

**§ 49-391. Local enforcement of water pretreatment requirements;
civil penalties**

A. A city, town, county or sanitary district of this state may adopt, amend or repeal any ordinances necessary for implementing and enforcing the pretreatment requirements under the federal water pollution control act amendments of 1972 (P.L. 92-500; 86 Stat. 816; 33 United States Code sections 1251 through 1376), as amended, and enforce the ordinances by imposing and recovering a civil penalty of not more than twenty-five thousand dollars for each violation as prescribed by this section. For continuing violations, each day may constitute a separate offense.

B. A city, town, county or sanitary district shall not receive civil penalties under this section if an interested person, the United States, this state, or another city, town, county or sanitary district has received civil penalties or is diligently prosecuting a civil penalty action in a court of the United States or this state, or in an administrative enforcement proceeding, with respect to the same allegations, standard, requirement, or order. This state, and any city, town, county or sanitary district of this state that is or may be affected by a civil, judicial or administrative action, may intervene as a matter of right in any pending civil, judicial or administrative action for purposes of obtaining injunctive or declaratory relief.

C. The city, town, county or sanitary district may seek compliance with pretreatment ordinances and recovery of the civil penalties provided by this section either by an action in superior court or by a negotiated settlement agreement. Before a consent decree filed with superior court or a negotiated settlement becomes final, the city, town, county or sanitary district seeking compliance shall provide a period of thirty days for public comment. In determining the amount of a civil penalty the court and the city, town, county or sanitary district shall consider:

1. The seriousness of the violation.
2. The economic benefit, if any, resulting from the violation.
3. Any history of such violation.
4. Any good faith efforts to comply with the applicable requirements.
5. The economic impact of the penalty on the violator.
6. Such other factors as justice may require.

D. In addition to the remedies provided in this section, enforcement of such ordinances may include injunctive or other equitable relief.

**ARS 49-391 Local enforcement of water pretreatment
requirements; civil penalties (Arizona Revised Statutes (2021
Edition))**

E. All monies collected pursuant to an ordinance adopted under this section shall be deposited with the respective city, town, county or sanitary district.