

When Recorded Mail To:  
City Clerk  
City of Buckeye  
530 East Monroe Avenue  
Buckeye, Arizona 85326

**ORDINANCE NO. 07-21**

**AN ORDINANCE OF THE MAYOR AND CITY COUNCIL OF THE CITY OF BUCKEYE, ARIZONA, DECLARING AS A PUBLIC RECORD THAT CERTAIN DOCUMENT ON FILE WITH THE CITY CLERK ENTITLED THE “CITY OF BUCKEYE 2020 SEWER UTILITIES AND USE OF PUBLIC SEWERS CODE UPDATES” BY REFERENCE; AND AMENDING THE BUCKEYE CITY CODE BY AMENDING CHAPTER 16, SEWER UTILITIES AND USE OF PUBLIC SEWERS IN ACCORDANCE WITH THE “CITY OF BUCKEYE 2020 SEWER UTILITIES AND USE OF PUBLIC SEWERS CODE UPDATES”; PROVIDING FOR REPEAL OF CONFLICTING ORDINANCES; PROVIDING FOR SEVERABILITY; AND PROVIDING PENALTIES FOR VIOLATIONS.**

**WHEREAS**, that certain document entitled the “City of Buckeye 2020 Sewer Utilities and Use of Public Sewers Code,” of which at least three paper copies or one paper copy and one electronic copy are on file in the Office of the City Clerk and open for public inspection during normal business hours, is hereby declared to be a public record and said copies are ordered to remain on file with the City Clerk;

**WHEREAS**, the Mayor and Council of the City of Buckeye, Arizona (the “City Council”) deem it necessary, in order to protect the public health, and safety, to adopt certain rules and regulations controlling and preventing the introduction of pollutants into the City’s treatment works that will interfere with its operation and/or pass through inadequately treated materials; and

**WHEREAS**, the City Council finds that the proposed rules and regulations will further protect public health and safety by: protecting personnel of the City’s treatment works who may be affected by wastewater or sludge in the course of their employment and the general public; promoting reuse and recycling of industrial wastewater and sludge from the City’s treatment works; providing fees for the equitable distribution of the cost of operation, maintenance and improvements to the City’s treatment works; and enabling the City to comply with its National Pollutant Discharge Elimination System permit conditions, sludge use and disposal requirements, and any other Federal or state laws to which the City’s treatment works is subject.

**NOW, THEREFORE, BE IT ORDAINED BY THE MAYOR AND CITY COUNCIL OF THE CITY OF BUCKEYE, ARIZONA, as follows:**

Section 1. The recitals set forth above are hereby incorporated as if fully set forth herein.

Section 2. That certain document entitled the “City of Buckeye 2020 Sewer Utilities and Use of Public Sewers Code,” of which at least three paper copies or one paper copy and one electronic copy are on file in the Office of the City Clerk and open for public inspection during normal business hours, is hereby referred to, adopted and made a part hereof as if fully set out in this Ordinance.

Section 3. The City Code is hereby amended by deleting Chapter 16, Sewer Utilities and Use of Public Sewers, and amended by inserting the provisions in the “City of Buckeye 2020 Sewer Utilities and Use of Public Sewers Code,” as provided therein in Chapter 16, Sewer Utilities and Use of Public Sewers.

Section 4. All ordinances and parts of ordinances in conflict with the provisions of this Ordinance or any part of the Code adopted herein by reference are hereby repealed.

Section 5. Violation of any provision of the “City of Buckeye 2020 Sewer Utilities and Use of Public Sewers Code” adopted herein may result in civil and/or criminal penalties as follows:

Section 16-18-2 - Civil Penalties

- A. A user who has violated, or continues to violate, any provision of this ordinance, an individual wastewater discharge permit, or a general permit, or order issued hereunder, or any other pretreatment standard or requirement shall be liable to the city for a maximum civil penalty of \$25,000 per violation, 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 the violation.
- B. The director may recover reasonable attorneys’ fees, court costs, and other expenses associated with enforcement activities, including sampling and monitoring expenses, and the cost of any actual damages incurred by the 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 violation, the magnitude and duration of the violation, any economic benefit gained through the user’s violation, corrective actions by the user, the compliance history of the user, and any other factors 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.

#### Section 16-18-3 - Criminal Prosecution

- A. A user who willfully or negligently violates any provision of this ordinance, an individual wastewater discharge permit, or a general permit or order issued hereunder, or any other pretreatment standard or requirement shall, upon conviction, be guilty of a class one misdemeanor, punishable by a fine of not more than \$2,500.00 per violation, per day, or imprisonment for not more than six (6) months, or both.
- B. A user who willfully or negligently introduces any substance into the POTW which causes personal injury or property damage shall, upon conviction, be guilty of a class one misdemeanor, punishable by a fine of not more than \$2,500.00 per violation, per day, or imprisonment for not more than six (6) months, or both. This penalty shall be in addition to any other cause of action for personal injury or property damage available under State law.
- C. A user who knowingly makes any false statements, representations, or certifications in any application, record, report, plan, or other documentation filed, or required to be maintained, pursuant to this ordinance, individual wastewater discharge permit, or a general permit or order issued hereunder, or who falsifies, tampers with, or knowingly renders inaccurate any monitoring device or method required under this ordinance shall, upon conviction, be guilty of a class one misdemeanor, punishable by a fine of not more than \$2,500.00 per violation, per day, or imprisonment for not more than six (6) months, or both.

#### Section 16-18-4 - Remedies Nonexclusive

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

#### Section 16-19-1 - Administrative Fine for Late Reports

An administrative fine of \$100.00 shall be assessed to any user for each day that a report required by this ordinance, a permit, or order issued hereunder is late, beginning five days after the date the report is due. Higher fines may also be assessed where reports

are more than 30 days late. Actions taken by the director to collect late reporting fines shall not limit the director's authority to initiate other enforcement actions that may include fines for late reporting violations.

#### Section 16-19-2 - Public Nuisances

A violation of any provision of this ordinance, an individual wastewater discharge permit, a general permit or order issued hereunder, or any other pretreatment standard or requirement is hereby declared a public nuisance and shall be corrected or abated as directed by the director. Any user(s) creating a public nuisance shall be subject to the provisions of the City Code Section 9-4-1 governing such nuisances, including reimbursing the city for any costs incurred in removing, abating, or remedying said nuisance.

Section 6. The provisions of this Ordinance and the public record adopted herein shall not go into effect unless approved by the Arizona Department of Environmental Quality ("ADEQ") in its regulatory review process for pretreatment standards. Subject to approval from ADEQ, this Ordinance shall be marked approved by the City Clerk, and become effective on September 1, 2021 to allow time for education and implementation of enforcement measures. Any permit applications and plans submitted for the first time to the City for review on or after September 1, 2021 shall comply with the "City of Buckeye 2020 Sewer Utilities and Use of Public Sewers Code".

Section 7. If any section, subsection, sentence, clause, phrase or portion of this Ordinance or any part of the "City of Buckeye 2020 Sewer Utilities and Use of Public Sewers Code" adopted herein by reference is for any reason to be held invalid or unconstitutional by the decision of any court of competent jurisdiction, such decision shall not affect the validity of the remaining portions thereof.

Section 8. In the event of any inconsistency, conflict or ambiguity among any section, subsection, sentence, clause, phrase or portion of the "City of Buckeye 2020 Sewer Utilities and Use of Public Sewers Code" adopted herein by reference, the City Code, or this Ordinance, the documents shall govern in the order listed herein.

Section 9. The Mayor, the City Manager, the City Clerk and the City Attorney are hereby authorized and directed to take all steps necessary to carry out the purpose and intent of this Ordinance.

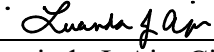
**PASSED AND ADOPTED** by the Mayor and City Council of the City of Buckeye, Arizona, this 6<sup>th</sup> day of April, 2021.



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Eric W. Orsborn, Mayor

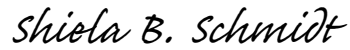
ATTEST:



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Lucinda J. Aja, City Clerk

APPROVED AS TO FORM:



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Shiela B. Schmidt, City Attorney