the manner required for the proper elimination of fats, oils and grease. This maintenance shall be the responsibility of the property owner or operator. All of the contents that are removed from the interceptor must be properly disposed of off-site, in a manner that is fully in accordance with all City, County, State and Federal laws and regulations.
- I. All interceptors shall be installed and connected in a manner that will make them easily accessible for purposes of inspection, cleaning and the removal of the collected fats, oils and grease. The Public Works Director and his or her designees are authorized to inspect the operations of all grease interceptors located within the City of Bisbee and to provide the property owner and operator with written notice of any failure to comply with any of these requirements. Any continuing failure to properly maintain, install or monitor a required grease interceptor is a violation of the City Code.
- J. Each facility that includes a grease interceptor of any type shall maintain on site a logbook in which an accurate written record of all interceptor maintenance and cleaning is recorded. This logbook shall include the date, time and description of all maintenance or repair work to each interceptor; the date and time of all cleaning or removal of fats, oils or grease from this equipment or the associated sewer lines; the name and address of the person who removed any such materials from the interceptor; and the name, address and phone number of the person who accepted custody of any such materials for disposal. This logbook shall be made available to City inspectors upon request, who may review it in connection with any on-site inspection.

13.5.3 Authority for Review and Approval of Certain Discharges

The admission into the public sewers of any waters or wastes having any of the following characteristics shall be subject to the review and approval of the City:

- A. A five day biochemical oxygen demand (B.O.D.) greater than three hundred parts per million by weight.
- B. Containing more than three hundred fifty parts per million by weight of suspended solids.

- C. Containing any quantity of substance having the characteristics described in Section 13-5-1.
- D. Having an average daily flow of greater than two percent of the average daily sewage flow of the City.

13.5.4 Preliminary Treatment

- A. Required. Where necessary in the opinion of the City, the owner shall provide, at his expense, such preliminary treatment as may be necessary to:
 - 1. Reduce the B.O.D. to three hundred parts per million and the suspended solids to three hundred fifty parts per million by weight.
 - 2. Reduce objectionable characteristics or constituents to within the maximum limits provided for in Section 13.5.3.
 - 3. Control the quantities and rates of discharge of such waters or wastes.
- B. Approval. Plans, specifications, and any other pertinent information relating to proposed preliminary treatment facilities shall be submitted for approval of the City and the Arizona State Department of Health Services. No construction of such facilities shall be commenced until such approvals are obtained in writing.
- C. Maintenance of Facilities. Where preliminary treatment facilities are provided for any waters or wastes, they shall be maintained continuously in satisfactory and effective operation by the owner at his expense.

13.5.5 Manholes

- A. When required by the City, the owner of any property served by a building sewer carrying industrial wastes shall install a suitable control manhole in the building sewer to facilitate observation and sampling of wastes. Such manhole, when required, shall be accessible and safely located and shall be constructed in accordance with plans approved by the City. The manhole shall be installed by the owner at his expense and shall be maintained by him so as to be safe and accessible at all times.
- B. All tests and analyses of the characteristics of waters and wastes, to which reference is made in this chapter shall be determined in accordance with "standard methods for the examination of water and sewage" and shall be determined at the control manhole provided for in this section or upon suitable samples taken at such control manhole.

13.5.6 Special Agreements with Industrial Concerns

No statement contained in this article shall be construed as preventing any special agreement or arrangement between the City and any industrial concern whereby an industrial waste of unusual strength or character may be accepted by the City for treatment, subject to payment therefore by the industrial concern.

ARTICLE 13.6 REGULATIONS PART OF CONTRACT

All regulations contained in this chapter shall be considered a part of the contract of every resident of the City taking sewer service from the City, and such resident taking sewer service shall be considered as having expressly consented to be bound thereby. Consumers outside the City limits shall, upon application for sewer service, be required to sign a statement agreeing to the regulations set forth in this chapter.

**ARTICLE 13.7 ACCEPTANCE OF SANITATION EASEMENTS
(O-12-07)**

The Public Works Director, on behalf of the City of Bisbee, is authorized to accept and to record easements, rights-of-way, deeds or other conveyances of title, or any interest therein, that are granted to the City of Bisbee without any requirement for payment or exchange from the City of Bisbee and that may be necessary to document, perfect, or establish the right to maintain, repair, relocate or construct a sanitary sewer line or main within the City's present service area, within the corporate limits of the City of Bisbee. The Ordinance by which this Article has been adopted shall be deemed to be approval of the acceptance and approval of all such grants, in accordance with the requirements of the Charter of the City of Bisbee.

ARTICLE 13.8 ONE TIME DELINQUENT ACCOUNTS FORGIVENESS OPTION; COLLECTION ON DELINQUENT ACCOUNTS

For a limited period of time and for one time only, the City will forgive all penalties and interest, and 50% of the remaining delinquent amount owed on garbage and sewer accounts upon the Account Holder's written agreement to pay the remaining balance due, as calculated by the City, within a six month period. To take advantage of this option, the Account Holder must enter into an agreement with the City by no later than the effective date of this Article. The Account Holder shall agree to enter into an agreement with the City in which the monthly payments for the remaining balance due are paid via direct debit from a bank account. Should the bank account contain insufficient funds when the City attempts to process a payment, the City will charge the account holder a \$15.00 non-sufficient funds fee.

During the six month period in which the Account Holder is making payments, the City will waive the monthly penalty and interest accrual. Upon timely and full payment of the remaining balance due, any liens on the Account Holder's property shall be released by the City. The City will also remove the Account Holder from the Arizona debt setoff program upon timely and full payment of the remaining balance due. Should the Account Holder fail to pay the remaining balance due within the six month period, all penalties and interest shall be reinstated in full and a lien will be placed on the property for the full amount owed, if applicable. Likewise, the Account Holder may be referred to the Arizona debt setoff program and to a collection agency, at the City's option. For each property in which an Account Holder takes advantage of this option, as described above, the City shall install a sewer shut-off valve at the serviced property if one does not already exist.

An Account Holder that elects to take advantage of this forgiveness option, may elect to immediately pay off the balance owed, as calculated by the City, via money order or cashier's check, and bypass the six-month repayment plan described above.

[REVISION TO CHANGE TIME FRAME TO ENROLL IN FOREGIVENESS OPTION FROM ONE DAY - AUGUST 31, 2017, TO FIVE DAYS - AUGUST 31, 2017 THROUGH SEPTEMBER 7, 2017.]

ARTICLE 13.8 ONE TIME DELINQUENT ACCOUNTS FORGIVENESS OPTION; COLLECTION ON DELINQUENT ACCOUNTS

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